



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, FEBRUARY 16, 2016

Planning Board members present: Robert Best, Alastair Millns, Tom Mahon, Desirea Falt (arrived 7:07 p.m.) Vincent Russo, and Alternates Nelson Disco and Jeff Sebring.

Planning Board members absent: Michael Redding and Lynn Christensen.

Staff present: Assistant Planner Robert Price and Recording Secretary Zina Jordan.

1. Call to Order

Robert Best called the meeting to order at 7:00 p.m. and designated Nelson Disco and Jeff Sebring to sit for Michael Redding and Lynn Christensen, respectively.

2. Planning & Zoning Administrator's Report

The Board voted 6-0-0 to determine that Prime Alternative Treatment Center Site Plan is not of regional impact, on a motion made by Alastair Millns and seconded by Tom Mahon.

3. Northview Homes, LLC. (applicant/owner) – Pre-submission hearing for a conceptual 4-lot minor subdivision. The parcel is located at 190 Baboosic Lake Road in the R (Residential) District. Tax Map 5B, Lot 045.

Robert Best recused himself from discussing and voting on this item. Alastair Millns assumed the chair.

Ken Clinton, President, Meridian Land Services, Inc., said the 9-acre parcel is located in a residential neighborhood with 756' of frontage on Baboosic Lake Road. The width of the property narrows to 360' wide at Old Blood Road. Its unique feature is a historic house, which is close to Baboosic Lake Road. It has a modern leach field, a driveway, and a wetland behind that separates the front from the large backland. The applicant will ask the Zoning Board of Adjustment (ZBA) for variances to create two lots with frontage on a Class V road. Lots 45 and 45-1 would have access off Baboosic Lake Road and lots 45-2 and 45-3 would have access on Old Blood Road.

Desirea Falt arrived at 7:07 p.m.

Ken Clinton stated that, when Marty Drive was created in the 1970s, a 15' strip and a 50'- wide right-of-way were dedicated to widening what used to be called Wilson Hill Road east of Old Blood Road in the future. This house is the only piece on Marty Drive to Baboosic Lake Road that has no dedicated 50'-wide right-of-way. That right-of-way would allow more density, but the applicant is asking only for two two-acre lots with

more than 150' of frontage with a common driveway onto Old Blood Road via Marty Drive.

Nelson Disco questioned the information about the name Wilson Hill Road and saw no hardship that would allow a variance for multiple houses that are not allowed on a Class VI road. Ken Clinton cited two similar recent Planning Board and ZBA decisions to support his position: A Class VI right-of-way on South Grater Road used to access a lot and a subdivision with no frontage on Woodward Road. The hardship is the wetland and the unique nature of the property. A two-lot common driveway would have little impact compared to a regular road.

Alastair Millns noted that stone walls make the right-of-way narrower than 50' wide. Ken Clinton said he would leave the walls. If necessary he would move - but not remove - them. The width between the stone walls varies from 14' to 35'. He stressed that despite the width between the walls, the right of way is 50'

Jeff Sebring asked about the homes' location, which Ken Clinton does not know exactly at this point. He showed the general layout on a map. He noted that the houses on Marty Drive have less than one acre, whereas these would be two acres. Municipal water would come along the Baboosic Lake Road right-of-way to the homes.

Public comment

Dave Pauly, 9 Marty Drive, is re-grading his property. He has issues with significant water runoff toward his house and is concerned about disrupting the soil and the wetland.

Tim Lewis, 200 Baboosic Lake Road, is concerned about the effect on wildlife. Dave Pauly agreed. There is a lot of documented wildlife, such as bear and deer, whose habitat should not be disrupted.

Jeff Sebring asked if the two lots fronting Old Blood Road are wooded. Ken Clinton said the bulk of the property is wooded, except around the existing house. The intention is that the woods would remain, although future homeowners could do whatever they wish. 4-5 acres out of the nine acres would be occupied and an equal amount would remain wooded.

In answer to Desirea Falt's question, he stated that there is public water on Baboosic Lake Road and ample room for infrastructure.

Nelson Disco asked about the ZBA's role. Robert Price explained that Community Development cannot authorize a building permit for Old Blood Road because frontage is not allowed on a Class VI road. The ZBA must grant an appeal of an administrative decision (not a variance) to authorize it plus frontage variances. The applicant must also get subdivision approval from the Planning Board first.

- 4. Brett Sicklick for Prime Alternative Treatment Center (applicant) and Skyline Mall, LLC. (owner) – Review for acceptance and consideration of Final Approval for an application for a Conditional Use Permit and waiver of full site plan review to permit a Medical Cannabis Alternative Treatment Center (Non-Cultivation). This site is located at 380 D.W. Highway in the C-2 (General Commercial) & Aquifer Conservation Districts. Tax Map 4D-3, Lot 004.**

Robert Best returned to the meeting and resumed the chair.

Brett Sicklick, Chief Operating Officer, Prime Alternative Treatment Center, said there would be 10 employees. Operating hours would be 10:00 a.m.-8:00p.m., Monday-Saturday. The site is not located in a drug-free school zone. Ten parking spaces plus others at the Skyline Mall would be adequate. Patients do not all come at the same time.

Chairman Best cautioned that the other spaces are assigned to the other businesses in the Mall and suggested that the employees park in back and on the end.

Brett Sicklick withdrew the conditional final approval for 105 D.W. Highway because the rental price was too high and the condition of the building was not what he expected. There were many issues and the landlord refused to bring it up to standards.

Nelson Disco wanted to see the site plan that was originally approved along with verification that the same plan would be followed at the Skyline Mall. He asked whether the Police Department had reviewed and approved the plan, which Brett Sicklick confirmed. Rather than immediately notify NH Department of Health and Human Services of a security discrepancy, Nelson Disco suggested notifying local law enforcement.

Alastair Millns was concerned about someone getting into the vault where the cannabis is stored because the Treatment Center would be in an end unit. He asked about security, noting that there would be cameras on the vault in each direction.

John Begin, Chief Security Officer, Prime Alternative Treatment Center, said it would be a DEA-certified six-sided pre-fab vault that has an alarm separate from the facility and many advanced anti-theft features such as vibration sensors and motion detectors that trigger off an alarm to notify the police. Brett Sicklick added that there is another secured access room outside the vault. The public would have no direct access, even from the bathroom area. Only key employees would be allowed in back. Patients would get product at the retail counter/dispensary while their caregivers would wait in another area. There would be a wall between the two areas. There would be 6-10 patients at one time at the most and in different areas. John Begin explained that there would be someone in the security office at all times in addition to himself, someone to allow people into the facility and someone in another facility monitoring cameras. There would be bullet-proof glass and a reinforced wall. The lighting is sufficient for security purposes.

Jeff Sebring asked about a testing plan. John Begin said the alarm system would be tested monthly. All procedures must be tested as part of the State inspection and keeping the permit. Deliveries would be scheduled at random during off hours. No patients would be in the dispensary area during deliveries, which would be scheduled before opening hours once a week. To limit exposure, vehicles would not be fully loaded. A delivery van with a locked secure cargo/vault area would be used. There would be a security officer and a technician in the van who would have no access to the product. A security officer inside the facility would confirm the manifest/amount. There would be 12 boxes of cannabis at most. Someone would be in the van at all times.

Public comment

John Paul, Kahuna's Café and Grill, located in the Skyline Mall, supports the application, which coincides with his use of clean and organic food for a similar clientele. He explained that it would not be a recreational use, but would be for people

suffering serious illnesses. He characterized it as a humanitarian issue. There must be an alternative treatment to pills with bad side effects.

Nelson Disco wanted documentation of the Fire Department's response.

Staff recommends that the Board grant the Conditional Use Permit.

The Board voted 7-0-0 to grant the Conditional Use Permit, with the condition that that applicant provides written concurrence from the Fire Chief that all concerns regarding fire alarms and security have been satisfactorily addressed, on a motion made by Alastair Millns and seconded by Jeff Sebring.

Staff recommends that the Board vote to accept the application, as it is substantially complete and contains sufficient information to invoke the Board's jurisdiction and to allow it to make an informed decision.

The Board voted 7-0-0 to accept the application for review, on a motion made by Alastair Millns and seconded by Desirea Falt.

The Board voted 7-0-0 to waive full site plan review, with one following condition, *See precedent condition #6, below*, on a motion made by Alastair Millns and seconded by Jeff Sebring.

Staff recommends that the Board vote to grant conditional Final Approval to the application, with precedent conditions to be fulfilled within six months and prior to plan signing, unless otherwise specified.

The Board voted 7-0-0 to grant Final Approval, with the following conditions, on a motion made by Alastair Millns and seconded by Desirea Falt.

1. Final plans to be signed by the Applicant and Property Owner;
2. Applicant shall obtain all required State permits, provide copies of the permits to the Community Development Department and note the approvals in the notes on the plan;
3. Any waivers granted (including Section and date granted) or any changes requested by the Board shall be listed and fully described on the final plan, as applicable;
4. Applicant shall address any forthcoming comments from the Conservation Commission, Assessing Department, Wastewater Division, and Merrimack Village District, as applicable;
5. Applicant shall provide written concurrence from the Fire Chief that all concerns regarding fire alarms and security have been satisfactorily addressed.
6. All applicable conditions and notes from the original approved site plan for the subject property shall be noted or referenced in a note on the final plan. Such reference shall include the recording number for the plan on file at the Hillsborough County Registry of Deeds and/or the number for the plan on file with the Community Development Department.
7. The applicant shall address the following staff technical comments:
 - a. The plan should indicate the unit number and total square feet and depict the unit location within the commercial building where the ATC is proposed for;

- b. The plan should depict existing lighting on site and if any modifications are proposed by this application;
- c. Add the parking spaces required (7) and the parking spaces allocated (10) to the unit the ATC is proposed for to the parking note # 5 on the site plan;
- d. Note the water and sewer source on the plan.

General and Subsequent Conditions

- 1. Any proposed signage shall comply with the requirements of Section 17.10 of the Zoning Ordinance (including the requirement for all required sign permits) and shall be subject to the applicable requirements of the NH Health & Human Services Department (DHHS) Administrative Rules (He-C 400, as most recently published or amended by DHHS) pertaining to Advertising Restrictions.
- 2. The building on this property shall comply with all current NFPA codes for its intended use. This includes emergency lighting, fire alarm and sprinkler system additions/changes and fire extinguisher placement.
- 3. The applicant shall comply with all Building Division permitting requirements including, but not limited to:
 - a. Building permit application;
 - b. 11 x 17 plan for facility;
 - c. Electrical plans in compliance with NFPA 70 NEC 2014 electrical codes;
 - d. Interior plans in compliance with current adopted IBC Building and plumbing codes.

5. Discussion/possible action regarding other items of concern

Alastair Millns noted that F.W. Webb, previously conceptually proposed near the Flatley mixed-use location on D.W. Highway, has submitted plans in Londonderry.

6. Approval of Minutes – February 2, 2016

The minutes of February 6, 2016, were approved, with one change, by a vote of 7-0-0, on a motion made by Desirea Falt and seconded by Tom Mahon.

7. Adjourn

The meeting adjourned at 8:12 pm., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Nelson Disco.