



Town of Merrimack, New Hampshire

Community Development Department

6 Baboosic Lake Road

Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

603 424-3531

Fax 603 424-1408

www.merrimacknh.gov

MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, JANUARY 3, 2017

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig (arrived 7:05 p.m.), Lynn Christensen, Vincent Russo, and Alternate Nelson Disco.

Planning Board members absent: Michael Redding and Desirea Falt.

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

1. Call to Order

Robert Best called the meeting to order at 7:01 p.m. and designated Nelson Disco to sit for Desirea Falt.

2. Planning & Zoning Administrator's Report

At the request of Alastair Millns, Robert Price will research whether a new house at 117 Camp Sargent Road on a small triangular lot meets regulations.

Tom Koenig arrived at 7:05 p.m.

3. Skippers Marine Corp. (applicant/owner) — Continued review for consideration of a waiver of full site plan review to amend a previously approved outdoor boat display and storage. The parcel is located at 54 Daniel Webster Highway in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 2D, Lot 029. **This agenda item is continued from the November 1, 2016 and the December 6, 2016 meeting.**

Robert Price informed the Planning Board that the applicant spoke to Fire Marshal Manuele today and has submitted an e-mail addressing his concerns. In it, he commits to keep the circular driveway and entryway open to equipment and fire trucks, to keep clear the alleyway on the north side of the building or to the right as one enters the yard, to keep the gate closed at non-operational hours and at night, and to provide a key on a lock box approved by the Fire Department. Staff recommends that the applicant note those items on the plan, as well as the other items the Board previously discussed, and return to the Planning Board at a later date.

John (Skip) Moir, 11 Loop Road, said a fire truck could get around the circular driveway, which was originally designed for a tractor-trailer truck; it is wider than necessary. He extended the parking spaces by three. Different sized boats and trailers will enter and exit, briefly narrowing the area.

Chairman Best asked for a plan that shows the dimensions and what would be kept clear. Skip Moir said the maximum width of a truck is 8'7"; he can provide 13'-14'. Alastair Millns measured 15', so a truck could get around the circular driveway. Skip Moir added that there are 20' on the right side of the building.

Skip Moir said the seasonal bushes have lost their leaves, so there is no foliage. Chairman Best recommended a condition of approval that the bushes be kept low and the tree branches be pruned high. Skip Moir demurred that the weeds/bushes are not on his property so their maintenance should not be his responsibility.

Chairman Best recommended a condition of approval that boats can be placed up to a maximum of 30' from the road and that all boats be kept in back of the gate. No boats are to be kept in front. Skip Moir said there is one regular parking space and one for the handicapped in front. He does not need more. Robert Price explained that the subdivision regulations do not contain parking requirements for a marina. Staff suggests labeling this use as "warehouse and storage up to 100,000 s.f.," which would mean 4 spaces are needed for parking. No loading area is required. Chairman Best said boats may use the original 10 spaces that were permitted. Skip Moir explained that the office is in his home. Chairman Best and Lynn Christensen stated that a parking space should not be used by a boat for transient parking or for long-term/six-month parking. The four spaces are required for customers. Vincent Russo added that the Planning Board does not want the four spaces to be used for storage at the end of the day or overnight. The four spaces should be shown on the plan. It is a safety and enforcement issue. Chairman Best explained that the applicant might have to refuse to accept another boat if the yard is full in order to keep the four spaces open.

Public comment

John Cyr, Owner, Interstate Battery System of Southern New Hampshire, 52 Daniel Webster Highway, said trees with leaves are still in the way of his business. He has submitted photos showing that tractor-trailer trucks unload on D.W. Highway. He is concerned for the safety of his customers.

Chairman Best instructed the applicant to trim the branches to create a sight line and to instruct trucks to pull into the driveway and not to park on D.W. Highway. Skip Moir said he receives four deliveries per year of one pallet of shrink wrap and anti-freeze; there are no daily deliveries.

Chairman Best instructed the applicant to draw up a plan reflecting the concerns noted above for his next appearance before the Planning Board.

Staff explained that the 65-day review clock expires on January 5, 2017, meaning that the applicant would need to grant the Board an extension to the review clock before the Board could continue the hearing.

Skip Moir granted the Planning Board a 45-day extension to the RSA 676:4 time frame to make a final decision on the application.

At the applicant's request, the Board voted 6-0-0 to continue this item to February 7, 2017, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Alastair Millns and seconded by Vincent Russo.

- 4. John Paul for Chris Burke of Chris Burke Painting & Carpentry —** Review for consideration for Final Approval of a Home Occupation to permit a painting &

carpentry contractors business located at 78 Baboosic Lake Road in the R (Residential) and Aquifer Conservation Districts. Tax Map 5C, Lot 568.

Robert Price informed the Planning Board that, at its December 28, 2016, meeting, the Zoning Board of Adjustment (ZBA) requested that the applicant withdraw his petition in order to be sure of the correct dimensions of the proposed sign, since the request was larger than what the Zoning Ordinance allows. The sign is the only reason the applicant must seek Planning Board approval of the Home Occupation. Enforcement action resulted from an unauthorized home occupation and sign. The home is being used as an office; all work is done off-site.

John Paul, 3 Sunnyside Drive, explained that there are no resident or non-resident employees. It was asked if Chris Burke resided at the property to which he replied he did, adding that the property is in his mother's name. The primary business activities will occur off-site and the home will be used for a supporting office, which takes up 48 square feet. No customers/clients are expected to visit the property. Hours of operation are proposed to be 9:00 a.m.-5:00 p.m. A 4.58 square foot sign is proposed, for which a variance is required.

John Paul confirmed that the sign is for advertising purposes. It would be 29" round with the applicant's business name and phone number.

John Paul said there are tools and ladders on five trucks that park on the property. Sometimes a trailer and a truck park near the road. Materials go directly to the work site. Chairman Best stated that is not consistent with a residential neighborhood. A sign and five trucks constitute a commercial use. This site acts almost like a contractor's yard.

Robert Price explained that, if no additional employees/trucks were stored on the property, and no sign were proposed, the applicant would need only administrative approval. He read out the Ordinance concerning what qualifies for administrative approval. The ZBA can grant a variance for the sign without Home Occupation approval, but the sign would not be allowed to be placed without Home Occupation approval.

John Paul said there is a 250' setback from the road to the trucks, which cannot be seen from the road. Since the enforcement action, they are parked behind the fence next to the home. Both Chairman Best and Lynn Christensen stated that they have seen the truck with the sign from the road when they drove past the site. John Paul said Chris Burke (and not any employees) uses different trucks for different types of work.

Chris Burke, 78 Baboosic Lake Road, enumerated the types of trucks on the property and their uses. They keep equipment out of the yard and trucks are lined up out of sight. He claimed to use subcontractors rather than employees. Chairman Best wanted to know whether business vehicles are used by other people (whether employees or subcontractors) because that affects the neighbors. Alastair Millns said the problem is that the five vehicles are not all used on a daily basis. He considers whoever does use them as employees. Chairman Best added that any people who come onto the site are

considered to be employees. Chris Burke confirmed that, during the busy period, one person parks his own vehicle and takes a truck to the job site. He intends to send the two largest trucks to Florida, to keep the large van and to remove the magnetic sign from the minivan. John Paul will mark on the plan the area for commercial-related vehicles in back of the fence.

Public comment

Robert Ketchie, 80 Baboosic Lake Road, said Chris Burke never talked to him about the home occupation. He has many issues: business-related noise on a daily basis, many vehicles coming and going, trailers loaded on site, arguments using vulgar language, and trucks chasing each other. Robert Ketchie asked about background checks, disposal of chemical waste, possible spills into the river, storage of debris, and fire inspections. Traffic will be worse as the business grows; it belongs somewhere else.

James Tupper, 76 Baboosic Lake Road, accused John Paul of making incorrect statements. The building contains paints. Chris Burke should have informed him of the home occupation rather than James Tupper having to ask Chris Burke. No business should be on the property.

Chris Burke said no paint is stored in the two sheds, which are used for his mother's garden supplies and for his camping gear and motorcycle. Leftover paint stays in the van. He does not use flammable paint. He uses the Merrimack dump and A-1 Disposal. The workers are on the property to work on the house. He lives in one half and rents the other half.

Nelson Disco said this is a contractor's yard, which is a non-conforming use and not compatible with residential use. He felt the sign's purpose does not meet the intent of the Ordinance. Alastair Millns agreed. There has not been a full and factual report about what has happened and what will happen on the site.

The Board voted 4-2-0 to deny the Home Occupation, because it does not comply with the requirements established by the Zoning Ordinance for a home occupation, in Section 2.01.1.A.2, specifically:

Subparagraph (a), which states "no more than one person who is not a resident of the premises is employed therein"; and

Subparagraph (h), which states "a contractor or other tradesman may store building materials or construction equipment on his premises only within existing structures". on a motion made by Alastair Millns and seconded by Nelson Disco. Tom Koenig and Lynn Christensen voted in the negative.

5. Discussion/possible action regarding other items of concern

Chairman Best announced the December 30, 2016, death of Planning Board member Jeff Sebring and characterized him as a good friend who gave fantastic service to the Planning Board and to the Town.

Chairman Best announced that, coincidentally, Paul McLaughlin asked to serve as an alternate on the Planning Board. He will interview with the Appointments Committee

on January 5, 2017. Lynn Christensen noted that he volunteered to work on the 2016 elections.

Nelson Disco announced two public hearings scheduled for January 5, 2017: at 6:00 p.m. about removing the abutments from the historic bridge at Baboosic Brook crossing on Bedford Road and at 7:00 p.m. about TAP-funded trail alternatives for the Watson Park and Souhegan River Bridge crossing.

6. Approval of Minutes – December 20, 2016

The minutes of December 20, 2016, were approved, with one change, by a vote of 5-0-1, on a motion made by Lynn Christensen and seconded by Alastair Millns. Vincent Russo abstained.

7. Adjourn

The meeting was adjourned at 9:04 p.m., by a vote of 6-0-0, on a motion made by Alastair Millns and seconded by Lynn Christensen.