



Town of Merrimack, New Hampshire

Community Development Department

603 424-3531

6 Baboosic Lake Road

Fax 603 424-1408

Town Hall - Lower level - East Wing

www.merrimacknh.gov

Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD VIRTUAL MEETING APPROVED MINUTES TUESDAY, JUNE 16, 2020 7:00 P.M.

Due to the COVID-19 crisis, and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, the Planning Board is authorized to meet electronically.

As stated on the agenda, the meeting was aired live on Merrimack TV and the Merrimack TV Facebook Live page (<http://www.facebook.com/merrimacktv>). Telephone access was available for members of the public wishing to speak during the Public Hearing or provide public comment. Also identified on the agenda was the opportunity for general public comment to be submitted leading up to the start of the meeting via email to CommDev@MerrimackNH.Gov.

Members of the Board and Town Staff were participating via Zoom. In accordance with RSA 91-A:2 III, each member of the Board was asked to state, for the record, where they were, and who, if anyone, was with them.

1. Call to Order:

Chair Robert Best called the virtual meeting to order at 7:00 p.m. He then read the procedures and processes for the virtual meeting.

Roll Call:

- Robert Best (Chair) stated he was participating electronically from home in Merrimack and alone in the room he was in.
- Alastair Millns (Vice Chairman) stated he was participating electronically from home in Merrimack and alone in the room he was in.
- Nelson Disco stated he was participating electronically from home in Merrimack and alone in the room he was in.
- Neil Anketell stated he was participating electronically from home in Merrimack and alone in the room he was in.
- Lynn Christensen (Arrived at 7:22 PM, when she arrived, she stated she was participating electronically from home in Merrimack and alone in the room he was in.)

Members Absent:

- Paul McLaughlin
- Councilor Bill Boyd, Ex-Officio

Staff Present: Casey Wolfe, Assistant Planner

Chairman Best appointed Nelson Disco into a voting position in place of Paul McLaughlin.

2. Planning & Zoning Administrator's Report

The Board voted 4-0-0, by roll call, to determine that the Gilmer Subdivision, the Tell Tale Tattoo Waiver of Full Site Plan Review and the Granger Subdivision are not of regional impact, on a motion made by Alastair Millns and seconded by Nelson Disco.

3. Petroleum Marketing Group, Inc. (applicant/owner) - Continued review for acceptance and consideration of a site plan to raze and re-build an existing gas station/convenience store. The parcel is located at 1 Continental Boulevard in the C-2 (General Commercial) and Aquifer Conservation Districts. Tax Map 4D, Lot 054-01. Case #PB2020-06. This item is continued from the March 3, 2020 Planning Board meeting.

Casey Wolfe reminded the Board that at the last meeting in which this case was heard (March 3, 2020), the Board did not vote on the Waivers or the Acceptance of the application so both of those votes still need to be conducted.

Courtney Herz (Sheehan, Phinney, Bass & Green, P.A.), Ron Lezott (Maser Consulting, P.A), Gary Kilfeather, (Petroleum Marketing Group) and Armand Keurian, (Petroleum Marketing Group) represented the applicant (Petroleum Marketing Group, Inc.) and presented the project to the Board. Ms. Herz began by giving a brief recap of the project stating the request is for a gas station and convenience store located at the corner of Continental Blvd and Camp Sargent Road. Ms. Herz also reminded the Board that the original application included 6 waiver requests, 3 associated with parking lot impact mitigation and 3 associated with parking lot lighting.

Lynn Christensen arrived at 7:22 p.m.

Since the last meeting, revised plans have been provided that address comments from both Fuss & O'Neill and Merrimack's Department of Public Works (DPW). Two additional waivers have also been added, bringing the total requested to 8. The first new waiver request has to do with the driveway location on Continental Blvd. The waiver is being requested for Section 3.08.c.4 of the site plan regulations which require driveway access points to be a minimum of 100 feet apart. The waiver is asking for 92 feet instead of the required 100 feet because complying with the regulations would mean that the driveway would be closer to the busy intersection and traffic signals thus creating a potentially unsafe situation. Ms. Herz added that Merrimack's DPW had previously commented that they would prefer that the driveways be moved even further from the traffic signals so complying with the regulation would go against DPW's recommendations.

The second new waiver being requested is for Section 3.12.d.3.v of the site plan regulations and is pertaining to the requirement that all sides of a building that directly face a public street have a public entrance. The Applicant is requesting a waiver to eliminate the need for an entrance on the side of the building that faces Camp Sargent Road. The waiver is being requested because the proposed drive thru lane runs along that side of the building and

adding an entrance there would create a potentially unsafe environment because pedestrians would be crossing in front of cars. Additionally, the Applicant prefers to have one customer entrance for security purposes, and given the location of the property the Applicant does not foresee any issues that the lack of an entrance on the east side of the building would cause.

The original 6 waivers were not discussed in detail because they were reviewed during the March 3, 2020 meeting, however, Ms. Herz did provide a brief description of each.

- Section 3.11.1.1.i: pertaining to the requirement to provide a minimum dedicated landscaped area of 10% of the overall interior area of a parking lot located in front of a principal building.
- Section 3.11.1.3: pertaining to the requirement that shade trees be set back at least 5 feet from the face of the curb.
- Section 3.11.1.5: pertaining to the requirement that a shade tree be provided at a minimum ratio of 1 tree per 20 feet of parking lot perimeter.
- Section 3.13.e.3.ii: pertaining to the requirement that the maximum illumination level at the property line be 0.2 footcandles.
- Section 3.13.e.3.iii: pertaining to the requirement of a maximum uniformity ratio of lighting of 4:1 in a parking lot.
- Section 3.13.f.2: pertaining to the requirement of a maximum uniformity ratio of lighting of 4:1 in areas around pump islands and under canopies.

Ms. Herz explained to the Board that due to the cancellations of meetings, they have not presented the project to the Conservation Commission yet but are scheduled to present to them on Monday June 22, 2020. Chairman Best stated that it's typically better to go in front of the Conservation Commission first so that the Planning Board can review their recommendations, however, it is fine to do it in reverse, as long as the Applicant realizes that they will need to either comply with all of the Commission's recommendations or be prepared to go back in front of the Planning Board to request relief. Mr. Lezott confirmed that they understand this stipulation and the Chairman continued to the roll call vote.

The Board voted 5-0-0, by roll call, to accept the application for review, on a motion made by Alastair Millns and seconded by Nelson Disco.

The Board voted 5-0-0, by roll call, to grant a waiver from the requirements of Section 3.08.c.4 – (Driveways) on a motion made by Nelson Disco and seconded by Lynn Christensen.

The Board voted 5-0-0, by roll call, to grant a waiver from the requirements of Section 3.11.1.1.i – (Parking Standards) on a motion made by Lynn Christensen and seconded by Neil Anketell.

The Board voted 5-0-0, by roll call, to grant a waiver from the requirements of Section 3.11.1.3 – (Parking Standards) on a motion made by Alastair Millns and seconded by Lynn Christensen.

The Board voted 5-0-0, by roll call, to grant a waiver from the requirements of Section 3.11.1.5 – (Parking Standards) on a motion made by Alastair Millns and seconded by Lynn Christensen.

The Board voted 5-0-0, by roll call, to grant a waiver from the requirements of Section 3.12.d.3.v – (Building Design) on a motion made by Alastair Millns and seconded by Nelson Disco.

The Board voted 5-0-0, by roll call, to grant a waiver from the requirements of Sections 3.13.e.3.ii, 3.13.e.3.iii, and 3.13.f.2 – (Outdoor Lighting) on a motion made by Alastair Millns and seconded by Lynn Christensen.

There was no public comment.

Discussion began on the approval of the site plan.

The Board questioned the process for snow removal and Mr. Lezott used the site plan to demonstrate where snow would be piled and clarified that for larger storms accommodations would be made to remove it from the site altogether. Chairman Best asked if the information relayed was reflected on the site plan and Casey Wolfe responded that it is a staff recommended condition of approval. The Board also requested that a note be added to the plan stipulating that snow cannot be piled onto the sidewalks. The discussion then turned to the truck maneuvering plans, and the canopy placement/lighting. Mr. Lezott utilized the plans to walk the Board through both of these designs and then asked Mr. Armand from PMG to answer questions regarding video surveillance. Mr. Armand confirmed that the store will have a panic button at the register as well as video cameras inside (one facing the register and one facing the door) and on each pump. The pump cameras will be able to be viewed by the clerks at the register and the recordings are kept for thirty days.

Mr. Lezott explained the process for how spills are contained and confirmed that they have oil water separators in place from a Stormwater stand point. He then briefly explained the Stormwater design and indicated that they are working closely with the Town's peer review Engineer, Fuss & O'Neill and the Conservation Commission. Ms. Herz added that they are also working with the Department of Environmental Services on the appropriate permits and Casey Wolfe confirmed that the staff is recommending that the Applicant adhere to the DPW recommendations as a condition of approval.

There was no public comment.

The Board voted 5-0-0, by roll call, to grant conditional final approval, subject to the following precedent conditions to be fulfilled within 6 months and prior to signing of the plan, unless otherwise specified on a motion made by Alastair Millns and seconded by Nelson Disco:

1. Final plans and mylars to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans and mylars;
2. The applicant shall obtain all required State approvals/permits as may be applicable, note the approvals/permits on the plan and provide copies to the Community Development Department;
3. Any waivers granted (including Section and date granted) and/or any changes requested by the Planning Board shall be listed and fully described on the final plan, as applicable;
4. The applicant shall provide draft copies of any applicable legal documents for review, at the applicant's expense, by the Town's Legal Counsel.
5. The applicant shall address any remaining comments from the town's peer review consultant, Fuss & O'Neill, including any forthcoming comments resulting from review of the final plans for Planning Board signatures.
6. The applicant shall address any forthcoming comments from the Conservation Commission, as applicable.
7. The applicant shall address any forthcoming comments from the Fire Department, as applicable.
8. The applicant shall address any forthcoming comments from Merrimack Village District, as applicable.
9. The applicant shall address any forthcoming/updated comments from the Public Works Department, as applicable.
10. The applicant shall address any forthcoming comments from the Wastewater Division, as applicable.
11. The applicant shall address the following Planning Staff technical comments:
 - a. Plans shall be stamped by a professional engineer licensed in the State of New Hampshire;
 - b. Applicant has provided a separate survey to represent existing conditions, but it is not a part of the plan set. This plan shall be included in the plan set as an Existing Conditions plan;
 - c. On Sheet 3 – Layout Plan, make the following corrections:
 - i. Under the parking calculation, the gasoline station lists no seats. Please move this under the restaurants (fast food) heading;

- i. ii. Please add a note on the plan that excess snow will be removed from the site in accordance with NHDES requirements and that snow storage cannot occur on sidewalks.

The following general and subsequent conditions also apply:

1. The applicant is responsible for recording the plan (including recording fee and the \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
2. The applicant shall submit an As-Built Plan prepared by a qualified professional (Professional Engineer or Licensed land Surveyor, registered/licensed in New Hampshire) to the Community Development Department prior to the issuance of a Certificate of Occupancy for the building (or other applicable means of securing final permitting from the Building Division if a CO is not applicable);
3. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;
4. The applicant shall address any comments from the Fire Department, as related to building fire code compliance, sprinkler systems, building addressing, etc., as applicable (that are not deemed precedent conditions);
5. The applicant shall address any forthcoming comments from the Building Department, as applicable.
6. The proposed freestanding (ground) sign does not comply with setback requirements outlined in Zoning Ordinance Section 17.10.3.b, and will require a variance (it is currently shown as 3.53 feet from the ROW whereas 20 feet is required). No sign permit can be issued until either a variance is obtained, or the location is revised to comply with the Zoning Ordinance.

4. Adam and Kristina Gilmer (applicants/owners) - Review for acceptance and consideration of final approval for a two lot subdivision. The parcel is located at 7 Fuller Mill Road in the R-1 (Residential, by map) District. Tax Map 4B, Lot 167. Case # PB2020-09.

Casey Wolfe confirmed that there are no comments from staff on this project and Ken Clinton (Meridian Land Services, Inc.) introduced himself as the presenter on behalf of Adam and Kristina Gilmer. Mr. Clinton explained to the Board that the request is for a two lot subdivision on Fuller Mill Road and then proceeded to walk through the subdivision plans pointing out the newly proposed lot lines as well as the proposed configurations for the new lot (driveway, well, etc.). He then advised the Board that the proposed lots were granted variances from the Zoning Board in December 2019, to allow for the lots to have less than the required lot size, lot depth, and contiguous upland area. Mr. Clinton went on to add that the Applicant is also submitting a waiver request for the subdivision regulations regarding

sidewalks and the waiver was read into the record. The Board determined that the waiver was not necessary under Section 4.07 of the Subdivision Regulations.

The Board voted 5-0-0, by roll call, to accept the application for review, on a motion made by Alastair Millns and seconded by Nelson Disco.

There was no public comment.

The Board voted 5-0-0, by roll call, to grant conditional final approval, subject to the following precedent conditions to be fulfilled within 6 months and prior to signing of the plan, unless otherwise specified on a motion made by Alastair Millns and seconded by Lynn Christensen:

1. Final plans and mylars to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans and mylars.
2. The applicant shall obtain all required State approvals/permits applicable to the project and provide copies to the Community Development Department, as applicable.
3. The applicant shall note any waivers granted by the Board on the final plans and mylars (including Section, and date granted) as applicable (at the appropriate time following a public hearing).
4. The applicant shall provide draft copies of any applicable legal documents for review, at the applicant's expense, by the Town's Legal Counsel.
5. The applicant shall address the following comments from the Public Works Department as applicable:
 - a. A note shall be added to the plan stating that the driveway conforms to the Town of Merrimack's safe stopping sight distance requirements;
 - b. A note shall be added to the plan stating that the driveway shall conform to Section 4.13.1 of the Regulations. The driveway shall be designed by the applicants' engineer and approved the Town Engineer prior to a Right of Way (ROW) permit. A ROW permit shall be obtained prior to any work being conducted on the site, including logging operations;
 - c. Under Section 4.16 Storm Drainage System - there is an extensive roadside ditch system that runs down Farmer Road and turns at Amherst Road. The ditch-line then continues down until it enters the pond on the lot (not shown on the plan). The plan depicts a stone wall where the ditch line actually runs. The stonewall location should be verified and the ditch line shown. This ditch line shall remain unimpeded at all times;

- d. There will need to be a driveway culvert and headwall designed and approved. The culvert should be properly sized to handle all of the drainage. The culvert detail shall be approved by DPW Engineering prior to construction;
 - e. Section 4.18 (a) monuments shall be set at all street intersections, points of curves and angle points along all roads. Monuments shall be concrete or granite bound markers;
6. The applicant shall address any forthcoming comments from other municipal departments & boards/commissions, as applicable.
 7. The applicant shall address the following Planning Staff Technical Comments:
 - a. Revise Note 5 to state that both lots are in the R-1 District (by Zoning Map) and correct the dimensional requirements in the note to only reflect the R-1 requirements (remove any reference to R-3 as soils based lot sizing does not apply to lots in the R-1 District by map);
 - b. Remove Note 6 entirely (soils based lot sizing does not apply to lots in the R-1 District by map);
 - c. Revise Note 7 to correctly identify the correct square footage of contiguous upland area for new lot 167 (59,258 not 59);
 - d. Revise Note 10 to read “The Subdivision Regulations of the Town of Merrimack are a part of this plat, and approval of this plat is contingent on completion of all the requirements of said Subdivision Regulations, excepting only any variances or modifications made in writing by the Board or any variances granted by the Zoning Board of Adjustment and attached hereto” per Section 4.06.1.k.;
 - e. Please update the street address for proposed lot 167-2 (currently blank) on the plan once assigned by the Fire Department;
 - f. The applicant shall revise the Planning Board signature block to have lines for “Chair” and “Vice Chair” as per the Board’s current structure (the position of Secretary was renamed Vice Chair in June 2017).

The following general and subsequent conditions also apply:

1. The applicant is responsible for recording the plan (including recording fee and the \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department.
2. The applicant shall obtain right-of-way permits from the Public Works Department for all new driveways.

3. The applicant shall address the any forthcoming comments from the Fire Department, as related to property addressing and fire code compliance, as applicable.
5. **575 Daniel Webster, LLC (applicant/owner)** - Review for acceptance and consideration of a Waiver of Full Site Plan Review for a change of use to allow a mixed use (personal service - tattoo artist and residential). The parcel is located in the C-1 (Limited Commercial), Aquifer Conservation, Elderly Housing Overlay Districts and Wellhead Protection Area. Tax Map 6D-1, Lot 102. Case #PB2020-10.

Casey Wolfe provided a brief recap of the staff review process for this project and Matt Peterson, (Keach-Nordstrom Associates, Inc.) introduced himself as the presenter on behalf of the applicant. Mr. Peterson gave an overview of the parcel (size and location) and explained that the top floor is being proposed as a residence for the applicant and the bottom floor will be a two chair tattoo parlor. Mr. Peterson went on to explain that there was a similar application before the Board in 2012 for this location and at that time a 2 bed massage parlor was approved. Jaqueline Theide, (the owner of the tattoo parlor/Applicant) provided a summary of the sanitation process that the business would follow (appointments only, masks, disposable supplies, etc.).

The Board voted 5-0-0, by roll call, to accept the application for review, on a motion made by Alastair Millns and seconded by Neil Anketell.

The Board voted 5-0-0, by roll call, to grant a waiver of full site plan review, on a motion made by Alastair Millns and seconded by Nelson Disco.

Casey Wolfe confirmed that there are four parking spaces at the location, including one handicap spot and Ms. Theide confirmed that they can also store one of their cars in a shed that is located on the site if necessary.

The Board voted 5-0-0, by roll call, to grant a waiver to Section 3.11.e (Parking), on a motion made by Alastair Millns and seconded by Neil Anketell.

The Board voted 5-0-0 to grant a waiver to Section 3.11 (Parking), on a motion made by Nelson Disco and seconded by Alastair Millns.

There was no public comment.

The Board voted 5-0-0, by roll call, to grant conditional final approval, subject to the following precedent conditions to be fulfilled within 6 months and prior to signing of the plan, unless otherwise specified on a motion made by Nelson Disco and seconded by Alastair Millns:

1. Final plans to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans as applicable.

2. The applicant shall obtain all required State approvals/permits as may be applicable, note the approvals/permits on the plan and provide copies to the Community Development Department.
3. Any waivers granted (including Section and date granted) and/or any changes requested by the Planning Board shall be listed and fully described on the final plan, as applicable:
 - a. The applicant shall, as was a condition of the granting of a waiver to Section 3.11, modify the layout/design of the parking to the satisfaction of Town Staff.
4. The applicant shall provide draft copies of any applicable legal documents for review at the applicant's expense, by the Town's Legal Counsel.
5. The applicant shall address any forthcoming comments from Merrimack Village District, as applicable.
6. The applicant shall address any forthcoming comments from the Public Works Department, as applicable.
7. The applicant shall address the following comments from the Wastewater Division:
 - a. The property will need to be changed to a commercial sewer connection with associated permit and fees.
8. The applicant shall address any forthcoming comments from the Fire Department, as applicable.
9. The applicant shall address any conditions made by the Planning Board during the public hearing.
10. The applicant shall address the following Planning Staff Technical Comments:
 - a. The property owner information and the recording information for the most recent deed shall be corrected on the cover sheet, title block, and in note #3 on sheets one & two in the plan.

The following general and subsequent conditions also apply:

1. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant.
2. The applicant shall address any comments from the Fire Department, as related to building fire code compliance, sprinkler systems, building addressing, etc., as applicable (that are not deemed precedent conditions).
3. The applicant shall address any forthcoming comments from the Building Department, as applicable.

- 6. Granger Revocable Trust (applicant/owner) -** Review for acceptance and consideration of final approval for a two lot subdivision. The parcel is located at 225 Naticook Road in the R-1 (Residential, by soils) District, Aquifer Conservation, and Wellhead Protection Areas. Tax Map 2B, Lot 034. Case # PB2020-11.

Casey Wolfe provided an overview of the project by indicating that the request is for a two lot sub-division in the R4 Zone. She clarified that the parcel was incorrectly listed on the agenda as being in the R1 Zone, however it is actually in the R4 Zone because water and sewer are available in that location. The new lot being proposed, however, will not be in the R4 Zone because it will not be able to connect to public sewer. This lot will either be R1 or R2 (depending on the soils).

Tom Carr (Meridian Land Services, Inc.) presented the project by explaining that the Applicant is wishing to subdivide the land in order to gift it at a future date to another family member. At this time, there are no plans to develop it and it is not going to be placed on the market for sale. Mr. Carr also advised the Board that the issue with the sewer was unknown to the Applicant at the time this proposal was submitted, so if the discussion needs to be continued to another meeting they support that decision.

The Board entered into a discussion about the logistics around whether or not sewer should be available and Chairman Best pointed out the availability of public sewer should not have any impact on the subdivision approval because the proposed lot will have plenty of land for a private septic system. Casey Wolfe reminded the Board that the frontage of the new lot could require a variance from the Zoning Board if the zone is determined to be R1 or R2 so a continuation date was discussed amongst the participants.

The Board voted 4-1-0, by roll call, to continue both the application's acceptance and public hearing to July 21, 2020, on a motion made by Alastair Millns and seconded by Lynn Christensen. Nelson Disco voted in opposition.

7. Discussion/possible action regarding other items of concern.

- **Greenfield Farms Bonds -** Casey Wolfe referenced a memo from Dawn Tuomala (Town Engineer) regarding the creation of two bonds and the reduction of another for the Greenfield Farms subdivision.

The Board voted 5-0-0, by roll call, to establish a performance bond for the Greenfield Farms subdivision, Cider Court, in the amount of \$232,802.28, to establish a performance bond for the Greenfield Farms subdivision, Crab Tree, in the amount of \$278,906.88, and to reduce a performance bond for Greenfield Farms subdivision, McIntosh Court, to the amount of \$172,692.96 on a motion made by Alastair Millns and seconded by Lynn Christensen.

- **Crosswoods Path Site Plan Extension Request -** Chairman Best referenced a memo from Chris Bova requesting an extension of three months to allow additional time to meet the conditions of approval that were set forth in January 2020. Chairman Best

explained that the extensions are typically done in six month increments so it is his recommendation that this one follow suit.

- Chairman Best made a call to the public that Planning Board members are needed.
- Nelson Disco recommended that the Board re-visit the master plan in the near future.

The Board voted 5-0-0, by roll call, to grant a six month extension to the conditional approval of the Crosswoods Path site plan, on a motion made by Lynn Christensen and seconded by Nelson Disco.

8. Approval of Minutes —March 3, 2020

The Board voted 4-0-1, by roll call, to approve the minutes of March 3, 2020, as submitted, on a motion made by Nelson Disco and seconded by Alastair Millns. Lynn Christensen abstained.

Lynn Christensen left the meeting at 9:29 p.m.

9. Adjourn

The Board voted 4-0-0, by roll call, to adjourn at 9:30 p.m., on a motion made by Alastair Millns and seconded by Nelson Disco.