



Town of Merrimack, New Hampshire

Community Development Department

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Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, FEBRUARY 5, 2013

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig, Michael Redding, Lynn Christensen, Stanley Bonislowski, Desirea Falt, and Alternates Nelson Disco and Matthew Passalacqua.

Planning Board member absent: Pete Gagnon.

Community Development staff: Community Development Director Tim Thompson and Recording Secretary Zina Jordan.

1. Call to Order

Chairman Best called the meeting to order at 7:30 p.m.

2. Planning & Zoning Administrator's Report

None.

- 3. John J. Flatley Company (applicant/owner)** – Review for consideration of Final Approval of a subdivision application proposing to subdivide one lot into a total of three industrial lots located at Daniel Webster Highway (to the rear of Saint-Gobain) in the I-1 (Industrial) & Aquifer Conservation Districts, and Wellhead Protection Area. Tax Map 6E, Lot 003-4. **This agenda item is continued from the December 4, 2012 meeting.**

Tim Thompson explained that the applicant granted a 45-day extension under RSA 676:4, which requires a decision within 60 days from Planning Board acceptance. This extension is also for the associated site plan.

At the applicant's request, the Board voted 7-0-0 to postpone this item to February 19, 2013, in the Matthew Thornton Room in Town Hall, at 7:30 p.m., on a motion made by Alastair Millns and seconded by Lynn Christensen.

- 4. John J. Flatley Company (applicant/owner)** – Review for consideration of Final Approval for a request of a Non-Residential Site Plan application proposing to construct a 120,000 s.f. warehouse/distribution facility located at Daniel Webster Highway in the I-1 (Industrial) & Aquifer Conservation Districts, and Wellhead Protection Area. Tax Map 6E, Lot 003-4. **This agenda item is continued from the December 4, 2012 meeting.**

At the applicant's request, the Board voted 7-0-0 to postpone this item to February 19, 2013, in the Matthew Thornton Room in Town Hall, at 7:30 p.m., on a motion made by Alastair Millns and seconded by Lynn Christensen.

- 5. XTL, Inc. (applicant) and Sam A. Tamposi, Harold Watson, Benjamin M. Bosowski, Jeffrey & Jessica Clegg (owners) – Review for Acceptance and consideration of Final Approval of a subdivision application proposing to subdivide one lot into two lots located at Mast Road in the I-1 (Industrial) & Aquifer Conservation Districts. Tax Map 2D, Lot 021. This agenda item was postponed from the January 22, 2013 Planning Board Meeting.**

Chairman Best recused himself from discussing and voting on this item and passed the gavel to Secretary Alastair Millns to chair the Board for this item.

Secretary Millns designated Nelson Disco to sit for Robert Best.

Katie Weiss, Bedford Design Consultants, stated that there are no immediate plans to begin construction on any improvements to the property. The application is for the subdivision only. The 35-acre parcel is bounded by undeveloped town property to the west, Anheuser-Busch land to the north, the B&M Railroad to the east, and Mast Road to the south. The Merrimack Wastewater Treatment Facility is located just easterly of the railroad tracks. The property is located within both the Aquifer Conservation and the Flood Hazard Conservation Districts. The client wants to purchase the proposed lot on the east, which has no wetlands. There would be an easement for driveway access on the westerly lot and a slope and drainage easement for grading the driveway.

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 Lynn Christensen and seconded by Nelson Disco.

Alastair Millns asked about the driveway crossing the wetland, but Katie Weiss reiterated that it would not. It is just an easement for a 50' right-of-way with a 24' road in the middle of it. Robert Baskerville, Bedford Design Consultants, said there would be a shared driveway for both lots with no wetland impact.

Alastair Millns asked why the applicant is requesting the subdivision at this time. Robert Baskerville said XTL's president wants to eventually build a modern high-tech distribution center that would be 60'-85' tall. Everything would be automated and done by computer rather than people. Although he did not get the State liquor contract, he will still move ahead. He agreed to purchase the land and intends to do so.

Nelson Disco asked for clarification of the 100-year and 500-year flood lines. Katie Weiss referred to Note 5 and explained that they are drawn differently now: FEMA Zone A is the former 100-year flood line and FEMA Zone X is the former 500-year flood line. She read the new FEMA definition. Robert Baskerville added that FEMA says there is a 0.2% chance of a flood rather than the wording about a flood once in 500 years.

Katie Weiss explained that the reason for requesting a waiver from wetland delineation is that the entire wetland is not shown on the plan and there is none on the lot in question. The wetland line follows the flood plain. Tim Thompson explained that it would be required to be delineated later on the site plan. Robert Baskerville said there is an

upland area on the westerly lot, but there is no sense in paying to flag it. There is enough land for a viable building lot. The survey boundary was originally flagged by a wetland scientist. Approximately half the 7-8 acre lot would be outside the wetland. Tom Koenig asked why information is given for only half of what the applicant wants to purchase rather than for both sides. Tim Thompson said this is not a residential subdivision. He repeated that, when it is developed, the site plan will delineate the wetland before construction and the other parcel will need to meet upland requirements which, based on aerial photos, appears to have sufficient buildable areas. Nelson Disco said that strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations.

The Board voted 7-0-0 to waive the requirements of Section 4.05(m) - Preliminary Layout - Wetlands - of the Subdivision Regulations, on a motion made by Nelson Disco and seconded by Michael Redding.

Katie Weiss explained that there are no structures on the lot, only the railroad and Wastewater Treatment Facility, so there is no need to put buildings on a map. Alastair Millns added that the Town knows where those locations are. Tom Koenig asked whether the Public Works Department (PWD) reviewed the plan. Tim Thompson said they would review the site plan. Robert Baskerville said PWD likes the plan. Michael Redding said that the aerial plan fulfills the obligation. Specific circumstances relative to the conditions of the land indicate that the waiver will properly carry out the spirit and intent of the regulations.

The Board voted 6-1-0 to waive the requirements of Section 4.05(d) - Preliminary Layout - Buildings, Roads and Driveways - of the Subdivision Regulations, on a motion made by Michael Redding and seconded by Lynn Christensen. Tom Koenig voted in the negative.

Katie Weiss said the applicant is requesting that two monuments not be set because they are under water and it would be difficult to set the points. Robert Baskerville said the water is knee to waist high. Katie Weiss showed the bound that references the point so that a boundary can be created. Alastair Millns disagreed that the monuments could not be set under water. There could be a way using a longer iron pipe. Robert Baskerville offered to list the offset distance from the westernmost point. Lynn Christensen asked whether there are underwater bounds in Merrimack. Nelson Disco said there are none. Tim Thompson said that this type of waiver is common in New Hampshire. Robert Baskerville said a reference line would be set and the distance listed where the parcel abuts Anheuser-Busch. Lynn Christensen said specific circumstances relative to the conditions of the land indicate that the waiver will properly carry out the spirit and intent of the regulations. Michael Redding suggested an addition to the waiver condition (see below).

The Board voted 6-1-0 to waive the requirements of Section 4.17(f) - Lot Size and Arrangement - Monuments - of the Subdivision Regulations, and that applicant shall provide offset and tie course in lieu of providing the monument in the wetland areas, on a motion made by Lynn Christensen and seconded by Desirea Falt. Alastair Millns voted in the negative.

Katie Weiss said the applicant accepts all proposed staff conditions. Tim Thompson said that the majority of the proposed conditions have already been addressed by the revised plans received after the memo was prepared.

Staff recommends that the Board vote to grant Final Approval to the application, with 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 of the subdivision plan, with the following conditions, on a motion made by Nelson Disco and seconded by Michael Redding.

1. Final plans and mylars to be signed by all property owners. The Licensed Land Surveyor and Certified Wetland Scientist shall also sign and seal final plans and mylars;
2. The applicant is responsible for recording the plan (including \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) and any related documents at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
3. A draft copy of the easement language for the proposed easements to be submitted to the Community Development Department for review and approval. If the Town of Merrimack is party to any of the proposed easements, said documents shall be reviewed and approved by Legal Counsel at the expense of the applicant
4. Address planning staff technical comments.

Planning Staff Technical Comments

1. The applicant shall note all granted waivers on the plan, and provide appropriate off-sets and tie courses in lieu of providing the monuments in the wetland areas per the Board's grant of the waiver for monumentation;
2. Written confirmation to be provided by a Licensed Land Surveyor to the Community Development Department certifying that all monumentation has been set in accordance with the approved plan. Revising the final plan to indicate monuments as "set" would satisfy this requirement;
3. The certification by the Wetland Scientist on the plan shall be revised so as to include the date(s) of wetland mapping;
4. The applicant shall revise note 4 on the plan so as to indicate minimum lot dimensional criteria for the I-1 (Industrial District). (No minimum frontage, no minimum area, and no minimum lot depth) Note 4 shall also be revised so as to indicate that the setbacks listed are for an industrial building and that different setbacks and dimensional criteria apply if the development is commercial in nature;
5. The applicant to satisfactorily address the following comments and/or amend the final plan to include the following minor revisions:

- i. Modify the Planning Board signature blocks so as to allow for endorsement by both the Planning Board Chairman and Secretary;
- ii. Revise the lot designation of proposed Lot 021-1 (the westerly lot) because that lot designation already exists. The Assessor has been contacted to confirm the proper lot designation;
- iii. The Licensed Land Surveyor shall confirm that the plans comply with Registry standards; (text size [see bar scale], text overlaps, etc.);
- iv. The areas (in square footage) of the proposed easements and any applicable deed references for existing easements shall be labeled;
- v. A legend of soil types to be provided on Sheet 2 of 2;
- vi. The vertical datum utilized for the topography and temporary benchmarks to be noted on the plan;
- vii. Clarify the plan such that the two courses labeled along Mast Road (with dimensions of 20.33 feet and 136.45 feet) are portions of the single course whose length totals 449.93 feet. Clarify the label of the arc along Mast Road such that it is clear that 123.86 feet is the arc length, 123.35 is the chord length, and N83°01'08"W is the chord bearing;
- viii. Any line work depicting cart paths/gravel drives on the plan to be labeled;
- ix. Update the Legend to include the soil boundary type line work;
- x. Revise the batching of 40' sewer easement and/or legend to provide consistency;
- xi. The plan shall list and fully describe any waivers granted by the Board.

Chairman Best returned to the Board.

6. Discussion/possible action regarding other items of concern

Tim Thompson informed the Board that "Draft" or "Proposed" revisions to parking requirements were distributed to various engineers, surveyors and attorneys and will be presented at the March 5, 2013, meeting for a public hearing. Staff worked with the Public Works Department about performance guarantees and maintenance bonds to comply with modern bonding and protection standards. That will also be presented as a workshop item at the March 5, 2013, meeting.

7. Approval of Minutes

The minutes of January 22, 2013, were approved as submitted, by a vote of 7-0-0, on a motion made by Desirea Falt and seconded by Lynn Christensen.

8. Adjourn

The meeting adjourned at 8:07 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Desirea Falt.