



Town of Merrimack, New Hampshire

Community Development Department
6 Baboosic Lake Road
Town Hall - Lower level - East Wing

603 424-3531
Fax 603 424-1408
www.merrimacknh.gov

Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD VIRTUAL MEETING APPROVED MINUTES TUESDAY, SEPTEMBER 15, 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

Robert Best called the virtual meeting to order at 7:01 p.m. and read the procedures & processes for the virtual meeting. He appointed Nelson Disco to vote for Lynn Christensen.

Roll Call:

- Robert Best (Chair) stated he was present at his office in Concord and alone in the room he was in.
- Alastair Millns (Vice Chair) stated he was present at home and alone in the room he was in.
- Paul McLaughlin stated he was present at home and alone in the room he was in.
- Neil Anketell stated he was present at home and his wife was in the room he was in.
- Nelson Disco (Alternate) stated he was present at home and alone in the room he was in.

Members Absent:

- Lynn Christensen

Staff Present: Robert Price, Planning & Zoning Administrator.

2. Planning & Zoning Administrator's Report

None

- ### **3. Granger Revocable Trust (applicant/owner)** - Continued review for acceptance and consideration of final approval for a two lot subdivision. The parcel is located at 225 Naticook Road in the R-4 (Residential, by soils) District, Aquifer Conservation, and Wellhead Protection Areas. Tax Map 2B, Lot 034. Case # PB2020-11. **This item is continued from the June 16, July 21, and August 18, 2020 Planning Board meetings.**

At the applicant's request, the Board voted 5-0-0 by roll call vote to continue both the application's acceptance and public hearing to October 20, 2020, on a motion made by Alastair Millns and seconded by Neil Anketell.

- 4. Bowers Landing of Merrimack II, LLC. (applicant/owner)** - Continued review for consideration of final approval for a site plan to construct 72 multi-family residential units in Phase VII of the Harris Pond Planned Unit Development. The parcel is located off Bowers Landing Drive in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 1D, Lot 001-04. Case #PB2020-16. **This item is continued from the August 18, 2020 Planning Board meeting.**

At the applicant's request, the Board voted 5-0-0 by roll call vote to continue the public hearing to October 20, 2020, on a motion made by Alastair Millns and seconded by Neil Anketell.

- 5. Gateway Homes, LLC (applicant) and Richard Tinglof (owner)** - Review for consideration of final approval for a waiver from section 6.01.2a of the Subdivision Regulations, requiring all boundary monuments to be set in order to receive a certificate of occupancy. The parcel is located at 18 Cathy Street in the R-1 (Residential, by soils) District. Tax Map 6D, Lot 145. Case# PB2020-21.

Robert Price summarized the plan by explaining that the applicant is looking for a waiver from a portion of the Subdivision Regulations pertaining to certified plot plans that requires precise permanent monuments be set in the ground and subsequently shown on the certified plot plan. The lot in question was created back in the 60's and the applicant believes that locating the exact lot corners will not be an easy task which is why the waiver is being sought.

Sam Ingram, (LLS, Meridian Land Services, Inc.) presented the case on behalf of the applicant. Mr. Ingram reiterated that the lot in question (as well as the majority of the lots in the neighborhood) was approved in the 60's before the Planning Board or Subdivision Regulations came into existence. He went on to explain that they have attempted to survey the lot but the lot in question, along with multiple other lots in the neighborhood, does not have monuments. In order to precisely set corners they would be to re-trace the original survey that was done when the lots were created. Mr. Ingram added that it is very difficult to re-trace a subdivision survey if corners were never set and even if they go through the effort and cost, the lines will not be precise which will result in the need for boundary line agreements between all four neighbors. Boundary line agreements are not easily obtained and often end in court cases.

Bill Boyd (Ex-Officio) arrived to the virtual meeting at 7:17 p.m. and stated he was at home and alone in the room he was in.

Mr. Ingram expressed that they are confident that they have estimated the lines to within a few feet and have also substantially increased the setbacks to further ensure no encroachments will be made. At the Board's request, Mr. Ingram shared the original subdivision plan from the 60's that outlines each of the lots. When asked if they were able to recover any of the monuments, Mr. Ingram explained that they were able to locate six but they did not match the layout shown on the plan. During a discussion about whether or not any points have been able to be verified, Robert Price interjected and reminded the Board that this plan is the original Level Acres plan and not all of the streets have been constructed or are named as depicted.

The discussion continued about the feasibility of conducting a survey on the lot in question with various Board members expressing their thoughts on the topic. Chairman Best then opened the call for public comments.

Public Comment:

Annette Holbrook, (20 Cathy Street) stated that her property abuts the lot in question and would like to see the lot lines identified. Ms. Holbrook agreed that many of the monuments in the neighborhood are missing but stated she would still like to know where the property lines are to ensure there is no encroachment onto her land. She also pointed out that there is a church and school nearby that must have property markers and feels as if they could be used as a starting point for this survey.

Chairman Best explained that the outcome of the Planning Board meeting would either be that they are required to complete the survey and set the permanent markers or they would grant the waiver and allow wooden stakes to be used in place of the marker that would be close by a few feet but not 100% precise. Ms. Holbrook stated that she would be ok with something that was approximate.

Nelson Disco expressed interested in obtaining feedback from the town's legal counsel on this matter and Chairman Best indicated that they can go that route if the Board votes on it.

David Wyrwas, (21 Cathy Street) stated that there are currently other lots on Cathy Street that are in the process of being constructed and he is concerned that if this waiver is granted it will prompt the new lots to request one as well.

Chairman Best explained to Mr. Wyrwas that although he understands his point, the applicant's request needs to be considered independently and they cannot consider what it may or may not mean for other future applicants. He did also add that since there other lots in a similar situation on this street that it may be an opportunity for the applicant to share the surveying costs if the Board chooses to deny the waiver.

The Board voted 5-1-0 by roll call vote to deny the requested waiver, on a motion made by Neil Anketell and seconded by Alastair Millns. Bill Boyd voted in the negative.

6. Discussion/possible action regarding other items of concern

Councilor Boyd indicated that he is attending an NRPC meeting on Wednesday evening and asked how he should respond if asked about the Save Hudson movement. The Board discussed it and decided that as a Board they do not want to take a side on the initiative and have no comment.

Alastair Milns brought up an email that was received regarding re-notification when a project is continued. The consensus from most of the Board is that they would be in favor of re-notifying the abutters for the project in question. Chairman Best advised the Board that they cannot make a motion on an item that is not on the agenda and Robert Price interjected to add that the project is on the agenda for the October 6th Planning Board meeting.

Neil Anketell asked if a decision was made about what constitutes a junk yard because there is a property in his neighborhood that has at least six cars parked on its lawn. Chairman Best explained that the language was updated to comply with the state law and that if anyone feels that someone is not compliant they can submit a service request. Robert Price confirmed the process and added that staff does not follow up with the submitter of the service request regarding the outcome. If the submitter wants to know the outcome of the request, they need to contact Community Development.

7. Approval of Minutes — September 1, 2020

The Board voted 6-0-0 by roll call vote to approve the minutes of September 1, 2020, as amended, on a motion made by Alastair Millns and seconded by Nelson Disco.

8. Adjourn

The Board voted 6-0-0 by roll call vote to adjourn at 8:04 p.m., on a motion made by Bill Boyd and seconded by Paul McLaughlin.