



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

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MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, SEPTEMBER 5, 2017

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig, Michael Redding, Desirea Falt, and Alternate Paul McLaughlin.

Planning Board members absent: Lynn Christensen, Vincent Russo and Alternate Nelson Disco.

Staff present: Planning and Zoning Administrator 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 Paul McLaughlin to sit for Vincent Russo.

2. Planning & Zoning Administrator's Report

The Board voted 6-0-0 to determine that Mi-Box New England site plan is not of regional impact, on a motion made by Alastair Millns and seconded by Tom Koenig.

3. William Lastowka (applicant) and Land of Goshen, LL C. (owner) — Continued review for consideration of final approval of a Sub division Plan for a twelve lot cluster subdivision. The parcel is located at 6 Watkins Road in the R-1 (Residential) and Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 4C, Lot 449. **This item is continued from the June 20th, July 18th and August 15th, 2017, Planning Board meetings.**

Robert Price informed the Board that the plans were submitted too late this afternoon for staff to review them.

Chad Branon, Civil Engineer, Fieldstone Land Consultants, PLLC, said that, since the July 18, 2017, meeting, he addressed a number of comments and met with relevant departments. Although the submission deadline was August 28, 2017, he waited until today because he was waiting for comments from NH Department of Environmental Services (DES), the Sub-surface Bureau and CLD. The plan was revised to incorporate CLD's comments. Revisions include: widening the road from 22' to 24', adding sidewalks on the south, modifying road drainage to prevent runoff onto the lots, addressing Merrimack Village District (MVD) comments, and extending the water main to Amherst Street. All lots conform to regulations. He made the drainage modifications that the Public Works Department (PWD) and CLD recommended. He has provided construction details and an existing conditions plan.

Chad Branon explained why he asked for so many continuances. He is now requesting another continuance and is granting the Board an extension to the 65 day review clock.

The barn will remain. A variance from the Zoning Board of Adjustment (ZBA) is required because it is within the 100' landscape buffer. There would be no significant change to the plan, just a modification of one lot if the barn must be razed. The development would be mostly on the north of the wetland to minimize impact. The rest would be 12+ acres of conservation land to which all lots would have access, which is more than what is required.

Chad Branon described how runoff would be treated. He made storm water calculations for large (2,000+ square foot) homes as a demonstration.

At the applicant's request, the Board voted 6-0-0 to continue this item to October 3, 2017, at 7:00 p.m., in the Matthew Thornton Meeting Room, and to re-notify abutters at the applicant's expense, on a motion made by Alastair Millns and seconded by Paul McLaughlin.

- 4. Brett W. Vaughn (applicant) and Brett W. Vaughn Revocable Trust (owner)**
Continued review for consideration of final approval of a 13 lot residential subdivision. The parcel is located at 123 Wilson Hill Road in the R-1 (Residential) District. Tax Map 4A, Lot 023. **This item is continued from the July 18th and August 15th, 2017, Planning Board meetings.**

Michael Redding recused himself from discussing and acting on this agenda item.

Chairman Best called a five-minute recess at 7:30 p.m. to give Chad Branon, Civil Engineer, Fieldstone Land Consultants, PLLC and the Planning Board time to review PWD's September 1, 2017, review comments, which were distributed prior to the hearing.

Chad Branon said that, since the August 15, 2017, meeting, he addressed CLD, PWD, staff and Fire Department comments, including several on PWD's September 1, 2017, memo. He saw nothing of concern in that memo. He met with the Fire Department on August 1, 2017. Chad Branon awaits their comments on his August 24, 2017, proposal to have a fire pond rather than two 30,000 gallon cisterns to meet the Fire Department's preference for 60,000 gallons of capacity. There would be a hydrant and an emergency pull-off for the fire pond to connect to the existing man-made pond, which would be enlarged. There would be a dedicated water supply to maintain the fire pond, which would be lined to keep out vegetation. Chad Branon can supply documentation that the pond is man-made and not under DES jurisdiction.

The ZBA granted variances for frontage on three lots off the cul-de-sac. Lot 7, which had 107.8' of frontage in the previous design, now has a different configuration with 167' of frontage. That is more than what was approved by the ZBA, but less than the required 250'. Lot 8 has 75' of frontage. Lot 9, which had 75' of frontage in the previous design, now has 89.2'. Chad Branon proposes to modify the frontage of Lot 9 to 89.2', thus making all frontages equal to or greater than what the variance granted.

Brett Vaughn, 123 Wilson Hill Road, said there would be one more lot in this iteration of the plan versus the concept which the Zoning Board of Adjustment saw because he

acquired more land since the ZBA meeting took place. Chad Branon explained that allowed him to realign the road, to place the homes farther from abutting properties, and to provide a buffer.

Chairman Best questioned whether there is enough information about driveway locations and slopes. Robert Price said that PWD would comment on that. Chad Branon said the profile of the road would follow the contour/terrain except where it would enter the site. The land is mostly level. All driveways would meet the maximum 10% slope regulation. In note 15, PWD claims that there is still over 30' of elevation at station 2+00, but Chad Branon claims that it is 12' at the largest cut and explained why. He would need an Alteration of Terrain Permit, but not for this area/ledge cut. He will address the issue with NH DES.

Chad Branon added a sidewalk on the east side of the road, addressed drainage comments, provided vehicular access to Stormwater Management Practices, and provided a sight distance plan profile. He could add 6' to the sight line.

In note 7, PWD agrees to a slope waiver for a grade of more than 8% for a cul-de-sac length of 1,125' rather than the 920' Chad Branon requested. He will use PWD's figures. There would be no revision to the road design, only using different numbers. The Fire Department and PWD approve the road design. Without a slope waiver, Chad Branon would have to make more cuts with more impacts in order to meet regulations. This is a good design from an environmental standpoint. It does not compromise safety.

Chairman Best said the Planning Board could not vote on a slope waiver at this meeting because it is not clear how many feet DPW approves. Alastair Millns wanted a letter from PWD about slopes and from the Fire Department about fire ponds. Chairman Best said the Board needs a final plan that all relevant departments approve.

Staff noted that boundary information for the eastern portion of the lot was developed from reference plans and is not the required current boundary survey. Chad Branon said he submitted a revised plan and verified that the boundary was correct. It is a non-issue. He just stated how he did the work.

Public comment

Michael Redding, 105 Wilson Hill Road, had three concerns. 1) He wanted assurance that a fire pond would be properly maintained and protected. 2) The slope at station 250 at the development entry is 26' of elevation change that could be a safety and erosion hazard. The Planning Board should know if it is bedrock and how it would interact with the drainage system. A large cut at the entry could be an undesirable view. Vegetation should be preserved. 3) There has been no quantitative presentation about the ability to supply water beyond the bare minimum. The abutters have water issues. The Emery & Garrett report does not convince Michael Redding that there is an ability to find a substantial amount of water. There is a seasonal supply issue. The depth of the wells would potentially impact abutters' wells. This is the only mechanism for abutters to seek relief.

Jim Wood, 119 Wilson Hill Road, said all abutters are concerned about water. He is unhappy about the prospect of pumping so much water to the surface for a fire pond

and prefers leaving it in the ground for abutters to use and to prevent evaporation. The nearest hydrant is two miles away. He prefers one cistern. The ground is all ledge. He supports the road following the contours of the landscape. Alastair Millns explained that the Fire Department would bring water to fill the cistern and would not draw from neighbors' water. Chairman Best added that the fire pond would be for the entire neighborhood rather than exclusively for this development.

Amy Wood, 119 Wilson Hill Road, prefers tabling this item and re-notifying abutters. There have been too many continuances.

Chad Banon said that maintaining a fire pond is the Fire Department's responsibility. Chairman Best said the Fire Department wants a homeowners association to be responsible for a fire pond. He instructed the applicant to specify who would be responsible. Alastair Millns and Chad Banon stated that other communities require Fire Department maintenance.

Chad Branon said he would discuss with PWD his preference for a ledge cut rather than a rip rap slope at the entry. He will not blast ledge.

Brett Vaughn said the only scientific study done says there is water. When he contacted DES to discuss the water issue, an employee commented that he is being held to a higher standard. Restrictive zoning requires 2.3 acres per home and twice that distance for a well. Huge areas are holding water. Abutters' wells are 800' away. Four abutting lots just dug wells and got water. Public testimony has been emotional rather than scientific. The table top study Brett Vaughn did at Michael Redding's request reported that there is water. Chairman Best stated that the State says one can make reasonable use of one's land if it does not affect the neighbors. A small subdivision seems like a reasonable use of this property. Brett Vaughn supplied all the evidence the Planning Board asked for. The Board asked for copies of the E&G report for the next meeting.

A motion made by Desirea Falt and seconded by Alastair Millns to continue this item to October 3, 2017, failed, 2-3-0. Robert Best, Tom Koenig and Paul McLaughlin voted in the negative.

The Board voted 4-1-0 to table this item indefinitely and to re-notify abutters at the applicant's expense, on a motion made by Tom Koenig and seconded by Paul McLaughlin. Alastair Millns voted in the negative.

5. Mi-Box New England, LLC. (applicant) and TW Bridge Associates, LLC. (owner) — Review for acceptance and consideration of final approval for conditional use permit and site plan for the construction of a 39,100 s.f. self-storage facility, with associated site improvements. The parcel is located at 101 Herrick Street in the C-2 (General Commercial), I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 3D-2, Lot 020.

Michael Redding returned to the Board.

Chairman Best explained that this is a self-storage warehouse in a commercial rather than an industrial district. The Zoning Ordinance requires that a CUP is necessary to approve a self-storage facility in the C-2 District.

Chad Branon, Civil Engineer, Fieldstone Land Consultants, PLLC, explained that Mi-Box New England President Edward Smith could not attend because he was in an accident over the weekend. The 2.5-acre lot has been vacant for over 20 years because of the existing conditions: The topography is steep, with a 30' elevation drop. The storm water flow discharges onto the site from D.W. Highway and then goes to the wetland to the south. It is not a natural wetland but the result of sandy soils scouring to great depths (6'). Jurisdictional wetland impacts require State permits. The Mi-Box headquarters building must be 35' high except on the north corner, where there would be a glass office tower. The site is perfect for this use. There is municipal water and sewer. Utilities would be underground. The view from D.W. Highway would be of a single-story building with a two-story glass tower. The front yard on D.W. Highway would look nice and would control runoff. Access would be off Herrick Street. The 9,500 square foot wetland created by runoff would be filled. The ZBA granted a special exception for filling a portion of the delineated wetlands and a frontage variance to build within the 50' front setback. There would be no more peak rate runoff than there is currently. Drainage would improve, utilities would be connected and there would be landscaping and site lighting. The site is designed to accommodate Mi-Box vehicles. Although 27 parking spaces are provided, no customers would come to the site. There would be two travel lanes in the building, where trucks would offload and go on to the next customer. 400-500 boxes would be moved internally and stacked three high, which is why the building must be so tall. There would be no outside storage. Mi-Box serves a 40-mile radius. This would replace the Continental Boulevard transition site.

Chad Branon read the statutory criteria into the record:

- a) Granting of the application would meet some public need or convenience.
Granting of this application would allow for the productive use of the existing property, allow a local business to grow and would address an increasing local demand. The MI-Box facility will service the Town of Merrimack and its surroundings and will provide a quality service for the storage and moving of their possessions.
- b) Granting of the application is in the public interest.
Granting this application would allow a local business to grow and address an increasing demand. The applicant is looking to grow in this location as it is desirable considering the parcel's proximity to the highway. We believe this proposal will result in no negative impacts to the neighborhood as the site will be designed to meet and exceed all local regulations and will address drainage deficiencies that currently exist on-site due to the local highway system. It is our opinion that this project will substantially improve the aesthetics of the subject parcel and the surroundings. This will be a substantial investment in an area of town that is reserved for commercial development. This investment will add value to the tax base with very little demand on local services in return. Due to the above reasons and the fact that this proposal will not alter the essential character of the neighborhood or threaten the health, safety or general welfare of the public we believe that this proposal would be in the public interest.
- c) The property in question is reasonably suited for the use requested.

Granting this Conditional Use Permit would allow for the productive use of the existing property. The subject property has been on the market for the better part of the last 20 years and presumably has not been sold due to the topography of the site and the existing drainage present on the site from the adjacent state highway runoff. This proposed use is very unique and we believe is a good fit for the subject property as the proposed development will not need direct access from US Route 3, can fit with the existing topography as proposed and can work with the existing drainage from the highway system. For all of these reasons we believe the subject property is reasonably suited for the use requested.

- d) The use requested would not have a substantial adverse effect on the rights of the owners of surrounding properties.

This use will be compatible with the surrounding uses and will enhance the surrounding area. In our opinion this proposal would improve the property and associated values and local tax base which ultimately means it will have a positive impact on the community. It has also been our experience that new construction and development will often times actually increase the value of surrounding properties. We believe this proposal will result in no negative impacts to the neighborhood as the site will be designed to meet and exceed all local regulations and will address drainage deficiencies that currently exist on-site due to the local highway system. For all of these reasons we do not believe this project will have a substantial adverse effect on the surrounding properties. In fact we would expect this project to actually have positive impacts on surrounding properties as it will rejuvenate the site and the surroundings.

- e) There must be appropriate provision for access, facilities adequate for the estimated traffic from public streets and sidewalks, so as to assure public safety and to avoid traffic congestion.

The site has been designed with the main access to the property from Herrick Street. The access and internal traffic patterns have been designed to handle emergency response vehicles and will provide sufficient access around the proposed building. This project will provide adequate vehicular and pedestrian access, will not create any public safety issues and will not result in traffic congestion.

- f) Electrical service to storage units shall be for lighting and climate control only. No electrical outlets are permitting inside individual storage units. Lighting fixtures and switches shall be of secure design that will not allow tapping the fixtures for other purposes.

The MI-Box style storage is very unique and is not like the conventional Self-Storage Facilities. There will be no electrical service provided to any of the MI-Box units stored at this facility.

- g) If the facility abuts residentially zoned property, the facility loading bays, docks or doors shall not be visible from the residential property or from public rights-of-way.

The subject site is not located near residentially zoned property. With this said the topography of the site and orientation of the building will prevent the overhead doors from being visible from the public right-of-ways.

- h) In order to promote visual compatibility with commercial development allowed in commercial zones, Self-Storage Facility buildings shall incorporate appropriate landscaping/screening and architectural and design features common to commercial and/or multi-family development. (Examples of such architectural and design features include; massing; proportion; facade modulation; exterior building materials and detailing; varied roofline; pedestrian scale; fenestration; repetition; etc.).

The proposed MI-Box facility is not similar in design to the conventional Self-Storage buildings. The design of the proposed building will be compatible with its surroundings. The visual appearance of the building will be one story along the frontage of the property with US Route 3, with the exception of the glass entrance which will be two stories as viewed from US Route 3. This appearance is due to the fact that the building will be built into the slope of the property. The building design does incorporate architectural elements such as massing, proportion, façade modulation and different exterior building materials. It is our belief that this proposal will enhance the visual appearance from the street, will allow for productive development of a lot in the General Commercial District and the design will be consistent and fit in with the surrounding properties.

Tom Koenig questioned the last criterion, visual compatibility, and asked how the building would change when viewed from D.W. Highway. After some discussion about the current design not meeting the Site Plan Regulations regarding length of uninterrupted façades, Chad Branon stated he would revise the plans to provide bump-outs, awnings, different window positions and shrubbery to break up the façade and to be compatible with the surroundings.

There was no public comment on the conditional use permit.

Tom Koenig said that the long stretch of white with black window frames that is pictured does not match Chad Branon's description. The building must be compatible with what is nearby.

Chad Branon said that this is not a conventional self-storage with a wall of garage doors. This design is more compatible with the surroundings than a typical self-storage. Synergy is climate controlled self-storage, which is completely different. Chairman Best agreed that the sketch is inconsistent with what was just described and that it must fit with the neighborhood. Chad Branon said rooftop HVAC would be screened and would not be seen from D.W. Highway. There is no roof requirement. He explained the landscaping, which would meet regulations and help break up the façade. The building elevation is 15' over the road elevation.

Staff recommends that the Board grant the CUP as long as it believes that the criteria for approval have been sufficiently addressed and met by the applicant.

The Board voted 6-0-0 to grant the conditional use permit and to discuss building aesthetics as part of site plan review, on a motion made by Alastair Millns and seconded by Desirea Falt.

Staff recommends that the Board vote to accept the site plan 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 6-0-0 to accept the site plan for review, on a motion made by Alastair Millns and seconded by Desirea Falt.

Chairman Best explained that the building is on the State-controlled portion of D.W. Highway. The State will not approve a sidewalk on D.W. Highway unless the town has a sidewalk master plan. Alastair Millns noted that the State does not control Herrick Street.

The Board vote 6-0-0 that a sidewalk on Herrick Street is not necessary, on a motion made by Alastair Millns and seconded by Desirea Falt.

Alastair Millns cited the criterion that strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the regulations.

The Board voted 4-2-0 to waive the requirements of Section 7.05.D.19 - Sidewalks and Pedestrian Ways - on D.W. Highway, on a motion made by Desirea Falt and seconded by Alastair Millns. Tom Koenig and Michael Redding voted in the negative.

The topic of façades was again raised. Chad Branon requested clarification as to the applicable section of the regulation. Discussion ensued about the building façade, which category applies and whether to ask the architect to appear before the Board.

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.

A motion made by Alastair Millns and seconded by Desirea Falt to grant final approval, with conditions, and to waive Section 12.04.2.b – length of uninterrupted façade – subject to the architect's appearance at a compliance hearing, was withdrawn.

Referring to staff's proposed Precedent Condition #13b, Alastair Millns said lighting spillover on Route 3 must be changed. Michael Redding noted that the building square footage is listed as both 37,100 and 39,100 square feet. Chad Branon said it would be 39,100 square feet. He noted that the sign is not part of this application. It would be noted on the plan and would be part of site plan review.

There was no public comment on the site plan.

The Board voted 6-0-0 to continue this item to October 3, 2017 at 7PM in the Matthew Thornton Meeting Room, on a motion made by Desirea Falt and seconded by Paul McLaughlin.

6. Charles Haas, Jr. Trustee (applicant) and M&M Realty Trust (owner) — Review for acceptance and consideration of final approval for a waiver of full site plan review for a soil and groundwater remediation project (concrete pad installation). The parcel is located at 734-A Daniel Webster Highway in the C-2 (General Commercial) District. Tax Map 7E, Lot 031.

Todd Greenwood, Project Manager, Enviro North American Consulting, LLC, said the site is home to an automobile salvage yard known as Majestic Motors. The applicant wants to install a concrete pad in front of the existing vehicle crusher. The pad's proposed location is currently a gravel surface, which is considered impervious and does not increase storm water runoff. The project is funded by a grant from NH DES under its MTBE Remediation Bureau to protect soil and groundwater quality at automotive recycling facilities from incidental spills.

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 6-0-0 to accept the application for review, on a motion made by Alastair Millns and seconded by Desirea Falt.

Todd Greenwood said the pad would be 4,500 square feet. Vehicles are dismantled inside the garage, then the "carcasses" are stored temporarily on the property and brought to the crusher as needed. The pad is adjacent to the crusher. Automobiles are drained of fluids prior to crushing, although there may be leaks. The pad captures the spills..

Charles Haas, 734-A Daniel Webster Highway, said there are monitoring wells on site which are monitored twice yearly. The pad represents a more efficient operation and better spill prevention. Todd Greenwood said there were groundwater impacts in the past, but the water is now almost at clean drinking water quality. This pad is a better way to maintain groundwater quality. Test pits determined that there are no soil quality issues. Charles Haas explained that drips are picked up with Speedy Dry, which is better than a spill kit and is located all over the property. There are 700 vehicles on site.

Alastair Millns cited the criterion that strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the regulations.

The Board voted 6-0-0 to waive full site plan review, on a motion made by Alastair Millns and seconded by Desirea Falt.

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.

There was no public comment.

The Board voted 6-0-0 to grant final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Paul McLaughlin.

1. Final plans to be signed by all property owners;
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 address any forthcoming comments from municipal departments/boards/committees as applicable
5. The applicant shall address the following Planning Staff Technical Comments:
 - a. The applicant shall add the following information to "Figure 2", which constitutes the site plan for this application:
 - i. Purpose of plan statement;
 - ii. Signature of the property owner;
 - iii. Signature block to include lines for Chair and Vice Chair of the Planning Board.

7. Discussion/possible regarding other items of concern

None.

8. Approval of Minutes - August 15, 2017

The minutes of August 15, 2017, were approved as submitted, by a vote of 6-0-0, on a motion made by Alastair Millns and seconded by Tom Koenig.

9. Adjourn

The meeting was adjourned at 11:15 p.m., by a vote of 6-0-0, on a motion made by Alastair Millns and seconded by Desirea Falt.