



# 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](http://www.merrimacknh.gov)

Planning - Zoning - Economic Development - Conservation

## MERRIMACK PLANNING BOARD

### APPROVED MINUTES

TUESDAY, SEPTEMBER 6, 2016

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig, Michael Redding, Lynn Christensen, Desirea Falt (arrived 7:02 p.m.), and Alternates Nelson Disco and Jeff Sebring.

Planning Board member absent: Vincent Russo.

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

#### 1. Call to Order

Robert Best called the meeting to order at 7:00 p.m. and designated Jeff Sebring to sit for Vincent Russo and Nelson Disco to sit for Desirea Falt.

#### 2. Planning & Zoning Administrator's Report

None.

Desirea Falt arrived at 7:02 p.m., Nelson Disco returned to Alternate status.

#### 3. Meridian Land Services, Inc., North View Homes & Development, Inc., & Bernstein, Shur, Sawyer & Nelson, P.A. (applicants) and Greenfield Management, LLC. (owners) – Review for consideration of Final Approval for a 66-lot cluster subdivision on four lots (originally part of the Greenfield Farms subdivision) located on Wire Road and Whispering Pines Lane in the R-1 (Residential) and Aquifer Conservation Districts and the 100-year Flood Hazard Area. Tax Map 7C, Lots 28, 30, 40 & 40-1. **This agenda item is continued from the July 19, 2016 meeting.**

Tim Thompson reported that the Planning Board took a site walk on August 27, 2016, and the revised plans were received on August 31, 2016. However, neither the Public Works Department (PWD), nor he have had time to complete a thorough review of the revised plans given when they were submitted. Therefore he recommends a continuance to October 4, 2016.

Ken Clinton, President, Meridian Land Services, Inc., said there are few substantive engineering items to resolve. Keach-Nordstrom agrees with the drainage report and Steve Pernaw's traffic report concluding that the project would have no impact. A meeting with Community Development and PWD was held.

Because the Merrimack Conservation Commission (MCC) was concerned about the use of fertilizers, Ken Clinton placed Note 24 on the plan, stating that the homeowner

association documents should include a reference to “best management practices” to control nonpoint source pollution. There would be three levels of open space, one of which could be deeded to the Town. The Ordinance requires that there be a home owners association to maintain open space.

Keach-Nordstrom and staff wanted to integrate the off-site sewer extension into the plan set, since connection to the municipal sewer is required in order for the proposed cluster design to be permitted by zoning. Ken Clinton disagreed because the sewer plan has its own design, approval and permit. Therefore he inserted Note 25, which states that “no sewer permits shall be issued for any of the lots until the sewer extension is accepted by the Town”. The plan set would be stapled to the full plan set and labeling would be added to refer to it. Chairman Best wanted to ensure that that the connection is shown on the plan. Tim Thompson referred the Planning Board to Sheet 12, which shows that the sewer line ends at Whispering Pines Lane. PWD, CDD & Keach Nordstrom all commented that it should show the connection to the Town system. Ken Clinton said he would reach agreement with Kyle Fox before his next Planning Board appearance.

Note 26 states that there would be landscape and sign easements at the entrances. Ken Clinton said he would reserve an area for a sign and ask for a sign permit later.

Note 27 states that there would be a 5’ widening easement for future Wire and Pearson Road widening. All easements would be on the open space lots except for the Swenson lot.

Note 28 places responsibility on the developer for street and future public infrastructure maintenance and for liability for injuries before Town acceptance. PWD prefers not to have stop signs and bars on all the short cul-de-sac roads, whereas the Planning Board seems to want them based on his impressions from the last meeting. Although Ken Clinton does not want the public to drive through a cul-de-sac to Road A without a stop sign and get into an accident, he does not want to make the decision. Chairman Best, Alastair Millns and Nelson Disco preferred a “yield” or “stop” sign. Tim Thompson said the cul-de-sacs do not meet the MUTCD warrant for a stop sign. Tom Koenig said speeders would run stop signs anyway. Ken Clinton explained that, although stop signs are not required, the Planning Board could decide to have them. Tim Thompson will bring samples of similar intersections in Merrimack that do not have stop signs. Tom Koenig used Island Drive as an example of installing an unnecessary stop sign because of a near miss. In his opinion, the Planning Board is going “overboard” with signs. Tim Thompson said Island Drive’s is the first stop sign that the Highway Safety Committee approved in his five years of service. Chairman Best wanted the Planning Board to influence Town Council’s decision.

Ken Clinton said he would refer to roads as A, B, C, etc. until final approval of streets and house numbers.

Ken Clinton explained that there is already water in Whispering Pines, which he would extend into the development. Merrimack Village District (MVD) wants a “loop”/closure on Wire Road past Jason Drive and a plan for it, although a plan is not required. He will

follow up with them as to whether they want a full design plan and will do whatever they recommend. Tom Koenig wanted the entire loop to be designed and shown on the plan. Chairman Best wanted it to be resolved by October 4, 2016.

Ken Clinton said that part of Swenson's farm crosses the Bedford line. Tim Thompson and Keach-Nordstrom realized that he did not note the municipal boundary with Bedford on the plan. Tim Thompson noted that Steve Keach does peer review for Bedford. The Swenson lot was one parcel for zoning purposes. To utilize it as a single-family developable lot in the future, there must be zoning relief from both Bedford and Merrimack. Ken Clinton stated that it is a stand-alone lot that is not part of the cluster development.

The applicant requests a waiver from the requirements of Section 4.12.d of the Subdivision Regulations to allow an intersection approach grade in five of six cul-de-sacs of 1.5% whereas -2% is required. This would allow road height and associated fill to be kept to a minimum and provide for a better transition exiting each of the short cul-de-sac roads. This would affect only a few homes. Neither Keach-Nordstrom nor PWD has commented because of the lateness of the request. Tim Thompson said PWD would probably not have an issue because the property is flat. Ken Clinton spoke to PWD Director Fox, who gave no negative feedback. He will reword the waiver request to be accurate about intersection locations in time for the October 4, 2016, meeting.

The applicant requests a waiver from the requirements of Section 4.06.1.i of the Subdivision Regulations to limit the installation of right-of-way monuments to the new roads and lot lines, but specifically not along the frontage of the open space lots on Wire and Pearson Roads. He is granting a 5' easement for future road widening and does not want to set new monuments where monuments already exist and are mentioned in deeds. Chairman Best added that open space precludes there ever being a boundary issue.

### **Public comment**

Mike Petrocelli, 138 Wire Road, sent an e-mail stating his concern that road A, which is the exit point of the entire development, is directly across from his house. This positioning would cause a major disruption and devaluation of his property and cause exiting vehicle headlights to shine directly on his house at all hours of the night, resulting in a lack of privacy. Mike Petrocelli wants the road to be shifted 100 yards to either side along the over 400' of open wooded frontage so that there is minimal disturbance. Ken Clinton showed the Planning Board a photo from where a car would exit. Headlights would shine onto part of the garage. The only way to shine headlights into the house would be for a car to take a left turn onto Wire Road in the dark. This is not a major issue. Ken Clinton will discuss the concerns with Mike Petrocelli, planting shrubbery would not help the situation. Alastair Millns agreed that only high beams would shine on the windows.

Ken Clinton agreed to extend the 65-day deadline under RSA 676:4 in order to get a continuance to October 4, 2016, to allow time for staff to complete a more thorough review. Tim Thompson explained that he would give Greenfield Management 12 rather

than six months to fulfill the conditions of approval at the time the Board is ready for conditional approval.

Staff recommends that the Board continue the application until October 4, 2016, to allow for a complete review of the revised plans and information by the Community Development and Public Works Departments.

**Following consent of the applicant to waive the 65 day deadline under RSA 676:4, the Board voted 7-0-0 to continue this item to October 4, 2016, at 7:00 p.m., in the Matthew Thornton Room, on a motion made by Alastair Millns and seconded by Lynn Christensen.**

**4. Alex Petrenko of Icon Motors, LLC. (applicant) and Moose Mountain Realty Trust (owner) —** Review for acceptance and consideration of a waiver of full site plan review for a change of use to permit automotive sales and service. The parcel is located at 674 D.W. Highway in the C-2 (General Commercial), Aquifer Conservation and PRD Overlay Districts and Wellhead Protection Area. Tax Map 6E-2, Lot 019.

Tim Thompson explained that a service request violation was brought to the attention of Community Development. This plan would legitimize the use. The Zoning Board of Adjustment (ZBA) granted a variance and special exception for an automotive service and sales business in 1995.

Alex Petrenko, 674 D.W. Highway, said the building was approved for 31 parking spaces. He wants to add 15 more to the northeast of the building by striping existing pavement, for a total of 46, more than the required 44.

Tim Thompson said the automotive use was superseded by DR Power, so it must be re-established. The variance runs with the land, but the site plan does not. That is why the applicant must appear before the Planning Board.

Chairman Best asked whether oil and water would be separated and whether solvents would run into the floor drains. Alex Petrenko replied that there is one drain, but it is not by the lifts. Tim Thompson reminded the Board that the business must comply with building codes. Alex Petrenko agreed to Chairman Best's suggestion that a periodic maintenance plan for the oil/gas separators (for any floor drains) in accordance with all building or health code requirements be made a condition of approval.

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 Alastair Millns and seconded by Desirea Falt.**

Michael Redding asked about oil storage. Alex Petrenko said there are two 200-gallon tanks. A new, more efficient and cleaner tank is coming. The coolant tanks are cleaned twice monthly. Nothing that would cause concern is stored. He is following Fire Department guidelines. He just updated the equipment. New oil is kept in bottles rather

than in tanks, except perhaps for non-chlorinated brake cleaner. The parts room has safe storage. Chairman Best predicted that the Fire Department would want flammables kept in a cabinet and Alastair Millns predicted they would want to update the sprinkler system. Alex Petrenko said he would replace the valves. The Fire Department will test everything. The front of the building would be a showroom with three cars inside. There may be OHRVs years from now. He may have 2-3 motorcycles in the future and has applied to the State for a motorcycle inspection license.

Alex Petrenko agreed to Chairman Best's' suggestion for a condition of approval that there would be no long-term storage of vehicles to be serviced on the site. There is no detailing, washing or outdoor repairs.

Desirea Falt asked about the number of employees, which Alex Petrenko said is four. He does not know about future needs. Tim Thompson reminded the Board that the number of employees does not determine the number of parking spaces for this type of use. Alex Petrenko said there would be one employee in the showroom, two in service and one in the shop. Operating hours would be Monday-Friday only. Tim Thompson instructed him to include a note that there might be Saturday hours next year.

Staff recommends that a sidewalk waiver is not necessary because the site lies along a section of Daniel Webster Highway that is under the jurisdiction of the NH Department of Transportation (DOT), which has indicated they do not support construction of sidewalks without a comprehensive corridor sidewalk plan endorsed by the Town.

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 7-0-0 that a sidewalk waiver is not necessary and to waive full site plan review, on a motion made by Alastair Millns and seconded by Jeff Sebring.**

Tom Koenig asked about limiting runoff from the parking lot on the side at the drop to the stream. Alex Petrenko cited a curb, cement blocks and closed drainage. Tim Thompson said that floor drains are connected to the gas-oil separators. Chairman Best noted that the Planning Board has never required outdoor separators. Tim Thompson said the extra parking spaces would be on existing pavement on the property line that was never striped. There would be no change to the amount of impervious surface. Alex Petrenko would use that corner for dropping off and picking up cars. The bushes there were trimmed. Tom Koenig wanted to minimize oil and gas leakage. Chairman Best noted the curb and parking lot are 40' from the wetland and Michael Redding said the curb would manage leaks. Chairman Best recommended that a spill kit be on site at all times as a condition of approval.

There was no public comment.

**The Board voted 7-0-0 to grant final approval, with the following precedent conditions, to be fulfilled within six months and prior to plan signing, unless**

**otherwise specified, on a motion made by Alastair Millns and seconded by Desirea Falt.**

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 the Highway Division, as applicable;
5. The applicant shall address any forthcoming comments from Merrimack Village District, as applicable;
6. The applicant shall address any forthcoming comments from the Police Department, as applicable;
7. The applicant shall address any forthcoming comments from the Conservation Commission, as applicable;
8. The applicant shall add a note to the plan indicating that there will be no long term storage of vehicles to be serviced on the site, and shall also add the plan notes that were contained on a separate sheet (notes 1-9, starting with purpose of the plan through the signage note), replacing those notes that relate to the previous approval;
9. The applicant shall address the following Planning Staff Technical Comments:
  - a. Plans shall be updated to reflect approved number of parking spaces, as appropriate (current annotation has 31 spaces listed, but applicant proposes 46);
  - b. Plans shall be updated to reflect a maximum of 10 cars allowed for sale at any given time;
  - c. Update the annotated parking notes to indicate that 44 spaces are required.

General and subsequent conditions

1. The applicant shall address the following comments from the Fire Department:
  - a. This building has an existing NFPA-13 compliant fire sprinkler system that was last updated and modified in 2006 when DR Power renovated the building for its use as a retail store. The existing system has suffered damage from several years of neglect due to the building being vacant and shall be inspected and repaired as necessary by an approved fire sprinkler contractor to bring it back into compliance. Plans shall be provided to this office for review and approval before a permit can be issued.

- b. This building has an existing NFPA-72 compliant fire alarm system that was installed in 2006 when DR Power renovated the building for its use as a retail store. The existing system has suffered damage from several years of neglect due to the building being vacant and shall be inspected and repaired as necessary by an approved fire alarm contractor to bring it back into compliance. Plans shall be provided to this office for review and approval before a permit can be issued.
2. The applicant shall have a periodic maintenance plan for the oil/gas separators (for any floor drains) in accordance with all building or health code requirements;
3. The applicant shall have a spill kit on site at all times.

## **5. Discussion/possible action regarding other items of concern**

Tim Thompson will distribute a draft of the 2017 meeting dates at the next meeting.

Chairman Best announced that Capital Improvement Program (CIP) memos have been sent to every department.

Nelson Disco expressed concern that the new zoning amendments mean that there will no longer be public hearings about proposed ADUs. Desirea Falt explained that an ADU is now proposed to be allowed by right. Since nothing can be done about neighbors' complaints, a public hearing would not be helpful. Chairman Best did not want to raise the public's expectations that the Planning Board would act on its complaints. The Legislature was not concerned about what the neighbors think. Tim Thompson noted that the Planning Board already recommended the amendments to the Town Council. The Town Council will hold a hearing in October. The State legislation and the Master Plan were designed to make the ADU process more streamlined. If an ADU cannot meet the standards, the applicant must go to the ZBA for a variance. The Town is protected: the ADU must meet the requirements to get a permit. The Planning Board must approve a detached ADU through a Conditional Use Permit process. Nelson Disco wanted the neighbors to be given notice. Tim Thompson said an ADU should look like a regular home addition. No one should be able to distinguish an ADU from a single-family home.

Chairman Best announced a Nashua Regional Planning Commission (NRPC) presentation/training session on pipeline construction. Materials are available for interested Board members.

## **6. Approval of Minutes – August 16, 2016**

**The minutes of August 16, 2016, were approved, by a vote of 6-0-1, on a motion made by Lynn Christensen and seconded by Michael Redding. Alastair Millns abstained.**

**The minutes of the August 27, 2016, site walk were approved, with changes, by a vote of 6-0-1, on a motion made by Alastair Millns and seconded by Lynn Christensen. Tom Koenig abstained.**

## **7. Adjourn**

**The meeting was adjourned at 8:46 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Tom Koenig.**