



Town of Merrimack, New Hampshire

Community Development Department

6 Baboosic Lake Road

Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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MEMORANDUM

Date: September 29, 2015

To: Robert Best, Chairman, & Members, Planning Board

From: Timothy J. Thompson, AICP, Community Development Director

Subject: **Daniel Higginson of Meridian Land Services, Inc. (applicant) and Vasilios Gakis (owner)** – Review for acceptance and consideration of Final Approval of a 2-lot minor subdivision. The parcels are located at 17 Beaver Brook Road in the R-1 (Residential) and Aquifer Conservation and Flood Hazard Conservation Districts. Tax Map 6C, Lot 406.

Background: The subject property is an approximately 76.2 acre lot located at 17 Beaver Brook Road in the R-1 (Residential) District. The property is abutted by the residential lots to the north, south, east, and west. An existing single family home exists on the parcel currently, and the majority of the parcel is inundated by wetlands. According to the project narrative, both lots will be serviced by onsite septic systems and private wells.

The applicant proposes to subdivide the lot into two residential lots (shown on the proposed plan as Lots 406 and 406-1). Proposed Lot 406 will be approximately 66.2 acres and proposed Lot 406-1 will be approximately 10 acres.

Because of the predominance of the wetlands on the proposed lot, the applicant is unable to provide the 100,000 square feet of contiguous upland area required under the Zoning Ordinance. The applicant received a variance from the ZBA to allow Lot 406-1 to have less than the required contiguous upland area on July 29, 2015

Completeness: 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 the Board to make an informed decision.

Waivers: The applicant is requesting a waiver from the Section 4.06.1(i) of the Regulations, seeking to waive the requirement for monumentation at the lot corners located within the wetland areas. Additionally, staff recommends a sidewalk waiver per Section 4.06.1(r) of the Regulations, or a determination under Section 4.07 that it is not necessary (As a Minor Subdivision, the Board has the option of determining that a waiver is not required).

Staff recommends that the Board vote with respect to the requested waivers utilizing the criteria from RSA 674:36:

- 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; **or**
- Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Recommendation:

Based on the information available to date, **the planning staff recommends that the Board grant conditional final approval to the application with the following precedent conditions to be fulfilled within 6 months and prior to plan signing, unless otherwise specified:**

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 note all waivers granted by the Board on the plan (including Section, and date granted) as applicable;
3. The applicant shall update Note #11, referencing the variance granted by the ZBA, indicating the specific variance granted: "Variance under Section 3.02(A) of the Zoning Ordinance to permit the creation of a lot with less than 100,000 s.f. of contiguous upland area";
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 the Public Works Department as applicable;
6. The applicant shall address any forthcoming comments from the Fire Department, as applicable;
7. The applicant shall address any forthcoming comments from the Conservation Commission as applicable;
8. Address the following Planning Staff Technical Comments:
 - a. The applicant should indicate where access to the new lot is to be obtained from;
 - b. Applicant to add a note to the plan indicating that the plan is to be recorded at HCRD and that a copy is on file with the Community Development Department;
 - c. Applicant to add owners address to the title block of the plan;
 - d. Applicant shall correct note # 8 (the proper title is Zoning Board of Adjustment, not Adjustments);
 - e. Applicant to revise note # 10 to update the reference to the Town Code (Chapter 167 is the current Stormwater Management Ordinance number);
 - f. Applicant shall add the wetland buffer and setback delineation to the plan.

Staff also recommends that the following general and subsequent conditions be placed on the approval:

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. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;

3. Prior to the issuance of a building permit for the new lot (406-1), a septic design shall be submitted to, reviewed, and approved by the Building Division;
4. Applicant to obtain right-of-way permits from the Public Works Department for all new driveways.

Cc: File
Correspondence

Ec: Vasilios Gakis, Owner
Daniel Higginson, Meridian Land Services
Kyle Fox, PE, Deputy Director of Public Works/Town Engineer
John Manuele, Fire Marshall
Carol Miner, Secretary, Building Department
Fred Kelley, Building Official, Building Department