



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MEMORANDUM

Date: July 26, 2016

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

From: Robert Price, Assistant Planner

Subject: **Guiliana Davidson of Portofino Italian Restaurant, LLC. (applicant) and Pamela Currier, Co-Trustee of Orrin Connell 1993 Trust (owner) – Review for acceptance and consideration of a waiver of full site plan review of outdoor restaurant seating. The parcel is located at 458 D.W. Highway, Unit 6 in the C-2 (General Commercial) and Aquifer Conservation and Town Center Overlay Districts. Tax Map 5D-4, Lot 054.**

Background

Map 5D-4/Lot 054 is located at 458 Daniel Webster Highway. The property is located in the C-2 (General Commercial), Aquifer Conservation and Town Center Overlay Districts. The property is approximately 11.8 acres in size and contains the Connell's Shopping Center and CVS/pharmacy. The property is abutted to the east by several businesses including the Lobster Boat restaurant and the D&W service station, to the north and west by Abbie Griffin Park and several residences, to the south by other businesses and Merrimack School District property. The applicant is seeking a waiver of full site plan review to permit the placement of 6-8 outdoor seats for the patrons Portofino Italian Restaurant (the applicant has gone back and forth between six and eight seats to this point, so staff calculated parking based on eight seats).

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 has requested a waiver of full site plan review. By nature of the application and the fact that a waiver was previously granted on this site, a waiver of the parking requirements (Section 7.03.E, Table 1 of the Subdivision Regulations) is also being requested.

Staff recommends that the Board vote with respect to any requested waivers utilizing the criteria from RSA 674:44:

- 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.

Parking

This proposal is coming before the Planning Board because the subject property was granted a waiver for less than the required number of parking spaces at the time the CVS was approved. At the time, the Town's regulations required a total of 338 parking spaces for the entirety of the site. The waiver granted reduced the number of approved spaces to 254. Under current requirements, Portofino itself would need 72 parking spaces (which includes eight outdoor seats). The CVS lease area contains 82 spaces. If the applicant's request is approved, 100 spaces would be left for the remainder of the stores on site.

Recommendation

Should the Board grant the waiver of full site plan review, 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 to be signed by all property owners and signed and sealed by all appropriate professionals;
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. Applicant to add a note to the annotated plan indicating that the "proposed" sidewalk and other improvements shown on the plan (except for outdoor seating) have already been constructed/completed.

Ec: Giuliana Davidson, Applicant & Owner (giu1007@hotmail.com)
Pamela Currier, Trustee, Orrin Connell 1993 Trust (pam.svf@gmail.com)
John Manuele, Merrimack Fire Department
Building Department Staff

Cc: Planning Board File
Correspondence

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