



Town of Merrimack, New Hampshire

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY, DECEMBER 2, 2014

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig, Michael Redding, Lynn Christensen (arrived 7:35 p.m.), and Desirea Falt.

Planning Board member absent: Alternate Nelson Disco.

Zoning Board of Adjustment members present: Fran L'Heureux, Patrick Dwyer, Phil Straight, Tony Pellegrino, Richard Conescu, and Alternate Leonard Worster.

Staff present: Community Development Director Tim Thompson, Planning and Zoning Administrator Jillian Harris, Assistant Planner Donna Pohli, and Recording Secretary Zina Jordan.

1. Call to Order

Robert Best called the meeting to order at 7:30 p.m. Fran L'Heureux led the pledge of allegiance.

- 2. Joint Meeting of the Planning Board and Zoning Board of Adjustment –**
Discussion of topics of concern for both Boards and presentation from Karen Dudley of Natural Resources Conservation Service (USDA).

Lynn Christensen arrived at 7:35 p.m.

Soil Mapping. Karen Dudley, Research Soil Scientist, Natural Resources Conservation Service, described how soils are mapped for general land use. The maps are not site specific. Elements in soil mapping are landform, topography, parent material, water table depth, and slope. A sample usually contains 80% of one type of soil, but other types are included. Soils differ according to age, climate, topography, glaciers, and human activity. The oldest soils change more from the surface down, with wetter soils on the bottom and dryer soils on top. Soils are residues of scraping by ancient glaciers. Karen Dudley described the types of soils and where they are found.

Planning Board Chairman Best asked how the Planning and Zoning Boards could use this information. Karen Dudley replied that the information can help to decide appropriate locations for building foundations, drainage and locating wetlands. A lot should be able to clean a leach field before it goes into the groundwater. The information can help to determine whether a leach bed should be raised. Site-specific soil mapping provides information when building a house or a subdivision to see where to put a runoff/detention basin, whether the land can absorb water, and how to size a culvert. Nothing should be built on a steep slope. The NRCS has information about what types of trees to plant on certain soils and the best use for each type of soil. The public website, "Web Soil

Survey”, gives soil ratings for various districts in Merrimack. Karen Dudley read a list of resources available to the public.

Pete Gagnon, 130 Bedford Road, explained that new innovative technology is being used for mapping and has corrected previous mapping errors. It is helpful in locating on-site disposal systems. The document that describes each soil type and what can be done with them is invaluable. Development professionals use NRCS information, which is also useful for boards whose mandate is to “protect public health, safety and welfare”.

Although Patrick Dwyer suggested that the ZBA could hire soil scientists to measure setbacks, Tim Thompson pointed out that a consultant’s work could not be duplicated by the Planning Board. The developer is responsible for correct mapping and usually hires the soil scientist. The need for the Town to hire a soil scientist is extraordinarily slim. Karen Dudley said the NRCS soil maps are 1:24,000’, whereas soil-specific maps are 1:10’.

Michael Redding said that soil mapping is useful for controlling erosion. It shows slopes, which have impacts on drainage, basements, and settling foundations during construction. Karen Dudley said that erosion is factored into each soil and provides information about what problem would result from cutting into it. Sands must be considered when laying pipe, for instance.

Karen Dudley left brochures on site-specific standard mapping and soil-based lot sizing.

Accessory Dwelling Units (ADUs). Chairman Best wondered if there could be fewer requirements and suggested removing the blood relative/family member and one-bedroom restrictions. The goal is to avoid turning a single-family home into apartments. Tim Thompson explained that ADU requests appear frequently before the ZBA, which thinks it would be more efficient if staff made an administrative decision rather than the ZBA granting a Special Exception. ZBA Chair Fran L’Heureux said staff could easily make most decisions about whether a petition must go to the ZBA. Tim Thompson asked whether an ADU needs a formal public process and what to do if the decision is not clear-cut. He noted that the Master Plan recommends meeting Workforce Housing goals by removing the family member restriction.

Patrick Dwyer was concerned about apartments popping up all over Merrimack and wanted oversight that an ADU is being used for its original purpose, whereas Richard Conescu thought “related by blood” is wasted verbiage because it cannot be enforced. Patrick Dwyer wondered about someone who buys a home with an unwanted ADU and must pay to remove it. Robert Best replied that the person would factor that into the decision to buy the home. He asked what difference it would make, from a planning perspective, for a non-relation to live in an ADU. There would still be someone living in it, parking in the driveway, etc. Alastair Millns surmised that ADUs are being used for non-family members. Robert Best noted the contradiction that a homeowner needs a Special Exception from the ZBA for an ADU, but needs no permission to rent a room to anyone. Tim Thompson explained that Merrimack zoning allows up to five unrelated people to live in a single-family dwelling. Robert Best said providing Workforce Housing is important. Tim Thompson explained that it refers to standards based on HUD fair market rent areas and is not subsidized or low-income rents. Leonard Worster opined that, if anyone could live in an ADU, every home would become a duplex.

ZBA members said that they wanted only to expedite the process and make it easier for petitioners by handling an ADU request administratively. They do not want to change the criteria. Tim Thompson agreed, but said he had to remind the Boards about the Master Plan recommendation to allow non-family members to live in an ADU. Lynn Christensen explained that, in order to change the ADU guidelines, the Planning Board must vote to change an ADU into a Permitted Use and then seek Town Council approval for the change. Tim Thompson recommended that, if the Ordinance were changed to address the Master Plan recommendation, language directing applicants to go to the Planning Board for a Conditional Use Permit (CUP) would be his preference. Robert Best noted that the boards had the same discussion at their joint meeting five years ago. Tim Thompson said the Planning Board has more flexibility than the ZBA and could decide whether to grant a CUP.

Tim Thompson will draft two separate zoning amendments for future discussion: 1) administrative approval for an ADU and 2) changes in the ADU criteria to address the Master Plan recommendation.

Residential Lot Requirements The ZBA also raised a question regarding residential lot requirements. Donna Pohli listed the frontage requirements in residential districts R-1, R-2, R-3 and R-4 by minimum lot size and soil type. Tim Thompson explained that, because R-1 has the most limited soils, it has the largest required lot size in order to have sufficient soils for a septic system, etc. Since R-4 already has water and sewer, it has the smallest required lot size. Phil Straight noted that some septic systems have evolved into aerobic digestion systems that no longer require 2½ acres. A good septic system can now be placed on a much smaller area than was the case 30 years ago. He suggested leaving the regulations alone, but that the boards could be more lenient about interpreting them. Chairman Best suggested requiring a Special Exception rather than a Variance. Alastair Millns said that, if a septic system would work on a smaller area and still meet the five criteria, the ZBA rather than the Planning Board, could give relief. Tim Thompson suggested postponing discussing soils-based lot size until the next time the Planning Board considers possible zoning changes. He agreed with Richard Conescu that such an application does not fit the ZBA's five statutory criteria, but would fit a Planning Board CUP process. It makes more sense for an applicant to go to the Planning Board once than to go to the ZBA and wait another month to go to the Planning Board also.

3. Discussion of Planning Board process for determining “Regional Impact” of projects under RSA 36:56

This agenda item was considered after agenda item #4.

Tim Thompson explained that the Planning Board does not currently make a determination about regional impact for all projects, as the statutes require. He suggested that, as part of the “Planning and Zoning Administrator’s Report” on the agenda, the Planning Board review with staff any applications for site plans and subdivisions that have been received by Community Development since the most recent previous Planning Board meeting and vote on a determination of regional impact. Staff recommends criteria to determine regional impact based on those developed by the Southern NH Planning Commission. Affected communities and the Nashua Regional

Planning Commission (NRPC) would be notified and thereby be granted abutter status. In general, very few applications have regional impact.

4. Update on Zoning Amendments for Junkyard licensing and other minor revisions.

This agenda item was considered before agenda item #3.

Tim Thompson explained that the General Government Department requested that the Community Development Department update the junkyard section of the Ordinance in order to comply with changes to State law. Staff decided to review the entire Ordinance not only to change “Board of Selectmen” to “Town Council” but also to correct sections that are not in line with the current format of government and department structure as well as other areas that are outdated in terms of current State law requirements.

Michael Redding and Patrick Dwyer suggested adding electronics into the junkyard definition. Michael Redding wondered whether the activities requiring an excavation permit are too broad. For example, would a landscaper need one? There was consensus that Tim Thompson would draft wording for “junk”, “junkyard”, and titles for those sections (in Section 8) without them.

Phil Straight suggested holding a joint meeting annually. Robert Best said that both boards and the Community Development Department are good at customer service for procedure, but he wanted applicants to continue to meet a high standard for substance.

5. Discussion/possible action regarding other items of concern

- **Von Kruschka Gray Revocable Trust** – Voluntary Lot Merger for Tax Map 6A-2, Lots 148 and 161, also known as #310 & #310A Baboosic Lake Road, respectively.

Information only.

- **Potential Performance Bond establishment for Wildwood Acres Subdivision**

The Board voted 6-0-0 to set the Wildwood Acres Subdivision Road Bond at \$1,075,744.07, on a motion made by Alastair Millns and seconded by Michael Redding.

The Board voted 6-0-0 to reduce the Wildwood Acres Subdivision Road Bond to \$457,041.87, on a motion made by Alastair Millns and seconded by Desirea Falt.

- **Performance Bond Release for Portside Drive.**

The Board voted 6-0-0 to release the \$39,582.00 Portside Drive Maintenance Bond, on a motion made by Tom Koenig and seconded by Lynn Christensen.

- **Performance Bond Release for Dumas Lane**

The Board voted 6-0-0 to release the Dumas Lane Performance Bond, set a \$44,603.50 Maintenance Bond, and to recommend acceptance of Dumas Lane by Town Council, on a motion made by Desirea Falt and seconded by Lynn Christensen.

- **Maintenance Bond Release for Samuel J. Drive (Phase I & II)**

The Board voted 6-0-0 to release the \$8,000 Phase I and \$55,421.10 Phase II Samuel J. Drive Maintenance Bonds, on a motion made by Alastair Millns and seconded by Lynn Christensen.

6. Adjourn

The meeting adjourned at 9:54 p.m., by a vote of 6-0-0, on a motion made by Alastair Millns and seconded by Desirea Falt.