



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

RESULTS OF MERRIMACK ZONING BOARD OF ADJUSTMENT

WEDNESDAY, AUGUST 26, 2015

Members present: Fran L'Heureux, Patrick Dwyer, Tony Pellegrino, Richard Conescu, Lynn Christensen, and Alternate Leonard Worster.

Staff present: Planning and Zoning Administrator Jillian Harris and Recording Secretary Zina Jordan.

1. Call to Order.

Fran L'Heureux called the meeting to order at 7:00 p.m.

2. Roll Call.

Richard Conescu led the pledge of allegiance. Tony Pellegrino read the preamble and swore in members of the public who would be testifying.

3. Annual Election of Officers.

The Board elected Fran L'Heureux as Chair, by a vote of 4-0-1, on a motion made by Tony Pellegrino and seconded by Patrick Dwyer. Fran L'Heureux abstained.

The Board elected Patrick Dwyer as Vice Chair, by a vote of 4-0-1, on a motion made by Lynn Christensen and seconded by Tony Pellegrino. Patrick Dwyer abstained.

The Board voted 5-0-0 to review the by-laws after agenda item #11, on a motion made by Lynn Christensen and seconded by Patrick Dwyer.

4. Rob Lavoie (petitioner) and Gregg Kennedy (owner) – Appeal of an Administrative Decision under Section 3.02 of the Zoning Ordinance, seeking to overturn the Community Development Department Staff determination that soils-based lot sizing does not apply to a parcel located within the R-1 (Residential) District by Zoning Map. The parcel is located at Fuller Mill Road in the R-1 (Residential) District. Tax Map 4B, Lot 153. Case # 2015-24. This agenda item is continued from the July 29, 2015 meeting.

Applicant was represented by: Attorney Greg Michael, Bernstein Shur; and Ken Clinton, President, Meridian Land Services, Inc.

The Board voted 4-1-0 to deny the Appeal of Administrative Decision, on a motion made by Patrick Dwyer and seconded by Tony Pellegrino. Lynn Christensen voted in the negative.

5. Robert Lavoie (petitioner) and Gregg Kennedy (owner) – Variance under Section 3.02 of the Zoning Ordinance to permit the subdivision of a lot with less than the required minimum

lot area, frontage and lot depths. The parcel is located at 8 Fuller Mill Road in the R-1 (Residential) District. Tax Map 4B, Lot 153. Case # 2015-31.

Applicant was represented by: Attorneys Greg Michael and Michael Klass, Bernstein Shur.

There was no public comment.

The Board voted 5-0-0 to grant the Variance, with one condition, on a motion made by Richard Conescu and seconded by Patrick Dwyer.

- 6. John and Dawn O'Neil (petitioner/owner)** – Variance under Section 3.02 of the Zoning Ordinance to permit a two-family residence with a lot area less than the required 80,000 s.f.. The parcel is located at 203 Naticook Road in the R (Residential) District. Tax Map 2B, Lot 109. Case # 2015-26.

Applicant was represented by: John O'Neil, 203 Naticook Road.

Public comment was received from: Cindy O'Brien, 205 Naticook Road.

The Board voted 4-1-0 to deny the Variance, on a motion made by Lynn Christensen and seconded by Richard Conescu. Patrick Dwyer voted in the negative.

- 7. Carolyn Parker of Pattison Sign, Inc. for Enterprise Rent-A-Car (petitioner) and Helios Investments, LLC. (owner)** – Variance under Section 17.09(3) of the Zoning Ordinance to permit the installation of (2) 74.31 s.f. wall signs whereas (1) 6 s.f. is allowed. The parcel is located at 302 Continental Boulevard in the R (Residential) and Aquifer Conservation Districts. Tax Map 2B, Lot 032. Case # 2015-27.

Applicant was represented by: Carolyn Parker, Pattison Sign, Inc., for Enterprise Rent-A-Car.

There was no public comment.

The Board voted 5-0-0 to grant the Variance, on a motion made by Patrick Dwyer and seconded by Lynn Christensen.

- 8. Crosswoods Path III, LLC. (petitioner/owner)** – Variance under Section 15.04(B) & Table I of the Zoning Ordinance to permit up to 21 multi-family residential units on a lot containing 83,397 s.f. whereas between 130,680 and 152,460 s.f. is required (depending on the mix of 1 & 2 bedroom units). The parcel is located at 1 Crosswoods Path Boulevard in the C-2 (General Commercial) and Aquifer Conservation Districts and Planned Residential Overlay. Tax Map 7E, Lot 046-053. Case # 2015-28.

Applicant was represented by Attorney Brad Westgate, Winer & Bennett; and Jerry Levin, Owner, Crosswoods Path III, LLC.

Public comment was received from: Amy Fuller, 5 Crosswoods Path Boulevard.

The Board voted 5-0-0 to grant the Variance, with one condition, on a motion made by Tony Pellegrino and seconded by Richard Conescu.

- 9. Daniel Mendenhall of ADM Vending Inc. (petitioner) and Nash, Bosowski, Clegg & Clegg, and Mitchell & Mitchell (owners)** – Variance under Section 2.02.4.B of the Zoning Ordinance to permit a commercial/retail use in the I-1 (Industrial) District. The parcel is located at 20 Continental Boulevard in the I-1 (Industrial) and Aquifer Conservation Districts and Wellhead Protection area. Tax Map 3C, Lot 086. Case # 2015-29.

Applicant was represented by: Daniel Mendenhall, ADM Vending, Inc.

There was no public comment.

The Board voted 5-0-0 to grant the Variance, on a motion made by Patrick Dwyer and seconded by Tony Pellgrino.

- 10. 429 DW Highway LLC. (petitioner/owner)** – Variances under Section 2.02.13.E(4)(a) of the Zoning Ordinance to permit the construction of a farmers porch 21.80 ft. from the front property line whereas 30 ft. is required. The parcel is located at 427 Daniel Webster Highway in the C-2 (General Commercial) District and Elderly, Aquifer Conservation, and Town Center Overlay Districts. Tax Map 5D-4, Lot 076. Case # 2015-30.

Applicant was represented by: Chad Branon, Project Engineer, Fieldstone Land Consultants; and Mark Rivet, Owner, 429 D.W. Highway.

There was no public comment.

The Board voted 5-0-0 to grant the Variance, on a motion made by Patrick Dwyer and seconded by Lynn Christensen.

- 11. Patricia M. Dumont (petitioner/owner)** – Special Exception under Section 2.02.1 (B)(2) of the Zoning Ordinance to permit an Accessory Dwelling Unit (ADU). The parcel is located at 26 Joey Road in the R (Residential) District. Tax Map 2B, Lot 052. Case # 2015-32.

Applicant was represented by: Patricia Dumont, 26 Joey Road.

There was no public comment.

The Board voted 5-0-0 to grant the Special Exception, with conditions, on a motion made by Richard Conescu and seconded by Tony Pellegrino.

- 3. Review of By-Laws.**

The Board voted 5-0-0 to approve the proposed By-Law amendments, on a motion made by Richard Conescu and seconded by Tony Pellegrino.

- 12. Discussion/possible action regarding other items of concern.**

Discussion only.

- 13. Approval of Minutes – July 29, 2015.**

The minutes of July 29, 2015, were approved, as submitted, by a vote of 4-0-1, on a motion made by Tony Pellegrino and seconded by Patrick Dwyer. Richard Conescu abstained.

14. Adjourn.

The meeting adjourned at 10:15 p.m., by a vote of 5-0-0, on a motion made by Tony Pellegrino and seconded by Lynn Christensen.