



# Town of Merrimack, New Hampshire

Community Development Department  
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Planning - Zoning - Economic Development - Conservation

## MERRIMACK PLANNING BOARD

### APPROVED MINUTES

TUESDAY, APRIL 7, 2015

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig, Lynn Christensen, and Alternate Nelson Disco.

Planning Board members absent: Michael Redding and Desirea Falt.

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

#### 1. Call to Order

Robert Best called the meeting to order at 7:30 p.m. and designated Nelson Disco to sit for the vacant full member position.

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

Jillian Harris reported that a new alternate member will be appointed at the April 9, 2015, Town Council meeting.

Staff recommends that the Button Homes, LLC, proposal, which wants to subdivide one lot into two single-family residential lots, is not of regional impact.

**The Board voted 5-0-0 to determine that Button Homes, LLC, subdivision is not of regional impact, on a motion made by Alastair Millns and seconded by Nelson Disco.**

Anheuser-Busch, wants to construct three building additions totaling 55,100 square feet and associated site improvements at the existing brewery: an additional 50,000 square feet of warehousing and packaging and 5,100 square feet for brewing. Staff recommends that it is not of regional impact.

Alastair Millns is concerned that Anheuser-Busch may be near the Nashua municipal border and across the Merrimack River from Litchfield. Jillian Harris explained that, even if one of the criteria (proposed development is directly adjacent to a municipal boundary) applies and the majority do not, the Board may determine that there is no regional impact. Nelson Disco disagreed. Alastair Millns wanted to table the vote until the Planning Board sees more information about the project. Tom Koenig said that Anheuser-Busch is not adjacent to a municipal boundary. The land between Anheuser-Busch and the River acts as a buffer. It is difficult for Litchfield to be impacted by something on the other side of the River. There are no appreciable emissions or traffic between Nashua, Litchfield and Merrimack. Lynn Christensen and Robert Best said the Merrimack River is a big dividing line. Robert Best noted that staff have listed recommendations rather than hard criteria. If the Board finds that there is regional impact, it means only that a letter describing the project would be sent to neighboring communities and regional planning commissions for their input.

**The Board voted 3-2-0 to determine that Anheuser-Busch site plan is not of regional impact, on a motion made by Tom Koenig and seconded by Robert Best. Alastair Millns and Nelson Disco voted in the negative.**

Chairman Best reported that a candidate is interested in one of the remaining vacant positions on the Planning Board.

**3. Button Homes, LLC. (applicant) and Donna Kazmirchuk (owner) – Review for acceptance and consideration of Final Approval for a minor subdivision of one lot into two single-family residential lots located at 71 Bedford Road in the R (Residential) and Aquifer Conservation Districts. Tax Map 6D, Lot 090.**

Raymond Shea, Sandford Surveying and Engineering, Inc., said the 2.6 acre parcel would be subdivided into two single-family house lots. The first lot would measure 0.932 acres. The second lot would measure 1.6 acres. The three existing structures (house, shed and garage) would eventually be removed and replaced with a new single-family residence. It would be serviced by municipal sewer and water with an easement from the sewer line on the adjacent Bedford Road Baptist Church property. If the Church does not agree to an easement, the pipe could tie into the interceptor on the street. Another 15'-20' easement is needed from the Church to get to the manhole within the sewer easement. It is easier and cheaper than connecting to the sewer at Bedford Road. The house, garage and shed predate the wetland buffer.

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 5-0-0 to accept the application for review, on a motion made by Alastair Millns and seconded by Lynn Christensen.**

Chairman Best read an April 6, 2015, e-mail from the Merrimack Conservation Commission (MCC) encouraging the applicant not to use salt or de-icing compounds on the driveway or abutting parcel, to remove the shed in the wetland buffer, and either to remove the garage or not store fertilizers or chemicals in it.

Raymond Shea said that the applicant agrees to remove the shed and probably the garage and not to use salt or de-icers. The house may not be removed and a new one built until a later date. A new house would be built outside the wetland buffer. The second house would be in back of the new lot. It would have a 300'-long driveway and about a 100'x40' clearing. Very few trees would be cut. There is a good sight distance (500') in both directions, so the plan will be amended to show a 275' to 325' sight line. (Condition 4d).

**Public comment**

Robert Bragdon, Elder for Facilities, Bedford Road Baptist Church, is concerned about water management. A drainage stream from Cathy Road to the east runs across church property, under its driveway to a 2' culvert, and to another stream before running into Baboosic Brook. It is seasonally very wet at the culvert. Robert Bragdon asked whether construction would affect the culvert and make it collapse.

Peter Lindsay, Grounds Maintenance, Bedford Road Baptist Church, said the open culvert is wet six months of the year. The pipe had to be replaced five years ago. He believes that the Town installed the culvert and easement to alleviate flooding from the Cathy Road development.

Jillian Harris said staff could not find documentation of an easement for the drainage pipe. Lynn Christensen suggested tying into Bedford Road for sewer. Nelson Disco said tying into the manhole on the church property would be less disruptive than digging a sewer ditch to Bedford Road. If the Town is responsible for the pipe, an easement would be needed to

replace it. Raymond Shea could not find a record of an easement either. He said the owner of the lot made an agreement with the church when it was built. The pipe drains the church property. Robert Bragdon clarified that it drains to the church from Cathy Road. Raymond Shea said the proposed easement to the manhole would prevent disturbance of the drainage pipe. It is preferable for the sewer to go into the manhole and away from the drainage pipe. He suggested swapping easements so the church could fix the pipe when necessary. Both parties would benefit. Robert Best said an easement makes sense, but he questioned whether the Planning Board can mandate one only if the Town and not a private owner is responsible for the pipe. Many types of agreements are possible. Lynn Christensen said that, if the applicant wants something more, such as building on a second lot, he must also take more responsibility for maintenance. Robert Best said that would be the case only if it is to the applicant's benefit. A private homeowner should not be responsible for what he does not cause. The Planning Board is not responsible for determining who must maintain the pipe. Robert Bragdon said that water from the stream goes toward Bedford Road. It would flood onto the proposed subdivision in the rear rather than the church if there were no culvert.

Raymond Shea said water would go straight downhill and not to the church. Robert Best said that, although flooding would not affect the church, it would affect the applicant's property. He wanted to ensure that the culvert could handle new drainage. Lynn Christensen said the culvert is designed to run the water to Baboosic Brook. She asked how the culvert would be managed with a new subdivision and whether the subdivision must maintain it. In her opinion, the abutting property is responsible. Robert Best explained that there must be an easement because the culvert starts on church property and conveys water across the applicant's property. The Planning Board does not have enough information to decide whose easement it would be and who would maintain it. Those are questions for Legal Counsel and are not part of the application to the Board. Raymond Shea said that Earl Sandford, who is a wetland scientist, delineated the wetland in the fall of 2014.

Brian Button, 7 Evergreen Lane, Amherst, is the prospective purchaser of the new lot. He said the culvert is on the property. The back parcel will not flood if it collapses or is removed. The water will eventually find its way down. However the church is low and a swale that is 20' higher than the church was created to force water into the culvert. Without the hill/swale, water would seek its natural level. Brian Button is willing to grant the church an easement to repair the pipe when necessary. Then each lot would have an easement with the church. The applicant owns the culvert. Chairman Best said the Planning Board should make creating an easement a condition of final approval. Legal Counsel can determine who the parties and beneficiaries are. Paving over the pipe for the driveway changes future maintenance.

**The Board voted 5-0-0 to grant a waiver from Section 4.06.1(r) – Sidewalks - of the Subdivision and Site Plan Regulations - Sidewalks - on a motion made by Alastair Millns and seconded by Nelson Disco.**

Staff recommends that the Board vote to grant conditional Final Approval to the application, with precedent conditions to be fulfilled within six months and prior to plan signing, unless otherwise specified.

**The Board voted 5-0-0 to grant final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Nelson Disco.**

1. Final plans to be signed by the Applicant and Property Owner;
2. Any waivers granted shall be listed with the section number and date of approval on the Final Plan;

3. Applicant shall obtain a variance from the Zoning Board of Adjustment for structures to remain within the 25' no-disturb wetland buffer per Section 2.02.7.A.7(b) of the Zoning Ordinance (or remove the structures prior to issuance of any Building permits for the 2 lots);
4. Applicant shall address the following comments from the Department of Public Works:
  - a. The proposed sewer easement is on property owned by Bedford Road Baptist Church – the easement is not to be granted to the town as it serves to connect sewer service from the house;
  - b. In accordance with Section 4.18, bounds need to be installed at all appropriate points along Bedford Road;
  - c. Where the property line is less than 25' from the centerline of Bedford Road, a sight distance easement of 25' from Bedford Road centerline shall be granted to the Town;
  - d. In accordance with Section 4.12, the sight distance shown on the plans should be a minimum of 275' but 325' is desired;
5. Address any forthcoming comments from the Fire Department, including future addressing requirements;
6. Address any forthcoming comments from the Conservation Commission (as applicable);
7. The applicant shall indicate on the plan an easement for the drainage pipe and culvert that crosses lot 6D/90-1 (see related General & Subsequent Condition #2);
8. Address planning staff technical comments. (below)

#### **Planning Staff Technical Comments**

1. Applicant to add a note to the plan indicating which sheets are to be recorded at HCRD and that a full set is on file with the Community Development Department;
2. Applicant to clarify Note #6 on Sheet 1 to correct grammar and clarify intent.

#### **General and Subsequent Conditions**

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. A draft copy of any proposed easements and any applicable legal documents to be submitted to the Community Development Department for review and approval by the town's legal counsel (legal review shall be performed at the applicant's expense). Said documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant, as applicable
3. Address the following comments from Merrimack Village District:
  - a. When the applicant is ready they need to come in and fill out the entrance application, pay their Entrance Fee and SDC charge, and they can schedule when to install the service.

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

None.

**5. Approval of Minutes – March 17, 2015**

**The minutes of March 17, 2015, were approved, with one change, by a vote of 5-0-0, on a motion made by Lynn Christensen and seconded by Alastair Millns.**

**6. Adjourn**

**The meeting adjourned at 8:42 p.m., by a vote of 5-0-0, on a motion made by Alastair Millns and seconded by Tom Koenig.**