



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, FEBRUARY 18, 2020

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, February 18, 2020 in the Matthew Thornton Room.

Robert Best, Chairman presided.

Members Present:

- Alastair Millns (Vice Chairman)
- Paul McLaughlin
- Nelson Disco
- Councilor Bill Boyd, Ex-Officio (Arrived at 7:02 PM)

Members Absent:

- Dan Ricker
- Neil Anketell
- Lynn Christensen

Staff Present: Robert Price, Planning & Zoning Administrator

1. Call to Order: Chairman Best called the meeting to order at 7:00 p.m. and appointed Nelson Disco into a voting position in place of Lynn Christensen.

2. Planning & Zoning Administrator's Report

Robert Price requested that the public hearing for zoning amendments tentatively scheduled for March 17th be rescheduled to April 7th so that the Community Development Director can be in attendance. The Board agreed to move the public hearing to the April 7, 2020 Planning Board meeting.

3. Chestnut Hill Properties, LLC (applicant/owner) – Review for consideration of an amendment to a previously approved cluster subdivision plan to allow for six additional lots, increasing the total number of lots from 71 to 77. The parcels are located at Captain Bannon Circle and Ritterbush Court (approved, not constructed roads) in the R-1 (Residential, by map) District. Tax Map 5B, Lots 002, 005, 007, 008, 009-01 through 009-71. Case #PB2020-05.

Ken Clinton, Meridian Land Services, Inc. presented the project on behalf of Chestnut Hill properties, LLC. Mr. Clinton summarized the request by explaining that they are seeking Board approval to amend a previously approved subdivision. The amended plan adds an additional six lots to the project which will increase the total number of lots from 71 to 77. The original approval was granted in

November 2016 and included four open space lots, and was proposed to be serviced by public roads, municipal water and sewer. The original approval included a condition that the applicant/owner must fix a known sewer issue on Madeline Bennett Lane. Since that approval, they have considered many different options for adhering to the sewer repair condition, including building the lots with private septic systems but nothing seemed to work out. Since some permits (Wetland, Alteration of Terrain, etc.) were already granted, the applicant was in need of a solution to get the project moving. The Town Council met with the applicant in November 2019 and came to an agreement that the applicant/owner would pay for the cost of the repairs but the Town would do the work. This new agreement is contingent upon the approval of the six additional lots to off-set the cost of the sewer repairs. Off-setting the cost is necessary because the data used to determine the cost of the repairs dated back to 2011, and since that time, the price has almost doubled. Mr. Clinton went on to explain that a density variance was requested and granted by the Zoning Board on December 18, 2019 to allow for the six additional lots. He then walked the Planning Board through the amended plan and explained the placement of the six new lots and their impact to the original design. Mr. Clinton also compared the lot sizes to two existing subdivisions (Meadow Woods and Greenfield Farms), stating that most of the Chestnut Hill lots are larger than anything in those developments. Mr. Clinton also expressed that they did take a look at the traffic impact with the increase of lots, and found the results to be inconsequential. He concluded his presentation by indicating that they reviewed the staff memo and agree to most of the recommendations with the exception of the request to remove the original notes from the 2016 conditional approval. Mr. Clinton clarified that he used letters instead of numbers for the amendment notes and feels it's important to keep the history on the plans rather than remove them as outlined in the staff memo.

Due to his participation in the Town Council vote to create the agreement regarding the sewer and off-site roadway improvements, Councilor Boyd recused himself from this item and left the meeting at 7:15 p.m.

Chairman Best reminded the Board members that they do not have to review the project for completeness because it's an amendment to an already approved subdivision. He also reminded the Board that the number of lots has already been approved by the density variance granted by the Zoning Board so there is no need to discuss the number of lots. Chairman Best opened the floor for questions and started by asking Mr. Clinton if any waivers were granted as part of the original application. Mr. Clinton referred the Board to note 13 on the plan that outlines the waivers that were granted in the original approval. There were four waivers granted and they were all related to road grade, side slope and a section of a sidewalk. Chairman Best asked for clarification on the sidewalk waiver and Mr. Clinton explained that the development does have sidewalks planned and the waiver was requested just for a specific section to decrease the impact to the wetlands.

Nelson Disco asked for an explanation as to why staff does not want the old set of notes on the plan. Robert Price explained that the Community Development Director (who drafted the memo) felt that it was confusing to have both sets of notes on the plan. Nelson also went on to ask if the sewer that is being repaired is designed to service the entire development and Madeline Bennett Lane. Mr. Clinton assured the Board that the sewer design is sufficient and has been discussed in detail with the Public Works Department and contractors that have developed updated cost estimates.

Chairman Best opened the Public Hearing and no comments were received.

Robert Price advised the Board that Director Thompson is watching the meeting from home and is holding firm that he would like the notes revised as recommended in the staff memo because the entire plan set is being re-recorded as part of this amendment process and needs to stand on its own.

No comments were made by the public.

The Board voted 4-0-0 to grant conditional final approval, on a motion made by Nelson Disco and seconded by Paul McLaughlin 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 verify that all required State approvals/permits are applicable to the amended subdivision, and if not obtain updated permits, note any updated approvals/permits on the final plans and mylars and provide copies to the Community Development Department, as applicable;
3. The applicant shall provide draft copies of any applicable updated or amended legal documents for review, at the applicant's expense, by the Town's Legal Counsel;
4. The applicant shall address any forthcoming comments from the Assessing Department (relative to Tax Map lot numbering), as applicable;
5. The applicant shall address any forthcoming comments from other municipal departments & boards/commissions, as applicable;
6. The applicant shall address the following Planning Staff Technical Comments:
 - a. The applicant has 2 sets of notes on Sheet 1, "Previously Approved Notes" on the left side of the sheet, and "Amended Notes" on the right side. Staff finds this approach does not clearly demonstrate the purposes of the amended subdivision plan, and believes the applicant should only have one set of notes on the sheet. The following revisions shall be made to the notes:
 - i. Retitle "Previously Approved Notes" to state "Amended Subdivision Notes" and eliminate the "Amended Notes" from the sheet (each of these amended notes will be addressed in conditions below);
 - ii. Replace note #1 under retitled "Amended Subdivision Notes" to the language deleted in Amended Note A;
 - iii. Replace note #2 under retitled "Amended Subdivision Notes" to the language deleted in Amended Note B;
 - iv. Add new note after (or as a part of) note #9 to the language deleted in Amended Note C;
 - v. A new note shall be added (preferably after either note #2 or note #8) using the language deleted in Amended Note D;
 - vi. Revise note #10 to reword the text currently with a strikethrough, removing the strikethrough and rewording the sentence to read "The sewer repair for Baboosic Lake Road must be completed and accepted by the Merrimack Public Works Department, and the subdivision connected to the sewer system at Madeline Bennett, prior to the issuance of any Certificates of Occupancy by the Building Division (as stipulated and required by the "Memorandum of Agreement – Chestnut Hill Subdivision" on file with the Merrimack Town Manager's office)";

vii. Note #13 shall be updated if necessary should any additional waivers be granted as part of this amended subdivision;

viii. Note #17 shall be updated if necessary should any project permits need to be updated or amended following approval of the amended subdivision;

ix. Revise note #21 under retitled “Amended Subdivision Notes” to incorporate the appropriate open space reductions as indicated in the language deleted in Amended Note E.3;

x. Replace note #23 under retitled “Amended Subdivision Notes” to the language deleted in Amended Note E.4.

The following general and subsequent conditions are also 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. The applicant, and the project, are subject to the terms of the “Memorandum of Agreement – Chestnut Hill Subdivision” on file with the Merrimack Town Manager’s office;

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

4. The applicant shall obtain right-of-way permits from the Public Works Department for all new driveways.

5. The applicant shall address the any forthcoming comments from the Fire Department, as related to property addressing and fire code compliance, as applicable.

4. Discussion/possible action regarding other items of concern

Vice Chairman Millns advised the Board about an article he was reading regarding a new Housing Appeals Board that is being formed that can override decisions of Planning Boards. Chairman Best explained what his understanding of the Housing Appeals Board is and concluded that he is not concerned that it will impact the Planning Board at all.

5. Approval of Minutes - February 4, 2020

The Board voted 4-0-0 to approve the minutes of February 4, 2020, as submitted, on a motion made by Alastair Millns and seconded by Nelson Disco.

6. Adjourn

The Board voted 4-0-0 to adjourn at 7:34 p.m., on a motion made by Alastair Millns and seconded by Nelson Disco.