



# Town of Merrimack, New Hampshire

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Planning - Zoning - Economic Development - Conservation

## **MERRIMACK PLANNING BOARD VIRTUAL MEETING APPROVED MINUTES JANUARY 5, 2021**

Due to the COVID-19 crisis, and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, the Planning Board is authorized to meet electronically.

As stated on the agenda, the meeting was aired live on Merrimack TV and the Merrimack TV webpage (<http://www.merrimacktv.com>). Telephone access was available for members of the public wishing to speak during the Public Hearing or provide public comment. Also identified on the agenda was the opportunity for general public comment to be submitted leading up to the start of the meeting via email to [CommDev@MerrimackNH.Gov](mailto:CommDev@MerrimackNH.Gov).

Members of the Board and Town Staff were participating via Zoom. In accordance with RSA 91-A: 2 III, each member of the Board was asked to state, for the record, where they were, and who, if anyone was with them.

### **1. Call to Order**

Robert Best called the virtual meeting to order at 7:00 p.m. and read the procedures & processes for the virtual meeting. He appointed Nelson Disco to vote for Lynn Christensen.

Roll Call:

- Robert Best (Chair) stated he was present and alone in the room he was in.
- Alastair Millns (Vice Chair) stated he was present at home and alone in the room he was in.
- Lynn Christensen stated she was present at home and alone in the room she was in.
- Nelson Disco (Alternate) stated he was present at home and alone in the room he was in.
- Councilor Bill Boyd (Ex-Officio) stated he was present at home and alone in the room he was in.

Members Absent: Paul McLaughlin & Neil Anketell

Assistant Planner Casey Wolfe was also present and alone at home.

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

**The Board voted 5-0-0 by roll call vote to determine that the Streif, LLC site plan is not of regional impact on a motion made by Bill Boyd and seconded by Nelson Disco.**

- 3. John Flatley Company (applicant/owner)** - Continued review for acceptance and consideration of a Site Plan to construct 100,000 square feet of research & development/warehouse in 3 proposed buildings and associated site improvements, per the

requirements of the Flatley Mixed Use Conditional Use Permit. The parcel is located at 685 Daniel Webster Highway in the I-1 (Industrial) district and the Aquifer Conservation and Wellhead Protection Areas. Tax Map 6E, Lot 003-04. Case #PB2020-19. **This item is continued from the September 1, October 6, October 20, and November 10, 2020 Planning Board meetings.**

*Chairman Robert Best recused himself from Item 3. Alastair Millns assumed the Chair.*

Casey Wolfe began by advising the Board that Staff has not received any new documents or updates since the last meeting that this project was discussed at (November 10, 2020) and that the statutory review clock under RSA 676:4 expires on February 13, 2021.

Kevin Walker, (John Flatley Company) was present to provide an update on behalf of the applicant. He stated that the project team has been making updates to the site plan based on the peer review and Staff feedback. He also added that they are waiting on a wildlife report so they can submit the Alteration of Terrain application to the Department of Environmental Services. (DES). They expect the report sometime within the next week and once it is received, they will submit the Alteration of Terrain application to DES. Mr. Walker also advised the Board that a revised traffic study is currently being conducted and should be finished in a couple of weeks. All new materials will be delivered to staff as they are received. Mr. Walker also touched base on the water connection for the site, conveying that they are working on a total water layout for the remainder of the property so that water lines will not have to be changed or moved as the project progresses to the other areas of the parcel. The Flatley project team will be meeting with Merrimack Village District (MVD) in the coming weeks to review the layout together. Ground water and soils testing will also be conducted soon. These tests are just like the ones that were conducted when the apartments were built and should satisfy the DES requirements for testing for the remainder of the site. Mr. Walker wrapped up his update by stating that they are in agreement with staff recommendations that an indefinite continuance is warranted for this project while they work through the remaining permits and testing. They are aware that the abutters will need to be re-notified once they are ready to present to the Board again. He also indicated that Fieldstone Land Services has submitted a written extension request for the statutory review clock until April 2021.

Nelson Disco asked if the issues raised by MVD in their most recent communication to Staff have been addressed. Mr. Walker confirmed that they believe the issues have been resolved but they will be meeting with MVD again in the coming weeks and plan to keep in touch throughout the entire process to make sure there are no disconnects. Councilor Boyd asked if they have come to any conclusions on how impacts to the wellhead are going to be mitigated. Mr. Walker stated that they are going to continue to discuss this with MVD but they are of the belief that the parcel is not in the wellhead protection zone and the GIS map is incorrect. Once this is confirmed, they will work with the town to get the GIS map corrected. Councilor Boyd then asked if the ground water management plan has changed since the last meeting and if the traffic study will be taking another look at the proposed entrance at Shelburne Road. Mr. Walker commented that the entrance is getting looked at again and Fieldstone is redesigning the drainage plan and although he is not sure what it entails, they are committed to ensuring MVD is happy with the final plan.

**The Board voted 4-0-0 by roll call vote to continue the application to a date uncertain, with abutters to be re-notified at the applicant's expense once the applicant is ready to proceed and grant the applicant's request for an extension to the RSA 676:4 timeframes to make a final decision on the site plan until April 2021, on a motion made by Lynn Christensen and seconded by Bill Boyd.**

*Robert Best resumed as Chair. Lynn Christensen left the meeting.*

4. **City Bay Realty, LLC (applicant/owner)** - Review for acceptance and consideration of a Waiver of Full Site Plan for the construction of a 1,425 square foot “Play Area” for an existing child daycare use. The parcel is located at 416 Daniel Webster Highway in the C-2 (General Commercial), Aquifer Conservation, Flood Hazard Conservation, Elderly Housing and Town Center Overlay Districts. Tax Map 5D-4 Lot 003. Case # PB2021-01.

Casey Wolfe began by providing an overview of the project. She advised the Board that the applicant is seeking to gain approval for a playground that has already been constructed on the site without the necessary approvals. She continued by explaining that the playground eliminated approximately 7 parking spaces which makes the site non-compliant with its approved parking waiver, so a new waiver for parking is also being requested.

Matt Peterson, (Keach-Nordstrom Associates) presented the project on behalf of the applicant. Mr. Peterson shared the site plan as well as recent pictures to walk the Board through the location of the previous playground as well as the one seeking approval from the Board. He informed the Board that the owner of the childcare center asked permission from the owner of the building to construct the playground and did not realize town approval was required until she received a violation letter in October. Mr. Peterson continued by indicating that he has gone to the site several times to observe the parking situation and is confident that there is still sufficient parking at the site and noted a few areas on the plan that are never utilized. He also addressed a few changes that were made to the plan such as adding all of the tenants at the strip mall and their required parking spaces; the addition of an area designated for snow storage and proposed jersey barriers around the playground.

**The Board voted 4-0-0 by roll call vote to accept the application for review on a motion made by Bill Boyd and seconded by Nelson Disco.**

Chairman Best asked if the parking calculation including the Rite Aid lot as well. Mr. Peterson responded that the calculation does include both lots as when the site was originally constructed, it was considered as one lot. Chairman Best then stated that although he is in agreement that the playground should be protected, he is not in favor of using jersey barriers. Jersey barriers are typically used as construction sites and are typically temporary and not visually attractive. He recommended the use of bollards instead but indicated he would like the rest of the Board to weigh in as well. Chairman Best also asked about the sign that is erected on the fence and whether or not it has been approved. Mr. Peterson was not sure if the proper approvals have been granted for the sign and Casey Wolfe added that she believes the sign had not received any permits. Chairman Best then turned his attention to parking and stated that although parking can sometimes be awful at that location on the weekends for patrons visiting the D.W. Diner, the daycare is not typically open during these peak times. He then asked about the number of students and employees at the childcare center and Mr. Peterson provided the amounts.

Councilor Boyd raised concerns about how the new playground limits the turning diameter for large trucks. He had visited the site when a delivery was being made and it looked as though the playground was placed where loading and unloading would typically be done. He also asked about the language on the plan that referenced relocating the trash receptacles and whether or not that was added by Mr. Peterson or on the original plan. Mr. Peterson apologized for the oversight and indicated that it was a comment on the original plan. Councilor Boyd wrapped up

his feedback by indicating that overall he is in favor of the project but would like to see some barriers erected, the traffic flow re-examined, and a speed bump considered to slow the traffic down in that area. The traffic pattern was discussed in more detail and Mr. Peterson suggested eliminating 3 additional parking spaces to create a loading area and updating the parking waiver request to account for the change.

Nelson Disco asked if the parking spaces were removed for the easement/emergency access to the residential development next door (Overlook Estates). Mr. Peterson advised that the spaces have been blocked off on the plan and Casey Wolfe added that when staff did their walkthrough of the site, they had noted this. Mr. Peterson agreed to update to the plan to reflect the emergency access.

Public Comment was received from: Mike Malzone, 8 East Chamberlain Road. Mr. Malzone commented that the back of the parking lot is very dangerous because people whip around the back of the building to avoid the light at the main entrance. Mr. Malzone also commented on the emergency access and how difficult it would be for a fire truck to utilize it if needed, especially since snow is typically piled in it. Mr. Peterson stated that the traffic situation is exactly the reason the owner moved the playground from across the parking lot to against the building. Chairman Best also made the point that when the parking spaces were eliminated to construct the playground, it added a few feet to the turning diameter. Nelson Disco also added that the proposed speed bump would help slow traffic too.

**The Board voted 4-0-0 by roll call vote to grant a waiver from Section 3.11.e (parking) on a motion made by Nelson Disco and seconded by Alastair Millns.**

**The Board voted 4-0-0 by roll call vote to grant a waiver of full site plan review on a motion made by Nelson Disco and seconded by Alastair Millns.**

**The Board voted 4-0-0 by roll call vote to continue this item to January 19, 2021 on a motion made by Bill Boyd and seconded by Nelson Disco.**

- 4. Ron Dupont (applicant) and Streif, LLC (owner) -** Review for acceptance and consideration of a Site Plan to construct a 2,950 square foot mixed use (professional office and 3 studio apartments) building. The parcel is located at 406 Daniel Webster Highway in the C-2 (General Commercial), Aquifer Conservation and Elderly Housing Overlay Districts. Tax Map 5D-4, Lot 099. Case # PB2021-02.

Casey Wolfe provided an overview of the project by advising the Board that the applicant went before the Zoning Board in October and received a special exception to allow residential use in a commercial zone and variances for density and the DW Highway setback.

Matt Peterson, (Keach-Nordstrom Associates) presented the project on behalf of the applicant. Mr. Peterson shared the site plan and provided an overview of the lot size in location. He explained that the applicant is proposing a 2,950 foot building that will have office space on the first floor and 3 studio apartments on the second. Mr. Peterson also shared some pictures of the existing conditions of the site and revealed sketches of what the proposed building will look like. He pointed out that the canopy depicted in the sketches cannot be added at this time because it will encroach on the setback relief that was granted by the ZBA, however, if the Board feels that the canopy should remain, the applicant is willing to ask for the additional relief from the ZBA. The Board members shared their opinions on the design of the building including their thoughts on the canopy. Some specific questions were also asked about the

elevation and peek of the roof but Mr. Peterson indicated that the sketches are conceptual so he would have to respond at a later time.

Mr. Peterson walked through the landscape plan and discussed the waiver

**The Board voted 4-0-0 by roll call vote to accept the application for review on a motion made by Bill Boyd and seconded by Nelson Disco.**

Mr. Peterson walked through the landscape plan and discussed the waiver request for the interior parking landscaping. The Board members shared their opinions on the landscape plan (all in favor) and there were additional discussions about the soils at the site and irrigation. Nelson Disco asked for an overview of the drainage system and Mr. Peterson walked the Board through a detailed explanation of drainage system and took questions from the Board. Nelson Disco raised concerns that the infiltration pond is near the edge of the proposed sidewalk and was concerned about the appearance and the possibility of pedestrians falling into it. Mr. Peterson confirmed that the infiltration pond will not always have water in it because most of it will be absorbed back into the ground but when it does, it is only a little more than a foot deep. Chairman Best added that the plan also shows a 5-7 foot space between the edge of the sidewalk and the infiltration pond. The entrance and pedestrian crosswalk were also discussed as well as the placement of the trees along DW Highway to ensure they do not block the line of sight for cars entering and exiting the lot. Mr. Peterson also confirmed that the office space will not be high end retail and that there is not a tenant established at this time. He also agreed that he would check on the size of the sign to ensure it meets the zoning regulations and provide an update at the next meeting.

Chairman Best asked about the line of sight coming out of East Chamberlain Road and whether or not anything would obstruct the view for drivers entering and exiting that road. Mr. Peterson referred to the plan to demonstrate what that section of road will look like and confirmed that they are not proposing any changes that would impair a driver's vision to oncoming traffic. He also confirmed that they are proposing pedestrian crosswalk striping in that area.

Public Comment was received from: Mike Malzone, 8 East Chamberlain Road and via e-mail from Linda and Guy Ferranti, 4 Abenaki Circle.\*

*\*The email from Linda and Guy Ferranti is available in the project file located in the Community Development Department at Merrimack Town Hall.*

Mr. Malzone expressed concerns about drainage on East Chamberlain Road and suggested that the Board should look into it and have it corrected before issuing a sidewalk waiver. He also stated that he is not in favor of any landscaping waivers and would actually prefer to see that the applicant plant more trees, especially on the slope. He continued by explaining that his house is up on the hill and since all of the trees were removed the wind has been so damaging that he has lost a total of 5 storm doors (3 at his property and 2 at his rental property). He concluded by asking for an overview of the lighting plan for the site because the neighborhood is currently being negatively impacted by the lights at the auto dealership and they do not want any more lighting issues.

Mr. Peterson addressed Mr. Malone's comments by advising him that he is currently working with the auto dealership on the flood light situation (which is currently subject to enforcement action by the Town) and that it should be rectified soon. He then walked everyone through the lighting plan for the parcel in question which includes the use of carriage lantern downcast

lighting. The lighting plan is in compliance with the zoning regulations but it will be included in the peer review and looked at by staff as well. He also stated he would talk to the applicant about adding some evergreen trees to the top of the slope to help with the wind issues on East Chamberlain and that he would talk to the town engineer to get feedback on the drainage of the road for the next meeting. Mr. Peterson also clarified that a sidewalk waiver is not being requested for this project.

The street lighting along DW Highway was also discussed prior to Mr. Peterson walking through the waiver request for Driveway separation. He explained that the town regulations call for 100 feet and the proposed location only allows for 80 from center line to center line or 55 from the edge of payment. Other locations were considered that would meet the 100 foot requirement but this location seemed to make more sense from a traffic flow and visibility perspective and was also the preferred location of the Town Engineer.

**The Board voted 4-0-0 by roll call vote to grant a waiver from Section 3.08.c.4 on a motion made by Nelson Disco and seconded by Alastair Millns.**

**The Board voted 4-0-0 by roll call vote to grant waivers from Sections 3.11.l.1, 3.11.l.3, and 3.11.l.5 on a motion made by Nelson Disco and seconded by Alastair Millns.**

**The Board voted 4-0-0 by roll call vote to continue this item to February 2, 2021 on a motion made by Bill Boyd and seconded by Alastair Millns.**

**5. Discussion/possible action regarding other items of concern**

**The Board voted 4-0-0 to grant a six month extension to the conditional approval of the Crosswoods Path site plan on a motion made by Bill Boyd and seconded by Nelson Disco.**

**6. Approval of Minutes — December 1, 2020 & December 15, 2020**

**The Board voted 4-0-0 by roll call vote to approve the minutes of December 1, 2020, as amended, on a motion made by Alastair Millns and seconded by Bill Boyd.**

**The Board voted 4-0-0 by roll call vote to approve the minutes of December 15, 2020, as amended, on a motion made by Bill Boyd and seconded by Nelson Disco.**

**7. Adjourn**

**The Board voted 4-0-0 by roll call vote to adjourn at 9:20 p.m. on a motion made by Bill Boyd and seconded by Nelson Disco.**