



# Town of Merrimack, New Hampshire

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Planning - Zoning - Economic Development - Conservation

## **MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY, JULY 6, 2021**

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, July 6, 2021 in the Matthew Thornton Room.

Robert Best, Chairman, presided.

### Members Present:

- Paul McLaughlin (Vice Chairman)
- Jaimie von Schoen
- Councilor Barbara Healey, Ex-Officio
- Alternate Nelson Disco

### Members Absent:

- Lynn Christensen
- Neil Anketell

Staff Present: Robert Price, Planning & Zoning Administrator.

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

Robert Best called the meeting to order at 7:01 p.m. and designated Nelson Disco to sit for Lynn Christensen. He also welcomed Jaimie von Schoen to the Planning Board as its newest member.

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

**The Board voted 5-0-0 to determine that the Curry & Manoukian/Land of Goshen Subdivisions are not of regional impact, on a motion made by Nelson Disco and seconded by Paul McLaughlin.**

- 3. 57-59 Daniel Webster Highway Merrimack, LLC. (applicant/owner) – Continued review for acceptance and consideration of a Site Plan to construct a 100,700 s.f. manufacturing building and construct a 66,000 s.f. manufacturing addition to the existing 449,500 s.f. warehouse building. The parcels are located at 57-59 Daniel Webster Highway in I-1 (Industrial) and Aquifer Conservation Districts, Tax Map 2E, Lots 006 and 006-01. Case # PB2021-19. This item is continued from the June 1, 2021 Planning Board meeting.**

Robert Price began by explaining that the applicant was on the June 1<sup>st</sup> Planning Board agenda, however they did not present anything at that time. After receiving the staff memo that was prepared for the June 1<sup>st</sup> meeting, the applicant chose to request a continuance to address staff comments prior to presenting to the Board. Mr. Price also confirmed that peer review comments have been received and clarified that the 66,000 s.f. addition being requested will be for warehouse use and the new 100,700 s.f. building will be a manufacturing use.

Tom Hildreth (McLane Middleton Professional Association), and Steve Glowacki (RJ O'Connell & Associates, Inc.) were present to discuss the project with the Board. Mr. Hildreth introduced the project by providing a brief history of the parcel and explaining that the current owner has tenants occupying the entire space and is now looking to expand to add additional space for new tenants. Mr. Glowacki shared the plans that were submitted and showed the locations of the proposed new building as well as the building expansion. He also briefly discussed two new parking areas that will add 296 new parking spaces and when the other lots are reconfigured, there will be a total of 543 parking spots on a site that requires 470. Mr. Glowacki also demonstrated where the loading bays will be placed and confirmed that the access to the site will remain the same as it is today emphasizing that there is sufficient circulation for trucks, pedestrian traffic and emergency vehicles. Details of the drainage system and utilities were provided by Mr. Glowacki before he switched topics to discuss the landscaping and lighting plans. The traffic study for the project was completed by Vanasse & Associates and it concluded that there would be an additional 65 morning and 72 evening trips which is considered a minimal impact.

Nelson Disco asked for clarification on the particle separator that is mentioned as part of the drainage plan. Mr. Glowacki explained that it is a structure that circulates storm water by the use of a swirl concentrator that swirls the water as it comes in to settle out the suspended solids. He continued by explaining that the storm water goes through the catch basins and the heavy sediments settle out into a sump. A hood keeps the oils from entering into the pipes, the water then gets transferred to the swirl separators to further remove any sediments and then the storm water is discharged to the subsurface detention basins where additional treatment is provided as the solids move through the soil to infiltrate into the ground water. Mr. Disco asked about the maintenance plan for this system and Mr. Glowacki responded that an inspection and maintenance plan was provided as part of the stormwater management plan. Mr. Glowacki also used the plan to demonstrate how the drainage system works and provided details on the overflow process should there be a 100 year storm event. He also used the plan to show how roof runoff is captured for both buildings. Mr. Disco asked if the stormwater report was reviewed by Fuss & O'Neill and if it meets MS4 requirements. Mr. Glowacki confirmed that they did receive feedback from Fuss & O'Neill and the system meets MS4 requirements.

Councilor Healey asked for clarification on what the site will look like upon completion and Mr. Glowacki shared the site plan to show the layout of the buildings and clarified that the existing soccer field will be eliminated. She then asked about a buffer for the neighboring restaurant because trucks will be coming and going within close proximity to their location. Mr. Glowacki shared a rendering that shows the tree line that they intend to maintain between the properties and explained that the building will also sit 20 or 30 feet lower than the restaurant because it is in a valley.

**The Board voted 4-0-1 to accept the application for review, on a motion made by Barbara Healey and seconded by Nelson Disco. Jaimie von Schoen abstained.**

#### Public comment

Bill Fallon (12 Merrimack Drive) expressed concerns with traffic in the area and the large trucks that will be turning in and out of the site. He feels that without the addition of a traffic light, no one will be able to get in and out of the site, noting that the site entrance had a traffic light at one time that was removed by NHDOT when Nashua Corp. left the property, the mounting pole for which is still in place.

Chairman Best asked what the peer review comments were regarding traffic and Councilor Healey asked if a site visit was conducted for the traffic analysis. Mr. Glowacki responded to Councilor Healey by indicating that he does not believe a site visit was conducted for this particular analysis. Mr. Hildreth read the peer review comments related to traffic which indicated that they agree with Vanasse & Associates findings that the impact will be minimal.

**The Board voted 4-0-1 to grant conditional final approval to the application, on a motion made by Paul McLaughlin and seconded by Barbara Healey. Jaimie von Schoen abstained. The following precedent conditions to be fulfilled within 6 months and prior to signing of the plan, 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 obtain all required State approvals/permits, note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department (in addition to those listed, NHDOT should provide written confirmation that a new/updated driveway permit *[for access to the state maintained portion of DW Highway/US 3]* is not necessary, or a new/updated driveway permit should be obtained);
3. The applicant shall provide draft copies of any applicable legal documents for review, at the applicant's expense, by the Town's Legal Counsel;
4. The applicant shall address any final (post conditional approval) comments from the town's peer review consultant, Fuss & O'Neill, as applicable;
5. Per the Conservation Commission. the applicant shall add a note to the plan indicating that winter maintenance shall be provided by a Green Sno Pro certified contractor under RSA 489-C (or functional equivalent);
6. Per the Fire Department, the Fire Department water supply (pressurized hydrants) are shown on the plans for the new building and the proposed locations are acceptable for construction of the new 100,000 square foot building. Additional hydrants shall be required in the area of the existing building addition, based on 1 new hydrant every 500 feet;
7. The applicant shall address any forthcoming comments from the Public Works Department, as applicable;
8. The applicant shall address any forthcoming comments from the Wastewater Division, as applicable;
9. The applicant shall address any forthcoming comments from Pennichuck Water Works, as applicable;
10. The applicant shall address the following Planning Staff Technical Comments:
  - a. The applicant shall address any final (post conditional approval) peer review comments relative to the submitted traffic impact analysis;
  - b. The applicant has added Planning Board Signature Blocks on multiple sheets beyond what is required by the regulations, and the block does not conform to the requirements of Section 4.03. The Planning Board signature block is only required on the cover sheet (C-0), site plan sheet (OS-1), and landscape plan sheets (sheets L-

02 through L-04). The applicant shall remove all Planning Board signature blocks from all other sheets. The correct signature block should be as follows:

Approved by the Merrimack, NH Planning Board on: _____
Certified by:
Chair: _____
Vice Chair: _____

;

- c. The applicant shall update the Health Division contact (on the cover sheet) which is located in the Fire Department (432 DW Highway);
- d. The applicant has not provided all of the required plan notes (from Section 4.11) on the recordable site plan sheet (sheet OS-1) as required. Please make sure that all the notes from Section 4.11 (as outlined in the previous review memo, and mostly now shown on sheets N-1 and N-2) are on the overall site plan sheet to be recorded at the Registry;
- e. The applicant shall add the amount of frontage on DW Highway to the Zoning and Parking table on Sheet OS-1 (though there is no requirement, the actual frontage distance should be listed in the table in the second and third columns);
- f. The applicant shall clarify what the "LA" designation is on sheet C-4A in several landscape islands in the parking area (no corresponding designation was found in the legend or explained elsewhere on the sheet);
- g. The applicant shall note that all lighting fixtures are full cut-off in accordance with the requirements of Section 3.13 of the regulations.

**The following "General and Subsequent Conditions of Approval" 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 shall submit an As-Built Plan prepared by a qualified professional (Professional Engineer or Licensed Land Surveyor, registered/licensed in New Hampshire) to the Community Development Department prior to the issuance of the final Certificate of Occupancy;
- 3. Any 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 address any forthcoming comments from the Building Department, as related to building code compliance and permit application, as applicable (that are not deemed precedent conditions);

5. The applicant shall address the following comments from the Fire Department, as related to building fire code compliance, sprinkler systems, building addressing, etc.:
  - a. The new building and existing building addition shall be protected by an approved NFPA-13 compliant fire sprinkler system. (Town of Merrimack Building Zoning Ordinance and Building Code, Section 11) Plans shall be provided to this office for review and approval before a permit can be issued.
  - b. The new building shall be protected by an approved NFPA-72 fire alarm system. Plans shall be provided to this office for review and approval before a permit can be issued. The existing building addition may be added to the existing buildings current alarm system if the existing system is determined to be capable of supporting the addition.
  - c. Due to the size of the new building and the addition multiple Knox key boxes will be required for emergency access. The number and location of the required key boxes will be determined after detailed building plans can be reviewed.
  - d. The proposed new building shall be assigned the address of 59B Daniel Webster Highway.

4. **Northshore Trailer and Suspension, LLC (applicant) and Joseph Nissim (owner) –** Continued review for consideration of a Waiver of Full Site Plan Review to operate a trailer suspension and repair business. The parcel is located at 20 Star Drive in the I-1 (Industrial) and the Aquifer Conservation District. Tax Map 3D-1, Lot 012. Case # PB2021-21. **This item is continued from the June 15, 2021 Planning Board meeting.**

Robert Price began by explaining that since the last meeting, the applicant has updated the plan to be more in line with what would be needed for a waiver of full site plan, however, staff is not in agreement that a waiver of full site plan review should be granted. The applicant is now proposing a solution to an existing drainage problem that staff cannot support because it was not designed by an engineer.

David Morin was present to discuss the project with the Board on behalf of the applicant. He reminded the Board that the plan being used is forty years old and that the applicant has updated it as much as possible. He also expressed that the applicant is seeking a waiver of full site plan review due to the time constraints he is under but is fully prepared to fix the drainage issue that created when the drainage infrastructure shown on the original plan was never built. Mr. Morin stated that getting the trailer repair business up and running in Merrimack is just the first step and they will be back in front of both the Zoning and Planning Boards within the coming months for other business plans so they have every intention on fixing the drainage issue as promised.

Mr. Disco asked if the applicant has contacted an engineer yet and Mr. Morin responded yes, they do have a proposal from an engineer (SFC Engineering) that they will agree to once they get the approvals to operate the business from the Planning Board. Chairman Best asked if any of the drainage infrastructure shown on the plan from 1982 was ever built and Mr. Morin confirmed that it was not. Chairman Best then asked for clarification on what is being proposed to fix the issue and commented that the original design would not meet today's requirements. Mr. Morin briefly explained that the applicant intends to use a berm to direct the water to a catch basin that will then be piped to the back of the building, keeping the water entirely on the subject property as opposed to routing it elsewhere as shown on the original plan. Chairman Best expressed that he is struggling with granting the approval because they typically have the

engineered plans in hand to review before granting any approvals for a change such as this. Mr. Morin stressed again that they are only requesting the waiver of full site plan review because the applicant is losing the lease at his existing building at the end of the month so he needs to move into a new building as soon as possible. Chairman Best expressed his understanding and explained that they are in a difficult position because once the approvals are granted, there is nothing holding the applicant to living up to their promises. Mr. Morin reiterated that they have intentions on coming back to the Planning and Zoning Boards for additional approvals so that would be their incentive to do as promised and also offered to put up a bond for the work that needs to be done. Chairman Best explained that he is not sure if that is possible and added that he had questioned whether or not the provision of engineered drainage plans could be applied as a condition of approval and was told by staff that they could not be, because those would need to be supplied prior to final approval, which is impossible given the applicant's time constraint.

#### Public comment

Richard Kalika (Kalika, LLC, Star Drive) addressed several concerns he has with the project including the fact that the abutter on 21 Star Drive was not notified of the meeting and parking is being proposed in what should be a public turn-a-around according to a deed that was recorded at the Hillsborough County Registry of Deeds.

Mr. Price commented on the abutter notification error by indicating that according to the list of abutters in the project file, the previous owner of 21 Star Drive was notified. He continued to explain that it may have been something that was entered in late by the Assessing Department and that he would have to look into it because he can attest to the fact that Mr. Morin did verify the abutters on the Community Development computers. There was further discussion on how the error could have occurred and Mr. Morin stated that he should not be held accountable if the information in the town's computers was incorrect. He also addressed the turn-a-round deed by explaining that he believes the one referenced by Mr. Kalika was intended to be a temporary turn- a-round and the permanent one is currently in place as indicated on the plan from 1982. Chairman Best agreed that the turn-a-round seems to have been intended to be temporary and added that the existing configuration has been in place for over 40 years now so it is well beyond the timeframe allowed to act upon a dispute.

Nelson Disco stated he is leaning towards an approval because there is a drainage issue that needs to be addressed on that property and it may never get done if they deny this waiver request. He also added that holding the current owner accountable for the original design would not work either because it's not in line with current regulations.

Councilor Healey asked how soon the applicant could get a drainage plan drawn up and Mr. Morin replied that once the approval is in place, he will contact the engineering firm to sign the contract and they can have a plan in 4-6 weeks.

Mr. Morin spoke briefly about the applicant's plans to seek approval through the Zoning Board for automobile sales and about future plans to rent out a portion of the building as warehouse space.

**The Board voted 5-0-0 to grant a waiver of full site plan review, on a motion made by Paul McLaughlin and seconded by Nelson Disco.**

The Board discussed the option of requiring a note be added to the plan indicating that they are not approving anything related to the drainage shown on the 1982 plan. Mr. Price recommended some language to use and the Board agreed to let staff handle the addition of the

note. Mr. Price also read through the conditions of approval that must be met prior to the applicant being able to occupy the building.

**The Board voted 5-0-0 to grant conditional final approval to the application, on a motion made by Nelson Disco and seconded by Barbara Healey. The following precedent conditions to be fulfilled within 6 months and prior to signing of the plan, unless otherwise specified:**

1. Final plans to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans as applicable;
2. The applicant shall obtain all required State approvals/permits as may be applicable, note the approvals/permits on the plan and provide copies to the Community Development Department;
3. Any waivers granted (including Section and date granted) and/or any changes requested by the Planning Board shall be listed and fully described on the final plan, as applicable;
4. The applicant shall provide draft copies of any applicable legal documents for review at the applicant's expense, by the Town's Legal Counsel;
5. The applicant shall address any forthcoming comments from Merrimack Village District, as applicable;
6. The applicant shall address any forthcoming comments from the Public Works Department, as applicable;
7. The applicant shall address any forthcoming comments from the Wastewater Division, as applicable;
8. The applicant shall remove any annotated proposed drainage alterations from the plan prior to signature of the final plans by the Chair and Vice Chair.

**The following "General and Subsequent Conditions of Approval" are also placed on the approval:**

1. The Planning Board does not approve, nor shall the applicant construct, any drainage infrastructure shown on the originally approved site plan signed by the Board on 5/11/1982 (CDD Plan #255F);
2. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;
3. The applicant shall address any forthcoming comments from the Building Department, as related to building code compliance and permit application, as applicable (that are not deemed precedent conditions);
4. The applicant shall address the following comments from the Fire Department, as related to building fire code compliance, sprinkler systems, building addressing, etc.:
  - a. This building has an existing NFPA 13 fire sprinkler system installed. The existing system has not been maintained for some time, with a section of the building reportedly being disconnected from the remainder of the system. A survey of the

existing system will need to be done by an authorized sprinkler contractor or New Hampshire licensed fire protection engineer. This survey is to ensure the existing system is fully operational and is adequate to protect the new occupancy classification of auto repair. Also the existing fire department connection shall be replaced with the currently required 4" Storz FDC with a 30 degree downturn.

- b. This building has an existing fire alarm system. The current system is no longer compliant with the requirements of NFPA 72, and is in poor repair. This system shall be upgraded and/or repaired as necessary to bring fully it into compliance.
  - c. All illuminated emergency lighting and exit signage shall be repaired or replaced as necessary.
5. **Robert & Karen Curry (applicants/owners)** - Review for acceptance and consideration of final approval for a two lot subdivision. The parcel is located at 2 County Road in the R-1 (Residential, by Map) and Aquifer Conservation Districts. Tax Map 3A, Lot 65-1. Case # PB2021-25.

*Due to a defect with the abutter notification, this item was not heard.*

6. **L & F Realty Trust (applicants/owners)** - Review for acceptance and consideration of a Site Plan amendment to modify site lighting and add additional pavement and related improvements. The parcel is located at 396 Daniel Webster Highway in the C-2 (General Commercial), R-4 (Residential), Aquifer Conservation, and Elderly Housing Overlay Districts. Tax Map 4D-3, Lot 032. Case #PB2021-26

Mr. Price provided some background information on this project by explaining that it came to the Community Development department's attention as a Service Request because a neighbor on East Chamberlain had complained about flood lights shining up into his house from DW Highway. When staff investigated the lighting complaint, they noticed that the parking lot had also been expanded without site plan approval and a violation letter was issued to the owner.

Matt Peterson (Keach-Nordstrom Associates, Inc) was in attendance to present the project on behalf of the applicant. Mr. Peterson began by explaining that the lighting issue was a result of the applicant asking Eversource to replace a bulb in an existing light fixture that is located on his property. An LED bulb was used as the replacement which is much brighter than a standard bulb. Mr. Price interjected that the owner informed him that he was leasing flood lights that were mounted on the Eversource poles. Mr. Peterson next explained that the applicant just submitted the check for peer review on 7/1/21 so he did not prepare a presentation because he thought the Board was just going to continue the project until the August 17<sup>th</sup> meeting as recommended by staff, which he is amenable to.

There was no public comment.

**At the applicant's request, the Board voted 5-0-0 to continue the application's acceptance and public hearing to August 17, 2021, on a motion made by Nelson Disco and seconded by Barbara Healey.**

7. **Merrimack Parcel A, LLC (applicant) and Merrimack Parcel A, LLC and Slate Merrimack Acquisition, LLC (owners)** - Review for consideration of an amendment to an approved site plan to modify previously approved locations of pedestrian sidewalks. The parcel is located at 10 Premium Outlets Boulevard in the I-2 (Industrial) and Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 3C, Lots 191-02 and 191-02U1-02U4. Case # PB2021-27.



Mr. Price introduced the project by explaining that the applicant was previously before the Board with a waiver request to eliminate the sidewalk in question, however they have since withdrawn that application and are now seeking approval to move them instead.

Dave Fenstermacher (VHB, Inc) & Thomas J. Leonard (Welts, White & Fontaine, PC) were present to discuss the project with the Board. Mr. Fenstermacher explained that original plan had a piece of the sidewalk in the Department of Transportation's (DOT) Right of Way on Industrial Drive. The DOT was agreeable with the placement of the sidewalk as long as the town agreed to maintain it but they could not come to an agreement. Mr. Fenstermacher shared a drawing of the original sidewalk layout and explained that since the DOT and town could not agree on maintenance responsibility, they moved the sidewalk back so that it is now all within the applicant's land and the applicant will maintain it going forward. The new layout was shown to the Board and Mr. Fenstermacher explained that the new proposal required relief from the 10-foot landscaping buffer requirement because, with the sidewalk being moved inward, there will only be a 6 foot landscaped buffer.

Nelson Disco asked for clarification on the landscape buffer that will be impacted with this change and Mr. Fenstermacher demonstrated it on the plan. He also clarified that although the buffer would be lessened in that area, there is still an additional 49 feet before you get to the Industrial Drive pavement and their hope is to add more trees to the Right of Way now since the sidewalk will not be there. Mr. Disco asked if the buffer is being altered in the back of the property where it abuts the neighborhood and Mr. Fenstermacher confirmed that there were no other changes being requested.

There was no public comment.

**The Board voted 5-0-0 to grant conditional final approval to the application, on a motion made by Nelson Disco and seconded by Barbara Healey. The following precedent conditions to be fulfilled within 6 months and prior to signing of the plan, 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 obtain any required State approvals/permits, note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department, as applicable;
3. It appears that grading within the Industrial Drive right-of-way is proposed. The applicant shall provide written verification from NHDOT that such grading is permissible in the ROW;
4. The applicant shall add a note to the site plan indicating that "with this amended site plan the Board has deemed the inclusion of the sidewalk in the 10' landscape buffer to be an acceptable use within the buffer area in accordance with the approved Conditional Use Permit for the project";
5. The applicant shall provide any draft copies of any applicable legal documents for review (allowing for access along the relocated sidewalk to the public as necessary), at the applicant's expense, by the Town's Legal Counsel, as applicable;
6. The applicant shall address any forthcoming comments from municipal boards, commissions, and departments, as applicable.

**The following “General and Subsequent Conditions of Approval” are also placed on the approval:**

1. All General and subsequent conditions placed on the original site plan conditional approval (conditionally approved on 3/6/2018) and as subsequently amended shall continue to be in place with this amended site plan approval; as applicable.
8. **Vatche Manoukian (applicant) and Land of Goshen, LLC (owner)** – Review for acceptance and consideration of final approval for an amended subdivision that proposes to consolidate and re-subdivide 11 existing lots into 16 lots. The parcels are located on Watkins Road in the R-1 (Residential, by Soils), R-2 (Residential, by soils) and Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 4C, Lot 449 through 449-12. Case # PB2021-28.

Mr. Price summarized the project by explaining that the original approvals for this development (Stagecoach Crossing) were completed between 2016-2018. Since that time, the owner has constructed a house for himself on one of the lots and the road (Watkins Road) has been built out but has not yet been accepted by the town. This amendment request is looking to take the remaining land that was originally comprised of 11 lots and divide it into 16 smaller lots.

Matt Peterson (Keach-Nordstrom Associates, Inc.) handed out highlighted copies of the proposed plan and the original plan so that the Board could easily see where the changes are being proposed. He provided a little more background into the project and explained that the common land is not being impacted at all with this new design, the lot sizes are just smaller than what was original proposed in order to fit some additional lots in between. He added that the sizes of the lots and layout is conducive to a 55+ community but this development does not have an age restriction. The revised plan does not have any drainage incorporated into it because as Mr. Price indicated, the road has already been built so nothing will be changing from what was originally approved & constructed.

Chairman Best thanked Mr. Peterson for the highlighted plan that shows the changes and asked if they have already determined that a house and septic will fit on each lot because some of them look rather small. Mr. Peterson stated that yes, a building and septic have been configured for each lot because they wanted to also make sure it was feasible before approaching the Board. He spoke about some of the test pits that were done on the lots and the type of septic system (Clean Solutions) being targeted for 9 of the 16 lots. The Clean Solutions systems are smaller because the water is cleaned within the tank itself.

Chairman Best asked if the driveways have been vetted out yet because he remembers the grading in this area being a problem. Mr. Peterson indicated that the driveways have been designed and most of them are graded at 2-3 percent and there is only one that is steeper than that, but all comply with the Town’s requirements.

Mr. Disco asked about the variance that was granted as part of the original approvals and Mr. Peterson explained that the variance was to grant the use of septic where town sewer would apply. A variance was also granted to allow the existing structures on lot 449 to remain within the proposed landscaped buffer area.

Councilor Healey asked for clarification on if the lot sizes need to be 40,000 s.f. to meet town requirements because most of the lots in the proposal are less than half that size. Mr. Price confirmed that the 40,000 s.f. threshold is used as part of the density calculation for a cluster development but the lots themselves are permitted to be smaller. He provided examples of lot

sizes in another approved cluster subdivision in town (Greenfield Farms) as reference. Mr. Peterson reminded the Board that there are 12 acres of open land associated with the development and that seems to be the trend in the housing market, people want land around them but not necessarily land they own and need to maintain.

Mr. Disco asked to have a note added to the plan indicating which lots will have the Clean Solutions septic systems and Chairman Best asked for property markers to be added to each lot (noted on the plan and demarcated on the ground) so that the home owners do not encroach into the landscaped buffer or wetland areas.

**The Board voted 5-0-0 to accept the application for review, on a motion made by Nelson Disco and seconded by Barbara Healey.**

There was no public comment.

**The Board voted 5-0-0 to grant conditional final approval to the application, on a motion made by Paul McLaughlin and seconded by Nelson Disco. The following precedent conditions to be fulfilled within 6 months and prior to signing of the plan, 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 obtain any required State approvals/permits applicable to the project and provide copies to the Community Development Department, as applicable;
3. The applicant shall note any waivers granted by the Board on the final plans and mylars (including Section, and date granted) as applicable.
4. The applicant shall provide draft copies of any applicable legal documents for review, if applicable and at the applicant's expense, by the Town's Legal Counsel.
5. The applicant shall address any forthcoming comments from the Fire Department as applicable.
6. The applicant shall address the following comments from Merrimack Village District:
  - a. Note 1 on sheet 2 of 4 reads, 17 new lots, while note 1 on sheet 3 of 4 reads 16 new lots. Clarification needed.
  - b. Domestic water booster pumps are illegal and Merrimack Village District reserves the right to discontinue service.
  - c. Water services must be perpendicular to lot and have tracer wire.
  - d. All new water services must be installed by applicant/ owner.
  - e. All current services that need to be relocated must be done by applicant/ owner. Any abandonment of water main connection points must be replaced with new pipe.
  - f. Water service separation from septic must conform to state requirement.

- g. Merrimack Village District reserves the right to require third party review, at the expense of the applicant / owner, by an Engineering firm of MVD's choice;
- 7. The applicant shall address any forthcoming comments from the Public Works Department, as applicable.
- 8. The applicant shall add a note to the plan indicating that septic systems shall be Clean Solution™ systems, or equivalent small-footprint systems, on the following lots: 449-1, 449-2, 449-5, 449-6, 449-7, 449-9, 449-10, 449-11, 449-12 & 449-14.
- 9. Applicant shall delineate the limits of the wetland non-disturbance buffer on each lot via notes on the plan and via physical placard placement on each lot.
- 10. The applicant shall address the following Planning Staff Technical Comments:
  - a. Map 4C, Lots 449 & 449-1 are not drawn correctly. A lot line adjustment between these lots was completed in early June 2021. Please refer to HCRD Plan #41009. Please also ensure all acreage & density calculations on all lots and in all Notes are accurate given this change.
  - b. The original permits that were obtained for the work that has already taken place shall be identified on the plan (see HCRD Plan #40013, Sheet 2, Note 25).
  - c. Add the following note to the plan: At the November 29, 2017 meeting of the Zoning Board of Adjustment, a variance was granted under Section 3.08.9 allowing the existing improvements (barn, shed, home, etc.) on Tax Map 4C, Lot 449 to remain within the proposed 100' landscaped buffer.
  - d. Revise Sheet 2, Note 10 to specify that the municipal water supplier is Merrimack Village District.
  - e. Add a note indicating that any work performed within the public right-of-way on Amherst Road or Watkins Road will require a right-of-way permit from the Highway Division of Public Works.
  - f. f. Section 4.06.1.i: Applicant shall show the locations of all monuments to be set at street intersections, points of curvature and tangency of curved streets and at angles of lots. Further, per Section 4.17.f, all lots shall be bounded with permanently set granite or precast concrete markers with minimum dimensions of 4" x 4" by 3' on frontage corners and with iron pipes at other corners.
  - g. Per Section 4.06.1.k, add the following note: The Subdivision Regulations of the Town of Merrimack are a part of this plat, and approval of this plat is contingent on completion of all the requirements of said Subdivision Regulations, excepting only any variances or modifications made in writing by the Board or any variances granted by the Zoning Board of Adjustment and attached hereto.
  - h. Section 4.06.1.m: Applicant shall provide a written statement from Merrimack Village District as to the availability of water supply to the development.
  - i. Section 4.06.1.q: Since this is a cluster subdivision, snow storage locations must be designated on the plan.

- j. Applicant shall clearly label and identify the required 100' landscaped buffer area.
- k. Applicant shall add Book & Page recording information for the existing drainage easements shown on proposed lots 449-16 & 449-17.
- l. Applicant shall relocate the label appearing on proposed lot 449-16 indicating that the same lot is lot 449-1 and is 7+ acres in size. Staff assumes this label should be placed on the open space lot, which shall also be noted as such. Finally, lot 449-1 is already in use, so it appears that lot 449-13 is the correct number for this lot.
- m. The limits of the 100' landscaped buffer shall be delineated on lots 449, 449-1, 449- 2, 449-3, 449-4, 449-5, 449-6, 449-7 & 449-8 via notes on the plan and via physical placard placement on each lot.

**The following "General and Subsequent Conditions of Approval" 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. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant.
- 3. Section 3.02.4 of the Zoning Ordinance requires that an on-site disposal field shall not be located less than 20' from any property line. While no septic systems are being proposed by this subdivision plan, a number of lots may need a variance so as to not violate this requirement.
- 4. The applicant shall address any forthcoming comments from the Building Department, as related to building code compliance and permit application, as applicable (that are not deemed precedent conditions).
- 5. The applicant shall address any forthcoming comments from the Fire Department, as related to property addressing and fire code compliance, as applicable (that are not deemed precedent conditions). Please be advised that any party to the action or proceed.

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

Nelson Disco expressed concerns with the revision made in 2019 to the Site Plan Regulations that allowed for varying levels of traffic analysis versus a full traffic study on some of the larger projects. He suggested that the Board take another look at the requirement because he feels that the town should be requiring more. Councilor Healey agreed that she would also like the Board to look into it because she is fearful that they could be creating dangerous traffic situations without all of the necessary data. Mr. Disco also stated he had issues with the Fiscal Analysis for the Flatley project because it used developments from other towns in his comparisons. Chairman Best suggested that they take time at a meeting in October to review some of the regulations that the Board has concerns with. He also took the opportunity to remind the listening audience that there are still positions open on the Board for anyone interested.

**10. Approval of Minutes — June 15, 2021**

**The Board voted 5-0-0 to approve the minutes of June 15, 2021 as submitted, on a motion made by Barbara Healey and seconded by Nelson Disco.**

**11. Adjourn**

**The Board voted 5-0-0 to adjourn at 9:27 p.m. on a motion made by Nelson Disco and seconded by Barbara Healey.**