



# Town of Merrimack, New Hampshire

Community Development Department

603 424-3531

6 Baboosic Lake Road

Fax 603 424-1408

Town Hall - Lower level - East Wing

[www.merrimacknh.gov](http://www.merrimacknh.gov)

Planning - Zoning - Economic Development - Conservation

## MERRIMACK PLANNING BOARD

### APPROVED MINUTES

TUESDAY JUNE 6, 2023

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, June 6, 2023 in the Matthew Thornton Room.

#### Members Present:

- Robert Best (Chair)
- Brian Dano
- Lynn Christensen
- Jaimie von Schoen
- Town Councilor Barbara Healey - Ex-Officio
- Haleem Mediouni – Alternate
- Maureen Tracey – Alternate
- Nelson Disco – Alternate

#### Members Absent:

- Paul McLaughlin (Vice Chair)
- Neil Anketell

Staff Present: Colleen Olsen, Assistant Planner

### 1. Call to Order

Chair Robert Best called the meeting to order at 6:30 p.m. and led everyone in the Pledge of Allegiance. Chair Best seated alternate Nelson Disco & Haleem Mediouni for Vice Chair Paul McLaughlin and Neil Anketell, respectively.

### 2. Consent Agenda

- *No items for this meeting*

- 3. Starten Realty, LLC (applicant/owner)** – Continued review for acceptance and consideration of final approval for a site plan for the addition of a gas station, convenience store and drive-thru coffee shop at the site of an existing car wash. The parcel is located at 376 DW Highway in the C-2 (General Commercial), Aquifer Conservation, and Elderly Housing Overlay Districts. Tax Map 4D-3, Lot 002. Case #PB2022-40. **This item is continued from the November 15 & December 20, 2022, and January 17, February 21, March 21, and April 18, 2023 Planning Board Meetings.**

Colleen Olsen prefaced the presentation by advising the Board that staff received revised plans after the submittal deadline so we are currently still waiting for feedback from some departments.

Erin Lambert (Wilcox & Barton) presented the application to the Board. Ms. Lambert started by advising the Board that she is filling in for her colleague who was unable to attend the meeting but has been updated on the project and will do her best to answer questions. She then advised the Board that they recently submitted a streetscape and landscaping plan to staff along with responses to previous department comments that were made. Ms. Lambert shared a copy of the site plan to point out a few changes that have been made, such as the removal of the convenience store and the relocation of the dumpster. She then shared the streetscape plan and mentioned that they are seeking a partial waiver from the site plan regulations for section 4.15 to not provide elevations for the existing building (post-renovation) because they are minimal and the building will still look the same. The applicant does still intend to provide elevations for the canopy. They then spent some time discussing the canopy and whether or not there will be signage and lighting on it. Ms. Lambert was uncertain if they have determined that yet but ensured the Board that they will comply with the Town's regulations. Ms. Lambert then shared the landscaping plan with the Board and explained that the plan meets all of the landscaping requirements with the exception of one sub-section (3.11.l). The regulations requires that 8% of the parking lot be landscaped which for this parcel would equate to 420 square feet, however the plan only includes 326 square feet so they are requesting a waiver for the difference (94 square feet).

Nelson Disso asked about work being done to DW Highway and Ms. Lambert directed him to sheet C1.6 in the site plan which is the DW Highway Improvements plan. He then asked how the rear of the property is landscaped and Ms. Lambert shared a picture of the site that shows a retaining wall and trees in the area questioned. There were some questions about the retaining wall itself but Ms. Lambert stated that no changes are being made to the wall or any of the landscaping above it. All of their landscaping is being proposed to the interior of the parking lot.

Councilor Healey asked about signage and Ms. Lambert used pictures to show the signs that are existing today. She added that she is not aware of any plans to add additional signage but if they did, they would comply with the Town's sign regulations. Chair Best stated that signs are typically handled by staff.

**The Board voted 7-0-0 to accept the application as complete for review, on a motion made by Lynn Christensen and seconded by Nelson Disco.**

**The Board voted 7-0-0 to grant the waivers from Sections 3.11.l, 4.12.c.15 and 4.15 of the Site Plan Regulations, citing that specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waivers will properly carry out the spirit and intent of the regulations, on a motion made by Lynn Christensen and seconded by Nelson Disco.**

No public comments were received.

**The Board voted 7-0-0 to continue the public hearing to July 18, 2023 at 6:30 p.m. in the Matthew Thornton Room, with no further written notice to abutters, on a motion by Nelson Disco and seconded by Barbara Healey.**

4. **Michael and Carolanne Caron (applicant/owner)** – Review for consideration of a Conditional Use Permit to construct a detached accessory dwelling unit above an existing garage. The parcel is located at 12 Collins Ave in the R-1 (Residential, by soils), Aquifer Conservation, and Elderly Housing Overlay Districts. Tax Map 6D Lot 564. Case # PB2023-15.

Ms. Olsen prefaced the presentation by explaining that the applicant recently went before the ZBA and was granted 2 variances (one for lot size and the other for the square footage of the ADU itself) allowing the application to move forward in the CUP process with the Planning Board.

Michael and Carolanne Caron (property owners) presented the application to the Board. Mr. Caron stated that he and his wife (Carolanne) are trying to utilize the space above their garage as an ADU for their adult daughter. He briefly read through some of the ADU criteria mentioned in the staff memo and expanded on the question of the septic system capacity by stating that they previously had a home bakery business so they had the septic system upgraded at that time to handle more than what is needed for the three people living on the property.

The Board had some general questions about the layout of the space and Mr. Caron advised the Board that it is a studio apartment. Mrs. Christensen stated that her understanding is that no changes were made to the exterior of the building and the access and stairway were already in place and Mr. Caron confirmed that is accurate. More discussions ensued about apartments being constructed above garages and the need for a secondary egress. Fire Marshal John Manuele was in attendance and he confirmed that a window can be used as a secondary egress as long as the window was within the code requirements. Mr. Caron confirmed that the windows are large enough.

No public comments were received.

**The Board voted 7-0-0 to find that with the proposed conditions of approval, the application meets all applicable regulatory requirements necessary, and further, to grant final approval to the application subject to the following general and subsequent conditions, on a motion by Brian Dano and seconded by Barbara Healey:**

1. The applicant shall adhere to the criteria listed under Section 2.02.1.C.2 of the Zoning Ordinance pertaining to conditional use permits for a detached ADU (except for those granted relief by variance).
2. If this Conditional Use Permit approval is not acted upon within a period of two (2) years from the date of the final endorsement by the Planning Board, then the approval shall be null and void. Issuance of a building permit shall be considered a sufficient action to vest an approval for a conditional use permit for a detached ADU. However, should any building permit expire unused after the conclusion of the two-year validity period provided for herein, the conditional use permit granted shall become void as well. Should the applicant need to extend the two-year validity period, the applicant shall demonstrate to the satisfaction of the Planning Board that it was impossible or impractical to receive the necessary approvals to move forward in reliance on the permit granted within two years. Any renewal/extension application shall be filed with the Planning Board no sooner than 90 days, nor later than 30 days, prior to the expiration of the Conditional Use Permit.

- 5. Fidelity Investments (applicant) and FMR Merrimack Realty Trust FID (owner) – Review** for acceptance and consideration of final approval for a waiver of full site plan review to permit a variety of temporary “event” uses on site at the Fidelity Investments campus. The parcels are located at 1 Spartan Way and 2 Contra Way in the I-2 (Industrial) & Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 2C, Lot 113 and Tax Map 3C, Lot 191. Case # PB2023-016.

Ms. Olsen began by explaining that the applicant is proposing to hold periodic and temporary outdoor events for Fidelity employees and their guests at their campus. Chair Best asked if this is something we typically regulate and Ms. Olsen said she believed so but suggested they confer with the Planning and Zoning Administrator (Robert Price) to be sure. Mrs. Christensen stated she asked Robert already and was told the approval was needed in case any events are open to guests and not just employees. Chair Best shared his opinion that he feels that this approval should not be necessary.

Mark Verostick (VHB) presented the application to the Board. He shared an overview of the campus to demonstrate the area of where the events will occur. He explained that a Waiver of Full Site Plan Review is being requested because they are not proposing any new site work or construction for this request. The only change is the additional use for events which is ancillary to the office use that already exists.

**The Board voted 7-0-0 to accept the application as complete, on a motion made by Barbara Healey and seconded by Nelson Disco.**

**The Board voted 7-0-0 to grant a waiver of full site plan review, on a motion made by Barbara Healey and seconded Jaimie von Schoen.**

No public comments were received.

**The Board voted 7-0-0 to find that with the granted waiver of full site plan review and the proposed conditions of approval, the application meets all applicable regulatory requirements necessary, and further, to grant conditional final approval subject to the following precedent conditions to be fulfilled within 6 months and prior to final approval (signing) of the plan, unless otherwise specified, on a motion by Brian Dano and seconded by Nelson Disco:**

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. 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;
3. The applicant shall address any comments from municipal departments, boards, or committees, as applicable.
4. The applicant shall address the following Planning Staff Technical Comments:
  - a. Please add reference information to the original, complete site plan and note that the approved plan is also on file with the Community Development Department.
  - b. Please add the following notes to the plan:

- i. Sanitary sewer source.
  - ii. Water supply source.
  - iii. List FEMA sheet(s) used to identify flood elevations (note if no flood zone is present, as applicable).
5. The applicant shall address any conditions imposed by the Planning Board at the hearing, as applicable.

**The following general and subsequent conditions are also placed on the approval:**

1. 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).
  2. 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).
6. **Planning & Zoning Administrator's Report/Discussion/possible action regarding other items of concern**

None

**7. Approval of Minutes — May 16, 2023**

**The Board voted 7-0-0 to approve the minutes of May 16, 2023 as amended, on a motion made by Lynn Christensen and seconded by Jaimie von Schoen.**

**8. Adjourn**

**The Board voted 7-0-0 to adjourn at 7:13 p.m., on a motion made by Barbara Healey and seconded by Brian Dano.**