



# Town of Merrimack, New Hampshire

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Planning - Zoning - Economic Development - Conservation

## **MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY, MARCH 5, 2024**

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, March 5, 2024 in the Memorial Room.

### **Members Present:**

- Robert Best (Chair)
- Haleem Mediouni
- Town Councilor Barbara Healey (Ex-Officio)
- Mark Williams – Alternate
- Maureen Tracey – Alternate
- Nelson Disco – Alternate

### **Members Absent:**

- Lynn Christensen (Vice Chair)
- Jaimie von Schoen
- Kevin Peters

### **Staff Present:**

- Casey Wolfe-Smith, Planning and Zoning Administrator

## **1. Call to Order**

Chair Best called the meeting to order at 6:31 p.m. and led everyone in the Pledge of Allegiance. He then seated Alternates Nelson Disco, Mark Williams, and Maureen Tracy for Lynn Christensen, Jaimie von Schoen, and Kevin Peters, respectively.

## **2. Consent Agenda**

- a. Extension Request: John Flatley Company 3 Lot Subdivision Plan (Case #PB2023-24)
- b. Extension Request: As Life Goes On, LLC Approved Site Plan Amendment (Case #PB2020-27)
- c. Regional Impact Determinations

**The Board voted 6-0-0 to approve the Consent Agenda, on a motion made by Haleem Mediouni and seconded by Barbara Healey.**

- 3. Armada Realty, LLC (applicant/owner)** – Review for acceptance and consideration of final approval for a site plan involving the consolidation of two lots into a single parcel, razing of an existing single family dwelling, and construction of a proposed restaurant building with drive-thru, along with associated site improvements. The parcels are located at 632 & 634 Daniel

Webster Highway in the C-1 (Limited Commercial), Aquifer Conservation, & Elderly Housing Overlay Districts and the Wellhead Protection Area. Tax Map 6E-2, Lots 6 & 7. Case #PB2024-06.

*Matt Peterson, Keach-Nordstrom, and William Heng, Armada Realty*, presented the application. Mr. Peterson explained that they are proposing a 3,800 s.f. standalone restaurant building with drive thru and an 800 s.f. freezer. He stated they submitted a traffic analysis and that the Community Development Department would like a full traffic study. Mr. Peterson asked for a little bit of input on what the purpose of the traffic study would be for as they are expensive and the majority of traffic is in the morning and Hot Rize closes at 2:00 p.m.

Mr. Peterson states that they had to work out some drainage issues to get an underground infiltration system. The test pits weren't as great as they had expected so they had to raise the grade of the site up about a half a foot. They added a closed drainage system with catch basins onto the site. They will be using the existing sewer and adding in a grease trap. They are proposing underground electric, water and gas to the site. He stated that they are working with Merrimack Village District for the water and currently working on finalizing pipe sizing and the fire suppression system.

Mr. Peterson explained that regarding the landscaping plan, they went with a landscaped buffer along the southern property line and in the front. They were proposing an internal courtyard, but he noted the tables shown on the plan are causing problems with the parking calculation so it might be removed. The applicant will likely reevaluate and see what can be implemented in that area. Mr. Peterson went over the lighting plan and said that they have three different types of lighting shown: wall packs and two different parking lot light styles. He then explained the erosion control plan and showed a perimeter sealed fence around the site to ensure it is constructed correctly. They are proposing to keep the entrance to the construction site down by where the house is.

Chair Best asked about the courtyard area that is currently on the plan. He said it adds a lot of character to the site to have that there and maybe outdoor seating that people would want to use. He asked if the seating would cause an issue with the parking calculations. Mr. Peterson responded that he received comments stating they would need to account for seating for parking calculations. Chair Best stated he would have no concern with a parking waiver if they wanted to go forward with that.

Chair Best said that on the staff's memorandum, they talk about having elevations of the rear and side views and asked if there's any issues with providing that. Mr. Peterson said he doesn't believe so but he will reach out to the architect. Chair Best said that the staff mentioned having Fuss & O'Neill review the elevations, once submitted. He then asked if there would be air conditioners or utilities on the roof. Mr. Peterson said that they have not made that determination yet, but will get back to the Board with an answer. Chair Best asked if there will be a dumpster on site. Mr. Peterson responded that it will be in the back corner.

Chair Best said that he can see that there's a full bypass lane on the drive-thru and that he is not sure how many cars can be stacked but that it's a lot more than the Board requires. Mr. Peterson stated that it gets everyone off the road and it goes all the way around the building. Chair Best asked if there will be any challenges with the drive-thru lane interfering with the parking spaces in the back. Mr. Peterson said that the staff did bring up concerns about specific spaces south of

the drive thru window. He suggested labeling them as employee parking only. He said that he does want to have a conversation with staff about that. Chair Best asked for clarification about staff's concern. Mr. Peterson replied that the drive thru lane and bypass lane would both need to be 12 ft. lanes, totaling 24 ft. wide. He noted a one-way lane would need to be 18 ft. and he has 12 ft. He said he will need to push the parking spaces 6 ft. toward the southerly abutting property. Chair Best asked for the depth of the parking spaces. Mr. Peterson replied that they are 23 ft.

Chair Best stated that the staff had commented on the traffic review and asked Mr. Peterson to elaborate on the approach to the traffic analysis regarding what they would gain or not gain from having a full review. Mr. Peterson said that they prepared a traffic impact letter and they looked into the main trips on Daniel Webster Highway. The traffic engineer uses that number to determine how the road is impacted. They also determine what the level of the turning would be coming out of the site. Another thing the engineer looks into is whether or not it triggers a warrant for traffic signals. From a traffic standpoint, Mr. Peterson stated that the only thing he can think would be generated out of a full review would be adding a bypass lane if it turns out that a queue is created from many cars trying to turn into the site. Chair Best stated that his initial impression is to be amendable to not requiring a full study based on the cost and what they would gain from it.

Ms. Healey stated that her take on the full traffic study is that she is not worried about this business having one done. Mr. Peterson reiterated that ultimately it would be the DOT's decision if one is needed or not. Ms. Healey said that on the plans there is an easement to the north for the back property. She also said the area of the proposed common space has been used by people in an attempt to get to the back lot. She stated she wants to know if traffic flow to the rear property would be limited to the north side of the site. Mr. Peterson was unaware of this issue because there is not an easement there. Mr. Heng said he has noticed people doing that and it is because they don't know where the other building is located because it's in the back. Mr. Peterson said on the site plan they cleaned it up so everything is more clearly defined.

Ms. Healey said her other concern is making sure that emergency vehicles going through the drive-thru can get out quickly and she wants to know if there's enough room to do so. Mr. Peterson said there are two 12ft lanes so there is no issue with that.

Chair Best asked Mr. Peterson to explain more about what the building is on the back property that people access through the easement. Mr. Heng said it's a property management company. Chair Best asked if that's their regular access to come through the property and if there was another road. Mr. Heng said the easement is the way they access it.

Ms. Tracey said that one of the reasons she does not go to Hot Rize a lot is because it's always so busy. Her assumption is that there will be an increase in business due to the drive-thru. Her thought is that maybe adding a middle lane on DW Highway would help with the traffic flow. Chair Best stated that in regards to a middle lane, there's a lot of people involved in a choice or decision like that. An urban compact allows the Town of Merrimack to manage a portion of it because it's critical to the middle part of town. He noted the State DOT controls DW Highway from Bedford Road to the north, and from Greeley Street to the south. The Town controls the section between. He stated adding a middle lane would be a State decision. He stated, it's very difficult to acquire the land needed to add another 12 ft. of pavement to DW Highway. Lastly, he stated his opinion that adding a middle lane doesn't have the calming effect one would think it does and can

make things more complicated. He added that the applicant can only work within the existing right of way, and would be limited to the width of their property or the turning lane to get into their driveway. He stated that he wouldn't rule out the possibility that a turning or middle lane may be added here in the future, but in his opinion it is unlikely.

Mr. Disco stated that he has a concern for how the traffic flow is expected to work inside the site. He asked for clarification as to where traffic looking for Hot Rize is supposed to travel – if they are meant to traverse the site in front or behind the buildings. Mr. Peterson said customers are allowed to come in and take a left in front of the buildings due to other existing businesses being in there. Chair Best added that the number of parking spaces in the back will probably be used by more than just employees so he wants to make sure there's an indication to the public that there's additional parking in the rear, unless it was going to be completely used by employees.

Mr. Disco stated that another concern with the traffic study is to take into account the buildings that are not yet built, but approved as part of the nearby Flatley Development. He said he didn't know if those are in the numbers that Mr. Peterson gave them. Mr. Peterson said that they did an analysis on what their own site generates specifically based on the ITE Manual. A full traffic study would take other sites and build a whole model and show what could possibly impact those models.

Mr. Disco said that the other thing he wanted to discuss was that the rendering of the building is not satisfactory and he would like to see what the sides of building look like and would like it to look more like a whole building. He also added that you don't see any parking or landscaping. Chair Best said that an elevation is what is in front of you and would not have the trees and parking shown. He stated that a rendering of a perspective would be valuable to show these things and asked Mr. Peterson what it would take to get one. Mr. Peterson said an artist he knew would charge \$800, but now it is \$2,000-\$2,500. He said he will talk to the architect and see what he can get to the Board.

Mr. Disco asked for clarification regarding the proposed common space because it seemed as though Mr. Peterson was ambivalent about it. Mr. Peterson said that it was envisioned to be a grass space between the two buildings and the design person went a little overboard and put a nice plan together. Mr. Peterson said it seems like it's going to cause more concerns and that he's willing to say it will be grass there. He said that he will speak with the property owner to discuss options for the common space and report back to the Board at the next meeting.

Mr. Disco said he was not sure if he understands the sewer plan. Mr. Peterson said the sewer comes up from near the residential units and feeds the existing building. Mr. Disco asked if the sewer goes north and if it goes past the church. Mr. Peterson said that it does go north but is not sure where it goes beyond that. He noted he is meeting with the Town's Sewer Inspector Mike Gorman and will ask him. Mr. Disco asked if the sewer services the building in the back and Mr. Heng replied no, they're on septic.

Mr. Disco stated he could not find the identification of the plants on the landscaping plan. Mr. Peterson explained how it is written on the plan. Mr. Disco then asked if this landscaping plan is the finished plan and that it shows a full line and shrubbery along Route 3, and that it was mentioned that Mr. Peterson was leaving a gap in there. Mr. Peterson said he is proposing during construction that the gap would be where the construction entrance would be. Mr. Disco asked if

Mr. Peterson knows that he needs to go to DOT for a driveway permit. Mr. Peterson said that has already been submitted.

Mr. Disco asked if the rear property owner was aware of the site changes adding that he was not sure how it would affect their access. It was discussed that they received an abutter notification. Mr. Peterson said it's just an access easement and that they're just cleaning up the entrance to make it safer. Mr. Heng stated that they would install directional signage to help people navigate the site. Mr. Peterson and Mr. Heng were both in agreement that they would have a conversation with the property owner in the back.

Chair Best said that while looking at the landscaping plan, the proposed common space shows a line style that's used to delineate the circle and is also used to label a tree line in the legend. Mr. Peterson replied that it was a mistake.

Mr. Williams said that he is a little concerned about circulation in and around the site as he expects the drive-thru to become popular and as one tries to exit the site going left or right on Daniel Webster Highway, the lanes are only 10ft wide. He said he could envision it becoming very challenging trying to exit the site from a turn radius standpoint from potential queuing and the parking spaces in front of the buildings. Mr. Williams asked if keeping the south exit as a right turn exit would help ease the volume at the main entrance exit and would it give emergency vehicles more access. Mr. Peterson said site grading would not allow that to happen. He also said that due to the traffic out there, he feels as though he thinks the site should have all the traffic entering and exiting as far north as possible. He said it keeps the flow around the site consistent. Mr. Williams said having two 10ft wide exits is pretty snug. It is the only access that the abutter in the back has. If there is a backup queue just within the circulation of the site, it could be problematic for the business in the back. Chair Best stated that that is kind of the way that it is today, there is no island there and it's not that full width. People approach a big open curb cut and attack it however they want. Mr. Peterson said he would take a look at the width because he does like 12ft lanes over 10ft lanes especially in a drive-thru. Mr. Williams then asked if the second egress was more about elevation of the drainage structure. Mr. Peterson said he could not make the drainage work. Chair Best said they would also lose a couple parking spaces.

Chair Best said that from a planning standpoint, he finds it to be an appealing way to develop a property and that's why he likes the way they have it landscaped and how there's other businesses and the garden in between the two buildings. Mr. Weng said that most of the time they are going to push pre-mobile ordering so the drive-thru line will not be so backed up. He said the drive-thru will be make the flow better for people coming in and out in the morning. Not many people are coming in and sitting down in the mornings. He said they will be able to manage it better by having the drive-thru lane.

Mr. Disco asked what was going to be done with the existing Hot Rize space. Mr. Weng said he is not sure what will take its place.

Ms. Healey pointed out that on the demolition plan, it does not mention the removal of a septic system in the notes and because she is not sure when the house was last occupied, she is unsure of what could happen while digging so it could create a Hazmat situation.

**The Board voted 6-0-0 to accept the application as complete for review, on a motion made by Barbara Healey and seconded by Maureen Tracey.**

*Public Comments:*

*Jim Drapeau, 630 Daniel Webster Highway*

Mr. Drapeau said that he is happy that they moved the exit to the North because originally it was right next to his driveway. He said one of his concerns is the location of the dumpster right next to his property line. He said he can hear the dumpster doors closing and opening today, and that the pickup time of the garbage is sometimes 3 or 4 in the morning. He asked if there is an option to move it. He is also asking if there will be some type of fence that will go in or if it's just landscaping.

*Rick Jones, Town of Merrimack Building Official*

Mr. Jones explained to the Board that the removal of the septic system and demolition of the house has to be done according to State law and requirements for removal of that material so it wouldn't be considered a hazard and everything will have a place to go and not be left on the site.

Mr. Jones said he is looking to have any comments and requests made to be included on the plan, including the location of hydrants, fire hookups, access to the connection to the building and to make sure that if there's landscaping on the island that's in between the entrance and discharge from the property that it's not going to obstruct a fire engine. He also asked if the curbing can be put on an angle incase a fire engine needs to get over it. Chair Best stated that the staff's memo included potential conditions of approval from the Fire Department.

Chair Best asked for a little bit of detail about the dumpster in terms of hours of operation. Mr. Peterson said that they will take a look into that and get back to the Board. There is an existing fence around the dumpster but it's not in the best shape so they said they will also figure that out. Mr. Peterson said in regards to the Fire Department comments, he has not yet had a chance to look at them. He also added that the sewer can't run further south but they possibly could run a force main up to the manhole and that's something they'll discuss. Mr. Disco said that it would be interesting to know where the sewer goes. Mr. Peterson replied that he's meeting with Sewer Inspector Mike Gorman next week and is going to figure out where the sewer in the area goes to.

Chair Best asked if there will be a sign or anything along the roadway. Mr. Peterson replied that there is a plan to put a sign in and that they will get it to the staff.

**The Board voted 6-0-0 to continue the application's public hearing to April 16, 2024 at 6:30 p.m. in the Matthew Thornton Room, with no further written notice to abutters, on a motion made by Barbara Healey and seconded by Nelson Disco.**

**4. Planning & Zoning Administrator's Report & Discussion/possible action regarding other items of concern**

*Discussion only.*

**5. Approval of Minutes — February 6, 2024**

**The Board voted 6-0-0 to approve the minutes of February 20, 2024, as drafted, on a motion made by Maureen Tracey and seconded by Nelson Disco**

**6. Adjourn**

**The Board voted 6-0-0 to adjourn at 7:55 p.m., on a motion made by Barbara Healey and seconded by Nelson Disco.**