



# Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

## MERRIMACK PLANNING BOARD

### APPROVED MINUTES

TUESDAY, MARCH 1, 2016

Planning Board members present: Robert Best, Alastair Millns, Tom Mahon, Desirea Falt, Vincent Russo and Alternates Nelson Disco and Jeff Sebring.

Planning Board members absent: Michael Redding and Lynn Christensen.

Staff present: Assistant Planner Robert Price and Recording Secretary Zina Jordan.

#### 1. Call to Order

Robert Best called the meeting to order at 7:00 p.m. and designated Jeff Sebring and Nelson Disco to sit for Michael Redding and Lynn Christensen, respectively.

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

Michael Moquin proposes a waiver of full site plan review to permit the use of a portion of the existing garage as a third dwelling unit on the property (that would make the property multi-family by statute), following several approvals over several years (most recently in January 2016) by the Zoning Board of Adjustment (ZBA).

Derek Locke & Julie Jones propose a two-lot subdivision, following recent approval of frontage variances by the ZBA.

Staff recommends that the Board determine that Michael Moquin and Locke/Jones subdivision are not of regional impact.

**The Board voted 7-0-0 to determine that the Michael Moquin site plan and Locke/Jones subdivision are not of regional impact, on a motion made by Alastair Millns and seconded by Nelson Disco.**

- 3. Brett W. Vaughn for the Brett W. Vaughn Revocable Trust (owner) and Allison Jenkins (owner) - Continued conceptual discussion of a 17-lot cluster subdivision on 2 lots in the R-1 (Residential) District located at 123 Wilson Hill Road and South Grater Road. Tax Map 4A, Lot 023 and Tax Map 5A, Lot 001. This item is continued from the January 19, 2016 and February 2, 2016 meetings.**

The applicant was unable to have all his professionals attend this meeting and asks for a continuance to April 5, 2016.

**At the applicant's request, this item was continued to April 5, 2016, at 7:00 p.m., in the Matthew Thornton Meeting Room, by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Desirea Falt.**

**4. Joy Lawrence (applicant/owner) of Lawrence Home Care** - Review for acceptance and consideration of Final Approval for a home occupation permit for an at-home day care located at 1 Edward Lane in the R (Residential) and Aquifer Conservation Districts. Tax Map 5C, Lot 647.

Robert Price reported that the water source for the property has been confirmed as a private well. It is on Town sewer.

Mike Danis, Owner, Danis Construction Company, said the total area for the day care would be 188 square feet, which is below the 25% maximum allowable area for a home occupation. He repaved the driveway and installed new walkways a year ago. No new improvements are needed. The neighbors are agreeable.

Joy Lawrence, 1 Edward Lane, would be the only employee. She will care for six children, from six weeks to five years of age, Monday-Friday, 6:30 a.m.-6:30 p.m. Joy Lawrence was a nurse for 14 years and is taking courses on early childhood education. People have asked her to mind their children. There would be no evening or weekend hours, except perhaps once or twice a year for close friends. The property is not fenced, but there is no traffic. There is a public playground across the street. Neighbors say the children are well behaved.

In answer to Board questions, Joy Lawrence said the well was not tested yet, but it must be as part of the State licensing process. She is always at the day care and initiates activities appropriate for the age group. One bedroom would be used for naps. The unfinished basement would not be used.

Staff recommends that the Board vote to accept the application, as it is substantially complete and contains sufficient information to invoke the Board's jurisdiction and to allow it to make an informed decision.

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

There was no public comment.

Staff recommends that the Board grant final approval of the home occupation.

**The Board voted 7-0-0 to grant final approval, with the condition that the applicant shall obtain all required State permits/licensing required to operate the home day care, on a motion made by Alastair Millns and seconded by Tom Mahon.**

**5. Michael Moquin (applicant/owner)** - Review for acceptance and consideration for Final Approval for a waiver of full site plan to permit a Multi-family dwelling located at 56 Daniel Webster Highway in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 2D, Lot 030.

Michael Moquin, 56 Daniel Webster Highway, would convert 20% of his garage into a home with two bedrooms and 1½ baths. The existing residence is already a two-family home; a third residential unit is being added in the existing garage. The 40' x 50'

garage already has Town water and sewer. The “existing workshop” on the plan was removed 19 years ago, as was the pool.

Chairman Best instructed the applicant to submit a new plan that removes structures that do not exist and that shows the location of D.W. Highway, along with the other items noted in Staff’s memorandum.

Vincent Russo asked about the parking requirement. Robert Price said that staff has determined that nine parking spaces are required and should be depicted on the annotated site plan.

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

**The Board voted 7-0-0 to waive full site plan review, on a motion made by Alastair Millns and seconded by Jeff Sebring.**

Alastair Millns cited the criterion that “Strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the regulations”.

Vincent Russo asked where the green space and impervious surfaces would be and the ratio to each other. Michael Moquin stated there would be a 10’ kick-out and a wraparound porch. All water runs underground. Chairman Best explained that the lot is mostly paved and that Merrimack does not have any regulations pertaining to total impervious coverage.

**There was no public comment.**

Staff recommends that the Board vote to grant conditional Final Approval to the application, with precedent conditions to be fulfilled within six months and prior to plan signing, unless otherwise specified.

**The Board voted 7-0-0 to grant final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Nelson Disco.**

1. Final plans to be signed by the Applicant and Property Owner;
2. Applicant to provide a copy of an updated driveway permit from NHDOT (as applicable) to the Community Development Department and add a note to the plan indicating the updated permit;
3. Any waivers granted (including Section and date granted) or any changes requested by the Board shall be listed and fully described on the final plan, as applicable;
4. The Applicant shall address the following comments from the Fire Department:
  - a. The proposed single family home shall meet all current codes for a new single family home including smoke detector and carbon monoxide

detector regulations in addition to all other building and fire regulations for a new single family home.

5. Applicant shall address any forthcoming comments from the Highway Department, Assessing Department, and Pennichuck Waterworks, as applicable;
6. The applicant shall address the following comment from the Building Department, as applicable:
  - a. Add notes to indicate all currently enforced fire safety, building and electrical codes to be utilized where any modification to existing structure take place
7. The applicant shall address the following staff technical comments:
  - a. The plan should include the following notes:
    - i. Property Address, Tax Map & Lot, Owner;
    - ii. Purpose statement;
    - iii. Zoning District(s)
    - iv. Number of dwelling units and bedrooms per each unit;
    - v. Parking spaces required and provided;
    - vi. Water and sewer sources;
    - vii. Variances and special exceptions granted and date granted.
  - b. The plan should clearly show the boundary lines of the parcel to scale and typos corrected;
  - c. The plan should have a north arrow, date, dates of revisions and any applicable reference plans;
  - d. The required parking spaces (9) should be clearly depicted on the plan;
  - e. The existing workshop depicted on the plan should be removed if it does not exist on the site;
  - f. Daniel Webster Highway should be identified on the plan;
  - g. The driveway access should be clearly identified and labeled;
  - h. The plan should have a signature block.

General and subsequent conditions

1. A certified plot plan is required per Section 6 of the Merrimack Subdivision and Site Plan Regulations for a certificate of occupancy;
2. Applicant shall address the following comments from the Wastewater Division, as applicable:
  - a. Backflow preventers must be installed for each dwelling;

- b. A clean-out must be installed just upstream of the connection to the existing sewer lateral;
  - c. Each unit will be billed separately (two sewer bills) when the new connection is made.
- 3. Additional code requirements may be requested with building permit applications.

**6. Derek Locke & Julie Jones (applicants/owners)** - Review for acceptance and consideration of Final Approval for a minor subdivision of one lot into two lots. The parcel is located at 41 Ingham Road in the R (Residential) and Aquifer Conservation Districts and Wellhead Protection area. Tax Map 3C, Lot 025-01.

Derek Locke, 41 Ingham Road, plans to sell the new lot to a neighbor for capital to put towards building a new house directly behind the current home. The house is currently in shambles. Both lots are serviced by town sewer, public water and Town roads; the well would not be used.

In answer to Chairman Best, Derek Locke stated that one shed is for his brother's trailer that would be moved when the lot is sold. A second shed may be moved when the parcel is graded; flooding is a problem. The third shed is a wood rack.

Staff recommends that the Board vote to accept the application, as it is substantially complete and contains sufficient information to invoke the Board's jurisdiction and to allow it to make an informed decision.

**The Board voted 7-0-0 to accept the application for review, on a motion made by Desirea Falt and seconded by Jeff Sebring.**

Nelson Disco said there would never be a sidewalk in this neighborhood. This is a small (two lot) subdivision.

**The Board voted 7-0-0 that a sidewalk waiver is not necessary, on a motion made by Nelson Disco and seconded by Tom Mahon.**

There was no public comment.

Alastair Millns asked for an explanation of Condition 8a: "The existing cul-de-sac easement should be formalized if not already completed – The easement is shown on the reference plan #27970 as part of the Wethersfield Subdivision." Chairman Best said that the Public Works Department wants confirmation that the cul-de-sac is an easement. Robert Price will ask PWD Deputy Director/Town Engineer Kyle Fox what his intent is.

Staff recommends that the Board vote to grant conditional Final Approval to the application, with precedent conditions to be fulfilled within six months and prior to plan signing, unless otherwise specified.

**The Board voted 7-0-0 to grant final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Desirea Falt.**

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 (NHDES Subdivision, NHDES Wetlands, and any others as may be applicable), note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department;
3. The applicant shall note all 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, at the applicant's expense, by the Town's Legal Counsel;
5. The applicant shall address any forthcoming comments from the Assessing Department, as applicable;
6. The applicant shall address the following comments from the Fire Department:
  - a. Address assignment of the new residential lot, Tax Map 3C, Lot 025-1-1 shall be 39 Ingham Road.
7. The applicant shall address the following comments from the Public Works Department:
  - a. The existing cul-de-sac easement should be formalized if not already completed – The easement is shown on the reference plan #27970 as part of the Wethersfield Subdivision;
  - b. The recorded easement reference should be labeled on the plan;
8. The applicant shall address the following Planning Staff Technical Comments:
  - a. Revise Note 6 spelling of "services" to "serviced";
  - b. Note 10 indicates that wetlands were delineated and the legend includes wetland symbology. However neither wetlands, nor wetland setbacks are visible on the plan. If wetlands are present, then they should be shown. If they are not, then Note 10 should be removed. If there is a second sheet to the plan set that shows the wetlands information, it must be provided;
  - c. If wetlands were delineated and are present, then the plan needs to be stamped and signed by a Certified Wetlands Scientist;

### General and Subsequent Conditions

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. The applicant shall obtain right-of-way permits from the Public Works Department for all new driveways;
4. Additional code requirements may be requested with building permit applications.

**7. College Bound Movers (applicant) and Sam A. Tamposi, Harold Watson & Benjamin M. & Clegg Bosowski (owners)** - Review for acceptance and consideration of Final Approval for site plan to construct a 3,000 s.f. office addition and walkway. The parcel is located at 14 Continental Boulevard in the I-1 (Industrial) and Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 3C, Lot 089.

The applicant has decided to make some modifications to the proposed addition that will require an appearance before the Merrimack Conservation Commission (MCC) and resubmission of a modified site plan for Planning Board approval sometime in April 2016. Therefore the applicant is withdrawing the application.

### **8. Discussion/possible action regarding other items of concern**

Nelson Disco learned that the money the Planning Board put in escrow for a sidewalk at Dunkin Donuts and Atrium on Continental Boulevard was returned to the developer because it was “timed out”. He does not want the Planning Board to use escrow money as a method of relief from sidewalk construction because it is not working. Rather it should implement the purposes/recommendations of the Master Plan. Chairman Best noted that the Sidewalk and Bicycle Committee was suspended a year ago because the Planning Board and Town Council had differing opinions regarding sidewalks and staff was caught in the middle. The money should be used for sidewalks. Tom Mahon spoke to the Town Manager and Finance Director today, who stated that the Atrium money was not returned and is not timed out. Atrium has made one payment; the other is due at a later date. Discussion ensued about whether there would be a sidewalk there in the next 6-12 months. Alastair Millns suggested doing a piece now. Town Council does not want the responsibility of maintaining sidewalks. Chairman Best noted that State law requires that escrow money must be used for the intended purpose. Tom

Mahon said the Planning Board could encumber the money. Alastair Millns said the escrow would expire in 2017 and wanted to move quickly. He suggested asking the Community Development Director to find out if there is a possibility to use the \$35,000 before it must be returned, what its current status is and how much time is left before it must be returned. Nelson Disco wanted to return to Town Council now that its membership has changed. Chairman Best said that, although the Master Plan has a good objective (sidewalks on all arterial roads), Town Council does not want more sidewalks. Nelson Disco said the key first piece is a Route 3 inventory. Nashua Regional Planning Commission (NRPC) was ready to do it, but Town Council did not approve. He suggested that the Planning Board identify what is there and where the critical gaps are. Chairman Best agreed with Nelson Disco that the Planning Board should investigate the sidewalk and follow the Master Plan if members are willing to spend the necessary time. Nelson Disco, Alastair Millns and Jeff Sebring volunteered to act as a committee.

Tom Mahon reported that the Route 3 Bridge at Baboosic Brook (next to the MYA) was red listed. It is supposed to be rebuilt in 2018. A weight restriction is the first step to closing a bridge. Since none has been set, it is not being shut down, but it will be inspected annually rather than every two years. The Town would have to post a bond to pay the entire cost of replacing it before 2018. McGaw Bridge is being replaced first to act as an alternate bypass during the planned Route 3 Bridge reconstruction. It should be complete at the end of 2016. A special meeting is needed to approve a bond for the road if there is an emergency. That is a 90-day process. Nelson Disco explained the 90 days is just to authorize the work; design and reconstruction would take 18-24 months. Chairman Best wondered how to plan ahead and stave off the inevitable.

#### **9. Approval of Minutes – February 16, 2016**

**The minutes of February 16, 2016, were approved, with one change, by a vote of 7-0-0, on a motion made by Desirea Falt and seconded by Jeff Sebring.**

#### **10. Adjourn**

**The meeting was adjourned at 8:07 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Tom Mahon.**