



# Town of Merrimack, New Hampshire

Community Development Department  
6 Baboosic Lake Road  
Town Hall - Lower level - East Wing

603 424-3531  
Fax 603 424-1408  
[www.merrimacknh.gov](http://www.merrimacknh.gov)

Planning - Zoning - Economic Development - Conservation

## **MERRIMACK PLANNING BOARD VIRTUAL MEETING APPROVED MINUTES TUESDAY, MARCH 16, 2021 7:00 P.M.**

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

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

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

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

Robert Best called the virtual meeting to order at 7:16 p.m. and read the procedures & processes for the virtual meeting. He appointed Nelson Disco to sit for Lynn Christensen.

Roll Call:

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

Members Absent: Neil Anketell, Paul McLaughlin & Lynn Christensen.

Assistant Planner, Casey Wolfe was attending from her home in Manchester and was alone in the room she was in.

Councilor Boyd asked if there have been any updates on the Flatley project and Casey Wolfe responded that they submitted an application to amend the CUP.

Chairman Best announced that he will be hearing agenda item #5 ahead of item #4.

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

None

3. **Kodiak Veterinary Hospital, LLC (applicant) and Karen Roy (owner)** – Continued review for consideration of final approval for a 2,224 s.f. building addition and change of use to a veterinary clinic. The parcel is located at 255 Daniel Webster Highway in the I-1 (Industrial) & Aquifer Conservation Districts. Tax Map 3D-2, Lot 039. Case # PB 2021-06. **This item is continued from the February 16, 2021 Planning Board meeting.**

Casey Wolfe prefaced the presentation by reminding the Board that this project was first discussed during the February 16, 2021 Planning Board meeting and the application was accepted as complete at that time but was continued as peer review comments had not been received. Ms. Wolfe also confirmed that the peer review comments have been received and that the waivers that were requested for this project still need to be discussed.

Matt Peterson (Keach-Nordstrom Associates), Andrew Prolman (Prunier & Prolman, P.A.), Dennis Barrett (Kodiak Veterinary Hospital Director) and Masuma Barrett, (Kodiak Veterinary Hospital Veterinarian) were all in attendance to discuss the project. Mr. Peterson began by sharing a picture of the property to remind the Board of the layout and where the addition is being proposed. He then discussed the changes that were made to the plan since the last meeting, which included the addition of snow storage, additional landscaping, the removal of the fenced in areas, the addition of an ADA ramp and the relocation of the ADA parking to be closer to the ramp. Mr. Peterson also referenced the lighting plan to explain that the proposed lighting poles in the parking lot have been removed and two additional lights were added to the building. He shared an updated rendering of the building to show that shutters have been added to the building at the recommendation of the Board. Mr. Peterson wrapped up his presentation by explaining that they have addressed the peer review comments.

Chairman Best thanked Mr. Peterson for his presentation and asked him to discuss the waivers that are being requested. Mr. Peterson explained that the three waivers in question (Sections 3.11.1 (1), 3.11.1 (3), and 3.11.1 (5)) are being requested because the site is an established property with landscaping and they believe that the current layout and aesthetics meet the intent of the regulation.

Nelson Disco asked about drainage so Mr. Peterson walked through the drainage for the site and commented that there were no concerns from the peer review regarding drainage. Mr. Disco also asked about the landscaping so Mr. Peterson shared the landscaping plan to depict the areas that additional trees and shrubs are being added and a current photo of the site to demonstrate the existing landscaping that is going to remain once the addition is complete.

Finding that specific circumstances relative to conditions of the land in the site plan indicate that the waiver will properly carry out the spirit and intent of the regulations, **the Board voted 4-0-0 by roll call vote to grant waivers to Sections 3.11.1 (1), 3.11.1 (3), and 3.11.1 (5) of the Site Plan Regulations on a motion made by Bill Boyd and seconded by Alastair Millns.**

There was no public comment.

Nelson Disco asked if the applicant is aware of the conditions of approval that are being recommended by staff and specifically referenced a comment about a sewer clean out and a sewer line missing from the plans. Mr. Peterson commented that he is aware of the conditions recommended by staff. Mr. Disco then asked why page five of the staff memo referenced an apartment building in the condition regarding an As Built Plan. Casey Wolfe confirmed that this was a typo and must have been copied from a previous memo. Mr. Peterson asked if an As Built is required and Casey responded that she was not certain. The decision was made to

keep the condition as written but add “if necessary” to convey that it is only a condition if required by Staff.

**The Board voted 4-0-0 by roll call vote to grant conditional final approval on a motion made by Bill Boyd and seconded by Alastair Millns. The following precedent conditions apply:**

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 as may be applicable (including NHDOT driveway permit updated for this proposal or verification from NHDOT that no permit amendment is necessary), 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 the following comment from the Conservation Commission, as applicable.
  - a. We would like a snow removal plan added to the site plan and forwarded to Community Development to be kept on file.
6. The applicant shall address any forthcoming comments from Merrimack Village District, as applicable.
7. The applicant shall address the following comments from the Public Works Department, as applicable.
  - a. This section of Daniel Webster Highway is under State of New Hampshire Department of Transportation Jurisdiction and Review. NH DOT permit(s) will be required for any work done within the Right of Way (ROW) and/or any change of use. The requirements shall be noted on the plans.
  - b. If any work will be done within the ROW of Star Drive a Driveway Permit shall be obtained from the Town of Merrimack Highway Department. The requirements shall be noted on the plans.
  - c. The stormwater runoff from the proposed animal area and the animal walking area will need to be reviewed. The Merrimack River is on the impaired waters 303D list; Is there a wetland, stream or ditch line within 75 feet of the Animal Area and the Animal Walking area that would send the drainage untreated directly to the Merrimack River?
    - i. What type of treatment will be provided to adequately treat the pet wastes?
    - ii. What type of surface will be within Animal Area and the Animal Walking Areas? Provide a proposed cross section area listing the materials that

will be used for the Animal Area and the Animal Walking Areas to be able to treat the effluent from the animals.

- iii. A pet waste management plan shall be prepared and submitted to describe how the solid pet wastes will be handled, then disposed of.

8. The applicant shall address the following comments from the Wastewater Division:

- a. The sewer line is not shown on the plans.
- b. Commercial lateral lines shall be a minimum of 6 inch pipe (per S3-07.b).
- c. There shall be a lateral sewer clean-out provided with at-grade access with covers. They shall be at the same diameter as the pipe (per S3-07.g).
- d. The amount of pet hair going down the drain shall be minimized to prevent clogging issues.
- e. Backwater valve shall be installed per S4-12.

9. The applicant shall address the following requests made by the Planning Board during the public hearing:

- a. The addition of shutters to the architectural rendering of the building.
- b. Additional proposed landscaping in front of the building facing Daniel Webster Highway.
- c. An updated lighting plan with the wattage information for the existing lights on site and conformance with Section 3.13.e (parking lot lighting) of the Site Plan Regulations.

10. The applicant shall address the following Planning Staff Technical Comments:

- a. Revise Note #4 on Sheet 1 to say "Industrial (I-1)" and not "Commercial (C-2) (in the heading above the zoning requirements list).
- b. On Sheets 1, 2, and 3 revise the minimum building setback line so that the requirements for an I-1 Commercial building are listed. In the case of the southern and eastern property lines, utilize side setback requirements.
- c. Add an owner signature block to Sheet 1.
- d. Add a note regarding the presence of wetlands (or the lack thereof) to Sheet 3.
- e. Revise Note #11 on Sheet 3 to "19 spaces + 1 handicap space = 20 total spaces provided."
- f. Revise the label on Sheets 1, 2 & 3 for the most eastern parking area to say "13 spaces."
- g. Add a label to the parking spaces on Sheet 3 noting the width and length of the spaces."

- h. Add a label to the most eastern parking area with the aisle width.
  - i. Staff notes existing utilities are not shown on the plans per Section 4.14.b.2 for the sewer system and Section 4.14.b.3 for the water system. Please provide their locations or request waivers from these sections.
  - j. Delete Note #19 on Sheet 3 regarding signage.
  - k. Add the note as written in Section 4.11.s to Sheet 3.
  - l. A lighting plan was not included in the plan set. Section 3.13.e.3.i of the Site Plan Regulations requires parking areas to have a minimum illumination level at no less than 0.3 foot-candles. Please either add this information to the plan or submit a waiver request in writing.
  - m. The applicant shall address the following relative to the Landscape Plan:
11. The applicant shall add a note to Sheet 4 of the plan regarding ongoing landscaping maintenance per Section 3.09.f.1.
- a. ii. The applicant shall add a note to Sheet 4 of the plan regarding tolerance of plants against roadway de-icing salts per Section 3.09.c.9.
  - b. Please revise Sheet 3, Note 22 to indicate the hours of operation are for a veterinary hospital, not an office space.
  - c. Snow storage areas should be delineated on the plan.

**The following general and subsequent conditions 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 a Certificate of Occupancy for the building if required by the Community Development Department.
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 the following and any forthcoming comments from the Building Department, as related to building code compliance and permit application, as applicable (that are not deemed precedent conditions).
  - a. The project shall comply with all ICC Building, Fire and Life Safety Codes adopted by the State of New Hampshire, including all amendments.

- b. The existing residential structure is not ADA code compliant, where applicable, shall be made to comply with ADA accessibility standards.
  - c. Submit a complete building permit application provide the job location indicate the scope of work, proposed use and estimated construction value.
  - d. All plans and construction documents shall be submitted with the application and available for code compliance review, prior to the Pre-Construction Meeting with Community Development.
- 5. The applicant shall address the following and any forthcoming comments from the Fire Department, as related to property addressing and fire code compliance, as applicable (that are not deemed precedent conditions).
  - a. As this proposal constitutes a change of use to a Veterinary Hospital, the entire building shall be protected by an approved NFPA-13 compliant fire sprinkler system, if required by the Fire Marshal (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 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.

*This agenda item was discussed before agenda item #4.*

- 5. **SJ Torrez (applicant) and Connell Orrin Family Trust (owner)** - Review for acceptance and consideration of final approval of a Waiver of Full Site Plan Review to construct a 1,800 s.f outdoor patio. The parcel is located at 454 Daniel Webster Highway in the C-2 (General Commercial) and Town Center Overlay Districts. Tax Map 5D-4, Lot 054. Case #PB2021-09.

Matt Peterson (Keach-Nordstrom Associates) presented the project on behalf of the applicant. Mr. Peterson began by explaining that ever since the beginning of the COVID-19 pandemic, restaurants are finding that they need to have outdoor seating in order to satisfy customers that are not comfortable eating indoors. Accordingly, the Tomahawk Tavern is looking to add a permeant patio to their location to attract a variety of customers. Mr. Peterson then shared a photo of the building to demonstrate the location of the proposed patio. He discussed the layout of and size of the patio as well as parking for the entire site as six parking spaces will need to be eliminated to make room for the patio.

Chairman Best asked if a door will be added to the inside of the restaurant that leads to the patio and if the service will be self-serve or table service. Mr. Peterson confirmed that a door will be added and that he believes the patio will be full service. Chairman Best also asked about the number of seats that are being proposed and Mr. Peterson said that it depends on if they need to be spaced apart to comply with COVID-19 protocols but the max amount is 130. Chairman Best asked if the list of businesses reflected on the plan can be updated because there is not a convenience store in that mall. Mr. Peterson said that Brown's Village Depot is the business he had listed as a convenience store and Chairman Best clarified that it is a retail store.

Nelson Disco asked if steps were going to be added to the patio because he thought he saw them reflected on the plan. Matt shared the plan and explained that the section Mr. Disco was

referring to is a ADA ramp because there will be a slight incline to match the elevation of the front door to the restaurant. Mr. Disco also disagreed with the comment that was made regarding nobody driving through the area as the high school kids often use it as a cut-through from Woodbury Street. He recommended that something be added to prevent people from driving into the patio on accident. Casey Wolfe stated that there is a recommended condition of approval from Community Development drafted in the staff memo regarding patio area protection and added that the Fire Marshal recommended jersey barriers or bollards. No one was in favor of the jersey barriers but Mr. Peterson said that he would work with Staff and the Fire Department to come up with something that is both safe and visually appealing.

Councilor Boyd stated that he supports the project and that he agrees with the need for some sort of protection from traffic. He also asked what color the proposed awning is going to be, and Mr. Peterson replied that he does not know.

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

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

There was no public comment.

**The Board voted 4-0-0 by roll call vote to grant conditional final approval on a motion made by Bill Boyd and seconded by Nelson Disco. The following precedent conditions apply:**

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. 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. 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.
5. The applicant shall address any forthcoming comments from the Wastewater Division, as applicable.
6. The applicant shall address any forthcoming comments from the Fire Department, as applicable.
7. The applicant shall address the following Planning Staff Technical Comments:
  - a. The applicant should address the following relative to the plan notes:
8. The applicant shall add the Town Center Overlay District to note #5.

- a. ii. The applicant shall update the reference to “Florence’s Restaurant” which is no longer on site. Please update to “Portofino Restaurant.”
- b. iii. Per Section 4.11 of the regulations, please add the following notes, which staff believes are necessary despite this being a waiver of full site plan review:
- c. Sanitary sewer source
- d. Water supply source
- e. Zoning variances/special exceptions with conditions
- f. List FEMA sheet(s) used to identify flood elevations (Note if no flood zone present as applicable)
- g. List of Planning Board waivers
- h. The applicant shall verify and update abutter information shown on the plan.
- i. The applicant shall indicate in the notes, or on the plan, the proposed number of seats to be utilized outdoors on the patio and inside the restaurant. The parking note does not indicate any outdoor seating which would impact the required number of parking spaces on site (and the waiver request if determined necessary by the Board).
- j. The applicant shall indicate how the patio area will be protected from vehicles using the driveway aisle toward Woodbury Street, as typically required by the Fire Department (bollards or other method).

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

- 1. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;
- 2. The work being proposed does not appear to affect the Right of Way (ROW) of Daniel Webster Highway. If any work should need to be done within the ROW of Daniel Webster Highway a Driveway Permit shall be obtained from the Town of Merrimack Highway Department.
- 3. The applicant shall address any comments from the Fire Department, as related to building fire code compliance, sprinkler systems, building addressing, etc., as applicable (that are not deemed precedent conditions).
  - a. 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. **RCL Realty, LLC (applicant/owner)** – Continued review for acceptance and consideration of final approval of an amendment to a previously approved subdivision. The parcels are located on Elizabeth Drive, Squires Drive and Charles Road in the R-1 and R-2 (Residential) Districts. Tax Map 3A, Lots 010, 011, 012, 013, 014, 015, 025, 026, and 027. Case # PB2021-07. **This item is continued from the February 16, 2021 Planning Board meeting.**



Matt Peterson (Keach-Nordstrom Associates) presented the project on behalf of the applicant. Mr. Peterson began by reminding the Board that this project has appeared before them twice before as concepts, once in 2019 and most recently in January 2020. Mr. Peterson continued by explaining that the project consists of an 8 lot subdivision that spans over three roads (Elizabeth Drive, Squires Drive and Charles Road) and was originally approved in 1969. He shared the plans from 1969 to show the location of the eight lots in question and then shared a current plan that details the following changes that will need to be made in order to make the subdivision possible.

- Elizabeth Drive Loop - The original plan called for Elizabeth Drive to loop all the way around, however the grade of the land makes this impossible. The proposed plan calls for a portion of Elizabeth Drive beyond the existing dead end to the proposed new Charles Road turnaround be released from public servitude and revert to abutting parcels.
- Charles Road - Charles Road will be extended, partially within the existing platted right-of-way and partially within a modified right-of-way through existing Lot 27 to follow the existing terrain more closely. Charles Road will end at a cul-de-sac, with the resulting additional right-of-way on existing Lot 25. The existing Lots 25, 26 and 27 will be merged into two (2) lots. Access to Lots 13 and 14 will derive from the cul-de-sac.
- Squires Drive - A portion of Squires Drive will be released from public servitude and revert to the abutting parcel 3A-017.

Mr. Peterson also explained that an infiltration basin is being proposed on Squires Drive to correct an existing drainage issue. The basin does not have any impact on the proposed subdivision but it will correct an existing issue with water running down Elizabeth Drive that has no place to go. He also addressed a concern of the home owners in the neighborhood about access to the open land on Squires Drive by explaining that easements could be put in place to allow walking access to this area. Mr. Peterson continued his presentation by walking the Board through the subdivision plan noting that the lots will have town water but private septic and that there may be some setback issues on a few lots that will be addressed if the subdivision is approved. He also discussed the road conditions (both existing and proposed) and reminded the Board that the applicant is seeking a waiver to allow a 15 foot stretch of Charles Road to be at a 9% grade.

Chairman Best opened up questions and comments from the Board and began by thanking the applicant for trying to be neighborly and finding a way for the residents to still be able to access the open area off of Squires Drive. He reminded everyone that this is not something the Board has jurisdiction over but is always happy to see applicants trying to work with the neighbors on solutions to their concerns.

Nelson Disco commented that he believes the applicant should work with the neighbors to allow them access to the open area off Squires Drive and also asked Mr. Peterson to review the grading on Charles Road again (which he did).

Councilor Boyd asked who currently owns the portion of Squires Drive that is going to be undedicated and Mr. Peterson replied that it is owned by the applicant. Councilor Boyd then made the recommendation that the applicant make the land in question an easement and deed it to the Town of Merrimack. Mr. Peterson indicated that he hadn't thought of that option and he will look into it as a possibility. They continued to discuss the options for this piece of land and made reference to letters received from several abutters regarding access to the open area off of Squires Drive. Councilor Boyd asked Mr. Peterson if he had a chance to read

the letters and he indicated that he had not seen them. Chairman Best stated that they would ensure the applicant gets copies of the letters and announced that due to the volume of letters received, they would not all be read into the record but are on file in the Community Development Department at the Merrimack Town Hall. There was discussion about whether or not the letters should be attached to the minutes but the Board ultimately decided against this action as the letters are on file at Town Hall.

### **Public Comment**

Bruce Peterson, 3 Elizabeth Drive, began by expressing his disappointment that none of the abutter letters would be read into the record. He went on to explain that the neighbors do not understand the need to discontinue a portion of Squires Drive as it has nothing to do with Lot 15 as indicated and would like the applicant to explain in detail why this is being proposed. The residents in that neighborhood feel that they have had access to the open area off of Squires Drive for over 50 years and should be able to maintain that access. He continued to question the necessity of the discontinuance of Squires Drive and the reasons that were given by the applicant such as a statement that was supposedly made by DPW that they are not interested in maintaining Squires Drive for just one lot. He stated he requested the correspondence from DPW regarding this project and found no record of any such statement. He then asked if it was alright to discuss concerns about the utility poles and Chairman Best asked for clarification as to if he would like the applicant to address his concerns all at once at the end or by topic. B. Peterson replied that it would be helpful to discuss them as they went along.

Chairman Best clarified that the concerns that were raised about the variances would not be addressed as they were a Zoning Board decision. He also commented that Councilor Boyd has recommended an alternative for the portion of land on Squires Drive and the applicant is considering it so this may help with some of the concerns that were raised. He also clarified that from an abutter's standpoint it may help to understand an applicant's justification for a specific proposal but from the Planning Board perspective, a land owner can propose whatever they want on their land and it is up to the Planning Board to weigh it against the regulations and make a decision.

B. Peterson asked for clarification on whether or not the Board has to consider the health and well-being of the residents. Chairman Best confirmed that it is part of the Planning Board's duties to consider the health and well-being of the residents of Merrimack, but they cannot require a private property owner to continue to allow individuals to access their land. B. Peterson asked if Squires Drive is considered private property and Chairman Best explained that it is and it is known as a "paper street" because it was proposed to be built out in the original plans but was never actually completed but it is privately owned. He went onto explain that the developer is trying to do something with Squires Drive because it makes no sense for him to own 30 feet of roadway that does not lead to any of the parcels owned by him and if he moves forward with the suggestion by Councilor Boyd, it could eventually be deeded to the town. B. Peterson reiterated that the health and safety of the residents is being impacted by this proposal because they are losing access to green space that they have enjoyed for over 50 years and will be left with a road that is a dangerous in parts because of the grade.

B. Peterson switched topics to discuss his concerns about the utility poles that are being proposed. He indicated that all of Normandy Estates currently has underground utilities and all of the lots have easements that grant Eversource (originally PSNH) access to their lots to maintain/fix said utilities. He also indicated that he contacted Eversource and they were unaware that above ground utilities were being proposed and could not address why there

would be a need without more information. Chairman Best responded by stating he made a note of this concern and would have the applicant address it but from a Board perspective, a waiver is required to allow above ground utilities and they are not typically granted without an exceptional reason to justify the need.

B. Peterson continued to go through a list of other concerns, such as the proposed utility poles being too close to the road, no shoulders are being proposed on Charles Road, a guardrail that is being proposed on Charles road and the fact that sidewalks are not shown on the plan and a waiver has not been requested. He re-visited the concerns with the discontinuance of Squires Drive again and asked if the decision would ultimately rest with the Town Council. Chairman Best explained that it depends on the legal status of the road; if it was never officially accepted then the Council would not have a role to play as it does not need to be undedicated if it was never dedicated.

B. Peterson then commented that the neighborhood did not agree with how the variances were lumped together in the ZBA hearing and they do not want to see anything like that happen again so they are requesting that the waivers be heard and acted upon independently. Chairman Best indicated that the request was reasonable and he sees no issues with acting on them independently, however he did point out that in some instances they are dependent upon one another, which is the case for the utility poles. The above ground utility waiver would need to first be granted in order to consider the waiver to allow the poles closer to the pavement than what is allowed.

John Sauter, 9 Elizabeth Drive asked the Board to require the applicant to construct a pedestrian walkway to get from the Charles Road cul-de-sac to the north end of Elizabeth Drive. He also expressed his disappointment that the letter he submitted to the Board was not going to be read into the record.

Public Comment was received via email (and is available for review in the Community Development Department at Town Hall) from: Wayne & Karen King, 2 Elizabeth Drive; Debra Babb & John Sauter, 9 Elizabeth Drive; Jessica & Zachary Driscoll, 1 Elizabeth Drive; Jane & Bruce Peterson, 3 Elizabeth Drive; James & Patricia Purcell, 4 Elizabeth Drive; Jessica & Andrew Nord, 5 Elizabeth Drive; Sarah & Stacey Marchand, 7 Elizabeth Drive and Gloricel Acevedo-Perez, Santiago Perez, 8 Elizabeth Drive; David & Kristen Heeter, 6 Elizabeth Drive; Blake Kerrigan, 4 Charles Road and Jim &Thea Krust, 2 Charles Road.

M. Peterson stated that he jotted down two pages of notes and indicated that he would prefer to consult with the applicant and legal counsel before responding to ensure the most accurate answers are provided. This project has been around for a number of years and several of the people that were once involved are no longer working on the project so now that it is his to see to the end, he would prefer to read through the abutter letters and respond at the next meeting.

Chairman Best commented that the Board should have voted on whether or not the application was complete before hearing public testimony and asked the Board if anyone had a motion on the completeness of the application.

Nelson Disco stated that he felt the application was not complete due to all of the concerns that were raised. M. Peterson respectfully disagreed with Nelson Disco's assessment as all of the application requirements including necessary waivers were submitted.

Councilor Boyd asked about the impact to the acceptance if changes are made to the plan based on the discussions from the meeting. Chairman Best clarified that it is very common

for a subdivision application to be accepted as complete and then have changes made to it, the completeness is just a way of saying they have hit all of the required check boxes and does not mean that it is finalized.

Councilor Boyd asked M. Peterson if the 65 day window would be enough time to address the concerns raised and he replied that it should be sufficient because he has already gotten peer review comments and preliminary comments from DPW. M. Peterson added that if it is not enough time, he will grant an extension to the Board.

Chairman Best advised the Board that if anyone feels that the application is not complete, they need to state what is missing. Chairman Best referred to the Staff memo and indicated that the only thing he sees that is missing is the issue of sidewalks. They were not shown on the plan and a waiver has not been submitted, however, even knowing that, staff has recommended that the application be accepted as complete. M. Peterson stated that if the application had been voted on as complete before the public testimony, there would not be a debate. He also addressed the sidewalk issue by indicating his intention to submit a waiver for sidewalks.

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

**The Board voted 4-0-0 by roll call vote to continue the public hearing to April 20, 2021 on a motion made by Bill Boyd and seconded by Nelson Disco.**

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

None

**7. Approval of Minutes — March 2, 2021**

**The Board voted 4-0-0 by roll call vote to approve the minutes of March 2, 2021 on a motion made by Bill Boyd and seconded by Alastair Millns.**

**8. Adjourn**

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