



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, MAY 18, 2021

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, May 18, 2021 in the Matthew Thornton Room.

Robert Best, Chairman presided.

Members Present:

- Paul McLaughlin (Vice Chairman)
- Neil Anketell
- Nelson Disco
- Councilor Barbara Healey, Ex-Officio

Members Absent:

- Lynn Christensen

Staff Present: Robert Price, Planning & Zoning Administrator

1. Call to Order

Chairman Best called the meeting to order at 7:03 p.m. and appointed Nelson Disco into a voting position for Lynn Christensen.

2. Planning & Zoning Administrator's Report

The Board voted 5-0-0 the Brett Vaughn Lot Line Adjustment application is not of regional impact, on a motion made by Nelson Disco and seconded by Neil Anketell.

3. **James Turbyne (applicant/owner)** - Review for consideration of a Conditional Use Permit to construct a detached Accessory Dwelling Unit (ADU). The parcel is located at 35 Tinker Road in the R-1 (Residential, by Soils) District. Tax Map 2C, Lot 14. Case # PB2021-14.

This application was withdrawn by the applicant.

4. **Brett Vaughn, Inc. (applicant) and Brett W. Vaughn Revocable Trust and Chad Clark (owners)** - Review for acceptance and consideration of a lot line adjustment. The parcels are located at 8, 10, 12 and 14 Whitetail Ridge in R-1 (Residential, by Map) District, Tax Map 4A, Lots 023, 023-3, 023-4 & 023-5. Case # PB2021-15

Mike Ploof (Fieldstone Land Consultants) was present to review the project with the Board. Mr. Ploof began by explaining that the lot line adjustments are being requested to accommodate an existing leach field for lot 4A/023. He then showed a copy of the plan and demonstrated where the new lines would be if the lot line adjustment is approved. Mr. Ploof explained that the adjustments are needed in order for each parcel to maintain the 100,000 square foot lot size that is required.

Nelson Disco asked why the road name is being referred to as both Whitetail Ridge and Black Oak Road. Robert Price explained that the original subdivision plans called for the name of the road to be Black Oak Road but the Fire Department determined that the name was too similar to an existing road name and asked for it to be changed. Fieldstone has been made aware of the discrepancy and will have the plans corrected.

The Board voted 5-0-0 to accept the application for review on a motion made by Nelson Disco and seconded by Paul McLaughlin.

There was no public comment.

Chairman Best asked if any waivers were submitted and Mr. Price confirmed that there are no waivers for this project. He then asked if there are any easements that will be impacted by the changes and Mr. Ploof explained that a couple of easements will need to be updated and clarified that the physical location of the easements is not changing but the property lines within the easement language will need to be changed. Chairman Best asked Mr. Price if there is already a condition addressing easements and Mr. Price responded that there is. Mr. Ploof also mentioned that none of the easements proposed with the original subdivision have yet been recorded. The applicant was directed to work with staff and the Town's Legal Counsel to determine how best to address this, if necessary, since the majority of the lots are still in the original owner's name and there may not be a legal way to grant an easement until those properties convey to new owners.

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 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 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 the following comments from the Public Works Department, as applicable:
 - a. Have the slope & drainage easements shown on the plan been prepared, reviewed by Legal Counsel and recorded at the Hillsborough County Registry of Deeds?

- b. It does not appear so, but does the Lot Line Adjustment affect any of the slope & drainage easements?
 - c. Are the driveway locations remaining in the same location as were shown on the subdivision plan?
- 6. The applicant shall address the following Planning Staff Technical Comments:
 - a. The road name is shown on the plan as “Black Oak Road” however this needs to be changed to “Whitetail Ridge.”
 - b. The Title Block indicates the plan is for “10 Whitetail Ridge & Black Oak Drive”. Please revise to the correct addressing as Black Oak Drive does not exist.
 - c. Revise Note 7 to reference the Aquifer Conservation District, not Protection District.
 - d. Applicant shall provide Book & Page information for the existing slope & drainage and driveway easements noted on the plan (or an alternate method of addressing this situation to the satisfaction of the Town’s Legal Counsel).
 - e. Applicant shall revise and verify delineation arrow location for the 25’ wide wetlands buffer, not setback.

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 address the any forthcoming comments from the Fire Department, as related to property addressing and fire code compliance, as applicable.
5. **Merrimack Parcel A, LLC (applicant) and Merrimack Parcel A, LLC and Slate Merrimack Acquisition, LLC (owners)** – Review for consideration of an amendment to the approved site plan, requesting to waive the requirement for the installation of a sidewalk per Section 4.20 and Section 7.05.D.19 of the previous regulations (in effect at the time of the original approval). 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 # PB2021-16.

At the applicant’s request, the Board voted 5-0-0 to continue the public hearing to June 15, 2021 on a motion made by Paul McLaughlin and seconded by Barbara Healey.

6. **Cremeux French Patisserie, LLC (applicant) and Pennichuck Square LTD Partnership (owner)** - Review for acceptance and consideration of final approval of a waiver of full site plan review to add an outdoor seating area. The parcel is located at 707 Milford Road, Unit 3C, in the C-2 (General Commercial) and Aquifer Conservation Districts, and Wellhead Protection Area. Tax Map 2B, Lot 360. Case # PB2021-17.

Robert Price began by explaining that the applicant is seeking approval to add three outdoor tables with no more than six seats for outdoor dining at her bakery. He went on to explain that the applicant provided a sketch of where the tables will be located, but did not provide the typical information needed for approval. That said, the information provided should be sufficient to allow the Board to make an informed decision so he suggested that staff could work with the bakery owner to mock up an existing site plan for the town files that is suitable for final approval.

Isabelle Waddell (Cremeux French Patisserie) one of the owners of the bakery, explained that they are looking to add the outdoor seating to create a pleasant eating environment for their customers. She also added that when they opened the bakery they were told they could accommodate 14 seats and with the addition of the outdoor tables, they will still be below that number. Chairman Best asked for confirmation that the proposed tables do not eliminate any existing parking spaces and Ms. Waddell confirmed no spaces will be eliminated.

The Board voted 5-0-0 to accept the application for review, on a motion made by Paul McLaughlin and seconded by Neil Anketell.

Nelson Disco asked for clarification on where the tables will be located because the documents provided make it appear that they are in the parking lot. Ms. Waddell explained that there is a raised curb in front of the entrance to the bakery and the tables will be there on the sidewalk. Neil Anketell asked about lighting and Ms. Waddell responded that there is no outdoor lighting as the bakery is only open 8 AM to 6 PM. Chairman Best asked if there is any other protection from traffic other than the curbing and Ms. Waddell explained that she had not planned on any because the curbing is pretty high. Chairman Best advised the applicant that she will need to follow the recommendations of the Fire Department and if they feel additional protection is required, it will need to be added. He also discussed that any protection that is added will need to be aesthetically pleasing and provided a couple examples of what is typically used.

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 conditions apply:

1. The applicant shall prepare an annotated site plan bearing the appropriate notes and required information meeting the approval of the Community Development Department.
2. Final plans to be signed by all property owners.
3. The applicant shall address any forthcoming comments from the Fire Department, as applicable.
4. The applicant shall address any forthcoming comments from Merrimack Village District, as applicable.
5. Physical barriers/wheel stops shall be installed to protect the seating area if required by the Fire Department, but in no case shall such barrier be a jersey barrier, concrete-filled bucket or similar.

7. Discussion/possible action regarding other items of concern.

Nelson Disco asked for clarification on the sidewalk requirements because he was under the impression sidewalks were required as part of the site plan regulations. Robert Price confirmed that the regulations were updated to reflect that they are required at the discretion of the Planning Board. He explained that the change was made to simplify the process for projects that the sidewalk requirement does not make sense for, such as a lot line adjustment. Mr. Disco asked if the language specifically calls out that they are required if the Board deems them necessary and Mr. Price confirmed that they do and read the regulation to the Board. Councilor Healey asked if an applicant can appeal a decision made by the Board and Chairman Best confirmed that yes, any decision by the Board can be appealed and depending on what it is, it is either done through the ZBA or the Court.

Chairman Best indicated that a resident has applied to be part of the Planning Board and they are still going through the interview process but the Board might have a new member soon. He also added that many of the town boards have vacancies and urged the public to consider joining one of them.

Chairman Best advised the Board members that they received a request from State Representative Bill Boyd to be appointed as the Merrimack representative for the NRPC and they need to vote on a recommendation for the Council to make the final decision. Mr. Disco suggested that State Representative Boyd provide the Board with updates on NRPC initiatives. He added that he has requested this in the past of all NRPC appointees but his request has never been fulfilled. Chairman Best added that the Planning Board could also look for ways to be proactive about getting updates from the NRPC rather than waiting for them to provide any.

The Board voted 4-0-1 to recommend to the Town Council the appointment of Bill Boyd to the Nashua Regional Planning Commission, on a motion made by Nelson Disco and seconded by Paul McLaughlin. Barbara Healey abstained.

8. Approval of Minutes - May 4, 2021

The Board voted 5-0-0 to approve the minutes of May 4, 2021 as amended, on a motion made by Nelson Disco and seconded by Neil Anketell.

9. Adjourn

The Board voted 5-0-0 to adjourn at 7:44 p.m. on a motion made by Nelson Disco and seconded by Barbara Healey.