



# Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

## MERRIMACK PLANNING BOARD

### Approved MINUTES

TUESDAY, OCTOBER 21, 2014

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig, and Alternate Nelson Disco.

Planning Board members absent: Michael Redding, Lynn Christensen, Stanley Bonislowski, Desirea Falt.

Community Development staff: Planning and Zoning Administrator Jillian Harris and Recording Secretary Zina Jordan.

#### 1. Call to Order

Robert Best called the meeting to order at 7:32 p.m. and designated Nelson Disco to sit for Michael Redding.

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

None.

**3. Tomasian Drive LLC. (applicant) and The Stephanie Tomasian Revocable Trust (owner)** – Review for acceptance and consideration of Final Approval of an application for a 19-lot cluster subdivision located at Tomasian Drive in the R-1 (Residential), Aquifer Conservation and Flood Hazard Conservation Districts and Shoreland Protection Area. Tax Map 4B, Lot 009-01. ***This item is continued from the September 23, 2014 Planning Board meeting.***

**At the applicant's request, the Board voted 4-0-0 to continue this item to November 18, 2014, in the Matthew Thornton Room, at 7:30 p.m., on a motion made by Alastair Millns and seconded by Nelson Disco.**

**4. Public Service of New Hampshire, Eagle Substation Expansion** – Review for acceptance and consideration of Final Approval of an application for a site plan to expand the Eagle Substation. The parcel is located at 23 Star Drive in the I-1 (Industrial), Aquifer Conservation, and Flood Hazard Districts. Tax Map 3D-1, Lot 005.

Charles Christensen, PSNH Supervisor, explained that a regional ISO New England study concluded that Merrimack is the most cost effective site for the expansion and placement of an auto-transformer.

Dana Lynch, Haight Engineering, said that Star Drive is the primary access. The extended gravel driveway across the railroad tracks is gated and very strictly controlled. It will not change. The expansion area would be 300'x280' to the north and would line up

with the existing equipment. The pad would be on the same grade and the completed substation would look uniform. The distribution line would be rerouted to the north around the perimeter and would replace the current one. Some trees would be cleared on the embankment. The 50' tree clearing line setback would be reduced to no less than 25' from the distribution line. The drainage system is a perimeter swale in permeable soil. A new drainage analysis recommends using the same detention/infiltration basin. There is no change in pond level at the two- and 10-year storm event and a 1" increase during a 50-year storm event, which is acceptable. A new Alteration of Terrain Permit application was submitted. The Department of Environmental Services (NHDES) has no issues. Parking spaces would be in the same location as approved in 2011. Emergency and main lighting would remain the same and shown on the final plan. Staff comments can be easily addressed.

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 4-0-0 to accept the application for review, on a motion made by Alastair Millns and seconded by Tom Koenig.**

Deborah Zarta Gier, GZA Environmental, met with DES and will submit a Shoreland Permit application next week. She will also meet with the Lower Merrimack River Advisory Committee (LAC) and does not anticipate any concerns. The original approval considered the impact on the grasshopper sparrow, but since then, the Audubon Society has not found any. Fish & Game has accepted that finding, although some other species may be present. PSNH has expanded the grassland outside the substation and paid \$72,000 into the Fish & Game non-game fund for habitat replacement as mitigation. She will be adding it to the Alteration of Terrain Permit list of conditions. The Audubon Society finding means that conditions have changed and been minimized in the last four years.

Chuck Christensen said there would be one autotransformer with an oil containment system that changes the high voltage level to a low voltage level. PSNH is asking the Board to approve two autotransformers, but only one will be installed now.

Joe Sperry PSNH Engineer, showed drawings of a similar oil containment system at another facility. It stands on a foundation and holds 110% of oil in the transformer and slopes to a sump drain. Enviro-beads inside swell to prevent oil from exiting. All details would be noted on the plan.

In answer to Board questions, Dana Lynch said notes would be changed to reflect the use of slow-release phosphate or no phosphate fertilizers. Chuck Christensen said the equipment voltage in the ground would be higher after the tall line is cut to energize the high side of the transformer. Dana Lynch said the gravel cover will remain the same: 12" of gravel with 6" of crushed stone and 4" of  $\frac{3}{4}$ " crushed rock on top going fence to fence. Chuck Christensen said it is part of grid safety. The stone has a mesh grid under it and extends 3' beyond the fence, so no one touching the fence would be injured. PSNH will maintain it. No vegetation can grow through it. No herbicides or pesticides are used. The area will be labeled on the plan. Dana Lynch will extend it 5' beyond the fence line. Deborah Zarta Gier said there would be no disturbance to the visual screen of trees.

Dana Lynch explained that “70% submission” is an internal PSNH construction note that will be removed from the plan.

There was no public comment.

Dana Lynch explained the rationale for the five requested waivers. Road Plan and Profile: There will be no change in the existing road going into the site. Street Design: No new street will be created. Dead End Cul-de-sac Streets: The extension of the Star Drive cul-de-sac at the gated railroad crossing is solely for PSNH. Landscaped Area between the Site and All Adjacent Parcels: Some trees will be cleared, but a 75’-thick buffer on the north and along the river would be retained. Sidewalk: PSNH does not want any pedestrians on the site.

Alastair Millns cited the specific circumstances relative to the site plan or conditions of the land in such site plan indicate that the waiver will properly carry out the spirit and intent of the regulations.

**The Board voted 4-0-0 to grant waivers from the requirements of Section 4.06.2 – Road Plan and Profile, Section 4.12(a) – Street Design, Sections 4.12(c)(2) and Section 4.12(c)(3) – Dead End Cul-de-sac Streets – Section 7.05.D.18 – Landscaped Area Between the Site and All Adjacent Parcels – and Section 7.05.D.19 – Sidewalks – of the Subdivision Regulations, on a motion made by Alastair Millns and seconded by Nelson Disco.**

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 4-0-0 to grant Final Approval, with the following conditions, on a motion made by Alastair Millns and seconded by Nelson Disco.**

1. Final plans and mylars to provide all professional endorsements and be signed by all property owners;
2. The applicant shall obtain any necessary federal and state permits, provide copies of the permits to the Community Development Department file, and note the approvals in the notes on the plan.
3. The applicant shall note any waivers granted by the Board on the plan (including Section, and date granted) as applicable;
4. The applicant shall address any forthcoming comments from the Fire Department (as applicable);
5. The applicant shall address any forthcoming comments from the Public Works Department (as applicable);
6. The applicant shall address the following comments from the Conservation Commission:
  - a. The Commission recommends that only no phosphate, slow release nitrogen fertilizers be used. This is related to site being in close vicinity to the Merrimack River. The Commission further recommends that the applicant’s contractor utilize a soil testing facility to determine what levels and applications rates may be

necessary before doing any application of fertilizes on the site. This is as opposed to using the current concentrations and application rates as noted on the site plans.

- b. The Commission recommends that the word “hay” be removed and the word “straw” be used in its place anywhere in the plans. The Commission wants to discourage the use of hay for any aspects (mulch or erosion protection) of projects in Merrimack. The applicant shall address any forthcoming comments from the Conservation Commission (as applicable);
7. The applicant shall address all applicable comments from the Town's peer review consultant, CLD;
  8. Address the following planning staff technical comments:
    - a. Add the following statement to the plan per Section 4.06.1(k) of the Merrimack Subdivision Regulations: “The Subdivision Regulations of the Town of Merrimack are a part of this plat, and approval of this plat is contingent on completion of all the requirements of said Subdivision Regulations, excepting only any variances or modifications made in writing by the Board or any variances granted by the Zoning Board of Adjustment and attached hereto”;
    - b. The plan should indicate where the two (2) required parking spaces are located on the site per Section 7.03.E – Table 1 – Unmanned utility equipment structure.
    - c. Provide appropriate lighting plan details in the plan set as required by the regulations (Section 11.04); or request a waiver as necessary;
    - d. Remove the “70% Submission” watermark from all applicable sheets in the plan set.
  9. Provide plans for the transformer oil containment system to Community Development Department staff and add a note to the plan referencing these plans;
  10. Clarify the area of gravel on the site plan;
  11. Add a note to the plan on maintenance protocols for vegetative growth within the fenced area on the site;
  12. Show final tree clearing area on the site plan;

**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;
- 5. Jesse Fraser (applicant/owner), Bluebird Enterprises** – Pre-Submission Hearing to discuss a Home Occupation and a site plan for a storage trailer as a Commercial use in the R (Residential) and Aquifer Conservation Districts located at 144 Wire Road and the adjacent unnumbered parcel. Tax Map 7C, Lots 019 & 020.

Jillian Harris explained that the Zoning Board of Adjustment granted a variance for a commercial use in a residential district for a personal service (critter control) business.

Jesse Fraser said that Lot 20 consists only of a 66 square foot home office. Lot 19 has an existing 10'x40' storage trailer on blocks that is used for tools and general construction items; it will not be moved. No pesticides or herbicides are used. Home repair after an animal is removed constitutes 90% of Bluebird Enterprises business. Animals are live-trapped and relocated to another property where that practice is legal. He is also a wildlife rehabilitator licensed by NH Fish & Game. That work is done at the house on Lot 20. Bluebird works with raccoon-sized or small animals. There are three trucks, two 6'x12' trailers and a 20' flatbed on Lot 19. The dumpsters are against the fence on Lot 20. They do single-stream recycling. Because of their size, they cannot maneuver the corner and cannot be moved to Lot 19. Chairman Best said that more detail should be provided at the time of review. Jesse Fraser explained that the dumpster contains mostly household trash and some rehabilitation items. Half is from the residence and half from the business and is picked up monthly. A lift bucket on the flatbed and three trucks are on Lot 19.

Chairman Best explained that the Planning Board does not allow visual evidence of Home Occupation and that screening with evergreens and low-to-the-ground vegetation is important. Jesse Fraser said there is a 60' long stockade fence for the storage trailer. He will plant 14 18' high trees in front. There are no signs because customers do not come to the house. No vehicles are maintained on site.

Chairman Best said that parking for vehicles must be shown on the plan and the Home Occupation must be approved by the Board.

### **Public comment**

David McDonald, 6 Bryant Circle, wondered how a commercial use could be allowed in a residential neighborhood. Chairman Best explained that the ZBA notified abutters before granting the variance, but the McDonald property is not a direct abutter. David McDonald said a commercial use with heavy trucks and equipment does not belong in the neighborhood. The site must be "prettied up" and made as invisible as possible.

Keith Berrigan, 4 Bryant Circle, agreed with David McDonald. The property is an eyesore. Vehicle maintenance is done there. A month ago, a truck caught fire. By moving some rocks, the dumpster could be moved. Chairman Best said that "no vehicle maintenance" could be a condition of approval and moving the dumpster must be feasible.

Gary Waters, 3 Bryant Circle, agreed the property is an eyesore. The house looks great; the same should be done for the business. The front fence is a cheap barricade. The dumpster at the side of the house is not necessary for household trash. The trailer is large. Vehicle maintenance is done there. The site should be improved to maintain property values. All this was done before Jesse Fraser sought Board approval. The community wants proper oversight. The dumpster could be on a gated driveway.

Jesse Fraser said there is no water or electricity in the trailer or on Lot 19. He tries not to do maintenance except for emergencies. Maintenance is done at Jean's Auto. A vehicle fire can happen to anyone. Chairman Best stated that zero vehicle maintenance could be a condition of approval.

Jesse Fraser said he does not want vehicular or pedestrian access to the site. He does not kill any animals. Chairman Best repeated that the trailer could be screened. Jesse Fraser agreed to do so, but he will not cut trees to move it. Reading the Ordinance to the meeting, Jillian Harris said a Category C Type 4 buffer is required between the commercial and residential uses.

Jesse Fraser claimed the previous Planning and Zoning Administrator told him 2 1/2 years ago that he was in compliance and this process was unnecessary.

Alastair Millns cautioned against anything on Lot 20 going into the Baboosic Brook. Jesse Fraser said he has no access to the brook. He agreed to screening and planting and will relocate some hemlocks.

**6. KJB Ventures, LLC. (applicant/owner)** – Review for acceptance and consideration of a Final Approval of a modification to a previously approved site plan to increase the building square footage from 3,000 sf. to 4,200 sf. at 4 Dobson Way, change the use from retail to medical office, and make minor site improvements on both lots. The parcels are located at 2 and 4 Dobson Way in the C-2 (General Commercial) and Aquifer Conservation Districts. Tax Map 3D, Lot 003-01 and Lot 003-02.

Jillian Harris explained that KJB wants to change Lot 3-3-2 from a retail use to a medical office and wants to increase the building from 3,000 to 4,200 square feet.

Bill Wilkes, Principal, KJB Ventures, said that ConvenientMD leases the 5,000 square foot urgent care facility. A primary care provider is the potential tenant for the other building, which would expand to the rear.

Tom Zajac, Civil Engineer, Hayner/Swanson, Inc., said KJB owns both Lots 3-3-1 and 3-3-2. The ZBA granted variances for lot depth, rear yard setbacks and frontage on a public road. The Planning Board approved a 3,000 square foot/40'x75' retail building. A medical facility would have less impact than the previous plan. The rear of Building B would be pushed back 30' for a total of 4,200 square feet and the use changed from retail to medical office. Bill Wilkes said an interconnected suite would house three physicians. Tom Zajac removed some pavements on the site plan. Because the building would be larger there would be less parking, 52 rather than 56 spaces, which is well over the requirement. The Fire Department requested the addition of an ambulance loading area between the two buildings. There will be less traffic, 700 square feet less impervious area and less storm water impact than with the previous plan. There would be no change in landscaping or architecture. There will be two snow storage areas; excess will be removed from the site. A Green SnoPro certified contractor would be utilized.

Alastair Millns was of the opinion that more than one handicapped space would be needed. Tom Zajac would do so if necessary; there is an extra space in front. Parking is shared with the other lot. Alastair Millns did not want handicapped space to be shared.

**The Board voted 4-0-0 to accept the application for review, on a motion made by Nelson Disco and seconded by Alastair Millns.**

There was no public comment.

Tom Koenig said the building does not look like a one-story building or resemble the rest of the area. Bill Wilkes replied that, because of the secondary intersection location, the

tenant wants towers for signage, visibility and marketing. The material will look nicer than the other buildings. Merrimack has no height requirement. Towers are used a lot these days, especially to hide HVAC equipment on roofs.

Tom Koenig asked if there is parking adjacent to the second building so that people do not have to walk across traffic lanes to get to them. Tom Zajac said the two sites would share parking and access; employees would park in the rear. Building B's entry is in front facing Dobson Way and Building A's is at the northeast corner. Bill Wilkes said it is a short walk from a car to the front door. Since there is no sidewalk, Chairman Best suggested a striped crosswalk to show pedestrians on Dobson Way where to cross the lot. Tom Zajac said this is a less intense use without heavy traffic, but he could install striping. He does not want to concentrate all pedestrians so close to the access where cars take a left from Dobson Way onto the site. Chairman Best said that people should not walk through travel lanes to get to the building. Tom Zajac stated that both CLD and staff agreed that a crosswalk is not warranted. He will investigate further and also install a ramp. Tom Koenig said a striped crosswalk would warn cars making a left turn that people are walking there. Chairman Best suggested the alternative of a "yield to pedestrians" sign to slow cars.

Tom Koenig asked what changed after moving the building 30' closer to the fence and to the homes in the rear. Tom Zajac said the Fire Chief has no issue with access. The previous driveway that kept circulation around the building is no longer needed. The impervious area would now be farther from the fence and there is a 10' buffer. There will be no landscaping change. At the nearest point, the homes are 25' away. Alastair Millns noted that there would be less traffic and noise there. Chairman Best added that, although there would no longer be a driveway behind the building, a 26' high building would be visible over the fence. Tom Zajac said the trees are 8' high.

Bill Wilkes explained that the ZBA variance allowed for increasing the size of the sign in front facing Camp Sargent Road. The side sign would be smaller than required.

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 3-1-0 to grant Final Approval, with the following conditions, on a motion made by Alastair Millns and seconded by Nelson Disco. Tom Koenig voted in the negative.**

1. Final plans and mylars to provide all professional endorsements and be signed by all property owners;
2. The applicant shall obtain an updated NHDES Sewer Connection permit, provide a copy of the permit to the Community Development Department, and note the approval in the notes on the plan;
3. The applicant shall address the following comment from Merrimack Village District (from their 10/3/14 email):
  - a. The revised (4,200 SF) building shall have separate lines for the fire and domestic services;

4. The applicant shall address any forthcoming comments from the Fire Department;
5. Address the following planning staff technical comments:
  - a. Remove the conditions of approval from the previous application from the cover sheet;
  - b. Provide an updated illumination plan and building elevations as required by the regulations (*it is anticipated that these items will be provided prior to the public hearing on 10/21*);
  - c. Revise the following items on the Master Site Plan (sheet 1 of 14)
    - i. Revise note #5 (Purpose of Plan) to indicate that this plan is to amend the previously approved (March 2014) site plan, indicating the change to the building square footage and site revisions;
    - ii. Add the variance granted on 8/27/14 regarding the wall signage for lot 003-3-1;
    - iii. Update notes #14 and #17, updating all references to “Chapter 412” in to read “Chapter 167” as the chapter for the Stormwater Ordinance has recently changed;
  - d. The plans do not indicate the location of any freestanding signage for the parcels (we understand that one is not proposed for lot 003-3-1, following the variance for enlarged wall signage). Staff recommends that the applicant indicate the location of any proposed freestanding signage in the plan set, and include appropriate details for any proposed signage as applicable. In addition, please verify that the number and size of the wall mounted signs indicated in the building elevations comply with the requirements of the Zoning Ordinance, and variance granted by the ZBA on 8/27/14.
6. Confirm that handicap spaces provided meet ADA requirements;
7. Add safety measure(s) for pedestrians in the parking lot to the satisfaction of Community Development Department staff.

**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) and any related documents 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) to the Community Development Department prior to the issuance of a Certificate of Occupancy.
- 7. Discussion/possible action regarding other items of concern**
- Auto Fair – discussion of revised plans to address final conditions.

Chairman Best explained that the Planning Board wanted to see the elevations of the Enterprise building and that the corner of the parking lot be clipped off.

Katie Weiss, Bedford Design Consultants, said a sloped roof was added, some green elements were removed from the building, and more plantings were added. Pedestrian were cutting through the abutting Morse property to get to Continental Boulevard. When Katie Weiss met with the Morses last week and proposed a Category C Type 3 buffer, they decided to have a 65'-long 6'-high wooden stockade fence in the wooded area (Type 1 buffer). The proposed plantings would be changed to a Type 4 buffer beyond the fence. The Morses do not want to give up their open area and do not want a fence or shrubs. More plantings of 6'-tall Eastern white pines may be added to prevent people from coming across their driveway in the future. The Department of Transportation (NHDOT) controls the area. Because it does not want people walking onto Continental Boulevard, there is no sidewalk. A mesh fence and stone wall are there now. The 6'-high fence will actually be taller because it is on a high point. The abutters did not mention erecting a "no trespassing" sign.

The Planning Board was disappointed that the fence would not be longer and does not solve the problem of pedestrians cutting through the abutting Morse property. They thanked Bedford Design Consultants for its extra effort.

Katie Weiss said 800 square feet were removed from the parking lot. A 3' berm with Type 4 plantings on top was added as a buffer and green slats added to the fence so abutters could not see the building. Robert Baskerville, Bedford Design Consultants, added that it also buffers headlights. There will not be any trucks on the parking lot, which the owner suggested converting to porous pavement. There is no firm decision because CLD must review the proposal. Chairman Best added that a maintenance plan must be filed for porous pavement. Robert Baskerville said that underground basins would no longer be needed.

The Board agreed that the applicant satisfied its two requests.

– Bowers Landing LLC. – discussion of revised sidewalk plans.

**At the applicant's request, this item will be continued on November 18, 2014, in the Matthew Thornton Room, at 7:30 p.m.**

## **8. Approval of Minutes – October 7, 2014**

None.

## **9. Adjourn**

**The meeting adjourned at 9:47 p.m., by a vote of 4-0-0, on a motion made by Alastair Millns and seconded by Nelson Disco.**