



# Town of Merrimack, New Hampshire

Community Development Department

603 424-3531

6 Baboosic Lake Road

Fax 603 424-1408

Town Hall - Lower level - East Wing

[www.merrimacknh.gov](http://www.merrimacknh.gov)

Planning - Zoning - Economic Development - Conservation

## MERRIMACK PLANNING BOARD

### APPROVED MINUTES

TUESDAY, MAY 6, 2014

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig, Lynn Christensen, and Desirea Falt.

Planning Board members absent: Michael Redding, Stanley Bonislowski and Alternate Nelson Disco.

Community Development staff: Assistant Planner Donna Pohli and Recording Secretary Zina Jordan.

#### 1. Call to Order

Robert Best called the meeting to order at 7:30 p.m.

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

Donna Pohli reported that Planning and Zoning Administrator Jillian Harris began her duties on May 5, 2014, and will be introduced to the Planning Board at its May 20, 2014, meeting.

Donna Pohli announced that Matthew Passalacqua has resigned his Planning Board position, leaving two alternate positions open. Those interested in assuming the seat should submit a letter of interest to Becky Thompson. Chairman Best will ask whether the two members whose positions expire on July 1, 2014, wish to seek reappointment.

#### 3. Auto Fair Realty II, LLC (applicant) and Naticook Automotive, LLC (owner) – Review for consideration of a request to modify a condition of a previous site plan approval regarding Outdoor Lighting Standards. Parcel is located at 717 Milford Road in the C-2 (General Commercial) and Aquifer Conservation Districts. Tax Map 2B, Lot 031.

Michael Cheever, Architect/Project Manager, ArchCon-Group, said that, while trying to conform to Volkswagen's (VW) branding order, the applicant found that the site would not meet the requirements of Section 11.09 – Illumination of Building Façades and Landscaping – and Section 11.10.5 – Internally Illuminated Signs, of the Subdivision Regulations. It is seeking to amend the Board's March 11, 2014, approval by requesting a waiver to allow mounting lighting fixtures on the building that are intended to "wash" the façade with light. The frames of the building would be illuminated to give the illusion that they are floating in the glass wall. The face of the building would not be illuminated. The Community Development Department cannot make an administrative decision regarding waivers. The Planning Board is required to decide whether to grant a waiver.

Chairman Best stated 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. The light would be only on the edges rather than on the façade. Lynn Christensen said there would be no hardship on surrounding residential areas. There would not be an extensive outflow of light. Alastair Millns said that outlining the features on the façade is not a "wash".

There was no public comment.

Tom Koenig asked about “washing”. Michael Cheever replied that LED lights would be mounted inside a trough like sign lights and covered with a white frosted defusing lens to soften them. The troughs would be around the frames. Robert Baskerville, Bedford Design Consultants, said the “wash” would shine on the windows. Lynn Christensen explained that it would “wash” only on the windows in the front of the building. Desirea Falt said they would be recessed and would not light past the edge. Michael Cheever said it would create a glow.

Alastair Millns noted that the light must conform to the regulation that there must be a maximum of 5 foot candles. Michael Cheever said there would be more than five when the showroom lights are on, but not within the entire surface area. All lights would be off when the dealership is closed. Chairman Best said most lights are on the parking lot before getting to the edge of the property. Alastair Millns asked whether lights would distract drivers from seeing traffic signals on the corner at Peoples Bank. Lynn Christensen said they would not because the lights would shine far beyond that.

Michael Cheever explained that the VW emblem does not meet sign calculations for an internally illuminated sign. The Ordinance requires that a maximum of 40% of the surface of the sign be letters, but these are 50% background and 50% letters. Luminous transmittance (how much light comes through a white sign against a dark background) must be a maximum of 30%, but these are almost 70%. However they are not light fixtures. Chairman Best suggested the Ordinance be re-written so that applicants would not have to come to the Planning Board for something like this. He informed the Board that Alternate Nelson Disco wrote to say that he is loath to approve the requested waivers because it would set a precedent. Chairman Best said that every waiver does so. Alastair Millns noted that the Board already set a precedent when Burger King had the same issue.

Chairman Best said a motion should state that the plan be consistent with the photo shown at tonight’s meeting.

Tom Koenig asked whether the LED lights would face up. Michael Cheever said only the light in the dealer frame would be illuminated all around with the bottom trough shining up and outside the glass wall. It is VW’s design and not his. Lynn Christensen said the lower troughs shine up from within a box and not up at the sky. Michael Cheever added that they are very narrow and focused. Tom Koenig said the issue is the quantity of light shining up; lights must face down.

**The Board voted 4-1-0 to waive the requirements of Section 11.09 – Illumination of Building Façades and Landscaping – and Section 11.10.5 – Internally Illuminated Signs – of the Subdivision Regulations, with the condition that any field changes must conform to the approved site plan and night-time elevation photos, on a motion made by Lynn Christensen and seconded by Alastair Millns. Tom Koenig voted in the negative.**

Robert Baskerville listed changes since March 18, 2014. The building on the corner was removed. The area will be paved and used for car storage. There will be no difference in drainage. The sidewalk in front of the building was removed and the area will be landscaped. Michael Cheever said the illuminated frame and the door that face Route 101A were removed. Grading was fixed and one customer parking space was added. Previous elevations show most of the building covered in metal siding, but VW wants more white and subdued stucco with metal would be only an accent. Michael Cheever wants to make spaces for the handicapped to work and to keep the pavement flush, but VW wants pavers coming to the front door. Michael Cheever asked the Board’s permission to make everything flush except the display car on the corner and to use pavers instead of a sidewalk. Otherwise there would be a 6% slope on the driveway.

Robert Baskerville said there is a good chance that the lot next door would become an additional employee parking lot with a concrete sidewalk as a walkway up the hill.

The applicant received a variance for the location of the sign in order to change the current Harley-Davidson sign to a Volkswagen sign.

Michael Cheever said AutoFair wants LED lights on the entire site. It won an award from the Governor for being one of the first commercial sites to do so. Staff suggested submitting a lighting plan, but the current lights do not conform to the required uniformity ratios. A new plan was designed with LED lights that meet all ordinances and ratios, but new poles must be added in order to do so. However, because of the expense, AutoFair may not be able to afford to do it this year. The existing heads will be changed for LED lights now. A note will be added to the plan that new poles and LED lights are intended for the future, perhaps 1-1½ years after the Certificate of Occupancy (CO) is issued. AutoFair is leasing the building and must stay within budget.

H. Andy Crews, President, AutoFair Realty, said he is making leasehold improvements. He expects to install LED lights 12 months after issuance of the CO. He converted all his Manchester sites to LED lighting and has won awards from the State. VW made interior changes that used up the budget. A 12-month leeway would help. Michael Cheever and H. Andy Crews agreed that the existing lights would remain until the LED lights are installed and that any changes to the existing lights would be in compliance and consistent with the site plan.

Chairman Best listed changes: the sidewalk on the west became landscaping because of the elevations, the brick area from the display cars will be level, a walkway will be installed on the east, a lighting plan will be implemented over time that is consistent with the plan.

Alastair Millns said that, as the applicant proceeds, it must keep the Community Development Department apprised of changes made after the CO is granted and that all changes must conform to what was discussed at tonight's meeting.

Tom Koenig was disturbed at the lack of sidewalks and asked how customers would walk from the parking lot to the dealership. Michael Cheever said they would walk behind cars. Chairman Best said no parking lots have sidewalks. Alastair Millns suggested placing a granite curb that is level with the parking area 3' from the landscaping. Chairman Best countered that the pavement would pitch because of the elevation change. Michael Cheever said there could be a sidewalk along the building that follows the pavement, but he thought that the Planning Board prefers landscaping. Tom Koenig said it is a safety factor. People should not walk from the lot to Route 101A. Michael Cheever and H. Andy Crews agreed to retain the sidewalk.

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 5-0-0 to approve all design changes as discussed at the May 6, 2014, meeting, with the following conditions, on a motion made by Alastair Millns and seconded by Lynn Christensen.**

1. All relevant conditions of approval from the March 19, 2014, Decision Letter (excluding #9g) to be addressed;
2. Add a note to the plan that any lighting design changes made in the field shall conform to the approved lighting plan;
3. The applicant shall revise the plans to note the additional waiver(s) granted by the Board, as applicable (including Section and date granted);

4. Verify whether 3 or 4 sewer manholes are to be removed from parking lot near handicap spaces, and revise plan sheet 3 if necessary;
5. Revise note 10 on sheet 3 to read “A variance for sign location was granted...”;
6. Revise font size of note 15 on sheet 3 to match the rest of the note section;
7. Revise Section # in all applicable notes for the Stormwater Ordinance which has recently been changed from 412 to 167.

**4. Merrimack Premium Outlets, LLC. (applicant/owner)** – Review for consideration of an amendment to the previous site plan approval regarding the Operations & Maintenance Plan related to the use and storage of the deicing compounds. Parcel is located at 80 Premium Outlets Blvd. within the I-2 (Industrial) and Aquifer Conservation Districts. Tax Map 3C, Lot 191-1.

Donna Pohli distributed a May 6, 2014, letter from Karl Gerhard, 5 Danville Circle, opposing the amendment. However Chairman Best did not read it into the record because the author misunderstood the intent of the amendment.

R. Gordon Leedy, Jr., Managing Director Land Development, Vanasse Hangen Brustlin, Inc., said the intent is to correct an omission concerning the use and storage of deicing agents on the property from the previously approved site plan after extensive discussion with Merrimack Village District (MVD). The following language was agreed to when the original site plan was approved in 2010, but for some reason was not included in the Operations and Maintenance (O&M) Plan that was approved and signed by the Planning Board.

- 1) No sodium chloride deicing agents shall be used in the area of the site that is west of the Wellhead Protection District boundary;
- 2) Deicing agents will be stored on site in a covered storage facility outside of the Wellhead Protection District.

There will be no change in operations. It is a clerical issue. Conditions have been met as though they were already in the plan.

**Public comment**

Merrimack Village District Commissioner Lon Woods supports the amendments. MVD research noted that two items were omitted and should be inserted for the sake of clarity.

Glen Gerhard, Parker Village President, is Karl Gerhard's father. Both are concerned that no more exceptions be made unless one is given to Parker Village. The MVD must be consistent. Glen Gerhard explained that his son, Karl, did not have time to research the agenda item and assumed that it was to become more lenient regarding the use of deicers.

Staff recommends that the Board grant final approval to the application (including signature of the revised O&M Plan by the Chair and Secretary) with one general and subsequent condition.

**The Board voted 5-0-0 to amend the previous site plan, with the condition that the applicant shall provide three additional bound copies of the Operations and Maintenance Plan for endorsement by the Chair and Secretary for distribution to the appropriate departments and Merrimack Village District, on a motion made by Alastair Millns and seconded by Tom Koenig.**

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

Chairman Best reiterated that there is an opening on the Planning Board to fill the seat held by Matthew Passalacqua, who resigned.

On May 8, 2014, Town Council will hold its annual Planning Board review. Chairman Best intends to give a five-minute report listing applications it reviewed in the previous year, adoption of the Master Plan, and discussion of the benefits of sidewalks. Alastair Millns suggested including the problem with DOT's sidewalk stance. Chairman Best will briefly mention that the proposed plan is consistent with DOT's.

Desirea Falt will attend the May 13, 2014, workshop on walkability and bikability assessment.

Lynn Christensen will forward to the Planning Board the document that coordinates planning, building, and fire codes that was produced by the subcommittee of the Commission on Affordable Housing.

#### **6. Approval of Minutes – April 15, 2014**

**The minutes of April 15, 2014, were approved, with changes, by a vote of 5-0-0, on a motion made by Alastair Millns and seconded by Desirea Falt.**

#### **7. Adjourn**

**The meeting adjourned at 8:40 p.m., by a vote of 5-0-0, on a motion made by Alastair Millns and seconded by Lynn Christensen.**