



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

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MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, NOVEMBER 3, 2015

Planning Board members present: Robert Best, Alastair Millns, Tom Mahon (arrived 7:05 p.m.), Lynn Christensen, Desirea Falt, Vincent Russo, and Alternates Nelson Disco and Jeff Sebring.

Planning Board member absent: Michael Redding.

Staff present: Community Development Director Tim Thompson, 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 Nelson Disco to sit for Michael Redding.

2. Planning & Zoning Administrator's Report

Tim Thompson introduced new Assistant Planner Robert Price and welcomed him to Merrimack.

Tim Thompson informed that Board that work was completed on the Valleyview Drive project in October 2015. Public Works and Finance are in the process of returning the unused funds from the called performance surety minus 10% of the original surety amount to be kept as a "maintenance bond" for a two-year period. Although no Board action is necessary, the Finance Department seeks the Board's consensus.

It was the consensus of the Planning Board to support the Town retaining 10% (\$32,568.87) of the of the Valleyview Drive performance surety as a two-year maintenance bond.

- 3. John J. Flatley Company (applicant/owner) – Continued review for consideration of Final Approval of an application for a site plan to construct 240 multi-family residences, clubhouse, and associated parking and drainage improvements, per the requirements of the Flatley mixed-use Conditional Use Permit. The parcels are located at # 645, 673, 685, 703 and 707 D.W. Highway in the I-1 (Industrial), Aquifer Conservation and Wellhead Protection Districts. Tax Map 6E, Lots 003-01, 003-03, 003-04, 003-05 & 003-06. *This item is continued from the June 16, July 21, August 18, September 1, & September 15, 2015 Planning Board meetings.***

Tom Mahon arrived at 7:05 p.m.

Robert Best recused himself from discussing and voting on this agenda item.

Alastair Millns assumed the chair and designated Jeff Sebring to sit for Robert Best.

Kevin Walker, John J. Flatley Company, submitted plans that were revised in early September 2015. The original understanding was that each Town body would review it and then overlap if necessary. CLD did a review in August 2015 and made a few minor comments that Flatley has already addressed. Kevin Walker requested that the Community Development Department submit the revised plans to CLD and that CLD sign off before he submits the Alteration of Terrain Permit application because it would make the approval more efficient. He will make the NH Department of Transportation (DOT) submissions by the end of this week and will appear before the Zoning Board of Adjustment (ZBA) on November 18, 2015, and before the Planning Board for conditional approval on December 1, 2015. He will file with Merrimack Village District (MVD) this week and has already met with the Lower Merrimack River Advisory Committee. Kevin Walker stated that the revised plans do not show a separate commercial building because there must be a tenant first. It would be a separate site plan. The Planning Board made it clear that there must be a commercial use before the fifth apartment building is constructed.

Tim Thompson said that the last set of plans was received on September 4, 2015, and were not sent to CLD because staff comments were still outstanding. He will send CLD this package now and will work on the project with other Town departments. The Wastewater Department has already reviewed it.

The Board voted 7-0-0 to continue this item to December 1, 2015, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Nelson Disco and seconded by Desirea Falt.

Robert Best returned to the meeting and resumed the chair. Jeff Sebring returned to alternate status.

4. John B. Elias of JDog-NH, LLC. (applicant/owner) – Review for acceptance and consideration of Final Approval of an application for a home occupation to permit a “junk” removal service. The parcel is located at 59 Bean Road in the R (Residential) and Aquifer Conservation Districts. Tax Map 6B, Lot 145.

John B. Elias, JDog-NH, LLC., will start a nationally-franchised business for veterans. He served in the military for over 20 years. The business entails junk removal and hauling using a truck and a 6’x12’ trailer. Items would be stored on the trailer or in his garage until they are recycled or donated to charity organizations or a transfer station within 24 hours. No materials would be stored on site. There will be no dumpster. The trailer would be kept next to the house in front of the garage and next to the trees on the left. The Humvee and trailer could be seen from the road.

Alastair Millns noted potentially hazardous propane tanks. John Elias said he would work with appropriate agencies and/or contractors to remove them. Nothing else hazardous would be taken. Customers would pay the transfer station fee.

Jeff Sebring asked how people would learn about the business. John Elias will have a website that people could use for scheduling or to request a phone call.

John Elias explained that there may be more trucks on site if he opens other locations, but there is no plan to park several trucks at the house. His two children would be the employees. He would hire other veterans on a part-time basis for extra help. Employees would also park at the house. The neighbors know about and are supportive of the plan. It will not be a junkyard.

After Tim Thompson explained that Home Occupation is limited to one external, non-resident employee, John Elias requested that the application include that. He added that the trees on the right are on both his and his neighbor's property. It is a large wooded area.

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 Lynn Christensen.

Public comment

Russell Hauer, 62 Bean Road, said his questions had been answered.

Staff recommends that the Board vote to grant Final Approval to the application.

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

1. One non-resident employee is permitted with the application;
2. No dumpster is to be located within the property associated with the business use;
3. All attempts shall be made to remove any materials from the property within 24 hours, and there shall be no external evidence of material storage on the site at any time.

5. Discussion/possible action regarding other items of concern

Tim Thompson said that, prompted by the proposed Kinder-Morgan pipeline, a resident submitted Temple's proposed site plan regulation amendments about large-scale projects for Merrimack to emulate. After his review, Tim Thompson had concerns about the provisions and how they were written. Temple is a rural community with little professional staff and little commercial or industrial development. Its amendments would impact such development in Merrimack. Federal pre-emption on local ordinances is a gray area. Tim Thompson does not believe that any part of the Kinder-Morgan project would end up before the Planning Board for land use approval. The Planning Board will have little impact on regulating the pipeline construction. Merrimack ordinances and construction standards already contain many of Temple's requirements. Tim Thompson has significant concerns about economic development. There would be burdensome costs and construction delays for development projects that Merrimack wants to encourage. For the reasons stated, Tim Thompson would not recommend that the Planning Board adopt Temple's site regulations in Merrimack.

Chairman Best said that, since the project would not come before the Planning Board, there is no sense in building anything into the site plan regulations. Copies of Temple's regulations and Tim Thompson's comments will be made available to Board members.

Tom Mahon added that Temple's regulations were prepared by an engineer rather than an attorney. The cost to administer them would be very high. Many are already incorporated into Merrimack's ordinances.

Nelson Disco thanked Tim Thompson for his professional review of the document.

6. Approval of Minutes – October 20, 2015

The minutes of October 20, 2015, were approved as submitted, by a vote of 7-0-0, on a motion made by Lynn Christensen and seconded by Alastair Millns.

7. Adjourn

The meeting adjourned at 7:44 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Tom Mahon.