



## **Minutes**

### **NORTH HAMPTON PLANNING BOARD Meeting: March 4, 2003**

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*These minutes were prepared as a reasonable summary of the essential content of this meeting, not as a transcription. An audio recording of the meeting is available in the Town Office. In the event that a question arises about verbatim comments, it can be answered by listening to the recording.*

### **Attendance**

**Present:** (1) Phil Wilson, Chair; (2) Laura Simmons, (3) Joseph Arena, (4) Ron Todd, (5) Allen Hines, Selectman; (6) Beth Church seated for Don Gould, (7) Shep Kroner seated for Judy Day.

**Absent:** (1) Judy Day, Vice Chair; (2) Don Gould, (3) Richard Place, Alternate; (4) Peter Simmons, Alternate; Krystina Arrain, Recording Secretary.

**In attendance:** John Krebs, Circuit Rider.

Mr. Wilson called the meeting to order at 7:06 PM. He noted that Ms. Arrain, Recording Secretary, was ill and would not be attending. He asked the indulgence of the Board and those attending as he both chaired the meeting and took minutes.

Mr. Wilson reviewed the agenda. He noted that Mr. Bernie Pelech, Esq., of the law firm of Wholey & Pelech, representing the applicant in Case #03-13, has submitted a handwritten letter requesting postponement of the application until the next meeting of the Board. The request was accepted without objection from the Board.

Mr. Wilson further noted that the agenda was long and that in keeping with recent practice of the Board he would exercise his discretion to reorder the agenda so that those cases that the Board should be able to handle quickly would be addressed first.

With that said, he moved cases #03-16 and #03-17 to the top of the agenda.

### **Items Considered**

#### **Case #03-16 -- Map/Lot #003-086-000: 17 Lafayette Road**

Applicant: Black Marble Realty Trust, Lot Line Revision

#### **Case #03-17 -- Map/Lot #007-050-000: Cedar Road**

Applicant: Black Marble Realty Trust, Lot Line Revision

**Application:** The applicant proposes to increase the size of each lot by incorporating a strip abutting each lot that has been acquired from the Boston and Maine Railroad.

Mr. Wilson noted that for each of these cases the applicant had submitted a written request to waive Section VIII, B.15-18, 20, 21, and 25 of the Subdivision Regulations and that these two requests had not been posted in the meeting notice. He asked whether the applicant was willing to withdraw these requests, and the applicant agreed.

**Ms. Simmons moved, and Mr. Todd seconded the motion, to exercise the Board's discretion under Section XIII.B.1 to waive the above noted provisions of Section VIII,B and to accept the applications as complete.**

**The motion was approved unanimously.**

The Board discussed specifics of the applications. Mr. Krebs indicated that these were typical of cases along the B&M Railroad corridor because the corporation is divesting itself of property that it considers excess.

Mr. Wilson opened the public hearing on the two cases at 7:19 PM. No member of the audience commented on the applications. Mr. Wilson closed the public hearing at 7:21 PM.

**Mr. Todd moved, and Ms. Simmons seconded the motion, to approve both applications with conditions outlined in Mr. Krebs' memorandum of 24 February:**

**Case #03-16**

- 1. The applicant shall add the Boston & Maine Corporation to plan Note #2, as one of the two owners of record. The Boston & Maine Corporation shall also be added to the title block of the Plan.**
- 2. The applicant shall add one additional monument along the easterly property line in accordance with §IX.D.3 of the Subdivision Regulations, which requires survey monuments every 200' along property lines.**
- 3. Certificate of Monumentation. The applicant shall provide the Board with a Certificate of Monumentation, stamped and signed by a NH LLS certifying that all monuments depicted on the plan have been properly set.**

**Case #03-17**

- 1. The applicant shall add the Boston & Maine Corporation to plan Note #2, as one of the two owners of record. The Boston & Maine Corporation shall also be added to the title block of the Plan.**

2. The applicant shall add two granite monuments at the northwest and northeast corners of the property in accordance with §IX.D.2. and one additional monument along the westerly property line in accordance with §IX.D.3 of the Subdivision Regulation, which requires survey monuments, every 200' along property lines.
3. **Certificate of Monumentation.** The applicant shall provide the Board with a Certificate of Monumentation, stamped and signed by a NH LLS certifying that all monuments depicted on the plan have been properly set.

**The Board approved the motion by unanimous vote (7-0).**

**Case #03-01 -- Map/Lot #008-121-000: 10 Exeter Road,** Christian D'Urso  
Applicant: Christian D'Urso, Subdivision Plan

**Application:** Subdivision Plan to subdivide and existing 11.5 acre lot into three (3) lots: (a) 2.0 acre lot, (b) 2.0 acre lot, and (c) 7.5 acre lot. The application was continued from the January 21, 2003 meeting.

Mr. Wilson disqualified himself from hearing this case and asked Mr. Todd to chair the Board in his absence.

Mr. Todd presided over deliberations of the Board, and Mr. Wilson took a seat in the audience.

Representing the applicant, who was present, were Ms. Michele S. Peckham, Esq. and Mr. Ernest J. Cote, LLS.

**Ms. Simmons moved, and Dr. Arena seconded the motion, to accept the application as complete.**

**The Board approved the motion by unanimous vote (6-0).**

Mr. Todd asked Ms. Peckham to present the proposed plan.

Members of the Board raised the following issues about the proposed plan:

1. **The width of the driveway and easement across Lot 2 to serve Lot 3. (Ms. Simmons)**  
Mr. Krebs said that his review of the plan made him concerned about the width of the easement, not the driveway. He was not sure the driveway could be split in such a short distance, and he was concerned about the proposed 90° turn within the 24' easement. The concern was about access by emergency vehicles, especially fire department vehicles. Ms. Peckham stated that the Fire Chief had approved the proposed plan. Chief Lambert was in the audience as an abutter; he stated that the initial review of a proposed plan is only a review, not final approval, which would not occur until construction plans were presented.

He suggested that the Road Agent be consulted.

**2. The design of the proposed new lots. (Mr. Krebs and various members of the Board)**

Members of the board observed that the plan proposed irregular (“lobster-like” or “gerrymandered”) shapes for proposed lots 2 and 3, as noted in Mr. Krebs’ memorandum of February 24, 2003. Ms. Peckham said that the lots meet all dimensional requirements of the Zoning Ordinance. Mr. Krebs said that, while the proposed subdivision meets the dimensional requirements of the Ordinance, he did not believe the plan was consistent with the intent of the Ordinance. He cited Section 406.9, which specifies dimensional requirements of backlot subdivisions. He stated that he understood that the applicant was not proposing a backlot subdivision, but that, nevertheless, the requirement that a backlot maintain a minimum width of 40’ within 200’ of the road on which the lot fronts was useful in evaluating the proposed design of lot 3. A design that narrows to 24’ is not consistent with the intent of the Ordinance.

**3. Well, water line, and septic locations. (Mr. Krebs)**

Members of the board observed that the irregular (“lobster-like” or “gerrymandered”) design of the proposed new lots presented difficulties in locating wells (required because of the moratorium on new hook ups by Aquarion Water Company), septic system leach fields, and, if eventually required, water service from the Exeter Road main. The proposed design would appear to require a water line of over 500’ that would pass within 25’ of a proposed leech field. Ms. Peckham also noted that the well radius depicted on proposed lot 2 would require an easement on lot 3. She added that Mr. D’Urso has no present intention to develop the lots, only to secure approval for subdivision of his property. Concerns expressed by the Board could be addressed at the time of development.

**4. Details depicted on or omitted from the drawings, as noted by Mr. Krebs and the Application Review Committee.**

Ms. Peckham and Mr. Cote addressed Mr. Krebs’ and the ARC’s comments about monumentation, well permits, title and deed references, slopes (water run-off and sediment control), electric service, placing utilities underground.

Mr. Todd opened the public hearing at 8:09 PM.

Mr. Todd asked for comments in favor of the application.

Mr. Lambert asked whether topographical drawings had been made available to the Board, as requested in the prior hearing.

Mr. Todd replied that topographical information had been added to the plans.

There were no further comments from the audience about the proposed plan.

Mr. Todd closed the public hearing at 8:11 PM.

Mr. Todd expressed concern, as had other members of the Board, about the irregularity of the proposed lots and the problems such a design presented. He noted that Section V.B of the Subdivision Regulations refers to “minimum requirements” for dimensions and lots size and specifically says that the Board should take into account all factors in judging applications and that a proposal that meets minimum requirements for subdivision does not necessarily have to be approved.

Mr. Kroner said that, although the proposed plan appears to meet minimum requirements for subdivision, it is not a design that he believes is consistent with what the authors of the Zoning Ordinance had in mind.

**Ms. Simmons moved, and Mr. Hines seconded the motion, to deny the application because the design does not fulfill the intent of the Zoning Ordinance in requiring two (2) acres minimum lot size with a minimum of at least one (1) acre of contiguous, buildable upland, which leads to technical problems with the proposed lots, and because the proposed design is not consistent with the Master Plan, which calls for orderly development, not random and premature development.**

**The Board approved the motion by unanimous vote (6-0).**

Mr. Wilson returned to the table and called for a brief recess.

After the recess Mr. Wilson proceeded to the next item on the agenda and asked the presenters to limit their presentation to no more than 15 minutes because the agenda was full and the time was getting late.

**Case #03-14 – Winnacunnet Regional High School**

Presenters: Mr. Dick Ray, Assistant Principal, and Ms. Brenda Quackenbush.

**Presentation:** Mr. Ray reviewed for the Board and the audience the proposed plan for renovating and expanding Winnacunnet Regional High School and urged support for the Warrant Article that would provide requisite bond authority for undertaking the construction.

**Case #03-11 -- Map/Lot #006-065-000: 19 Maple Road**

Applicant: Peter Fuller/Cadillac of Boston, Request for Subdivision

Mr. Wilson asked whether anyone was present to speak to this application, and there was no one present to represent the applicant.

**There being no objection from the Board, Mr. Wilson postponed hearing the application till the April 1, 2003 meeting of the Board.**

**Case #03-12 -- Map/Lot #003-061-000: Lafayette Road/Route 1**

Applicant: Kim Lussier/CARI Properties, LLC, Site Plan Review

**Application:** Site Plan to construct a new hangar on Hampton Airfield site that will be leased to Classic Aircraft Restoration, Inc. for the restoration of antique aircraft.

Mr. Kim Lussier of CARI Properties, LLC and Mr. Mike Hart of Hampton Airfield were in attendance to present the application.

Mr. Lussier and Mr. Hart reviewed the application. Mr. Lussier said that the proposal was to construct a hangar that would be used primarily to restore one type of antique aircraft, Stinson four-seat, high-wing planes from the mid 1900s. Hampton Airfield is an ideal place for the facility because it has a grass field that is typical of the type in use at the time Stinson aircraft were common.

Dr. Arena asked activities that would be conducted in the proposed hangar.

Mr. Lussier said they would include assembly of aircraft from parts procured elsewhere and cleaning of parts for use in restoration. All chemicals would be properly handled and disposed of, and they would be stored in fire-proof lockers. Floor drains are not necessary because the planes will have all liquids removed from their engines before work is done on them. No machining will be one on site.

Ms. Simmons asked about the location of fire hydrants. Mr. Hart replied that they are located on Cedar Road in North Hampton and on Reddington Road in Hampton.

Ms. Simmons expressed concern about the distance from hydrants of the proposed hangar and other buildings on the site. She questioned whether North Hampton's firefighting equipment was suitable to fight a fire on the site.

Dr. Arena asked about steps Mr. Hart had taken to protect other buildings on the property from fire and the rapid spread of fire among buildings on the site.

Mr. Hart replied that there were no special provisions for fire, but he noted that buildings are not occupied by people, except occasionally and in small numbers. The buildings are also metal and well separated.

**Ms. Simmons moved, and Dr. Arena seconded the motion, to accept the application as complete.**

**The Board approved the motion by unanimous vote (7-0).**

Mr. Wilson opened the Public Hearing at 9:41 PM.

Mr. Vince Czaplyski, spoke in favor of the application. He said that few airports of this time remain in the United States and this is a "gem." The Planning Board, in his view, should approve this proposed addition to the site.

Mr. Wilson closed the Public Hearing at 9:45 PM because there was no further comment from the audience.

**Mr. Todd moved, and Ms. Church seconded the motion, to continue the Public Hearing on this application at the Board's 1 April meeting.**

Mr. Lussier asked for some guidance from the Board about what needed to be changed on the plan for the 1 April meeting.

Mr. Wilson said that, based on the discussion of the Board, the plan should be modified to depict only those buildings that currently exist on the site, that will be constructed or under construction by the time when the proposed building will be completed, and the proposed building. The problem the Board was facing in reviewing the drawings presented was that the mixture of existing, approved but not constructed, under construction and proposed buildings on the property made it difficult to evaluate the application.

Further, Mr. Wilson said that the Board would like to see the following: Full test-pit data for the test pits shown on the plan (e.g., percolation rates); a septic permit, and results of department head review of the plans.

**The Board approved the motion by unanimous vote (6-0).**

Mr. Wilson noted that the time was after 9:30 PM, the time after which the Board's rules say that, unless the Board waives the rule, no new business shall be opened.

Mr. Hines said that the Board should continue and complete the agenda, but suggested that the ending time be agreed in advance.

The sense of the Board was that business could be completed by 11:00 PM.

**Dr. Arena moved, and Mr. Kroner seconded the motion, to waive the rule precluding opening new business after 9:30 PM and to proceed with the agenda until 11:00 PM.**

**The Board approved the motion by unanimous vote (7-0).**

Mr. Wilson said to the representatives of the remaining two applicants on the agenda that each would have about 35 minutes for presenting the applications before the Board.

**Case #03-13 -- Map/Lot #007-063-000: 61 Lafayette Road/Route 1**  
Applicant: Vincent Czaplyski, Change of Use Application

**Application:** Change of Use Application to convert an unoccupied building that was last used as a retail carpet and flooring outlet to use as a franchised Subway Sandwich Shop.

Mr. Todd, Chair of the Application Review Committee [ARC], asked whether this application required a full site plan review because there is no approved site plan for the site, as required under Section V.A.3 of the Site Plan Review Regulations.

**Mr. Todd moved, and Dr. Arena seconded the motion, to deny the application for change of Use and to require a full Site Plan Review, as required by the Site Plan Review Regulations, Section V.A.3.**

Mr. Hines noted that because there is no recorded site plan for the site, this application raised questions similar to those encountered in the recent Crown Atlantic cellular telephone tower application. He said that the Board should require a full site plan for this, as had been required in the cellular telephone tower case.

**The Board approved the motion by a vote of six (6) in favor to one (1) opposed. Ms. Simmons cast the dissenting vote.**

**Case #03-15 -- Map/Lot #003-079-000: 1 Lafayette Road/Route 1**

Applicant: Cap World, Inc., Site Plan Review

**Application:** Site Plan to convert an unoccupied building on the site, that had been last used as a retail antique outlet, to a retail outlet for the display, sale and installation of truck caps, utility trailers and related accessories.

Mr. Edward F. Morris, Esq. and Mr. Michael J. Sievert, PE represented the applicant.

Mr. Sievert reviewed changes that had been made to the proposed plan in response to Mr. Krebs' memorandum of 24 February 2003.

**Ms. Simmons moved, and Dr. Arena seconded the motion, to accept the application as complete.**

Mr. Wilson asked for the Board's sense of whether the addition of an overhead door that provided for indoor installation of caps and accessories was a sufficiently substantial alteration of the building to constitute an expansion of a non-conforming use of the site?

The sense of the Board, as expressed by Mr. Hines, was that the proposed change was a change from retail sales to retail sales and that, because the new "bay" was to be used only for installing accessories purchased on site and not for servicing vehicles, the proposed modifications of the building were not substantial and did not constitute an expansion of a non-conforming use of the site.

**The Board approved the motion by unanimous vote (7-0).**

Ms. Simmons asked whether the oil tanks on the site had been inspected by the Fire Department?



Members of the Board raise a number of other concerns about the proposed plan, which resulted in conditions of approval that were incorporated into a motion to grant conditional approval for the application.

**Mr. Hines moved to approve with conditions, and Mr. Todd seconded the motion. The conditions were as follows:**

- 1. The applicant shall secure review by the North Hampton Fire Department, specifically with respect to the integrity of the fuel oil storage tanks on the site.**
- 2. The applicant shall stripe or restripe parking spaces between the building on the proposed site and the existing Aubuchon Hardware building on the lot, as depicted on the approved site plan for the Aubuchon Hardware site.**
- 3. The applicant shall provide parking in accordance with the ADA requirements.**
- 4. The applicant shall add a note to the plan stated that the “moveable metal racks” shall be located only within the areas designated on the plan.**
- 5. The applicant shall submit for the record an approved septic design and construction plan for the site.**
- 6. The applicant shall correct the spelling of “intallation” to “installation” on the plan.**
- 7. The applicant shall add a gate to the plan in the detail of the wooden-stockade-fence screening for the dumpster on the plan.**
- 8. The applicant shall depict existing and proposed landscaping on the site, including plantings in the 10-foot buffer that wraps around the southwesterly corner of the site.**
- 9. The applicant shall submit a recordable mylar for the site, including all stamps required by the Registry of Deeds.**
- 10. The applicant shall post surety for completion of site work in an amount and in a form approved by the Board of Selectmen.**

**The Board approved the motion by unanimous vote (7-0).**

**At 11:10 PM Ms. Simmons moved, and Mr. Kroner seconded the motion, to adjourn.**

**The Board approved the motion by unanimous vote (7-0).**

Respectfully submitted,

Phil Wilson, Chair