



Minutes

NORTH HAMPTON PLANNING BOARD Work Session Tuesday, October 20, 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

Attendees: (1) Phillip E. Wilson, Chairman, (2) Ron Todd; Vice-Chairman; (3) Don Gould; (4) Joseph Arena; (5) Shep Kroner; (6) Judy Day; (7) Jenifer Landman, Selectperson Representative; (8) Laurel Pohl, Alternate and Krystina Deren Arrain/Planning & Zoning Administrator/Recording Secretary.

Members Absent: (1) Beth Church, Alternate; (2) Richard Place, Alternate

Mr. Wilson called the meeting to order at 7:04 PM.

Items Considered

Minutes from prior meetings

Minutes of the August 26, 2003 Work Session Meeting

Although included on the agenda for consideration, Mr. Wilson noted that the minutes had been reviewed and adopted at the September 15, 2003 work session and no further action was required.

Minutes of the September 2, 2003 Regular Meeting

Mr. Wilson explained that Ms. Arrain assembled agenda items, motions and decisions in an attempt to reconstruct the basic meeting activities because the draft minutes as submitted by Sara Stevens, Recording Secretary Pro-Temp, were not acceptable to the Board.

**Dr. Arena moved and Mr. Kroner seconded the motion to accept the minutes as amended.
*Vote was 5-0 with Mmes. Landman and Day abstaining.***

Minutes of the September 15, 2003 Work Session Meeting

**Mr. Gould moved and Mr. Kroner seconded the motion to accept the minutes as amended.
*Vote was unanimous (7-0).***

Minutes of the October 7, 2003 Regular Meeting

**Dr. Arena moved and Ms. Day seconded the motion to accept the minutes as amended.
*Vote was unanimous (7-0).***

Ms. Landman left the meeting at 7:30 PM

Work on Subcommittee Projects

Revision of Section 512: Gasoline and Service Stations [See Attachment B]

Ms. Pohl commented that since there is not a definition for service stations and gas stations it is difficult to move forward. She suggested just addressing the issue of gas stations. Mr. Wilson noted that the Board is not concerned with peripheral commodity sales; it is concerned with gasoline pollutants being released or absorbed into the soil. Discussion ensued on Mr. Wilson's draft of Section 512 – Refueling Facilities for On-Highway Motor Vehicles, dated October 20, 2003.

Discussion ensued on limiting the number of gasoline pumps/nozzles to 29. Ms. Day suggested establishing a number fewer than 29, citing that should a facility close in the future, it could not be re-opened/re-activated. Mr. Wilson expressed his concern about the possibility of a “truck stop-type” facility if the zoning ordinance does not prohibit such a facility. Mr. Kroner expressed concern about a legal action potential with such an ordinance change. Also, Mr. Kroner suggested providing an explanation for the proposed ordinance change to the townspeople. A discussion on the definition of a “gasoline pump/refueling capacity ensued. Mr. Gould supported limiting the number of vehicles that can be refueled as a better solution than limiting the number of “gas pumps.” Mr. Gould asked to consider the contrast of the per capita/per vehicle capacity for the 1973 ordinance and the current per capita/per vehicle capacity. He believed that the information from this analysis/comparison could be helpful in determining the appropriate number of gasoline pumps/nozzles.

Ms. Day commented that the concentration/density of gas stations/pumps is a serious issue because if there were a gasoline leak into the ground, it would be difficult to identify the culprit if multiple gasoline stations were located in a concentrated area. Dr. Arena raised the issue that the high density of gas stations is also a very serious, potential fire hazard. Mr. Wilson noted that spills and leakage could occur between underground tanks. He further added that double-walled concrete vaults containing tanks provide safety from leaks and spillage, but they are the most expensive safety solution. Ms. Pohl suggested that gas/service stations should be removed from the “Special Exception” list in Section 405. It was also discussed to limit gas stations to Route 1 only. Mr. Gould believed it was good idea to set limits, but he wondered if by limiting tank capacity and the number of pumps per location we create the potential for a monopoly being obtained by one supplier who gets additional tank permits from the state.

Ms. Day asked if a schedule of public meetings for town elections was available. She was interested in establishing an appropriate meeting schedule for the upcoming months. Ms. Arrain indicated that an NHMA Calendar of “Important Dates for Local Officials” was available at the Town Offices. She also added that normally the Rockingham Planning Commission/RPC distributes a similar calendar. Ms. Arrain commented that the RPC should provide the calendar information shortly.

Ms. Landman returned to the meeting at 8:45 PM.

Affordable Housing Approach for North Hampton [See Attachment C]

Mr. Kroner distributed a handout entitled: SB95 Workforce Housing (Affordable Housing)—Planning Board Discussion (dated October 20, 2003) containing the following sections: (1) Background, (2) Discussion items for the Planning Board, (3) Potential Impact of SB95 on the Town of North Hampton and (4) Goals. He stated that an applicant qualifies for affordable housing by using the following formula: An applicant must earn 80% of the median income and spend less than 30% on housing. According to Mr. Wilson and Mr. Kroner, SB95 is a forward-looking bill that encourages communities to support multi-unit housing developments and developers. According to Mr. Kroner, North Hampton meets the criteria for affordable housing, primarily from manufactured housing in manufactured housing parks but is lacking in multi-family housing beyond duplexes. Mr. Kroner suggested changing the language for multi-family housing by allowing advanced septic systems rather than a town sewer system that would accommodate multi-family housing. Mr. Kroner suggested perhaps allowing multi-family housing in the R-1 residential zone. Mr. Todd suggested investigating if another residential zone would be a better choice.

Ms. Landman indicated that the consequences of SB95 to the town should be considered, especially the cost of education and the possibility of having to consider impact fees. Mr. Wilson expressed concern that the purpose of SB95 is to allow developers to force municipalities to compromise their zoning ordinance. He commented that a similar situation occurred in New Jersey twenty years ago that has caused overbuilding and a population explosion. Mr. Wilson suggested that the Planning Board prepare a position statement and present it before the Senate SB95 subcommittee, stating that (1) ethically the Board agrees with the bill, but (2) requests that the bill consider current affordable housing as a met requisite, and (3) create a schedule of compliance and establish penalties for non-compliance. The Board was in agreement.

Ms. Day moved and Mr. Todd seconded the motion for Mr. Wilson to draft a position statement and deliver it to the SB95 meeting and have a Planning Board representative deliver the Board's position at the Senate hearing on Friday, October 24, 2003.

Vote was unanimous (7-0).

Revision of Section 405: I-B/R Permitted Uses and Special Exceptions [See Attachment D]

Mr. Todd reviewed the document entitled: "Section 405 – Permitted Uses, Special Exceptions, and Prohibited Uses" dated October 20, 2003. He commented that the committee combined permitted uses with prohibited uses as a method of organizing the "uses." Mr. Gould said they struggled with how to determine the contents of the permitted/prohibited use. He added that they took a position of rather than listing uses, they decided to stay with the list of permitted uses but to qualify the list of permitted uses as identified in the second paragraph. The first paragraph establishes the basis for the qualification requirements in the second paragraph. Mr. Todd asked for suggestions of a more appropriate description for "undue" noise. Mr. Wilson discussed the prohibited uses section noting that it was important to be specific to avoid the potential for prohibited uses being interpreted as part of the permitted categories.

Planning Board Budget Request Discussion [Attachment A]

Mr. Wilson reviewed the PB budget with the Board explaining that the October 2, 2003 deadline had passed, but he would resubmit the revised, proposed budget, in the hope that the proposed budget would be considered. Mr. Kroner requested the updated RPC digital maps set. Mr. Wilson commented the Conservation Commission might be willing to assume the cost for these digital maps. The expected cost is estimated at \$3,000. The Board was in general agreement on the budget as proposed.

The Board discussed training fees incurred annually for various events and agreed to request \$700. for these fees.

Other Business/General Correspondence

Letter to BOS regarding Section 505.2 Enforcement

Mr. Wilson noted that the Board had authorized him to draft a letter to address the code violations in Section 505.2. Mr. Gould commented that this is a code enforcement issue and we should let the town officials do their job. Mr. Todd disagreed and stated that he felt the Board's input could provide a needed perspective to the serious problem of enforcement. Ms. Day supported sending the letter and suggested that the Board should provide this feedback to the Board of Selectmen. Ms. Landman noted, that as a Selectperson, she appreciates any comments/information from the Planning Board. She would perceive Planning Board input as valuable education on town issues. Ms. Landman stated that the Town is searching for a dedicated Code Enforcement Officer.

Mr. Todd moved and Ms. Day seconded the motion to submit the letter to the Board of Selectmen as written.

Vote was 4-2-1 with Messrs. Gould and Kroner opposed and Ms. Landman abstaining.

Letter to BOS regarding NHMA Access

Mr. Wilson noted that the Board had authorized him to draft a letter to address the Planning Board's restricted access to NHMA services. Mr. Gould commented that he believes the Planning Board through the Chairman should have unfettered access to the NHMA. Mr. Todd noted since Board members are elected and responsible, he does not see why such an imposition should be added. Mr. Gould felt it is more of an internal control, commenting that the Chairman should make the final decision on what inquiries are submitted. He emphasized it is important that the information requests are written requests and that the NHMA response is in writing. Mr. Gould added that the record of inquiries should be circulated to all board members for their information and education.

Ms. Day said the verbal interaction with NHMA is a better way to unearth/discover information. She also emphasized that if a political or power struggle ever existed, it could stifle fairness. Mr. Gould emphasized that two-way communication can be flawed and could create misconceptions. He stated that written answers are clear and create a permanent record that is lacking in verbal communication. Mr. Todd agreed that written NHMA responses are best.

Mr. Wilson mused over the identity of the problem that is being resolved by the current process. He questioned the reason for the restricted access to NHMA. Ms. Landman stated that the 800# for the NHMA was established to provide information freely and easily for all municipal board members and employees. Ms. Landman stated that providing written responses has caused the NHMA and the Town Administrator additional work and time. She felt everyone should have unrestricted access to the NHMA. Dr. Arena supported written NHMA information requests and responses. Mr. Wilson removed his draft letter from further consideration.

Ms. Day noted that the agenda items bearing her name had been previously discussed in general, but that they would be addressed at another time in more detail.

Mr. Wilson commented that Ms. Arrain had informed him that the Board had no applications pending for the November 4, 2003 regular meeting. The Board agreed to conduct a work session for the November 4, 2003 meeting.

Mr. Wilson entertained a motion to adjourn.

Dr. Arena moved and Mr. Kroner seconded the motion to adjourn.
The vote was unanimous (7-0).

Meeting adjourned at 10:37 PM.

Respectfully submitted,

Krystina Deren Arrain
Recording Secretary

Attachment A:	Planning Board Budget Request for 2004-2005 [paper copy only]
Attachment B:	Section 512 Refueling Facilities for On-Highway Motor Vehicles
Attachment C:	SB-95 Workforce Housing (Affordable Housing) – Planning Board
<i>Discussion</i>	
Attachment D:	Section 405 Permitted Uses, Special Exceptions, and Prohibited Uses.

Attachment B

Section 512 Refueling Facilities for On-Highway Motor Vehicles

Upon adoption of this ordinance any facility that offers on-highway motor vehicle fuel of any kind for sale to the public shall be a nonconforming use in all Districts in the Town of North Hampton. "On-highway motor vehicle" includes but is not limited to cars, trucks, buses, motorcycles, motor scooters, recreational vehicles, and motor homes. It does not include aircraft, farm tractors, or construction equipment that is not licensed for travel on public roads.

- 512.1** The aggregate refueling capacity of all such facilities, as measured by the aggregate number of vehicles that may receive fuel simultaneously at these facilities, shall be limited to the number at the time of the adoption of this ordinance -- that is, 29 vehicles.
- 512.2** The aggregate number of tanks, underground or aboveground, that are installed for active use at such facilities and their aggregate capacity shall be limited to the aggregate number and aggregate capacity, as recorded in the facility information records of the New Hampshire Department of Environmental Services, at the time of the adoption of this ordinance -- that is, 11 tanks in aggregate with 114,000 gallons of aggregate capacity.
- 512.3** If the aggregate refueling capacity of all such facilities falls below 29 vehicles, a person may apply to the Zoning Board of Adjustment for a permit to install additional refueling capacity at a facility in the Industrial-Business/Residential Zone only provided that the aggregate refueling capacity shall not exceed 29 vehicles as a result of approval of the application. The Zoning Board of Adjustment shall not issue a permit except for good cause shown. ***3/6/73**
- a) If the aggregate number of installed, active tanks for such facilities falls below 11 or their aggregate capacity falls below 114,000 gallons, a person may apply to the Zoning Board of Adjustment for a permit to install a tank or tanks to replace a tank or tanks that have been permanently closed, as determined by the facilities information records of the New Hampshire Department of Environmental Services, in the Industrial-Business/Residential Zone only provided that the aggregate number and capacity of all tanks installed for active use in the Town shall not exceed the limits stated in Section 512.2 above as a result of approval of the application. The Zoning Board of Adjustment shall not issue a permit except for good cause shown.
- b) Installation of any new refueling system or any component of such a system, as provided in section 512.4 above shall use the best available technology, equipment, and methods to protect the environment. This section is intended to cover all elements of the refueling system from orifices used for filling storage tanks and to nozzles for dispensing fuel into vehicles, and it includes but is not limited to alarms and devices for detecting leakage, recovering spilled fuel, and extinguishing fires.

- c) Any facility that has the capability to dispense fuel to on-highway vehicles, but that does not have an approved site plan for that use at the time of the adoption of this ordinance – e.g. an airport, school bus terminal, truck dispatching facility, heating oil distribution business, or construction firm – shall not sell fuel to the public, unless the Zoning Board of Adjustment approves a permit for that use and the Planning Board approves a site plan for that use.

Attachment C

SB-95 Workforce Housing (Affordable Housing) – Planning Board Discussion

Background

1. The current SB95 has not yet become law, and has been promoted to provide clarification of the 1993 court decision of Britton Homes vs. Town of Chester.
2. The proposition that North Hampton is not currently in compliance with Chester vs Britton Houses is not based on fact and therefore, should be considered to be an opinion. An assessment by the Rockingham Planning Commission on housing and housing needs in towns and cities in the state has illustrated that we are not only in compliance but, in fact, exceed our fair share of affordable housing.
3. Currently the R-1 zone permits Multi-family housing if a sewer system existed in town, however, as that is unlikely any time soon, it would be possible to consider alternate means, such as advanced septic systems designed for such purposes, to help facilitate smaller scale multi-family housing projects.}
4. The town of North Hampton currently exceeds its fair share of affordable housing, as defined under the Rockingham Planning Commissions “Fair Share Housing needs”. (North Hampton Master Plan Page H-8).
5. All debate or discussion of the North Hampton Planning Board regarding SB95 should be consistent with the town of North Hampton’s Master Plan. Under the Community Goals chapter of the Master Plan, (Page CG –1, page CG-4), is the statement that the “North Hampton citizens have voiced a strong desire to maintain the Town’s rural character...In addition, support for preserving the Town’s natural resources...having gone to great lengths to preserve many of the Town’s natural resources.”
6. Current Housing Statistics 2000 Census
 - 1782 Total housing units.
 - 146 Multi-family dwellings
 - 287 Modular Homes/Manufactured Homes
 - 215 Rental Units
 - Monthly Owner cost as a % of Household Income
 - Less than 15 % - 33 %.
 - 15.9 to 19.9 % - 15 %.
 - 20 to 29.9 % - 28 %.
 - > 30 % - 24 %.

Discussion items for the Planning Board

1. What are the consequences of SB95 to the Town or North Hampton?
 2. Does this bill require Multi-family dwellings?
 3. Does the current combination of Multi-family housing and Modular/Manufactured homes satisfy any part of SB95 as it is currently defined?
 4. What positions can the town of North Hampton advocate to change the language currently contained within SB95 (should this be necessary)?
 - Example: The bill seems to allow a limitless number of proposals. Does the board believe that the number of units required is too high?
- (4) The proposed development would not increase the number of year-round dwelling units in the municipality by more than 40 in a municipality with fewer than 2,000 year-round dwelling units at the time the proposal is submitted to the planning board, or more than 2 percent in all other municipalities;

Potential Impacts of SB95 on the town of North Hampton

1. Environmental (Pollution, Drinking Water, Wildlife)
2. Education funding and school size
3. Increased Taxes
4. Increased demands on our services and infrastructure (Fire, Police, Ambulance, Garbage, Septic/Sewage)
5. Quality of life

Goals

1. Solicit various interpretations of the bill from the Town Attorney, RPC and the NHMA.
2. Determine if the bill were to be signed as law, what zoning changes would be required, if any?
3. Establish a North Hampton Planning Board position on SB95.

Attachment D

Section 405 Permitted Uses, Special Exceptions, and Prohibited Uses.

Permitted Uses – Industrial-Business/Residential District (“I-B/R”).

405.1 Uses not specifically listed or defined [WHAT DOES THIS MEAN? DEFINED BY WHO?] to be included in the categories under this Article shall not be permitted

North Hampton encourages business development and growth in the IBR Zone because businesses provide jobs, make a significant contribution to the tax base and serve the needs and conveniences of our citizens. Businesses in North Hampton must, however, be compatible with the Town’s environment (particularly given the fact that a number of important aquifers underlie the IBR Zone) as well as with the significant number of residences that exist in the IBR zone, the safety and quiet enjoyment of which must be protected and maintained.

For the forgoing reasons, the permitted uses and special exceptions shown on the IBR Zone Table shall be permitted only if, on a case by case basis, the Planning Board determines that each proposed use will not cause abutting or neighboring lots, or the IBR Zone generally, to be subjected to any form of pollution or discharge of harmful or noxious substances, undue noise, dust, vibration, smoke, odors, light pollution(?), or other unpleasant, unhealthy or hazardous by-products of the proposed business which threatens to adversely affect the environment, welfare of residents, or quality of life in the IBR Zone.

405.2 Prohibited Uses – Industrial-Business/Residential District

The types of businesses designated as “Permitted Uses” and “Special Exceptions” in the table for the I-B/R District that follows are necessarily broad and general in many cases. The Planning Board will consider specific applications for Site Plan Reviews or Changes of Use as described in 405.1 above.

Notwithstanding that each of the following uses might be deemed a specific instance one or more Permitted Use or Special Exception listed in the I-B/R table, they are considered inconsistent with goals for development of North Hampton as expressed in the Master Plan, beyond the capacity of the Town’s infrastructure, and incompatible with criteria noted in 405.1 above. They are, therefore, prohibited in North Hampton.

Prohibited Uses

Commercial animal husbandry facilities, including but not limited to feed lots, slaughter houses, breeding facilities, egg farms, and chicken, turkey and other domestic fowl production facilities.

Large scale distribution and logistics facilities, including but not limited to facilities like those operated by trucking firms, by package and mail carriers such as FedEx and United Parcel Service, by major retail chains such as Wal Mart, K Mart, and Sears, and by automobile manufacturers for parts distribution.

Storage of raw materials for processing and the processing of raw materials for distribution or retail sale, including but not limited to stockpiling or storage of dirt and debris for sifting and screening in the production of loam, storage or processing of manure or other materials for production of fertilizer, stockpiling or storage of logs for sawing or milling, stockpiling and processing materials for concrete or asphalt production.