



## **Minutes**

### **NORTH HAMPTON PLANNING BOARD Special Meeting: October 28, 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 Wilson, Chairman; (2) Ronald Todd, Vice-Chairman; (3) Donald Gould; (4) Joseph Arena; (5) Shep Kroner; (6) Judy Day; (7) Jenifer Landman, Selectperson; (8) Laurel Pohl, Alternate and Krystina Deren Arrain, Recording Secretary/Planning & Zoning Administrator.

**Alternates Absent:** (1) Richard Place and (2) Beth Church.

Meeting convened at 7:01 PM.

### **Items Considered**

**Case #03-48-- Map/Lot #018-015-000: 84 North Road, Henry Fuller, 84 North Road, North Hampton, NH 03862, Request for Subdivision into two (2) lots and a waiver from Subdivision Regulation Section VIII.B.15. for the requirement of a topographic plan.**

Mr. Wilson explained that because of abutter notification errors made by the applicant, this meeting was scheduled to hear Mr. Fuller's application. Ernie Cote, Surveyor, representing the applicant presented a review of the proposed two-lot subdivision stating that all setbacks were met. He added that two department reviews were completed and all questions/issues were answered.

Mr. Todd inquired into the size of the water pipe, raising the issue that if a more intense use of water was anticipated in the future, the pipe size could be an issue. He commented that Mr. Fuller provided the DES application information for the subdivision and filling of wetland.

Mr. Kroner asked about the gravel driveway that crosses the wetland. Mr. Cote said the drive is 90' feet long and 14' wide. Mr. Kroner asked what was the type of soil. Mr. Cote stated that he did not know the composition of the soil. He added the driveway would be gravel and a steel pipe would be placed as a culvert.

Mr. Wilson noted that the Co-Chairman of the Conservation Commission signed the fill application. As a result, he felt the indication was that there should not be a problem with a DES approval.

**Mr. Gould moved and Mr. Arena seconded the motion to approve the waiver for a topographical map of the Fuller property.**

Mr. Todd commented that the Conservation Commission decided the pond in question is an irrigation pond and as such he felt a topographic plan is unnecessary. Mr. Wilson asked Mr. Cote why the applicant did not submit such a plan. Mr. Cote stated there is very little that would be done to change the contour of the land, hence making a topographic plan unnecessary. The only change would be the work performed on the driveway.

Mr. Wilson opened the public hearing on the request for waiver at 7:15 PM.

Mr. Wilson opened the floor to comments in support of the waiver. None were received.

Mr. Wilson opened the floor to comments in opposition to the waiver.

Atty Paul McEachern, Portsmouth, representing Mrs. Tessa Natteau, 19 Cherry Road, an abutter, said the applicant had not applied for a wetland permit. The DES assured Mrs. Natteau that she would get notice when the application was received. Atty. McEachern commented that a driveway currently exists that does not cross wetlands. He suggested subdividing the land so that it does not cross the wetlands as is currently proposed. Atty. McEachern said his client would have less of an objection if the subdivision were re-configured so that it does not cross the wetland. He expressed concern that a driveway so close to the Natteau's house could provide easy escape access for burglars/home invaders. For the Natteau's it is an issue of privacy and security. Atty. McEachern noted that he believed a topographic plan is important. He emphasized that the three issues that concern his client are (1) wetland permit, (2) privacy/security and (3) wetland crossing.

Ms. Landman asked if a driveway permit has been issued. Mr. Fuller indicated that Bob Strout has approved a driveway permit.

Glenn Martin, 11 Evergreen Drive, representing Evergreen Drive of the Seacoast LLC stated that he has no issues regarding the pond. He added that there is another pond on a nearby property and said that a topographic plan would provide valuable watershed information for adjoining lots. He referenced that a topographical plan was required for Evergreen Drive of the Seacoast and Mist Development. Mr. Wilson explained that Mr. Martin's subdivision involved a great deal of excavation that necessitated the topographic plan and that his subdivision also involved a much larger number of lots. He noted that Mr. Fuller's request does not reflect much change to the topography of the Fuller property and that it creates only one (1) new lot.

Ms. Landman commented that it is her understanding that if water runoff has not changed from what currently exists, the importance of the topographic plan is diminished. Mr. Martin suggested a site walk to determine, if in fact, any potential watershed/waterflow problems exist or could exist. Mr. Wilson said that it is clear when a large-scale project was undertaken, a topographic analysis is probably needed. He said in a smaller subdivision the necessity of a topographic plan is usually unwarranted unless there are clear indications of an existing problem.

Ms. Landman noted that the five Conservation Commission members who participated in the site walk are very familiar with the lay of the land and highly qualified individuals. She trusted their evaluation of the land.

Mr. Martin commented that to correctly build a house foundation, elevations are required. Hence, he felt a topographic plan is need. Mr. Gould stated that the Board's focus tonight is to act on the application, not to defend prior actions of the Board in other applications. Mr. Martin noted that a backlot on Mill Road required a topographic plan. Referencing the Mill Road backlot, Mr. Kroner noted that as an abutter, he knew that Mist Development was very close to Aquarion's well and he believed that was the justification for the topographic plan required in that case.

The public hearing was closed at 7:55 PM.

***The vote was unanimous (7-0) to approve the motion for the waiver for a topographical map of the Fuller property.***

Mr. Wilson asked if the Board should waive DES approval before considering the application complete. Mr. Todd noted that the Board has a history of making this type of allowance, as long as applications have been filed. Mr. Todd noted that the Board's requiring all approvals in advance of Board consideration would be a harsh and unfair condition for applicants and townspeople. Mr. Gould agreed and said that the Board routinely grants approvals with conditions that permits and approvals must be granted before the Board's approval is complete. He commented that the rationale for the Board's allowance is to accommodate a narrow building calendar.

**Mr. Todd moved and Dr. Arena seconded the motion to waive the formal requirement of advance DES approvals and to make receipt of DES approvals a condition of approval if the application is approved.**

Atty. McEachern asked for confirmation of the Wetland Fill Permit. The Board indicated it was applied for on October 27, 2003. He indicated that the Natteau's would have an opportunity to comment to the DES when they receive abutter notification.

Mr. Martin asked what other environmental or financial considerations are being considered for the abutters. Mr. Wilson said that there would be other opportunities later in the meeting to address these issues. Ms. Day asked why the late filing date? Mr. Fuller indicated he was waiting for the review of the Conservation Commission before filing the application. Mr. Nicholas Natteau, 19 Cherry Road, commented that his family offered to pay the difference in construction costs by diverting the driveway away from the Natteau house. Mr. Fuller refused to relocate the proposed driveway.

The public hearing closed at 8:08 PM.

***The vote was unanimous (7-0) to waive the formal requirement of advance DES approvals and to make receipt of DES approvals a condition of approval if the application is approved.***

**Mr. Gould moved and Ms. Day seconded the motion to accept the application as complete.**

Mr. Todd raised the issue of abutter's concern about runoff. Mr. Gould suggested a remediation requirement to be added as a condition of approval if runoff causes problems.

Mr. Wilson asked for comments from the public at 8:16 PM.

Mr. Wilson asked if the RPC Circuit Rider has reviewed the updated plan. The inquiry remained unanswered because the Circuit Rider was not in attendance. Department approvals had been received.

The public hearing was closed at 8:20 PM.

***The vote was unanimous (7-0) to accept the application as complete.***

The public hearing about the application was opened at 8:21 PM.

Mr. Wilson opened the floor to comments in support of the application. None were received.

Mr. Wilson opened the floor to comments in opposition to the application.

Atty. McEachern summarized that Mr. Fuller's two-lot subdivision could be accomplished with less impact to the wetland by re-locating the driveway. Atty. McEachern emphasized the Natteau's feeling of jeopardy regarding their security with the proposed driveway located 35 feet from their home. He asked that the Board not approve the driveway as proposed and stated that the Natteau's would pay the cost for relocating the driveway to a less threatening location. He asked that the Board hold Mr. Fuller to a slightly higher standard.

Mr. Wilson asked Mr. Fuller if he has considered the Natteau's offer of moving the driveway. Mr. Fuller indicated he had not. Discussion ensued between Mr. Wilson, Mr. Fuller and the Natteau's regarding the issue of re-routing the driveway. No resolution was reached. Mr. Gould suggested a fence and the Natteau's were not open to the suggestion. Mr. Wilson noted that the idea of a shared driveway sometimes creates problems among neighbors. Mr. Jacques Natteau, 19 Cherry Road, noted to the Board that he is a previous member of the International Chief of Police.

Mr. Martin raised the issue of the size of the replacement culvert. Since the old culvert was filled with debris, a new culvert would increase the waterflow and could cause a watershed flow problem. Mr. Fuller claimed that Mr. Martin's watershed premise is incorrect. Mr. Wilson stated that the 18" replacement culvert will not increase the waterflow, it will only affect the rate of flow. Ms. Landman verified Mr. Strout's expertise in the area of drainage analysis. Dr. Arena commented there doesn't appear to be a problem.

Mr. Martin raised the issue of water flowing out of the irrigation ditch onto the abutting properties. Mr. Fuller said there is a shallow trench that Henry Mixter of the Conservation Commission indicated could be filled to prevent the overflow that occurs in the winter/spring months. Mr. Wilson noted that the overflow is not the problem, but rather would there be a change in the flow that would negatively affect abutters. Mr. Wilson suggested putting a culvert under the driveway where the trench currently exists. Mr. Fuller agreed to add this culvert to his plan.

Ms. Candace McCloy, (Re: Mist Development Map/Lot #012-018-002) as the potential buyer of the abutting property, expressed concern about the placement of the proposed Fuller house. Mr. Cote showed her the location. Ms. McCloy was concerned that the Fuller house would be very close to their house. Mr. Wilson indicated that the town addresses these issues with setback requirements. Mr. Fuller said he would locate it as far away from her house as possible, but he had to meet the 50' setback requirement for the irrigation pond that could affect his flexibility when choosing the house location.

Mr. Martin questioned a potential problem with the well location. He questioned Mr. Fuller, who is on the Water Commission, about making allowances for his request when others have been denied. Mr. Fuller stated that subdivision regulations require a municipal water connection, but since Aquarion has a moratorium on new services, his plans include a well rather than municipal water. Mr. Fuller also stated that he had not played a role in any Water Commission deliberations about the proposed well on the proposed lot.

The public hearing was closed at 9:24 PM.

Mr. Wilson commented that the subdivision regulations have been met, and he believed the plan should be approved. He added that the Natteau's are concerned about the proximity of the driveway and they have offered to pay the difference in cost for relocating the driveway. The second concern has been about water issues. The Board's concern centers on whether the applicant's proposed action will change the flow of water. The trench that carries overflows from the irrigation pond could be fitted with a culvert under the proposed driveway that would therefore eliminate any change in the flow of water off the property.

Mr. Wilson asked if Mr. Fuller would change the driveway location. Mr. Fuller said a straight driveway, as proposed, is best for plowing and he would not consider it. Mr. Wilson proposed the following conditions. Conditions:

1. Recordable mylar. The applicant shall submit a recordable mylar of the approved plan with all required signatures and seals affixed.
2. 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 or drill holes depicted on the plan have been properly set.

3. Approved DES Subdivision Permit. The applicant shall submit a valid NH DES Septic Permit for the site.
4. Approved Wetland Crossing Fill Permit. The applicant shall submit a valid wetland crossing fill permit for the site.
5. Additional culvert under driveway. On the subdivision plan, the applicant shall add a culvert under the proposed driveway where that driveway crosses the manmade ditch from the existing irrigation pond to the westerly boundary of the property. Robert Strout, North Hampton Road Agent, shall specify the size of the culvert.
6. Drainage improvement. Adequate drainage shall be installed, if as a result of construction or excavation on the property, the Building Inspector determines that additional drainage measures are necessary to prevent increased run-off from the property on to abutting properties.

**Ms. Landman moved and Ms. Day second the motion to approve the application.**  
*The vote was unanimous (7-0).*

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

Meeting adjourned at 9:35 PM.

Respectfully submitted,

Krystina Deren Arrain, Recording Secretary