



## **Minutes**

### **NORTH HAMPTON PLANNING BOARD Regular Meeting on December 2, 2003**

Page 1 of 7

---

*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) Jenifer Landman, Selectperson (3) Judy Day; (4) Joseph Arena; (5) Shep Kroner; (6) Beth Church seated for Don Gould; (7) Laurel Pohl seated for Ron Todd; (8) Richard Place, Alternate and Krystina Deren Arrain, Recording Secretary/Planning & Zoning Administrator.

**Absent:** (1) Ron Todd, Vice-Chairman; (2) Donald Gould.

Meeting convened at 7:04 PM.

#### **Items Considered**

**Bond Release Request for Evergreen Drive**, Glenn Martin, Evergreen Drive of the Seacoast, LLC, P.O. Box 1020, North Hampton, NH 03862 requests the final road bond release for Evergreen Drive.

**Dr. Arena moved and Mr. Kroner seconded the motion to table consideration until the January 2004 meeting because neither the applicant nor a representative was present to address the request.**

***The vote was unanimous (7-0).***

**Case #03-49 -- Map/Lot #007-052/053/056-000: 33-49 Lafayette Road**, W/S North Hampton Properties, LLC [a.k.a. Lafayette Crossing Mall] Site Plan Review for one (1) restaurant and two (2) retail stores.

John F. Corbett, W/S Development Associates LLC representative, Chestnut Hill, MA, made an introductory statement outlining that this appearance before the Board was to address the applicant's Phase III [or final phase] of the development of the Lafayette Crossing Mall. He stated that the applicant is looking for approval of two (2) retail stores and one (1) restaurant.

William C. Haskell, P.E., Gorrill-Palmer Consulting Engineers, Inc. Gray, ME noted that he received comments from reviews by Town Engineer/KNA, Jill Robinson/RPC and Application Review Committee/ARC. Mr. Haskell commented that he had not had a chance to fully review all comments, but would provide some preliminary comments. He noted that Building C (the proposed Marshall site) was a 23,000 sq ft. building. The applicant had received appropriate variances previously. Mr. Haskell commented that the construction of Building C would not

impact additional wetlands. He provided a brief history of the previous site development. There would be additional parking spaces for the restaurant and the Safe-Lite site totaling a little over 1,100 parking spaces. Phase III construction would use existing Aquarion water connection. Building C would use Shaw's current septic system and the restaurant and Safe-Lite sites would share a new subsurface septic system.

There was an extended discussion regarding the water runoff route extending from the brook behind the mall to Little River and leading to the ocean. Mr. Kroner commented that the flow pattern was not entirely accurate as explained. Mr. Haskell added that if there was any concern about water runoff and/or pollutants leaching into the well field/wellheads, they are open to assisting. Mr. Corbett asked if Mr. Kroner could join them on a site walk to determine the actual flow. Mr. Kroner agreed to accompany Mr. Haskell. Mr. Haskell noted that since most of the area is currently impermeable, he believed the current erosion control measures would be fully adequate, but further commented that the applicant would increase the current erosion control system as needed.

Peter A. Hedrich, P.E., PTOE, Gorrill-Palmer Consulting Engineers, Inc. Gray, ME

Re: Traffic Issues

Mr. Hedrich explained that after performing traffic counts, they determined that current traffic is below the volume projected at the time of the application for Phase I of the development. He noted that they do not anticipate any long waits or congestion at the main entrance. He claimed that traffic backed up at the traffic light would quickly disperse. Mr. Hedrich commented that a traffic information report although not distributed to the Board is available and would be made available to the Board. He noted that 60% of traffic comes from the south and 40% comes from the north, format the entrance from Route 1. Dr. Arena expressed concern about the safety of the location of the intersection at the 200 ft mark of the entrance. He was concerned about the safety aspect of turning activity at that location.

Ms. Day asked whether the traffic study took into account other development along Route 1 that would increase traffic. Mr. Corbett said that they factored in 1.85% yearly growth to the projected amount of anticipated traffic. Ms. Landman questioned how the applicant could measure the center's businesses' potential noting their short history. Mr. Hedrich indicated that the inverse is true. When businesses open they usually reach their maximum within the first six months rather than later. Mr. Corbett did not anticipate that all traffic would be new traffic because regular shoppers will probably shop at the new business locations. Ms. Landman expressed concern about the left turn heading toward the Hollywood Video location. She felt the intersection created a traffic blockage and could be unsafe. Mr. Hedrich indicated that the entrance and driveway design was very typical of shopping malls and considered a safe, standard design. Ms. Pohl asked if they could place a crosswalk at Marshall's. Mr. Hedrick stated they could. She asked if the 3-way stop would remain. He indicated it would remain.

Barry Hosmer, Landscape Architect, Portland, ME

Mr. Hosmer commented that they are continuing their standard landscaping design with deciduous trees. He indicated the difficulty of selecting a variety of appropriate trees in the 20-25 foot maximum height range. Because of the site's urban conditions, the trees he selected would grow less than the 20 feet height because of growing conditions, including the effect of

salt on the trees. Mr. Hosmer explained the screening efforts in the vicinity of the detention pond.

Dr. Arena commented that the landscaping maintenance on the Home Depot site has been poor, and Mr. Corbett agreed. Mr. Corbett noted he has been working with Home Depot to improve the situation but has had limited success. Mr. Corbett suggested that the Building Inspector inform Home Depot that the landscaping is not adequate and in keeping with the approved plan. He commented that the area around Shaw's was well maintained because W/S Development is responsible for maintenance on the north section of the mall, but Home Depot is responsible for maintenance on their site. Mr. Hosmer expressed his opinion that the snow removal practices of Home Depot contributed to the degradation of the landscaping at the Home Depot site.

Mr. Wilson expressed concern that the landscaping plant selections could compromise the requirements of the sight triangle. Mr. Hosmer indicated that since plants/trees are living organisms, it is difficult to control their growth but their experiences indicate that, the selections they have made should be appropriate. Ms. Landman expressed concern about what happens when trees die. Mr. Hosmer indicated it is appropriate for the town to request of the landowner to replace the trees. When Dr. Arena suggested locust tree, Mr. Hosmer indicated locust trees could grow up to 50 feet. Mr. Hosmer commented that with the 20-foot low-zone trees required by the town, it is difficult to identify trees that are within that low zone height range and salt-tolerant. He expressed his frustration in trying to successfully meet these requirements. Mr. Wilson said that the Board had two reasons for adopting the 20-foot-zone: 1) to ensure an adequate site triangle at points of egress at the front of sites and 2) to avoid interference with overhead utility lines along roadways at the front of sites. He asked whether there were overhead utility lines along the easterly side of Route 1 on the site, and Mr. Hosmer answered that he believed there were. The applicant agreed to provide sight triangle data at the next meeting of the Board.

Richard Landry, Architect, Salem, NH

Mr. Landry described the design and construction features of the Marshall's building [Building C] as a stucco building with decorative brick accents. He indicated that they attempted to maintain the general architecture of the existing mall structures along the Shaw's portion of the shopping area. Mr. Haskell indicated they are utilizing primarily the existing lighting fixtures. He noted that at the Safe-Lite site, dark sky standard lighting fixtures would be installed. Mr. Kroner inquired if there would be parking between the Marshall's and Home Depot Garden Center. Mr. Haskell indicated two rows of parking spaces would be located in that area.

Mr. Wilson introduced Jill Robinson, RPC Circuit Rider, to the Board and the audience. Ms. Robinson had recently joined the RPC and this was her first Board meeting.

Mr. Haskell noted that he would meet with Ed Kelly, KNA next week to review the Town Engineer's review comments.

Mr. Corbett indicated that even though Marshall's is the only new tenant, he hoped that the Board would approve the entire site with the understanding that he would return with detailed information when tenants for the other buildings were secured.

Ms. Day asked whether a request for a traffic study regarding Cedar Road would pre-empt accepting the application as complete. Ms. Landman expressed concern that acceptance would initiate the allowable time for formal consideration. She wondered if there would be enough time for a traffic study. Mr. Wilson noted that the only time that a reliable traffic study could be conducted in this area would be during the summer and that data included in the materials submitted with the application were collected in July 2003, which was an appropriate period. He said that to require a full traffic study would thus delay the project for a year. He indicated that there is an existing traffic study that could be considered during the formal review of the application. If the Board determined that a full traffic study were necessary, one could be required.

Dr. Arena expressed concern that the application was not complete because adequate information regarding the other two building sites was not available. He suggested that the applicant change the application as a submission for approval for the Marshall's building and for the infrastructure, and site development for buildings at the mall entrance, but not for approval for the remaining two buildings.

Al Courchene, Al's Seafood, 51 Lafayette Road [an abutter] indicated he was very concerned about water runoff from the proposed construction and alterations to the shopping area. His concern was that additional water would flow on to his abutting property. Mr. Haskell explained that any additional water runoff should be minimal. The existing storm drains/catch basins system empties into level spreaders that move runoff ultimately to the detention pond near the railroad tracks at the northeasterly corner of the property. Mr. Haskell noted that the same amount of rain would empty into the same location. He also noted that, because curbing would be installed along a portion of the westerly edge of the mall's parking lot, less water should leave the mall toward Route 1, not more.

Mr. Courchene noted that a large volume of water flows down Lafayette Road and drains into his property. Board members indicated the water flow is accelerated because of the downward pitch of Lafayette Road at Mr. Courchene's property location. It was not because of water runoff from the shopping center. He also expressed concern about losing road frontage should the state increase the width of Rte. 1. Mr. Wilson indicated that the RPC/NH-DOT was conducting a Rte. 1 study that encouraged input from local communities. Mr. Courchene referenced the high rate of accidents on Rte. 1 and hoped the study would address that issue. In closing, he expressed concern that additional tree cover near the proposed restaurant area could diminish the visibility of his signage. Mr. Wilson indicated that the Board would consider his concern during the site review process and encouraged him to attend the formal public hearing on the application.

**Dr. Arena moved and Ms. Day seconded the motion to accept the application as complete if consideration includes only the construction of the Marshall's site as well as the site preparations for Parcels E, F and G, but not to include any buildings on those parcels.**  
***The vote was unanimous. (7-0)***

Dr. Arena inquired when construction of the Marshall's was anticipated. Mr. Corbett indicated the construction is dependent upon the approval date, but March 2004 would be the earliest date

for construction because of weather considerations. Mr. Wilson suggested that the applicant's team meet with all appropriate individuals prior to the next Board meeting to address the comments raised in the application reviews.

Recessed at 8:55 PM

Reconvened at 9:05 PM

**Case #03-50 -- Map/Lot #006-131-000: 19 Maple Road**, Cadillac Auto Company of Boston, 19 Maple Road, North Hampton, Request for Subdivision to create five (5) lots.

Joe Coronati, Jones & Beach, presented the plan that would subdivide an 11.89-acre farm into five (5) lots. Because of the Aquarion water moratorium they have designed a well site for each lot. He provided the following acreage for all five lots: (a) Lot #006-131-004 at 2.75 acres; (b) Lot #006-131-003 at 2.00 acres; (c) Lot #006-131-002 at 2.00 acres, (d) Lot#006-131-000 at 2.13 acres and also containing the existing house, garage and barn; and (e) Lot #006-131-001 a backlot at 3.00 acres. Mr. Coronati pointed out that Lots #3 and #4 share a driveway between two lots because it is an existing farm road and also reduces the number of driveways needed on Maple Road to four instead of five. He commented that because of the increased wetland buffer the houses will be set back to the westerly side of each lot. All stonewalls would remain except at driveway openings. Most of the fences will have to be removed, but they will try to adhere to minimal land and landscaping disruption.

Mr. Wilson referenced a problem with the deed. The deed submitted does not reference the applicant's property as submitted to the Board. Attorney Christopher Boldt, representing the applicant, indicated that it is the remainder of a lot, the bulk of which was deeded to Turner Porter for the Boulders Subdivision. Atty. Boldt stated that, in his opinion, as such it is a legal lot of record, although there is no deed recorded for the remaining portion of the larger lot for which the subdivision application has currently been submitted.

Mr. Wilson noted that since this property in its current configuration was not a lot of record as of 1992, then it is not a lot of record and as such does not qualify for a backlot subdivision. Mr. Wilson read the definition of "lot of record" from the "definitions" section of the Zoning Ordinance.

Atty. Boldt repeated his opinion that it complied with Ordinance Section 406.9. He reaffirmed that it is the original lot that remained after the conveyance of a portion of the lot to the Boulders Development.

Board members pondered whether this is a lot of record. Mr. Wilson posed the option that the property was subdivided once (in 1995) and cannot be subdivided again. Mr. Wilson commented that in discussion Mr. Gould suggested to Mr. Wilson that on the date in 1995 when the lot was subdivided for sale to Mr. Porter, it became a lot of record and as such cannot be subdivided into a backlot.

Ms. Landman stated that she felt the conveyance of land to Turner Porter constituted a backlot subdivision that is a one-time allowable subdivision. She added that the backlot in this plan should not be allowed. Ms. Landman had no issue with the other proposed lots.

Atty. Boldt commented that the Board is not correctly defining backlot. He defined the Turner Porter conveyance as a property conveyance, not a backlot subdivision because there was no access to any street. The backlot for the Cadillac application has street access which makes it a true backlot. The Board also noted that the portion of the property conveyed to Mr. Porter also had greater than 175 feet of frontage on Woodland Road and therefore had not been a backlot subdivision.

Attorney Stephen Ells, of Hampton, representing Mr. & Mrs. John Dowd, 15 Maple Road, stated that the Dowds are abutters and that the proposed backlot abuts their home and property. He commented that the Dowds have no issues with the other lots, but only with the backlot. Atty. Ells commented that the intent of the backlot ordinance was to give relief to a property owner who has a lot of land with limited frontage. He noted that the applicant does not have such a hardship. Atty. Ells stated his opinion that the intent or spirit of the ordinance deals with hardship. He believed there should be strict compliance to the subdivision frontage requirements for all lots on this subdivision because there appeared to be no hardship.

Ms. Day suggested that the Board contact the town attorney for his opinion on the issue of whether the property is a lot of record.

George Lagassa, 26 Maple Road [an abutter]. Mr. Lagassa stated that he was a member of the Planning Board at the time the ordinance was written and he stated that the backlot provision was intended partly to relieve hardship and partly as a growth control measure. He said that the five (5) lots could be re-configured to meet all frontage requirements if the lot containing the house was reconfigured, which could mean it would have to be leveled.

Parthenia Lagassa, 26 Maple Road, [an abutter]. Ms. Lagassa noted that the applicant's property is not a lot of record because it was not recorded.

Ms. Robinson/RPC commented that the Board has to define or determine what is a lot of record. She added that the Board has to agree on the definition before they can act on the application.

William Fraser, 9 Maple Road, inquired if there is enough setback footage? Mr. Boldt responded all setbacks were met.

**Ms. Day moved and Ms. Church seconded the motion that the Board accept jurisdiction for this application with the caveat that the Board would consult with the town attorney to determine if the property was a lot of record as of March 1992.**

***The vote was 5-2 with Dr. Arena and Mr. Kroner opposed.***

**Ms. Day moved and Dr. Arena seconded the motion to continue the application until January 6, 2004.**

***The vote was unanimous. (7-0)***

Mr. Peter Fuller. 19 Maple Road, addressed the Board expressing his satisfaction with the Board's performance and efforts.

**Other Business**

Discussion of Schedule for Public Hearings in preparation for March 2004 Town Meeting.

Mr. Wilson said there is much work to be completed by December 15, 2003, work session. He commented that the Board has to publish documents by Dec. 26, 2003 for inclusion in the public hearing/s in January 2004. He referred to completing the work the Board had begun on Sections 512 and 406.

It was unanimously agreed that the December 15, 2003 work session meeting would begin at 6 PM.

Mr. Wilson noted that the Board had neglected to continue hearing Case 03-49 at the January 6, 2004 meeting of the Board.

**It was moved and seconded to continue Case 03-49 to the January 6, 2004 meeting, and the motion passed unanimously.**

**Dr. Arena moved and Ms. Church seconded the motion to adjourn at 10:11 PM**  
***The vote was unanimous. (7-0)***

Respectfully submitted,

Krystina Deren Arrain  
Recording Secretary