



Minutes

NORTH HAMPTON PLANNING BOARD Meeting: October 7, 2003

Page 1 of 11

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-Chair; (3) Donald Gould; (4) Joseph Arena; (5) Shep Kroner; (6) Judy Day; (7) Jenifer Landman, Selectperson; and (8) Beth Church, Alternate.

Alternates Absent: (1) Richard Place and (2) Laurel Pohl.

Meeting convened at 7:03 PM

Items Considered

Case #03-42 – PSNH, 60 W. Pennacook Street, Manchester, NH 03101 [David Crane] Request for public hearing for the purpose of trimming and removal of trees on selected North Hampton roads pursuant to RSA 231.

David Crane, Arborist, Preventive Maintenance Coordinator of PSNH explained that the trimming plan involves the northeast corner of town as part of a regular maintenance program. Their focus is to trim trees and bushes that are 4” in diameter or larger that interfere with the PSNH electric power lines. He added that the trimming involves about 2-3 miles of trimming and they have identified six (6) trees that are larger than the 4” diameter that they want to remove. Mr. Crane assured the Board that each landowner would be contacted prior to the trimming of trees near their property.

Ms. Landman expressed concern whether the trimming could damage the trees. Mr. Crane assured the Board that the subcontractors are trained arborists and are very careful not to cause tree damage. Cuts are made at proper spots so trees will survive. Ms. Day explained her experience commenting that the PSNH crews made an extra effort to contact her when her neighborhood trees were trimmed. Asplundh Tree Service is the tree service company doing the trimming. He said most of the six (6) trees are on Chapel Road. They include five (5) pines and one (1) maple. There may be more trees identified as they perform the trimming.

Dr. Arena noted that tree trimming operations have been conducted on Rte. 111, very near to North Hampton and the Board had not been notified. Mr. Crane added that Rte. 111 is a state road and receiving town approval is not a requirement. Permission for tree trimming is required only for town roads.

Mr. Wilson opened the public hearing for tree trimming at 7:08 PM.

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

Mr. Wilson opened the floor to comments in opposition to the tree trimming. None were received.

Public hearing portion closed at 7:10 PM.

J. Arena moved and D. Gould seconded the motion to allow the trimming of trees as outlined.

Motion passed unanimously (7-0).

Case #03-41 -- Map/Lot #013-005-000: 88 Lafayette Road, Gray Construction, P. O. Box 252, Rye, NH 03870, Site Plan Review for proposed addition/change of use and Waiver request to Article X.D.1. *This case/application is a continuation from the September 2, 2003 meeting.*

John Chagnon, Ambit Engineering, Portsmouth, NH, appeared before the Board representing the applicant commenting that at the September meeting the Board approved the application as complete. He added that he had received two reviews from Ed Kelly, the Town Engineer that he had addressed. Mr. Chagnon noted that he met with Glenn Greenwood/RPC regarding the project but had not received any written comments.

John Chagnon requested a town driveway permit for a driveway that has been there for a long time. He requested a NHDOT a driveway permit as well. Mr. Chagnon also commented that he received letters from both Aquarion that water service will be provided and from PSNH that electrical service will be provided, as well.

Mr. Chagnon noted that the applicant received DES approval for the septic system. Following a detailed review of items listed on the Town Engineering (KNA) second review, Mr. Chagnon requested approval from the Board so that the applicant can begin construction. He added that the project/building would be a benefit to the Town.

Mr. Todd commenting from results of the ARC review asked Mr. Chagnon questions. Still waiting for the driveway request approval. Mr. Gould explained the scenario involving the state driveway permit process and the Town's driveway permit process.

Gould moved and Arena seconded to waive the driveway permit.

Mr. Wilson opened the public hearing for driveway permit at 7:51 PM.

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

Mr. Wilson opened the floor to comments in opposition to the driveway permit. None were received.

Public hearing portion closed at 7:52 PM.

Motion passed unanimously (7-0).

Mr. Wilson explained the applicant's request for a waiver for underground wiring on the eastside of Lafayette Road. The applicant would place underground utility service from the utility pole on the westside of Lafayette Road to the building. Dr. Arena questioned the need for a waiver. Discussion ensued among Board members.

Mr. Gould moved and Ms. Day seconded to grant the waiver for the requirement for underground wiring.

Mr. Wilson opened the public hearing for the waiver for underground wiring on the eastside at 7:56 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. None were received.

Public hearing portion closed at 7:57 PM.

Motion passed unanimously (7-0).

Mr. Todd moved and Mr. Gould seconded the motion to accept the septic designer's stamp in lieu of a soil scientist.

Mr. Wilson opened the public hearing for the waiver for designer stamp in lieu of a soil scientist at 8:00 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. None were received.

Public hearing portion closed at 8:01 PM.

Motion passed unanimously (7-0).

Ms. Landman asked about granite bound markers at all corners. Mr. Chagnon noted that although the granite bound markers are a monumentation requirement, the area in the northeast corner is in a wet area and would be very difficult to place.

Mr. Todd moved and Ms. Day seconded the motion that the Board required granite bound markers at the corners of the frontage boundaries that the Board has consistently made a de facto standard.

Mr. Gould commented that the Board could not make these legal requirements without fair notice. Mr. Todd said the site plan review regulations are minimum requirements only.

The motion vote was 2-5. The motion failed with Mr. Todd and Dr. Arena in favor of the motion.

Mr. Wilson listed the following as conditions of approval.

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 depicted on the plan have been properly set.
3. Performance guarantee. The applicant shall provide a performance guarantee in an amount and kind recommended by the Planning Board and approved by the Board of Selectmen.
4. Legend notation to include definitions of all 3-letter acronyms as listed in ARC review memo Item #2 – that is, TBM, TBR, Axx, Bxx, RCP, OHW, CMP, INV.
5. Landscape Buffer. Applicant shall depict the 10' landscape buffer around the entire perimeter of the plan.
7. Correct spelling. Applicant shall correct the spelling of “were” on page 3 of 4 (regarding request for waiver) to read “where.”
8. Underground wiring. Applicant shall be depicted underground wiring on the Plan from the existing utility pole to the building. Utility lines will be depicted on the Plan as combined crossing Route 1.
9. Lighting plan. Applicant shall secure approval of the lighting plan by KNA Engineer.

Mr. Gould moved and Dr. Arena seconded the motion to approve the application with the conditions listed.

Motion passed unanimously (7-0).

Case #03-43 -- Map/Lot #018-015-000: 84 North Road, Henry Fuller, 84 North Road, North Hampton, NH 03862, Request for Subdivision into 2 lots and a waiver from Subdivision Regulation Section VIII.B.15. for the requirement of a topographical plan.

Mr. Wilson commented that Glenn Martin, 12 Kimberly Drive, had informed the Town that notice was not properly executed. He added that mistakes were made from wrong address from town records and a misspelled address. Mr. Wilson stated that the Board cannot actually hear the case, but can listen to the case on a preliminary consultation basis and would make no decisions.

Mr. Fuller stated that his surveyor was not available and he could not proceed with a presentation. Mr. Martin questioned whether this would be a public hearing. Mr. Wilson said it was not and added that the Board would reschedule a public hearing possibly during the work session or a special meeting.

Mr. Todd said the Board had received a letter from Charles Gordon of the Conservation Commission explaining that the Commission had performed a site walk on Mr. Fuller's property and determined that the irrigation pond and ditch on the property are man-made and as such do not fall under the wetland setback requirements. Mr. Todd noted that even though Mr. Fuller

applied to the ZBA, his purpose for the variance filing was to cover all bases and in anticipation of possibly losing time if the Board determined he needed a wetland setback variance.

Mr. Todd suggested that since the property is located in R1 and R3 zones, monumentation should be set between the two zones. Mr. Gould suggested that Mr. Fuller should have available to him copies of the ARC and RPC comments regarding Mr. Fuller's case.

Mr. Wilson opened the discussion for public comments at 8:30 PM.

Mr. Martin stated he and another abutter would be unavailable for the October 20, 2003 work session and asked that a more convenient time for the public hearing be set. Atty. John McEachern, Portsmouth representing Tessa and Paul Natteau indicated there are a number of outstanding and troublesome issues that need to be addressed. He noted that the applicant might need a wetland permit from the state for a proposed driveway through wetlands. Atty. McEachern expressed the Natteau's security concern that the proposed driveway is 35 feet from their common property line and see the Fuller driveway as an access/escape route for potential burglars. He added that as he researches the case, other issues may be discovered and he requested additional time for further investigation. Discussion ensued about how best to schedule the appropriate time for Mr. Fuller's case.

Ms. Day moved and Mr. Gould seconded the motion to schedule a special meeting for October 28, 2003.

Motion passed unanimously (7-0).

Mr. Wilson noted that although the Board sympathized with Mr. Fuller's dilemma, the Town Attorney confirmed that it is an applicant's responsibility to get the correct address for each abutter.

Recess at 8:41 PM

Reconvened at 8:51 PM

Case #03-44 -- Map/Lot #017-084-000: 178 Lafayette Road, Gary S. DePalma, P.O. Box 328, Epsom, NH 03234, Re-application for Site Plan Review for state dealer's license referencing Section XIII.

Jay McFarland, representing the applicant commented that they have incorporated the comments and requirements as stated from the September 2, 2003 meeting and have re-applied. Steve Ohles, Millette, Sprague & Colwell Engineering firm (with Dennis Moulton in attendance) pointed out what would be the office and parts inventory storage space portions of the building. Mr. Todd asked to delineate what is the customer parking and what is the employee parking. Mr. McFarland asked if there is an issue with the parking calculations. Mr. Todd responded that it was just a minor issue. Mr. Todd questioned the concrete pad and fencing that is within the 35' setback. Mr. Todd continued and reviewed other suggestions that were clarified. Mr. McFarland stated that he is open to suggestions for landscaping preferences. Mr. Wilson indicated that landscaping in the front landscaping buffer should include salt-tolerant low shrubbery.

Mr. Kroner reviewed comments from the Town Engineering (KNA) dated October 6, 2003. Mr. Kroner asked why the oil and grease separator is sealed off and wanted to know why it has not been removed? He also asked how long would the monitoring well be reviewed for gray water? Mr. McFarland responded that the monitoring well is no longer used. The applicant stated that although they had no plans to change the lighting, they would comply with a dark sky standard.

Mr. Todd commented the Board might want to waive a parking space for the purpose of allowing additional space for RV turning or maneuvering near the building. The applicant indicated that they would exercise caution in the placement of their RV inventory as it pertains to driving and turning traffic for traffic flow. Dr. Arena asked if any type of oil changing and engine work would be conducted on site. The applicant stated that all chassis/engine work would be performed at their site in Chichester, NH.

Mr. Wilson opened the public hearing at 9:29 PM.

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

Mr. Wilson opened the floor to comments in opposition to the applicant. None were received.

Public hearing portion closed at 9:30 PM.

Mr. Todd moved and Dr. Arena seconded the motion to approve the application with the following conditions:

1. Recordable mylar. The applicant shall submit a recordable mylar of the approved plan with all required signatures and seals affixed.
2. As-built plan. Applicant shall submit an As-built Plan for review at completion of the project.
3. Underground tanks. Applicant shall note on the plan that the unidentified underground storage tanks are propane tanks.
4. Catch Basin #1. Applicant shall identify Catch Basin #1 on the Plan.
5. Greenspace calculation. Applicant shall provide a calculation of the percentage of greenspace on the site as a note on the Plan.
6. Landscaping. Applicant shall depict plantings of salt-tolerant plants and shrubs in the landscape buffer.
7. Excess snow removal. Applicant shall add a note to the Plan indicating that snow that cannot be stored on site shall be removed from the site.
8. Traffic flow. Applicant shall remove from the plan two (2) RV parking spaces – one from each side of the driveway -- to improve traffic flow around the Northeast and Southeast corners of the front of the building.
9. Propane filling station. Applicant shall secure Fire Department Approval for propane filling station shown on the Plan.
10. Parking space lines. Applicant shall remove old parking-space lines from the mylar.
11. Employee parking. Applicant shall clearly designate employee parking area on the plan.
12. Survey date. Applicant shall note on the Plan the date of the most recent survey that was provided by a licensed surveyor.

13. DES subsurface approval. Applicant shall add a note to the Plan that provides the number of the NH DES Subsurface Waste Disposal permit for the site.

Motion passed unanimously (7-0).

Mr. Todd moved and Dr. Arena seconded the motion to suspend the rule of not hearing any new cases after 9:30 PM and to continue until 11 PM.

Motion passed unanimously (7-0).

Case #03-45 -- Map/Lot #003-084-001: 178-A Lafayette Road, International Cars Ltd. c/o Wholey & Pelech, P.O. Box 395, Portsmouth, NH 03802-0395, Re-application for Site Plan Review for state dealer's license referencing Section XIII. Request waivers from (a) Site Plan Requirements Section X.F.(1) and (2) [RE: Stormwater Management] and Section XI (8) [RE: Special Flood Areas], requiring 100-year storm drainage study and as set forth in the ARC recommendations, (b) Site Plan Regulation Section VIII.B.(27) requiring building elevations and (c) Section IX.D.(2) of the Subdivision requirements requiring granite or concrete monuments.

Dennis Moulton, Millette, Sprague & Colwell informed the Board that the applicant had withdrawn.

Case #03-46 -- Map/Lot #001-135-000 and #005-001-000: 19 and 23 Willow Avenue, Thomas and Linda Walsh, 1000 Market Street, Portsmouth, NH 03801, Application for Lot line Revision.

Atty. Thomas Keane, Taylor & Keane, Portsmouth, NH, representing the Walsh's stated the applicants purchased the two (2) lots and it was their intention to convert the non-conforming lot (Lot #005-001-000) into a conforming lot. Atty. Keane indicated there is a view easement across this lot that would prevent any future building on a portion of the lot that is designated as a view easement. Atty. Keane referenced 406.2 because the applicant wants to move the lot line between the ownership of both lots. Discussion ensued whether the precepts of 406.2 apply to this application.

Mr. Kroner moved and Dr. Arena seconded the motion to accept jurisdiction that the application is complete.

Motion passed unanimously (7-0).

Mr. Todd noted that the RPC comment included notation for the two (2) new corners need granite boundaries. Mr. Todd questioned the driveway permit approval from the town. Mr. Wilson noted Mr. Strout approved the plan. Mr. Todd suggested that the Board should receive a copy of an approved driveway permit application.

Mr. Wilson opened the public hearing at 10:11 PM.

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

Mr. Wilson opened the floor to comments in opposition to the applicant. None were received.

Shirley Carter, Atlantic Avenue, questioned the driveway entrance. Mr. Keane said the driveway access would only be from Willow Avenue.
Public hearing portion closed at 10:15 PM.

Mr. Gould moved and Ms. Day seconded the motion to approve the application with the following 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. Driveway permit. Applicant shall secure and provide a driveway permit for the new driveway for Map/Lot #005-001-000.

Motion passed unanimously (7-0).

Case #03-47 -- Map/Lot #007-057-000: 27 Lafayette Road, Transaction Associates/Pandolfo Company, 721 Main Street, Suite 304, Waltham, MA 02451, Application for updated Site Plan Review to operate a Jiffy Lube center and Car Wash.

Dennis Moulton, Millette, Sprague & Colwell, representing the applicant stated than the plan for 27 Lafayette Road was approved in September of 2003. He stated that Pandolfo Company intended to construct the project in two (2) phases. Phase 1 includes the construction of a Jiffy Lube Center and septic system and all utility connections. Mr. Moulton noted that comments Roger Roy of MJS Engineering's review had recently been received. Mr. Moulton reviewed Mr. Roy's comments for the Board. Phase 2 Portion will be compacted crushed gravel but the landscape buffer for the remainder of the site will be completed.

Dr. Arena expressed concern that Jiffy Lube customers would drive over the crushed gravel as a shortcut through to Cedar Road. Joseph Pandolfo, Pandolfo Company, indicated he would install some form of barrier to discourage traffic flow through the compacted crushed stone area. Ms. Landman commented that there had been a previous issue of a drainage problem into the adjoining mini-mall (Seacoast Village) and wondered if a similar drainage problem would arise from this construction. Mr. Moulton assured the Board that the Phase I project would be constructed to eliminate or minimize any drainage issues onto the adjoining property.

Dr. Arena asked about the color for the Jiffy Lube. Mr. Wilson indicated the color was listed as "cranberry." Mr. Todd inquired about the office area change. Dr. Arena questioned the location of four (4) parking spaces. Mr. Pandolfo indicated that he is willing to abandon the parking spaces in lieu of a greenspace.

Dr. Arena moved and Mr. Gould seconded the motion to waive the 4 parking spaces at the north end and move the handicap spaces to the easterly location of the lot and turn this area into greenspace with the understanding that, if during Phase 2 the need arises, the 4 spaces can be reinstalled.

Motion passed unanimously (7-0).

Mr. Todd noted that Bob Strout said the entrance at Cedar Road must be constructed in such a manner that drainage is appropriate. Mr. Kroner commented that historically the area has been the subject of ice freeze-ups. Ms. Church asked what is the procedure for recording the plans in a phased project. Mr. Wilson indicated the applicant would provide an as-built plan.

Mrs. Carter asked what Phase II would encompass. She also asked why they want to maintain access from Cedar Road. Mr. Wilson indicated the property does not have entrance/exit access on Route 1. Entrance from the Route 1 area is accessed through an easement from the Seacoast Village property. Mr. Pandolfo indicated he is willing to temporarily close the Cedar Street access.

Mr. Gould moved and Ms. Day seconded the motion to approve the plan with the following conditions:

1. Recordable mylar. The applicant shall submit a recordable mylar of the approved plan with all required signatures and seals affixed.
2. As-Built Recordable mylar. The applicant shall submit a recordable mylar of the as-built plan after each phase of the project is completed with all required signatures and seals affixed.
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.
4. Performance guarantee. The applicant shall provide a performance guarantee in an amount and kind recommended by the Planning board and approved by the Board of Selectmen.
5. Closed drainage construction. Applicant shall add a note to the Plan indicating that all closed drainage on the site shall be constructed in Phase 1 of the Plan.
6. Utilities. Applicant shall add a note to the Plan indicating that all utilities (sewer, alterations to existing septic system, water, gas, electric) shall be constructed in Phase 1 of the Plan.
7. Stabilization of Phase II area. Applicant shall indicate on the Plan that areas outside of Phase I construction shall be stabilized with compacted gravel, except that the landscape buffer around the perimeter of the site shall be constructed in Phase I in its entirety.
8. Traffic barriers. Applicant shall indicate on the Plan that suitable temporary barriers shall be installed between Phase I and Phase II areas to prevent driving on the crushed gravel on Phase II areas of the site.
9. Vacuum stations. Applicant shall remove all vacuum stations depicted on the Plan.
10. Handicap parking. Applicant shall provide handicap parking spaces on the easterly side of the westerly access driveway on to the site, thus relocating them from the westerly side of that access driveway.

11. Elimination of four approved parking spaces. In conjunction with Condition 10 above, applicant shall eliminate parking spaces west of the westerly access driveway and replace those spaces with additional landscaping.
12. Cedar Road access. Applicant shall indicate on the Plan that proposed access to Cedar Road from the site is to become part of Phase II, subject to review and approval by the Fire Department.

Motion passed unanimously (7-0).

Mr. Wilson read from RSA about surety bonds/performance. The question arose that perhaps the Board of Selectmen do not need to be involved in the surety/bond process. Mr. Pandolfo indicated he prefers a Letter of Credit as a surety instrument.

Mr. Gould moved and Dr. Arena seconded the motion to establish a \$100,000.00 Irrevocable Letter of Credit at a local bank with terms acceptable by the town for Pandolfo Company/Jiffy Lube.

Motion passed unanimously (7-0).

Other Business

Performance Bond Review for Seacoast Harley Davidson

Mr. Gould moved and Dr. Arena seconded the motion to establish a \$42,600. Irrevocable Letter of Credit at a local bank with terms acceptable by the town for Seacoast Harley Davidson for \$42,600.00.

Mr. Wilson discussed the two letters previously requested by the Board to be written to the Board of Selectmen regarding (1) reinstatement of NHMA access and (2) Section 505.2 issues. Ms. Day commented that ten (10) weeks ago she asked for NHMA clarification regarding sexual harassment policy. She was disappointed she had not yet received an answer.

Mr. Gould asked to defer discussion on Mr. Wilson's letter about Section 505.2 and about the process during the next work session.

Mr. Fuller asked if he still has to go to the ZBA. Since he received the letter from the Conservation Commission he believed that he did not need a variance. Mr. Wilson commented that Mr. Fuller did not need a variance.

Mr. Fuller further requested that the hearing on his case be heard as soon as possible. He suggested that abutters could send a representative. He requested to be placed on the October 20, 2003 work session agenda stating that with the approaching seasonal change, the construction "window" is quickly narrowing. He asked the Board to accommodate his need. Mr. Gould suggested that the Board retain the special meeting as previously scheduled for October 28th.

The Board discussed their position on whether Mr. Fuller's waiver request for a topographical map would be favorably received. With the exception of Ms. Day who felt she did not have sufficient information to voice an opinion, the remaining members indicated they would probably favor granting the waiver.

Ms. Day moved and Dr. Arena seconded the motion to waive all fees except for abutter's fees for Mr. Fuller's re-application.

Motion passed unanimously (7-0).

Dr. Arena moved, and Mr. Todd seconded the motion, to adjourn.

Motion passed unanimously (7-0).

Adjourned at 11:36 PM

Respectfully submitted,

Krystina Deren Arrain
Recording Secretary