



Minutes

NORTH HAMPTON PLANNING BOARD Regular Meeting on February 3, 2004

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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.

Present: (1) Phil Wilson, Chair; (2) Ron Todd, Vice Chair; (3) Jenifer Landman, Selectperson; (4) Joseph Arena; (5) Don Gould; (6) Shep Kroner, (7) Judy Day.

In Attendance: (1) Laurel Pohl, Alternate; (2) Rick Place, Alternate; (3) Jill Robinson, Circuit Rider/RPC.

Absent: (1) Beth Church, Alternate; (2) Krystina Deren Arrain, Recording Secretary/Planning & Zoning Administrator.

Mr. Wilson called the meeting to order at 7:03 PM.

Mr. Wilson noted that, with the concurrence of the Board, there would be, as a result of applicants' requests, changes to the published agenda, as follows:

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. This is a continuation of the December 2, 2003 meeting.

Mr. Wilson noted that the applicant has requested a continuance until the March 2, 2004 meeting. Applicant has applied to the ZBA for a variance to create a backlot in their subdivision plan.

The request was granted without objection.

Case #04-02 -- Map/Lot #022-014-002: 229 Post Road, Francis & Karen McWilliams, 229 Post Road, North Hampton, Request for Subdivision to create two (2) lots from one (1) lot.

Mr. Wilson reported that the applicants have requested postponement of their application request until the March 2, 2004 meeting.

The request was granted without objection.

Case #04-03 -- Map/Lot #022-014-001: 223 Post Road, Nicholas & Emmanouella Birmbas, 223 Post Road, North Hampton, Request for Subdivision to create two (2) lots from one (1) lot. Attorney Bernard Pelech, representing the applicants, requested postponement of their application until the March 2, 2004 meeting.

The request was granted without objection.

Mr. Wilson indicated that two items thus remained on the agenda for active consideration and stated that he would aim at devoting two hours to Case #03-49 and the remaining time of the meeting (approximately one hour) to Case # 04-05.

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) retail store and site location preparation. This is a continuation of the January 6, 2004 meeting.

In attendance for applicant:

Atty. Bernie Pelech
Larry Morse, NH Soil Consultants
William Haskell, Gorrill-Palmer
Peter Hedrich, Gorrill-Palmer
Barry Hosmer, Landscape Architect
Richard Landry, Architect
John Corbett, W/S North Hampton Properties

Mr. Wilson stated that representatives of the applicant had consulted with the RPC Circuit Rider, the Town Engineer, and members of the Application Review Committee to reduce and consolidate the list of open items for the purpose of facilitating the review process at this meeting. He said that if there were no objection, he would lead the discussion by going through the list of open items in the February 2, 2004 memorandum from Mr. Todd, Chair of the ARC, item by item, except he would skip the traffic issue (Item 3) and return to it as the final item for deliberation. A copy of Mr. Todd's memorandum is attached for reference and incorporated into these minutes.

Issues Raised by the Application Review Committee.

Item 1. Security lighting on rear entrances of Marshall's building. As a condition of approval, applicant agreed to specify requisite light fixtures on final architectural elevations for the Marshall's building.

Item 2. Part V of "Storm Water Report." Applicant agreed to modify Part V and resubmit the "Storm Water Report," for the record, with language to describe the flow of storm water from the property to Little River Salt Marsh, as determined on the site walk with Mr. Kroner. Language to be inserted to replace the original language follows:

This stream which runs east along Atlantic Ave between Cedar Rd and Atlantic Ave, crossing beneath Pine Rd, near the Mill Rd end, then under Mill Rd into a 'Drinking Water Protection Area.' This then intersects property owned by the Aquarion Water Company. This water body feeds a large fresh water bog, and is the source of Niles Stream in Hampton, which feeds into the Old Lamprey Ice Pond on Woodland Rd. It is important that this be included in the plans because of the fact that while at the very end of its life, this area mixes with the greater Marsh made up of Little River.

Items 3 and 4. Traffic Study. Discussion of traffic issues was held till the end of the review of open issues. The Board's determination was that the issues were related to plans for developing the sites for Restaurant E and Retail Stores F and G, not to plans for developing Retail Store C (Marshall'). The applicant stated that approval for site preparation work on the sites for buildings E, F. and G was not being sought. Rather, the applicant was seeking approval only for construction of proposed Retail Store C.

Therefore, the Board concluded that at this time it was unnecessary to reach closure on open issues with respect to traffic, especially with respect to the point of ingress and egress to Parcel C (site of Retail Stores F and G). The applicant and the Board agreed that traffic issues, as described in Mr. Todd's memorandum of February 2, 2004, and any other traffic issues that arise, would be taken up when site plans for Restaurant E and Retail Stores F and G are presented for review.

Item 5. Landscaping damaged by snow storage and removal practices on Home Depot site. Applicant agreed that as a condition of approval, all damaged landscaping would be restored to conform to the approved plan for the site by July 31, 2004.

Item 6. Height of specified trees in landscape buffer along Lafayette Road. Without objection, the Board waived the requirement that trees in the buffer not exceed 20 feet in height. Reasons for granting the waiver were that no overhead utility lines exist in the buffer, and the purpose of the height requirement were to prevent problems with overhead lines in trees.

The Board and applicant also discussed the species of trees proposed in the landscaping plan. The consensus of the Board was that the applicant's proposed species were acceptable. Dr. Arena expressed concerns about the extent to which the proposed Ivory Silk tress would screen the retail stores behind them to the detriment of the businesses.

Item 7. Upward shining lighting on mall entrance sign. The applicant represented that the only upward shining lights at the mall entrance were to illuminate the flags at the entrance. The Board therefore agreed that no action was appropriate.

Item 8. Upward lighting on old portion of mall. Applicant agreed to a condition of approval that lighting on the older buildings of the mall that does not conform to the Town's current dark-sky standard would be replaced over the next 5-10 years as maintenance and repairs are conducted.

Item 9. Snow storage and removal. Applicant agreed to a condition of approval that would reiterate that, as in the plan approved for Phase I development of the Lafayette Crossing Mall, snow would be removed within 48 hours of each storm event and agreed to add the provision that snow would not be stored in landscaped areas.

Item 10-13. Parking lot design issues. The applicant presented revised plans for parking areas that removed a sufficient number of spaces along Lafayette Road to increase the landscape buffer on that border of the mall, as was discussed at the Board's prior meeting on this application. In weighing the relative merits of approving a plan with a total deficit of 53 parking spaces versus increasing the landscape buffer, the Board decided that increasing the landscape buffer was desirable and unlikely to cause significant parking problems in a site of this size.

Mr. Gould moved, and Dr. Arena seconded the motion, to accept proposed deficit of 53 parking spaces in aggregate for Parcels A, B, and C and to waive the requirement for 8-foot landscape buffers in the parking areas of Parcel B.

The motion was approved by unanimous vote (7-0).

The Board accepted the applicant's analysis of ADA parking spaces, while encouraging the applicant carefully to review the placement of those spaces for Restaurant E and Retail Stores F and G, when plans are presented to the Board for review of development of those sites.

Item 14. Water discharge at northwesterly corner of the site. When this item initially was discussed, the concerned abutter (owner of Al's Seafood Restaurant) was not present. Mr. Wilson recalled that Mr. Corbett had said that the abutter had been given papers that must be signed before the applicant could conduct the work on the abutter's property to restore the swale causing the problem. The abutter appeared later in the meeting and stated that his attorney had the documents and was reviewing them.

The abutter also questioned whether the new landscaping would block the visibility of his sign on Lafayette Road. After discussion, it was determined that it would not, but the applicant agreed to maintain the landscaping, including removing problematic plantings, if the sign were blocked.

Item 15. Cross-easements and snow storage. Applicant stated that provisions allowing snow storage in the easements were necessary and expressed the opinion that with the condition of approval noted above in Item 9 the concerns of the Board should be satisfied. The Board agreed.

Item 16. Opticom systems to improve safety on the site. As a condition of approval for the development of Retail Store C, the applicant agreed to provide five (5) Opticom systems for installation in Town-owned emergency vehicles.

Issues Raised by Ed Kelley, Town Engineer.

Items 1 and 2. Septic system design approval. Applicant stated that the development of proposed Retail Store C (Marshall's), the only question now on the table, does not require modification of the existing septic system and, therefore, that documentation of NH DES approval of the septic design that was been submitted for development of sites of Restaurant E and Retail Stores F and G is not necessary at this time. The Board agreed.

Item 3. Site construction costs and surety. Applicant proposed that the Planning Board accept an irrevocable letter of credit in the amount of \$300,000 as a performance guarantee. Mr. Gould noted that typically the Board of Selectmen prefers a letter of credit from a New Hampshire Bank. The Board decided that, in view of the recommendation of the Town Engineer and the applicant's proposal, an irrevocable letter of credit in the amount of \$300,000, preferably on a New Hampshire Bank, would be noted as a conditional of approval and recommended to the Board of Selectmen as surety for proposed development of the site of Retail Store C.

Item 4. Survey plans. The applicant agreed to a condition of approval requiring that plan sheets C102, C104A, and C104B, dated 23 December 2003 would be submitted in recordable form (mylars) stamped by a New Hampshire Professional Engineer and Land Surveyor.

Item 5. Waiver of certain site plan review requirements. The Board determined that the issue was moot because the waivers had been moved and granted at the prior meeting.

Issues Raised by Jill Robinson, Circuit Rider.

Item 1. Lighting plan indications of spillage onto abutting properties and Lafayette Road. The Planning board accepted the applicant's argument that spillage was minimal and not likely to be a nuisance or to present a safety hazard from glare either on to abutting commercial property to the south or on to Lafayette Road.

Item 2. Marshall's signage. The Board acknowledged that, under current Zoning Ordinance provisions, signage that does not conform to the Ordinance is a matter for the ZBA. The applicant indicated the intention to apply for a variance, as had been done for other component buildings in the mall.

Item 3. Traffic counters. Ms. Robinson elaborated her concern that counters should be operative and should, if possible, distinguish between automobile and truck traffic. It was noted that the NH DOT has stated that currently the counters that are installed are not functioning. After some discussion of current technology, the Board requested that the traffic engineer for the applicant research whether it is now technologically possible to have traffic counters permanently installed that distinguish between automobiles and trucks. The Board left this issue open for consideration with proposals for the development of Restaurant e and Retail Stores F and G. The applicant stated that, because Lafayette Road was recently repaved, it would be a minimum of five (5) years before new equipment could be installed.

Mr. Wilson opened the public hearing on the application at 8:45 PM

The proprietor of Al's Seafood, Inc., an abutter, raised issues noted above under "Issues Raised by the Application Review Committee," Item 14, and the Board responded as noted above under that item.

Mr. Wilson closed the public hearing at 8:56 PM.

Mr. Todd moved, and Dr. Arena seconded the motion, to conditionally approve the application for the development of retail Store C (Marshall's) on Parcel B of Phase III of the Lafayette Crossing Mall 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 Phase III 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 the amount of \$300,000.00 as an irrevocable letter of credit, preferably on a New Hampshire bank, recommended by the Planning Board and to be approved by the Board of Selectmen.
5. **Subsequent building plans (Buildings E, F, & G).** When submitted for site plan review, plans for buildings E, F, & G shall meet architectural standards for the Town of North Hampton.
6. **Snow removal.** Applicant agrees that, as previously agreed in Phase I site plan review, snow shall be removed within 48 hours of each storm event and, pending removal, shall not be stored in landscaped areas.
7. **Landscape plan.** Applicant shall add a note to the Landscape Plan (L101) stating that prior to 31 July 2004, all damage to existing landscaping on Parcel "A" shall be remedied and shall be restored to the condition in the approved site plan for Parcel "A".
8. **Landscape plan.** Applicant shall submit a revised landscape plan, based on the Board's waiver of certain parking requirements to increase the landscape buffer along Lafayette Road, that depicts modifications agreed during 3 February 2004 meeting.
9. **HVAC for Retail Store C.** Applicant shall depict HVAC equipment on the architectural elevations for Retail Store C with screening to eliminate visibility from parking areas.

10. **Rear entry lights for Retail Store C.** Applicant shall specify fixtures that conform to all applicable code and site plan requirements.
11. **Storm Water Report.** Applicant shall submit, for the record, a copy of the “Storm Water Report” with a revised “Part V” that states the findings of the site walk for this matter: “This stream which runs east along Atlantic Ave between Cedar Rd and Atlantic Ave, crossing beneath Pine Rd, near the Mill Rd end, then under Mill Rd into a ‘Drinking Water Protection Area.’ This then intersects property owned by the Aquarion Water Company. This water body feeds a large fresh water bog, and is the source of Niles Stream in Hampton, which feeds into the Old Lamprey Ice Pond on Woodland Rd. It is important that this be included in the plans because of the fact that while at the very end of its life, this area mixes with the greater Marsh made up of Little River.”
12. **Existing lighting replacement.** Over the next 5-10 years, applicant agrees to replace existing, upward light fixtures on the old portion of the mall with fixtures that conform to the dark-sky standard of the Town.
13. **Opticom systems.** With approval of the site plan for Retail Store C, applicant agrees to provide North Hampton Fire and Police Departments with five (5) Opticom systems for installation in fire and police vehicles in order to improve safety at this site.

The motion passed by unanimous vote (7-0).

Mr. Wilson recessed the meeting at 9:08 PM and called the meeting back to order at 9:15 PM. Ms. Landman excused herself from the meeting during the recess.

Case #04-05 -- Map/Lot #020-020-008, #020-020-009#020-020-011#021-021-001: 223 Lafayette Road, PD Associates, LLC, 5 Dartmouth Drive, Suite 101, Auburn, NH, Application for Design Review for “The Village of North Hampton –Residential Retirement Development.”

In attendance for applicant:

Atty. Bernie Pelech

Edward W. Huminick, Executive Vice President, CIF, Inc.

John Chagnon, PE, LLS, Ambit Engineering, Inc.

Mark C. West, Wetland Scientist, West Environmental, Inc.

Mr. Huminick presented an overview of the proposed development and went through the requirements of Section XII of the Subdivision Regulations to indicate where the proposed development meets the requirements and where there are questions.

Paragraphs A-D. The proposed subdivision meets requirements.

Paragraphs E-G. The proposed subdivision meets these requirements, except that E and G appear to be inconsistent. The Planning Board will have to provide guidance about whether the required setback from roads or rights-of-way is 30 feet or 15 feet. The applicant suggested that, perhaps, this was written to deal with differing requirements for corner lots, where the front setback would be 30 feet and the side setback 15 feet.

The applicant also requested clarification of rear setback requirements, because the regulations do not appear to provide a requirement.

Paragraphs H-N. The proposed subdivision satisfies these requirements.

Paragraph O. The subdivision plan proposes individual septic systems for each manufactured housing unit. The applicant explained that this design for sewage disposal was preferred for this subdivision because the soil is suitable, individual septic allows for easier identification, isolation, and repair of failures; and wetlands areas and topographical features of the site make a communal septic system less practical. At least three separate communal systems would have to be installed to serve the proposed dwelling units.

Mr. Gould noted that permitting individual septic systems in a manufactures housing development should be carefully considered because approval of the proposal might undermine the town's rationale for two-acre zoning. The Board noted that the proposed plan does not meet the requirement of Paragraph O.

Paragraphs P-T. Mr. Huminick indicated that the subdivision would satisfy these requirements.

Mr. Wilson asked whether the proposed subdivision met 100-foot setback requirements from wetlands. Ms. Day also asked whether the proposed subdivision met the 100-foot setback requirement from interior wetlands.

Mr. Chagnon and Mr. West presented information in response. The subdivision proposes a number of lots on which the setback requirement will not be met, and it also proposes wetlands crossings in at least two locations and filling "small pockets" of wetlands, each of which is approximately 225 square feet in size. In both instances of crossings, the wetlands are residual wetlands from prior excavation activities on the site, as are the "small pockets."

Mr. West stated that the applicant would present a detailed environmental impact statement with the formal proposal. He said that there would be an impact on the environment because the proposal is for an "intense" use of the land. However, he suggested that wetlands areas are deteriorating and that the proposal would include improvement of wetlands and habitat functions in areas of the subdivision.

Mr. Wilson polled the Board members for feedback to the applicant.

Mr. Kroner said that he needs more information about the installation of individual septic systems and also believes the Board needs to schedule a site walk for this project.

Ms. Robinson cautioned that the Board should be careful about assuming that manmade wetlands are less valuable than naturally occurring wetlands; both perform important environmental functions.

Mr. Gould said that he held “an open mind” about the septage proposal and agrees with Ms. Robinson about the wetlands.

Mr. Todd expressed concern about the timing of a site walk because it is difficult to assess many aspects of the site while snow covers the vegetation and ground.

Mr. Wilson said that, as he had stated in the initial discussion of this project, manufactured housing developments of this kind are attractive to North Hampton as a way to provide affordable housing to elderly residents. He asked whether similar developments were possible where occupancy was not restricted by age. Finally, he asked the applicant whether he was aware of the restrictions placed on manufactures housing developments that would have qualified as “workforce housing” under the recently failed SB 95.

Mr. Huminick answered that similar developments were possible for affordable housing without age restrictions and that he was not aware of SB 95.

Dr Arena moved to adjourn, and Mr. Todd seconded the motion.
The motion passed unanimously (6-0).

The meeting adjourned at 10:31 PM.

Respectfully submitted,

Phil Wilson, Chair
North Hampton Planning Board