



Minutes

NORTH HAMPTON PLANNING BOARD Work Session Monday, May 17, 2004

Page 1 of 5

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) Shep Kroner, Vice-Chairman; (2) Phil Wilson, Chairman; (3) Joseph Arena, (4) Judy Day, (5) Ron Todd; (6) Craig Salomon; (7) Beth Church, Alternate; (8) Jill Robinson, Circuit Rider/RPC; and (9) Krystina Deren Arrain, Planning & Zoning Administrator/Recording Secretary.

Members Absent: (1) Jon Rineman, Selectperson Representative; and (2) Laurel Pohl, Alternate.

Mr. Kroner chaired the meeting and called it into session at 7:04 PM. In an effort to better manage input from Board members, he suggested the following procedure. After the first person recognized to speak on an issue was completed, the individual to the left of the first speaker would be recognized to comment, and the procedure would follow a clockwise rotation until all members had the opportunity to comment. Further, Mr. Kroner remarked that Board members would have a final opportunity to comment, if desired. There was general agreement with members that this procedure should be tried.

Items Considered

Minutes from prior meetings

Minutes of the April 19, 2004 Work Session Meeting

Mr. Salomon moved and Dr. Arena seconded the motion to accept the minutes as amended. The vote was unanimous (6-0).

Minutes of the May 4, 2004 Regular Meeting

Mr. Wilson moved and Ms. Day seconded the motion to approve the minutes as amended. Vote was 6-0 with Mr. Salomon's vote excluded from minutes pertaining to Case #04-14 (179 Lafayette Road LLC/Philbrick's Sales and Service).

Minutes of the April 21, 2004 Site Walk

Mr. Wilson moved and Ms. Day seconded the motion to table minutes until the June 16, 2004 work session.

The vote was unanimous (6-0).

Capital Improvement Plan / Financial Advisory Committee [Phil Wilson]

Mr. Wilson explained that during the election process, Don Gould stated that he wanted the town to engage in Capital Planning and the Board of Selectmen [BOS] would begin that process. Mr. Wilson and Mr. Gould had discussed how to accomplish that goal. Mr. Wilson noted capital planning in so far as it involved municipal facilities was under the purview of the Planning Board. He was surprised when Mr. Gould publicly announced the makeup of the committee, before any action by the Planning Board, that would include representatives of the Board of Selectmen, Planning Board, Budget Committee, Library Trustees and other interested groups and individuals from the public at large. Mr. Wilson stated that Mr. Gould's announcement was not precisely what recalled that he and Mr. Gould discussed and felt that the committee should include a School Board member, Municipal Planning Committee, etc.

Mr. Wilson noted the Capital Improvement Plan [CIP] is an extension of the Master Plan [MP]. The CIP specifies the financial details in meeting the MP. Mr. Salomon observed that the CIP is not a long-range planning tool and should be based on reality, not a wish list. He added that the Board had to be careful about its jurisdiction in participating or leading this type of committee. Mr. Todd asked whether the proposed committee would be a sub-committee of the Planning Board or a sub-committee of the BOS. He suggested that the Board issue a statement defining the goal, purpose and authority of the committee. Ms. Robinson referenced NH RSA 675:4-a stating that the RSA clearly states that the BOS could set up such a committee if authorized by a town vote, otherwise it is within the Planning Board's purview. She reviewed components of the RSA in explanation to the Board. Dr. Arena said the CIP and the annual budget are closely connected.

Richard Goeselt, 23 Old Locke Road, remarked that the Planning Board was already doing the job and creating another committee would duplicate the effort. Emily Creighton, 32 Post Road, noted that she is interested in long-range planning, which for example, should include general maintenance. She observed that the town should become more involved with long-range planning.

Mr. Kroner agreed with the prior statement that the Board should issue a statement on the Board's position on this issue. He suggested that Mr. Wilson should contact the BOS and state the Board's position and begin a dialogue. Mr. Salomon said that the Planning Board's recommendation/s would emanate from the Financial Advisory Committee that would equate as the town's recommendation.

Mr. Wilson explained that the town has an undesignated fund balance and it is appropriate to use these funds to pay for town expenses. He added that the town collects more revenue in taxes than it expends and the remainder goes into the unexpended fund balance that the BOS manages. Mr. Wilson noted that Mr. Gould was interested in determining what would be the best method/process to manage the town assets [including property and the undesignated fund balance] for the benefit of the town. Mr. Wilson said the town needed to get a return on its investments and presently it was not clear if the town were receiving the best return on its investments. Ms. Day said that the expansion of the Municipal Complex Planning was not

included in the current Master Plan and this appeared to be a current, important issue. Dr. Arena remarked, "what does the town need and when does it need it."

Mr. Salomon suggested that Mr. Wilson write a letter to the BOS stating that the Planning Board has ultimate responsibility for the CIP, Long-Range Planning [LRP] and Master Plan and that the Planning Board would appreciate inputs and cooperation from the Board of Selectmen. Mr. Kroner said this issue is strictly political and creating a new committee [FAC] would add an unnecessary layer for what already exists. Mr. Todd noted it would be a duplication of efforts.

Mr. Todd moved and Ms. Day seconded the motion that the Board would authorize the Chairman to meet with the Board of Selectmen and clarify that it is the Board's intention and responsibility to evaluate the appropriate use of town assets in an update of the Master Plan and Capital Improvement Plan through its own subcommittee and that the Planning Board would welcome a member of the Board of Selectmen to the Planning Board subcommittee. Accordingly, there is no need for a redundant committee given the Planning Board's statutory authority.

The vote was 5-1 with Dr. Arena opposed.

The meeting adjourned at 9:20 PM

The meeting reconvened at 9:25 PM

Ms. Day moved and Mr. Todd seconded the motion to continue the meeting until 10 PM.

Vote was 5-0 with Mr. Wilson abstaining.

Discussion of possible rehearing request regarding Fuller/Cadillac Auto variance granted by ZBA on April 21, 2004

Mr. Todd explained that he listened to a copy of the tape of the ZBA session relating to the variance granted to the application for subdivision submitted by Cadillac of Boston for a parcel on Maple Road.. He distributed a summary of the case. Mr. Todd commented that the ZBA did not grant a variance for a backlot subdivision. The variance was granted for a reduced frontage from 175 feet to 40 feet. Mr. Todd reviewed his comments using his summary sheet that is listed below.

Summary of April 21, 2004 meeting where ZBA granted variance for frontage on lot 131-1, which as proposed, has 40 foot frontage versus the 175' required.

ZBA voted on each of the 5 elements of a variance. Comments relating to their votes are as follows:

- 1. **Variance cannot be contrary to public interest.** Board comments indicated that lot could have 169 feet of frontage but for the historic farm home. The total original parcel frontage of 876 feet split 5 ways would also provide for 175 feet of frontage. Did not make sense to require applicant to remove historic farmhouse.*
- 2. **Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship.***
 - A. Would not be against public interest given the rural, low traffic nature of Maple*

Road. Destruction of historic property is not a goal of the Master Plan.

B. Uniqueness of property, age of barn and farm home; 1700's

C. Affect on Dowd's property would be minimal.

3. ***Variance is consistent with the spirit of the ordinance.*** *Will not pose significant traffic issues.*
4. ***Substantial justice is done.*** *The resulting lot would be a good buildable lot. Home site will be able to meet setback requirements.*
5. ***Variance will not diminish value of surrounding properties.*** *Board does not believe Dowd's property value will be diminished.*

Mr. Salomon raised the following four (4) points:

1. Referencing NH RSA 677:2, Mr. Salomon noted that by statute the Planning Board is precluded from requesting a rehearing. He observed that only the (a) Board of Selectmen, (b) Individuals directly affected and (c) Applicant could request a rehearing.
2. Mr. Salomon stated that when independent town boards engage each other in this type of controversy, the town pays the cost of the controversy with the taxpayers ultimately paying the costs.
3. Mr. Salomon commented that it was the purview of the ZBA to act on the variance request and as an independent board, like the Planning Board, the ZBA's independence, responsibilities and duties should be respected and maintained.
4. Lastly, Mr. Salomon expressed concern that if court action resulted in this controversy, he doubted that the Planning Board would receive a favorable ruling.

Mr. Wilson remarked that the Board still had the responsibility to review the subdivision application and approval would be contingent on all subdivision regulations being met. Atty. Christopher Boldt stated that as long as the applicant met all the subdivision requirements, the Board could not deny the application. Mr. Salomon noted that the ex parte discussion between Mr. Wilson and Atty. Boldt was inappropriate. Mr. Todd noted that the ZBA could not override the Board's subdivision regulations.

Ms. Day moved and Mr. Wilson seconded the motion that the Board would not appeal the ZBA ruling on the Fuller/Cadillac Auto variance of April 21, 2004.

Mr. Kroner remarked that once a variance is granted it establishes a precedent. Mr. Todd added that certain ordinances should/could carry a provision that variances could not be granted. He suggested that such a provision could circumvent the ZBA issuing variances in certain situations. Atty. Boldt said conditions could be specified for "special exceptions."

The vote was unanimous (6-0).

Smart Growth Audit [J. Robinson/RPC Circuit Rider]

Ms. Day stated that the Long Range Planning Committee, at the time, recommended to not conduct a Smart Growth Audit. Various reasons were given. Ms. Robinson said it is a bottom-up procedure, not a top-down process, in which the Board would review the town goals and determine what would be the best action to pursue in terms of an audit or survey.

Ms. Robinson recommended visiting the website she cited in the literature she distributed previously. She advised the need to review the process to determine if it was good for the town. Ms. Robinson distributed a model smart growth plan designed by the Town of Pembroke.

Aquifer Protection Ordinance – Aquarion Letter [Phil Wilson & Shep Kroner]

Mr. Kroner noted that Aquarion distributed copies of an Aquifer Protection Ordinance and commented that Ms. Arrain would distribute copies for Board members for June 21, 2004 work session. Mr. Kroner commented that Aquarion indicated they were interested in attending meetings in support of developing an effective aquifer protection ordinance.

Adjournment

Dr. Arena moved and Mr. Salomon seconded the motion to adjourn.
The vote was unanimous (6-0).

The meeting adjourned at 10:00 PM.

Respectfully submitted,

Krystina Deren Arrain
Recording Secretary/Planning & Zoning Administrator