



Minutes

NORTH HAMPTON PLANNING BOARD Regular Meeting on June 1, 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) Shep Kroner, Vice Chair; (3) Ron Todd; (4) Joseph Arena; (5) Craig Salomon, (6) Judy Day (7) Jon Rineman, Selectman.

Alternates Present: (1) Beth Church.

Members Absent: (1) Laurel Pohl, Alternate.

In Attendance: (1) Jill Robinson, Circuit Rider/RPC, (2) Krystina Deren Arrain, Recording Secretary/Planning & Zoning Administrator.

Chairman Wilson convened the meeting at 7:03 PM.

New Business

Case #04-09 -- Map/Lot #007-119-000: 60 Lafayette Road, Glenn's Automotive Plus, 60 Lafayette Road, North Hampton, NH 03862. Application for Site Plan Review for Auto Service, Auto Parts Sales and Auto Sales. Applicant has requested waivers for the following: (1) NH Wetlands Permit, (2) Traffic Impact Analysis, (3) Water courses and ponds, (4) Wetlands and buffers, (5) 100-year flood elevations, (6) Rock ledges, (7) Existing and proposed culvert piping, (8) 100-year storm drainage control plan, (9) Existing and proposed street lighting, (10) Existing and proposed loading docks, (11) NH WSPCD septic system design permit, (12) Soil erosion and sedimentation plan, (13) Review by Town Engineer. This session is a postponement from the May 4, 2004 meeting.

Mr. Wilson noted that the applicant requested another postponement. No motion was initiated and as a result, the application was tabled and no further action will be taken. The applicant would have to re-apply to begin the process.

Case #04-16 -- Map/Lot #020-008/009/011-000 and 021-001-000: 223 Lafayette Road, P. D. Associates, LLC, 5 Dartmouth Drive, Suite #101, Auburn, NH 03032. (1) Subdivision Application to create 68 lots for the creation of a manufactured home retirement community. Applicant requests a waiver to Section XII. O. to permit placement of unit septic systems on the individual unit sites. (2) Voluntary Lot Merger Request to consolidate the aforementioned four (4) lots. This session is a continuation of the May 19, 2004 meeting.

Mr. Wilson remarked that the case would be heard on June 23, 2004 at a special meeting.

Old Business

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 session is a continuation of the May 4, 2004 meeting.

Mr. Wilson recused himself.

Dr. Arena recused himself.

Mr. Kroner assumed the chair for the Board's consideration of the application.

Ms. Church was seated for Dr. Arena.

[The Board was reduced to five (5) members at this point in time.]

Mr. Kroner provided a brief summary of the case. Atty. Christopher Boldt, representing the applicant, stated that the applicant had reached an agreement with his neighbors, the Dowds over outstanding issues. Atty. Boldt submitted a copy of the agreement letter addressed to Mr. Wilson. Atty. Boldt added that the Town Engineer and Highway Dept reached an agreement on the solution for the water drainage issue. The proposed solution would prevent the flooding problem discussed at the May 4, 2004 meeting. Jonathan Ring, Jones and Beach Engineering, explained the solution for the drainage issue in detail. He said he received the Town Engineer's, RPC Circuit Rider's and ARC's comments and responded to them with the updated June 1, 2004 plans and letter that were distributed the same day.

Mr. Salomon inquired about who would maintain the swale and other elements of the proposed resolution of the structures issue. Mr. Ring responded that the Town would assume responsibility for maintaining the drainage solution and Bob Strout, Highway Dept. Manager would oversee that maintenance. Ms. Arrain stated that Mr. Strout had verbally confirmed to her that the two-culvert drainage solution was acceptable to him and he would submit a written statement within a few days. Mr. Kroner voiced his concern about the impact on the Little River Water Shed from chemicals used in lawn/garden maintenance. Mr. Ring stated that he knew of no requirements regarding the concern he raised.

Mr. Todd arrived at 7:18 PM and was seated. *[The Board increased to six (6) members at this point in time.]*

Mr. Todd noted that when he had a conversation with the Town Engineer earlier in the day, he was under the impression that the situation was unresolved. Mr. Todd stated that without a written record he was hesitant to accept Mr. Ring's assessment. He reiterated his concern that receiving last minute information is unfair to the Board and difficult to process adequately. Mr. Salomon said that he felt with the evidence given and the verbal statements, Mr. Todd's concern could be addressed as conditions of approval. Ms. Day stated that unless she received the town

engineer's review, she would be hesitant to vote on the case. She stated that she did not feel the condition of the town engineer's report was administrative.

Atty. Boldt indicated that some of issues were minor and they should not delay approval of the very simple, five-lot subdivision. He suggested adding any outstanding issues as conditions of approval, not as reason to continue the application longer than the many months it has taken to date. Mr. Salomon stated the case could continue onto the June 2, 2004 meeting, but he felt that the drainage issue is the only major issue and the Board could address this issue as a condition of approval without any other substantive issues.

Mr. Kroner opened the public hearing at 7:41 PM.

Sandra Woodworth, 19 Maple Road, questioned the process and expressed frustration about the fact that the Board seemed hesitant to act on the case. She requested that the Board take a few minutes and review the materials submitted so they could move ahead. Ms. Robinson/RPC noted that administrative items could become conditions of approval.

Mr. Kroner closed the public hearing at 7:47 PM.

Ms. Church moved and Mr. Salomon seconded the motion to approve the application on condition that the Board:

- 1. Receive confirmation from the Town Engineer that the issues raised in his May 26, 2004 memo have been satisfactorily resolved as displayed on the applicant's June 1, 2004 plans.**
- 2. A soil scientist's seal is added on the recordable mylar**
- 3. A Certificate of Monumentation is provided by the applicant**
- 4. A note is added to the plan regarding the SWPPP as referenced by Ed Kelly [Town Engineer/KNA] in his May 11, 2004 memo with confirmation from Mr. Kelly that the plan note satisfied his concern.**
- 5. A recordable Mylar is submitted by the applicant.**

Mr. Ring reviewed the contents of his June 1, 2004 memo for the Board going through each item. Discussion ensued about town departments and Conservation Commission approvals. Ms. Arrain noted that the Conservation Commission and Tax Assessor had not returned their review form. Atty. Boldt and Mr. Ring noted that Conservation Commission usually responds if there are issues and do not respond if no issues exist. Discussion ensued about replacing existing iron rods with granite bounds. Mr. Todd stated that town ordinance mandates granite bounds. Ms. Robinson stated that existing boundaries remain undisturbed and new lot boundaries follow town ordinance. Mr. Salomon noted that it is illegal to remove an existing legal boundary marker.

The vote was 5-1-0 with Ms. Day opposed.

Atty. Boldt wanted confirmation that the construction of the drainage structure would be the designated, active and substantial development time period as stated in NH RSA 674:39. He

added that the applicant did not know when the lots would be sold and requested an extension of the one-year time limit. Mr. Salomon remarked that he preferred that the drainage solution be completed immediately. The construction for the drainage solution must be started within the year timeframe.

Mr. Salomon moved and Ms. Church seconded the motion that for purposes of the Cadillac Auto subdivision “active and substantial development” shall mean “commencement of construction of the drainage structure as shown on Plan C3 within 12 months and completion within 18 months from the date the plan Mylar is signed.”

The vote was 5-0-1 with Ms. Day abstaining.

Ms. Church retired from the Board.

Dr. Arena was reseated.

Mr. Kroner retired from the Chair.

Mr. Wilson was reseated and assumed the Chair.

The meeting recessed at 8:40 PM.

The meeting reconvened at 8:45 PM.

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. This session is a postponement from the May 4, 2004 meeting.

Atty. Bernard Pelech represented the applicants. He commented that the application had been continued for a number of months and added that a site walk was conducted during the winter. Atty. Pelech referenced the 1994 plan [D-22916] approval that noted the drainage requirement. He added that the current Conservation Commission requested additional requirements that did not exist at the 1994 Board approval. The Conservation Commission also asked for a pervious driveway whereas the original approval in June 1994 did not stipulate a pervious driveway. Atty. Pelech commented that the applicant was willing to meet some of the Conservation Commission's requests. He added that the applicant had provided all the information the Planning Board required.

Reuben Hull, Civil Design Consultants, performed the drainage analysis. He displayed and explained the Birmbas and McWilliams lot structure and explained that a ridgeline divides an eastward flow of run off toward I-95 and a westward flow toward Post Road. The Birmbas roof drains and any new home roof drains would be redirected to the easterly side of the ridgeline and thus toward the drainage collection system adjacent to I-95.

Mr. Wilson referred to the June 1996 approval minutes re-stating the concerns of the abutters about drainage issues and permeable vs. impermeable surfaces. Mr. Hull expressed his opinion that a gravel driveway is almost equivalent to a paved driveway. He stated that the assumptions

used in drainage models for absorption rates in asphalt and gravel driveways are only marginally different, with gravel driveways being only slightly more permeable. Gravel driveways, as they become compacted surfaces, act almost the same as paved driveways. Mr. Hull stated there are other driveway materials that could be used that would allow some permeability, such as honeycombed, concrete driveway pavers. He stated that changing roof drains and re-directing water from them is an easier solution. Redirecting driveway overflow is very difficult because it goes against the natural grade of the land.

Ms. Day moved and Ms. Salomon seconded the motion to accept the application as complete.

The vote was unanimous (7-0).

Mr. Todd asked the applicant to address the January 26, 2004 Conservation Commission minutes. Atty. Pelech stated that the roof drains would be directed to rear of the lot and to the easterly side of the ridgeline. He emphasized that the applicant cannot re-grade the current lot. Atty. Pelech commented that no new culverts would be installed. He added that only trees necessary for construction and a cleared area for a yard would be felled. Atty. Pelech noted that the applicant would install as impervious a driveway as possible. Mr. Todd requested that the ridgeline would be clearly depicted on the site plan. Atty. Pelech stated that driveways would drain toward Post Road.

Mr. Wilson opened the meeting to public comment at 9:38 PM.

Francis McWilliams supported the applicant and asked the Board to approve the application. As there were no further comments, Mr. Wilson closed the public hearing at 9:39 PM.

Ms. Robinson/RPC noted that a silt fence was planned for the westward flow, but commented that there was not a silt fence for the eastward flow. Mr. Hull said it would be a good idea for silt fences to be installed in both directional flows.

Ms. Day moved and Dr. Arena seconded the motion to approve the application with the following conditions:

Conditions of Approval

- 1. Applicant shall emend Note 20 on Sheet 2 so that it is identical with and matches Note 20 on Sheet 1. These notes shall indicate that drainage from all existing structures, as well as all new structures, shall be directed toward the rear of the parcel and into subcatchment 2S as delineated on the project drainage report submitted with the application.**
- 2. NH DES Septic Approval. Applicant shall provide in a note on the plan the number of the NH DES Subsurface Waste Disposal permit for proposed lot 14-3 and shall provide a copy of the approval notice.**
- 3. Monumentation. Applicant shall install and depict on the plan monumentation of the northerly lot line in compliance with Section IX,D.3 of the Subdivision Regulations.**

4. **Certificate of Monumentation.** The applicant shall provide a Certificate of Monumentation, stamped and signed by a NH LLS certifying that all monuments depicted on the plan have been properly set.
5. Applicant shall add a note to the plan stating that only gravel driveways without culverts shall be installed for any new construction on either lot in the subdivision.
6. Applicant shall depict on the plan the ridgeline separating subcatchments 1S and 2S depicted in the drainage report for the subdivision prepared by Civil Design Engineering, LLC, dated May 2004.
7. Applicant shall add a note to the plan stating that during construction silt fences shall be installed and maintained along the "limit of tree cutting," as delineated on the plan.
8. Applicant shall add a note to the plan stating that before a building permit shall be issued for any new construction, approved modifications of drainage on existing structures shall be completed.
9. **Recordable Mylar.** The applicant shall submit a recordable Mylar of the approved plan with all required signatures and seals affixed.
10. Applicant shall add a note to the plan stating that permanent markers to indicate the "limit of tree cutting" shall be installed and such markers shall be depicted on the plan.

The vote was unanimous (7-0).

Case #04-13 -- Map/Lot #003-080-000: 9 Lafayette Road, Halil and Melissa Ozkurt, 25 Spruce Lane, Stratham, NH 03885. Change of Use Application to operate a Subway restaurant at a facility that was formerly approved for retail use. This session is a continuation of the May 4, 2004 meeting.

Atty. Pelech, representing the applicant, stated that per the Board's request the most recent approved plan for the entire site was submitted with the application. He commented that the parking issue created for the site by the applicant's restaurant's requiring four more spaces than foreseen in the approved site plan would soon be resolved because a proposed adjoining tenant would be a warehouse facility that would not need as many parking spaces as were required for the retail space contemplated in the approved site plan. Atty. Pelech said the applicant would approve a plan note added to the site plan commenting on the shortage of parking spaces. Discussion ensued about signage details. Atty. Pelech remarked that the signage was not fully agreed upon and noted that changes could occur before the anticipated September 2004 opening.

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

1. A note shall be added to the plan specifying that parking requirements for additional occupants of this site may be limited due to the additional four spaces that are required for this use.
2. A note shall be added to the plan stating that site drainage improvements shall be completed before application is made for a Certificate of Occupancy (COO).

3. A note shall be added to the plan stating that signage installed shall be externally lighted and in compliance with the dark sky standard, shall not exceed 24 square feet in total, and shall be of the size, design and color scheme presented with the application.

The vote was 6-0-1 with Mr. Salomon abstaining because he did not want to vote on a motion that specified a color scheme that an applicant was required to use.

Ms. Day moved and Mr. Rineman seconded the motion to continue the meeting until completion.

The vote was unanimous (7-0).

Case #04-14 -- Map/Lot #017-096-000: 179 Lafayette Road, One Seventy Nine Lafayette Realty, LLC, 179 Lafayette Road, North Hampton, NH 03862. Site Plan Review Application to construct a warehouse for outdoor power equipment sales. Applicant requests the following waivers: (1) Section VII. D. 3. High Intensity Soil Mapping, (2) Section IX. B. 1. Traffic Impact Analysis, (3) Section X. F. 3. b. 2) Building Material, (4) Section X. A. 1. NH-DOT Driveway Permit, (5) Section XIV. B. As-Built Plans, (6) Section X. H. Septic System Design. This session is a continuation of the May 4, 2004 meeting.

Mr. Salomon recused himself. [The Board numbered 6 members.]

Applicant Presentation Group

Dana Lynch, Civilworks Engineering

Kevin McEneaney, McEneaney Survey

Rick Philbrick, Philbrick's Principal;

Tom Smith, Philbrick's Special Projects Manager

Mr. Lynch remarked that he attended an ARC meeting on May 11, 2004 and received their responses on May 17, 2004. He stated it was a very productive meeting. Mr. Lynch believed that the applicant had met all the requirements. He noted that the applicant requested six (6) waivers.

Mr. Wilson opened the public hearing at 10:24 PM.

No members of the audience expressed a desire to speak to the application. Mr. Wilson therefore closed the public hearing at 10:25 PM.

Ms. Day moved and Mr. Todd seconded the motion to approve Waivers 1, 2, 4, 5 and 6.

The vote was unanimous (6-0).

Regarding Waiver #3, Mr. Wilson remarked that (1) the proposed building was setback a significant distance from the road, (2) was screened from the road by another building and (3) as a storage building, would not be used for any retail purpose. These circumstances reflect the

kinds of conditions the board contemplated as reasons to waive certain architectural standards, such as the one in question, when the standards were being developed.

Ms. Day moved and Dr. Arena seconded the motion to approve Waiver #3 for Architectural Standard Section X.F.3.b.2.

The vote was unanimous to approve the motion (6-0).

Mr. Todd moved and Dr. Arena seconded the motion to accept jurisdiction for the application.

The vote was unanimous to approve the motion (6-0).

Mr. Lynch questioned the need for a performance bond. He suggested that the applicant would pay for engineering review of the construction. Mr. Lynch noted that the applicant will also complete all drainage and landscaping before application for an occupancy permit.

Mr. Todd moved and Dr. Arena seconded the motion to approve the application with the following three (3) conditions:

- 1. NH DES Septic Approval. Applicant shall add a note to the plan that provides the number of the NH DES Subsurface Waste Disposal permit for the site and shall provide a copy of the approval notice.**
- 2. Applicant shall add a note to the plan stating that: “Prior to any earthmoving activities, the Town Engineer shall inspect erosion and sediment control measures and shall again inspect them within 90 days after the conclusion of the project to ensure that sedimentation control measures are properly removed.”**
- 3. Recordable Mylar. The applicant shall submit a recordable Mylar of the approved plan with all required signatures and seals affixed.**

The vote was unanimous (6-0).

When Mr. Salomon was re-seated the Board returned to seven (7) members.

Case #04-15 -- Map/Lot #007-059-000: 51 Lafayette Road, Al’s Seafood, 51 Lafayette Road, North Hampton, NH 03862. Site Plan Review Application to enclose an existing canopy. Applicant requests a site walk prior to the May 4, 2004 meeting. This session is a continuation of the May 4, 2004 meeting.

[For the record it is noted that all members of the public, except the applicant and his representatives, had left the audience at this point in the meeting. Therefore, no formal public hearing was opened or closed on ensuing matters normally requiring a formal public hearing.]

Mr. Wilson remarked that jurisdiction was accepted at the May 4, 2004 meeting. Waivers for landscaping and drainage study were pending. Mr. Wilson reviewed the outstanding issues. Mr. Todd asked for clarification on the dimensions and particulars of the handicap/van accessible parking area. During the ensuing discussion, it was suggested that the Board waive one parking space for the purpose of creating a safe allowance for the handicap van accessible space. Dr. Arena expressed his concern that the exit area must be free and clear of any obstacles. Extensive discussion on potential solutions ensued.

Ms. Day moved and Dr. Arena seconded the motion that the Board grants relief from the parking requirements for one space in order to allow the applicant to provide one ADA-compliant space that is aligned with the southern side of the building and preserves an 8-foot wide aisle at the front of the building.

The vote was unanimous (7-0).

Mr. Salomon moved and Dr. Arena seconded the motion to approve the drainage study waiver request.

John Chagnon, Ambit Engineering, reviewed Mr. Kelly's comments in his May 26, 2004 memo. Mr. Chagnon felt building a 109-ft berm was unnecessary and excessively costly for the applicant. Mr. Chagnon indicated that the applicant's site had received a previous Board's approval. Mr. Todd noted that a problem existed and the best resolution would be either a berm or a swale, as suggested by the Building Inspector. Mr. Salomon inquired whether the suggested remediation would, in fact, solve the abutter's concerns. Mr. Chagnon suggested re-directing the roof drainage to a catch basin in the easterly direction away from the abutter's location.

Mr. Courchene expressed frustration that he had attempted to address the Board's concerns; yet, multiple to-do lists had besieged him. He emphasized that the delay was costing him lost revenue and lost business opportunities. Mr. Wilson indicated that he believed it was not Mr. Courchene's responsibility to completely remedy his abutter's drainage and water runoff issue because the problem was only partly the result of modifications to the site that the applicant had made. Much of the problem was the result of preexisting natural conditions and previous development of this site and sites to the south of it along Route 1. Mr. Chagnon suggested a 90 foot berm in an easterly direction from the proposed catch basin alongside the gazebo's concrete pad that would re-direct water flow.

The proposed amendment to their motion – that is, requiring the applicant to construct a small berm [10-12" high" and 20-24" wide extending 90 feet] from the catch basin in an easterly direction -- was accepted by Mr. Salomon and Dr. Arena.

The vote was unanimous (7-0).

Dr. Arena moved and Mr. Kroner seconded the motion to waive the requirement for a landscaping plan.

The vote was unanimous (7-0).

Ms. Robinson questioned whether the architectural design met the architectural standards. The applicant stated that the submitted design was in keeping with the existing structure.

Ms. Day moved and Dr. Arena seconded the motion to waive the requirement for full-scale architectural plans because the building design was in keeping with the rural New England character of the Town.

The vote was unanimous (7-0).

Mr. Todd noted that a letter from Aquarion was needed stating that the applicant had approval for water service for a 55-seat restaurant. Mr. Chagnon suggested that the requirement be made a condition of approval. Mr. Todd also raised the issue of the snow storage area. Mr. Chagnon said that there was enough space on the applicant's property for sufficient snow storage. Mr. Wilson suggested adding a note on the plan stating that excessive snow would be removed from the property as the need arose. Mr. Todd requested a copy of the approved DES Septic Permit.

Mr. Todd moved and Mr. Rineman seconded the motion to waive the landscape buffer demarcation on the plan.

The vote was unanimous (7-0) to waive the landscape buffer demarcation on the plan.

Dr. Arena moved and Ms. Day seconded the motion to approve the application with conditions.

List of Conditions:

- 1. Recordable Mylar.** The applicant shall submit a recordable Mylar of the approved plan with all required signatures and seals affixed.
- 2. Applicant shall depict on the plan a berm to be constructed that is 10-12 inches high and 20-24 inches wide extending 90 feet from the proposed catch basin in an easterly direction.**
- 3. Applicant shall depict on the plan the NW corner of the parcel by "tying" the correct corner location to the existing pipe.**
- 4. Applicant shall provide a copy of the letter from Aquarion Water Company (or its predecessor) indicating water service approval for a restaurant with 55-seats.**
- 5. Applicant shall add a note to the plan stating that the existing gravel parking area shall not be paved.**
- 6. Applicant shall depict on the plan the reconfiguration of the proposed ADA-compliant handicapped parking space as noted in the waiver of one required parking space that was approved for this site. (The ADA compliant space shall be located at the southwesterly corner of the existing fish-market facility with the loading lane aligned with the entrance of that building so as to provide both for loading and unloading of wheelchair-bound patrons and a walkway from the parking area to the front entrance.)**
- 7. NH DES Septic Permit.** Applicant shall add a note to the plan that provides the number of the NH DES Subsurface Waste Disposal permit for the site and shall provide a copy of the approval notice.

8. Applicant shall add a note to the plan stating that snow will be removed from the property if storage space provided on the site is inadequate.
9. Applicant shall change Note 6 on Sheet C2 to indicate that dumpster service shall be provided twice weekly from June 1st to September 15th.
10. Applicant shall add a note to the plan stating that any new lighting installed on the site shall comply with the “dark-sky” standard of North Hampton’s Site Plan Review Regulations.

The vote was unanimous (7-0) to approve the plan with conditions.

Adjournment

Dr. Arena moved and Mr. Kroner seconded the motion to adjourn.

The vote was unanimous (7-0).

The meeting adjourned at 12:06 AM.

Respectfully submitted,

Krystina Deren Arrain
Recording Secretary/Planning & Zoning Administrator