



Minutes

NORTH HAMPTON PLANNING BOARD Special Meeting on May 19, 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.

Alternates Present: None

Members Absent: (1) Jon Rineman, Selectman Representative, (2) Beth Church, Alternate. (3) Laurel Pohl, Alternate. (4) Krystina Deren Arrain, Planning and Zoning Administrator.

In Attendance: (1) Jill Robinson, Circuit Rider/RPC, (2) Jeffery Clifford - Pro Tem Town Engineer, Altus Engineers, (3) Barbara Smith, recording secretary *pro tem*.

Chairman Wilson convened the meeting at 4:02 PM outlining the old business.

I. Old Business

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. (a) Subdivision Application to create 68 lots for the creation of a manufactured home retirement community. (b) Applicant requests a waiver to Section XII. O. To permit placement of unit septic systems on the individual unit sites. (c) Voluntary Lot Merger Request to consolidate the aforementioned four (4) lots and (d) Conditional Use Permit to fill in excess of 3,000 square feet for road construction.

Chairman Wilson introduced a colleague from Rye, Mr. Bob Brown, from Rye Planning Board, 10 Central Road, Rye NH 03813.

Chairman Wilson noted that due to the number of business items initially on the agenda for the 1 June meeting, he and Vice Chairman Kroner had decided to exercise their discretion to follow the meeting schedule below:

- 06/01/04 – (7 old items)
- 06/02/04 – (4 new items)

Because today's item is also scheduled for further consideration on 1 June, Chairman Wilson suggested that the board schedule another special meeting solely for consideration of this application and remove it from the 1 June agenda.

Chairman Wilson noted the complexity of the application and stated that both Jill Robnison, acting as a Town Planner, and Jeffery Clifford, acting as *pro tem* Town Engineer, had an opportunity to review some concerns with the applicant.

Chairman Wilson stated to the board that at a minimum in today's session he would like to decide:

Whether or not to accept jurisdiction on the basis of the materials we have at hand, and Agree on the best way to facilitate the next meeting.

Chairman Wilson noted that the following items are pending prior to the question of acceptance of jurisdiction:

- a.) Will the board waive the existing septic requirement, or require applicant to meet the stated requirement?

The town ordinance calls for a communal septic systems for manufactured housing parks, applicant's original plan calls for separate septic systems. Because the applicant has submitted an alternative plan, which satisfies the requirements of the board, it appears sufficient information is available to take jurisdiction but a decision must be made.

- b.) Will the board waive or expect the applicant to meet the requirement with respect to the 100-year storm run off event, and also perhaps the 50-year storm event? The drainage study submitted showed that in the event of the 100-year storm event there was an increase in run off from the site. Requirements state that development of the site must not increase the rate of run off.

After brief discussion, John Chagnon, of AMBIT Engineering Inc, 801 Islington St, Portsmouth NH, 03801 noted to the board that a waiver for the run off event is no longer required. Mr. Chagnon stated that after further review of the model used for the initial plan it was determined the run off event would not cause an off site increase. Mr. Chagnon noted that there are some changes required to the model they used, and as a result of that change they will meet the existing requirements, eliminating the need for a waiver.

Chairman Wilson noted, and Mr. Chagnon agreed that the board does not have to decide the run off waiver as an issue now.

- c.) The cul-de-sac issues:

- 1) Is a waiver required for a private road, as proposed, vs. only for a road for which the Town will eventually accept ownership?

- 2) If so does the town's requirement that a dead-end road end with a buildable lot in the middle of a turn around apply to a private road in a development?
 - 3) Chief Lambert has written a letter and in it has raised certain issues that can be addressed in the review stage.
- d.) Will the board grant the conditional use permit for roadways crossing wetlands?

Chairman Wilson noted that there are additionally a number of items -- both simple modifications, as well as items that may eventually become conditions of approval --, which the applicant has agreed to at the request of the board and acting town officials. Those changes should be reflected in the plans submitted by the applicant prior to the next meeting. He then invited board comments.

Ron Todd expressed concerns over the size of the project, as it is larger than the norm for the town and wanted to make certain that the board does not feel great pressure to start the clock on approval.

Joe Arena stressed that this project, because it is large for the town, will set a precedent for future like projects in the town planning process. Mr. Arena also expressed concerns over the impact of the increased population to the town and voting community.

Related to the garages, Mr. Todd had asked Elmer Pease, of PD Associates, 5 Dartmouth Drive, Auburn NH 03032, and Chairman Wilson whether or not we had an ordinance that allowed or disallowed the "stick-built" garages in a manufactured housing park? Mr. Pease had replied he had never seen any ordinance or state regulation that directly addresses "stick-built" garages attached to manufactured homes. Chairman Wilson had previously replied that it was up to the board to translate their own ordinances, and he saw none related to this issue. Mr. Todd also saw none.

With regard to the question whether a regional impact study were required, Mr. Pease stated that there is no regional impact in view of applicable law, nullifying the need for a regional impact study. Chairman Wilson wanted an opportunity to revisit the need for the study after deciding whether or not to accept jurisdiction. Chairman Wilson interpreted the law to indicate that a study may be required because the property abuts the town of Rye.

It was agreed to discuss in detail the issue of the "cul-de-sac," and Chairman Wilson shared concerns of Chief Tom Lambert:

- Naming of property
- Lack of roadway dimensions on plan
- One way in / one way out (that is, adequate access for emergency vehicles)
- Road names.

Mr. Chagnon replied with the following remedies and stated he had met with Chief Lambert.

- Name was changed
- Dimensions will be added (20 paved, 30 total), John assured the board that emergency vehicles would have the room required to turn.
- Knox Box would be installed at the emergency gate from the abutting property to the south.
- Applicant will name roads

Jeffery Clifford commented that he was satisfied with the turn around as long as it met the requirements of the Fire Chief.

Mr. Todd asked about the intent to reposition one turn-around out of the buffer to be outside the wetland setback. Mr. Chagnon confirmed that one would be repositioned. Mr. Chagnon described the cul-de-sac as the one at the south end of road D.

Chairman Wilson stated that the question before us, as a matter of record, is whether the board interprets the Subdivision Regulations as requiring that a privately owned road fall under the same requirements as roads for which the town would finally accept responsibility. Does the board not consider them subject, in particular, to the requirement that a cul-de-sac have a buildable lot in a turn-around at its end, or does the requirement apply to the proposed private road, thus necessitating that the board consider waiving the requirement?

Ms. Robinson had suggested that with the unpredictability of any future plans for road connectivity in that area that a simpler, more flexible approach to this issue would be to waive the provisions in the Subdivision Regulations that state that no dead end or cul-de-sac be allowed, rather than enter into discussions or decisions regarding private vs. public streets.

Chairman Wilson said that he would entertain the motion that the board waives the requirement of section 10-A.3 of the Subdivision Regulations with respect to this application. Mr. Todd, so moved, and Vice Chairman Kroner seconded. Craig Salomon proposed an amendment to add verbiage to the effect that approval of the waiver request is conditioned on the board's accepting jurisdiction for this plan. The amendment was accepted.

Ms. Day called the question

The vote was unanimously in favor 6-0.

Open discussion on the conditional use permit.

Mr. Chagnon offered that the impact area(s) is over the 3,000 square feet level. Chairman Wilson asked Mr. Chagnon to confirm that the conditional use permit requested will cover everything -- from the disturbance of wetland areas (including the reconstruction of the wetlands), construction of the roadways and the creation of the detention pond. Mr. Chagnon confirmed that.

Mark West, of West Environmental, 122 Mast Road, Lee NH 03824 described the areas of impact for the board using the plan to delineate the proposed location of the detention pond.

There were lengthy discussions about the board's authority to grant the requested waiver. Ms. Robinson expressed a level of comfort because of involvement of appropriate State agency(s) when wetlands permits are required for various levels of disturbance to soils.

Chairman Wilson noted for the record that at the request of the co-chairs he had attended the Conversation Commission's site walk of this project on 5/19/04. On behalf of the planning board he had requested input from the Commission at this evening's meeting and added that throughout the course of reviewing the application the board will be receiving input from the Conversation Commission.

Mr. Clifford had stated he has requested from the applicant a breakdown of wetlands impacted.

Chairman Wilson restated that the question in front of the board is to grant a waiver for roadways only. There was lengthy discussion about the exact points the board should be discussing – that is, roadway fill vs. total area of disturbance. Chairman Wilson had stated the board needs to know to some degree of accuracy the figure related to the amount of fill; however, he stated that he would also be open to placing a cap on the amount of fill approved in the waiver. Chairman Wilson stated that he would not be willing to give a blanket approval for proposed disturbances of wetlands areas.

Mr. West stated that based on review of the plans and the impact assessment done to date, he estimates about 5,000 square feet of impact, and in the area of 3,000 square feet of fill.

Semantics regarding the regulations were debated between the board and Mr. West, with no resolution. Ms. Robinson suggested that the town retain its own wetland engineer at the expense of the applicant, as it is the responsibility of the applicant to convince the town of the advantages of granting the waiver. Concluding further discussion amongst the board, Chairman Wilson agreed with Ms. Robinson. Mr. Salomon pointed out that it would be possible to accept jurisdiction without granting the conditional use permit.

Ms. Day moved to defer the question of granting the conditional use permit until the board has additional information from the applicant about areas impacted and a review of that information from the town's engineer.

Vice Chairman Kroner seconded the motion.

There was further discussion clarifying the needs of the board in order for the applicant to be considered for the conditional use permit.

Bernard Pelech, Law Offices of Wholey & Pelech, 55 Congress Street, Portsmouth NH 03801 commented that he is also concerned about seeing a break down showing the least detrimental impact from Mr. West.

Vice Chairman Kroner called the question.

The vote was unanimously in favor 6-0.

The discussion then moved to the septic system issue.

Mr. Pease opened the discussion stating that the only feasible plan for the applicant is plan A, separate septic systems. It did not fit into their business plan from a planning and marketing standpoint and it makes no sense to place the clubhouse as proposed in plan B. Plan B, that meets the existing septic requirements of the town, was submitted only to satisfy the request of the board, not as a viable alternative from the developer's point of view.

After discussion between Vice Chairman Kroner and Mr. Pease, it was agreed that there was some flexibility for clustering the systems in smaller groups of 2-4 units; however, Mr. Pease stated that he does not believe the current town ordinance takes into consideration current technology for septic systems. Mr. Pease visually demonstrated his reasoning for his current plan.

Mr. Chagnon clarified the applicant's request for a waiver. The request is to waive requirements of Section XII.O that requires manufactured housing parks to have a communal septic system for which the leach field is constructed on a lot of at least two acres. Their proposal is to put separate septic systems on individual lots. Although the applicants have prepared a plan that follows the current rules, it displays an unacceptable layout for the applicant.

Mr. Chagnon gave a visual demonstration to the board, using the plans submitted, as to how the originally proposed layout makes the most sense to the applicant.

"What if" scenarios were offered from the board regarding various layout changes that would comply with the current ordinance. Chairman Wilson wanted to make sure that the town was not being asked to compromise their current ordinance solely for the economic benefit of the applicant, but has no concerns about the quality of the system(s) the applicant proposes to install.

Mr. Pease pointed out that the only way he can utilize the new technology systems is to seek a waiver from the board because he would not apply the new technology to a large communal system that meets the town's regulations, and he does not find the conventional systems acceptable for the project. If he is required to build a system that meets the current requirements, he will abandon the project.

Mr. Clifford foresaw no issues with the system(s) either.

After discussion of the relative ramifications of failures between a communal system and individual systems the conversation turned to the relative merits of a cluster arrangement of systems or separate systems on individual lots.

Mr. Todd had done some research into the pros and cons of the alternatives and shared segments of the results.

The largest concern at that point was the greater number of possible points of failure in a large number of individual systems vs. a cluster system. Mr. Pease commented with respect to one issue about regular maintenance of the individual systems is that the State of New Hampshire requires the owner to hold a maintenance contract on the systems, requires a system inspection every two years, and added that the contract must be filed with NH DES. Ed Huminick of CIF, Inc., One Harbor Place Suite 465, Portsmouth NH 03801 added that he invites the board to see photos of a tank used in the proposed systems; Mr. Huminick spoke in detail about the features of the system.

Mr. Clifford offered commentary on variants in the two systems and shared an assessment he received from the State.

Ms. Robinson suggested that the board should consider the actual likelihood of failure in the system(s).

Mr. Clifford suggested that the life span of the pumps is 10-25 years.

Mr. Brown offered concerns as an abutter about the impact on his town (Rye). Mr. Brown also asked the board to be aware of the state requirements for the two-year system check. Also for discussion on another day he wanted to address light and noise pollution levels from the project.

Chairman Wilson noted there was a letter received from an abutter who was opposed to the individual septic systems.

Chairman Wilson requested that someone make a motion one way or another with respect to waiving requirements of Section XII.O and allowing the individual septic systems or not.

Mr. Arena moved to waive the requirements and accept the individual septic designs as proposed by the applicant. Mr. Salomon seconded. Mr. Todd added that the applicant should install on each individual system an alarm with automatic dialing to a service provider. The applicant agreed to do this. Mr. Todd also reminded the board that there is a regulation in existence in the subdivision regulation manual (page 27) that requires this issue to go before public hearing.

Chairman Wilson opened a public hearing at 6:53pm. There were no members of the public present who wished to comment; Chairman Wilson therefore closed the public hearing at 6:54pm.

Chairman Wilson restated the motion to waive requirements of Section XII.O of the Subdivision Regulations and accept the proposal for individual septic systems in the project.

Mr. Salomon noted that both Mr. Pease and Mr. Chagnon had agreed to provide a maintenance contract and an alarm with automatic service dialing capabilities for each individual system. Mr. Salomon requested that this agreement be added to the plan.

Chairman Wilson again restated the motion to waive requirements of Section XII.O of the Subdivision Regulations and to accept the applicant's proposal to provide individual septic systems for this development. Mr. Salomon said that the caveat that the waiver is approved only if the board accepts jurisdiction for the plan should be noted.

Ms. Day called the question.

The vote was 4 in favor 2 opposed.

Chairman Wilson noted that at this time the board should decide to accept jurisdiction or not.

Mr. Salomon moved to accept jurisdiction for the application.

Ms. Day seconded the motion.

Chairman Wilson called for board discussion, and asked that the applicant update the plans with the newly agreed requirements prior to the next meeting. Mr. Pease and Mr. Chagnon agreed.

Ms. Robinson of the RPC stated that she saw no reason the board should not accept jurisdiction; however, she also advised the board to complete their own independent reviews on such items as traffic and environmental impact. Chairman Wilson agreed.

Mr. Clifford concurred with Chairman Wilson that there was enough merit in the information available to accept jurisdiction at this time.

Vice Chair Kroner moved that the board commission the town engineer *pro tem*: (1) to secure independent reviews by qualified professionals of the traffic and environmental impact studies presented by the applicant and (2). to complete the review of the applicant's drainage study, and (3) to work with the applicant's representative to develop a tree preservation plan or designate a qualified professional to work with the applicant to develop such a plan.

Many members seconded.

The vote was unanimously in favor 5-0 (Mr. Salomon had left the meeting prior to the vote).

The motion was made to schedule a second meeting, exclusively for this application, for Wednesday June 23, 2004 at 7:00pm.

Ms. Day seconded the motion.

The vote was unanimously in favor 5-0.

Adjournment

Dr. Arena moved and many seconded the motion to adjourn.

The motion passed 5-0 (unanimously) to adjourn.

The meeting adjourned around 7:25PM.

Respectfully submitted,

Barbara Smith
Recording Secretary