



Minutes

NORTH HAMPTON PLANNING BOARD Public Hearing and Regular Meeting on January 4, 2005

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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.

Attendees: (1) Phil Wilson, Chair; (2) Shep Kroner, Vice-Chair; (3) Judy Day; (4) Craig Salomon; (5) Joseph Arena; (6) Jill Robinson/RPC Circuit Rider; (8) Krystina Deren Arrain, Recording Secretary/Planning & Zoning Administrator.

Absent: (1) Ron Todd; (2) Jon Rineman, Selectperson Representative; (3) Beth Church, Alternate and (4) Laurel Pohl, Alternate.

Mr. Wilson convened the meeting at 7:04 PM.

Mr. Wilson announced two separate meetings would be held: (1) the regularly scheduled Board meeting, and (2) a public hearing to consider zoning ordinance amendments for the 2005 warrant. To expedite the busy schedule, Mr. Wilson allocated 30 minutes for each item on the agenda.

Items Considered

I. Old Business

Case #04-33 -- Map/Lot #016-012-000/021-007-000/017-088,089,090,091-000: 203 Lafayette Rd, Crown Properties & Home Sales, LLC/Joseph Roy, P.O. Box 1627, North Hampton, NH 03862. Proposal for a subdivision to develop a six (6)-lot Adult Manufactured Housing Park adjacent to an existing housing park. This meeting was a postponement from the December 7, 2004 meeting.

In attendance for the applicant:

John Chagnon, Ambit Engineering, Portsmouth, NH

John Bosen, Attorney, Bosen & Springer PLLC, Portsmouth, NH

David Bolley, Manager, Crown Properties & Home Sales LLC, North Hampton, NH

Mr. Chagnon representing applicant provided an overview of the proposed plan of the 45-acre parcel that included the following multiple uses: (1) car dealership, (2) mobile home park, (3) storage facility, (4) and modular homes sales. He noted that the applicant was granted a variance to expand up to eight (8) sites of the mobile home park into the R-2 residential area. The

applicant had chosen to add only six (6) sites. Mr. Chagnon further noted that the RPC, ARC and that Ed Kelly/KNA had reviewed their submission.

Mr. Kroner noted that Units 118-121 are designated seasonal units. He referenced the April 22, 1998 ZBA document that denied year-round occupancy for those sites. Mr. Kroner inquired if the referenced units remained seasonal or not. Atty. Bosen stated that Units 118 and 119 were replaced as year-round units by permits from the Town. Mr. Kroner expressed concern about the septic load with the addition of the proposed six additional units. The Board expressed concern that an updated plan of the entire 45-acre site was not available. The Board noted that in the past, plans have been submitted in segments, focusing only on the proposed activity and not on the entire site. Mr. Chagnon noted that an overall plan of the entire lot was displayed on Plan C2.

Mr. Salomon commented that he was concerned about: (1) the town's need to maintain current and updated information on the site, (2) the additional cost to the applicant to provide updated information and (3) the concern that the applicant conform to current requirements for the remainder of the parcel. Mr. Bolley commented that their internal historical records for the site were shoddy at best. They have recently researched their records in an attempt to improve and update the parcel data. Atty. Bosen remarked that from his experience, the town records are not up-to-date or accurate. Mr. Salomon said that even if building permits were issued in error that is not binding on the town.

Roberta Deon, 203 Lafayette, Unit #107 commented that she had concerns about the proposed new leaching field. In the past, she noted that odor had emanated from the current leaching fields.

Dr. Arena moved and Mr. Salomon seconded the motion to postpone the decision to take jurisdiction on the application for Case #04-31 until the February 1, 2005 meeting, with the understanding that the Board requested (1) the applicant to submit a history [chronology] of units 118-121 and (2) to receive feedback from the Building Inspector and Ed Kelly/KNA for what constituted an adequate site plan for the entire site.

The vote was unanimous (5-0).

Case #04-31-- Map/Lot #007-124-000 – 72 Lafayette Road, Kane Company, Inc./Ken Linseman, 210 Commerce Way, Suite 100, Portsmouth, NH 03801. Site Plan Review for Rite Aid Pharmacy, a retail business. The applicant requested waivers for (a) Section X.D.1. for minimum interior landscape of 5% and (b) Section 406.8 for minimum landscape buffer of 10 feet.

In attendance for the applicant:

John J. Schmitz, Jr., B & L Companies, Meriden, CT

Francis X. Bruton, III, Attorney, McNeill, Taylor & Gallo, Dover, NH

Atty. Bruton, representing the applicant, remarked that Atty. McNeill was called away on a personal matter. He submitted a waiver request for Section XII- parking requirements. The waiver requested reduction of parking spaces from 49 to 45.

Mr. Schmitz addressed the following updated information. He added that the parking spaces located near landscaping were relocated and withdrew the standing waiver request. Mr. Schmitz noted that the propane tanks and dumpster were moved and the overhang drive-thru canopy in the setback was reduced. He justified the reduction in parking spaces explaining that the drive-thru feature negates the need of the required parking spaces. Mr. Schmitz added that septic plans had been provided to the Board. The question arose whether an on-site septic system was a requirement or an option. Dr. Arena questioned the setting of a precedent in North Hampton by allowing an off-site septic system. Atty. Bruton stated that the NH DES accepted/allowed off-site septic systems.

Mr. Salomon commented that allowing an off-site septic system would not set a precedent because every application was unique. He remarked that septic easements have been and could be used since the lots in question are in common ownership. Mr. Schmitz noted that a septic easement must be in place before the applicant could submit the septic application to the NH DES.

Mr. Wilson opened the meeting for a public hearing at 8:00 PM.

Shirley Carter, 206-B Atlantic Avenue, recommended the installation of “No Parking” signs posted along Atlantic Avenue and Lafayette Road. She anticipated that people would park their vehicles along the very busy street if they were in a hurry. Such actions, she remarked, would create very dangerous situations.

Gary Stevens, 228 Atlantic Avenue, inquired if a traffic study was conducted. Mr. Schmitz submitted a draft copy to the Board.

Mr. Wilson closed the public hearing at 8:05 PM.

Ms. Day asked the Building Inspector who would supply “No Parking” signs. The Building Inspector responded that the applicant would need to contact NH-DOT.

Mr. Salomon moved and Mr. Kroner seconded the motion to grant the waiver request to reduce the number of parking spaces to 45.

Ms. Robinson supported the waiver stating adequate parking space was available on the site.

The vote was unanimous (5-0).

Mr. Salomon remarked that he believed a waiver was not required for an off-site septic plan because a mechanism was in place with the NH DES to maintain an adequate septic system. Mr. Kroner noted that the landowner might want to develop the abutting lot in question. Atty.

Bruton stated that septic lot-loading easements placed a responsibility on the lot owner to comply with all septic systems rules. Ms. Robinson remarked that the issue between state and local regulations could be in conflict. She sited that local planning regulations may be more restrictive and should be taken into consideration. Ms. Robinson believed a waiver is necessary to allow the off-site septic system. Mr. Wilson agreed that a waiver was appropriate.

Mr. Wilson expressed concern that perhaps the plan, as submitted with the multiple waivers and easements, was perhaps an over development/intensive use of a 1.6 acre [legal non-conforming lot]. He further noted that the proposed development appeared to overburden the adjoining lot that necessitated Board consideration. Mr. Salomon noted that the current owner must be aware that the adjoining lot would be overburdened and said owner must be aware of possible restrictions on future development of the lot. Mr. Kroner expressed concern citing that the proposed leach field was located at a higher elevation than an average septic system.

Dr. Arena moved and Mr. Kroner seconded the motion to grant a waiver for an off-site septic system on the adjoining lot.

Mr. Wilson opened the meeting for a public hearing at 8:25 PM.

Gary Stevens, 228 Atlantic Avenue, questioned whether the easement area was of an adequate size to host the septic system. He also inquired about the topography of the area. Mr. Stevens inquired whether the abutting lot owner was creating a hardship that would require ZBA decision. Ms. Day asked whether what Mr. Stevens said about the hardship could happen. Mr. Salomon said there couldn't be a self-imposed hardship as a matter of law.

Mr. Wilson closed the public hearing at 8:27 PM.

The vote was unanimous (5-0).

Mr. Salomon moved and Dr. Arena seconded the motion to accept jurisdiction on the application.

The vote was unanimous (5-0).

Dr. Arena moved and Mr. Kroner seconded the motion to continue the hearing of Case #04-33 until February 1, 2005.

The vote was unanimous (5-0).

II. New Business

Case #04- 34 -- Map/Lot #006-133-006 & #006-139-000: 25 Cotton Farm Lane, Eileen M. and Michael T. Broderick, 25 Cotton Farm Lane, North Hampton, NH 03862. Lot Line Adjustment.

In attendance for the applicant:

Jonathan Ring, Engineer, Jones and Beach Engineers, Inc., Stratham, NH
Eileen Broderick, Applicant.

Mr. Salomon recused himself because he was an abutter. Mr. Kroner and Dr. Arena, as members of the ARC, noted they had reviewed the application and had no objections.

Dr. Arena moved and Mr. Kroner seconded the motion to accept jurisdiction.
The vote was unanimous (4-0).

Mr. Wilson opened the meeting for a public hearing at 8:45 PM asking for comments regarding the application. Mr. Wilson closed the public hearing at 8:45 PM.

Dr. Arena moved and Mr. Kroner 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 depicted on the plan have been properly set.

The vote was unanimous (4-0).

Mr. Salomon was reseated.

Case #04-35 -- Map/Lot #014-002-000: 273 Atlantic Avenue, E. Dean Stevens, 69 Lafayette Road, North Hampton, NH 03862. Subdivision Request to create 2 lots from the current lot. Applicant requests a waiver to stormwater drainage/calculation referring to Subdivision Regulation VIII.B.20.

Gary Stevens represented the applicant. He commented that the application was a minor subdivision and would not necessitate a stormwater drainage study. Mr. Stevens noted that the area did not have a history of flooding. He anticipated that in the future, the applicant would build a single-family home on the site. Mr. Stevens added that in previous similar applications a stormwater drainage study had not been required.

Mr. Wilson opened the meeting for a public hearing at 8:50 PM.

Priscilla Leavitt, 252-A Atlantic Avenue, submitted a letter to the Board and noted that primarily in the Spring when the ground was frozen and during heavy rains, her property was regularly flooded. She noted that if the applicant located a building close to the road, that structure would be lower than the road. In that scenario, she anticipated the contour of the land would be changed, thusly increasing water drainage. Ms. Leavitt was concerned that an increase in water drainage would flow onto her property. She stated it would be appropriate to conduct a stormwater drainage study. Ms. Leavitt invited the Board to view the conditions on her property.

She submitted for the public record, two photographic examples of the drainage problems she experiences.

Mr. Wilson suggested that the applicant should consult an engineer who should review the drainage problem and make recommendations rather than conduct a full-scale drainage study. Mr. Wilson remarked that a deed restriction could be added requiring certain modifications that would address the overflow drainage onto the Leavitt property. He also noted that the 50-foot setback for the wetland section on the plan should be corrected to display the 100-foot setback.

Mr. Wilson closed the public hearing.

Dr. Arena moved and Ms. Day seconded the motion to continue the hearing of Case #04-35 until February 1, 2005 at which time the applicant should return with engineer recommendations for drainage.

James Walker, 16-A Hobbs, an abutter asked where a future building would be located. Mr. Kroner displayed the plan noting that a building would be located closer to Atlantic Avenue than to the rear of the property. Glenn Martin, 11 Evergreen Drive, noted that if the swale were manmade, the setback requirement of 50 feet would apply. Mr. Wilson remarked that the wetland setback correction on the plan was incidental. Ms. Robinson recommended that the applicant's engineer should send a report to her and Mr. Kelly at KNA.

The vote was unanimous (5-0).

III. Public Hearing

Pursuant to NHRSA §675:7 notice is hereby given of a Public Hearing to be held by the North Hampton Planning Board on Tuesday, January 4, 2005 at the Mary Herbert Room to consider:

Proposed Amendments to the Zoning Ordinance that include:

- (a) Section 507 – Home Occupation
- (b) Section 409 – Wetland Conservation Areas
- (c) Section 301 – Definitions
- (d) Section 514 – Flood Plain Development
- (e) Section 701 – Administration for New Building Codes

Mr. Wilson opened the public hearing to consider zoning ordinance amendments at 9:20 PM. As there were no comments, he closed it.

Section 507 – Home Occupation

Mr. Wilson noted that in 2004 a citizens' petition raised the issue of the need to revise the ordinance. The current amendment included a minor modification to 507.1 and the additions of Items 507.6 and 507.7. Ms. Day asked if a home occupation sign provision and a sign setback requirement should be included in the amendment. Mr. Kroner noted that her suggestions for altering the amendment would conflict with the existing sign ordinance. Discussion ensued about whether to add signage requirements to the amendment.

Dr. Arena moved and Mr. Salomon seconded the motion to approve the amendment as written and bring it to the town warrant.

The vote was unanimous (5-0).

Mr. Wilson opened the public hearing. Shirley Carter, 206B Atlantic Avenue was concerned about any changes to the wetland ordinance. Ms. Robinson explained that the changes were definitional only. Mr. Wilson closed the public hearing.

Section 409 – Wetland Conservation Areas

Ms. Robinson stated that the state passed a law mandating all communities to standardize wetland definitions. She provided a more detailed explanation of the definitions as submitted in the draft version dated January 4, 2005.

Mr. Wilson opened the public hearing. There were no comments. Mr. Wilson closed the public hearing.

Mr. Kroner moved and Dr. Arena seconded the motion to approve the amendment with minor editorial changes and bring it to the town warrant.

The vote was unanimous (5-0).

Section 301 – Definitions

The purpose of this amendment was to alphabetize the Zoning Ordinance Definitions (Section 301). There were no changes to the definitions.

Mr. Wilson opened the public hearing. There were no comments. Mr. Wilson closed the public hearing.

Mr. Kroner moved and Dr. Arena seconded the motion to alphabetize the definitions as an administrative item.

The vote was unanimous (5-0).

Mr. Salomon moved and Dr. Arena seconded the motion that it was not necessary to bring Section 301 to the town warrant.

The vote was unanimous (5-0).

Section 514 – Flood Plain Development

The Building Inspector stated that the purpose of the amendment was to update the flood maps that are administered by FEMA. This update was necessary to maintain flood insurance coverage for the town.

Mr. Wilson opened the public hearing. There were no comments. Mr. Wilson closed the public hearing.

Mr. Kroner moved and Dr. Arena seconded the motion to bring it to the town warrant.
The vote was unanimous (5-0).

Section 701 – Administration for New Building Codes

The Building Inspector stated that the purpose of the amendment was to obsolete the BOCA Code and replace it with IRC 2003 [International Residential Code] which is the official building code for one and two-family homes. He also noted that the updated state codes would be included in the town's zoning ordinance 2005 publication.

Mr. Wilson opened the public hearing. There were no comments. Mr. Wilson closed the public hearing.

Mr. Salomon moved and Dr. Arena seconded the motion to bring it to the town warrant.
The vote was unanimous (5-0).

IV. Adjournment

Dr. Arena moved and Mr. Kroner seconded the motion to adjourn.
The vote was unanimous (5-0).

The meeting adjourned at 10:00 PM.

Respectfully submitted,

Krystina Deren Arrain
Recording Secretary/Planning & Zoning Administrator