



Minutes

NORTH HAMPTON PLANNING BOARD Regular Meeting February 1, 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.

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) Beth Church, Alternate; (2) Laurel Pohl, Alternate; (3) Krystina Deren Arrain, Planning and Zoning Administrator; (4) John Rineman, Selectman Representative.

In Attendance: (1) Jill Robinson, Circuit Rider/RPC, (2) Barbara Smith, Recording Secretary, *pro tem*.

Mr. Wilson convened the meeting at 7:00 PM and outlined old business.

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 is a continuation of the January 4, 2005 session.

The applicant was late in submitting review information to the board; so the board wished to consider any request to postpone the application. Mr. Todd said that he had received a phone call related to a waiver from the applicant earlier on 02/01/05 and had explained to the applicant that because information had not been submitted in a timely fashion, the ARC was recommending that the Board deny the application because it is incomplete or the applicant could waive the time requirement of 30 days for the Board to accept jurisdiction or deny the application. However, none of the members had received a formal written request from the applicant. Mr. Wilson polled the audience to see if there was representation from Crown Properties present. Hearing and seeing no response a motion was made.

Dr. Arena moved to postpone hearing the application. Mr. Kroner seconded the motion. Mr. Salomon stated that the board could not postpone the hearing on behalf of the applicant without a request from the applicant and proposed to amend the motion to postpone the discussion until the end of the meeting. Dr. Arena withdrew his motion. Mr. Kroner seconded the withdrawal. The motion was withdrawn.

Mr. Wilson noted that the majority of the public audience was there regarding the Verizon Wireless Tower issue, and went on to explain the board's role in the issue. He noted that it would be heard as scheduled on the agenda. Albeit early in the process, the potential applicant wanted

to utilize a forum where they would have an opportunity to receive public input. The applicant is in the process of obtaining the ZBA variance required by the application. Various board members debated if the design review was fruitless in light of the lack of the required variances, but the sense of the board was that the review would be in the best interest of the board and the public. The board proceeded with the design review in the meeting. The tower is proposed for in a residential area. Mr. Wilson noted that the town has received much correspondence both in favor of and opposed to the application. Ms. Day asked if the issue was a public hearing, and the chair noted that it was not, but as was the normal practice of the board the input of the public would be welcome.

Mr. Wilson introduced the next agenda item.

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. This meeting is a continuation of the January 4, 2005 session.

In attendance for the applicant were: Malcolm McNeil, Atty., John Schmitz, Engineer, and Ken Linseman.

Mr. McNeil opened by reviewing some items that the board and the applicant had covered in previous meetings:

- A waiver to require the septic system to be located on the site had been granted.
- 10' landscaping buffer waiver had been granted for the western boundary of the site.
- The ZBA had granted variances for the landscape buffer, setback requirement, and signage.
- Architectural plans had been reviewed and appeared to be well received.

The applicant is now presuming that once the septic system approval is received from the DES, approval will be granted as the site will be in full compliance.

Mr. McNeil stated the only loose end he was aware of at this point was the board's review of the traffic study.

John Schmitz, Civil Engineer, B& L Companies reviewed changes to the plan that had been requested by the board:

- the drainage system study has been done and now needs to be transmitted to Mr. Kelly.
- the utility service to the proposed site would come overhead from the south side of Atlantic Avenue to a pole on the north side of Atlantic Avenue along the southern boundary of the site, and then go underground. The applicant is working with the utility company as to how they would like to service the building.
- a revised traffic study was sent to Mr. Kelly a week or two ago. Mr. Schmitz will respond to Mr. Kelly's concerns.
- Mr. Schmitz will provide copies to any board member who wants one.

Mr. Kroner asked the chairman, and the chairman agreed that the board would want an independent study done. Mr. Schmitz detailed the study they used. The chairman then tabled discussion of the traffic study until the next meeting because members of the board had not received copies.

Ms. Robinson asked about the variances granted for signage. Mr. Schmitz noted that they provide for about 125 square feet of signage, discounting the directional drive through pharmacy signs that bring the total square footage of signs to 242 square feet.

Ms. Day asked about the location of the category signs, Mr. Schmitz noted those locations on the drawings for her. They are such signs as "Food Mart, 1 Hour Photo." Mr. Todd asked if the pylon side signs are included in the 115 square feet, Mr. Schmitz replied, "No.". He was not 100% sure of the dimensions of the pylon signs. Dr. Arena had asked about the content of the reader board. Mr. Schmitz was not certain what will be on it. Dr. Arena debated the need for a store of the proposed size. Mr. McNeil noted that the store was planned to the company's new standards. Dr. Arena expressed that he thought the word pharmacy was not an accurate term for the business itself.

Mr. Todd reviewed issues that had been identified by the ARC, stating he would not need to discuss the closed items.

- Updated abutters list: Mr. Schmitz said the list was updated and submitted to staff.
- Easement verbiage; Applicant stated that it is being worked on.
- Drawings need to be updated with new variances. Mr. Schmitz agreed.
- Septic system: Mr. Schmitz stated that due to the location of the system, the state requires an easement. They are in the process of obtaining that. The design has been submitted and has been seen by Mr. Kelly.
- Mr. Schmitz stated that the note about the path of electric service on the plan would be updated to indicate that service from the pole on the north side of Atlantic Avenue should be underground to the proposed structure on the site.
- Mr. Schmitz agreed that the drawings should all reflect the dimensions of the signage. He added he would get a copy of the shop package used to build the signs for the board.
- Clarification of most recent architectural specifications, and drawings that accurately depict colors. Mr. Schmitz will get a copy of the color schemes for the board.
- State driveway access permit is still in process.
- Distance from the corner of Atlantic and Lafayette Road to the access driveway across the property on the northerly side of the site. Applicant to provide details of adjacent property that is providing access to this site. What is the frontage of the adjacent property, widths of driveways on that property and distances between those driveways?
 - There was much debate about the board's need to know this information, ending with the applicant agreeing to provide the information.
 - Mr. Salomon clarified for the record that the board is requesting that this information be provided to us, the applicant has agreed to provide it, but the applicant does not agree with the positions the board has taken. The chairman noted the board has not taken a position.
- Applicant represented that there are no underground tanks on the site.
- The prospective purchaser of the site represented that in phase one of their due diligence on the potential acquisition a site review of the environmental condition of the property had been conducted and no problems had been identified. Mr. Schmitz will provide a copy of that review to the board.

- Mr. Schmitz will add the routing for 18-wheelers back on to the drawing.
- Mr. Todd would like the board to consider the placement of the dumpster because it is now within the 35' set back. The dumpster fits the definition of a permanent structure, and Mr. Todd questioned whether the applicant can be allowed to move it as indicated. Mr. Todd stated that the variance granted by the ZBA with respect to the 35' set back had not been granted based on the placement of the dumpster, but on the placement of the building, specifically, the northeast corner which was 12 feet from the property line and an area that was provided a variance. Mr. Todd asked the board to discuss the variance and determine whether the applicant should seek a new variance. No one had the text of the variance. Mr. Todd stated that he does not have the text, but believed the intent was to provide a variance for the northeast corner of the building. Ms. Day said that she wanted to read the record. Mr. Todd agreed to set this aside for now.
- The green space that satisfies the town's requirements should be marked on the plans. Mr. Schmitz will provide shaded drawings.
- Note should be added to lighting plan that all lighting will comply with the town's dark sky standard. Mr. Schmitz will add the note wherever necessary.
- Hazards of propane tanks – referred to Fire chief.
- Change the note on snow storage: Mr. Schmitz will change the note to remove the phrase "at the determination, direction of the town".
- Mr. Schmitz will submit the details to provide the landscaping surety bond.
- Standard conditions of approval. It was noted that the town has standard conditions of approval that the applicant would be expected to meet – e.g., submission of recordable Mylars, certificate of monumentation, posting of surety, etc.
- It was noted that if the planning board wants a rehearing about the signage variances, the board must request that the board of selectman seek one.
- The applicant will submit estimates for a landscaping bond.
- The board is not certain the town engineer is satisfied with the plan; the chairman will invite the town engineer to the next meeting.

Atty. McNeil said that if the applicant has received variances and waivers and meets all other requirements of the zoning ordinance and site plan review requirements, then the Board must approve the application.

Mr. Wilson read the Site Plan Regulations, Section IV. B. to the audience.

Minimum Not Maximum

These Regulations shall be interpreted as MINIMUM REQUIREMENTS and compliance with these minimum requirements in no way obligates the Planning Board to approve any particular application solely on that basis. The Planning Board will fully consider all aspects of an application before rendering its decision. This will include study of all site design and technical aspects of the proposal as well as consideration of the impact of the development on resources, on local traffic patterns and on available public utilities, services, and municipal resources. Only after the Planning Board has fully satisfied itself that the proposed project is in the public health, safety, welfare or prosperity, will the application to be approved.

I understand that to mean that you can comply with every site plan regulation in here, every variance that the Zoning ordinance gives you and we still have an obligation to look at this thing as a whole, not a collection of individual parts and make that decision of whether it is really in the public health or safety and welfare interests. I think that is what Mr. Todd is raising. I think we have a legitimate concern about that.

Attorney McNeil: My comment, Mr. Chairman, and I am not here to pick a fight.

Mr. Salomon: I'm always concerned when we look at that general kind of language. We have regulations that are promulgated so that applicants are afforded due process. They know the rules. I think Attorney McNeil's comment about the zoning issues is well taken. Site development issues as they relate to public health and safety ...(cough...) ...but if they can address things like traffic pattern for a building that size, I don't think it is appropriate for us to be questioning the size of the building.

Mr. Todd: I point out the size and bring it in light of what our setback requirements are based on a 2-acre site and now we are applying those setback requirements to a much smaller site. There is different impact and I think the Board should take that into account.

Mr. Wilson: I would like to hear Jill's comments.

Ms. Robinson: I just wanted to make the quick comment that the exact same issue came up in Henniker, NH. The Board in that town denied Rite-Aid's application based on, among other factors, the size of the building and that argument won the day. So I think it is totally appropriate.

Attorney McNeil: I'm ...[unclear verbiage] ... with that case, Mr. Chairman. The applicant when he comes before your Board looks at the rules and attempts to comply with the rules. When we don't comply with the rules and the rules need to be altered, we go to the Zoning Board of Adjustment. When we seek a waiver from you within the criteria that you established with your regulations that is what we have done through this process. This is a non-conforming lot where the dimensional violations have been cured by the action of the ZBA. You are bound by the ZBA's action with regard to those issues. Your area of expertise and your area of jurisdiction then relates solely to the site review regulations. I can respectfully say to you after representing municipalities for many, many years and representing developers longer, that it is a very difficult role for someone in this Board's position to come forward and say that if we complied with every one of your regulations and your traffic expert comes in and says our site is safe and your ZBA has granted all this relief and this Board then says, this site is not safe, then you have to document the reasons why. But the argument would be, how could it not be safe, if we comply with the regulations? So the issue here then becomes as you go through the site, and the concerns being raised by this gentleman, I think are very legitimate as to the site review issues. We are not here for dimensional issues. We are here to determine, under your regulations, whether the site works and

Mr. Wilson: We are fully engaged in this process and I think we have worked very well together in resolving some of the issues. I would go on to say that it has been clearly raised by

this Board that whether this “works” to use your term, has been questioned repeatedly about whether this site works with a building of that size.

Attorney McNeil: I respect your concern.

Mr. Wilson: We obviously have differences of opinion about that and we will see about it later. I would suggest that we not proceed.

Attorney McNeil: So ordinances and regulations are, as you know, are a process of synthesis by any community where Master Plan’s are done, CIP’s are done and they are ultimately result in regulations. The regulations are not the starting point of control. They are the controls.

Mr. Wilson: I agree completely and I just read one of our regulations which you and I obviously have a difference of opinion about.

Mr. Wilson opened a public hearing on this application at 8:12 PM. Hearing and seeing no members of the public with comments, the public hearing closed at 8:13 PM.

In closing Mr. McNeil requested from the board that, if the board elects to have an independent traffic study conducted, they have it complete, in order to approve this application in the next meeting.

Mr. Todd moved to authorize Ed Kelly, town engineer, to submit the traffic study for outside review, if necessary.

Mr. Salomon seconded the motion.

Dr. Arena observed that the traffic study had been sent to the town engineer, but not to the board. He stated that the sequence of review for the traffic study had not been proper – the board should receive the study before the town engineer, not the reverse. Mr. Linesman stated that he would get copies for all members of the board.

The final motion was: After consultation with the chair, the board authorizes the town engineer to refer the traffic study by the applicant to an independent reviewer, if necessary.

The motion carried: Five in favor, and Dr. Arena opposed.

Mr. Salomon moved to continue the public hearing to March 1st, and Dr. Arena seconded the motion.

The vote was unanimous in favor of the motion.

The board took a brief recess.

The chairman introduced the next agenda item.

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. This meeting is a continuation of the January 4, 2005 session.

Gary Stevens handed out a transcript of his presentation for tonight's meeting. (See attached, not titled). Mr. Stevens read directly from the transcript as he addressed the Board.

Mr. Todd had asked why Mr. Stevens could not provide a septic plan and driveway plan for the undeveloped lot. Mr. Stevens noted that doing so at this time would restrict his potential future use of the land.

After hearing the concerns of the applicant, the board agreed that in order to comply with the board's wishes, a note could be added to the Mylar as well as a deed restriction provided to ensure that the remedies to the drainage problems identified on the new lot were implemented at the time that construction takes place on the new lot. Mr. Salomon recommended that the board remove the requirement of an easement to the town to maintain a culvert, and the board agreed with Mr. Salomon. Mr. Salomon also suggested a deed restriction ensuring drainage remedies as a condition of approval.

All of the board's concerns from a previous meeting were addressed in Mr. Stevens's transcript.

Mr. Wilson opened the public hearing at 8:42 PM.

Priscilla Leavitt, 252A Atlantic Avenue, who lives at the other end of the culvert spoke. Ms. Leavitt's concern was that she wanted to be sure that her property would not flood at any time due to the proposed subdivision. She stated that she thought the deed restriction was a good approach.

After hearing and seeing no further comments from the public, the hearing was closed at 8:47 PM.

The board discussed language that would protect the applicant's right to determine choices of materials and locations of structures, while addressing concerns of abutters. Mr. Salomon proposed the following motion:

To approve the Stevens's subdivision application subject to the following conditions:

1. A recordable mylar
2. Certificate of Monumentation
3. Confirmation that the 100 foot wetlands buffer is shown on the revised plan
4. Evidence of the receipt of all required state, federal and local permits.
5. Signature and seals of all licensed professionals whose names appear on the plan.
6. The addition of notes to the plan:
 - a. No building permit shall be issued until a plan with spot grades has been submitted to and approved by the Town Engineer, at the applicant's expense, to insure:
 - (1). That storm water runs from the rear of the proposed house to the wetland area in the northeast corner of the property.

- (2). That the drainage, as much as possible, from the proposed driveway be directed to the left side of the driveway into a swale that flows to the northeast corner of the property or that an infiltration trench be constructed on the side of the driveway allowing runoff to collect and percolate into the ground.
 - (3). That the driveway be constructed with a high point approximately one third of the way into the property (northerly of Atlantic Avenue) that shall serve as a break point for storm water flows.
- b. No certificate of occupancy shall be issued until a final field inspection has been conducted by the Town's Engineer at the applicant's expense to assure that the requirements of note A, as to site development, have been satisfactorily completed.
7. That the notes on the plan also be incorporated as deed restrictions on proposed lot 2 and that there be additional language that the deed restrictions cannot be released without the express written consent of the North Hampton Planning Board.
8. That the proposed deed restrictions be submitted to the Planning Board for review by Town Counsel at the applicant's expense.

There was further discussion about the drainage flow.

Mr. Stevens was concerned about the final inspection being done by the town engineer vs. their engineer, as the conditions of approval did not exactly match those in the town engineer's memo.

Mr. Kroner suggested that before the board direct water in any direction, the members understand the complete impact on all abutting properties and, in particular on the wetland area into which the applicant proposes to direct storm water run-off.

Dr. Arena moved to approve the application with conditions as stated by Mr. Salomon, and Ms Day seconded the motion

The vote was 5-1 with Mr. Kroner opposed.

Mr. Kroner reiterated his concern about directing the storm water into an unknown entity. The chair noted that the applicant had been given conditional approval and asked that Mr. Salomon draft the conditions he had articulated for inclusion in the minutes and the decision letter.

II. New Business

Case #05-01 -- Map/Lot #005-044-000: Chapel Road, Cellco Partnership d/b/a Verizon Wireless, 400 Friberg Parkway, Westborough, MA 01581. Pre-Application Review: Design Review Phase for a Wireless Telecommunications Facility consisting of a 120-foot multi-carrier stealth mono-pine with a 12-foot by 30-foot equipment shelter on Chapel Road.

In attendance for the project were: Michael Creamer, Verizon Wireless 400 Friberg Parkway Westboro MA. 01581. Atty. Daniel D. Klasnick, Duval & Associates, LLC, David Tivnan, Consultant, Vital Site Services, Inc. 400 Friberg Parkway Westborough, MA 01581.

Atty. Klasnick stated that he would present to the board the proposal and drawings to prepare for the final application.

- Mr. Kroner was concerned about lighting. Atty. Klasnick noted that there is no continual lighting; it is all motion sensitive.
- Dr. Arena asked about the functional use of the tower. Atty. Klasnick referenced the coverage maps in the handouts.
- Ms. Day questioned why they did not go to the ZBA first for a variance. Atty. Klasnick replied he wanted to gain an understanding of the board's requirements and time frames. He also found that the ZBA has no forum for design review.

Atty. Klasnick wanted to make sure the board had the latest information submitted;

- 01/12/05 – RF Affidavit & Replacement Coverage maps
- 01/17/05 – Mono pine specifications, and zoning drawings
- 01/28/05 = Tower Inventory, a list of Verizon towers

Atty. Klasnick asked the board for questions and comments regarding the narrative he provided. There were no questions or comments regarding the narrative. Mr. Todd wanted to see if he could get a coverage map with a lesser height for the proposed tower. The applicant agreed to provide it and include in all coverage drawings the impact of the newer tower adjacent to Route 101 near the beach in Hampton. Ms. Robinson suggested the applicant use a 30' reduction in height.

Atty. Klasnick then went over the exhibits, showing the public the simulations of the tower as a mono-pine. There were still questions as to the exact height of the structure with all the branches. Atty. Klasnick said that he would see if the new drawings could clarify that issue.

Mr. Wilson said that the board would try to have available for the next meeting a room with a projector.

Mr. Todd asked how loud the generator would be, and he was told it would be muffled, as it is housed in a building, and that it is only used in emergencies for stand-by power.

Dr. Arena pointed out two technical errors in the Verizon handouts related to proper naming of the roads and properties; Atty. Klasnick said that he would make sure the errors are corrected.

The floor was opened for public comments:

- Mr. Bob Milliken, 31 Chapel Road, announced himself as the spokesperson for 131 people who are concerned with many things, one being the actual height of the structure, another the closeness of the location to their property. Mr. Wilson added that the abutters and neighbors completed their own balloon test, and received different results than the Verizon test. Pictures of the citizens' balloon test were provided for the Board to review.
- Cathy Megna, 41 Chapel Road, asked when Verizon had taken the pictures? Ms. Megna also added she has asked Verizon for another balloon test; because she has knowledge that the Verizon balloon test was flawed. Verizon has not granted another test yet. Verizon was willing to conduct another test if requested.
- Atty. Klasnick responded to some of the comments and briefed the audience about the process for finding an appropriate spot to construct such a tower.
- Allen Williams, 38 Chapel Rd, showed pictures of a section of the road in flooded conditions and of his property under flooding conditions.
- Monica Corniela, 18 Pond Path, noted that there have been only two new houses in many years built on the road.
- Mr. Joe Biledeau was concerned about the tower being abandoned; Mr. Wilson said the town would require a perpetual bond for demolition from the applicant, if the application were approved.
- Atty. Klasnick clarified the Verizon Exhibits.
- Dick Benney, 10 Chapel Road, suggested at one time Verizon was to build a tower on the Abenaki Golf Course.
- Ted Richards, 33 Chapel Road, asked for clarification on the site selection process.
- Chet Nadar, 33 Squier Drive, a tower supporter, added that he was in support of the project.
- Mr. Wilson noted that all concerns about the location of the site should be presented to the ZBA. The Planning Board has no jurisdiction over the location, because a variance is required to place the tower in a residential district. The ZBA has sole authority to grant variances. The Planning Board has authority over the site design and characteristics of the site development.
- Mr. David Choate, Coldstream Realtors, Portsmouth, said that he has had past experience in finding a location for such a structure in the area and testified to its difficulty.
- It was noted that federal law to provide cellular service without gaps mandates Verizon, but they do need to abide by local, state, and federal law in their process.
- Laurie Stone, 21 Chapel Road, suggested alternatives to a tower, such as receiver boxes on utility poles.
- Ms. Cornelia pointed out that she believes the value of surrounding properties will be reduced, and she has lost one sale already.
- In reply to reiterated concerns about the height and appearance of the tower, Mr. Wilson said that when the application is formally presented for review, the board

will make sure Verizon presents accurate representations of the appearance of the proposed monopine tower and its height above surrounding trees.

Mr. Wilson concluded the design review.

Bond Reduction Request for PCI Realty North LLC / Joseph Pandolfo.

Mr. Pandolfo requested, and the board granted the reduction of the bond posted for the project.

Dr. Arena moved to lower the bond to \$20,000 and Mr. Todd seconded the motion.
The motion passed unanimously (6-0).

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 is a continuation of the January 4, 2005 session.

The board discussed the first agenda item, Crown Homes, again. The board noted that the deadline for submitting new materials for review had passed, the board had not received a written request for continuation from the applicant, and the applicant therefore needs to reapply.

Ms. Day moved to deny Case #04-33 without prejudice, because the application is incomplete, and the applicant had failed to submit required information per RSA676:4.
Mr. Todd seconded the motion.
The vote was unanimous (6-0) in favor of the motion.

Ms. Day asked if the planning board would want the Board of Selectman to re-hear the variances for signage in the Rite Aid application.

Adjournment

A motion was made to adjourn by Ms. Day at 11:30 PM, and seconded by Mr. Salomon.
The vote was unanimously in favor of the motion.

Respectfully submitted,

Barbara Smith
Recording Secretary *pro tem*

ADDENDUM "A": Submitted by Gary Stevens at February 1, 2005 Meeting

North Hampton Planning Board: Case #04-35

Yesterday, I received new plans from my surveyor that shows the 100 foot buffer from wetlands. Last meeting, the plan showed only a 50 foot buffer from the wetland area. Also, I have since received a subdivision approval from the Department of Environmental Services, that also is noted on the plan.

At the suggestion of the planning board last meeting, my family hired an engineering firm (Millette, Sprague and Colwell) to offer drainage recommendations for the purpose of keeping any additional water from traveling to the south side of Atlantic Avenue after impervious surfaces such as a house and driveway have been added to the property.

The Millette, Sprague and Colwell letter dated January 19, 2005 recommends the following:

- (1) Direct storm water toward the rear of the house.
 - (2) Construct a swale and/or infiltration trench by the driveway to direct storm water to the west side of the lot.
 - (3) Construct a highpoint in the driveway 1/3 into the property to act as a water breaking point. These recommendations were sent to the town engineer (Keach, Nordstrom Associates). The town engineer then had three comments dated in a memo January 26, 2005:
 - (1) Prepare a plan indicating the calculated spot grades necessary to show the Millette, Sprague and Colwell recommendations.
 - (2) After the proposed grading is constructed, have our engineer submit a "final field inspection report." This "field inspection" will verify that the new grading will serve the intended purpose of keeping any additional water from traveling to the south side of Atlantic Avenue after new impervious surfaces have been constructed.
 - (3) Give the town a drainage easement to maintain the culvert crossing Atlantic Avenue.
- Regarding Keach, Nordstrom Associates first request of preparing a plan of "spot upgrades," this step would seem more practical when we know the specific size, location and configuration of the house, septic system and driveway.

At this time, my family does not know what will be built on this newly created lot. Depicting the Millette, Sprague and Colwell recommendations on a plan for a house and driveway that may never be built is not practical.

For example, the drainage recommendations could look very different if we built a 1000 square foot house rather than a 3000 square foot house. The septic system design will likely be different from a two bedroom compared to a four-bedroom house. The driveway will look different if the house has a garage or doesn't have a garage.

Therefore, the effort of showing the Millette, Sprague and Colwell recommendations on a plan would have greater value if and when the size, location and configuration of the house, septic system and driveway is known.

From my engineer's recommendations, we know the land can be graded and/or swales be added to keep water on the North side of Atlantic Avenue. However, we cannot determine the most effective way to keep water on the North side without specific information regarding the size, location and configuration of the building, driveway and septic system. Today and maybe five years from now I don't know what will be built on this property. Therefore, I would like to suggest the following:

Before receiving a building permit for this new lot, given a known building size and configuration, a drainage plan will be prepared depicting the Millette, Sprague and Colwell drainage recommendations in the letter dated January 19, 2005. May I suggest that the Millette, Sprague and Colwell letter, much like the NH Soils test pit report, be photo copied to the final plan mylar.

Also written on the plan mylar, can be the requirement of a "final field inspection" verifying that the newly constructed grading, swales, infiltration trenches, etc. will serve the intended purpose of retaining water on the north side of Atlantic Avenue.

The last comment by Keach, Nordstrom Associates relates to a drainage easement. We believe any kind of drainage easement is unnecessary in this case because... In the 35 plus years my family has owned this property, we have never witnessed anybody servicing this "cross culvert under Atlantic Avenue."

Also, there is already a built in incentive just in case there ever comes a need to do maintenance work on this culvert. This newly created lot is located upstream. If this culvert ever becomes blocked, then more of the unwanted water will stay on this lot. Any sensible landowner located upstream from a culvert would not prevent the servicing of this culvert if it moves unwanted water off the property. In fact, the landowner upstream would be the one that initiates the service call.

Therefore, because there has not been a need to service this culvert for more than 35 years and that this lot is located upstream, granting a culvert servicing easement is not necessary.

To sum things up:

We would like the planning board to approve this subdivision after adding three things to the plan mylar that will be recorded at the registry:

- (1) Copy onto the mylar the Millette, Sprague and Colwell recommendation letter dated January 19, 2005.
- (2) Add to the mylar the requirement of a drainage plan showing how those recommendations will be implemented after the building and driveway size, location and configuration is known before receiving a building permit.
- (3) Add to the mylar the requirement of an engineer's "final field inspection" after grading has been completed to verify that this new grading will serve its intended purpose before receiving a Certificate of Occupancy.

Again, we know the land can be graded and/or swales be added to keep water on the North side of Atlantic Avenue. But we cannot determine the most effective way to keep water on the North side without specific information regarding the size, location and configuration of the building,

driveway and septic system. Adding the three mentioned items to the mylar is more practical and will insure the necessary grading gets done.

Any questions?