



## **Minutes**

### **NORTH HAMPTON PLANNING BOARD Regular Meeting May 2, 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, Chairman; (2) Shep Kroner, Vice-Chair; (3) Jon Rineman, Selectman Representative; (4) Judy Day; (5) Craig Salomon; (6) Joseph Arena; (7) Laurel Pohl; (8) Jill Robinson, Circuit Rider/RPC; Krystina Deren Arrain, Recording Secretary/Planning and Zoning Administrator.

**Absent:** (1) Rich Goeselt and (2) Ron Todd

**Alternates Present:** None

Mr. Wilson convened the meeting at 6:33 PM

### **Old Business**

**Case #04-16 -- Map/Lot #016-012-000/021-007-000/017-088,089,090,091-000: 203 Lafayette Road,** (I-B/R Zone District) Crown Properties & Home Sales, LLC/Joseph Roy, P.O. Box 1627, North Hampton, NH 03862. Proposal for a subdivision to develop an eight (8)-lot Adult Manufactured Housing Park adjacent to an existing housing park. This meeting is a continuation of the March 1, 2005 session.

Mr. Wilson remarked that the ZBA would re hear on May 18, 2005 the use variance originally granted in May 2004. He also noted that the Board received a letter from the applicant that (1) waived the 65-day limit and (2) requested a tabling of the hearing until June.

Mr. Salomon expressed concerned about the abutter notification. He was concerned regarding Mr. Fitzgerald's abutter's rights and had a question about how the Board should proceed legally with the application. Mr. Salomon wanted to protect the Board. Mr. Chagnon suggested that perhaps the applicant should re-apply and notify the abutters. Mr. Wilson stated that there was conflicting information regarding the notification issue. He was concerned that the opinion received from NHMA was defective. The NHMA did not fully understand Mr. Wilson's question and possibly presented a wrong opinion. Mr. Chagnon stated that the abutter was notified late, but had been legally notified. Discussion ensued among the members on interpretation of the RSA's and Board rules and what should be the best next step. Mr. Chagnon remarked that the applicant would gladly pay for new abutters' notification

**Ms. Day moved and Dr. Arena seconded the motion to continue/table the application along with the consent of the applicant to waive the 65-day limit until the June 6, 2005 meeting. The vote was 3-4-0. The motion failed. Messrs. Salomon, Kroner and Arena voted in favor of the motion.**

**Mr. Salomon moved and Mr. Rineman seconded the motion to deny the application without prejudice on grounds that all abutters were not notified. The vote was unanimous (7-0).**

**Dr. Arena moved and Mr. Salomon seconded the motion that no additional fees other than abutters' fees would be applied to the Crown Properties re-application. The vote was unanimous (7-0).**

**Case #05-06 -- 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. Continued Discussion and Review of Greystone Village updated Bond/Surety Information and Tri-Party Agreement.**

In Attendance:

Jeff Clifford/ Altus Engineering/Town Engineer, Portsmouth, NH  
Atty. John Allen, John Allen & Associates Law Office, Manchester, NH  
Joe Cataldo, GFI North Hampton Construction, Boston, MA  
John Chagnon, Ambit Engineering, Portsmouth, NH

Mr. Wilson noted that there was some confusion about the bonding details. He added that the surety issue was tabled at the April 18, 2005 work session because it had been sent to the Town Attorney for an opinion. The Town Attorney stated that the Board's subdivision regulations do not allow the Town to enter into a tri-party agreement.

Atty. Allen, the applicant's attorney, remarked that the applicant preferred a tri-party agreement. Atty. Allen stated that he didn't see anything in the subdivision regulations that prohibited a tri-party agreement. He added that the applicant was prepared to offer a letter of credit. Atty. Allen suggested that the "in-perpetuity agreement" should be posted in cash.

Atty. Allen distributed the updated 3-Phase Plan. He remarked that the Phase I surety would be \$1.5 Million and the applicant had a lender committed to Phase 1. The applicant wanted to post a letter of credit for each phase. Atty. Allen stated that posting a \$2.6 Million surety, all at one time, was problematic for the applicant. Mr. Wilson emphasized that there was concern that Phase I residents would be subjected to construction fill and debris, thus disturbing their living area. Mr. Cataldo noted that construction of Phases 2 and 3 would be conducted over an easement from the adjoining "Robinson" property. Mr. Cataldo said that applicant had a signed easement with the anticipated new owner of the "Robinson" property. Another easement through Crown Properties would be used as needed to access Phases 2 and 3.

**Mr. Salomon stated that he had voted with majority and therefore moved and Ms. Pohl seconded the motion to reconsider the Board's decision to require total bonding of \$2.6 Million.**

***The vote 5-2-0 with Mr. Rineman and Dr. Arena opposed.***

Mr. Clifford reviewed the lot improvement costs for Phase 1 and 2. Extensive discussion ensued about what costs are appropriate to make sure that any fully or partially developed area would be left in some degree of completion should the developer abandon the project after Phase 1. Dr. Arena emphatically stated that he wanted all roads and all infrastructures constructed in Phase I of the project, even though Phases 2 and 3 would not be developed until a later date. Mr. Cataldo agreed to construct all roads in Phase I

**Mr. Salomon moved and Ms. Day seconded the motion that the Board accept a self-calling letter of credit to provide surety for Phase I as shown on Phasing Plan revised May 2, 2005 in the amount of \$1.65 Million, that the applicant must return to the Board to establish surety for Phases 2 and 3, that prior to beginning construction the Board receive a copy of the easement over the Robinson property M/L 021-005-000 in a form acceptable to the Board to assure that Phase 2 and 3 construction access will not be through the Phase 1 roads except what is necessary to complete Lots 20 and 30, that no certificate of occupancy[COO] would be issued before the Loop Road in Phase 1 on the May 2, 2005 plan is completed through the binder coat of pavement and that, if the Fire Chief determines that the temporary access road over Lots 20 and 30 is not needed, the bond amount be reduced to \$1,575,000.**

Mr. Rineman stated that he would ask the Fire Chief why he recommended the temporary road.

***The vote was 6-1-0 with Dr. Arena opposed.***

## ***New Business***

**Case #05-07 -- Map/Lot #021-024-000: 43 Lafayette Terrace,** (I-B/R Zone District) Scott W. Marshall, 43 Lafayette Terrace, North Hampton, NH 03862. Change of Use Application to include retail use of the residence to operate a Durable Medical Equipment & Scooter store.

The applicant was not present at the meeting.

**Mr. Salomon moved and Dr. Arena seconded the motion to deny the change of use because it did not meet the criteria as outlined in the ARC Review Committee report.**

***The vote was 6-0-1 with Ms. Day abstaining.***

**Case #05-08 -- Map/Lot #017-086-000: 180 Lafayette Road,** (I-B/R Zone District) Rick Fucci/Lafayette Acres Business Park, 180 Lafayette Road, North Hampton, NH 03862. Request for Bond Release.

Mr. Fucci remarked that he had spoken with Roger Roy, MJS Engineering/Town Engineer. Mr. Fucci felt that he had addressed all of Mr. Roy's comments. Mr. Roy recommended retaining \$33,000 of the bond and releasing \$37,000. Mr. Fucci requested that, rather than the customary stockade fence, he be allowed to install a chain link fence with metal strip weavings as screening around the dumpster in the storage area. Dr. Arena noted that he doubted that Mr. Fucci needed the topcoat of pavement because it was private property and not generally seen by the public.

Ms. Robinson stated that even though the recorded site plan noted a topcoat, she did not see the elimination or postponement of the application of the topcoat as a problem. Mr. Salomon suggested that the Board should draft a letter to Mr. Fucci outlining the change of the condition of the recorded site plan. Mr. Fucci would record the Board's letter at the Registry. This procedure would successfully amend the plan note condition requiring a pavement topcoat.

**Dr. Arena moved and Ms. Day seconded the motion to dismiss the requirement for a dumpster enclosure because it is not seen by the public.**

*The vote was unanimous (7-0).*

**Mr. Salomon moved and Dr. Arena seconded the motion that the Board waive the requirement for a finish/top coat of pavement and that Mr. Wilson compose a letter to the applicant that would be recorded at the Registry because the road was private and no heavy-weighted vehicle would compromise the pavement surface.**

*The vote was unanimous (7-0).*

**Dr. Arena moved and Mr. Kroner seconded the motion to release \$67,500. of the \$70,000. bond and that the retained funds were to be used for pavement striping and the "Knox Box" installation.**

*The vote was unanimous (7-0).*

## ***Other Business***

### **Review Minutes**

March 21, 2005 Regular Meeting Minutes

**Ms. Day moved and Mr. Kroner seconded the motion to table review of the minutes until the May 16, 2005 work session.**

*The vote was unanimous (7-0).*

Ms. Day remarked that Jenifer Landman, Heritage Commission Chair, had assigned a drawer at the Heritage Room for the Master Plan/CIP information.

Mr. Kroner requested review of the Irving Gas Station approval and site plan to make sure that the recent changes Irving Gas had made on the site were in compliance with their approval. Mr. Wilson commented that the ARC should review the Irving Gas approval.

**Ms. Day moved and Mr. Rineman seconded the motion to have the ARC review the Irving Gas decision and approval.**

*The vote was unanimous (7-0).*

### ***Adjournment***

**Dr. Arena moved and Mr. Rineman seconded the motion to adjourn.**

*The vote was unanimous (7-0).*

The meeting adjourned at 8:35 PM.

Respectfully Submitted,

Krystina Deren Arrain  
Recording Secretary/Planning and Zoning Administrator