



Minutes

NORTH HAMPTON PLANNING BOARD

Regular Meeting June 6, 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 Solomon; (6) Joseph Arena; (7) Laurel Pohl; (8) Jill Robinson, Circuit Rider/RPC; (9) Krystina Deren Arrain, Recording Secretary/Planning and Zoning Administrative.

Absent: None

Alternates Present: (1) Richard Goeselt

Mr. Wilson convened the meeting at 6:32 PM

Old Business

Case #05-09 – Map/Lot016-012-000/021-007-000/017-088,089,090,091-000: 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 was a second re-Application.

In attendance for the applicant

Atty. John Bosen, Bosen and Springer, Portsmouth, NH

Bob Waddington, Park Manager, North Hampton, NH

John Chagnon, Ambit Engineering, Portsmouth, NH

Mr. Wilson noted that a new request for rehearing was recently submitted to the ZBA that could impact the process of the current application under consideration.

Dr. Arena moved and Ms. Pohl seconded the motion to cease action on the application until the variance and rehearing question was resolved by the ZBA.

Mr. Salomon noted that once a variance was granted the variance was in place and valid until it was challenged. Mr. Salomon explained the rehearing process that could under certain conditions lead to court action. He cited RSA 677:4 as the statute that applied to the ZBA rehearing process. The Board discussed the information provided by Mr. Salomon and their

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concerns. Mr. Wilson noted that the Board had to accept jurisdiction within 30 days and since they continued the meeting from the previous month he felt that the Board needed to decide on an appropriate action at this meeting.

Dr. Arena withdrew his motion and LP withdrew her second.

Atty. Bosen said it has been a long process for the applicant with two ZBA appearances. He remarked that an abutter was not notified in the original hearing and, as such a rehearing went forward for over an hour in which all findings of the five-part test were met. Atty Bosen commented that the last minute rehearing request was submitted as an act of bad faith. He felt that this action was a waste of the Board's and all participant's time.

JA moved and JR seconded the motion to cease action on the application until the variance Rehearing issue had been resolved.

Joseph Fitzgerald, 185 Lafayette Road, stated that the variance criteria were not addressed fully By the ZBA and was not reflected in the minutes. Mr. Chagnon remarked that with his Experience in the Boccia Case, he knew that variances granted remained in place until they are Overturned, even though it could go into litigation.

The motion failed with a vote of 2-4-1 with Dr. Arena and Mr. Rineman voting in favor of the motion with Mr. Wilson abstaining and the remaining members voting against the motion.

Mr. Chagnon reviewed his response letter to the May 24, 2005 ARC meeting comments dated June 2, 2005 and provided additional information during his presentation. He noted that minor changes were made on the plans that had been recently submitted to the Board. The Board required that exact dimensions of the proposed units must be included on the plan. Mr. Wilson noted that the approved recreation area had not been built whereas the basketball court that the applicant added was not part of an approved site plan. Mr. Chagnon stated that he felt the applicant had submitted all the required documents and information and requested that the Board accept the application as complete.

Atty. Bosen remarked that he contacted Health and Human Services and submitted a copy of Title XXXI Trade and Commerce, Chapter 354-A Fair Housing statute, specifically Section 354-A:15. He also submitted Part IV of the Dept of Housing and Urban Development 24 CFR Part 100: Implementation of the Housing for Older Person Act of 1995. Atty. Bosen addressed the guidelines of both the state and federal statutes and stated that the applicant would meet the requirements as stated in the above-referenced statutes and guidelines.

Mr. Waddington noted that currently 45% of the existing mobile home park residents are "over 55 years of age." Atty. Bosen stated that the purpose of the Fair Housing statute was really to

Prevent discrimination. Atty. Bosen commented that the general makeup of the park had changed over the years and was moving away from younger families and more toward a mature resident grouping. The applicant asked for a reduction or elimination of some of the services required for a facility of this type. He noted that the applicant would offer some recreation facilities and low-cost maintenance services.

Mr. Kroner expressed concern for existing park residents noting that residents could see the demise of certain amenities [such as open space] without any representation or any mechanism in which to express their opinion. Mr. Goeselt suggested appropriate street lighting should be included. Atty. Bosen stated the applicant would add some additional recreational facilities that would be more age appropriate.

Mr. Salomon moved and Ms. Day seconded the motion to deny the street lighting waiver.

Ms. Day commented that appropriate lighting was a security issue. Ms. Robinson remarked that lighting should comply with the dark sky standard. Atty. Bosen added that the applicant would not be opposed to installing street lighting. Mr. Chagnon suggested installing small light poles at the end of each unit's driveway. Dr. Arena was opposed to a unit's resident having control over the driveway pole light. He wanted all the lighting under the control of a timed system, independent of the unit residents.

Mr. Wilson opened the public hearing at 9:33 PM.
Mr. Wilson closed the public hearing at 9:33 PM.

The vote was unanimous (7-0).

Mr Salomon moved and Ms. Day seconded the motion to grant the waiver request that all Utilities do not have to be underground.

The vote was 1-6 with Mr. Salomon in favor. The motion failed.

Mr. Wilson opened the public hearing at 7:35 PM.
Mr. Wilson closed the public hearing at 7:36 PM.

Mr. Kroner commented that he believed all utilities should be underground throughout the park for safety and aesthetic reasons. Atty. Bosen noted that the installation of underground utilities was very expensive and he was concerned that the installation cost would be passed on to the homeowner. Mr. Salomon remarked that since this project would be new construction he did not believe installing underground utilities would be as costly as Atty. Bosen indicated.

Ms. Day moved and Dr. Arena seconded the motion to deny the request for the waiver that required underground utilities.

Mr. Wilson open the public hearing at 7:38 PM.
Mr. Wilson closed the public hearing at 7:39 PM.

The vote was unanimous (7-0) to deny the waiver for underground utilities.

Discussion ensued about the monumentation waiver request. Mr. Chagnon stated that he believed about 80% of the applicant's property was properly monumented.

Mr. Salomon moved and Ms. Day seconded the motion to deny the monumentation waiver as presently formulated.

Mr. Wilson opened the public hearing at 7:45 PM
Mr. Wilson closed the public hearing at 7:55 PM.

The vote was unanimous (7-0) to deny the waiver for monumentation.

Mr. Kroner remarked that the access road near AMD Subaru open parking lot was potential Safety hazard. He noted that residents exiting/entering from Lafayette Road do not have clear road access that is an unsafe condition. He suggested separating the park road from the AMD facility. Mr. Wilson suggested that the Board should probably conduct a site walk because the Board had a piecemeal plan of the applicant's total property activities. Ms. Day noted that she Was concerned about the intensity of uses on the entire applicant's property.

Mr. Kroner moved and Ms. Day seconded the motion to accept the application as complete.
The vote was 6-1 with Dr. Arena opposed.

Mr. Chagnon asked if there could be a public hearing. He felt other attendees might want to offer comments, such as Mr. Fitzgerald.

Ms. Day moved and Dr. Arena seconded motion to continue the meeting until July 5, 2005.
The vote was 6-0-1 with Mr. Salomon abstaining because he will not be at the July 5, 2005 Meeting.

The meeting recessed at 8:15 PM
The meeting reconvened at 8:20 PM.

Case #05-10 – Map/Lot #007-031/032-000 and 006-039-000: Atlantic Avenue and Mill Road, (R-1 Zone District) Russell Jeppesen, P.O. Box 990, North Hampton, NH 03862.
Proposal for a lot line revision involving (3) lots.

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In attendance for the applicant

Atty. Michael Donahue, Donahue, Tucker & Ciandella, Exeter, NH
John Chagnon, Ambit Engineering, Portsmouth, NH

Mr. Salomon recused himself.
Mr. Goeselt was seated for Mr. Salomon.

Mr. Chagnon noted that he submitted the application and all required information. He requested a waiver for the plan scale so that the lot configuration would fit on one plan sheet.

Mr. Kroner moved and Dr. Arena seconded the motion to waive the requirement that 1-inch equaling 100 feet instead of 1 inch equaling 80 feet.

The vote was unanimous (7-0).

Mr. Chagnon addressed the comments from ARC and provided an overview of the proposed lot line adjustment. Mr. Chagnon remarked that with the lot line adjustment a building envelope was created on Lot #7-32. He noted that a NH-DOT driveway permit would be required. Atty. Donahue stated that the applicant would voluntarily add a note that would be placed on the plan For Lot 7-31 that stated the view vista would be maintained.

Mr. Kroner moved and Dr. Arena seconded the motion to accept jurisdiction of the application.

The vote was unanimous (7-0).

Mr. Wilson opened the meeting for public comment at 8:35 PM

Ann Barrett, 95 Mill Road asked if there would be a shared driveway. Mr. Wilson said there would be a shared driveway until the applicant was granted a driveway permit.

Mr. Wilson closed the public hearing at 8:37 PM.

Mr. Rineman moved and Ms. Pohl seconded the motion to approve the application with the following conditions.

The vote was unanimous (7-0).

Conditions:

1. Recordable Mylar. The applicant shall submit a recordable Mylar of the plan with all Required signatures and seals affixed of all licensed professionals whose names appear on the plan.

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.
3. Renumbering Street. The Fire Department will renumber the Mill Road address.
4. Additional notes/information to the plan shall be added by the applicant, as follows:
 - A. Calculation of wetlands to uplands are to be included for Lot #006-039-000 and Lot #007-032-000.
 - B. A plan note stating there will be no disturbance of 200 feet from the pond except for equestrian use.
 - C. A plan note stating that all stone walls would remain undisturbed except for a driveway entrance opening.

Mr. Goeselt retired from the Board.

Mr. Salomon was reseated.

Other Business

Discussion and decision on Request from Zoning Board of Adjustment to conduct a joint meeting on June 20, 2005 regarding variance requests to locate a telecommunications tower, proposed by GridCom/Cingular Wireless, on 22 Woodland Road.

Mr. Wilson commented that John Anthony Simmons, ZBA Chairman telephoned immediately following the ZBA's May 18, 2005 meeting and asked if Mr. Wilson would support a joint meeting. Mr. Wilson indicated to Mr. Simmons that he would not support a joint meeting because the Woodland Road cell tower case was a contentious issue and the applicant should be afforded due process. Mr. Wilson saw no advantage in a joint meeting because the Planning Board could not vote on the five criteria standards.

Mr. Wilson added that Mr. Simmons believed a joint meeting would expedite the process. Ms. Day commented that she had spoken with Mr. Simmons and felt that she did not see any reason Why a joint meeting would be advantageous. Mr. Salomon agreed that there would be no benefit.

Dr. Arena moved and Mr. Salomon seconded the motion that the Board would not Participate in a joint meeting with the ZBA on this matter.

Mr. Wilson opened the public hearing at 8:52 PM.

Mr. Wilson closed the public hearing at 8:52 PM.

Mr. Kroner moved and Ms. Day seconded the motion to allow the Chair to write to the ZBA Chair giving him the results of the Board vote and added that the Board would be Willing to meet with the ZBA on general policies and issues regarding the telecommunications ordinance.

The vote was unanimous (7-0).

Ms. Day suggested that the Board should have a general discussion during a work session to address the following procedural issues. She wanted a discussion on whether an applicant is required to secure any required ZBA approvals before the Planning Board hears an application.

Adjournment

Mr. Kroner moved and Ms. Day seconded the motion to adjourn.

The vote was unanimous (7-0).

The meeting adjourned at 8:55 PM.

Respectfully Submitted,

Krystina Deren Arrain
Recording Secretary/Planning and Zoning Administrator

