



Minutes

NORTH HAMPTON PLANNING BOARD

Special Meeting July 12, 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) Judy Day; (4) Joseph Arena; (5) Craig Salomon

Alternates Present: (1) Rich Goeselt

Members Absent: (1) Jon Rineman, Selectman, Laurel Pohl

In Attendance: John Chagnon Engineer, Chris Mulligan (Attorney at Law – Bosen & Springer)

Mr. Wilson convened the meeting at 6:30 PM

Old Business

Case #05-04 – 203 Lafayette Road, Crown Properties and Home Sales, P.O. Box 1627 North Hampton, NH 03862. A plan for an 8 Lot Sub-division.

This meeting was a special meeting in continuance of our July 5th hearing, due to pending issues regarding the issuance of a variance by the Zoning Board of Adjustment. The variance granted has been appealed by an abutter, is questions were raised on whether the Planning Board should continue the hearing or not.

Dr. Arena felt that we should utilize common sense, and wait until the final outcome of the appeal to the ZBA has been resolved prior to our continuing.

The ZBA had granted a rehearing, however the number of votes was not great enough for it to carry legally. A separate hearing on the subject would be held during their next scheduled meeting.

Chris Mulligan (Attorney for the applicant) believed that the Planning Board should provide the applicant due process, and move forward with the hearing.

John Chagnon, (Engineer for the Applicant) also believed that the hearing should continue.

Mr. Solomon asked the applicant the type of variance they sought from the ZBA.

Chris Mulligan replied that the variance was a use variance to put the MFG housing park within the R-3 zone.

Mr. Solomon suggested that because it was a use variance, no harm would exist in proceeding with the hearing.

Dr. Arena restated that we were not playing with a full deck of cards. He suggested that we stop the clock, and reconvene once all outstanding issues have been resolved.

Mr. Wilson reminded everyone that in his opinion, the Chair of the ZBA should have informed the abutter who was appealing the case, that moving forward with only 3 ZBA members present could pose a problem if only 2 votes were in the affirmative because 2 votes does not carry the case into appeal status, it must be 3 votes.

Attorney Mulligan then stated that the default goes back to variance status.

Ms. Day said that she does not agree with Mr. Solomon's opinion regarding his understanding of the ZBA decision.

Dr. Wilson had gone to Mr. Pardue, town administrator seeking permission to direct the legal question on whether or not the Planning Board should continue the hearing, suspend it, deny it, or reconsider it's taking of jurisdiction over the case.

Dr. Wilson added that if we continue it to our next meeting we will be forced to render a decision at that time as the time clock for making a decision will end at that meeting.

Ms. Day did not think the abutter challenging the ZBA granting of the variance was aware of the meeting or rehearing on the 26th of July, or that the earlier decision was rendered invalid because only 2 votes affirmed the rehearing where the state requires 3 votes.

Mr. Solomon said it is Mr. Fitzgerald's responsibility to know the law. The ZBA will have a decision by July 26th, and thus before our regular August meeting.

Attorney Mulligan did not believe the board would be swayed by the rehearing or threats of superior court action by the abutter. The board, in his view, should continue to do its job.

Mr. Solomon made a motion to continue the meeting to our next regularly scheduled meeting on August 2nd.

Dr. Arena 2nd the motion.

Ms. Day as a matter of procedure asked why the chair had not been voting on this issue.

Mr. Wilson replied that as the person in charge of procedures that it was best for him to stay impartial in this matter.

Mr. Kroner said he had no strong opinion on moving forward or continuing and believed both sides had good arguments.

Dr. Arena reminded Mr. Kroner that we were not playing with all the pieces necessary to deliberate. That without the final decision by the ZBA we were working with an incomplete application.

Ms. Day asked what was required in a vote, a simple majority, a certain number, what?

Mr. Wilson stated that it was a simple majority which would carry the motion forward.

Dr. Arena called the question.

The vote was 6 in favor, with 1 abstention (Wilson) none opposed, the motion carried to continue the public hearing until August 2nd.

Mr. Kroner then made a motion to postpone our work session until July 25th, as Mr. Wilson had so much work to do in revising the survey that it was best to delay.

Ms. Day 2nd the motion and Mr. Solomon called the question.

The vote was unanimous in postponing the work session meeting until July 25th, 2005.

Adjournment

Dr Arena moved and Ms. Day seconded the motion to adjourn.

The motion passed unanimously (6-0) to adjourn.

The meeting adjourned at 7:10 PM.

Respectfully submitted,

Robert Shepherd. Kroner Vice Chair Planning Board