



MEETING MINUTES

NORTH HAMPTON PLANNING BOARD Regular Meeting July 5, 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.

Attendance

Present: (1) Phil Wilson, Chairman; (2) Shep Kroner, Vice-Chair; (3) Judy Day; (4) Laurel Pohl; (5) Joseph Arena (late); (6) Jill Robinson, Circuit Rider/RPC

Alternate(s) Present: Rich Goeselt

Staff Present: Maureen Cooper, stand-in Recording Secretary

Mr. Wilson convened the meeting at 6:37 p.m.

Old Business

Case #05-09 – Map/Lot #016-012-000/021-007-000/017-088,089,090,091-000: 203 Lafayette Road, (I-BR Zone District) Crown Point 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 continuance of the June 6, 2005 session.

In Attendance

*****the man sitting next to Atty. Bosen was not introduced***

Atty. John Bosen, Bosen & Springer, Portsmouth, NH
Joseph Roy

Mr. Wilson announced that the Planning Board had taken jurisdiction of the project at the last meeting.

Ms. Day expressed concerns about whether the case should be brought before the Board at this time. Firstly, she had been unable to obtain a final copy of the minutes from the last meeting due to Krystina's absence. Nor had she been able to obtain a copy of the final decision of the Zoning Board. Secondly, according to 676:6 in the New Hampshire Planning and Land Use Regulations, it appeared to her that all actions are stayed. Thirdly, she had questions about the appeal process with the ZBA. Atty. Bosen only had draft minutes from the night of the appeal, and did not have a decision letter. Joseph Fitzgerald, 185 Lafayette Road, an abutter, submitted a copy of the decision letter

received May 24, 2005, which listed the Special Conditions to be discussed at the rehearing with the ZBA scheduled for that next day, July 6 at 12:00 noon.

Dr. Arena arrived at 6:45.

Discussion ensued among the members on interpretation of the RSA's and Board rules and what should be the next best step. Atty. Bosen submitted that the scenario in this case was not uncommon, that in similar cases he has been a part of across the state, an appeal did not cause the proceedings to be halted. He felt that it served prejudice to deny them the ability to move forward that evening. Mr. Kroner asked if they should at least hear the new information, but other Board members felt it to be unnecessary. The Board discussed the 65-day concern as well.

Ms. Day moved and Dr. Arena seconded suspension of action on this application without prejudice based on the interpretation of the regulations.

The vote was four (4) in favor, one opposed, with Mr. Wilson abstaining.

Dr. Arena moved and Ms. Day seconded the motion to continue the hearing for this case to date before the next scheduled meeting. The Board chose a date of July 12, 2005 at 6:30 pm before their scheduled work session meeting.

The vote was unanimous in favor of the motion (6-0).

New Business

Case #05-11 – Map/Lot #007-057-000: 27 Lafayette Road, Pandolfo Company 3 Meadowcroft Road, Burlington, MA 01803, Request for Bond Release for Jiffy Lube/Midas Muffler/Retail-Office Space at 27 Lafayette Road.

The Board had received Roger Roy's letter of confirmation that the project was done. There is approximately \$20-25,000 remaining in the bond. Joe Pandolfo reviewed with the Board what was left to be done at the site.

Mr. Kroner moved and Dr. Arena seconded a recommendation to the Board of Selectmen to release all remaining bond monies for this case.

Ms. Pohl confirmed that there was no condition on a landscaping bond.

The vote was unanimous 6-0.

Case 305-12 – Map/Lot #023-012-000 Winnicut Road, (R-3 Zone District) Raymond A. Carye, 300 Boylston Street, Boston, MA. Preliminary consultation for a three lot subdivision.

Jonathan Ring, Jones and Beach Engineers, Stratham, introduced Ray Barbara Carye, and Barbara Houseman. They have owned the property for 20 years. The Caryes were the developers of the Exeter Industrial Park. He reviewed a plan of the area off Winnicut Road where the proposed subdivision would be located. He pointed out location of brook, well easements, frontage. Read Section 10.A.3 of Subdivision Regulations, the

issue in question for the proceedings, “no dead end or cul-de-sac street shall be allowed. If a turnaround street is at least a lot of legal size, the turnaround will not be considered a cul-de-sac.” Mr. Kroner had done a Deed search to find out if the property had been back lot subdivided in the past, and asked what brought the lot shape as it stands. Had it been subdivided before, this case would have to go before the ZBA. Mr. Wilson announced that he was not in favor of waiving the regulation on this case. He was hesitant to set a precedent. Mr. Ring drew possible options for meeting the requirements of Section 10.A.3 by developing a turnaround road on the plan, and discussed how this would affect the three lots as well as Winnicut Road. Mr. Wilson suggested conservation easement land as part of the development. Mr. Ring asked about the possibility of condominiums, and it was decided that duplexes would be allowed according to the Zoning Ordinance.

Mr. Wilson moved and Dr. Arena seconded that relief should not be granted for the plan proposing a cul-de-sac.

The vote was unanimous in favor of the motion (6-0).

Ms. Robinson said that she was in agreement with the Board’s decision.

Other Business

Review of easements reviewed by John Ryan, Town Attorney for:

- 1) Case #04-35: Stevens Subdivision.

This copy had not been distributed and review was tabled.

- 2) Case #04-31: Rite Aid

The condition of approval was to add at end with signatures, “The within granted easement shall run with the Land and cannot be changed or modified without the consent of the North Hampton Planning Board.” At the end of the Easement Deed, Atty. Ryan added “and shown on a plan entitled Site Plan, Rite Aid Pharmacy and recorded herewith at the Rockingham County Registry of Deeds.”

Ms. Day moved and Dr. Arena seconded to accept as amended by Atty. Ryan.

The vote was unanimous in favor of the motion (6-0).

The Board discussed among themselves and with Ms. Robinson the RSAs in question that had come up earlier with Case #05-09. They discussed the possibility of automatically suspending cases being appealed. According to Ms. Robinson, the reason that these RSA’s were written was based on the usual case with a ZBA appeal, which would be because the applicant either has a use that they want to continue and get a variance, or they need an area variance. Her interpretation of the term “status quo” was not in regards to Planning Board concerns. The question that the RSA asks is, is the building still in the setback, is the business still providing the same service. It was not her opinion that either had relevance to the proceedings earlier. She suggested

consultation with the Town Attorney. It was her suggestion that if an applicant has a zoning issue, the Planning Board denies the application until ZBA issues have been resolved, and the ZBA refused to review the application unless the Planning Board has denied the applicant. She reviewed the basic function of the Planning Board, ensuring that plans meet all ordinances. If someone has appealed the ZBA, then the Board cannot say conclusively that the plan has met all ordinances. Mr. Wilson suggested adopting a rule stating something similar to what Ms. Robinson had said is the practice in other towns.

In regards to the upcoming work meeting, Mr. Kroner brought up Can Do Sidewalk Kids. The school is applying for a transportation enhancement grant for a sidewalk between the Library and the School. The Board has been asked to endorse or not endorse the effort. There was concern that the project would not be considered important, and that it would take a long time for the grant money to arrive. Ms. Robinson submitted that because the project is so small, what often happens with larger project is that the projects are finished under budget and the Department of Transportation is able to act on smaller less expensive projects on short notice.

Adjournment

Ms. Pohl moved and Mr. Goeselt seconded the motion to adjourn at 8:40 pm.

The vote was unanimous in favor of the motion (6-0).

Respectfully submitted,

Maureen Cooper
Recording Secretary