



## **MEETING MINUTES**

### **NORTH HAMPTON PLANNING BOARD Regular Meeting Monday, February 6, 2006 at 6:30pm Mary Herbert Conference Room**

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*These minutes were prepared as a reasonable summary of the essential content of this meeting, not as a transcription.*

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**Members present:** Phil Wilson, Chairman; Shep Kroner, Vice Chairman; Laurel Pohl, Joseph Arena and Emily Creighton, Selectman Representative.

**Others present:** Jill Robinson, Circuit Rider/RPC and Wendy Chase, Recording Secretary.

**Alternates present:** Rich Goeselt

**Absent:** Craig Salomon

Mr. Wilson convened the meeting at 6:32pm.

Mr. Wilson noted that Mr. Goeselt was seated for Mr. Salomon.

Mr. Wilson informed the Board that he had emailed a copy of the latest version of the Wireless Telecommunication Ordinance to each member and Ms. Chase will make a hard copy to be distributed in each member's mailbox. This latest version will be discussed at the February 15, 2006 Work Session.

Mr. Wilson stated that he has received favorable feedback from Selectmen and Planning Board members to reapply to the PLAN NH Charrette Program. This will be discussed at the February 15, 2006 Work Session also.

Dr. Arena suggested that the Planning Board increase their budget to fund projects like the PLAN NH Charrette Program, so that the Planning Board would not need to seek approval from the Board of Selectmen. He stated that projects like these are in the realm of the Planning Board's duties.

Mr. Kroner agreed that the Planning Board increase the budget in the future for these types of projects.

Ms. Robinson informed the Board that the matching grant contract from the coastal program ends June 30, 2006. The Board will have to decide what projects should be done with this money. Mr. Wilson suggested the Board discuss this at the February 15, 2006 Work Session.

**OLD BUSINESS**

**Case #05:23 – Map/lot 007-120-000, Location: 62 Lafayette Road (R-1 and I-B/R Zones), Russell Jeppesen, 152 Atlantic Ave., North Hampton, NH 03862.**  
**Subdivision application to convert existing buildings into three condominium units.**

In attendance for this application:

Mr. John Chagnon; Ambit Engineering, Inc.

Mr. Michael Donahue; Donahue, Tucker and Ciandella, PLLC

Mr. James Kerivan; Altus Engineering, Inc.

Mr. Wilson stated that the Board took jurisdiction of this application at the January 3, 2006 Planning Board meeting. He also stated that the two issues which needed to be addressed were; (1) lot line discrepancy between the applicant and Mr. Taylor who abuts the property and (2) a legal review of the condominium's By-laws and Declaration.

Mr. Chagnon informed the Board that the lot line discrepancy has been resolved and the parties involved have agreed upon the lot line depicted on the plan. Mr. Taylor was in the audience and confirmed this to be true.

Attorney Donahue noted for the record the cooperation of the abutter, Mr. Taylor and the work done by Attorney Salomon.

The Board as well as Attorney Donahue took a few moments to read over the recommendations made by Attorney Pelech regarding the condominium By-laws and Declaration.

Attorney Donahue commented that he felt Attorney Pelech did a good review and profitable to them because he caught things that a potential buyer would catch. He agreed that there were issues that were written in Attorney Pelech's review that need to be addressed. Attorney Donahue suggested that the Board proceed under the condition that a "clean letter" would be written to the Board from Attorney Pelech confirming that all issues have been addressed. He also stated that he feels Attorney Pelech is under the impression that this is a residential condo conversion rather than a commercial condo conversion and may have based his review on that misunderstanding.

Dr. Arena voiced concerns with the issues brought up by Attorney Pelech. The By-laws and Declaration were not written to be airtight.

Attorney Donahue stated that this property is an existing commercial property and the only thing to be changed is ownership.

Mr. Wilson referenced page 8 A. of Attorney Pelech's review where he cites RSA 356-B:16(II)(b) stating there should also be included a statement of the maximum number of units that may be created within the convertible/withdrawable land.

Attorney Donahue said that each issue that Attorney Pelech brought up will be addressed and that they would provide a statement, which would probably state zero units.

Mr. Wilson explained that conditional approval could be granted only if the conditions are purely administrative.

Dr. Arena questioned the convertible/withdrawable land referenced in the Declaration.

Attorney Donahue explained that it is very common to have convertible/withdrawable land with condominium associations. He explained that Legislation was written that requires to: (1) clearly show it on the plan; (2) identify the number of units and (3) put a time limit on how long you can go without acting on the right to withdraw, which is seven years.

Attorney Donahue stated that the current tenants would like to purchase the condominiums.

Ms. Robinson stated that she is not comfortable with the “clean letter” concept. She also stated that the Board cannot discriminate against this type of ownership.

Dr. Arena stated that it is part of the Board’s responsibility to look out for the welfare of the people involved.

Mr. Wilson pointed out that the way the Zoning Ordinances are written if this property is converted into commercial condominiums, it could never be converted to residential condominiums.

Dr. Arena stated that more information was needed from the applicant.

Mr. Wilson opened the public hearing at 7:14pm.

Mr. Taylor stated that the lot line was correct as depicted on the plan and that the land out back is not buildable.

Mr. Wilson closed the public hearing at 7:15pm.

**Dr. Arena moved and Mr. Goeselt seconded the motion to continue Case #05:23 to the March 6, 2006 Planning Board Meeting with the condition that all issues raised by Attorney Pelech have been resolved.**

It was determined that since jurisdiction was taken at January Planning Board meeting this application would have to be acted upon at the March 6, 2006 meeting.

Mr. Goeselt asked Attorney Donahue if there were any pressing issues for the parties involved. Mr. Donahue receives daily phone calls from the tenants but they are still conducting business as usual.

The vote passed in favor of the motion (5 yes, 0 no and 1 abstention). Ms. Creighton abstained.

**Case #05:20 – Map/lot #012-048/066.000, 144 Mill Road, (R2 Zone District) Leonard & Mary Saunders, 144 Mill Road, North Hampton, NH 03862 to consolidate Tax Map 012 lots 048 & 066, then to subdivide into 4 lots.**

In attendance for this application:

Attorney Chris Boldt; representing Mr. and Mrs. Saunders  
Lee and Mary Saunders  
Jonathan Ring; Jones and Beach Engineering  
Richard Skowronski; Abutter to the property

Mr. Wilson noted the series of events regarding this application.

- The Planning Board took jurisdiction of the application November 7, 2005.
- The application was continued to February 6, 2006 at the December 5, 2005 meeting. (Written agreement from the applicant to continue was submitted).
- The ZBA overturned the Planning Board's decision that lots 48 and 66 were merged de facto.

The Board discussed whether or not to reconsider their decision to take jurisdiction of this application.

**Mr. Kroner moved and Ms. Pohl seconded the motion to reconsider accepting jurisdiction of the Saunders case, number 05:20.**

Mr. Kroner felt that the Board accepted jurisdiction based on the pretense that the lots were merged de facto and now that the ZBA has overturned this ruling the Board may want to rescind the decision of taking jurisdiction.

Dr. Arena stated that the process by which the Board concluded that the lots had been merged de facto was flawed.

Mr. Wilson agreed, stating that there is ambiguity between the zoning ordinances, the Planning Board's standard practice and tax practices that needs to be resolved.

Mr. Wilson stated that since a new plan was submitted abutters must be notified. He also suggested that the fees be waived for the new application except for the abutter notification fees.

Attorney Boldt spoke on behalf of his clients, Mr. and Mrs. Saunders. He stated that he does not feel that his client needs to fill out a new application. The applicant is not adding lots to the proposed subdivision they are decreasing the lots from four to three.

Mr. Ring stated that lot 66 will be combined with lot 48 as shown on sheet A of the proposed plan.

Mr. Skowronski requested that the Board direct the Saunders to reapply due to the fact that there are substantial changes to the original plan. He would like time to review them.

Attorney Boldt stated that his clients have made efforts to accommodate their abutters. He requested the Board grant his clients conditional approval.

Mr. Wilson stated that the Board received the new plans on Friday, February 3<sup>rd</sup> and has not had sufficient time to review the new plan.

Mr. Goeselt asked whether or not a site walk on the Saunders' property had taken place.

Mr. Wilson stated that a site walk had not taken place and asked if the Board would like to schedule one.

It was agreed that the Board would conduct a site walk of the Saunders' property at 144 Mill Road on February 22, 2006 at 4:00pm. Mr. Saunders invited the members to park in his driveway. Mr. Skowronski also gave permission to anyone wishing to drive down his driveway to observe driving conditions.

Mr. Wilson directed Ms. Chase to post the site walk.

Ms. Robinson stated that the Board had two reasons to reconsider the vote to take jurisdiction. (1) The agenda for this meeting does not accurately state what is shown on the plan so, in all fairness to the abutters, they should be properly notified of this new plan and (2) the decision to accept jurisdiction is based on the lots being merged de facto which the ZBA overturned.

Ms. Robinson also stated that after her review of the plan she concludes that the applicant has addressed all the issues and has made the plan simpler. A variance would not be required based on this plan.

**The vote passed in favor of the motion (5 yes, 0 no and 1 abstention). Ms. Creighton abstained.**

Mr. Skowronski stated that there was no driveway easement depicted on his property deed. Attorney Boldt explained that he had done a title search and referred to the deed between the Hams and the Saunders. He also stated that the easements stay with the land regardless of whether or not it is stated in the current deed.

**Ms. Pohl moved and Mr. Goeselt seconded the motion that in view of the judgment of the ZBA the Board can not accept jurisdiction for the plan and invites the applicant to resubmit their revised plan in a timely way for the next Planning Board**

**meeting and the Board will waive all application fees except for those required for notifying abutters.**

Attorney Boldt stated that the ZBA did not revoke the Planning Board's decision to take jurisdiction.

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

Mr. Wilson recessed the meeting at 8:13pm.

Mr. Wilson reconvened the meeting at 8:16pm.

**Case #06:01 – Map/lot 017-084, Location 178 Lafayette Road (I-B/R zone), Nations Rent, 800 Hartford Turnpike, Shrewsbury, MA 01545, proposed change of use: Construction equipment and tool rental, sales and service.**

In Attendance for this application:

David William, Manager of Nations Rent

Mr. Williams explained that he currently manages a Nations Rent store in Portsmouth. The lease is about to expire and his company would like to relocate to North Hampton. He further explained that they would be renting small power tools and construction equipment to homeowners and contractors. The largest piece of construction equipment would be a boom lift.

Mr. Wilson asked if there would be any servicing of equipment at the proposed facility.

Mr. Williams stated that the only servicing to be performed would be on the rental equipment after the customer returns it.

Dr. Arena asked whether or not Nations Rent rented out port-a-potties.

Mr. Williams answered that they did not.

Mr. Wilson asked what changes would be made to the existing building.

Mr. Williams replied by stating the following:

- Minor remodeling changes to the interior and an added recycling system that constantly cleans the water where the equipment is cleaned.
- The exterior painted; the roof black and the overhead doors yellow.
- Outside landscaping cleaned up.

Dr. Arena asked what shade of yellow. Mr. Williams replied that it would be safety yellow.

Mr. Williams stated that there would be no structural changes to the building but they may extend the 6' high black chain-link fencing that exits now to the front of the building.

Dr. Arena asked if fuel would be stored on site. Mr. Williams explained there will not be storage on site but reserves the right to come back before the Board with the proper application if they do decide to store fuel on site in the future.

Mr. Wilson informed Mr. Williams that the Town's Zoning Ordinance limits the number and capacity of underground fuel storage tanks. Mr. Williams said that if he were to install a fuel storage tank, it would be above ground and vaulted.

**Mr. Kroner moved and Dr. Arena seconded the motion to approve the change of use application.**

Dr. Arena amended the motion to include if changes such as adding fuel storage at the facility are made; the applicant must come before the Board for site plan approval.

Mr. Kroner accepted the amendment.

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

**Greystone Village bond reduction request**

In attendance for this request:

John Chagnon; Ambit Engineering

Joseph Cataldo; Project Engineer

James Kerivan; Altus Engineering

Mr. Wilson noted that the Board was in receipt of a letter from Gian Garufo from Caswell Construction.

Mr. Garufo stated he was in attendance only to observe and not to comment.

Mr. Cataldo was before the Board to request a reduction of the Greystone Village road bond. Based on the on-site observation performed by James Kerivan of Altus Engineering, a recommendation in the amount of \$48,520.26 was made to the Board.

Mr. Cataldo requested an additional reduction to the bond.

The Board advised Mr. Cataldo to provide a new regrading plan to Altus Engineering and to come back before the Board on Wednesday, February 15, 2006 with a reduction request.

Mr. Chagnon requested that the plan be drawn up not to include house sites.

Mr. Kerivan stated that he is interested in topo lines and does not need the house lots depicted on the new plan.

**Mr. Kroner moved and Ms. Pohl seconded the motion to recommend to the Board of Selectmen that they release the amount of \$48,520.26 in the surety held for this project.**

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

**Ms. Pohl moved and Dr. Arena seconded the motion that upon recommendations made by Engineer James Kerivan that the developer provide a regrading plan implementing the changes they have said they would like -- excluding the depiction of house lots -- and also to comply with the Town Engineer's recommendations for replanting removed vegetation along the regraded surface.**

**The vote in favor of the motion was (5-0-1). Mr. Goeselt abstained.**

Mr. Chagnon requested clarification about inspections regarding different aspects of the project.

It was determined that the Town's Engineer will inspect all that is involved with the roadway, including infrastructure, drainage and roadway improvements. The Building inspector will inspect septic systems and structures.

Mr. Wilson stated that if the developer is ready by Wednesday, February 15, 2006 a bond reduction could be heard under other business on the agenda.

Dr. Arena left the meeting at 9:25pm.

The appointment of a Planning Board member to replace Ms. Day was discussed. It was decided not to appoint a new member at this time because the Town Election is next month.

**Mr. Kroner moved and Ms. Pohl seconded the motion to adjourn at 9:30pm.**

**The vote was unanimous in favor of the motion (5-0).**

Respectfully submitted,

Wendy V. Chase  
Recording Secretary