



MEETING MINUTES

NORTH HAMPTON PLANNING BOARD

Regular Meeting

Monday, March 6, 2006

Mary Herbert Conference Room

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

Members present: Phil Wilson, Chairman; Shep Kroner, Vice Chairman; Craig Salomon, 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

Mr. Wilson convened the meeting at 6:31pm.

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. This is a continuation from January 3, 2006.

Mr. Salomon recused himself from Case #05:23.

Mr. Wilson seated Mr. Goeselt for Mr. Salomon.

Attorney Donahue, representing Mr. Jeppesen was present on behalf of his client.

Attorney Donahue explained to the board that the concerns Attorney Pelech had with the Condominium By-Laws and Declaration have been addressed.

Dr. Arena stated that in his experience the outside of a condominium and surrounding ground is considered common area and in this conversion the owner will be responsible for the outside of the building. Dr. Arena voiced his concerns that one of the owners may let his unit deteriorate and would affect the value, which would negatively affect the town.

Attorney Donahue read the definition of “common area” in the declarations.

Mr. Wilson stated that Attorney Pelech’s letter to the Planning Board confirmed that the applicant has resolved all of his concerns.

Attorney Donahue explained that the area identified as convertible/withdrawable land has been changed to read just “withdrawable”. The word “convertible” has been eliminated. This eliminates the idea of adding additional units in the future. The plan has been revised to show this.

Mr. Wilson opened the public hearing at 6:46pm.

Mr. Wilson closed the public hearing at 6:47pm with no public comment.

Mr. Kroner moved and Ms. Pohl seconded the motion to approve the condominium conversion with the conditions that Certificate of Monumentation and a Recordable Mylar be submitted.

The vote passed in favor of the motion (5-0-1) Dr. Arena abstained.

New Business

Case #06:02 – Map/lot 006-138, Location: 97 Woodland Road (R-2 zone), George Paul III, 97 Woodland Road, North Hampton, NH 03862. Applicant proposes to subdivide Map 006 lot 138 into two lots.

Mr. Paul was in attendance for this application.

Mr. Paul stated that the proposed subdivision met the zoning requirements. There are no wetlands on the proposed new lot. There are wetlands on the existing lot where the house sits.

Mr. Kroner stated that the Application Review Committee recommends that the board accept this application as complete.

Ms. Robinson recommends that the board accept this application as complete but did state that the name of Mr. Salomon, an abutter to the property, is spelled incorrectly on the plan.

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

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

The existing stonewall on the property was discussed. Mr. Wilson explained that it was common practice from the board to add the condition that there will be no other breaches in an existing stonewall except for one driveway. Mr. Paul explained that there is already one breach due to construction equipment accessing the property.

Mr. Wilson opened the public hearing at 6:55pm.

Mr. Salomon, speaking as an abutter, stated that he has no problem with the proposed plan.

Mr. and Mrs. McCarthy, also abutters, stated that they had no problems with the proposed plan.

Mr. Wilson closed the public hearing at 7:01pm.

Dr. Arena moved and Ms. Pohl seconded the motion to approve the subdivision application with the following conditions:

1. The applicant shall submit a recordable Mylar of the plan with required signatures and seals affixed of all licensed professionals whose names appear on the plan.
2. 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. Spelling corrections of abutters' names shall be made on the plan.
4. A note shall be added to the plan stating that all stonewalls shall remain undisturbed except for one driveway entrance opening on lot 1.
5. Applicant shall submit copies of all required State permits and shall note their numbers, as appropriate, on the plan.

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

Mr. Salomon returned to his seat.

Mr. Goeselt stepped down.

Case #06:03 – Map/lot 018-011, Location: Woodknoll Drive (R-1 zone), Stanley W. Knowles, 3 Cherry Road, North Hampton, NH 03862. Applicant proposes a minor lot line adjustment involving Map/lot 018-011 and 018-008.

Mr. Stanley Knowles was in attendance for this application. He went over the proposed lot line adjustment plan with the board.

The lot line adjustment will add more land to the lot of his son, Jeffrey Knowles; Jeffrey will then have two access points.

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

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

Mr. Salomon pointed out that the existing lot does not appear to have adequate frontage.

Mr. Knowles explained that he was granted a Variance from the ZBA making his lot conforming.

Mr. Salomon questioned whether or not the Youth Association had to grant permission to Mr. Knowles for use of the right-of-way.

Mr. Knowles explained that North Hampton Youth Association conveyed the right-of-way to Stanley and Nina Knowles by Quitclaim deed.

Mr. Wilson opened the public hearing at 7:23pm.

Mr. Wilson closed the public hearing at 7:24pm with no public comment.

Mr. Salomon requested that Mr. Knowles provide a copy of the Quitclaim deed.

Mr. Wilson recessed deliberation of the Knowles case at 7:24pm so that Mr. Knowles could go home and obtain a copy of the deed.

Case #06:04 – Map/lot 014-048, Location: 8 Exeter Road (R-1 zone), Thomas and Mary Lambert, 8 Exeter Road, North Hampton, NH 03862. Applicant proposes to subdivide Map 014 lot 048 into two lots. The applicant requests the following waivers:

- VIII B. 18 size and location of all utilities
- VIII B. 25 Location and results of test pits
- VIII B. 20 Stormwater drainage control plan
- VIII B. 15 Topographic contour boundaries
- VIII C. 3 State Driveway permit

Mr. Lambert explained to the board that his application proposes to subdivide his lot into two lots and build a single-family house. He further explained that test pits have been dug and submitted to the State for approval and that a driveway proposal has been forwarded to the Department of Transportation.

Mr. Wilson requested a copy of the test pit results from the soils scientist.

Mr. Lambert presented a copy and will make an additional copy for the record.

Mr. Lambert also stated, that tie-in to the Aquarion Water Company main will be done on approval and the tree line will be minimally affected by construction.

Ms. Robinson stated that the application appeared to be complete. She also informed the board that she had spoken to the surveyor regarding the tree line.

Mr. Wilson specified that each of the waivers requested needed to be discussed and voted on.

1. VIII B. 18 size and location of all utilities.

Mr. Wilson suggested Mr. Lambert depict the size and location of the utilities on the plan so that the board would not have to waive this requirement.

Mr. Wilson opened the public hearing at 7:36pm for the waiver request.

Mr. Glenn Martin of 11 Evergreen Drive expressed his opinion that the utilities should not be depicted on the plan before actually building the house due to unforeseen conditions.

Mr. Wilson closed the public hearing at 7:40pm.

The sense of the board was that no waiver was required because, as Mr. Martin had indicated, the purpose of Section VIII.B.18 is to locate utility mains on the plan, not the location of utilities to structures that have yet to be proposed or constructed.

2. VIII B. 25 location and results of test pits

Mr. Lambert withdrew his request for waiver #2.

3. VIII B. 20 stormwater drainage report

Mr. Wilson opened the public hearing at 7:41pm.

Mr. Wilson closed the public hearing at 7:42pm with no public comment.

Dr. Arena moved and Ms. Pohl seconded the motion to grant waiver #3, stormwater drainage report.

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

4. VIII B. 15 topographic contour boundaries

Mr. Wilson opened the public hearing at 7:43pm.

Mr. Martin questioned what topos the board would waive?

Mr. Wilson explained that the board does not typically require topo boundaries on a 2-lot subdivision.

Mr. Wilson closed the public hearing at 7:44pm.

Dr. Arena moved and Mr. Kroner seconded the motion to grant waiver #4, topographic contour boundaries.

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

5. VIIC. 3 State driveway permit

Mr. Wilson opened the public hearing at 7:46pm.

Mr. Wilson closed the public hearing at 7:46pm with no public comment.

Mr. Wilson suggested that they grant the driveway permit waiver and make it a condition of approval.

Mr. Kroner moved and Dr. Arena seconded the motion to grant waiver #5, State driveway permit.

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

Dr. Arena moved and Mr. Salomon seconded the motion to take jurisdiction of the subdivision application.

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

Mr. Salomon suggested at least two conditions:

- Add to the plan a stamped seal from the Soils Scientist

- Add distance between the existing and proposed driveways to the plan.

Mr. Salomon voiced concerns over the proximity from the existing driveway to the proposed driveway.

Ms. Robinson suggested the driveway be reconfigured to a shared driveway.

Mr. Lambert stated that he would prefer that the driveway remain as indicated on the plan so that it does not run across the proposed front yard of the house.

Mr. Wilson opened the public hearing at 7:55pm.

Mr. Wilson closed the public hearing at 7:55pm with no public comment.

Mr. Wilson specified the following 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. Permits. *Applicant shall submit copies of all required permits (NH DES Subdivision Permit and NH DOT Driveway Permit) and shall note their numbers, as appropriate, on the plan.*
4. *Distances between proposed and existing driveways shall be depicted on the plan.*
5. *Signature and seal of the NH Soil Scientist who delineated the wetlands on the plan shall be affixed to the plan.*
6. *Applicant shall submit a copy of the Aquarion Water Company letter authorizing the water hookup for the new lot.*
7. *Applicant shall submit a copy of test pit results for the proposed and existing lots.*

Mr. Kroner moved and Dr. Arena seconded the motion to approve the subdivision application contingent on the conditions stated by Chairman Wilson.

The vote passed in favor of the motion (5-0-1). Mr. Salomon abstained.

Mr. Wilson reopened Case #06:03, Stanley Knowles, at 8:00pm.

Mr. Knowles presented a copy of the Quitclaim deed requested by Mr. Salomon. Mr. Salomon reviewed it and confirmed that the right-of-way was conveyed to the Knowles from the North Hampton Youth Association; therefore, the Association would not have to grant permission to the Knowles to use the right-of-way across Map 14 lot 102.

Mr. Salomon requested that Mr. Knowles make a copy and submit it to Ms. Chase for the record.

Mr. Salomon moved and Dr. Arena seconded the motion to approve the lot line adjustment with the following conditions:

1. Recordable Mylar. *The applicant shall submit a recordable Mylar of the plan with 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. *The applicant to provide a copy of the quitclaim deed from the Youth Association to Mr. Stanley Knowles in respect to the right-of-way.*

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

Mr. Wilson recessed the meeting at 8:05pm.

Mr. Wilson reconvened the meeting at 8:09pm.

Case #06:05 – Map/lot 012-048 & 066, Location: 144 Mill Road (R-2 zone), Leonard and Mary Saunders, 144 Mill Road, North Hampton, NH 03862. Applicant proposes to subdivide Map 012 lots 048 and 066 into three lots.

In attendance for this application:

Attorney Christopher Boldt

Leonard and Mary Saunders

Richard Skowronski and Leah Hanna

Jonathan Ring, Jones and Beach Engineering

Mr. Wilson noted that the board had received a letter from Mr. Skowronski. The board took a few minutes to review it.

Attorney Boldt requested that the previous Saunders file, Case #05:20 be combined with the current file, Case#06:05 to avoid duplicating copies of pertinent information that pertains to both cases. The board agreed to this request with no objections.

Attorney Boldt submitted into the record, two Supreme Court cases regarding the concern Mr. Skowronski stated in a previous letter that *driveway easement* was an incorrect term to use on the Saunders proposed subdivision plan. 1). Alfred L. Arcidi, Jr., v. Town of Rye; 2). Paul A. Burkey and Cathleen T. Burkey v. Mildred J. Knowles and Forrest E. Knowles, Jr.. The cases indicated that a right to pass and repass can be described as a *driveway easement*.

Attorney Boldt explained that the proposed subdivision application is to subdivide the lots 48 and 66 into three lots. Lot 66 will be merged into proposed lot 48.1.

Mr. Wilson informed Attorney Boldt that Fire Chief Tom Lambert verbally explained to the board that nothing has changed on this plan from his review of the prior subdivision plan submitted by the Saunders and denied by the Planning Board (Case #05:20). The Fire Department review from Case #05:20 will be added to this current application's file.

Mr. Wilson discussed the letter from Mr. Skowronski. He stated the main points within the letter.

- Mr. Skowronski would like to cooperate with the Saunders.
- Proposed application is the same as the previous application, which was denied by the Planning Board.
- Mr. Skowronski states that the Saunders don't have driveway access to proposed lot 48.2.

Attorney Boldt stated that the Saunders have an easement right on Mr. Skowronski's driveway and a right to maintain, free passage and no blockage on that driveway.

Mr. Wilson suggested to Attorney Boldt to advise his Clients (the Saunders) to enter into a driveway maintenance agreement with Mr. Skowronski and Ms. Hanna to maintain the driveway.

Attorney Boldt requested that the board not impose a condition that is not in the regulations for the approval of the plan.

Attorney Boldt explained that neither party has the right to force the other to maintain the driveway to a certain standard.

Mr. Wilson replied that it is clearly in the public's best interest that where two people will have to live together in peace that the board require a maintenance agreement as a matter of record that's required before this board approves the plan, rather than wait until it goes to court.

Mr. Salomon stated that this would give the abutter a veto power and would be unfair to the applicant.

Mr. Kroner remarked on a concern Mr. Skowronski stated in his letter to the board that the plan shows the potential for a third lot to be subdivided in the future. Mr. Kroner stated that he did not see that as being possible.

Ms. Robinson stated that the idea to construct two turnouts in the driveway is a good one. She also stated that a driveway maintenance agreement between the two parties would be a good idea.

Mr. Salomon moved, and Dr. Arena seconded the motion, to take jurisdiction of the subdivision application.

Mr. Skowronski stated that the driveway is a structure that he owns, and he feels the Saunders do not have the right to use it.

Mr. Saunders explained that when Mr. Ham owned the property, Mr. Saunders gave Mr. Ham 3+ acres in exchange for the right-of-way to the driveway.

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

Mr. Ring drew in the proposed turnouts on the plan.

Mr. Wilson commented that the first drawn turnout was in the wetlands.

Mr. Ring will walk the property with a Soils Scientist and scope the area to find the best spot to construct the turnouts.

Mr. Goeselt stated that the turnouts should be constructed so that they are in sight of each other.

Mr. Wilson opened the public hearing at 9:19pm.

Mr. Wilson closed the public hearing at 9:19pm with no public comment.

Mr. Salomon moved and Ms. Creighton seconded the motion to approve the subdivision plan with the following conditions:

1. Recordable Mylar. *The applicant shall submit a recordable Mylar of the plan with 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. *Applicant shall add a note on the plan that the utilities that serve the backlot shall be underground from the existing utility pole.*
4. Permits. *Applicant shall submit copies of all required permits (NH DES Subdivision Permit) and shall note their numbers, as appropriate, on the plan.*
5. *Applicant shall add a note to the plan stating that the owner of Map 012, Lot 048.2, his successors or assigns shall construct two gravel turn-outs meeting the standards of the existing driveway that add a minimum of 10 feet in width to the driveway, are at least 20 feet in length, and have a 1 foot to 1 foot taper and that the turnouts shall be depicted on the plan. These turnouts shall be depicted on the plan.*
6. *Applicant shall add a note to the plan that the owner, his successors or assigns of Map 012 / Lot 048.002 shall be responsible for 50% of the reasonable expenses of maintaining the shared driveway in its existing condition.*

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

Mr. Ring stated that the Saunders received a bill for \$1,100.00 for engineering review. He was under the impression from the ARC meeting that the plan did not need an engineering review.

Mr. Kroner explained that due to the fact that there is a large amount of wetlands and no drainage study that an engineering review was necessary. He did inform Keach and Nordstrom not to review any future plans that are sent on this subdivision.

The Saunders would like a copy of the report from Keach and Nordstrom.

Dr. Arena moved and Ms. Pohl seconded the motion to adjourn at 9:30pm.

The vote was unanimous in favor of the motion.

Respectfully submitted,

Wendy V. Chase

Recording Secretary