



## **MEETING MINUTES**

### **NORTH HAMPTON PLANNING BOARD**

#### **Regular Meeting**

**Monday, October 2, 2006**

**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.*

**Members present:** Phil Wilson, Chairman; Shep Kroner, Vice Chairman; Joseph Arena, Craig Salomon, Laurel Pohl, Vince Vettraino and Henry Marsh, Selectman Representative.

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

**Alternates present:** None

Mr. Wilson convened the meeting at 6:30pm.

### **OLD BUSINESS**

**06:16 Russell Jeppesen, PO Box 990, North Hampton, NH.** Subdivision application: Applicant proposes a seven-lot subdivision. Property location: Mill Road, North Hampton, NH, zone district R1, M/L 007-002-001 & 007-027. This case is continuation from the September 5, 2006 meeting.

In attendance for this application:

Attorney Michael Donahue, Donahue, Tucker and Ciandella  
John Chagnon, Ambit Engineering

Mr. Vettraino recused himself from case #06:16 because he is an abutter to the property.

Attorney Donahue said that he would write a letter to the Board requesting an extension of the 65 days period in which the Board has to act on the Jeppesen application, case #06:16.

Mr. Chagnon presented an option for a dead-end road for the proposed subdivision plan. He met with Alan Garland from the NH Dept. of Transportation and went over the proposal. Mr. Garland said that the two-way traffic at that location would be allowed. Mr. Chagnon also met with Deputy Fire Chief Corey Landry to discuss different options. Mr. Landry would accept the following: (1) if water were brought in to sprinkle all of the buildings, he would accept a 20 ft road with a 90 ft cul-de-sac on the end of it. (2) If the buildings were not sprinkled, a 24 ft road would have to be put in with a 120 ft cul-de-sac at the end of it. The Applicants would rather stick to the first proposal with a one-way

flow from Atlantic to Mill. Mr. Chagnon will finish the drainage design for the original concept presented and submit a copy to Town Engineer Ed Kelly and copies to the Board before next month's meeting.

Mr. Wilson asked the audience if they had any questions.

Ms. Lerner questioned why the Board was still reviewing the application when there are deed restrictions on the property barring any subdivision activity.

Attorney Donahue stated that he did submit a copy of the *Release of restrictive covenant*. Ms. Chase went to the file to retrieve the copy. Ms. Lerner read the document and stated that it pertained to 152 Mill Road and not 80 Mill Road, the proposed subdivision location.

Mr. Wilson commented on Attorney Pelech's review of the proposed Restrictive Covenants. The last sentence in Attorney Pelech's review was that "The restrictive covenants are well written, comprehensive, and in an appropriate form. Mr. Wilson raised the following questions with the proposed covenants:

- Page 18: paragraph c, referring to the section that states that by a 2/3 majority vote the covenants may be changed in whole or in part by the association. Mr. Wilson suggested language be added that the right to change those covenants would have to exclude those rights that are given to the Town.
- Page 2: paragraph 1,b. regarding lot six. The wording to subdivide lot six should clearly indicate that by agreeing to these covenants the Planning Board is not approving the right to subdivide that lot.
- Page 3: side yard setbacks of ten feet is questionable
- Page 4: all utilities to be underground

Attorney Donahue will take all of these suggestions into consideration when redrafting the Covenants.

Dr. Arena suggested that section 23 (e) (enabling the town to enforce any provisions of the covenants) be stricken from the covenants. Attorney Donahue explained that the enforcement is limited to items that are of interest to the Town, which is the maintenance of the road.

Dr. Arena stated that the road belongs to the Association and not the Town and it should be written that the Town would not be liable or responsible.

Ms. Pohl asked that if the Town were named in the covenants would it make the Town a party to the contract? Mr. Salomon answered, "no".

Mr. Vettraino questioned whether or not lots two and three would have to pay into the Association to maintain the road even though they share a driveway off of Mill Road. Attorney Donahue explained that they would because they would benefit from a maintained road.

Mr. Wilson opened the public hearing at 7:00pm.

Ms. Lerner explained that the deed restrictions have not been released on the proposed Jeppesen subdivision property, Assessor's Map 007, Lots 2-1 27 & 31-2.

Mr. Salomon said that it is not the Planning Board's responsibility to do a deed or title research. The Board should be able to rely on the applicant to submit a true and accurate application and it would be incumbent on Ms. Lerner to produce a recorded copy of the deed restrictions to the Board, and if there is any such information, he would like it to be submitted to the Board by the next meeting and a copy to be sent to Attorney Donahue.

Ms Robinson agreed with Mr. Salomon and stated that an applicant signs the application with the intention that to the best of their knowledge that everything is true and accurate including the deed references.

Jerome Day of 153 Atlantic Ave. stated that from a public safety standpoint it would be in the Town's best interest to build the road up to town standards.

Mr. Wilson closed the public hearing at 7:25pm.

Mr. Wilson said the issues to address at the next meeting pertaining to the Jeppesen case #06:16 are:

- Drainage study and erosion control plan
- Deed restrictions
- Road
- Covenant revisions

Mr. Donahue asked for some direction from the Board whether or not to include the Town's enforcement rights regarding the road into the revised covenants draft.

Dr. Arena said the Town should stay out of road maintenance issues, that the road should be kept private, and it should be up to the homeowner's association to resolve road maintenance issues.

The Board took a straw vote with the following results:

Those in favor of adding town enforcement rights to the revised covenants draft – Mr. Salomon and Mr. Marsh in favor, Mr. Kroner and Dr. Arena against and Mr. Wilson and Ms. Pohl abstained.

Mr. Donahue will submit two drafts of the proposed covenants at next month's meeting; one to include the town's enforcement rights and one copy without for the Board's consideration.

Mr. Chagnon said that they would be submitting information of a technical nature and would like to know when the next scheduled ARC meeting would be.

Mr. Wilson said that they would probably not hold an ARC meeting and that the Board would rely on the expertise of the Town's Engineer and RPC Circuit Rider.

Mr. Kroner moved and Dr. Arena seconded the motion to continue case #06:16 to the November 6, 2006 meeting.

Ms. Robinson stated that the Applicant's request for an extension should be included in the motion.

**Mr. Kroner moved and Dr. Arena seconded the amended motion to continue case #06:16 to the November 6, 2006 meeting conditioned on receiving a letter from the applicant stating that they request the extension. The vote passed in favor of the motion (5 yes, 0 no and 1 abstention). Mr. Wilson abstained.**

Mr. Vettraino rejoined the Board.

## **New Business**

### **1. Greystone Village Rental Agreement**

#### In attendance for the discussion:

Attorney John Allen, Law Offices of John L. Allen & Associates

Joe Cataldo, GFI Project Manager

Linda Roth, GFI Master Planner

Attorney Allen went over the revisions to the rental agreement for Greystone Village. He explained that the changes to the original rental agreement were shaded in gray. The Board received Attorney Michele Peckham's review of the changes.

The Board discussed the proposed changes regarding allowance of window unit air conditioners, tenant's responsibility to maintain own walkway and cluster mailboxes.

**Mr. Salomon moved and Ms. Pohl seconded the motion to approve the amended rental agreement for Greystone Village of North Hampton.**

**Mr. Marsh made a friendly amendment to the motion and Ms. Pohl seconded to approve the amended rental agreement for Greystone Village of North Hampton with the following conditions: (1) The applicant will provide a representation of what the mailboxes will look like and the location and (2) to remove the provision to allow window unit air conditioners.**

**The vote was unanimous in favor of the motion (7-0).**

Mr. Wilson reminded Attorney Allen that the amended rental agreement could not be implemented until the conditions have been met.

Ms. Chase will add the rental agreement discussion to the November 6, 2006 agenda under other business.

The Board took a break 8:10pm.

The Board reconvened at 8:20pm.

**2. 06:25 Luck Enterprises, Inc., PO Box 700, North Hampton, NH 03862.**

**Change of Use Application and a preliminary consultation on a sign.**

Applicant, Edward Luck proposes to change the existing use, *Line-X* to proposed use, *Masters self-defense center*. Property location: 115 Lafayette Road, North Hampton, zone district I-B/R, M/L 013-026. The applicant also wishes to discuss a sign for the proposed business.

In attendance for this application:

Edward Luck, Property Owner

Paul Karlik, Owner of Masters Self Defense Centers

Mr. Karlik explained that he teaches kempo martial arts and his classes run one class per hour with four classes per night. He would eventually expand the business to include massage therapy and reiki sessions.

Mr. Salomon questioned whether or not there would be ample parking. Mr. Luck said that there was sufficient parking.

Mr. Marsh commented that it would be a good addition to the community.

**Mr. Marsh moved and Mr. Salomon seconded the motion to approve the Change of Use Application, case #06:25.**

Mr. Wilson opened the public hearing at 8:20pm.

Mr. Wilson closed the public hearing at 8:21pm without public comment.

**The vote was unanimous in favor of the motion (7-0).**

Mr. Luck presented a sketch for a possible sign for the property at 115 Lafayette Road.

Mr. Wilson explained that the sketch needed to include dimensions.

Mr. Luck paid the Conditional Use Application fee along with his Change of Use Application fee.

**Dr. Arena moved and Mr. Marsh seconded the motion to continue Mr. Luck's Conditional Use Application for a new sign to the November 6, 2006 meeting. The vote was unanimous in favor of the motion (7-0).**

**Preliminary Consultation (second), Gorrill-Palmer Consulting Engineers, Inc. on behalf of W/S Development, LLC.** Traffic discussion on the proposed redevelopment of Parcel C (anticipated Staples office supply retail store at the Lafayette Crossing Mall). Property location: 35 Lafayette Road, North Hampton, NH, zone district I-B/R, M/L 007-052.

In attendance for this preliminary consultation:

Ed Vydra, W/S Development

Attorney Pelech, Law Offices of Wholey and Pelech

William Haskell, Gorrill-Palmer Consulting Engineers

Attorney Pelech commented on issues brought up at the last meeting on parcel C at Lafayette crossing regarding access to the proposed site and Cedar Road traffic.

Mr. Haskell voiced concerns of the Board considering closing the Cedar Road entrance to the Lafayette Crossing Mall. The Board confirmed that the Cedar Road entrance would not be closed.

Mr. Vydra stated that their intentions are to have a completed site plan application submitted for next month's Planning Board meeting including a sign application for the proposed Staples office supply store.

Mr. Kroner commented on the site distance on the perimeter Road in front of Home Depot. He requested that they go and look at it.

Ms. Pohl voiced her opinion that a *do not enter* sign should be located at TGIFriday's so that traffic is prohibited from driving across to the proposed Staples.

Mr. Wilson commented that the sign on the front of the TGIFriday restaurant may have the lights pointing up and remarked that as one of the conditions the lights were to shine down to comply with dark sky standards. Mr. Vydra will investigate.

## **Other Business**

Mr. Wilson started with item number two under old business because an abutter was in attendance for the discussion.

**Review of correspondence from an abutter objecting to the execution of construction of drainage facilities for Case #05:09 (Crown Properties). The abutter states that the construction was not executed consistently with the approved plan.**

The Board voted at their September 18, 2006 Work Session to schedule a site plan revocation hearing for October 16, 2006 for Crown Properties, case #05:03. After receiving additional information from Building Inspector Richard Mabey the Board decided to further discuss the issue.

The Board was in receipt of a report from Building Inspector Richard Mabey. They have not yet received a report from Town Engineer Ed Kelly. Ms. Chase informed the Board that Mr. Kelly will submit his report for the October 16<sup>th</sup> Work Session.

Mr. Mabey stated in his report that the swale does currently drain towards Mr. Fitzgerald's property and needs to be diverted towards the low point on Mr. Roy's property.

Mr. Chagnon of Ambit Engineering submitted a plan showing where the swale should be relocated. Mr. Wilson gave a copy to Mr. Fitzgerald to review.

Mr. Marsh stated that he visited the property today and witnessed that there is constant flow onto Mr. Fitzgerald's property from the Crown Properties project.

Mr. Wilson suggested that the Board proceed with scheduling the public hearing and vote to ratify the prior vote to do so.

**Ms. Pohl moved to ratify the prior vote to schedule a hearing to consider rescinding approval of the Crown Properties site plan, case #05:03.**

The motion was not seconded.

Mr. Salomon said that even though the swale issue has not been rectified it has been acknowledged and addressed. He suggested that the Board wait for Mr. Kelly's report before proceeding with the public hearing.

Ms. Robinson agreed and said that the Ambit Engineering report acknowledges that the construction is not in accordance with the plan and they will be rectifying the swale location.

**Mr. Salomon moved and Dr. Arena seconded the motion to continue the issue of the revocation hearing at the October 16, 2006 Work Session and ask Town Engineer Ed Kelly to attend and talk to the Board about compliance with the plans, the original drainage study and compliance with the erosion control plan.**

Mr. Fitzgerald informed the Board that NH DES is scheduled to inspect the entrance to the wetlands and looking at the drainage study on Wednesday, October 4<sup>th</sup>. Mr. Fitzgerald will ask them to contact Richard Mabey with their findings.

Ms. Chase was instructed to contact Town Engineer Ed Kelly and invite him to the October 16, 2006 Work Session.

**The vote was unanimous in favor of the motion (7-0).**

**Review of correspondence from an abutter objecting to registered plan for Case #06:05 (Saunders subdivision). The abutter states that turnouts depicted on the approved plan were not properly sited.**

Mr. Wilson asked the Board if the letter he drafted to the Skowronski's was satisfactory. The Board agreed that it was.

**Mr. Marsh moved and Dr. Arena seconded the motion to adjourn the meeting at 9:10pm.**

**The vote was unanimous in favor of the motion (7-0).**

Respectfully submitted,

Wendy V. Chase  
Recording Secretary