



MEETING MINUTES
NORTH HAMPTON PLANNING BOARD
Tuesday, December 4, 2007
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; Laurel Pohl, Barbara Kohl, Tom McManus and Craig Salomon, Selectman's Representative.

Alternates present: None

Absent: Dr. Joseph Arena

Others present: Jill Robinson, RPC Circuit Rider, Richard Mabey, Building Inspector and Wendy Chase, Recording Secretary.

Mr. Wilson convened the meeting at 6:36pm.

Mr. Glenn Martin was present to discuss Evergreen Drive, and because it appeared that the topic would not take long the Board decided to take up the topic rather than waiting to discuss it under other business.

Mr. Wilson explained that the Board decided at their October 2, 2007 meeting to give Mr. Martin 60-days in which to either cap Well No. 15 that sits on his vacant lot or request to use the Well for irrigation only.

Mr. Martin submitted a letter to the Board from the Aquarion Water Company, dated December 4, 2007, stating that the Well will be capped, but must be done so by a licensed NH Water Well Contractor as required by DES. The letter further states that Boart Longyear will complete the decommissioning of the Well by the end of January 2008. Michelle Desorcy, Operations Manager, signed the letter from Aquarion.

Currently the Town holds a surety bond in the amount of \$3,200.00 plus, and Mr. Martin suggested that the money not be released to him until after the Well is capped.

Mr. Mabey opined that the \$3,200.00 would be enough to cover the costs of capping the Well.

Mr. Kroner moved and Ms. Pohl seconded the motion that the Town retains the remaining surety that was posted by Glenn Martin for the Evergreen Drive subdivision project until Aquarion Water Company decommissions Well No. 15. The vote passed (5 in favor, 0 opposed and 1 abstention). Ms. Pohl abstained.

Mr. Salomon suggested that the topic be placed on the February Work Session agenda to determine the completeness and possible closure to the topic. The Board agreed.

Old Business

07:19 - Paul & Phyllis Lamb, 129 Atlantic Ave., North Hampton. Subdivision Application and Conditional Use Application. The applicants propose a back-lot subdivision. Property location: 129 Atlantic Ave., North Hampton, zoning district R-2, M/L 006-083. This case is continued from the November 6, 2007 meeting.

In attendance for this application:

John Chagnon, Ambit Engineering

Paul & Phyllis Lamb, Owners/Applicants

The three main topics brought over from the November meeting for the Board to discuss:

- Easement language reviewed by Counsel
- Blasting protocol
- Town Engineer review on the bridge plans submitted by HEB Civil Engineers

Attorney Jae Whitelaw, Mitchell & Bates, PA reviewed the easement language. She made minor changes to the three easements, which Attorney Peckham was in receipt of and agreed to. The Board was satisfied with the proposed changes.

Mr. Chagnon submitted a revised copy of blasting protocol that he created using the original submission by Michael Iafolla and suggested changes made by Town Engineer, Ed Kelly. Mr. Wilson made minor changes to Mr. Chagnon's document.

Building Inspector Richard Mabey agreed with Ed Kelly's suggested changes to the blasting protocol.

Mr. Chagnon submitted updated bridge plans from H.E. Bergeron, HEB Civil Engineers that incorporated Ed Kelly's suggested changes.

Mr. Wilson opened the public hearing at 7:08pm.

Mr. Wilson closed the public hearing at 7:09pm without public comment.

Mr. Chagnon provided the NH DES subdivision approval number 2007008305 and explained that the State is having problems printing out hard copies of approvals at this time.

The Board deliberated and created a list of conditions.

Mr. McManus moved and Mr. Salomon seconded the motion to approve the Lamb Subdivision Application and Conditional Use Permit Application, case #07:19 with the following conditions:

1. **Recordable Mylar.** The applicants 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 applicants 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. **Applicants shall add a note to the plan stating that no chemicals will be used on driveway or bridge surfaces for any activities within the 100' wetlands setback. Sand on ice shall be acceptable on driveway and bridge surfaces.**
4. **Applicants shall add a note to the plan stating that the driveway shall remain pervious within the 100' wetlands setback.**
5. **Applicants shall add a note to the plan stating that all reasonable efforts and good engineering practices shall be used to prevent contamination, filling, or impeding the flow of the Little River as a result of construction activities – including, but not limited to, improving abutments or completing new bridge surface decking.**
6. **Applicants shall add a note to the plan that the recommendation of the Conservation Commission shall be sought prior to any use of fill in the wetlands, and NH DES approval shall be secured, as appropriate, for any fill in the wetlands.**
7. **Applicants shall add a note to the plan and submit a written statement that any blasting required to develop the site shall be conducted according to protocols in the document “Drilling and Blasting Protocol”, as emended, submitted by the applicant on 4 December 2007, and that document shall be kept on file in the Town Office.**
8. **The driveway shall be designated as a private road and new addresses will be assigned, as appropriate.**
9. **Any changes to utilities shall be subject to all applicable permits.**
10. **Easements:** Applicants shall sign all easements required by the plan and deliver them to the Planning & Zoning Administrator for recording at the Registry of Deeds at the appropriate time.
11. **The Board shall receive written confirmation from the Town Engineer that modifications to the plan for bridges on the site, submitted on 4 December 2007, satisfy all concerns expressed in his memorandum 15 November 2007.**
12. **Applicants shall submit evidence of NH DES subdivision approval and shall add the permit number (2007008350) to the plan.**

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

07:26 – Crown Properties & Home Sales, 203 Lafayette Road, North Hampton. Site Plan Review Application. The applicant proposed an addition of 4,700 sf building to existing storage facility (same use). Property Location: 203 Lafayette Road, North Hampton, zoning district I-B/R, M/L 021-001-000-001.

In Attendance for this application:
John Chagnon, Ambit Engineering

Mr. Chagnon went over his responses to Town Engineer, Ed Kelly's comments regarding his review of the AMD storage expansion plan and drainage analysis. Mr. Chagnon made the suggested changes by Mr. Kelly to the plan and submitted the revised plan.

One of Mr. Kelly's suggestions to the Board that the responsibility of the owner to maintain the underground stormwater drainage system be documented to help prevent an ignorance or hardship argument future owners may make with the Planning Board if something fails.

Mr. Chagnon attached a copy of the Stormwater Management System Inspection and Maintenance Plan for AMD Storage to his comments and stated that the plan should alert the owner as to the need for system maintenance.

Mr. Salomon suggested that a copy of the maintenance plan be placed on file at the Town Office and add a note on the plan so stated.

Ms. Kohl questioned a comment made by Ed Kelly in his memo dated 10/26/07 stating *concern with the lack of adequate setbacks for the existing homes as shown on sheet C1 (site plan)*.

Mr. Kroner explained that AMD had a previous approved site plan that had expired that was in more detail and the only differences from the previously approved plan and the current plan was that AMD would be utilizing a different drainage plan.

Mr. Salomon questioned surety for landscaping regarding the row of trees shown on the plan.

Mr. Chagnon estimated that it would cost around \$6, 800.00 for the trees and plantings.

Mr. Wilson suggested that the applicant provide the surety in the amount of \$7,000.00 with the Town to retain 25% of the \$7,000.00 for a two-year growing period.

Mr. Wilson asked how Mr. Chagnon determined that run off water would flow down the roadway and not onto residents' yards or driveways?

Mr. Chagnon explained that the park was repaved and the park residents are much happier with the way the run off water flows.

Mr. Wilson opened the public hearing at 7:45pm.

Mr. Wilson closed the public hearing at 7:45pm without public comment.

Mr. Kroner commented that there were no abutters present opposed to the proposed application and Mr. McManus added that the Board had received no letters from abutters either.

The Board discussed conditions of approval.

Mr. Kroner moved and Mr. McManus seconded the motion to approve Crown Properties & Home Sales Site Plan Review Application, case #07:26 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. The applicant shall submit written evidence of NHDES subsurface permit for the relocated septic system and shall add the permit number to the plan.**
- 3. A note shall be added to the plan that the storm water drainage system shall be managed according to the best management practices protocols “Storm Water Management System Inspection and Maintenance Plan” for AMD storage submitted with the application on 4 December 2007, and the document shall also be kept on file at the Town Office.**
- 4. The Board shall receive written confirmation from the Town Engineer that modifications to the drainage plan submitted on 3 December 2007 satisfy his comments in his memorandum dated 15 November 2007.**
- 5. The Board shall receive written confirmation from the North Hampton Fire Chief that emergency vehicle access to the site is adequate.**
- 6. The applicant shall provide surety in the amount of \$7,000.00 for landscaping proposed on the plan, and that surety shall be retained by the Town consistent with the Site Plan Review regulations, Section X.D.2.g.**

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

07:28 – Craig Salomon, 100 Woodland Road, North Hampton. The applicant proposes a two-lot subdivision. Property location: 100 Woodland Road, zoning district R-2, M/L 006-099. This case is continued from the November 6, 2007 meeting.

In attendance for this meeting:

Ken Berry, Beals Associates

Larry Morse, NHSC

Attorney Peter Loughlin

Craig Salomon, Owner/Applicant

Mr. Salomon stepped down.

Mr. Wilson recused himself.

Mr. Kroner assumed the Chair.

Mr. Berry explained that the High Intensity Soil Survey (HISS) was conducted by NHSC and submitted to the Board and is represented on the plan as sheet 2 of 2 on the plan set, and revised drainage notes were added to notes 6 & 7 on the plan. Note six pertains to run-off for the potential house location that will be routed away from Woodland Road, and note seven states that the wetlands will be protected with appropriate best management practices.

Mr. Berry further stated that a drainage analysis was conducted and reviewed by the Town Engineer, Ed Kelly and that an application has been submitted to NHDES for subdivision approval.

Mr. Kroner reminded the Board that at the November 6, 2007 meeting the Board was at the point in determining whether or not the application was complete to consider taking jurisdiction of it and that the applicant's waiver request from Section VIII. B. 20 – Stormwater drainage control plan was denied. He further stated that because the Board is now in receipt of the Stormwater drainage control plan the next phase is to determine whether or not the application is complete.

Mr. McManus moved and Ms. Kohl seconded the motion to take jurisdiction of the subdivision application, case #07:28 – Craig Salomon.

Ms. Pohl questioned the ongoing Court case where the abutters are appealing the ZBA's decision in granting Mr. Salomon a variance and how it affects this case before the Planning Board.

Mr. Kroner referred her to the legal opinion from Attorney Bernard Campbell that the Board received.

Ms. Robinson stated that taking jurisdiction this evening would start the 65-day approval period.

Ms. Kohl questioned if a traffic study should be requested.

Mr. Kroner replied that a traffic study is not part of the application and that the Board was only determining if the application was complete to take jurisdiction.

Ms. Pohl called the question.

The vote was unanimous in favor of the motion (4-0).

Mr. Kroner said that the Board is in receipt of a number of comments from Town Engineer, Ed Kelly and letters from Shane Smith on behalf of the abutters.

Mr. Morse addressed the environmental issues. He said that his office conducted the wetlands delineation on the property and conducted a High Intensity Soil Survey (HISS) and Beals Associates used that HISS to assist them in the drainage analysis report.

Mr. Morse said that he did test pits on the property and determined that there were moderately drained soils. He also performed a Wetlands Functions & Values Environmental Impact Assessment and read the summary of the assessment into the record:

The wetland complex is a large depression wetland that is bordered by uplands. The uplands slope in the direction of the wetland such that the topography sheds overland

sheet flow of water in the direction of the wetland. Hydrologic conditions of the directly abutting properties will not be compromised by the proposed subdivision of the land. The proposed subdivision will not impact on-site or adjacent wetland areas. No cut areas and septic/building setbacks will maintain a buffer to the wetland resources and neighboring properties while providing access to the buildable land area. It is the opinion of NHSC that the existing function of the wetland will not be negatively impacted as a result of the subdivision of the land and the wetland will provide the same functions following development of the land in accordance with the appropriate local, state, and federal regulations.

Mr. Berry went over Ed Kelly's comments and explained how he addressed each one. Mr. Berry provided a grading exhibit plan that showed that they added a driveway culvert and added it to the drainage analysis report.

Mr. Berry said that it was relayed to them that the Schmitz property, M/L 006-139 has flooding problems and said that Beals Associates have made several attempts at contacting the homeowners to obtain permission to do surveying on the flooded area but were unsuccessful.

Mr. Berry commented that he Board was in receipt of a letter from the Road Agent, Bob Strout, stating that in 22 years as Road Agent he has never seen Woodland Road flooded. His letter further stated that Woodland Road was reclaimed, regraded and repaved in 1998 and at that time the road was reshaped to allow the drainage water to run in the swale ditches on both sides of the Road.

Mr. Berry provided a copy of the FEMA flood maps and circled the area where the Salomon lots are located and there are no special flood conditions in that area.

Mr. Berry stated that they have received an approved driveway application by the Road Agent and regarding the traffic issue he provided a copy of a plan that showed a safe stopping site distance and all season site distances for both directions as indicated on the plan.

Mr. Kroner opened the public hearing at 8:41pm.

Shane Smith, 103 Woodland Road, submitted a memo from Attorney Hogan and explained that Attorney Hogan who represents the abutters in the case appealing the ZBA decision for Mr. Salomon intended to be at this meeting but was unable due to a personal matter. Mr. Smith respectfully requested that the Board postpone any approvals because of this. He suggested that the Planning Board continue the case until after the Superior Court Case ruling.

Mr. Kroner stated that the Planning Board received a legal opinion on the matter from Attorney Bernard Campbell and he read a portion of the letter into the record: *Under RSA 677:9, the filing of an appeal of a ZBA decision does not operate to suspend the decision. Appealing parties can file for a restraining order if necessary. Therefore,*

one must view the subdivision application as properly filed, and I would counsel the Planning Board to schedule the application as they would any other request.

The Board discussed conducting a site walk on the property.

Mr. Salomon gave the Board permission to conduct a site walk on his property.

Kari Schmitz, 101 Woodland, stated that she did get phone calls from Beals Associates but was waiting to hear from her Attorney for advice. She stated for the record that she does grant permission for representatives from Beals Associates to go onto her property.

Mr. Berry said that it would be up to Mr. Salomon at this point and Mr. Salomon said that he would discuss it with Mr. Berry and if they decide that it is necessary to visit the Schmitz's property he would allow it.

Mr. Kroner opined that a new single-family house built on the Salomon lot would not add to the Schmitz's drainage problem and Ms. Schmitz responded that she doesn't know if it would or wouldn't.

Rita Dow, 104 Woodland, stressed the importance of the site walk for the members to view the property.

Lisa Wilson, 9 Runnymede Drive, asked if a shared driveway was ever considered? Mr. Salomon said that he did consider a shared driveway in the beginning but it would be very closely paralleled to Woodland Road and the driveway would have to be constructed in the wetlands buffer.

Phil Wilson, 9 Runnymede Drive, commented that one of the biggest issues that should be raised by the Planning Board is to question whether the subdivision is a random or "scattered and premature" development. He said that the subdivision of a lot less than four acres goes against the North Hampton Master Plan and Zoning Ordinances.

Mr. Wilson further stated that even though the ZBA granted a variance, the Planning Board has separate jurisdiction than the ZBA and has an obligation when making a decision to stay consistent with what the Master Plan and Zoning Ordinance is designed to do.

Attorney Loughlin briefly discussed "scattered and premature" and said that the Statute is very specific and regretted that he did not have a copy with him but would like to discuss it in more detail next month. He discussed trip generations and said that based on the national standards there would be five trips in and five trips out in a 24-hour period for an additional single-family home. Attorney Loughlin stated that the new lot meets the standards and requirements of the Town therefore; the applicant is entitled to approval.

Mr. Kroner closed the public hearing at 9:20pm.

The Board discussed continuing the case to next month's meeting and it was determined that the next meeting would fall on the New Year's Day holiday. The Board discussed an alternative meeting date.

Mr. Wilson ruled as Chairman of the Board to hold the January Planning Board meeting on January 3, 2008

Mr. Kroner moved and Mr. McManus seconded the motion to overrule Chairman Wilson's ruling and to schedule the January Planning Board meeting on Tuesday, January 8, 2008 at 6:30pm.

The vote passed (3 in favor, 2 opposed and 1 abstention). Mr. Wilson and Ms. Kohl opposed, Ms. Pohl abstained.

Mr. McManus moved and Ms. Kohl seconded the motion to continue case #07:28 – Craig Salomon to the January 8, 2008 meeting.

The vote was unanimous in favor of the motion (4-0).

The Board agreed to conduct a site walk of the property prior to the January 8, 2008 meeting.

Ms. Pohl moved and Ms. Kohl seconded to conduct a site walk on the Salomon property at 100 Woodland Road on December 8, 2007 at 10:00am.

The vote was unanimous in favor of the motion (4-0).

Mr. Wilson was reseated and resumed the Chair.

Mr. Salomon was reseated.

Ms. Pohl moved and Ms. Kohl seconded the motion to suspend the rule that the Board will take up no new business after 9:30pm.

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

The Board to consider revoking approval of the site plan for Tax Map 007, Lot 123-000. Property Owner: Lillie-Putz Realty Trust, Peter Eric Simmons, Trustee. The public hearing is a continuation of the November 10, 2007 public hearing.

Mr. Salomon explained that he has recused himself from the past proceedings on the Lillie-Putz Realty Trust case because he represented one of the renters on the property but his client no longer rents at that site.

In attendance for this application:

Peter Simmons, Tenant

Richard Mabey, Code Enforcement Officer

Mr. Mabey explained that he and Ms. Chase conducted a site walk on the property and reported to the Planning Board the following:

- A 10' wide strip of grass was planted using a winter mix on the south side of the property.
- Steel and other material from the back has been removed

- Vehicles parked along the site have been removed
- There are no dumpsters on site
- The building is being used as a storage building

Mr. Mabey concluded that the site appears to be in compliance with the site plan and the restrictions on it.

Ms. Kohl questioned whether the utilities that had been connected to the building on the site were a violation of the approved site plan, on which no utilities were shown.

Mr. Mabey explained that electrical is expected in a storage building for lighting and that no water service had been connected. If water service had been provided for the building, a septic system would have been required and a new site plan would therefore have been necessary.

Mr. Salomon asked if an electrical permit was issued for the electricity and Mr. Mabey said that a permit had been issued and that he did the electrical inspection.

Mr. McManus asked Mr. Simmons what his intentions were for the future regarding the building. Mr. Simmons replied that it would be used for storage only. The tires that are currently in the building will be removed.

Mr. Wilson asked Mr. Simmons the status on the dumpsters on the adjacent lot. Mr. Simmons replied that most of the dumpsters have already been removed and the rest of the dumpster will be removed within sixty days. Mr. Simmons explained that six test pits were dug on the property and Mr. Mabey explained that only fill material had been found in the test pits and no hazardous waste had been found. He further explained that he took a video of the test pits. Mr. Mabey inspected the dumpsters and there was nothing in them.

Ms. Kohl asked Mr. Mabey about the complaint from one of the abutters to the property, Mr. Rimmelman, who said that the water is being trapped because of the fill.

Mr. Mabey is not sure what the complaint is and said that he would go out and walk the property with Mr. Rimmelman to determine what his concerns are.

Mr. Kroner moved and Ms. Kohl seconded the motion to close the public hearing on this matter.

Mr. John Anthony Simmons suggested that more information be added to the motion regarding compliance.

Ms. Kohl withdrew her second to the motion.

Mr. Kroner withdrew his motion.

Mr. Kroner moved and Ms. Kohl seconded the motion that this Board found that 007-123-000; Lillie-Putz Realty Trust's site plan is now compliance with the approved site plan.

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

New Business

07:30 – Doucet Survey, Inc., on behalf of Jane Robie, 83 Exeter Road, North Hampton, NH. Lot line adjustment application. Property Owner: Jane Robie. Property location: 83 Exeter Road, North Hampton, zoning district R-3, M/L 009-034, 009-034-001 and 009-034-002. The applicant requests the following waivers (1) Section VIII.B.3. Plan Scale, (2) Section VIII.B.15 Existing & propose contours, (3) Section VIII.B.16 Natural features, (4) Section VIII.B.18, (5) VIII.B.20 Stormwater drainage control plan, (6) Section VIII.B.21 hydrants, (7) Section VIII.B.23 Bridge & culvert design, (8) VIII.B.24 Street stationing, and (9) Section IX D.3 iron pipe settings.

In attendance for this application:

Steve Michaud, Doucet Survey
Jane Robie, Owner/Applicant

Mr. Michaud explained that the lots involved in the proposal are lots 009-034, 009-034-001 and 009-034-002 and displayed a plan that showed the current shapes of the lots and the proposed. He further explained that 100 acres of land behind lot 009-034 was recently purchased by the Town and put into conservation land.

It was determined by the Board that the application was a straightforward lot line adjustment application and decided to consider all of the waiver requests at once.

Mr. Wilson opened the public hearing on the applicant's waiver requests stated above.

Mr. Wilson closed the public hearing without public comment.

Mr. Kroner moved and Mr. McManus seconded the motion to waive the requirements listed 1 through 9 as stated.

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

Mr. Kroner thanked the Robie family for putting their land into a Conservation Easement.

Mr. Wilson opened the public hearing at 10:02pm.

Mr. Wilson closed the public hearing at 10:03 without public comment.

Mr. Kroner moved and Ms. Kohl seconded the motion to approve the lot line adjustment as depicted on the plan.

Mr. Wilson said the traditional conditions should be added.

Mr. Kroner moved to amend his motion and Ms. Kohl accepted the amendment to include the acceptance of 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 applicants 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 and that monuments have been set at all points of change of direction in lot lines.
- The vote was unanimous in favor of the motion (6-0).**

GFI monitoring of Conservation land agreement discussion.

In attendance for this discussion:

Steve Goodman, GFI Partners Inc.

Mr. Goodman explained that he spoke to the Attorney representing GFI North Hampton, Attorney Allen and was informed that the company was under the impression that they would pay for monitoring of the conservation land and yearly maintenance and is unsure why the Conservation Commission is requesting them to pay \$10,000.00.

Mr. Wilson explained that there is a lot involved in monitoring the conservation land and that the monitoring responsibilities are in perpetuity (forever).

Ms. Robinson said that the 10k is a one time charge and that it may be that it doesn't have to be paid out in one lump sum.

The North Hampton Conservation Commission received advice from the Southeast Land Trust on the amount to request for baseline documentation and perpetual monitoring the conservation land, which included liability for legal fees required to remedy possible future violations of restrictions on land.

Mr. Wilson suggested that Mr. Goodman contact the Southeast Land Trust to come up with a plan for the monitoring of the conservation land and to return to the Planning Board in sixty days for further discussion. Mr. Goodman agreed to do that.

Mr. Salomon moved and Ms. Pohl seconded the motion to adjourn at 11:00pm. The vote was unanimous in favor of the motion (6-0).

Respectfully submitted,

Wendy V. Chase
Recording Secretary

Approved February 14, 2008