



MEETING MINUTES
NORTH HAMPTON PLANNING BOARD
Tuesday, February 5, 2008
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; Joseph Arena, Laurel Pohl, Barbara Kohl, Tom McManus and Craig Salomon, Selectman's Representative.

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

Alternates present: Vince Vettraino

Mr. Wilson convened the meeting at 6:33pm.

Mr. Wilson suggested the Board rearrange the agenda and wait to consider the Salomon case until alternate Vince Vettraino arrived to be seated due to Mr. Wilson and Dr. Arena's recusal from the case. There was no objection.

Old Business

GFI – Discussion on the monitoring fee for conservation land at Greystone Village.

The Board was in receipt of an email from Steven Goodman, representative of GFI Partners, requesting to continue the discussion for the \$10,000 monitoring fee for the conservation land at Greystone Village to the March 4, 2008 meeting.

Mr. Kroner moved and Dr. Arena seconded the motion to grant Mr. Goodman's request to continue the monitoring fee discussion for Greystone Village to the March 4, 2008 meeting. The vote was unanimous in favor of the motion (7-0).

08:01 – Seacoast Harley Davidson, 17 Lafayette Road, North Hampton. Conditional Use Permit Sign Application. The applicant proposes to relocate the existing pylon sign closer to Lafayette Road (Route 1). Property owner: Black Marble Realty Trust. Property location: 17 Lafayette Road, zoning district I-B/R, M/L 003-086. The applicant requests a waiver to Section 506.5.E – Electronic message boards and flashing or neon signs. This case is continued from the January 8, 2008 meeting.

There was no one present to discuss the application. The application was tabled to wait for the possible arrival of a representative of Harley Davidson.

Mr. Wilson asked the Board's permission to sign a letter to the New Hampshire Coastal Program as Chair of the Planning Board and on behalf of the Planning Board that offers support for the second phase of the planning and permitting of the Little River Salt Marsh restoration project.

Mr. Wilson explained that a grant application is being submitted by the North Hampton Conservation Commission to do the initial study required for performing the next phase of the Little River Salt Marsh restoration. He further explained that the first restoration project was

completed in 2001 for approximately \$1,400,000 and 80% was funded by the National Oceanic Atmospheric Administration and it was done with the anticipation that more would need to be done in the future; hence phase II. Phase II consists of dredging a long ditch to allow salt water to go further back to the south end of the Marsh to help eliminate invasive species such as red maples and phragmites and to also help control the mosquitoes.

The money for the restoration project will come from the NH Estuaries Project and from the Conservation Commission funds. Mr. Salomon noted that none of the monies would be raised through taxation.

Dr. Arena commented that the restoration project is for the further betterment of the Salt Marsh.

Dr. Arena moved and Ms. Kohl seconded the motion to grant Mr. Wilson permission to sign the letter to the New Hampshire Coastal Programs on behalf of the Planning Board. The vote was unanimous (7-0).

08:03 - Sandra Bocko 125A Atlantic Ave., North Hampton. Conditional Use Permit Application. The applicant Jones & Beach Engineering on behalf of Sandra Bocko is applying for a Conditional Use Permit under Article IV, Section 409 to allow construction of a 520 linear-foot driveway through a wetland system impacting 9,000 square-feet of wetlands. Property owner: Sandra Bocko, Property location: River Road, zoning district R-2, M/L 006-123 & 120.

In attendance for this application:

Christopher Albert, Jones & Beach Engineering

Letters of opposition to the proposed Conditional Use Permit Application from abutters to the property were submitted into the record.

Mr. Salomon stated for the record that he has mutual clients with Jones and Beach Engineering but did not think that there was a conflict and did not recuse himself.

Mr. Albert explained that he attended the Application Review Committee (ARC) meeting on February 1st and responded to some of the comments made by the Committee members:

- The lot consists of 7 acres and includes lots 6-120 & 6-123 and the 50-foot right-of-way strip that was purchased in 1978.
- There is an existing concrete foundation on the lot, installed prior to Ms. Bocko owning it.
- The wetlands were delineated last summer and determined that there is 1+ acre (43,560 sq ft) of uplands and presented the calculations, the back corner contains 52,769 sq ft of uplands, lot 120 has no buildable area
- Test pits were completed and witnessed by Dick Bond of RCCD.
- Mr. Albert submitted pictures of the property taken on February 4, 2008 and opined that the route proposed to the upland section is the shortest route with less environmental impact.

Mr. Wilson suggested that the conditions under the conditional use permit section, 409.10 A through D in the zoning ordinances be reviewed to determine if they are met by the applicant. Ms. Robinson also recommended that the criteria be addressed in her review letter to the Board. Mr. Wilson read the Conditional use permit criteria into the record:

- A. The proposed construction is essential to the productive use of land not within the wetlands;
- B. Design and construction methods will be such as to minimize detrimental impact upon the wetland site and will include restoration of the site as nearly as possible to its original grade and condition;
- C. No alternative, which does not cross a wetland or has less detrimental impact on the wetland is feasible;
- D. All other necessary permits have been obtained.

Mr. Albert addressed the comments made by Town Engineer, Ed Kelly:

Comment #1 states that Ms. Bocko also owns lots 6-74 & 6-75 and these two right-of-ways are the possible accesses for multiple land locked parcels. Mr. Albert responded that there is only a small sliver of lot 75 with upland between the Oliver Brook and lot 123.

Comment #2 states that lot 123 appears to have been laid out to be a future access to adjacent lands. Mr. Albert said that Ms. Bocko purchased the lots as one contiguous lot of land and could only be built on in the back of the lot. Mr. Wilson asked if the applicant would agree to a condition of approval that there would be no further development of property. Mr. Albert said, "yes", on behalf of his client.

Comment #3 questions whether or not the applicant intends to provide access to lots 121, 122, 125 and 124 with the proposed driveway. Mr. Albert response: lots 121 and 122 are wet and unbuildable and lots 124 and 125 are connected with the existing house at 9 River Road.

Mr. Salomon requested that copies of the deeds of the 50-foot right-of-way to ensure that Ms. Bocko owns it. Mr. Albert said he would provide the Board with copies of the deeds.

Comment #4 suggests that the applicant provide a driveway profile and design and cross sections at the drainage crossings at 50' intervals and the final grading of the driveway should be provided. Mr. Albert said that the driveway has been graded. Mr. Albert stated that a detailed topographic survey of the wetland crossing was conducted at a 50' grid producing a one-foot contour interval plan and felt it was unnecessary to produce cross sections at a 50' interval along the proposed driveway.

Comment #5 stated concern about the detail of grading and Mr. Albert said that the grading around the site has been finalized and grading around the existing 12" culvert has been completed.

Comment #6 requests calculation and comment on the watershed of the 12" culvert. Mr. Albert said there is a watershed split between our area and the watershed off river road crossing the existing 12" RCP along the driveway.

Comment #7 requests a description on the installation, maintenance and longevity of the pipe fill material. Mr. Albert gave a description of how it would be installed.

Comment #8 asked for rip rap sizing calculations. Mr. Albert added the calculations to the detail sheet.

Comment #9 A typographical error was corrected.

Comment #10 refers to wetlands board and Conservation Commission review and comments. Mr. Albert said that the owner is working with both agencies.

Comment #11 states that the driveway should be properly detailed to ensure the porosity of the gravels. Mr. Albert's response: The intent of the drainage calculations was to demonstrate that the proposed driveway, acting as a dam, would not overtop and cause soil erosion from the driveway. If required additional culverts would be installed across the driveway to handle a peak 100-year storm.

Comment #12 refers to the driveway maintenance and the effects on the environment. Mr. Albert's response is that the owner is willing to ban the use of salt along the driveway.

Comment #13 recommends that the plan be stamped and signed by a registered Land Surveyor in the State of NH. Mr. Albert submitted the stamped survey plan into the record.

The Board was informed that the Town Departments are still reviewing the application.

Mr. Salomon questioned the length of the proposed driveway and Mr. Albert stated they propose a 1000-foot gravel driveway.

Dr. Arena questioned the damming affect the driveway will have on a 100-year storm. Mr. Albert said that driveway would actually help retain the water in that area.

Mr. Albert addressed Ms. Robinson's comments regarding Section 409:10 A through D; his responses are as follows:

Subsection A – The proposed wetland impact will gain access to 52,768 sq ft of upland for the construction of a residential hose supported by an on sight septic system and well.

Subsection B – The proposed driveway will have a minimum width of 12' with 1:1 side slopes that will be matted. The only impact to the wetland will be the driveway roadbed and side slopes.

Subsection C – the route proposed to the upland section is the shortest route and less environmental impact. There are no perennial or intermittent streams crossing for the proposed driveway.

Subsection D – The client is in the process in obtaining local Conservation Commission approval and State Wetlands Bureau and Septic System Design approvals.

Mr. Wilson opened the meeting for public comment at 7:35pm to those in favor of the application. There was no public comment.

Mr. Wilson requested public comment to those opposed to the application.

Mr. Lance Houghton, 101 Atlantic Ave. said that the proposed driveway is three football fields long through a wetlands and is a huge impact to the environment and voiced concerns with septic waste backing up into abutting homes basements. He asked who would maintain the culverts.

Mr. Albert explained that they use drainage software called hydro cad to calculate how the water drains in storm events and further commented the driveway would act like a dam.

Ms. Joan Breen, 19 River Road voiced concerns on the impact along side of the driveway backing through acres of significant wetlands and running back behind everyone's house that lives on River Road. She said it would affect a lot of the wildlife that lives in the Marsh.

Mr. Albert said he went by the worst-case scenario and went with a 100-year storm event when calculating.

Mr. Kroner commented that Mr. Granger, an abutter to the subject property, had to recently replace his entire leach field, which is now elevated 4 or 5 feet above the natural contours and any change such as an added driveway is going to have an affect on the calculations of that leach field.

Mr. Albert said that the existing culvert handles the drainage.

Mr. Andrew Breen, 19 River Road, said that when he first moved to Town he was assured that the subject property would not be built on because it was unbuildable because it was so wet. He opined that the three culverts would not handle the drainage from a 1000-foot driveway. He also questioned how emergency vehicles would be able to pass on such a narrow driveway.

Mr. Ed Granger, 11 River Road, gave a brief history on River Road. He said a builder would build one house, sell it and build another and so on. He said that the builder owned River Road and was supposed to keep it cleared in the winter but failed to do so, he was taken to Court by Mrs. Drake who obtained an injunction against him from further building and that is why there is an abandoned foundation on the property. The Town eventually took over the Road. Mr. Granger questioned the ownership of the 50-foot right-of-way and whether or not it was really owned by the Town.

Mr. Wilson explained that the lot in question is a lot of record, created prior to the 175' frontage setback; therefore the applicant meets the standards for a buildable lot.

Ms. Lizzie McNamara, 15 River Road said that she had to have her septic system replaced and had to put an alarm system on the septic because when it rains heavily the lot becomes totally saturated.

Todd Balthaser, 9 River Road stated that the first culvert off of River Road is 40-years old and overflows a lot and opined that three culverts would not be enough to handle the water runoff on a driveway 1000-feet long. He also opined that accessing the property by Atlantic Avenue would have less impact on the environment.

Mary Bolthaser, 9 River Road said that there are spotted turtles in the Little River wetlands as well as other animals whose habitat would be negatively affected.

Attorney Pheonix, representing abutters Amy and Alex Case, first stated for the record that his client's names were spelled wrong on the plan. He shared the Cases concerns on such things as emergency vehicles having enough room to pass on the narrow driveway and concerns on snow that would be plowed directly into the wetlands.

Mr. Granger commented that there were two strangers walking on his property and taking pictures and measurements. They did not ask for permission to be on his property, they did introduce themselves and handed him a business card and told him to call the number on the card if he had any questions.

Joe Coronati from Jones and Beach said that they were Surveyors and are supposed to get permission from the landowner before entering their property.

Dr. Arena suggested to Mr. Granger that he should have called the Police for trespassing.

Mr. Salomon moved and Dr. Arena seconded the motion not to take jurisdiction of the Conditional Use Permit Application for Sandra Bocko, case # 08:03 because (1) The applicant did not demonstrate that the proposed means of access to the buildable area of the lot was “essential to the productive use of land not within the wetlands,” and (2) the ownership is in question with respect to the 50-foot right-of-way from River Road that is the initial segment of the proposed driveway.

Dr. Arena commented that there is an alternative means of access that would be less of an impact on the area and the reason given why the applicant did not pursue it was because of the cost. Dr. Arena stated that it is not up to the Planning Board to worry about the cost of a project to any applicant.

Mr. Salomon voiced concerns on (1) the fact that there may be vernal ponds on the property and there are State regulations regarding setbacks on vernal ponds, (2) there were no calculations on the subcatchment and the impact it would have on the area septic systems, and (3) the Board should request an environmental impact analysis be done on the property.

Dr. Arena stated that the impact on the abutters always plays an important part on the Planning Board member’s deliberation.

Mr. Wilson said that there were unanswered questions on important issues such as environmental impact. Mr. Wilson said that the Board needs a Conservation Commission and NH DES review of the proposal.

Mr. Kroner stated that the alternate means of access would be to cross over Oliver Brook and that presents different issues.

Dr. Arena said that accessing over Oliver Brook could be done in a way that would not impact the Brook.

The question was called.

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

The Board took a two minutes recess.

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 January 8, 2008 meeting.

In attendance for this application:

Craig Salomon, Owner/Applicant

Attorney Peter Loughlin

Christian Smith, Beals Associates

Larry Morse, NHSC

Mr. Wilson recused himself.

Mr. Kroner assumed the Chair.

Dr. Arena recused himself.

Mr. Vettraino was seated for Dr. Arena.

Mr. Salomon recused himself.

Mr. Kroner reopened the public hearing on the Salomon case # 07:28. He reminded everyone that at the last meeting the Board voted to seek a legal opinion from the Town's Attorney regarding the Planning Board's authority to approve the subdivision where the existing house is located within the buffer zone.

Mr. Kroner read the letter from Attorney Jae Whitelaw into the record:

I am writing in response to your request that I review the Salomon application for subdivision approval and advise the planning board as to whether the board has authority to approve the subdivision where the existing house is located within the wetland buffer. The board referred me to three provisions in the zoning ordinance to consider. I believe that the location of the existing house within the wetland buffer does not impact the board's decision on the subdivision application. Please allow me to explain.

My understanding of the facts is as follows. The applicant has applied for approval to subdivide a lot currently having one house into two lots. After subdivision, one lot will contain the existing house and a house site is proposed for the second lot. Section 409.9 of the zoning ordinance prohibits (with certain exceptions) structures within the 100' buffer zone setback from wetlands. The existing house is within the buffer, but existed prior to the adoption of the restriction. It is therefore a legal nonconforming use, protected from requirements in the ordinance that were adopted after it came into existence. RSA 674:19.

The question is whether approval of the proposed subdivision would result in an increase to the nonconforming structure, and if so, would the increase be permissible? However, the existing house is not going to change in size, footprint, or location as a result of the subdivision, and therefore its nonconformity is not an issue.

I would like to address the nonconforming use/structure provisions of the ordinance. Both the common law and RSA 674:19 protect nonconforming uses and structures to a certain extent. While municipalities may not prohibit the continuance of existing nonconforming uses and structures, they may limit the expansion, reconstruction and change of nonconformities. The North Hampton zoning ordinance defines both "Non-Conforming Structure" and "Non-Conforming Use" in Article III. Section 501 addresses "Non-Conforming Uses," limiting the expansion and change of nonconforming uses, defining the time period after which a nonconforming use is considered to be abandoned, and providing that additions can be made to structures on non-conforming

lots so long as the ordinance provisions (such as setbacks) can be met. The only provision regarding structures (501.3) permits reconstruction after casualty in certain circumstances. There is no provision that limits the expansion of a nonconforming structure (nonconforming due to size, location within setbacks, height, etc.). This means that if the owner of the existing house in question wanted to add onto the house and increase the nonconformity within the buffer, there is no ordinance provision prohibiting such expansion. This may be an issue to address during the next review of the ordinance.

Attorney Loughlin gave a brief history of the application:

Zoning Board of Adjustment

- 4/30/2007 application was filed for a variance with the ZBA to permit the subdivision of a 3.88-acre parcel where 4 acres is required.
- 5/22/2007 ZBA public hearing on the application
- 6/26/2007 continued ZBA public hearing on the application and granting of the requested variance relief by the ZBA
- 6/28/2007 Notice of decision issued by the ZBA
- 7/24/2007 Motion for rehearing filed by Attorney Scott Hogan
- 8/21/2007 Motion for rehearing denied by ZBA
- 10/04/2007 Orders of notice issued by Superior Court on appeal filed by abutters (07-E-0499)
- 01/22/2008 30 minute hearing on merits of ZBA appeal in Superior Court

Planning Board

- 10/16/2007 Application filed with Planning Board for two-lot subdivision
- 11/10/2007 1st Planning Board public hearing on two-lot subdivision
- 12/04/2007 2nd Planning Board public hearing on two-lot subdivision
- 01/08/2008 3rd Planning Board public hearing on two-lot subdivision. Case continued pending opinion from Town Counsel on whether additional variance(s) is required
- 01/25/2008 Opinion from Town Counsel, Jae Whitelaw, that no additional variance is required
- 02/05/2008 4th Planning Board public hearing on two-lot subdivision

Attorney Loughlin pointed out that the applicant today has the right to construct an accessory structure (together with a septic system) on his adjacent lot without the need of a variance.

Attorney Loughlin explained the term “scattered and premature subdivision” because an opposing party at a prior meeting mentioned it. Under RSA 674:36, II it states:

The subdivision regulations which the Planning Board adopts may: (a) provide against such scattered or premature subdivision of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection or other public services, or necessitate the excessive expenditure of public funds for the supply of such services. Attorney Loughlin opined that Mr. Salomon’s proposed two-lot subdivision is not scattered or premature.

Attorney Loughlin opined that the Planning Board does not have unfettered discretion to deny a subdivision application that complies with state statutes and local land use regulations and further stated that the Planning Board does not have the authority to deny a two-lot subdivision because

some abutters to lots are offended because the Zoning Board of Adjustment granted approval of a lot that was 5,184 sq ft short of the 2-acre requirement.

Attorney Loughlin concluded that Mr. Salomon has complied with every subdivision requirement and is entitled to the approval of the two-lot subdivision.

Mr. Kroner read subdivision regulation, Article V, Section D &B.:

Section D Review Standards

In reviewing subdivision plans, the Board shall take into consideration the public health, safety and general welfare, the comfort and convenience of the general public, and shall ensure that proposed development does not have a detrimental effect on the abutters, the neighborhood, and the environment of the Town.

Section B Minimum not Maximum

These regulations shall be interpreted as MINIMUM REQUIREMENTS and compliance with these minimum requirements in no way obligates the Planning Board to approve any particular application solely on that basis. The Planning Board will fully consider all aspects of an application before rendering its decision. This will include study of all subdivision design and technical aspects of the proposal as well as consideration of the impact of the development on resources, on local traffic patterns and on available public utilities, services, and municipal resources. Only after the Planning Board has fully satisfied itself that the proposed project is in the interest of public health, safety, welfare or prosperity, will the application be approved.

Ms. Pohl questioned the issue of the role the Master Plan plays in decisions made by the Planning Board.

Mr. Kroner cited a case Traceman v. Town of Bedford where it stated that a Master Plan is merely a general guide to aid the Planning Board in making zoning decisions and cannot be particularly detailed in describing future land uses.

Ms. Pohl referred to Section II – Purpose and Intent under the Subdivision Regulations that states *the provisions in these regulations shall be administered to ensure orderly growth and development and are intended to promote the goals and policies of the North Hampton Master Plan.* Ms. Pohl voiced concerns that approving the proposed subdivision would set a precedent.

Mr. McManus asked Attorney Loughlin's opinion as to whether or not approving this proposed subdivision would lead to more cases involving subdivision of land with less than the required acreage.

Attorney Loughlin said that the Planning Board would only see more cases described if the Zoning Board found unique circumstances and approved a variance to the acreage requirement.

Mr. Kroner opined that the big issue regarding the proposal is the location of the building envelope and that it is unfortunate that the applicant did not originally request a variance to the wetlands setback in addition to relief from the acreage requirement to enable the building envelope to be pushed further back onto the lot.

Mr. Salomon stated that his first preference was to protect the wetlands and that is why he did not seek a variance to the wetlands setback requirement.

Ms. Kohl opined that the 30-foot no cut zone does not do anything to preserve any privacy to the abutting Dow property and said that more thought should have been made to the location of the building envelope and further opined that development on that location would have a negative impact on the abutting property values.

Mr. Vettraino questioned the applicant if there was an attempt to purchase land from his abutters to increase the lot to 4 acres. Mr. Salomon replied that an attempt was made but one abutter asked for an exorbitant amount and the other abutter did not want to do business at this time.

Mr. Salomon opined that it is the Zoning Board's job to apply certain criteria to each case and if anyone does not agree with a ZBA decision the next step is to take it to Superior Court, which his abutters have done and he realizes that approval of his subdivision application from the Planning Board is contingent on the disposition of the Superior Court case.

Mr. Kroner said that when a variance is granted by the ZBA on a piece of land it changes the zoning on the particular piece of land. He opined that a variance was granted and it is the Planning Board's job to apply the law.

Ms. Robinson stated that she stands by her opinion from the first meeting that the ZBA granted a variance for the undersized lot, therefore as far as the Planning Board is concerned the lot is a conforming lot and she concurs with the legal opinion given by the Town's Attorney, Jae Whitelaw, and said that she does not see an obstacle in approving the subdivision.

Attorney Hogan stated for the record that he is representing Bruce and Rita Dow, 104 Woodland Road, Shane Smith, 103 Woodland Road and Jeffrey and Kari Schmitz, 101 Woodland Road.

Attorney Hogan commented on Attorney Whitelaw's legal opinion stated earlier in the record and opined that Ms. Whitelaw was focused on the structure and her conclusion was that the structure is not changing and that the focus should have been on the lot, not the structure. He stated that the lot was not created prior to the adoption of the ordinance for developed lots of record. He further opined that a new boundary line was created by the ZBA when they granted the variance; therefore changing the wetlands setback and making the lot more nonconforming.

Attorney Hogan quoted from the zoning ordinances regarding the Planning Board's authority "minimum compliance with the technical requirements are not enough for approval" and "the Board shall take into consideration the public health, safety and general welfare, the comfort and convenience of the general public, and shall ensure that proposed development does not have a detrimental effect on the abutters, the neighborhood, and the environment of the Town". Attorney Hogan opined that the proposed subdivision maximizes the impact on the abutters and minimizes the impact on the applicant.

Attorney Hogan opined that the Planning Board has the authority to approve or disapprove an application on aesthetics because it directly involves the impact on property values.

Attorney Hogan said that his clients would be before the Planning Board even if the applicant met the 2-acre requirement because the proposal creates negative affects on the abutters.

Discussion ensued on possibly seeking a variance to the wetland setback and to possibly move the building envelope.

Mr. Christian Smith from Beals Associates said that the ZBA granted the variance to Mr. Salomon's lot and that Ms. Robinson and the Town's Attorney both believe that the lot in question is a buildable lot.

Ms. Pohl said that she did not believe that the house could be moved closer to the wetlands.

Mr. Christian Smith opined that the house could be moved closer by elevating the slab higher than the water table.

Mr. Loughlin requested a five-minute recess. Mr. Kroner granted the request and recessed the meeting at 10:28pm.

Mr. Kroner reconvened the meeting at 10:34pm.

Attorney Loughlin requested a continuance to the March 4, 2008 meeting so that his client may apply for a variance to the setback requirements with the ZBA and also meet with the abutters and their Attorney and agree upon a different proposal that they would not oppose.

Elaine McCarthy, 85 Woodland Road, said that the Planning Board should uphold the 2-acre lot requirement on all applications before them.

Attorney Loughlin noted for the record that he and his client are aware of the 65-day decision time limit is up.

Mr. Salomon suggested that his case be added to the March agenda and that the Board grant him a 60-day extension so that if he does end up going to the Zoning Board it would allow him time to get that resolved.

Mr. Kroner suggested that each member familiarize themselves with the time limit requirements of the Board regarding decisions on applications. He referenced Section VI. 6C, 6E and 6F.

**Mr. McManus moved and Ms. Kohl seconded the motion to continue case # 07:28 – Craig Salomon, at the applicant's request to the March 4, 2008 meeting.
The vote was unanimous in favor of the motion (5-0).**

08:04 - KNC Investments, LLC, PO Box 1326, Edwards, CO 81632. Site Plan Review Application. The applicant, The Federation Companies, 535 Boylston St., Suite 203, Boston, MA 02116 on behalf of KNC Investments, proposes the development of two retail buildings totaling 21,000 square-feet with a drive-thru in Retail building 1. Property owner: KNC Investments, LLC. Property location: 26 Lafayette Road, zoning district I-B/R, M/L 003-101.

In attendance for this application:

Joe Coranati, Jones and Beach Engineering

Chris Albert, Jones and Beach Engineering

Bob Bolinger, Traffic Operations Engineer

Jonathan Rouch, Representative of the Federation Company

Mr. Salomon stated for the record that he has mutual clients with Jones and Beach Engineering but does not think that there is a conflict and did not recuse himself.

Mr. Wilson resumed the Chair.

Dr. Arena was reseated.

Mr. Vettraino stepped down.

Mr. Salomon was reseated.

Mr. Kroner moved and Dr. Arena 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 (7-0).

Mr. Wilson read into the record a list of remarks for consideration of the Planning Board pertaining to this case that the ARC members came up with at their meeting on February 1st.

1. Applicant needs to respond to comments of RPC and Engineer
2. Traffic analysis is major concern
3. Landscape buffer is in DOT ROW
4. Parking exceeds required 20 spaces
5. 72% impervious coverage
6. Need architectural rendering of proposed bank building
7. Drawings do not meet specification of Site Plan Review Regulations
8. Need additional info: traffic impact study and architectural renderings

Mr. Coronati listed some facts on the proposal:

- The subject property is located at 26 Lafayette Road (former Wilburs Restaurant)
- The lot contains 2.7-acres with frontage on South Road as well as frontage on Route 1 (across from Cedar Rd)
- The proposal consists of two buildings (1) 18,000 sq ft of retail space and (2) 3,000 sq ft bank with drive thru
- Central shared access across from Cedar Road and a proposed second access at the south end of the lot
- Most of the site is wooded with 30% open space
- Well drained soils on site with storm tech system under parking lot
- Serviced with Aquarion water and septic are under the paved areas
- The original plans were changed to reduce 18 parking spaces and turn spaces along Route 1 parallel and to eliminate “right in” to the property there will be a “right out” only.
- Trucks will go in main entrance and come out on “right out” onto Lafayette
- 4-foot loading dock at the rear of the retail building

Dr. Arena questioned whether or not the traffic study included the possibility that the 3,000 sq ft building would house a bank and retail.

Mr. Bolinger said that the traffic study was done on the basis that the full 3,000 sq ft building would be a bank. He explained that on a square footage basis a bank generates more traffic than a general retail use.

Mr. Bolinger said that the proposed driveway access off of Route 1 would require a driveway permit from the State. He met with NHDOT in January and they dictated where the perimeters would be for the traffic study, (1) the intersection of Cedar Road and Route 1, (2) Route 1 itself and (3) intersection at the signal section of Lafayette crossing and Fern crossing.

Mr. Kroner asked where on Cedar Road were the traffic counts done? A lot of people use Mill Road to avoid the lights in Hampton, which creates a lot of volume on Cedar Road and opined that it is important to capture trips along the entire length of Cedar Road.

Mr. Bolinger said that in accordance with the requirements set forth by NH DOT they took counts at the intersection of Route 1 and Cedar Road and opined that the majority of the impact on the site would come from the Route 1 corridor. He further explained that the traffic study was performed in January 2008 and the results were that there would be 205 trips during PM peak hours (102 entering and 103 exiting) and 200 trips during Saturday mid-day peak hours (103 entering and 97 exiting). A substantial amount of trips are called "pass by" trips and that is where people who are already on Route 1 pass by and turn into the site.

It was determined that the application was incomplete and the applicant was given the opportunity to request a continuance or the Board could vote not to take jurisdiction.

Mr. Coronati requested a continuance to the March 4, 2008 meeting.

Mr. Kroner suggested that Mr. Coronati contact the Fire Chief and Police Chief and find out any issues they may have prior to the next meeting.

Mr. Kroner opined that the proposed drive thru location is not a good plan because it would be the third drive thru related business in a 1500' stretch of Route 1.

Dr. Arena suggested that the architectural rendering include elevations on all four sides of the building.

Mr. Salomon said that measuring traffic on Cedar Road is very important.

Mr. Bolinger said that they did everything the NH DOT suggested they do regarding the traffic study and pointed out that an invitation was sent to Phillip Munck to attend and "chime in" during the study and no one from the Town attended. He stated that he feels very confident in the study that was submitted.

Mr. Wilson commented that all material submitted with a Planning Board application is reviewed by the Board and it is the Board who determines whether or not the information supplied is adequate or not.

The Applicant intends to wait until after the March Town meeting to apply for signs.

Mr. Coronati said he would submit a letter requesting a continuance to the March meeting.

Mr. John Woodworth, 45 South Road said that there is a lot of new traffic on South Road and voiced concerns on lighting and the noise of speakers on the drive thru of the proposed bank. He asked that applicant if the stonewall and the pine trees would be removed.

Mr. Coronati said that they don't intend on removing the stonewall or pine trees.

Mr. Salomon moved and Dr. Arena seconded the motion to continue case #08:04 – KNC Investments, LLC to the March 4, 2008 meeting.

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

Ms. Jill Robinson informed the Board that she would be leaving the Rockingham Planning Commission at the end of the month so that her last meeting with the North Hampton Planning Board will be the Work Session on Thursday, February 14, 2008. She informed the Board that she is not sure who from the Commission would be replacing her.

A motion was made and seconded to adjourn at 11:22pm

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

Respectfully submitted,

Wendy V. Chase
Recording Secretary

Approved February 14, 2008