



MEETING MINUTES
NORTH HAMPTON PLANNING BOARD
Tuesday, March 4, 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: David West, RPC Circuit Rider and Wendy Chase, Recording Secretary.

Alternates present: None

Mr. Wilson convened the meeting at 6:31pm. He noted for the record that there was a quorum and introduced David West as the Town's new Rockingham Planning Circuit Rider.

Old Business

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

There was no one present from GFI for the discussion.

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 February 5, 2008 meeting.

In attendance for this application:

Craig Salomon, Owner/Applicant

Mr. Wilson recused himself.

Mr. Kroner assumed the Chair.

Mr. Salomon recused himself.

Dr. Arena recused himself.

Mr. Kroner read a letter from Attorney Loughlin requesting Craig Salomon's case #07:28 be continued to the April 1, 2008 meeting.

Mr. Kroner requested that Attorney Hogan's letter pertaining to this case, dated February 28, 2008 be entered into the record. Dr. Arena commented that all material presented pertaining to any case is automatically part of the record.

Ms. Pohl moved and Mr. McManus seconded the motion to grant the request to continue Craig Salomon's case # 07:28 to the April 1, 2008 meeting.

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

Mr. Wilson resumed the Chair.

Dr. Arena was reseated.

Mr. Salomon was reseated.

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 February 5, 2008 meeting.

In attendance for this application:

Andrew Janiak, Representative of Seacoast Harley Davidson

Mr. Janiak explained that his case was continued so that the applicant was able to apply for a waiver to Section 506.5.E that prohibits neon signs. The pylon sign the applicant proposes to relocate 25-feet closer to Route 1 has a neon “open” sign hanging off of it. The Zoning Ordinance prohibits neon signs and the applicant requests to keep the neon “open” sign on the pylon sign.

Mr. Wilson explained that there are two components to the “waiver test” that the Planning Board uses in determining the disposition of each waiver request. (1) Not granting the waiver would create unreasonable hardship for the applicant and (2) granting the waiver for the sign, banner, flag, or other advertising device proposed by the applicant would be consistent with the spirit and intent of the ordinance.

Ms. Pohl said that when an applicant comes before the Board with a conditional use sign application it is the best opportunity to bring things up to conformity. The Board should take the opportunity in eliminating non-compliant signs such as neon signs.

Mr. McManus asked if the neon sign were lit at night. Mr. Janiak explained that the neon “open” sign is only on during hours of operation during the day. He further explained that the sign at its current location has been there for five years.

Mr. Salomon said that since the sign is not lit during the night and has been there for the past five years he has no problem with the applicant moving the sign “as is” to the new safer location.

Dr. Arena opined that the new location is not safer due to the fact that it is closer to Route 1. He also stated that neon signs have always been prohibited and the neon part of the sign should never have been allowed in the first place and the Board should adhere to the ordinance prohibiting such signs.

Ms. Kohl said that she agreed with Ms. Pohl that it is the best opportunity to start enforcing the ordinances that the townspeople voted to enact. She commented on how nice the current sign looks but the neon “open” sign attached to it takes away the attractiveness of the sign.

Mr. Salomon said that he has no issue with the Board denying waivers because the Board wishes to bring the signs into conformance with the current ordinance. He said that personal opinion on how the sign looks should not be a part of the Board’s deliberations.

Mr. Wilson disagreed and referred to a NH Supreme Court case ruling that aesthetics factors can be taken into account for a denial even if all the other technical requirements are met.

Mr. Kroner read a section of 506.5.E – Electronic message boards and flashing or neon signs. “Neon signs on the outside of a building or visible through a window are prohibited”.

Mr. Janiak said his only argument is that the open sign is informational to the public to let them know when the business is open.

The Board deliberated over the first part of the waiver test. By **not** granting the waiver it would create unreasonable hardship for the applicant:

The Board determined that by not granting the waiver it would not create a hardship on the applicant.

The Board deliberated over the second part of the waiver test. By granting the waiver and allowing the neon sign it would be consistent with the Spirit and Intent of the ordinance:

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

Mr. Ricardo Fucci suggested that the applicant be given the option to put another type of lighted sign other than neon, such as allowing LED lighting to be used.

Mr. Wilson said that it would be helpful to the Planning Board to receive opinions from lighting engineers to determine if a proposed lighted sign would meet the “dark sky” standards.

Dr. Arena suggested the applicant explore other options for the “open” sign other than neon.

Mr. Wilson closed the public hearing at 7:02pm.

Dr. Arena moved and Ms. Kohl seconded the motion that the waiver request failed to meet the test of unreasonable hardship.

The vote passed (5-2-0). Mr. Kroner and Mr. Salomon opposed.

Dr. Arena stated that his comments were in no way against an “open” sign other than a neon sign. He encouraged the Applicant to come up with a different type of “open” sign.

Ms. Pohl moved and Dr. Arena seconded the motion that the waiver request failed to meet the test that it would be consistent with the Spirit and Intent of the Ordinance.

Mr. Wilson commented that he found it difficult to find that the sign would be consistent with the Spirit and Intent of the Ordinance when the Ordinance specifically states that neon signs shall not be permitted.

Mr. Salomon commented that as with a variance a waiver that is dependent upon being consistent with the spirit and intent of the ordinance for a provision that is inconsistent with an explicit part of the ordinance could never be granted so the waiver process is a sham.

The vote passed (5-2-0). Mr. Salomon and Mr. McManus opposed.

Dr. Arena moved and Ms. Pohl seconded the motion to deny the waiver request from Section 506.5.E – electronic message boards and flashing or neon signs for case # 08:01 – Seacoast Harley Davidson.

The vote passed (4-3-0). Mr. Kroner, Mr. McManus and Mr. Salomon opposed.

Dr. Arena moved and Mr. Salomon seconded the motion to grant the Conditional Use Sign Application, case # 08:01, to move the existing pylon sign twenty-five (25) feet closer to Route and to removed the existing neon “open” sign that currently hangs off of it.

Dr. Arena commented on the fact that moving the sign closer to Route 1 may cause a hazard with all of the fast moving traffic on that Route.

Mr. Wilson opened the public hearing at 6:59pm.

Mr. Wilson closed the public hearing at 7:00pm without public comment.

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

Mr. Janiak thanked the Planning Board for their efforts.

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. This case is continued from the February 5, 2008 meeting.**

In attendance for this application:

Bob Bolinger, Traffic Operations Engineer

Mr. Bolinger informed the Board that the rest of the presenters for this case were not in attendance.

Mr. Wilson asked if Mr. Bolinger would be able to call them and check the status of their arrival.

Mr. Wilson called for a recess at 7:05pm.

Mr. Wilson reconvened the meeting at 7:10pm.

Mr. Bolinger informed the Board that the rest of the team presenting the KNC application was on their way.

The applicants for Ocean Subaru were not in attendance.

The Board decided to recess the meeting until 7:30pm.

Mr. Joe Coronati, Jones and Beach Engineering and Mr. Jonathan Rouch, Representative of the Federation Company arrived at 7:30pm.

Mr. Coronati submitted copies of revised plans that addressed the Town Engineer's suggestions/comments on his original review.

Mr. Coronati said that the five large pine trees adjacent to Pine Road will be saved and the northeast corner of the lot at the intersection of South Road and Lafayette Road consisting of 263 square feet may be deeded to the Town.

Mr. Coronati addressed the Fire Departments concerns. He explained that comments made regarding sprinkler system requirements and adding a hydrant in front of the site would be dealt with during the building permit process.

Mr. McManus suggested that the applicant work very closely with the Fire Department when installing the fire hydrant.

The Fire Department raised issue with the width of the road being 18-feet and stated that the dimension of the ladder truck is 10-feet wide and with the stabilizers out the ladder width is 17-feet. Mr. Coronati said that a 67-foot trailer on an 18-wheeler is able to pass through the road.

Mr. Wilson suggested that Mr. Coronati meet with the Fire Chief and resolve the issue the Fire Department has pertaining to the width of the Road.

Mr. Coronati opined that there wouldn't be a snow issue on the proposed site and that the snow is removed off site.

There were no comments from the Police Department or the Highway Department.

Mr. Bolinger went over the supplemental traffic count study he performed per request of the Planning Board at the February 5, 2008 meeting. He explained that new counts were taken east of Route 1 on Cedar Road on Saturday mid-day and evening peak hour periods. The results were pretty much the same as the original study. He said that Cedar Road accommodates approximately 19% of the total site traffic for Lafayette Crossing during the PM peak hour period and approximately 17% during Saturday and mid-day.

Mr. Bolinger explained that the NH DOT mandates that they try to adjust for "peak" month because of the day-to-day, month-to-month fluctuation. They take that into consideration when doing a traffic count and adjust the numbers accordingly.

Mr. Coronati discussed the changes made to the plan:

- The building will be made of concrete with plank siding
- Maintain the 5% windows in the front
- HVAC units will be screened
- New England colors will be used on the buildings
- The slope roof too difficult so added awnings for a 3-dimensional look
- Loading dock is double door access
- The roof will be made of a rubber membrane
- The bank will be a wood frame building
- 1-2 colors and required windows on proposed bank building
- Canopy for drive-thru lane
- Not sure where the ATM will be, it is up to the bank

Mr. Salomon commented on the fact that the canopy as shown on the plan encroaches the 35-foot setback requirement and said the applicant would either need to move the drive-thru or apply to the ZBA for a variance for relief to the setback requirement.

Mr. Coronati said that they would be able to cut the drive-thru area back and fit it within the required setback.

Dr. Arena voiced concerns on cutting the canopy back to fit it in within the setbacks. He said that it is up to the Board to consider the welfare and safety of the people and the overhang would be a benefit to them and suggested that the applicant seek a variance from the ZBA instead of cutting the overhang back.

Dr. Arena moved and Ms. Pohl seconded the motion to take jurisdiction of the site plan review application for case #08:04.

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

Mr. Salomon questioned the noise level the HVAC units generate.

Mr. Coronati said that the units are not as noisy as they used to be and commented that they would not be louder than the noise produced at Abenaqui Trucking located next door.

Mr. Salomon requested a copy of the manufacturer's decimal specifications.

Ms. Pohl asked if the applicant would be granting an easement to deal with the paving encroachment on the back of the site. Mr. Coronati said they would grant an easement to resolve the issue and "clean up" the title of the property.

Mr. Kroner commented that the applicant should contact the Code Enforcement Officer and inform him that cars should not be allowed to park across the street at the auto dealership in the vegetated buffer in regards to this proposed plan. It represents more of a safety factor because cars are always parked there and drivers can't see more than 150' because of those cars, and by adding this proposal; looking left is going to be more critical.

Mr. Kroner asked about a possible traffic light at that location and Mr. Bolinger said that the State determined that the proposal does not satisfy the minimum criteria for signalization and that the State is not in favor of adding signalization due to the proximity of South Road.

The Board discussed possible conditions of approval.

Mr. Salomon questioned the drainage.

Mr. Coronati explained that test pits were done five years ago as well as recently at the site and there are very good soils. He further explained that they have designed three underground detention ponds that are made of foam touch chambers that promote infiltration of Stormwater. There is one specific isolator row within the chamber that treats the Stormwater and is the only row that needs to be maintained. The systems are detailed on sheet C3 of the plan and the instructions and specifications for maintaining the system are included on that sheet.

Mr. Coronati said that the applicant would be applying for the bigger septic system to accommodate a variety of possible tenants.

Mr. Wilson opened the public hearing at 8:51pm.

Mr. John Woodworth of South Road thanked the Board for the items they addressed on the site plan and thanked Mr. Coronati for answering all of his questions.

Mr. Woodworth commented that the current stonewall is deteriorating and wondered if the applicant would be repairing it and also trimming the pine trees. Mr. Coronati said that they would be doing both.

Mr. Woodworth noted for the record that he is in favor of the project.

Mr. Fucci said that this is a good example of a win – win situation and that the project was presented well and the Board did a good job working with the applicant.

Mr. Wilson closed the public hearing at 8:55pm.

Mr. Salomon said that he would inform the Selectmen of the proposal to deed the corner section of the site to the Town at the next Selectmen's meeting.

Dr. Arena moved and Mr. Salomon seconded the motion to approve the Site Plan Review application for case # 08:04 – KNC Investments, LLC 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. Permits. Applicant shall submit copies of all required permits and shall note permit numbers, as appropriate, on the plan.
4. A note shall be added to the plan stating that documentation shall be submitted describing the maintenance program for the specified stormwater management system.
5. A note shall be added to the plan stating that the mature pine trees and the stonewall along Pine Road to be preserved and protected during construction.
6. A note shall be added to the plan specifying that air conditioning units shall be screened in a manner that ensures that no noise shall spill from the site.
7. A note shall be added to the plan specifying that the intercom system shall comply with Section X.F.3.b.9 of the site plan review regulations.
8. A note shall be added to the plan stating that the specified colors shall be those depicted on the artist's renderings of the architectural plans.
9. Applicant shall submit a letter from the Fire Department stating that all of the issues raised in the February 22nd, 2008, Fire Department memo have been satisfactorily resolved.
10. A note shall be added to the plan that all lighting on the site shall comply with Section X.F.3.b.7, the "dark sky standard," of the site plan review regulations.
11. Applicant agrees to post surety for the landscaping that will be installed per the landscaping plan and agrees that the Town will retain 25% of the total landscape surety

- for a period of two growing seasons after installation to ensure that dead plantings are properly replaced.
12. The canopy on the proposed “bank” building shall be modified on the plan so that it does not encroach upon the setback.
 13. A note shall be added to the plan stating that the area on the northeast corner designated as land to be deeded to the Town constitutes a dedication only.

Mr. Salomon noted for the record that he has done business with both Mr. John Woodworth and Jones and Beach Engineering in the past but felt that there was not a conflict to prevent him from voting on the application.

08:05 – Ocean Subaru, 203 Lafayette Road, North Hampton, NH. Conditional Use Sign Application. On behalf of the Applicant, Philadelphia Sign, 2 Phoebe Way, Worcester MA 01605, proposes a 19 sq. ft. wall sign on the Subaru building and requests the following waivers: (1) Section V, Article 506.6.K – No more than 1 wall sign per building, (2) Section V, Article 506.6.Q – Color and (3) Section X.F.3.b.7 of the site plan review regulations – Lighting. Property owner: Joseph Roy Realty, LLC. Property location: 203 Lafayette Road, zoning district I-B/R, M/L 021-007.

In attendance for this application:

Heather Hopkins Dudko, Sign permit consultant
Robert Broyer, General Manager Ocean Subaru

The applicant requests three waivers from the sign ordinance.

Ms. Dudko explained that the applicant proposed to replace the existing AMD wall sign with a new wall sign that reads “OCEAN”. She explained that there will be an increase in the letters and square footage but the letter height would remain the same. She further explained that the lighting will be illuminated internally but contained within the letters. She said that the hardship in this case is that the sign is needed to identify this particular dealership. She further stated that the sign request is consistent with the spirit and intent of the ordinance because it is replacing an existing wall sign with minor alterations.

Mr. Salomon said that the ordinance contemplates the statutory requirement and the constitutional requirement that a non-conforming use can continue, and that is the spirit of the ordinance. Mr. McManus agreed with Mr. Salomon.

Mr. Kroner said that car dealerships need to identify and contrast between each individual dealership and opined that it would be a hardship not to allow them to identify themselves.

Ms. Pohl commented on the decal on the chimney of the building. Ms. Dudko said that the logo on the chimney has always been there.

Mr. Broyer said that Subaru is making them reface all of the existing sign and it will cost the applicant \$54,000.00 for all of the upgrades.

Mr. Wilson opened the public hearing at 9:29pm.

Mr. Fucci said that the applicant is trying to conform to Subaru's Corporate Headquarters and adhere to the Ordinance and spoke of the fact that the signs have somewhat of a grandfathered status.

Mr. Wilson closed the public hearing at 9:31pm.

It was determined by the Board that the waiver request to "color" would not be needed.

Mr. Salomon moved and Mr. Kroner seconded the motion that the waiver to the color requirement was not needed.

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

Mr. Salomon moved and Dr. Arena seconded the motion to grant the waiver request to Article V, Section 506.6.K to allow the 19 square feet wall sign as a second sign.

Ms. Pohl said that she feels that the building consists of three signs and that now is the opportunity for the Board to bring everything into conformity.

Dr. Arena said that the medallion on the chimney is pre-existing and should not be considered a new sign.

Mr. Wilson said that his perception is that it is a change of tenant with the same operation and they are upgrading the existing signs and improving their appearance. He opined that if it were a new building the Board could expect compliance with the ordinance.

Mr. McManus questioned whether or not the Ocean sign would be considered a second sign and not a part of the existing Subaru sign just because the chimney on the building separates the two signs.

Dr. Arena said that the main focus of the Board should be on the new "ocean" sign and that the "Subaru" sign and the medallion on the chimney are pre-existing signs and should not be considered.

The vote passed (5 in favor, 2 opposed and 0 abstentions). Mr. Wilson and Ms. Kohl opposed.

The waiver to the lighting requirement regarding "dark sky" standards was discussed.

Dr. Arena asked if the lights would shut off at night and Mr. Broyer said that the lights are on a timer and are on only during business hours of operation during the day.

Ms. Pohl reiterated her earlier comments that this is the opportunity to bring things into conformity with the sign ordinance.

Mr. Kroner questioned whether or not the "dark sky" standard would cover this internally lit sign because it shuts off at night.

Mr. Kroner moved and Mr. Salomon seconded the motion to grant the waiver to Article X, Section X.F.3.b.7 – Lighting of the Site plan regulations with the condition that the internally lit wall sign will be turned off by 10:00pm.

The vote passed (4 in favor, 3 opposed and 0 abstentions). Mr. Wilson, Ms. Kohl and Ms. Pohl opposed.

Mr. Salomon moved and Dr. Arena seconded the motion to approve the Conditional Use Sign Application for case # 08:05 – Ocean Subaru.

Mr. Wilson opened the public hearing at 9:46pm.

Mr. Wilson closed the public hearing at 9:47pm without public comment.

The vote passed (4 in favor, 3 opposed and 0 abstentions). Mr. Wilson, Ms. Kohl and Ms. Pohl opposed.

08:06 – Ocean Subaru, 203 Lafayette Road, North Hampton, NH. Conditional Use Sign Application. On behalf of the Applicant, Philadelphia Sign, 2 Phoebe Way, Worcester, MA 01605, proposes a 58 sq. ft. monument sign and requests the following waivers: (1) Article V, Section 506.6.I – No more than 1 ground sign per business, (2) Section V, Article 506.6.Q – Color and (3) Section X.F.3.b.7 of the site plan review regulations – Lighting. Property owner: Joseph Roy Realty, LLC. Property location: 203 Lafayette Road, zoning district I-B/R, M/L 021-007.

Ms. Dudko said that the applicant wants to maintain the signs that are currently there and to update them to a new modern look while trying to accommodate the regulations of the current sign ordinance at the same time.

Ms. Dudko explained that it is not a fully face-lit sign; the light only shines through the logo and around the letters.

The Board discussed the waiver request to allow more than one ground sign.

Ms. Dudko read the definition of monument signs and said that the proposed sign would conform to the size requirements. Mr. Wilson questioned the base of the monument sign.

Mr. Wilson said that the purpose of signage according to the spirit of the ordinance is to convey information. The ownership is already being identified by a big wall sign that's non-conforming, a logo badge on the top of the chimney that's non-conforming, a big Subaru sign on the building that is non-conforming, a monument sign out front and a "used car" sign also out front. Mr. Wilson opined that granting the waiver does not rise to the test of being an unreasonable hardship.

Ms. Pohl suggested that the two monument signs be combined to read new and used and eliminate one of the signs.

Mr. Salomon said that the proposed signs would look much better than the existing signs, and if the Board denies the waiver request than Subaru may just keep the existing signs and just reface them.

Mr. Wilson commented that the sign application should have been included into just one application dealing with one site.

Mr. Wilson opened the public hearing at 10:01pm.

Mr. Fucci suggested the applicant maximize the square footage of the monument sign if the applicant is only allowed the one sign.

Mr. Wilson closed the public hearing at 10:04pm.

Mr. Salomon moved and Dr. Arena seconded the motion to deny the waiver request to Article V, Section 506.6.I – one monument sign per business.

Mr. Wilson opened the public hearing at 10:11pm

Mr. Broyer commented that it is very important to inform people that they do sell used cars.

Mr. Wilson closed the public hearing at 10:14pm.

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

The applicant requested to continue the Conditional Use Permit application for case 08:06 to give them the opportunity to consult with Subaru Corporate Headquarters to see how they wished to pursue.

Mr. Salomon moved and Dr. Arena seconded the motion to grant the request to continue case # 08:06 – Ocean Subaru to the April 1, 2008 meeting.

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

Mr. Salomon moved and Dr. Arena seconded the motion to adjourn at 10:20pm.

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

Respectfully submitted,

Wendy V. Chase
Recording Secretary

Minutes approved April 17, 2008