



**MEETING MINUTES**  
**NORTH HAMPTON PLANNING BOARD**  
**Thursday, May 15, 2008**  
**Mary Herbert Conference Room**

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

**Members present:** Shep Kroner, Vice Chairman; Joseph Arena, Laurel Pohl, Barbara Kohl, Tom McManus and Craig Salomon, Selectmen's Representative.

**Members Absent:** Phil Wilson, Chairman

**Others present:** David West, RPC Circuit Rider and Wendy Chase, Recording Secretary.

**Alternates present:** None

Mr. Kroner convened the meeting at 7:05pm.

### **Minutes**

**Ms. Pohl moved and Dr. Arena seconded the motion to accept the Work Session meeting minutes of April 17, 2008 as written.**

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

**Dr. Arena moved and Mr. Salomon seconded the motion to accept the meeting minutes of May 1, 2008 as written.**

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

### **Old Business**

Glenn Martin update on Well No. 15 and possible surety release.

Mr. McManus and Ms. Pohl informed the Board that they visited the site and inspected Well #15 on Mr. Martin's property and said that it had been filled in with cement.

Dr. Arena reiterated what he had said at a previous meeting that he felt Mr. Martin should have received balance of his surety long ago.

**Dr. Arena moved and Ms. Pohl seconded the motion to recommend to the Board of Selectmen that they release the full balance of the surety put up by Mr. Glenn Martin regarding Evergreen Drive.**

Mr. Kroner suggested that the Board request that Aquarion provide the Town with a letter of verification that Well No. 15 was indeed capped.

Mr. McManus agreed and said that Michele DeSorcy of Aquarion informed him that paperwork was filed with the State of NH verifying the decommissioning of the Well. Mr. McManus suggested obtaining a copy of the verification and placing it on file with the Town.

Dr. Arena opined that the Board only needs verification from the Code Enforcement Officer, and the Mr. Mabey should inspect Well No. 15 and report back to the Board with his findings.

**The vote passed (5 in favor, 0 opposed and 1 abstention). Mr. Salomon abstained.**

Ms. Kohl thanked Mr. McManus for doing a great job following up on the Well issue and the Board agreed.

Mr. Salomon stated for the record that he would ask the Code Enforcement Officer to inspect the Well and report back to the Planning Board with his findings, and that the Board should receive a copy of the documentation Aquarion filed with the State of NH regarding this matter.

Dr. Arena stated for the record that the surety should have been returned to Mr. Martin months ago because it was Aquarion's responsibility to cap Well No. 15, not Mr. Martins'. He further said that this was an unbiased statement.

## **New Business**

**#08:07 – Lafayette Realty, LLC, PO Box 695, North Hampton. Change of Use Application.** The Applicant, Maria Flemming, 331 Exeter Road, Hampton Falls, NH, proposes to extend her current Imprints Day School Facility to a portion of Building "A" at 14 Lafayette Road, currently occupied by a woodworking/carpentry business. Property Owner: Lafayette Realty, LLC; property location: 14 Lafayette Road, North Hampton, NH; M/L 003-096-000; zoning district I-B/R.

In attendance for this application:

Maria Flemming, Applicant and Owner of Imprints Day School

Mr. Kroner explained that it was not general practice that the Board take up new Planning Board Applications at their Work Session meetings, but the Applicant had applied using the previous Planning Board schedule and since the Board changed the meeting date and time she missed the new deadline for the May 1, 2008 agenda.

Ms. Flemming explained to the Board that she proposes to increase her current day school in building "A" at 14 Lafayette Road and house up to 30 children and two teachers

in the back building. She further explained that she has received verbal approval from the State Bureau of Child Care Licensing and plans to add two low flow toilets to the facility.

Dr. Arena asked if the children would have to walk from building to building and she said that the children would walk in the walkway along side the building.

Mr. Salomon questioned if the parents of the children would use the front parking spots to drop off and pick up their children and opined that it is not easy backing out of those parking spaces.

Ms. Flemming said that there are three parking spots along the side of the building and four in front with 5 spots on the other side that will be clearly marked for parking so the parents would not need to use the spots out front.

Mr. Kroner said that his biggest concern was whether or not the subsurface system would accommodate the 30 additional children. He suggested the Building Inspector confirm whether or not the current septic would be adequate and update the Board. Mr. Salomon pointed out that the State of NH monitors daycare facilities closely and would require the septic to be adequate.

**Mr. Salomon moved and Dr. Arena seconded the motion to approve the Change of Use Application, case # 08:07 subject to confirmation from the Building Inspector that the subsurface system would accommodate the increased use from approximately 30 additional students. The vote passed in favor of the motion (5 in favor, 0 opposed and 1 abstention). Mr. McManus abstained.**

### **Committee updates**

Ms. Pohl updated the Board on the Long Range Planning Committee. She said that she would be working on the Capital Improvement Plan (CIP) and Ms. Kohl would be working on updating the Master Plan.

Mr. Salomon asked if it would be within the realm of the Long Range Planning Committees duties to determine the impacts, if any, on changing the Town Meeting from March to May? Discussion ensued on the benefit of having a May Town Meeting.

- Less likely to have bad weather, deterring people to get out and vote
- Many people travel to Florida in the winter months
- The State's set dates to hold public hearings for zoning changes occur during the holiday season creating less resident participation.

Ms. Pohl said that the LRP has a schedule in place to receive the necessary data and the next meeting is scheduled for June 10, 2008.

Mr. McManus said that having the Town Administrator, Steve Fournier available and participating at the LRP meeting made it a more substantive meeting and allowed them to get more accomplished. Ms. Pohl agreed.

Ms. Pohl said that they would like to get the School Board involved and asked Mr. David West if he would like to join and he said he would. She also asked employees of the Library.

Mr. Kroner spoke of the prior Work Session and the discussion of the transition from the Route 1 rezoning issues to access management. He said that the Board had asked Mr. West to look into the issues of workforce housing and the compliance of workforce-housing's potential requirements.

Mr. West said that he has gone over North Hampton's zoning and the most recent amendment to Senate Bill 342-FN-Local, workforce housing and passed out copies to each of the members.

Mr. West explained that workforce housing is housing that is affordable to people who make the median income in Town. He quoted the definition of "Affordable" in the workforce-housing bill; *means housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed 30 percent of a household's gross annual income.* He further explained that in order to encourage workforce housing, the State of New Hampshire has come up with the amendment to the RSA's that all Town's should provide their allotment of affordable housing.

Mr. West said that the proposed Bill requires that in 50.1% of the Town workforce housing has to be allowed to be built and must include multi-family housing containing five or more units.

Mr. Coutu commented on how the original Bill was crafted in a way that did not provide for (1) the number of units in a facility would be dedicated to affordable housing, (2) it did not provide for how long the units would have to stay in affordable housing status and (3) the Bill did not define whether or not manufactured housing would be considered affordable housing.

Mr. West said that the first two issues brought up by Mr. Coutu have not yet been resolved and that regarding the manufactured housing issue he did not see where manufactured housing would not be considered affordable housing.

Mr. Coutu suggested that he Planning Board work on defining what the requirements would have to be regarding affordable housing while keeping with the "spirit and intent" of the ordinance.

Mr. West informed the Board that the proposed Bill would not be voted on and take effect until July 1, 2009 so there is time to look at the current ordinance and make possible changes to it to be voted on at the March 2009 Election.

Mr. West explained that the Rockingham Planning Commission determines what each Town's "fair share" of affordable housing is and some Town's may already comply. He further added that the Rockingham Planning Commission district consists of 27 of the 37 communities in Rockingham County.

Discussion ensued on the pros and cons of "affordable" housing.

Mr. West suggested that the Board read the proposed Bill and opined that after thoroughly reading it he has a better understanding of how the Board can "tackle" adopting inclusionary zoning versus what actually happens to a Town when the Planning Board denies a workforce housing application.

Mr. Kroner explained that the Planning Board has the responsibility of appointing Heritage Commission Members. The Board was in receipt of three reappointment requests:

Jane Palmer (Alternate member) 1-year term

Carolyn Brooks 3-year term

Jenifer Landman 3-year term

Mr. Salomon explained that the Board of Selectmen had recently adopted a policy where all appointed positions on all Committees and Commissions would first have to be advertised to the public.

The Board agreed to list the open seats on the Heritage Commission on the Town's website and channel 22 with an expiration date of May 31, 2008 and taken up at the June 5, 2008 regular Planning Board meeting.

The Board received a letter from Mr. Salomon regarding his ongoing subdivision application, case #07:28 at the beginning of the meeting.

Mr. Salomon sat in the audience.

The letter advised the Planning Board to seek Legal Counsel on several points taken up at prior hearings on his case #07:28 prior to the June 5, 2008 meeting.

Dr. Arena said that he would like time to read and digest the content of the letter and table the discussion for the next meeting.

Mr. Salomon spoke from the audience and said that in his opinion there were questions raised at prior hearings regarding the authority of the Planning Board that may be incorrect so he suggests that the questions be addressed prior to the June 5, 2008 meeting.

He further added that he would not request or agree to a continuance from the June 5<sup>th</sup> meeting on his case.

Mr. Kroner voiced concerns on how to legally handle the letter presented to the Board by Mr. Salomon. Mr. Kroner opined that Mr. Salomon, in his letter, is asking the Board to pre judge a set of issues that have been raised during prior public hearings that Mr. Salomon feels are structurally flawed in their legal argument and so he is suggesting that the Board have legal access to legal guidance on the issues being raised.

Mr. Salomon said Mr. Kroner's comments were exactly correct.

Mr. McManus acknowledged the both Mr. Salomon and Dr. Arena stepped down, but asked that Mr. Salomon and Dr. Arena verbally state for the record that they have recused themselves. They both stated that they recused themselves as Planning Board members for the discussion and Dr. Arena apologized for making earlier comments regarding the letter.

Ms. Kohl opined that in all fairness the abutters to Mr. Salomon's case and the abutter's attorney should be given the same opportunity to read the letter and get their own opinion. Ms. Kohl commented that she would like time to read the letter.

Ms. Pohl said that the letter precludes the notion that the Board has already denied the application and the Board is not at that point yet.

Mr. Salomon said that he would be happy to send Attorney Hogan a copy of the letter and stated that the issues in the letter will be raised and opined that in fairness to himself, the abutters and to the Town it would be important to have a read on the issues before the June 5<sup>th</sup> meeting.

Mr. McManus stated that the issue before the Board is whether or not the Board would forward a copy of Mr. Salomon's letter to Town Counsel for a legal opinion. Mr. Kroner added that the opinion from Town Counsel would be under Attorney/Client Privilege so whatever transpires the Board should receive the legal advice in a closed session.

Mr. Salomon said that he would send a copy of the letter to Attorney Hogan and give him an opportunity to submit a response to the Planning Board.

**Mr. McManus moved and Ms. Pohl seconded the motion that the Planning Board forward a copy of the letter from Mr. Salomon dated May 15, 2008 to Attorney Jae Whitelaw, the Town's Counsel regarding the Salomon case for her to review and report back to the Planning Board with legal advice and guidance.**

**Ms. Pohl made a friendly amendment that Mr. McManus accepted that said, provided that a copy is forwarded to Attorney Hogan with an opportunity to respond to our Town Attorney as well as to the Planning Board.**

Mr. Kroner suggested that he Board meet with the Town Attorney under RSA 91A meeting with Counsel prior to the June 5<sup>th</sup> meeting.

**Tom moved and Ms. Pohl seconded the motion to request a legal opinion from Town Counsel, Attorney Jae Whitelaw regarding the letter from Craig Salomon, Applicant for a two-lot subdivision on 100 Woodland Road, and that our Counsel provide an opinion regarding the letter with the provision that the letter also be sent to the Abutter's Attorney Scott Hogan and giving him the opportunity to respond to our Town Attorney as well as to the Planning Board.**

Mr. McManus said that the Board is being as thorough as it can and should avail themselves to the resources they have.

Mr. Kroner said that it seems a little unusual but feels it does no harm getting a legal opinion.

**The vote passed in favor of the motion (3 in favor and 1 opposed with 0 abstentions).**

Ms. Chase was directed to send a copy of the Salomon letter to Attorney Hogan and Mr. Salomon said he would send one too.

Dr. Arena returned to the table. Mr. Salomon returned to the table.

**Dr. Arena moved and Mr. Salomon seconded the motion to adjourn at 9:00pm. The vote was unanimous in favor of the motion (6-0).**

Respectfully submitted,

Wendy V. Chase  
Recording Secretary

Minutes approved 08/19/2008