



MEETING MINUTES
NORTH HAMPTON PLANNING BOARD
Work Session
Tuesday, September 16, 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: Phil Wilson, Chairman; Shep Kroner, Vice Chairman; Joseph Arena, Laurel Pohl, Barbara Kohl, and Tom McManus.

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

Alternates present: None

Mr. Kroner convened the meeting at 7:09pm and noted for the record that there was a quorum.

I. Minutes

The meeting minutes of June 5, 2008 were discussed.

Ms. Pohl moved and Ms. Kohl seconded the motion to table the June 5, 2008 meeting minutes to the October 21, 2008 Planning Board Work Session meeting. The vote passed (4 in favor, 0 against and 2 abstentions). Mr. Wilson and Dr. Arena abstained.

The meeting minutes of June 19, 2008 were discussed.

Dr. Arena moved and Ms. Kohl seconded the motion to approve the June 19, 2008 meeting minutes as written. The vote passed (5 in favor, 0 opposed and 2 abstentions). Mr. Wilson and Mr. Salomon abstained because they were not in attendance for that meeting.

The meeting minutes of August 7, 2008 were discussed.

Mr. Wilson moved and Mr. Salomon seconded the motion to approve the August 7, 2008 meeting minutes. The vote passed (4 in favor, 0 opposed and 3 abstentions). Mr. Kroner, Dr. Arena and Ms. Pohl abstained.

The meeting minutes of August 19, 2008 were discussed.

Ms. Pohl moved and Dr. Arena seconded the motion to table the August 19, 2008 meeting minutes to the October 21, 2008 Work Session meeting. The vote passed (5 in favor, 0 opposed and 2 abstentions). Mr. Wilson and Ms. Kohl abstained.

The meeting minutes of September 4, 2008 were discussed.

Ms. Pohl moved and Ms. Kohl seconded the motion to table the meeting minutes of September 4, 2008 to the October 21, 2008 Work Session meeting. The vote passed (5 in favor, 0 opposed and 2 abstentions). Mr. Wilson and Mr. Salomon abstained.

II. Old Business

None

III. New Business

Greystone Village engineering update from Altus Engineering

The board was in receipt of a status report from Jeffrey Clifford of Altus Engineering, Inc., dated August 29, 2008. The letter informed the board that Altus Engineering ~~preformed~~ performed site inspections of the Greystone Village housing development and listed major concerns. Altus recommends that the Developer complete the following tasks: (a) Submit updated phasing schedules, (b) submit a revised bond estimate based on 2008 construction prices with inflation adjustments for beyond 2008 and update the bond as appropriate, (c) resolve the deficiency with Temporary Sedimentation Basin 3, (d) comply with all erosion control requirements, (e) perform inspections, and (f) address pending expiration of NHDES Alteration of Terrain Permit.

Ms. Chase informed the board that the site improvement bond for the project has expired and the Building Inspector will not issue any building permits until a new bond is in place. The Building Inspector advised the project manager for Greystone development to attend this evening's Work Session to work with the board on ~~figuring~~ establishing a new bond amount. There was no one from Greystone Village present. Mr. Salomon said that he thought that the original bond was a self-calling bond whereas upon expiration a check from the bank would automatically be sent to the Town for the remaining balance of the bond. He further explained that a self-calling bond alleviates the town's responsibility to keep track of the expiration date of the bond. Mr. Salomon suggested that the board look into the terms of the original bond.

Mr. Kroner agreed and suggested that either himself or Mr. Wilson research with Ms. Chase's assistance and find out if the bond is really self-calling. He said that the board must know what needs to be done to complete phase I of the project.

Mr. Salomon said that the board should think about the legal consequences of (a) calling the bond, (b) revoking the approval, and (c) finding out how the Town uses the bond money to at least stabilize the site so that people who have already purchased are protected and abutters are protected against runoff that presumably would not have gone on their property if the drainage system were constructed. He further stated that it is very important to make sure emergency access is available and that the drainage that is there is adequate for existing conditions on the site.

Mr. Kroner commented on the fact that the NH DES Wetland Permit expires on December 11, 2009 and the major wetlands work has not yet started.

Mr. Wilson commented on the major issue the Planning Board members, especially Dr. Arena, had with the developer; ~~that is, especially Dr. Arena~~, that the entire infrastructure should be completed prior to selling any of the houses.

Mr. Salomon said that the project is big enough that they would have had to register with the Attorney General's Office and if the Planning Board takes any action the Attorney General's Office should be made aware of it.

Mr. Wilson mentioned the condition of approval that stated if the ownership of the underlying land were to change, GFI would first have to notify the Planning Board for approval so that the board would be assured that a certified property manager would be in charge of the property to take care of the septic systems.

Mr. Wilson suggested that the board take Mr. Jeff Clifford's recommendations and send a letter informing GFI that the board expects them to complete the tasks listed in Jeff's letter and to report to the board on how they plan to complete those tasks by the November 6th Planning Board meeting, and if the board is not satisfied then the board would take up reconsideration of the site approval.

Dr. Arena opined that the project should progress at a certain speed and that they should not be allowed to have a time limit of infinity.

The board discussed authorizing Chairman Wilson to write the letter to GFI. Mr. Salomon offered to help in writing it.

Mr. Salomon moved and Dr. Arena seconded the motion to authorize Chairman Wilson to draft a letter to the developer of Greystone Village subject to review by Town Counsel.

Dr. Arena questioned why the letter would need to be reviewed by Town Counsel.

Mr. Salomon said that it would be a good idea to have Town Counsel review the letter because there may be consequences that may occur at the November meeting.

Mr. Salomon said that it is important to find out in the interim that the bond is still in place and voiced concerns regarding the people who have already bought homes in that development.

Mr. Wilson voiced concerns that the temporary sedimentation basin #3 in phase I has not been constructed yet, and it is temporary; that is, not meant to be sufficient to manage ~~the~~ drainage in perpetuity from even the portion of the site that has been developed at this time.

Dr. Arena voiced concerns about the septic systems that are in place. If the project goes “belly up” what happens to the monitoring of those septic systems? Mr. Wilson said that they were supposed to have placed a separate surety for the septic systems in case they failed.

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

Discussion of amending Site Plan Review Regulations to clarify that “dark sky” standard for site lighting applies to all external lighting installed on a site – including, but not limited to security, parking lot, wall pack and signage lighting.

Mr. Kroner explained that the board has consistently applied the “dark sky” standard in the Site Plan Review Regulations to the Conditional Use Sign applications. He spoke to the Building Inspector who opined that the “dark sky” standards would need to be added to the sign ordinance in order for it to be enforceable.

Mr. Wilson read the site regulation into the record: X.F.3.b. 7 – Lighting. Site lighting must be designed so that no light spills or reflects on to adjacent properties and does not cause a safety problem for vehicular traffic. A “dark-sky” standard – that is, no light radiating above the horizontal plane at the low point of any luminaire – is required for all lighting plans. Mr. Wilson explained that last year the board created language to add to the sign ordinance dealing with lighting ~~last year~~ that did not pass through public hearings to be placed on the town ~~ballot/warrant~~; so The board decided not to add the language to the Zoning Ordinance because the board has been ~~using~~ relying on the “dark sky” provision of the site plan review regulations. He further explained that internally lit signs are not prohibited, but the applicant must prove that ~~the a proposed~~ internally lit sign meets the “dark sky” standard.

Mr. Kroner suggested that the board either amend the existing site plan review regulation to include that the standard applies to signs, or amend the sign ordinance to include a lighting section that addresses the “dark sky” standard, or do nothing at all.

Mr. Salomon commented on two issues: (1) Clarifying the Site Plan Review Regulation would not require a Town vote, but opined that Site Plan Review Regulations only apply to Site Plans and (2) amendments to the sign ordinance would need to be placed on the Town ballot.

Mr. Wilson asked Mr. Salomon if the site plan regulation refers to all lighting on the site must comply with the “dark sky” standard, wouldn’t a change to the site by modifying a sign need to comply?

Mr. Salomon said that he would have to investigate that, but professionally speaking, if there is no zoning ordinance to the lighting issue than there is no violation.

Mr. West read part of the ordinance that talks about “dark sky” and commented that it is not really “spelled out”.

Dr. Arena commented on the fact that different colored lighting has different wave lengths and some colors project further than others.

The board agreed that they should work on the sign ordinance to include a standard for internally lit signs to be voted on at the March Town Election.

Mr. Wilson commented that the owners of Abercrombie & Finch restaurant should have come before the Planning Board with a conditional use sign application for the current sign they recently installed because it was materially altered.

[Mr. Wilson read into the minutes the definition of “Materially Altered” from the current Sign Ordinance. He opined that any sign that is materially altered must come before the board for a conditional use permit.](#)

Mr. West said that language can be added to the amended sign ordinance to refer to the Site Plan Regulations.

Mr. Kroner commented that there is plenty of time to draft an amendment to the ordinance and hold the required public hearings prior to placing it on the March ballot. He volunteered to draft the amendment and have it ready for review by the board by the October 21, 2008 Work Session meeting.

Discussion on creating regulations for wind energy systems per HB 310

The Building Inspector submitted information to the board regarding the wind energy systems House Bill 310. Mr. Kroner explained that a bill was written for wind power energy systems and there is not a current zoning ordinance in place to regulate it.

Mr. West informed the board that the Office of Energy and Planning (OEP) has created a model wind energy systems ordinance. He will provide copies to the board.

**Mr. Wilson moved and Dr. Arena seconded the motion to table discussion of creating a wind energy systems ordinance until the board receives a copy of the model ordinance from the Office of Energy and Planning (OEP).
The vote was unanimous in favor of the motion (7-0).**

Discussion on Condominium Conversion Ordinance

The board was in receipt of a letter from Attorney John Ryan stating that because North Hampton does not have a Condominium Conversion Ordinance he feels he can proceed in converting property on Ocean Boulevard to a condominium form of ownership without Planning Board approval and referred to RSA 356-B:5.

Mr. Wilson said that the Planning Board reviews a condominium conveyance under the subdivision regulations.

Mr. Salomon said that RSA356-B:5 basically says that Towns can't discriminate against a non-conforming use because the form of ownership is being changed. He further explained that a duplex is a form of construction and a condo is a form of ownership.

Mr. Salomon suggested the Planning Board put a zoning ordinance together dealing with condominium conversions.

Mr. Kroner recessed the meeting at 8:20pm.

Mr. Kroner reconvened at 8:24pm.

Mr. Kroner suggested that Mr. West gather examples of condominium conversion ordinances from other Towns to give the board an idea on how to create one. Dr. Arena suggested getting samples from larger cities like Manchester and Concord.

Mr. West said that he would try to have the information by the October 21, 2008 Work Session meeting.

III. Committee Updates

Ms. Pohl said there was no movement on the Long Range Planning. She further stated they have not received information on the proposed capital items from the town departments, but at the same time she has not been "nagging" Mr. Fournier for the information. She said that she would email him requesting that information.

Ms. Kohl commented on the difficulty the Committee has in obtaining requested information from the Heads of each department and opined that it should be part of the budget process and retrieved easily.

Ms. Pohl agreed and said it should be a natural part of the budget process and suggested the Selectmen may be able to help facilitate that process.

Mr. Wilson said that it needs to be understood that capital planning is part of town planning.

Mr. Salomon said that he would add the topic to the next agenda and also speak to Mr. Fournier about the problem.

Mr. West provided the board with preliminary numbers regarding Work Force Housing. He said that the median area income computed to be \$77,000 and that there are approximately 1800 housing units in Town.

Mr. West went over the figures with the board and explained how they were arrived at. He explained that the documents he handed out explained the methodology on how the numbers were determined.

Mr. Hart asked if Greystone Village could be part of the fair share housing number for North Hampton, and Mr. Wilson said, "~~no~~No, because the development is age restricted (55 and older)".

Mr. Wilson asked again if Mr. West had gathered information, as requested by the board, about whether the Town could legally add zoning districts such as a wetlands zone and conservation/public use land zone. Mr. West ~~was not sure~~said he had not yet gathered the information, and said he would look into it.

The Work Force Housing *ad hoc* Committee planned to meet next week to go over the information presented tonight.

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IV. Other Business

Mr. Salomon excused himself at 9:00pm.

Mr. Wilson moved and Dr. Arena seconded the motion to enter into non-public session pursuant to RSA 91-A:3.II(e) for consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the body or agency or any subdivision thereof, or against any member thereof because of his or her membership.

Roll Call Vote: Ms. Pohl, yes; Mr. Wilson, yes; Mr. Kroner, yes; Dr. Arena, yes; Mr. McManus, yes and Ms. Kohl, yes. Motion carries 6-0.

The Planning Board members exited non-public session at 9:49pm with the following action taken:

Dr. Arena moved and Ms. Pohl seconded the motion to recommend to the Select Board that the Town engage Jed Z. Callen to defend the Planning Board in the Superior Court Case Craig N. Salomon v. Town of North Hampton Planning Board. The vote was unanimous in favor of the motion (6-0).

Dr. Arena moved and Mr. McManus seconded the motion to adjourn at 9:50pm. The vote was unanimous in favor of the motion (7-0).

Respectfully submitted,

Wendy V. Chase
Recording Secretary