



MEETING MINUTES
NORTH HAMPTON PLANNING BOARD
Public Hearing & Work Session
Tuesday, January 20, 2009
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 came in at 7:15pm, Barbara Kohl, Tom McManus and Craig Salomon, Selectmen's Representative.

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

Alternates present: None

Mr. Wilson convened the Public Hearing on the proposed Zoning Ordinance amendments at 7:05pm.

The Board considered the proposed Citizen's Petition first: *To amend the Zoning Map referenced in Article IV, Section 401 to include in the I-B/R District, in their entirety, lots 119, 118, and 118-1 on Tax Map 007.*

Mr. Salomon recused himself from consideration of the proposed Citizen's Petition.

Mr. Kroner asked if the abutters were notified. Ms. Chase said that they were not.

Mr. Wilson explained that a Citizen's Petition to amend a Zoning Ordinance appears on the Warrant regardless, but first requires a public hearing to be held by the Planning Board, and the Planning Board is required to vote to either endorse the proposal or not.

Mr. Kroner said that he believed that one of the reasons the line was put in place to separate the land to be in the I-B/R and the R-1 zone was because it would provide a buffer for the large residential area that it abuts. He said that he would have liked that the abutters were notified of this proposal.

Dr. Arena opined that the abutters should have been notified.

Mr. Gregg Taylor gave the Board a brief history on the land, and said that it has been in his family for over 50-years. He opined that it would be a win/win situation for the Town and himself.

Mr. Wilson opened the public hearing at 7:20pm.

Patty Visconte, a commercial realtor representing the Taylors said that potential commercial "buyers" of the property have been "scared" away from purchasing it because of the zoning issue where the front part of the lots are in the I-B/R District and the back part of the lots are in the R-1 District. She said that her 30 years of experience in commercial real estate "tells her" that there will be no "big box business", such as Lowes, coming into North Hampton for at least five to ten years, and by then she is certain the Taylor property will be sold.

Mr. Taylor said that North Hampton is off the “beaten path” because there is no direct access off of I-95. He said people tend to travel to Seabrook and Portsmouth.

Mr. Wilson closed the public hearing at 7:26pm.

Mr. Wilson commented that the positive aspect of the amendment is that there is a potential tax increase to the Town, and a negative side is that the residential area the lots abut is a very dense area.

Mr. McManus Moved and Ms. Kohl Seconded the Motion that the Planning Board recommends that the voters adopt the change to the Zoning Map by the Citizen’s Petition for Tax Map 007, lots 118, 118-1 and 119.

Dr. Arena said that he would feel better if the abutters to the property had been notified to be informed of what may occur.

Ms. Kohl said that proper procedure was followed in the submission of the Citizen’s Petition; abutters do not have to be notified. She said that the residents abutting Mr. Taylor’s lots will have an opportunity to be informed when the Warrant is posted.

The vote passed in favor of the Motion (3 in favor, 2 opposed and 1 abstention). Dr. Arena abstained.

Second Public Hearing on proposed amendments to Article IV

Mr. West provided a zoning map with the proposed changes made at the January 6, 2009 Public Hearing. Mr. Wilson explained the reasons for the proposed changes to the District Regulations that would address the Town’s need to allow workforce housing in more than 50% of the land area zoned for residential use based on the new workforce housing law.

1. Combining the current R-2 and R-3 Districts into a new R-2 District that;
2. Creating two new districts in which residential use is not now and will not be permitted in the new districts;
 - a. A “Wetlands Conservation District” that will have exactly the same restrictions as the current Section 409 – Wetland Conservation Areas and
 - b. A “Conservation Land District” that will have restrictions consistent with the deed, easement or other restrictions placed upon conservation parcels,
3. Permitting workforce housing in the I-B/R and R-1 Districts, by way of a conditional Use Permit process; and
4. Adding land to the R-1 District to the extent necessary to achieve the requisite 50%+ of land area zoned for residential use in which workforce housing is permitted by way of a Conditional Use Permit.

Mr. Wilson explained how the subcommittee chose the land to consider adding into the R-1 district. He said that there is a core area of Town along Lafayette Road and between I-95 and Mill Road that has access to Aquarion Water, roads that can handle a higher volume of traffic, and is already more densely developed. It is important also to keep workforce housing in an areas where the land value might be low enough for a developer to be able to afford to build “workforce housing”.

Mr. Wilson opened the public hearing at 7:40pm.

Mr. Wilson closed the public hearing at 7:41pm without public comment.

Ms. Pohl said that the map will be available for the public to review at the polling place.

Mr. Wilson said that there will be three maps to review; the original, the one that shows the changes, and the proposed.

Mr. Salomon said that there will be informative discussion at the deliberative session on January 31st regarding the proposed amendments to the Zoning Ordinances.

Dr. Arena said that the Committee did an excellent job on the proposed amendments to the Zoning Ordinances to comply with the workforce housing law, but also reiterated his opinion that the workforce housing law should be repealed.

Mr. Kroner said that the redrafting of the map was done in a logical way, and that it seems to provide a lot of continuity. He said that he is in favor of the redrawing of the zoning map.

Dr. Arena Moved and Mr. McManus seconded the Motion to put the amended zoning map on the Town Warrant.

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

Mr. Wilson opened the public hearing on the district regulations at 7:46pm.

Mr. Wilson closed the public hearing at 7:47pm without public comment.

Mr. Kroner said that the proposed amendments are very logical and well thought out.

Mr. Wilson briefly described the proposed changes to the district regulations and said that it eliminates the distinction between the R2 and R3 district, whereas the only difference between them is that the R-3 district has a 35-foot side setback requirement and the R-2 district has a 30-foot side setback, and it makes the wetlands and conservation district actual districts instead of an overlay district, which if passed will not change the restrictions on wetlands in Town, it just changes the status to remove the acreage out of the denominator of the calculation pertaining to the Town's "fair share" of acreage for workforce housing. He added that the proposed amendments do not change the property rights of people.

Dr. Arena Moved and Mr. Kroner seconded the Motion to put on Town Warrant, the district regulations as written.

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

Second public hearing on the adoption of an Inclusionary Housing Ordinance

Mr. Wilson explained that the Inclusionary Housing Ordinance is based on the new workforce housing bill that passed and will be in effect July 1, 2009.

Mr. Wilson opened the public hearing at 7:52pm.

Mr. Wilson closed the public hearing at 7:53pm without public comment.

Mr. Salomon Moved and Ms. Pohl seconded the Motion to put the Adoption of the Inclusionary Housing Ordinance on the Warrant as written.

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

Second public hearing on the adoption of an Outdoor Lighting Ordinance

Mr. Wilson explained that the proposed ordinance is a model ordinance proposed by the New Hampshire Environmental Services, and its purpose is to adopt a “dark sky” standard for the entire Town. The main factor of it is that any bulb that produces more than 100 watts needs to be shown down to preserve the dark sky. NHDES lists several factors such as aesthetics, to be able to see the stars, and affects on birds and predatory animals.

Mr. Kroner commented that he was in his back yard one night at 10:00pm and said that his back yard was lit up quite brightly due to lights from Route 1.

Mr. McManus referred to the November 2008 edition of National Geographic and said there is a very interesting article; The end of night.

Mr. Wilson opened the public hearing at 7:58pm

Mr. Wilson closed the public hearing at 7:58pm without public comment.

Mr. Wilson encouraged people to read the article Mr. McManus referred to, and to go on the NHDES web site for information on the “dark sky” ordinance that they crafted.

Ms. Kohl commented that the main reason to hold a second public hearing on the proposed lighting ordinance was because the Board wanted to give the Business Community ample opportunity to voice their concerns and comments, and because there was no one present from the Business Community it seemed that there may not be a lot of opposition to the proposal.

Ms. Kohl Moved and Dr. Arena seconded the Motion to take the Lighting Ordinance to the Town Warrant as written.

Mr. Wilson commented for the record that the Board was in receipt of an email from Attorney Matthew Serge, counsel for the Town, with comments and suggestions on the proposed lighting ordinance without realizing that the Town currently has a “dark sky” standard in the site plan regulations. He opined that there was no information within the email that was necessary to include in or change to the proposed amendment.

Mr. Salomon commented that there will be some independent “Yankee thinkers” that will find the proposed lighting ordinance intrusive. He said that he is in favor of letting the voters decide.

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

Mr. Michael Donahue of Donahue, Tucker and Ciandella explained that he was present do discuss the proposed amendments to Section 406.1 and 406.2.

Mr. Wilson explained that the reason the topic appeared on the agenda was because of scheduling deadlines for public hearings on amending and adopting zoning ordinances. He further explained that the Board voted to take the proposed amendments to Section 406.1 and 406.2 to the Town Warrant at the first public hearing.

Attorney Donahue is representing Russell Jeppesen who was also present. He said that Mr. Jeppesen has a lot that would be adversely affected by the proposal.

Attorney Donahue agreed that the original ordinance needed to be “cleaned up” but was concerned about the required 100-feet of frontage on the non-conforming lot. He said that if the amendments to that section passed it would diminish the value of Mr. Jeppesen’s lot. He asked that the Board consider changing it for next year’s Warrant.

Mr. Wilson explained how they came up with 100’ by simply calculating a 100’ x 100’ lot, which would be 10,000 square feet, and determined that 100-feet of frontage was reasonable. He said that it is very difficult to determine how many lots in Town that would be affected by the proposal. He also mentioned that everyone has the opportunity to go before the ZBA to seek relief from the proposed frontage requirement.

Mr. Donahue commented that Mr. Jeppesen has been paying taxes on his lot for many years and feels that by passing the amendment it takes away some of his property rights.

Mr. Salomon said that he tried drafting the Section and struggled with the threshold because it was hard to come up with the number of lots that would be affected. He said that there was nothing “magic” about coming up with the 100-foot requirement, and there would be nothing wrong with someone coming in next year with a citizen’s petition to change that 100-foot frontage requirement.

Mr. Wilson agreed.

The public hearing was adjourned.

Mr. Kroner assumed the Chair and convened the Work Session at 8:15pm.

Minutes

November 18, 2008 meeting minutes - Mr. Kroner and McManus were absent.

Mr. Salomon Moved and Dr. Arena seconded the Motion to approve the minutes as amended.

The vote passed (5 in favor, 0 opposed and 2 abstentions). Mr. Kroner and Mr. McManus abstained.

December 16, 2008 meeting minutes – **Mr. Wilson Moved and Ms. Kohl seconded the Motion to approve the December 16, 2008 minutes as amended.**

The vote passed (6 in favor, 0 opposed and 1 abstention) Mr. Salomon abstained.

January 6, 2009 public hearing meeting minutes - Ms. Pohl said that she did not have time to review the minutes. **Ms. Pohl Moved and Mr. Wilson seconded the Motion to table the January 6, 2009 meeting minutes to the February 17th work session.**

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

January 8, 2009 meeting minutes - Ms. Pohl was absent.

Mr. Wilson Moved and Ms. Kohl seconded the Motion to approve the January 8, 2009 meeting minutes as amended.

The vote passed (4-0).

Committee updates

Mr. McManus was selected to meet with Steve Fournier regarding the Capital Improvement Plans. He explained that he read the CIP booklet and commented on the spreadsheets provided by the OEP, and what a good resource they were.

Mr. McManus and Ms. Pohl are scheduled to meet with Mr. Fournier on Thursday morning, January 22, 2009. The objective of the meeting will be to determine what needs to be done to make the CIP happen now and also on a regular basis. They will report back to the Board with their findings.

Dr. Arena reiterated what he has said in the past; completing the CIP on a yearly basis should be included in each of the Department Head's job description.

Mr. Kroner asked Mr. Wilson to take over the meeting and explain the situation on the RFPP grant.

Mr. Wilson explained that North Hampton Forever received a farm and ranch land protection grant from the Natural Resource Conservation Services of the Department of Agriculture. He said that they have been trying to close out the grant for almost two years and there has been one major issue from preventing that. He said that the national appraiser for the Natural Resource Conservation Services has rejected the appraisal that was submitted. The appraisal is based on what the property would be worth if it were subdivided, and a developer was buying it. Mr. Wilson said that he has dealt with "yellow book" appraisals and this is the only time there has been a problem. He said in order to try to move it forward he would like the Planning Board's thoughts on bringing the conceptual subdivision in to review it and go on the record stating that it is a subdivision plan that appears to meet the Town's requirements, and to be an approvable subdivision plan.

Mr. Salomon suggested that the Board adopt a subdivision regulation that specifically says that the Board would look at conceptual subdivisions for purposes of guiding appraisers. He said that the Town of Stratham has a set of regulations of what a conceptual plan addresses.

Mr. Wilson said that he would work on the proposed subdivision regulation. He also added that the Board would have to hold one public hearing for a change to the subdivision regulations.

Mr. West suggested including a yield plan as a requirement of the proposed subdivision regulation.

Dr. Arena brought up the complaint from Mr. Fitzgerald regarding what is taking place on Mr. Jones' property off of Route 1.

Mr. Wilson said that he spoke to Mr. Mabey and was informed that Mr. Mabey is issuing a cease and desist order to Mr. Jones, the proprietor of the lot, and the aim in the cease and desist order is to have the whole structure, that houses salt, moved because the concrete blocks are in the setbacks, and the structure is not part of the approved site plan.

Dr. Arena commented that Mr. Mabey issued a cease and desist order without going before the Select Board, but has always sought their approval first in prior cases. He commented on the inconsistency.

**Dr. Arena Moved and Mr. Wilson seconded the Motion to adjourn at 8:55pm.
The vote was unanimous in favor of the Motion (7-0).**

Respectfully submitted,

Wendy V. Chase
Recording Secretary

Approved February 17, 2009