



**MEETING MINUTES
NORTH HAMPTON PLANNING BOARD
September 3, 2009 at 7:00pm
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, Barbara Kohl, Tom McManus, and Michael Coutu, Select Board Representative.

Members absent: Laurel Pohl

Others present: Wendy Chase, Recording Secretary

Alternates present: None

Mr. Wilson convened the Meeting at 7:04pm, and noted for the record that the agenda was properly posted, and that there was a quorum of the Board.

Old Business

09:02 – Peter Horne, Trustee F.S. 123 Nominee Trust, H.T.L.A.E.H., Nominee Trust. The Applicant proposes a 3-lot subdivision. Property owner: F.S. 123 Nominee Trust, H.T.L.A.E.H. Nominee Trust, Peter Horne Trustee, PO Box 1435, North Hampton. Property location: 110 & 112 Mill Road. M/L 006-147-2 and 006-147-3, zoning district R-2. This case is continued from the August 6, 2009 meeting.

In attendance for this application:

There was no one in attendance for this application.

The Board was in receipt of communication from Mr. Horne's Attorney, Bernard Pelech that Mr. Horne agreed to continue his application to the October 1, 2009 Meeting pending the finished review of the NHSC Environmental Study from Dr. Lord for the Planning Board.

Dr. Arena moved and Mr. Coutu seconded the motion to continue case #09:02 – Peter Horne to the October 1, 2009 Meeting.

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

Mr. Field asked when the information would be available to the public. It was determined that it would be available around September 18th. Mr. Wilson informed Mr. Field that the Environmental Study produced by Adele Fiorillo of NHSC Inc. is available for public review at the Town Office.

New Business

09:12 – Thomas & Cheryl Nowak, 64 South Road. The Applicants have applied for a Conditional Use Permit under Article IV, Section 409.10 to construct a 10-foot by 400-foot roadway to access their backland. Property owners: Thomas & Cheryl Nowak; property location: 64 South Road, M/L 008-145-001, zoning district R-1.

In attendance for this application:

Thomas Nowak, Owner/Applicant

Mr. Nowak presented his case and explained that he would like to construct a road way through the forested wetlands to gain access to his back land to hay the field and put in a garden. Mr. Nowak submitted a packet of pictures showing the area at different angles. He said that he is proposing a 10-foot wide road, 400-feet long equaling 4,000 square feet of road. He explained that Jones & Beach Engineering firm suggested adding two-feet on either side of the road for excavation or drainage. He said the road will be made of “trap rock”, which is a course rock that doesn’t stack, where water can drain through.

Dr. Arena pointed out that Mr. Nowak’s back property is not landlocked and Mr. Nowak agreed.

Mr. Kroner said that he is familiar with the property. He said that there was a trail similar to a logging road that accessed Mr. Nowak’s field and said that he did not understand what the need was to put in a roadway that would impact the wetlands. He said that it seemed like a big undertaking to develop an engineered roadway just to access the field.

Mr. Nowak said that he would like to drive a tractor to the field and haul a cultivator so that he can hay the field and cultivate the garden.

Mr. Wilson pointed out that the land has been subdivided and Mr. Nowak has 175-feet of frontage, so there is no possibility to subdivide his lot.

Mr. Wilson opened the Public Hearing at 7:15pm.

Paul Harris, 58A South Road, explained that he subdivided his land, and sold Mr. Nowak his subdivided lot; the lot had the required frontage and acreage. Mr. Harris said that the subdivided lot needed to also have one acre of contiguous upland, and in order to subdivide the lot and meet the upland requirement, he had to carve out the lot in such a way that the back field was part of the lot. He said that the driveway to his property takes up most of the uplands, and that Mr. Nowak’s field is all wet. Mr. Harris said that the field is not a working hayfield, and it’s impossible to get equipment out to it. He said that he has maintained the field for the past eight years, and uses special equipment with high flotation tires. He said that the field has standing water a lot of the year.

Mr. Harris said that when he subdivided his land and created the wetlands crossing that he took the option that resulted in the least amount of impact on the wetlands even though it was the most expensive.

George Beaman, 58 South Road, said that he has no real objection to Mr. Nowak’s proposal as long as the proposed roadway is built in such a way that it does not impede the flow of water. He said that if the flow of water is blocked, then his property will be flooded.

Mr. Wilson said that as part of the process the Conservation Commission would need to review the application, and render an opinion to the Planning Board.

Mr. Wilson went over the criteria of the conditional use permit under section 409.10:

- 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. Nowak said that he has five acres of beautiful land that he can't use and gain access to. He said that he has a garden there now and walks through the woods to tend to it, but he would like to cultivate the garden and needs a way to get the equipment out there.

Mr. Wilson questioned the need to lay a gravel road 400-feet long to gain access to tend to his garden. Mr. Nowak said that he spoke with Jones and Beach Engineering, and this is the plan that they came up with.

Dr. Arena said that it was a good idea to have the Conservation Commission look at the proposed plan and report back to the Planning Board.

Mr. Kroner said that the Board should respect the past Board's decision; Mr. Harris had come up with a plan that would have the least impact on the wetlands, and if this application were granted it would undo what the previous Board granted making their whole effort useless.

Mr. Nowak said that he and his wife have asked the Beaman's for permission to use their driveway to access their back field, and they denied permission to the Nowak's because of liability issues.

Mr. Wilson said that the Board does not disagree that Mr. Nowak should be able to have access to his back field; it's the extent proposed to access it that they need to consider. Mr. Wilson referred to criterion "A" from Section 409.10 and said that that would be the first hurdle Mr. Nowak would need to overcome. He said that Mr. Nowak would need to show that it is essential to construct the proposed road to access his back field, and prove that there is no other way to do so. He said that he would need to address the other criteria of section 409.10 with the Conservation Commission and the Planning Board.

Dr. Arena moved and Ms. Kohl seconded the motion that the Applicant be advised to meet with the Conservation Commission so that they may review his application.

Mr. Coutu asked whether or not the Conservation Commission would review the engineering plans, and Mr. Wilson said that they should.

The Board discussed issues they thought the Conservation Commission should consider while reviewing the plan and application. Dr. Arena thought that the Planning Board should not get involved and produce any type of bias on them. He said that total discretion should be left with the Conservation Commission; that they should make their own determination without input from the Planning Board.

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

Mr. Kroner would like the Conservation Commission to consider what the impact to the wetlands would be if the proposed road were constructed.

Dr. Arena did not agree and said that it should be left to the total discretion of the Conservation Commission. He said it is up to the Conservation Commission to let the Applicant know what information they would be looking for as part of their review process.

Mr. Coutu agreed with Dr. Arena's point, but said that it is important that the Commission know that information is available, and to consider what is available as part of their decision process without dictating them to do so.

Mr. Wilson said that he would like to get an opinion from them on the relative value of access versus the value of the wetlands that would be impacted, and they should give the Planning Board input on how much of an impact the proposal would have on the wetlands. He said it is the Planning Board's decision on

whether the proposed construction is essential to the landowner's productive use of the land that's not within the wetlands.

Mr. Wilson said that he would email the Conservation Commission informing them that all the material before the Planning Board will be forwarded to them for their review.

Mr. McManus moved and Dr. Arena seconded the motion to continue case 09:12 – Thomas and Cheryl Nowak to the October 1, 2009 Meeting.

Mr. Wilson advised Mr. Nowak to present his case to the Conservation Commission at their Tuesday, September 8, 2009 meeting. Mr. Nowak said that he would coordinate with Ms. Chase.

09:13 – TD Bank, 2 Portland Square, Portland, ME 04101. Conditional Use Sign Application. The Applicant, Joshua Reinke, Bohler Engineering, 352 Turnpike Road, Southborough, MA 01772, proposes to add awnings to the bank building in TD Bank design colors and to add a small free-standing sign adjacent to Fern Road. The Applicant requests the following waivers: (1) Site Plan Review Regulation Section X.F.3.b.10 – color; (2) Site Plan Review Regulation X.F.3.b.3 – awning; (3) Zoning Ordinance Article V, Section 506.6.R. Property owner: TD Bank, N.A.; property location: 46 Lafayette Road, M/L 007-115-002, zoning district I-B/R.

In attendance for this application:

Joshua Reinke, Applicant

Mr. Reinke explained that he was before the Planning Board in April 2009 with an application for a wall sign for the TB bank building. The Board denied the application and suggested the bank apply for a second monument sign and place it off of Fern Road. He was also before the board with waiver requests to install TD Bank design colored awnings to the windows of the bank. He said that the sign is approximately 4-feet and the panel of the sign is 4 ½ square-feet. He said that the monument sign off of Lafayette Road is going to be replaced and meets the standards. They have applied for a building permit to replace the existing monument sign.

Mr. Reinke submitted updated information on the size of the proposed awnings, and a sample of the material showing the proposed colors. He said that there will be no writing on the awnings. The main color is "forest" green with a "lime" green stripe across the bottom.

The Board discussed the awnings and how they would change the building aesthetically. Ms. Kohl pointed out that the awnings will help patrons in cases of inclement weather by providing some shelter going into the building.

Mr. Coutu commented that beauty is in the eye of the beholder, and as long as the proposal is in compliance with the ordinance, which he thought it did, he had no particular concern with the awnings.

Mr. McManus agreed with Mr. Coutu.

Mr. Wilson opined that the two-tone color of the awning does not enhance the look of the bank. He asked Mr. Reinke how wide the lighter green stripe is proposed to be. The sample was measured at 2 ¼ inches wide.

Mr. Wilson opened the Public Hearing for the waiver request to Section X.F.3.b.10 – color at 8:18pm. Mr. Wilson closed the Public Hearing at 8:19pm without public comment.

Mr. McManus moved and Mr. Coutu seconded the motion to approve the waiver request from Site Plan Review Regulation X.F.3.b.10 – color.

The vote passed in favor of the motion (4 in favor, 1 opposed and 1 abstention). Mr. Kroner opposed, and Mr. Wilson abstained.

Mr. Kroner moved and Ms. Kohl seconded the motion that the waiver request from Site Plan Review Regulation X.F.3.b.3. – awning.

Mr. Wilson opened the Public Hearing for the waiver request to Article V, Section 506.6.R to allow a second monument sign on the property at 8:20pm.

Mr. Wilson closed the Public Hearing at 8:21pm without public comment.

Mr. Wilson said that the reason the Board decided that instead of putting a wall sign on the building they recommended that they place a second monument sign off of Fern Road, because they are in a peculiar situation of having two entries off the two roads, and the trees block vision of the bank from Fern Road, so a second sign would help those people to see the bank.

The Board reviewed the documents in the original application which showed that the new proposed sign was internally lit. Mr. Reinke referred to the current “handouts” he submitted and they showed that the sign will not be internally lit.

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

Mr. McManus moved and Ms. Kohl seconded the motion to approve the application for both the sign and awnings with the following conditions: (1) There shall be no writing on the awnings, (2) The light green stripe on the “forest” green awning shall be no wider than 2 ¼ inches, as shown on the fabric sample presented, (3) the proposed sign not be lighted at all, and (4) Proposed sign on Fern Road is not to exceed the dimensions as presented without re-applying for another Conditional Use Sign Application to the Planning Board.

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

Other Business

Mr. Wilson reminded the Members about the Municipal Law Lecture Series, sponsored by the NH Local Government Center, and the NH Assoc. of Regional Planning Commission that is coming up. One of the series will be held in Exeter at the Town Hall. If anyone is interested in attending they should coordinate with Ms. Chase so that she can register those members wishing to attend.

The Meeting adjourned at 8:31pm.

Respectfully submitted,

Wendy V. Chase
Recording Secretary

Approved September 17, 2009