



**MEETING MINUTES
NORTH HAMPTON PLANNING BOARD
Thursday, November 5, 2009 at 7:00pm
Mary Herbert Conference Room
DraftDraft Draft Draft**

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, Michael Coutu, Selectmen's Representative. Ms. Pohl arrived at 7:03pm.

Others present: Brian Groth, RPC Circuit Rider and Wendy Chase, Recording Secretary.

Alternates present: None

Mr. Wilson convened the meeting at 7:01pm, and noted for the record that the meeting was properly noticed and that there was a quorum.

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 October 1, 2009 meeting.

In attendance for this application:

There was no one present for this application.

The Board was in receipt of a letter from Attorney Bernard Pelech, representing Peter Horne, requesting a continuance of case #09:02 – Peter Horne, Trustee F.S. 123 Nominee Trust, H.T.L.A.E.H. to the December 3, 2009 meeting.

Dr. Arena moved and Mr. Coutu seconded the motion to grant the request for a continuance on the Horne case #09:02 to the December 3, 2009 meeting.

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

Ms. Pohl arrived at 7:03pm.

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. This case is continued from the October 1, 2009 meeting.

In attendance for this application:

Thomas Nowak, Owner/Applicant

Mr. Wilson gave a brief update on the Nowak case, and said that he, Dr. Arena, Ms. Pohl and Mr. McManus attended the scheduled site walk held on October 24, 2009. He also referred to the letter the Board received from the Conservation Commission dated October 18, 2009. The Conservation Commission came to the consensus, after meeting with Mr. Nowak and reviewing his proposal, that the wetlands disruption resulting from the roadway outweighed the perceived benefit of access to the back field wetlands and the relatively little upland.

The Board members who attended the site walk agreed that the proposed location of the driveway is very wet. There was standing water throughout as well as flowing water in at least two locations along the path. The members that walked the pathway found it quite difficult to do so due to the depth of the mud.

Mr. Wilson commented that the amount of disturbance to the wetlands is not just relevant to the proposed driveway but also the back field.

Mr. Nowak said that the original proposal was for a 10-foot wide road where emergency vehicles would be able to access. After meeting with the Conservation Commission he conceded that the driveway does not have to be that wide and offered changing his proposal to a 7-foot wide, 400-foot long access way that would include the slopes.

Mr. Wilson explained that the Board would probably want to have an independent soil scientist review Mr. Nowak's new proposal if he wished to proceed with it. He explained to Mr. Nowak that if the Board agreed they could ask Dr. Leonard Lord from the Rockingham County Conservation District to do the independent survey, and that it would be at Mr. Nowak's expense.

Dr. Arena said that Mr. Nowak's other option would be to come to an agreement with the neighbors to use their driveway to access the back field. Mr. Nowak said that he and his wife have tried that route, but the neighbors have refused to grant permission for them to use their property because of liability issues.

Mr. Nowak's said that his intentions have not changed; he would like to have access to the back field for his family to use and enjoy.

Mr. Kroner opined that none of the land should be disturbed because it is wetlands, and Mr. Nowak knew that when he bought the property. He also said that he did not understand why they would be moving forward with what is plainly wet land and the Board should not be in the practice of considering any application that leads to the filling of wetlands especially when dealing with the head waters of the Winnicut River.

Mr. Nowak said that one of the reasons the land is so wet is because trees have grown up so thick in the streams it has altered the water flow. He also said that he is paying a fair rate for five acres of land that is considered usable.

Mr. Wilson suggested that Mr. Nowak contact the Wetlands Bureau and find out what would be allowed in way of accessing his back field. He suggested building a wooden walk way on pylons, but to contact the Bureau to see if it is allowed.

Mr. Nowak said that he and his wife are interested in putting the land into conservation as suggested during the site walk. Mr. Nowak requested a continuance of his case #09:12 so that he would be able to investigate different options.

Dr. Arena moved and Mr. McManus seconded the motion to continue case 09:12 – Thomas and Cheryl Nowak to the December 3, 2009 meeting. The vote was unanimous in favor of the motion (7-0).

New Business

09:14 – Thomas Bacon, P.O. Box 627, North Hampton. The Applicant proposes a change of use from a distribution/storage facility to an auto repair facility. Property owner: Lupoli Family Trust, 56 Lafayette Road, North Hampton; property location; 56 Lafayette Road; M/L 007-117; zoning district I-B/R.

In attendance for this application:

Nicholas Lupoli, Owner

Thomas Bacon, Applicant

Mr. Wilson said that the Board's typical concerns are disposals of such things like waste oil, waste hydraulic fluid, gas and batteries.

Mr. Bacon explained that he would be moving his existing auto repair facility a quarter of a mile down the street to the proposed location at 56 Lafayette Road. He operates a licensed inspection station and explained that the license is transferable. He said that he has a contract with a company where he exchanges an old battery for a new battery he purchases, and the waste oil is burned in a waste oil heater in the facility. He said that anti-freeze is the only material that does not get burned and he has an agreement with Safety Clean where they sell him a drum of it and they take a drum of it back. He said that he would be installing two vehicle lifts.

Mr. Groth said that the NH DOT may want to review the change of use because the new business may alter the traffic pattern. Mr. Bacon may have to seek permission from them.

Mr. Bacon said that the traffic pattern should not change because his business currently resides on Route 1.

Mr. Bacon said that he has two employees.

Mr. Lupoli addressed the Board's concern on traffic volume. He said that the previous building housed a linen company that ran 6 to 8 commercial trucks that went in and out of the facility twice a day. He said that Mr. Bacon does not run a high volume operation. It is a facility where customers leave their cars to be worked on. He said that there are no other businesses in the building.

Dr. Arena moved and Mr. Coutu seconded the motion to take jurisdiction of case #09:14 – Thomas Bacon.

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

Mr. Wilson opened the public hearing at 7:41pm.

Harley Seaton, 53 Lafayette Road, asked what the hours of operation were going to be.

Mr. Bacon said that his hours of operation are 8:00am to 5:00pm, Monday through Friday.

Mr. Wilson closed the public hearing at 7:44pm.

Mr. McManus asked how Mr. Bacon handled junk cars and abandoned cars. Mr. Bacon said that he works on Mercedes and BMWs which usually don't get abandoned, but if it were to happen there is a procedure set up by the State that would enable him to obtain the title and have the vehicle sold or removed from the property to a salvage yard.

Mr. McManus moved and Dr. Arena seconded the motion to approve case #09:14 – Thomas Bacon, to change the use from a storage facility to an auto repair facility. The vote was unanimous in favor of the motion (7-0).

Mr. Wilson noted for the record that Mr. Jeff Hilliard gave Mr. Bacon a high recommendation and said that he ran a clean operation, and does a good job.

09:15 – Leo J. Crotty, Jr., 216 Lafayette Road. The Applicant is applying for a Site Plan Review to expand the existing warehouse to include a 40' x 35' addition. Property owner: Leo J. Crotty, Jr.; property location: 216 Lafayette Road; M/L 021-028-001; zoning district I-B/R.

In attendance for this application:

Mr. Raymond Gaffey, Co-Owner/Applicant

Mr. Gaffey explained that they would like to expand the site at 216 Lafayette Road to allow more space for inventory. He said that the addition would be built within the setback requirements. Mr. Gaffey said that the proposal will not initiate any additional parking, or additional employees; it will be used for dry storage only.

Mr. Gaffey explained that they buy and resell dehumidification systems, and manufacture nothing at the site. He said that they are looking into changing the exterior of the building to a membrane clad building (plastic material).

Dr. Arena moved and Mr. Coutu seconded the motion to take jurisdiction of case #09:15 – Leo J. Crotty, Jr. The vote was unanimous in favor of the motion (7-0).

Mr. Wilson opened the public hearing at 7:56pm.

The contracted builder spoke in favor of the application and said that there will be minimal change to what currently exists. He reminded the Board that the property abuts Coakley Landfill.

Mr. Wilson closed the public hearing at 7:57pm.

Mr. Coutu moved and Ms. Kohl seconded the motion to approve the application for case #09:15 – Leo Jr. Crotty, Jr. with respect to expanding the existing warehouse with a 40' x 35' addition.

Mr. Kroner made a friendly amendment to include a condition of approval that the applicant shall submit a recordable Mylar.

Mr. Coutu accepted Mr. Kroner's friendly amendment.

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

09:16 – MetroPCS Massachusetts, LLC, c/o New England Wireless Solutions, 17 Indian Trail, York, ME 03909. The Applicant has applied for a conditional use permit under Article IV, Section 415 to co-locate and operate its wireless facility on an existing 190' lattice tower. Tower owner: Properties Inc. / Crown Castle International, 500 West Cummings Park, Woburn, MA 01801. Property location: 130 South Road, M/L 008-160, zoning district R-2.

In attendance for this application:

William McQuade, representative of MetroPCS

Brian Mason, Engineer for MetroPCS

Mr. McQuade commented that the application to co-locate an antenna for MetroPCS was pretty straight forward. He said that the equipment for the antenna will be housed in the existing facility.

Dr. Arena questioned the hydrogen shown on the plan. Mr. McQuade explained that it was a hydrogen cell that powers the generator for T-Mobile, and they plan on moving it. He explained that MetroPCS uses batteries for backup.

Dr. Arena asked what de-icing methods were used for the tower. Mr. Mason said that they have ice bridges above the cables.

Mr. Wilson commented that the application is consistent with the zoning ordinances that promote collocation, and said that it will have virtually no impact on the aesthetics of the tower or surrounding area.

Mr. Wilson said that after reviewing the maps on cell coverage he determined that the coverage the new antenna will bring is relatively a small area of North Hampton. He asked Mr. McQuade if they were planning to expand their service to cover all of North Hampton. He commented that North Hampton has an approved site plan for distributed antenna system (DAS), and asked if MetroPCS has considered that option.

Mr. McQuade said that there were certain metrics that MetroPCS looked at when contemplating the DAS, but at this point in time they discounted it, and chose not to include it in the design.

Mr. Wilson asked if there was anything about MetroPCS's business model that prohibits participation in a DAS network?

Mr. McQuade answered, "No". He said that MetroPCS is on at least six, maybe twelve DAS in New England.

Dr. Arena moved and Mr. Kroner seconded the motion to take jurisdiction of case #09:16 – MetroPCS.

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

Mr. Wilson opened the public hearing at 8:11pm.

Mr. David Maxson of Broadcast Signal Lab, representative of Denis Kokernak , owner of

Thera Research, Inc.; congratulated MetroPCS for working their way up into this part of their Boston-area market, and agreed that the application was an appropriate use of an existing cell tower.

Mr. Wilson closed the public hearing at 8:13pm.

Mr. McManus moved and Ms. Pohl seconded the motion to approve the Conditional Use Permit under article IV, Section 415 to co-locate and operate a wireless facility on an existing lattice tower located off of South Road, North Hampton.

Dr. Arena made a friendly comment to ask that the applicant consider the Distributive Antenna System (DAS).

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

09:17 – Jacob Wing, 328 Lang Road, Portsmouth, NH 03801. The Applicant has applied for a Site Plan Review to house a church at 112B Lafayette Road. The Applicant requests the following waiver: Section XII – Parking Requirements of the Site Plan Review Regulations. Property owner: Liyuen C. Buesing, 112C Lafayette Road. Property location: 112B Lafayette Road, M/L 013-029-000, zoning district I-B/R.

In attendance for this application:

Jacob Wing, Applicant

Mr. Wilson noted that the applicant received a variance from the ZBA for relief from non-permitted uses. Churches are not permitted in the I-B/R district. Ms. Chase said that the ZBA gives a 45 day appeal period. The ZBA approved the application on September 22nd and today would be 44 days. Mr. Wilson gave Mr. Wing the option to proceed with his application on his own peril. Mr. Wing said that he would take his chances on his ZBA decision being appealed and decided to proceed with his Planning Board case.

Mr. Wing explained that they are currently a small church averaging 8-10 cars. He said that the services are held on Sunday with bible study on Wednesday and Friday evenings. The Building is rated for 75 people, and 63 chairs would be the maximum comfort-wise, and would require 25 parking spaces, and there are 30 parking spaces serving all of the businesses at that location, but nothing is open on Sundays, and Ms. Buesing is the only business open after 5:00pm.

Mr. Groth commented that the paper store at that location has posted “open” hours on Sundays.

Mr. Wing said that he has a written agreement with Callahan Motors to lease 8 parking spaces for “spill over” parking. He did not have a copy of the agreement with him.

Dr. Arena questioned what their plan was for signage. Mr. Wing said that they would replace the sign that is currently there. He said one of the State Farm sign on the side of the building will be removed and not replaced. He would put his hours of operation on the window.

Mr. Groth suggested that the applicant file a change of use application with NH DOT, because the traffic pattern will be changed dramatically at certain times.

Mr. Wilson opened the public hearing on the waiver request at 8:36pm.

Two members of Church Alive spoke in favor of the waiver.

Mr. Wilson closed the public hearing on the waiver request at 8:37pm.

Ms. Kohl voiced concerns on public safety because of the location, and the parking situation. She is also concerned with the restriction it would place on other businesses in regards to parking availability on the days the church is in session.

Dr. Arena opined that it would not have a big impact on traffic because of the time of day the services are being held are not at peak traffic times.

Ms. Pohl said she has reservations about shared parking, and what happens when there is contention for parking spots. She wanted to know what type of written agreements there were for those contending the spots.

Mr. Kroner said that he is concerned that people will park along Route 1 if they are unable to find a parking space in the parking lot.

Mr. Wilson said that the Board should be considering the public safety, public welfare and public interest and determine whether or not the proposal is adequate or not. He said that there are 30 parking spots for the entire site and the church at full capacity would need 22 spaces. There is a shortfall of parking on the current units on the site.

Mr. Wilson mentioned three concerns he had (1) the amount of parking spaces, (2) ingress and egress onto Route 1 and (3) the lack of a buffer between the entrance of the church and the parking lot, and the potential of children running out into the parking lot after services.

Mr. Wing said that they are concerned with the welfare of the children, and have looked long and hard for a site to fit their needs. He said that there are church ushers at each service that oversee the people entering and exiting.

Mr. McManus moved and Mr. Coutu seconded the motion to grant the waiver request for Site Plan Review Regulation XII – Parking Requirements.

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

Dr. Arena moved and McManus seconded to take jurisdiction of the application for case #09:17.

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

The Board discussed potential conditions of approval.

Dr. Arena suggested that pylons be placed on the exit side of Lafayette Road before church services ended so that parishioners could not exit onto Lafayette Road and that there be strict monitoring of parishioners when exiting the building after services have ended as a safety factor.

Mr. Coutu moved and Mr. McManus seconded the motion to approve the application for case #09:17 subject to the following conditions: (1) the Applicant shall submit evidence of a lease agreement between Church Alive and Callahan Motors for the lease of eight parking

spaces at Callahan Motor's property, (2) the hours of Worship and Bible Study shall be limited to all day on Sunday, and 6:00pm to 10:00pm on Wednesdays and Fridays, (3) occupancy of the church shall not exceed 66 persons, as represented on the plan, (4) the Applicant shall secure any required approval(s) from the NHDOT with respect to access to Route 1, and shall submit written evidence of such approvals(s) to the Planning Board, and (5) the Applicant shall submit to the Planning Board a written statement that Church Officials shall monitor access to and egress from the church at all times to assure that children arriving or departing are protected with respect to potential safety issues from traffic on Route 1 and in the parking lot.

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

Mr. Wilson called for a recess at 9:00pm.

Mr. Wilson reconvened the meeting at 9:09pm.

Other Business

Mr. Joseph Roy was on the agenda to discuss the proposed bond amount for Greystone Village and to discuss the age restriction for the Village. The Board was in receipt of a letter from Mr. Roy requesting a continuance to the December 3, 2009 meeting. The Board agreed to have Mr. Roy placed on the December 3, 2009 Agenda to discuss the aforementioned items.

Thera Research – Request a one-year extension on its Site Plan Approval of November 7, 2005, and to update the Board on developments over the past year. Case #05:19

In attendance for this application:

David Maxson, Representative of Thera Research, Inc.

Denis Kokernak

Mr. Maxson did a power point presentation updating the Board on the state of wireless service in the region and to support the request for a continuance from Thera Research, Inc. on their approved Conditional Use Permit, case #05:19.

Mr. Maxson spoke about the wireless amplifiers used by the North Hampton Police Department that were provided by Denis Kokernak of Thera Research Inc. He said that the Police Department is 100% satisfied with the coverage that they are getting with their wireless phones.

Mr. Maxson described "Femto cells" to the Board. They are small units used in the home for wireless connectivity. Mr. Kokernak owns one and passed it around to show everyone. He said they sell for around \$250.00 and are only offered by Verizon. He explained that the unit is plugged into the internet and all of the wireless devices in the home work off of it.

Mr. Maxson said that a petition was filed by the Wireless Telecommunication Industry Association (CTIA) for a rule making to allow "shot clock" on permits which would force the Boards to make decisions on applications in a short amount of time. He said that Boards need time to collect substantial evidence in the written record in order to satisfy the telecommunications act.

He said that they continue to be in contact with the carriers and DAS developers to develop strategies to encourage the wireless companies to join DAS when they ready. He said that Thera Research has to be in position and ready when they are ready. Mr. Kokernak acquired the Rowell Building and he has done some maintenance on the building to secure it, and they have had a civil engineer out to look at it and start the process on the wireless facility design.

He said that there are 1500 nodes in operation in the region. There is still reluctance because it is new to the offices of the wireless companies.

Mr. Maxson is currently working on a census to provide market data to the industry.

Mr. Maxson said that they continue to work on the Rowell building so that they will be 100% ready when they get a carrier to use DAS.

Dr. Arena moved and Ms. Kohl seconded the motion to extend the Conditional Use Permit for one year to expire November 5, 2010.

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

Mr. Wilson questioned whether or not Mr. Kokernak would have to continue requesting continuances on the Conditional Use Permit for the Rowell building since he now owns it.

Mr. Loughlin was not sure of the answer. Mr. Wilson suggested that he look into the question of whether or not Mr. Kokernak needs to extend his approval each year.

The meeting was adjourned at 9:45pm.

Respectfully submitted,

Wendy V. Chase
Recording Secretary

Approved 12/17/2009