



MEETING MINUTES
NORTH HAMPTON PLANNING BOARD
Thursday, March 5, 2009
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, Barbara Kohl, Tom McManus, Laurel Pohl and Craig Salomon, Select Board Representative was seated immediately following the Skowronski case #08:15.

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

Alternates present: None

Mr. Wilson convened the meeting at 7:03pm, and noted for the record that there was a quorum and that the March 5, 2009 agenda was legally posted.

Mr. Wilson explained that there was a request to rearrange the agenda to hear the the Skowronski case #08:15th ~~-case~~ first, and hearing no objections ruled to grant the request.

Old Business

08:15 – Richard Skowronski and Leila Hanna, 142 Mill Road, North Hampton. The Applicants propose a five lot (three new lots and two existing approved lots) Conservation Subdivision under Section 417 of the North Hampton Zoning Ordinances. The Applicants submission of a voluntary lot merger for the purpose of consolidating Lots 012-47, 48-2, 63, 64, 65, 67, 68, 69, 70, 71, 73, 74, 76, 77, and 78 into one lot. Property owners: Richard Skowronski and Leila Hanna. Property location: 142 Mill Road. Tax Map & Lots 012-47, 48-2, 63, 64, 65, 67, 68, 69, 70, 71, 73, 74, 76, 77, and 78. Zoning district R-2. Conditional Use Permit Application under Article IV, Section 409.10-wetlands crossing requiring less than 3,000 square-feet of fill. This case is continued from the February 17, 2009 Work Session Meeting.

In attendance for this application:

Attorney Robert Field, Jr, representing the Applicants
Richard Skowronski and Leila Hanna, Owners/Applicants

Mr. Wilson gave a brief update:

- The requested waivers were approved
- The Conditional Use Applications were approved
- The Board agreed that the criteria for the Conservation Subdivision were met

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Mr. Wilson stated the following “loose ends” that needed to be addressed prior to approval:

- The homeowner document to ensure Section 417.K.12 of the Zoning Ordinance is satisfied
- The Conservation Easement document (Mr. Skowronski delivered March 5th)
- The Department Head reviews and any responses to them settled
- The executed copy of ~~the~~ Pprivate ~~r~~Road ~~b~~Building ~~p~~Permit ~~w~~Waiver from the Select Board

Mr. Field disclosed that he is a member of the North Hampton Forever Committee and a member of the North Hampton Zoning Board of Adjustment. Mr. Field explained that the Skowronskis have worked with Mary Currier of the Rockingham County Conservation District (RCCD) on the Conservation Easement document and they submitted ~~reiteration~~ revision #3 to the Board. He said that they are close to a final document.

Ms. Kohl referred to page 2 of draft #3 and asked to confirm whether or not that the document states that there is an opportunity to have some commercial agricultural use, such as sales of Christmas trees or maple syrup. Mr. Skowronski said that that was correct. He explained that it was recommended by RCCD to include that because the easement is in perpetuity so it would not be wise to restrict agriculture uses because it is unknown what the food supply will always be like in the future.

The Board went over suggested changes to draft #3 of the Conservation Easement document. Mr. Skowronski was agreeable to the suggested changes. Mr. Wilson said that once the final document is submitted it would have to be reviewed by Town Counsel and if there were any substantive changes made by the Attorney they would have to hold a public hearing on it.

Mr. Wilson informed the Board that he received an e-mail from Town Administrator Steve Fournier explaining that he did not have an executed copy of the Private Road Building Permit Waiver because a majority of the Select Board was not available to execute the document. He also explained in his email that he would be forwarding the concerns and recommendations made by the Police Chief, Fire Chief and Public Works Director regarding the Skowronski subdivision to the Select Board. He asked that the Board advise him of any actions the Board takes on the Department Head reviews.

Mr. Wilson prepared a list of potential conditions of approval for the Board to review. He drafted a condition (#5) that would address the Police Chief’s concern of illegal activity off of a secluded private road extension, that states: “~~A~~ note shall be added to the plan stating, “No new driveways or extensions of driveways shall be constructed in the subdivision until the initiation of site preparations for construction of residences that will be served by those drive ways.””

He also drafted a condition (#6) to address the Public Work Director's concerns that states: "An eight-foot asphalt apron for the private road shall be added to the plan at the Mill Road entrance into the subdivision, and a note shall be added to the plan stating, "An eight-foot apron shall be constructed at the entrance to the subdivision at the initiation of construction of the second residential structure in the subdivision, and no certificate of occupancy shall be issued for said residence until the apron is approved by the Director of Public Works."'

Mr. Wilson read Chief Lambert's review into the record. *After a review of the attached plans for the "Rocky Ledge" Subdivision (Case #08:15) we cannot at this time endorse or support the plans as presented as we do not believe it meets the current codes as adopted by the State of New Hampshire. The Town Department Heads met with the counsel representing the applicants in February and at that time we discussed issues that dealt with fire protection and access. The plans as presented lacked sufficient detail to show that any of our concerns have been addressed. The issue of the street numbering will be addressed by complying with acceptable practices as required by the E-911 system. Any subdivision with three or more housing units shall have a separate street name and be numbered to conform to with acceptable standards. Signed; Respectfully Thomas S. Lambert.*

Mr. Wilson said that he reviewed the email sent by Mr. Field regarding the February meeting between Mr. Field and the Department Heads, and he reported in his email that Chief Lambert ~~requested~~~~reported~~ in his initial observation that the "private road" be twelve-feet in width in each direction. Mr. Wilson opined that it sounded like Chief Lambert ~~assumed~~~~expects~~ that the road would be built as a conforming road to be accepted by the Town instead of the proposed "private road". He also remarked that he was not aware of any State laws governing ~~ing by the State for~~ the construction of a "private road". He said that the Board respects concerns the Fire Department has with any site plan or subdivision plan but this particular review lacks guidance for the Board.

Mr. Field commented that there will be five (5) "turn outs" on the private road.

Mr. Wilson said that other concerns of the Fire Department stated in Mr. Field's email such as the water retention source and fire pond were discussed at the last meeting and it was the Board's conclusion that it is highly unlikely five houses would be burning at once ~~so~~ therefore, ~~as long as there are~~ providing adequate "turn outs" for emergency vehicles to pass addresses the concern of the width of the road, and he opined that the suggestion to construct a water pond for this particular subdivision is unnecessary.

Mr. Field opined that they have responded to Chief Lambert's concerns. He said that "dry hydrants" were discussed, the accessibility of the pond across the street, and the provision added in the easement deed to construct a fire pond in the conservation area if the Town chose to do that.

Mr. Kroner mentioned that the Fire Department reviewed the original plans for the Saunder's back lot subdivision and the aforementioned concerns were not raised at that time.

Mr. Wilson opined that the provisions are adequate given the nature of this subdivision.

Mr. Field said changes were made to the homeowner's association document.

Mr. Wilson referred to Section 417.K.9, and Section 417.K.8 of the conservation subdivision ordinance.

Mr. Field said that a name has been established for the homeowners' association and the corporation will exist and sit dormant until the subdivision goes into effect at which time the covenants and bylaws come into "play".

Mr. Wilson drafted a condition of approval (#8) to address~~ing~~ the homeowners' association document.

As Chair, Mr. Wilson signed the voluntary lot merger application on behalf of the Board.

Mr. Kroner commented on the fact that the Skowronski land is of high ecological value and opined that it was wonderful for the Town of North Hampton to put such a large portion of the land into permanent conservation.

Mr. Skowronski said that there is one sentence to add in the language of the conservation easement a provision that allows the owner~~s~~ of the new lots to construct their wells on the conservation land if they are unable to construct a successful well on their own lot.

It was ~~the~~ sense of the Board that this would be allowed.

Mr. Wilson opened the Public Hearing at 8:06pm.

Mr. Wilson closed the Public Hearing at 8:06pm without public comment.

Dr. Arena Moved and Ms. Pohl seconded the Motion to take jurisdiction of the voluntary lot merger application.

Mr. Wilson opened the Public Hearing at 8:08pm.

Mr. Wilson closed the Public Hearing without public comment at 8:08pm.

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

Dr. Arena Moved and Ms. Kohl seconded the Motion to approve the voluntary lot merger plan and the conservation subdivision application simultaneously for case #08:15 – Richard Skowronski and Leila Hanna with conditions.

Mr. Field suggested that the motion be separated and that the two parts of the original motion be voted on separately.

Mr. Wilson made a friendly amendment to approve the lot merger application for case #08:15 – Richard Skowronski and Leila Hanna contingent on the approval of the conservation subdivision application.

Dr. Arena accepted the friendly amendment.

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

1. **Dr. Arena Moved and Mr. McManus seconded the Motion to approve the subdivision application for case #08:15 – Richard Skowronski and Leila Hanna with the following conditions: Recordable Mylar. Applicant shall submit a recordable Mylar of the approved plan with signatures and seals affixed of all licensed professionals whose names appear on the plan.**
2. **Certificate of Monumentation. Applicant shall provide the Board with Certificate of Monumentation, stamped and signed by a NH LLS, certifying that all monuments depicted on the plan have been properly set.**
3. **State Permits. Applicant shall submit evidence of receipt of all required federal, state and local permits, including but not limited to subdivision and individual septic systems, and shall note their numbers, as appropriate, on the plan.**
4. **A note shall be added to the plan stating, “The private road and all driveways in the subdivision shall be gravel in perpetuity, except where, in specific sections, other paving material is demonstrably better for the protection of the environment and is consistent with the conservation easement burdening the conservation land in the subdivision.”**
5. **A note shall be added to the plan stating, “No new driveways or extensions of driveways shall be constructed in the subdivision until the initiation of site preparations for construction of residences that will be served by those drive ways.”**
6. **An eight-feet asphalt apron for the private road shall be added to the plan at the Mill Road entrance into the subdivision, and a note shall be added to the plan stating, “An eight-feet apron shall be constructed at the entrance to the subdivision at the initiation of construction of the second residential structure in the subdivision, and no certificate of occupancy shall be issued for said residence until the apron is approved by the Director of Public Works.”**
7. **Applicant shall submit to the Planning Board an executed copy of the Conservation Easement Deed burdening the conservation land in the Rocky Ledge Subdivision that has been executed by all parties, thereto, including Grantor, Grantee, and the town of North Hampton as holder of an Executory Interest in said Easement. Applicant understands that the Town shall secure a review of the Conservation Easement Deed by Town Counsel prior to execution of the Deed by the agent of the Town.**

8. Applicant shall submit copies of articles of agreement to establish a non-profit corporation to serve as a homeowners' association and by laws for said homeowners' association and the Town shall secure the written opinion of town counsel that these documents satisfy the requirements of Zoning Ordinance, Article IV, Section 417 Conservation Subdivision Design, K.12.
9. Planning Board shall receive an executed copy of the pPrivate ~~R~~Road ~~B~~uilding ~~p~~ermit Wwaiver ~~for~~from the Select Board.

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

Mr. Salomon arrived, and was seated.

08:14 – James G. and Karen S. Confalone, PO Box 415, Rye Beach, NH 03871. The applicants propose a 3-lot subdivision on contiguous land located in Rye, NH and North Hampton, NH. Property owners: James and Karen Confalone. Property location: 41 Causeway Road, Rye Beach, NH, M/Lots 005-012, 013, 014, zoning district R-2. This case is continued from the February 5, 2009 meeting.

In attendance for this application:

James Verra, LLS, James Verra & Associates, Inc.

Attorney Phoenix

Mr. Confalone

Eric Wienberg, Altus Engineering

Mr. Wilson stated that the Confalone application was first presented at the November 6, 2008 meeting and that the Applicants were asked to provide a drainage study to prove that the land in North Hampton would have experience no detrimental impact from storm water run off or run off of pesticides, fertilizer, or other contaminants that might reach the Bass Beach Salt Marsh. The Board took jurisdiction of the application on November 6, 2008. The Applicants, at their request, were granted several continuances for their application. The Board granted a continuance at the February 5, 2009 meeting with the condition that the Applicants re-notify the abutters at the Applicants' their expense.

Ms. Chase confirmed that abutters had been notified.

Mr. Verra submitted copies of the drainage study, and said that Mr. Weinberg was available to answer any questions the Board may have.

There was little discussion concerning the drainage study since because it was submitted at the meeting, thus giving the Board no chance to review it. The Board requested a copy be sent to Mr. Ed Kelly, the Town's Engineer, for his review.

Mr. Weinberg explained that NH DES put out a new storm water manual in December 2008, and in the manual they have identified best management practices for low intensity development as disconnect. He explained that "disconnects" are small areas of

impervious ~~are a surface, the that~~ runoff for which runs across open areas such as lawns, and vegetated areas such as woodlands, ~~and that area is~~ Such “disconnects” are no longer considered impervious provided ~~they it~~ meets all ~~of~~ DES criteria. He went over the criteria and explained how the site meets it. Mr. Wilson asked if Mr. Weinberg was stating that all of the land in North Hampton will not be disturbed by the proposed development in Rye, and all the water runoff from the developed lots will ~~have all be removed~~ of its nutrients, fertilizer, and other contaminants removed before it reaches land in North Hampton. Mr. Weinberg said that that was correct, and that the necessary buffer to accomplish this filtration process is entirely in Rye.

Mr. Wilson asked what the minimum distance was from the Rye town line and the building envelopes on the proposed lots.

Mr. Kroner asked if the lots would be serviced by public sewer in Rye. Mr. Weinberg said that they received State approval for septic systems, and all three systems will be in Rye Beach, including the leach fields.

Mr. Salomon was granted permission from the Chair to ask the following questions of the Town Engineer regarding the drainage study:

1. Review and confirm that the calculations predict that both the volume and velocity of storm water leaving Rye and flowing into North Hampton will be reduced under the proposal.
2. Is it accurate that all treatment to remove nutrients and other pollutants will occur in Rye? The question is asked to determine whether land in North Hampton is being used in any way for storm water treatment by this proposed subdivision. Hence, the question: If any area of the land in North Hampton from any of the proposed lots is used even minimally – for example, only for lawn that is mowed, fertilized, and treated with pesticides in usual and customary ways – will all storm water from such an area drain into Rye? And, if it will not drain into Rye, will it be fully treated by natural means before it enters Bass Beach Salt Marsh?
3. Has the applicant adequately addressed hydrology issues? Specifically, flooding has occurred in the recent past. There has been discussion about the elevation at which flooding occurred, but the Board’s concerns are twofold. First, what predictions, if any, can be made about where nutrients and other pollutants end up when the flood subsides? Second, are the drainage calculations affected, in a flood event, by a water table at or near the surface even on the portion of the lot which is not visibly inundated?

Mr. James Confalone commented on the pictures submitted by an ~~applicant~~ applicant that showed extensive flooding of the property. He said that he has owned the property for thirty-years and has seen that type of flooding just that once and said that he videotaped the water flow, and it showed that the water was coming from the golf course. He said that the flooding did not occur in Rye Beach and that the lots remained high and dry.

Mr. Confalone also informed the Board that he is being taxed for three building lots at a cost of “\$1 million.”

Dr. Arena asked why the Applicant was involving North Hampton when they already meet the requirements in Rye, and they are not proposing to develop~~ing~~ the part of the lots located in North Hampton.

Mr. Wilson had Ms. Chase look up the assessments on line; lot 12 is currently assessed in North Hampton at \$574,100; lot 13 is assessed at \$166,200, and lot 14 is assessed at \$18,400.

Mr. Phoenix explained that Mr. Confalone, under State Statute, could have considered the town line the boundary line but felt it would be an inappropriate use of the lots to leave the land in North Hampton just “hanging”. He said that the Applicant is not planning on putting any driveways, buildings or septic systems in North Hampton.

Mr. Wilson ~~said~~asked whether he understood ~~correctly it to be~~ that under ~~the~~NH DES best management practices, as described by Mr. Weinberg, in order to meet the standards for disconnect land area that the property in North Hampton will have to remain undisturbed.

Mr. Weinberg said that a buffer needs to occur to meet the standards. He said that the land owner would be able to put in a garden or plant willow trees on the North Hampton land and still meet the NH DES standards.

Mr. Wilson asked for public comment on this case. There was no public comment.

Mr. Phoenix asked the Board if they had any particular questions that they would like answer~~eds to~~ so that the Applicant may be prepared at the next meeting.

Mr. Wilson said that he would like to know if the land in North Hampton has to remain totally undisturbed (no garden, no lawn, and no fertilization) in order to meet the NH DES standards for storm water management and to ensure that no pesticides, fertilizers, or other contaminants would flow from the proosed subdivision into Bass Beach Salt Marsh.

Mr. Kroner said that he would like to know how many feet the building envelope on lot three will be from the wetland delineation line.

Mr. Salomon asked to see building envelopes that maximize setbacks~~s to~~from any type of wetlands and still allow~~give~~ a reasonable use. He said that North Hampton requires 100-foot setbacks, and Rye and the State may have something different. Mr. Salomon commented that there is a significant salt marsh in North Hampton and opined that not all wetlands are created equal but this particular wetland holds a very high value.

Mr. Wilson referred to Subdivision Regulation V.D – Review standards that states: *In reviewing subdivision plans, the Board shall take into consideration the public health, safety and general welfare, the comfort and convenience of the general public, and shall ensure that proposed development does not have a detrimental effect on the abutters, the neighborhood, and the environment of the Town.* Mr. Wilson said that the burden is on

the on the applicant to prove that the subdivision shall not have a detrimental effect on the abutters, the neighborhood and the environment of the Town. The Salt Marsh is very important environmentally to the Town of North Hampton.

Mr. Salomon said that the Applicant may be able to work with Attorney Phoenix to draft protective covenants that would be agreeable to the Board, and he said that he believes that the regulation Mr. Wilson read is enforceable if there is a significant public health, safety or welfare concern, and opined that it does exist with this application.

**Dr. Arena Moved and Mr. McManus seconded the Motion to continue case #08:14 – James and Karen Confalone to the April 2, 2009 meeting.
The vote was unanimous in favor of the Motion (7-0).**

New 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. Property location: 110 & 112 Mill Road. M/L 006-147-2 and 006-147-3, zoning district R-2. The Applicant requests the following waiver: Section VIII.B.20 of the Subdivision Regulations – Storm water drainage control plan.

The Board took a five minute recess.

In attendance for this application:

Steve Oles, Ames MSC Engineering
Attorney Pelech, Law Offices of Wholey and Pelech

Mr. Pelech informed the Board that the Applicant Mr. Peter Horne, was granted a variance from Article V, Section 501.2 to allow a lot line relocation between lots 147-3 and 147-2 that contain non-conforming structures which are within the 100-foot wetlands setback at the January 27, 2009 Zoning Board Meeting, with the following conditions: 1) No additional structures or increase in the footprint to any structures within the 100-foot wetland setback and 2) All accessory structures on both lots remain accessory structures.

Mr. Wilson questioned whether the Planning Board could proceed to hear the case while the ~~validity~~approval of the variance application remains n question because of ~~the~~a pending motion for rehearing on this case.

Attorney Pelech referred to RSA 677:9, which states that the filing of a request for a rehearing does not have the affect of suspending the decision of the Zoning Board of Adjustment.

Mr. Salomon noted that under these conditions the applicant proceeds at his own risk – that is, the risk of incurring expenses for the Planning Board’s review that may ultimately have been wasted.

Mr. Oles explained that the applicant proposes a lot line relocation on tax map and lot 006-147-003 by moving the line 19.8 feet to the west creating the required frontage for the second lot. He said that test pits were done, witnessed, and approved, and they received State Subdivision approval as well.

Mr. Field questioned whether the Horne case was noticed properly. He mentioned that the case number was different from the original application. After a long discussion on whether or not the notice was legally posted, Mr. Wilson ruled as Chair that the notice was done properly. He explained that the original case #08:13 for Peter Horne was heard by the Planning Board in November 2008 and that the Board did not take jurisdiction of that application resulting in the new case number 09:02 for the new application.

Attorney Hatem, representative to abutter Gregory Sancoff, questioned how an application that had been withdrawn can be considered as a new application.

Mr. Wilson explained that the Board did not take jurisdiction of the original application (case #08:12) because the Board decided that it was an incomplete application because the applicant needed a variance. He said that the applicant was issued a decision letter informing him that taking jurisdiction was denied and that the Board would waive all reapplication fees except for fee to re-notify the abutters. Either the Planning board or the Building Inspector must deny an application before the applicant can request a variance from the Zoning Board of Adjustment.

Mr. Salomon commented that the Chair ruled and unless a Board member wished to appeal the ruling of the Chair the Board should “move on” with the meeting.

Mr. Field ~~called for~~ raised a point of order. Mr. Wilson granted it.

Mr. Field said that the application before the Zoning Board made reference to case #08:13, and that is the case that was considered by the Zoning Board. He opined that to address case #09:02 would be inappropriate procedurally.

Mr. Pelech addressed Mr. Field’s comments and said that the ZBA requires a denial in order to apply for a variance before the ZBA. Mr. Pelech explained that it was the decision letter for case #08:13 from the Planning Board that was used as part of the ZBA application process.

Mr. Salomon said that there is a Statute that says the procedures before a local land use board shall not be used as a bludgeon; they are designed to give fair notice and ability to be heard.

Mr. Oles explained that the proposal is a two-lot subdivision with no additional impervious surface and no drainage, and that is the reason for the waiver request from the storm water drainage control plan. Mr. Oles further explained that the applicant is seeking an approved subdivision because a new residence is likely to ~~occur~~be constructed in the future.

Mr. Salomon voiced concerns ~~about~~a possible new driveway ~~going~~being constructed in from Mill Road.

Mr. Pelech suggested adding a condition of approval that the driveway would be outside the wetlands buffer, and to stipulate that there would be no additional curb cuts or driveways on the lots.

Mr. West reminded the Board of the Town Engineer Ed Kelly's suggestion that the Board require the applicant to provide storm water drainage calculations. ~~to be done.~~

The waiver request from Section VIII.B.20 of the Subdivision Regulation was discussed. Mr. Oles stated that the drainage on the property will not change because they are adding no impervious surface to the lots.

Mr. Wilson opined that a storm water control plan is necessary because the Horne land is in one of the most ecological sensitive areas in North Hampton, and the property is already intensely used.

Mr. Oles said that the property fell under the NH DES rules as of July 1, 2008.

Mr. Wilson opened the Public Hearing at 10:00pm.

Mr. Field disclosed that he is a member of the ZBA and North Hampton Forever and that he has recused himself from all proceedings dealing with the Horne case. He began to discuss Mr. Horne's prior 2007 ZBA case to raze an existing garage and to build a two story garage. Mr. Wilson asked if Mr. Field was speaking on the waiver. Mr. Field said he was speaking specifically to the waiver request. He also stated that the NH DES septic system approval was designed to service a two bedroom dwelling. Mr. Field read it into the record: "Approval for construction of a septic system bearing a date of 02/19/2007 ~~approved for two two-bedroom additions to existing garages.~~" Mr. Oles said that there was a revision to that approval that says "no bedrooms." Mr. Field said that he met with the Building Inspector and he is not in receipt of the updated NH DES approval. He said he would make that representation under oath that the Building Inspector does not have a copy of the updated State approval.

Mr. Field was asked again to link his argument to the waiver at hand.

Mr. Pelech submitted a copy of the amended State septic approval to the Board. He retrieved it from the information submitted by Mr. Field included in his request for a motion for rehearing before the Zoning Board.

Mr. Salomon asked Mr. Pelech if he was saying that a motion for rehearing was filed with the Zoning Board by Mr. Field that contained a copy of a State document that Mr. Field said he hadn't seen. Mr. Pelech confirmed that to be true.

Mr. Field continued to discuss the prior case, and referenced the ZBA minutes of July 24, 2007 that stated Mr. Horne said that he did not plan to put in plumbing in the proposed new garage. He said that the approval was based on that representation.

Mr. Wilson asked Mr. Field to read the decision letter from the ZBA.

The ZBA decision letter for case #2007:16 for Mr. Horne states that the variance was granted to Article V, Sections 501.2 and 501.5 for the purpose of razing an existing structure and replacing/rebuilding the structure on a non-conforming lot with the following conditions: 1. Any plumbing within the structure will not be used without further approval from the Building Inspector for proper permits.

Mr. Wilson opined that the Building Inspector complied with the decision letter regarding that case.

Mr. Field disagreed.

Mr. Salomon said he did not understand what the plumbing issue had to do with the waiver request, and asked again for Mr. Field to explain how his argument affects whether or not there should be a storm water control plan.

Mr. Field said that the terrain has been changed, grasses are gone, and trees are gone. He said Mr. Horne is proposing to create another residential dwelling which is more impervious surface area that will affect the water runoff from the lot.

Mr. Wilson asked if Mr. Field were suggesting that the Board require that the drainage study show what the overall impact of the development will have on the lot, and the addition of another single family lot. Mr. Field concurred.

Mr. Pelech said that Mr. Horne never told the ZBA that his purpose was to rent all four dwellings. Mr. Horne is entitled to rent his homes.

Mr. Oles explained that the applicant was requesting a waiver from the drainage control plan because he is not creating a subdivision with multiple lots off of a road and the only change is minor runoff coming off of a potential single-family dwelling.

Mr. Wilson said that the Board may impose conditions that modifications be made often how the water runoff is handled on all four lots.

Ms. Pohl thought that a storm water drainage study must have been done when the dam was rebuilt. Mr. Horne said that there was not a full drainage report.

Mr. McManus Moved and Mr. Salomon seconded the Motion to deny the waiver request to Section VIII.B.20 – storm water drainage study of the Subdivision Regulations.

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

Mr. Horne said that the current 3-story garage will never have bedrooms and it was stipulated in the conditions on the ZBA decision letter that states all accessory structures on both lots remain accessory structures.

Attorney Pelech requested a continuance to the April 2, 2009 meeting.

Ms. Kohl Moved and Ms. Pohl seconded the Motion to continue case #09:02 to the April 2, 2009 Meeting.

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

Mr. Salomon Moved and Mr. McManus seconded the Motion to suspend the rule prohibiting taking up new business to continue the meeting after 9:30pm.

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

Mr. Pelech asked if Mr. Mabey would be present at the next meeting.

Mr. Wilson asked Ms. Chase to invite Mr. Mabey to the April 2, 2009 meeting.

09:03 – Black Marble Realty Trust. The Applicant requests a Conditional Use Sign Application to install an additional 18 square-foot internally lit sign below the existing internally lit ground sign at Seacoast Harley Davidson. The Applicant requests the following waivers: (1) Article IV, Section 505.5.F – Internally lighted signs, (2) Article IV, Section 506.6.E – Size, and (3) Article IV, Section 506.6.Q – Color. Property owner: Black Marble Realty Trust. Property location: 17 Lafayette Road. M/L 003-086, zoning district I-B/R.

In attendance for this application:

Andrew Janiak, Representing Black Marble Realty Trust

Mr. Wilson recused himself from the application due to a conflict.

Mr. Kroner assumed the Chair.

Dr. Arena informed Mr. Janiak that there is a zoning change to be voted on at next week's election prohibiting internally lit signs. Ms. Chase added that the proposed change is in effect and has been in effect due to the law that proposed zoning ordinance changes are in effect 120 days prior to town election.

Mr. Janiak explained that the proposed sign would be added to the existing internally lit sign.

Mr. Kroner opened the public hearing at 10:47pm to discuss the waiver request from Section 505.5.F – Internally lighted signs
Mr. Kroner closed the public hearing without public comment.

Ms. Pohl Moved and Ms. Kohl seconded the Motion to deny the waiver request from Section 505.5.F – Internally lit signs.

Mr. Salomon opposed because the existing sign is internally lit.

Mr. McManus agreed.

| Ms. **KP**Pohl said that the Board has to start taking a stand to prohibit internally lit signs.

Dr. Arena agreed with Ms. Kohl.

| Ms. **KP**Pohl asked if the applicant would be agreeable to a lighter shade of orange.

The vote was 3 in favor, 3 opposed to deny the waiver request; the Motion failed.

Mr. Salomon Moved and Dr. Arena seconded the Motion to continue the waiver request from Section 505.5.F – Internally lit signs to the April 2nd meeting.
The vote was unanimous in favor of the Motion (6-0).
The waiver request for Section 506.6.E – Size was discussed.

| Mr. Salomon pointed out that the proposed sign would be filling in empty areas within the existing framework of the sign.

Mr. Kroner opened the public hearing to waiver request Section 506.6.E – Size at 11:00pm.
Mr. Kroner closed the public hearing without public comment.

Mr. Salomon Moved and Mr. McManus seconded the Motion to approve the waiver request from Section 506.6.E.
The vote was unanimous in favor of the Motion (6-0).

The waiver request from Section 506.6.Q – Color was discussed.

Mr. Janiak said that it is the brand's color and it is the color of pumpkins and sunsets.

Mr. Kroner opened the public hearing at 11:04pm.
Mr. Kroner closed the public hearing without public comment.

Mr. Kroner opined that the color looked good.
Ms. Kohl suggested changing the tint so that it wouldn't look too garish.

Ms. Pohl Moved and Ms. Kohl seconded the Motion to the waiver request to Section 506.6.Q – Color to the April 2, 2009 meeting.

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

Mr. Wilson resumed the Chair.

Other Business

GFI – Mr. Steve Goodman to address issues with the Greystone Village Development project.

The Board was in receipt of an e-mail informing the Board that there would be no one in attendance from GFI at this meeting and requested to be placed on the March 17, 2009 Work Session Meeting.

A unanimous vote was taken (7-0) to adjourn the meeting at 11:15pm.

Respectfully submitted,

Wendy V. Chase
Recording Secretary

Approved March 26, 2009