



Meeting Minutes
North Hampton Planning Board
Thursday, July 1, 2010 at 6:30pm
Mary Herbert Conference Room

These minutes were prepared as a reasonable summary of the essential content of this meeting, not as a transcription.

A Recording Secretary was not present. These minutes were transcribed from a video recording of the meeting.

Members present: Phil Wilson, Chair; Barbara Kohl, Vice Chair; Shep Kroner, Joseph Arena, and Laurel Pohl

Members absent: Mike Hornsby and Select Board Representative Jim Maggiore

Alternates present: None

Others present: Brian Groth, RPC Circuit Rider

Mr. Wilson convened the meeting at 6:34pm, and noted for the record that the agenda was properly posted.

Mr. Wilson noted that there were two applications before the Board and no applicants in attendance. The Planning Board recently changed their meeting time from 7:00pm to 6:30pm so the Board decided to take up "other business" first, and if the Applicants did not show by 7:00pm they would adjourn the Meeting.

June 17, 2010 Site Walk Minutes (Michael Negm property, 224 Lafayette Road) – The minutes were tabled to the Work Session for a proper quorum to take action on them.

Mr. Wilson said that he was in receipt of a letter from the Rockingham Planning Commission continuing the contract with Brian Groth as the Town's RPC Circuit Rider for another year.

Ms. Pohl informed the Board that she has met with Mr. Fournier regarding the new CIP Committee. She said that the Select Board either took action on it at their last meeting or will do so at their next meeting. Mr. Fournier will be putting out a general request for volunteers to serve on the CIP Committee on Channel 22 and on the website.

Mr. Wilson said that it would be beneficial to the Town if Mike Coutu were to be on the CIP Committee.

Dr. Arena commented that the Board should be addressing some important issues at the regular meetings rather than the work session meetings, i.e. "junk yards". The Board agreed.

Ms. Kohl said that she has been in contact with Mr. McManus and he is willing to be an alternate member of the Planning Board.

Ms. Kohl moved and Ms. Pohl seconded the motion to nominate Thomas McManus as an Alternate Member to the Planning Board for a three year term to expire in May 2013. The vote was unanimous in favor of the motion (5-0).

Mr. Kroner suggested to the Board that if they know of anyone interested in serving on the Planning Board as an Alternate to encourage them to write a letter of interest to the Board and come to a meeting and speak with the Board.

Mr. Wilson suggested that they advertise for Alternates to the Planning Board in hopes of getting one or two more people to serve. He said that he will try and contact former alternate member Vince Vettrano to see if he would be willing to serve again.

Ms. Kohl announced that she has seven (7) volunteers to serve on the Agriculture Ad hoc Committee, and they will be attempting to write an agriculture ordinance to be ready in time for the 2011 May Election. She named the following volunteers: Barbara Kohl, Laurel Pohl, Mike Hornsby, (3 members of the Planning Board) Lisa Wilson, (1 Alternate member of the Conservation Commission) Phelps Fullerton, (1 member of the general public) Cindy Jenkins, and Dieter Ebert (2 members of the Agriculture Commission).

Ms. Kohl moved and Dr. Arena seconded the motion to ratify the appointments of the Agriculture Ad hoc Committee. The vote was unanimous in favor of the motion (5-0).

The Applicants and their representatives arrived at 6:55pm.

I. Old Business

1. **10:08 – Michael Negm, 302 Main Street, Somersworth, NH 03878.** The Applicant proposes to convert an existing multi-family unit into Workforce Housing. Property owner: MA Negm, LLC, 302 Main Street, Somersworth, NH 03878; property location: 224 Lafayette Road, North Hampton; M/L: 021-031-000; zoning district: I-B/R. This case is continued from the June 3, 2010 Meeting.

In attendance for this application:

Michael Negm, Owner/applicant

Mr. Negm explained that his Representative Geoff Aleva, Civil Consultants was not present due to illness. Mr. Negm noted for the record that he no longer had a PO Box and that his mailing address is 302 Main Street, Somersworth, NH. He said that he did not receive a copy of the site walk minutes of June 17, 2010. He asked the Board for direction regarding his application.

Mr. Wilson referred to the June 17, 2010 Site Walk minutes and asked Mr. Negm about the square iron pipe that is capped and locked with a pad lock located on the path between the parking lot and the

abandoned pit at the rear of the site. Mr. Negm said that they do not know what it is or what its purpose is. Mr. Wilson thought it may be an old monitoring well from Coakley Landfill, and thought it in Mr. Negm's best interest to find out for sure.

Mr. Wilson said that another concern the Board has is the abandoned pit at the rear of the site that slopes and falls rapidly to an area of standing water. Dr. Arena asked if that water has been tested and Mr. Negm said that he did not know. Mr. Negm said that the pit area is owned by three other abutters as well as himself. He suggested putting up a fence around the "play area". Mr. Wilson didn't think that would remedy the potential problem, and said that there is not a lot he could do unless all the abutters collectively decided to put a fence in. He also said that it is a concern, but is not relevant to this application.

Mr. Wilson said that Mr. Negm has addressed or will address the issue with the propane grill on the covered porch. Mr. Negm pointed out there was no propane tank attached to it and he does not allow grilling under the roof of the porch. Mr. Negm plans to build a fence around the large above-ground propane tank located behind the rear portion of the building.

The Board noted that meters for propane to each unit were opened and exposed. Mr. Negm said that special tools are needed to open the meters by propane companies, and he is not sure the propane company would allow him to put a "cage" or "crib" over the meter. Ms. Pohl noted that the meters are owned by the gas companies and does not think "cages" could be placed on them.

Mr. Negm said that he plans to locate a play area for resident children where the new leach field would be located.

The handicapped access ramp at the westerly side of the building has no railing, and Mr. Negm said that he would put a railing up.

Mr. Wilson explained that it is required under the Town's Site Plan Regulations that all dumpsters must be screened. Mr. Negm said that he would screen the dumpster.

Mr. Wilson made suggested conditions of approval:

- No propane tanks will be stored or used for grilling under the porch area
- The propane tank will be screened with poly-vinyl fencing
- The new leach field will be finished in a manner to provide a new play area
- A railing will be constructed around the handicapped access ramp
- The dumpster will be screened.

Mr. Wilson brought up the issue of proper documentation to prove affordability as required by the ordinance. Mr. Wilson explained that in normal circumstances the rental rates would be higher than the affordable limit and it's a requirement that there is a lien placed on the property amounting in the difference between "fair market value" and the "affordable limit" to guarantee the units stay "affordable" in perpetuity. Mr. Negm has a unique situation whereas the rental units are below the "affordable limit". Mr. Wilson suggested that Mr. Negm draw up a document stating that the unit rates will stay "affordable" in perpetuity.

The Board discussed the issue further. Mr. Wilson suggested that the Board add as a condition of approval that the Applicant agrees to submit a letter to the Board agreeing that prior to the first anniversary date of the application approval he shall post a lien, held by the Town, on the property that satisfies the conditions of the inclusionary housing ordinance.

Mr. Wilson said that the data needed is the "fair market value" of Mr. Negm's rental property to determine the lien amount.

Mr. Wilson suggested that the Town develop a standard legal document for liens in workforce housing cases.

Mr. Wilson asked Mr. Negm if he was going to use M&B management as a monitoring agent. Mr. Negm said that he has not engaged in a contract with any monitoring company, but said that M&B Management is a State approved workforce housing monitoring company.

Mr. Wilson suggested continuing the case to the August 5, 2010 meeting and asked that Mr. Negm (1) come back to the Board with the "fair market value" data of rental units in this area and also provide a lien proposal that he found acceptable. He suggested that Mr. Negm read the parameters of the liens within the inclusionary housing ordinance, and (2) identify the monitoring agent and execute an agreement with them to be submitted to the Board.

Mr. Wilson said that he will speak with Mr. Fournier about getting the Town's Attorney to draw up a lien that complies with the inclusionary housing ordinance.

Mr. Negm said that he did not want to go forward with his new septic system without Board approval of his application, because if his application is denied he would turn the units back to office space eliminating the need for a new septic system.

Mr. Wilson opened the Public Hearing at 7:46pm.

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

Dr. Arena moved to accept the application with the conditions previously discussed by the Board.

Dr. Arena said that it is the Town that determines the lien. Ms. Pohl said that it is not the Applicant's responsibility to craft the lien, but he has to have it in place to satisfy the requirements of the ordinance.

Mr. Wilson read from Section 418.9.D – *Assurance of continued affordability (Workforce-housing rental units). Approval of applications to develop workforce-housing rental units shall require that a lien, granted to the Town of North Hampton, be placed on each building that includes such units. The initial value of the lien shall be equal to the present value over a period of 20 years of the difference between the fair-market-value rental of the units and their reduced affordable rental under section 418 of the ordinance.*

Mr. Wilson said that the application cannot be approved until a lien has been granted to the Town of North Hampton that meets the terms of the ordinance.

Mr. Negm said that the lien document should be drawn up by the Town for him to approve and sign. Dr. Arena agreed, and said that it is the Town putting the lien on Mr. Negm's property; not Mr. Negm, and it is the Town that would determine the amount of the lien.

Ms. Kohl said that she was sympathetic to Mr. Negm's time element but did not feel comfortable going forward with a conditional approval without information provided by the Applicant regarding the execution of a lien and engaging in a contract with a monitoring agency.

The Board determined that the execution of the lien would need to be in place before approval of the application.

Ms. Pohl moved and Ms. Kohl seconded the motion to continue case #10:08 – Michael Negm to the August 5, 2010 meeting.

Dr. Arena said that he had made a motion to approve the application with the conditions previously discussed. There was no second to the motion. The motion failed.

Ms. Pohl said due to Dr. Arena's motion failing, she moved and Ms. Kohl seconded the motion to continue case #10:08 – Michael Negm to the August 5, 2010 meeting.

Mr. Kroner asked if the motion made by Ms. Pohl should include what is needed by next month for possible approval.

The motion carries (4 in favor, 0 opposed and 1 abstention). Dr. Arena abstained.

Mr. Wilson suggested Mr. Negm submit the market data and he would meet with the Town Administrator to get the Town Attorney to draft a lien document that can be used for the work-force housing applications, and try to get that done at least a week before the August 5, 2010 meeting.

Ms. Kohl said that the monitoring agent issue should be addressed and Mr. Wilson agreed that it is critical for Mr. Negm to establish a clear agreement with a monitoring agent prior to the August meeting.

2. **10:09 – J&S Greystone Village, LLC, PO Box 1627, North Hampton.** The Applicants propose to modify the approved site plan for Greystone Village Development by eliminating 6 units, roadway re-design and drainage design update. The Applicants request the following waivers: (1) Section X-A.3 – Street Design and Construction Standards to allow a dead end road system, and (2) Section XII.O – to modify the existing condition of approval regarding the septic systems and allow state approved systems that will be maintained by the owner. Property owner: J&S Greystone Village, LLC; property location: 223 Lafayette Road; M/L 021-001-000; zoning district: I-B/R. This case is continued from the June 3, 2010 Meeting.

In attendance for this application:

John Chagnon, Ambit Engineers

Joe Roy, Owner/Applicant

Shawn Roy, Greystone Property Manager

Jeff Clifford, Altus Engineering

Mr. Chagnon said that a major change to the original conditions of approval is to change the septic systems. Plans were submitted to the Board just prior to the meeting. Mr. Chagnon referred the Board to Sheet C-5, waiver request #2 – to permit individual septic systems on each lot. Systems shall be designed with enviro-septic wastewater treatment system. Units 21, 22, 32, 33, 40, 41, 42, 43, &44 shall be designed with an advanced treatment system (such as WWA or Septi-tech). Any pump systems shall be installed with an alarm system including automatic dial-up capability. A maintenance contract shall be secured in perpetuity for biannual service of each WWA system. All septic systems shall be maintained by the park owner. A surety shall be posted for the estimated cost to replace 2 such septic systems.

Mr. Chagnon referred to the copy of the NHDES septic approval. He said that they do not need service contracts for the systems because they don't require ongoing professional maintenance. Mr. Chagnon also provided information from the Enviro-septic website that states that the onsite treatment system removes up to 98% of wastewater contaminants. He said that they are agreeable to putting in the advanced treatment systems for lots as mentioned. Mr. Chagnon also submitted a copy of the revised NHDES approval #SA2005005755-A with a note stating, *Amended to show change of number of lots and driveway configuration. 6/24/10.*

Mr. Chagnon said that one other major change is to redesign the roadway profiles, and maintain a 0.5% slope at a minimum.

Mr. Jeff Clifford, Altus Engineer, addressed the responses made to his 42-point review of June 2, 2010 from Ambit engineering with the Board.

Mr. Clifford stated that he does not have any concerns about the proposed Enviro-septic systems. He said one difference is that the proposed systems fail sooner than the originally approved system, but there will not be catastrophic failures. He said there are advantages and disadvantages to both systems, but he does not see any overriding reason that they must use the originally approved septic systems.

Mr. Clifford discussed the change from catch basins to treatment swales. He said that the maintenance of the open swales will be an important operational task. He said that maintenance in the winter months is very important in preventing ice buildup and "black ice" from forming across the driveways. Mr. Clifford said that salt used on the roadways ultimately drains into the wetlands, and once salt gets into water it can't be taken out.

Ms. Kohl referred to number 16 of the lease agreement executed by J & S Greystone Village, LLC that states *salting and sanding of driveways will be the responsibility of each tenant, management will salt and sand common roadways only.*

Mr. Clifford suggested putting in catch basins in strategic locations periodically along the road to help alleviate the situation of draining water several hundred feet to a ditch that hopefully isn't obstructed by snow. He said that he does not see the need to redesign the whole plan as subsurface.

Mr. Clifford referred to section X.C.2 of the Site Plan Regulations that require a catch basin every 400-feet along a ditch. He said the proposed drainage swales extend well over 400-feet, and he suggests that they be installed less than 400-feet apart.

Mr. Chagnon said that they are submitting an amendment to the Alteration Terrain Permit with NH DES.

Mr. Clifford said that he would like to take a good look at the proposed reverse slope pipe added to Stormwater Pond #1. He said that it should only be needed during a high volume storm event, but could have potential problems if obstructed. Mr. Clifford said that water should drain from the stormwater ponds within 72-hours and if it does not they need to be maintained. He said that stormwater ponds that start out with good drainage soils typically change after 15 to 20 years as silt accumulates on the bottom preventing the water from draining properly.

Mr. Clifford mentioned the proposed waiver request for Section X.G.1 of the site plan regulations – stormwater management. He said that he is not opposed to the waiver request, but would like to look into it further.

Mr. Clifford said that the Board may want to consider whether the approved Conditional Use Permit for wetland fills over 3,000 sq. ft. needed to be amended in consideration of the revised wetland impacts. Mr. Chagnon explained that the wetland impact has been reduced considerably from when the original Conditional Use Permit was approved by the Board, and does not believe that a Conditional Use Permit, beyond the one which was granted, is needed. It was determined that there is 750 sq. ft. of wetland impact that was not covered under the original approval, even though the new proposal has significantly less wetland impact than the original approved plan, and the Board may want to review that.

Mr. Clifford commented on the State and Federal Permits needed for the project:

- NHDOT Driveway Permit 06-345-631 – Mr. Clifford recommends that NHDOT be notified of the ownership change. Mr. Chagnon's response was that NHDOT doesn't require notification regarding changes in ownership; therefore there is no need to coordinate with NHDOT.
- NHDES Subdivision Approval SA2005005755 – Mr. Chagnon responded that the NHDES was sent revised plans and they have issued revised Subdivision Approval 2005005755-A.
- NHDES Wetland Permit 2004-00919 – Mr. Clifford commented that the issued wetland permit for the project expired December 11, 2009. Mr. Chagnon's response was that they filed a new wetland permit based on the revised plan.
- NHDES Alteration of Terrain Permit WPS-6984B – Mr. Chagnon commented that the plans have been submitted to the DES for the revisions to this project. A change of ownership was also submitted.
- USEPA – NDPES Phase II Construction General Permit (NH) – Mr. Chagnon commented that the EPA requires that the plans and SWPPP be updated to show the new BMP's, and that a new NOI be filed with the new owner's name, and it will be done after all changes made to the plans are approved by all parties.

The waiver request for Section X-A.3 – Street Design and Construction Standards to allow a dead end road system. Mr. Wilson suggested that they contact the Fire and Police Department and get their suggestions on how to design the roadway and then revise the proposed plans accordingly.

Mr. Chagnon went over some of the original conditions of approval:

- #3 Deed Restrictions – Applicant shall submit a copy of the relevant deeds for subdivision that includes the age restrictions on the subdivision – that is, that at least one occupant of each unit

shall be 55 years of age or older and that no occupant of any unit shall be under 18 years of age. The Board agreed not to change that condition. The Applicant will add it to the plan.

- #4 Tree preservation – Mr. Chagnon said that the condition refers to a letter from Jeff Ott, Certified Arborist, dated 21 July 2004. He said that over long periods of time “letters” sometimes tend to get lost and asked if there was another way to address the condition without referring to the letter. Mr. Chagnon said that he would craft a new condition that would replace the reference to Mr. Ott’s letter and present it to the Board for their approval. Mr. Clifford remarked that he would not like to see the “no cut” area compromised. Mr. Chagnon suggested staking it out and having an arborist inspect before they cut anything in that area.

Mr. Wilson referred to Mr. Clifford’s review - #9 questioning the status on proposed remediation of the debris. Mr. Chagnon said that they intend to build the emergency access in that area and any debris left will remain to rot.

Mr. Clifford stated in his review that the plans should reference the annual stream sampling program prepared by NHSC, dated September 14, 2004. Mr. Chagnon explained that it was important to analyze the stream quality to show if the wetland was working in the original plan. The detention pond will be designed to meet NHDES standards and will get the treatment necessary.

Mr. Wilson referred to #13 of Mr. Clifford’s review. He said that when the plans were first submitted to the Planning Board they were responsible for the overall layout of the project including conservation easement areas, and once the easements are executed the Planning Board has no more responsibility regarding them. He said that any modification to the conservation easement areas is between the Applicant and the Town or the Conservation Commission representing the Town. Mr. Wilson said that the Planning Board cannot act on the plan as presented until that issue is resolved unless the Applicant takes the two lots out of the plan that were going to be used for residential sites in exchange for the conservation easement area. The Board decided that they could craft a condition of approval to the effect that if the Conservation Commission did not agree to the exchange of land then the applicant would eliminate the two residential lots. Mr. Chagnon will craft the condition and present it to the Board for approval.

Mr. Chagnon is going to meet with the Fire and Police Department and revise the proposed 12-foot wide gravel emergency access roadway to their satisfaction and present the revised plan to the Board.

The Board discussed the waiver request for individual septic systems. The original plan calls for all septic systems to be constructed with “the clean solution” which services 6-bedroom homes. The new proposal is a wastewater alternative system. Mr. Chagnon said the wastewater alternative system is more advanced than the “conventional system”. It is not aerobic but the water is treated in the pipe rather than below the pipe giving it a longer lifespan. Mr. Roy added that garbage disposals are not allowed and it is written in the covenants, which also contributes to the life of the system. Mr. Chagnon explained that the nine units closer to the swales will have the “clean solution” systems, but they would like to change to the wastewater alternative system on the remaining units.

Dr. Arena asked who is responsible for the maintenance of the septic systems already installed for the developed lots.

Mr. Kroner said that septic plan is designed for the site, but voiced concern of the area; there are big volume restaurants next to the site and a park across the street that process a lot and wondered what the aggregate impact of using traditional systems less than 1 square mile is.

Mr. Kroner said that one of the reasons "clean solution" septic systems were approved by the Board was because the water was virtually clean before it entered the swales, and that result will be altered with the new proposed wastewater alternative system.

Mr. Chagnon said that a primary concern with septic systems is nitrates. He referred the Board to Sheet C5 where it showed the lot loading calculation.

Mr. Wilson opened the Public Hearing on the waiver request for Section VII-O for the purpose of allowing the Applicant to change from the "clean solution" septic system to the wastewater alternative system at 9:57pm.

Mr. Fred Demar said that if it is more effective and cheaper then, he is in favor of the change.

Mr. Wilson closed the Public Hearing at 9:59pm.

Dr. Arena moved and Ms. Pohl seconded the motion to grant the waiver request from Section XII-O of the subdivision regulations for substitution of the enviro-septic wastewater treatment system for the lots specified in lieu of the "clean solution" systems originally approved. The vote was unanimous in favor of the motion (5-0).

The Board discussed adding 6 to 10 leaching catch basins down in the area where drainage may be a problem. Mr. Chagnon agreed that that would be a good idea and will add them to the plan. Mr. Clifford was advised to review it too. They will look at the drainage study and determine the best place to locate them.

Mr. Clifford will review the test pit data and report back to the Board with his findings (by letter). He will also review the reverse slope pipe.

The Board discussed whether or not the Applicant needed a waiver to fencing around the detention ponds. It was determined that there are not many children in the area (safety issue) the soils drain rapidly (within 72 hours). Mr. Chagnon said it would retain 2 to 3 feet of water at its worst.

Ms. Kohl commented on the potential risks of drowning in the detention ponds, and higher rate of dementia in a retirement development. Ms. Pohl made a comment about grandchildren visiting.

Mr. Chagnon said that they would need approximately 1,400 feet of fencing to go around the detention ponds.

Mr. Groth said that the Board should consider the volume of water. He said that a fence could be an "eye sore" for potentially having only two days out of the year where the pond would have standing water.

Dr. Arena asked Mr. Roy how the detention ponds withstood the last rain storms. Mr. Roy said that it rained for many days and the water remained in the pond for the entire time it rained, but never more than 2-feet deep. He said once the rain stopped it drained within a week or two. Dr. Arena said if there is vegetation in the detention pond it will affect the drainage.

Mr. Roy said that the grandchildren are restricted to their grandparent's lots. They are prohibited from riding bikes and playing in the park.

Ms. Kohl asked the Applicant to check with his insurance company regarding fencing around the detention ponds and report back to the Board.

The Board discussed the Conditional Use Permit. The Board determined that no Conditional Use Permit is required for the additional 750 sq. ft. of wetland impact.

Mr. Clifford questioned whether or not the revised plan would need to be reviewed under both the Site Plan and Subdivision Regulations since the original plan was.

The Board discussed the sidewalks, and determined that they would not require that they be added to the plan.

The Board discussed street lighting. Each resident is responsible for their own end of the driveway light post. Mr. Clifford suggested adding street lights for added safety.

Mr. Demar thought that the residents would rather have street lights than their own individual lights for security reasons. Mr. Roy said that in his experience with managing parks it is the people who have a street light next to their bedroom that complain. Mr. Roy said that a lot of the residents have motion detector flood lights.

Mr. Demar said that a lot of the residents do not want sensors on their lights; they want to shut the lights off when they want.

Mr. Wilson said the lighting issue is more of an issue to be addressed by the park owner and tenants.

Mr. Kroner moved and Dr. Arena seconded the motion to continue case #10:09 – J & S Greystone Village, LLC to the August 5, 2010 meeting.

The Board adjourned without objection at 10:30pm.

Respectfully submitted,

Wendy V. Chase
Recording Secretary

Approved July 15, 2010