



Meeting Minutes
North Hampton Planning Board
Thursday, November 4, 2010 at 6:30pm
Town Hall

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

Members present: Phil Wilson, Chair; Barbara Kohl, Vice Chair; Shep Kroner, Joseph Arena, Laurel Pohl, Mike Hornsby, and Jim Maggiore, Selectmen's Representative.

Alternates present: Tom McManus and Mike Coutu

Members Absent: Mr. Kroner arrived at 8:00pm.

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

Mr. Wilson convened the meeting at 6:32pm, and noted for the record that the agenda was properly posted.

Mr. Wilson seated Mr. Coutu for Mr. Kroner.

Mr. Wilson exercised his right as Chair to rearrange the agenda and take up "other business" first without objection from the Board.

Thera Research DAS update and request for a one-year extension on the Site Plan approval for case #05:19, November 7, 2005. Attorney Loughlin represented Mr. Kokernak and explained that they are still working on promoting the development of a Distributed Antenna System (DAS) in the Seacoast region as an alternative to cell towers. He said that they are continuing to attempt to establish relationships with national service providers to make DAS a reality. He said that they would like the Board to approve the extension request for the approval of the Site Plan of the "hotel" (Rowell Building) to be used in the future for the Distributed Antenna System (DAS).

Mr. Wilson commented that the Board is very familiar with the DAS site plan because the Board receives an annual update from Mr. Kokernak, Mr. Maxson and Mr. Loughlin.

Mr. Loughlin would like to schedule time at the Planning Board's December Work Session meeting to allow Mr. David Maxson to update the Board on developments over the past year with DAS.

Dr. Arena moved and Ms. Kohl seconded the motion to approve the 1-year extension for the Site Plan approval for case #05:19 to November 4, 2011.

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

The Board was in receipt of a letter from Jenifer Landman; Chair of the Heritage Commission, requesting that the Planning Board approve the nominees selected by the Heritage Commission and forward the approved nominees to the Select Board for appointment. The nominees and terms are as follows:

- Jane Palmer, Commissioner – 3-year term to expire June 2013
- Jane Currivan, Alternate Commissioner – 1-year term to expire June 2011
- Ben King, Alternate Commissioner – 1-year term to expire June 2011

Dr. Arena moved and Mr. Coutu seconded the motion to approve the Heritage Commission nominees and recommend to the Select Board to appoint the aforementioned nominees.

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

I. Old Business

#10:14 – Brent & Maria Flemming, 331 Exeter Road, Hampton Falls, NH 03844. The Applicants propose through a Site Plan Review Application to raze the existing house and construct an 8,889 square foot daycare center with outdoor recreation areas and a parking area. The Applicants request waivers from Site Plan Regulations X.B.4 and X.A.4. Property owner: BTG Property #2, LLC, 60 Windsor Blvd., Londonderry, NH 03053; Property location: 1 Post Road; M/L 003-089-000; zoning district I-B/R. This case is continued from the October 7, 2010 Meeting.

In attendance for this application:

Maria & Brent Flemming, Applicants
Joe Coronati, Jones and Beach Engineers
Joseph LaGrasse, JD LaGrasse & Associates, Inc.

Mr. Coronati addressed the issues presented by the Fire and Police Departments, the Town's engineer (KNA) and Mr. Groth (RPC Circuit Rider). He submitted updated plans to the Board and went over the outstanding items with them.

- **State permits** – they received the construction approval for the septic system from DES today and have been working with NH DOT on the driveways. He explained that the Flemmings will not own the property until they receive approval from the Planning Board. Mr. Coronati asked if the Board would consider approving the Site Plan with the condition that they receive NH DOT approval for a driveway permit. The Flemmings also want to include a 12-foot easement in that approval from the State. He said that all the engineering issues have been addressed subject to final approval of the highway easement.
- **Surety** – Mr. Coronati asked what the Board was looking for in terms of a surety. Mr. Wilson explained that the Board typically requests a bond to be put in place for landscaping. He said that an estimate is provided from a professional landscape architect and the Town retains 25% of it for a two year period to replace any dead plantings. Mr. Coronati explained that the State requires an excavation permit that includes a surety amount to be put in place by the Contractor for the replacement of any damage to the shoulders of the road during construction.
- Mr. LeGrasse provided copies of all four elevations of the proposed building. He explained that they added a door on the west side of the building in the corner to satisfy a safety concern of the Fire Department and the Planning Board. They also added the outside lighting to the plan and it is "dark sky" compliant. He explained that the plan includes a 6-

- 93 foot high small mesh nonflammable fence around the building with a chain linked fence
94 around the play areas.
- 95 • Mr. Coronati explained that they added a small rectangle unattached awning in the play
96 area for shade from the sun.
 - 97 • They will use a 5-foot “back out” area in the parking lot and the aisle way is 24-feet wide to
98 help with the easy flow of one-way traffic.
 - 99 • They submitted a copy of the proposed sign that complies with the sign ordinance. Mr.
100 Wilson reminded Mr. Coronati that he would still have to apply for a sign application
101 through the Building Inspector’s Office.
 - 102 • The state inspected the site and Phase I showed that it is clean of hazardous waste.

103
104 Mr. Wilson opened the Public Hearing at 7:04pm.

105 Mr. Wilson closed the Public Hearing at 7:05pm without public comment.

106
107 The Board asked Mr. Coutu for a recommendation on what form of security the Board should require.

108
109 Mr. Coutu suggested the landscape surety be in the form of a letter of credit from a credit-worthy bank.

110
111 **Dr. Arena moved and Mr. Coutu seconded the motion to approve the Site Plan Application for case**
112 **#10:14 – Brent and Maria Flemming with the following conditions:**

- 113
- 114 **1. Recordable Mylar** – The applicants shall submit a recordable Mylar of the plan with
115 required signatures and seals affixed of all licensed professionals whose names appear
116 on the plan.
 - 117 **2. Certificate of Monumentation** – The applicants shall provide the Board with Certificate
118 of Monumentation, stamped and signed by a NH LLS, certifying that all monuments
119 depicted on the plan have been properly set.
 - 120 **3. Surety** – Surety in the form of a letter of credit by a credit worthy bank for the
121 landscaping that will be installed per the landscaping plan and agrees that the Town will
122 retain 25% of the total landscape surety for a period of two growing seasons after
123 installation to ensure that any dead plantings are properly replaced.
 - 124 **4.** The applicants shall submit a letter from NH DOT indicating that as soon as the property
125 “closes” and the Flemmings receive an appropriate easement, DOT will issue them a
126 driveway permit for this plan.
 - 127 **5.** The applicants shall provide documentation of approval from the Hampton Planning
128 Board for the proposed use of land located in the Town of Hampton.
 - 129 **6.** The applicants shall pay all outstanding fees related to the processing and review of this
130 application.

131 **The vote passed in favor of the motion (6 in favor, 1 opposed and 1 abstention). Ms. Kohl opposed.**

132
133 Ms. Kohl commented that she is glad to see that an additional door was added to the back of the
134 building, but feels that they could have done a better job on the driveway design because the traffic
135 situation is dangerous at that site.

II. New Business

#10:16 - J & S Greystone Village, LLC, PO Box 1627, North Hampton, NH. The Applicant, Joseph Roy, requests a change of use from an approved club house to leased office space. Property owner: J&S Greystone Village, LLC. Property location: 223 Lafayette Road, M/L 021-001; zoning district: I-B/R.

In attendance for this application:

There was no one in attendance for this application.

Mr. Hornsby recused himself.

The Board was in receipt of a letter from Mr. Joseph Roy requesting a continuance of his application, case #10:16, to the December 2, 2010 meeting. Mr. Roy is currently seeking a variance from the ZBA concerning the same property scheduled for November 30, 2010.

Ms. Kohl moved and Dr. Arena seconded the motion to continue case #10:16 – J&S Greystone Village, LLC to the December 2, 2010 meeting.

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

Mr. Hornsby was reseated.

Mr. Wilson recused himself.

Mr. Maggiore recused himself.

Ms. Kohl assumed the Chair and seated Mr. McManus for Mr. Wilson.

#10:17 – V. Peter Corbett, Jr. and Suzanne Corbett, 134 Walnut Ave. The Applicants request a lot line adjustment/relocation of their property. The Applicants request the following waivers: (1) Section VII – Application fees; (2) Section VIII.B.3 – plan scale should not be more than 1-inch = 80-feet; (3) Section VIII.B.15 – Contour boundaries at two-foot intervals and (4) Section VIII.B.16 – Natural features, 100-years flood elevation contour, rock ledges, tree lines, etc. Property owners: V. Peter Corbett, Jr. and Suzanne Corbett; Property location: 134 Walnut Ave.; M/L 015-017 and 019-003; zoning district R-2.

In attendance for this application:

Mr. Phil Wilson, representing Mr. and Mrs. Corbett (authorization letter on file with the Town)

Mr. Ernest Cote, Surveyor

The Board took action on the waiver requests.

Mr. Wilson explained that North Hampton Forever will pay the fees associated with the Corbett application as well as the LCHIP fee if the plan is to be approved and recorded. He requested the Board grant the waiver to Subdivision Regulation Section VII – Application fees.

Ms. Kohl opened the Public Hearing at 7:23pm.

Ms. Kohl closed the Public Hearing at 7:24 without public comment.

Dr. Arena moved and Mr. Coutu seconded the motion to approve the waiver request from section VII – Application fees.

184 **The vote was unanimous in favor of the motion (6-0).**
185
186 Mr. Wilson explained that the Corbett's request from Subdivision Regulation VIII.B.3 –plan scale. He
187 said that if the Surveyor, Mr. Cote, were to increase the scale it would require two plan sheets and two
188 Mylars to be recorded.
189
190 Ms. Kohl commented that Mr. Groth recommends approval both waiver requests; Section VII –
191 Application fees and VIII.B.3 – plan scale.
192
193 Ms. Kohl opened the Public Hearing at 7:25pm.
194 Ms. Kohl closed the Public Hearing at 7:26pm without public comment.
195
196 **Ms. Pohl moved and Mr. Coutu seconded the motion to approve the waiver request from Section**
197 **VIII.B.3 – plan scale.**
198 **The vote was unanimous in favor of the motion (6-0).**
199
200 The Applicants request a waiver from Subdivision Regulation Section VIII.B.15 – depicting contours on
201 the plan. There are no changes in topography being proposed.
202
203 Mr. Groth reported that performing an entire site survey for the purposes of this application is not
204 necessary and that the waiver request is appropriate.
205
206 Ms. Kohl opened the Public Hearing at 7:27pm.
207 Ms. Kohl closed the Public Hearing at 7:28pm without public comment.
208
209 **Dr. Arena moved and Ms. Pohl seconded the motion to approve the waiver request from Section**
210 **VIII.B.15 – contours.**
211 **The vote was unanimous in favor of the motion (6-0).**
212
213 The Applicants request for a waiver from Subdivision Regulation Section VIII.B.16 – Natural Resources.
214 Mr. Wilson explained that this section is not relevant to this application because it is a lot line
215 adjustment resulting in one house lot; not a subdivision.
216
217 Mr. Groth reported that if a 100-year flood elevation does occur on either lot pertaining to this
218 application, it should be indicated. He voiced concerns that it would affect the access.
219
220 Mr. Wilson said there are no plans currently to build anything on the property so it is unnecessary to
221 include the 100-year flood elevation on the plan.
222
223 Mr. Wilson explained the lot line relocation plan to the Board. He said that if there is any flooding it
224 would not affect the new access.
225
226 Mr. Groth said that he recommended approval of the waiver.
227
228 Ms. Kohl opened the Public Hearing at 7:35pm.
229

Carl Walker, 62 Winnicut Road – said that he has a wood lot near the Corbett’s and asked for more of an explanation on potential flooding. He said that it is a very wet and very low area, which makes it difficult at times to access his wood lot after heavy rains.

Mr. Wilson explained that the lot Mr. Walker is talking about is Map 19 Lot 2; it is a separate lot that is entirely wet. He said that the proposal will not attribute or take away from any potential flooding and is not sure what flooding has to do with the relocation of the lot lines. He said that there is no plan to do any alteration of the terrain.

Rick Stanton, 108 Walnut Avenue – questioned whether or not there would be a public hearing on the Corbett application itself.

Mr. Wilson said that pursuant to Section V.F.3 of the Subdivision Regulations a public hearing is not required for minor lot line adjustments or boundary agreements, however, notice to abutters shall be given prior to approval and any abutter may be heard on the application upon request. He said it was the pleasure of the Board whether or not to hold a public hearing.

Mr. Stanton said that he had no objection to the waiver request, and supports the lot line adjustment, but has objections to the process. He said that the Corbett’s house and barn are less than 35-feet from the front setback in the R-2 zoning district and are both situated within the 100-foot wetland buffer. He said that the structures are non conforming per Zoning Ordinance 501.2 and cannot be changed. He said in previous similar cases the applicant was required by the Planning Board to apply for a variance from the ZBA. He suggested that the Planning Board either request the Corbett’s to seek relief from the ZBA or change the ordinance so that RSA 674:19 applies, and the applicant would not need to seek relief from the ZBA in situations like this. He cited a few of the cases from the past: Prowash, ZBA case #2006:16; Peter Horne, ZBA case 2008:12 and V. Peter Corbett, Jr. ZBA case #2009:03.

Mr. Wilson said that the cases Mr. Stanton cited were not comparable. He said the Corbett case 2009:03 was withdrawn, and the Horne case was adding an additional lot.

Ms. Kohl said that she was not sure what Mr. Stanton’s comments had to do with the waiver request.

Mr. McManus asked Mr. Stanton if he supported the granting of the waiver request and Mr. Stanton answered that he was.

Ms. Kohl closed the Public Hearing on the waiver request from Section VIII.B.16 – Natural resources, 100-year flood elevation contour at 8:00pm.

Mr. Coutu moved and Dr. Arena seconded the motion to approve the waiver request from Section VIII.B.16.

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

Mr. McManus moved and Ms. Pohl seconded the motion to take jurisdiction of the Corbett Application, case #10:17.

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

Mr. McManus moved and Mr. Coutu seconded the motion to approve the lot line adjustment for case #10:17 – V. Peter Corbett, Jr. with the following conditions:

Disclaimer – these minutes are prepared by the Recording Secretary within five (5) business days as required by NH RSA 91A:2,II. They will not be finalized until approved by majority vote of the Planning Board.

- 278 1. **Recordable Mylar – the applicants shall submit a recordable Mylar of the plan with required**
279 **signatures and seals affixed of all licensed professionals whose names appear on the plan.**
- 280 2. **Corrections on Recordable Mylar – on the recordable Mylar, applicant shall submit corrected**
281 **information about the Owners of Record and the Deed of Record – that is, the correct Owners**
282 **of Record are Vincent Peter Corbett, Jr. and Suzanne H. Corbett and the correct deed**
283 **reference is to Book 5045, Page 2416.**
- 284 3. **Certificate of Monumentation – the applicants shall provide the Board with a Certificate of**
285 **Monumentation, stamped and signed by a NH LLS certifying that all monuments depicted on**
286 **the plan have been properly set.**

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

288

289 **#10:18 – Craig Salomon, 100 Woodland Road, North Hampton.** The Applicant requests a waiver to
290 Subdivision Regulation VI.E.2 – conditional approval 1-year expiration regulation, and a request
291 that the Board hold a public hearing on an extension request at the November 4, 2010 meeting to his
292 approved subdivision. Property owner: Craig Salomon; property location: 100 Woodland Road; M/L
293 006-099; zoning district: R-2.

294

295 In attendance for this application:

296 Craig Salomon, owner/applicant

297 Attorney Peter Loughlin

298

299 Mr. Wilson and Dr. Arena recused themselves.

300 Mr. McManus remained seated for Mr. Wilson.

301 Ms. Kohl remained as Chair.

302 Mr. Kroner arrived at 8:00pm and joined the Board.

303

304 Mr. Loughlin explained that his client, Mr. Salomon, made a mistake, and did not request an extension
305 for his conditionally approved subdivision prior to the expiration date of July 16, 2010, and is now
306 requesting that the Board waive the extension requirement so that he may proceed with the sale of his
307 subdivided lot.

308

309 Mr. Loughlin read from the subdivision regulations, Section XIII.B – Waivers. *The Board may waive*
310 *requirements of the foregoing Regulations that it determines, 1) are not requisite to the interest of public*
311 *health, safety, general welfare and 2) which do not contribute to the objectives of the regulations*
312 *because of special circumstances and conditions relating to a particular site plan.* Mr. Loughlin said that
313 there have been no zoning changes affecting this subdivision. He also informed the Board that the
314 abutters were notified of the waiver request.

315

316 Mr. Coutu asked if the Conditions of Approval had been satisfied by Mr. Salomon. Ms. Chase confirmed
317 the all of the Conditions of Approval have been met.

318

319 Mr. Groth commented that waivers are meant to be part of the decision and since the decision was
320 already made by the Board he questioned whether it was possible to add a waiver to that decision.

321

322 Mr. Loughlin said that they are not asking for approval again; they are asking that the waiver be granted
323 so that the approval already granted by the Board can be put into effect.

324 Ms. Kohl voiced concerns of setting a precedent if the Board grants the waiver.
325
326 Mr. Coutu said that expiry dates have importance, and the Board needs to determine whether the
327 missed date and expiry date are a substantive matter because setting a precedent could potentially be
328 problematic.
329
330 Mr. Kroner said that the Applicant has requested a waiver and it is appropriate to grant the waiver. Mr.
331 Coutu did not disagree with Mr. Kroner he just cautioned that it may be problematic in setting a
332 precedent.
333
334 Ms. Pohl said that it is not appropriate for the Board to take this type of extension “lightly”.
335
336 Ms. Kohl said that the Town’s Attorney said that the Board has to address the waiver request by either
337 approving it or denying it. She commented that she is not interested in engaging the Town in litigation
338 for an application that has already been approved.
339
340 Mr. Loughlin said that the Planning Board grants waivers on a monthly basis without worrying about
341 setting a precedent. He opined that it would not serve the public well if the Board decided to make Mr.
342 Salomon reapply for the subdivision.
343
344 Ms. Kohl said that they are not trying to “play games”; they are trying to protect the integrity of the
345 Zoning Ordinances.
346
347 Mr. Salomon explained that he wrote a letter to the Planning Board informing them that he would be
348 satisfying the conditions of approval for his two lot subdivision and requested that the Board sign the
349 Mylar and was later informed that he had let the expiration date lapse on his original approval. He
350 further explained that he did not consult with his Attorney and took it upon himself to apply for the
351 waiver. He said that he has a buyer for his lot and received an extension on the “closing” of the
352 property sale, which happens to expires tomorrow.
353
354 Ms. Kohl opened the Public Hearing at 8:51pm.
355
356 **Phil Wilson, 9 Runnymede Drive** – noted for the record that he animatedly opposed Mr. Salomon’s two-
357 lot subdivision application. Mr. Wilson suggested that the Board deny the waiver request and ratify the
358 Superior Court Order allowing Mr. Salomon to proceed with the sale of his property.
359
360 Mr. Groth said it was a unique situation, and that the piece that was missing before tonight was the
361 public hearing process.
362
363 Ms. Susan Costello stated that she was the potential buyer of Mr. Salomon’s lot and is hoping that the
364 situation would be resolved this evening so that they could proceed with the “closing” on the property.
365 She explained that she is currently renting a house in North Hampton and her lease expires on April 1,
366 2011, and is hoping to have her new house built by then.
367
368 Ms. Kohl said that the Board did approve the two-lot subdivision in July 2009 and have done nothing to
369 heed that process.
370

Mr. Maggiore said that he is hesitant to take Mr. Wilson's suggestion because he is not sure of the legality of it.

Don Gould, 21 Fern Road – said that he supported Mr. Salomon's application. He said that every case has different facts and every waiver request can be distinguished. He said that this case has a Court Order and the Board's Lawyer has advised them to grant the waiver request. He also commented that Mr. Salomon was relying on the Court Order and didn't think of applying for the extension. He commented that this process has been expensive for the Town as well as Mr. Salomon.

Ms. Kohl said that the existence of the Court Order does not exempt Mr. Salomon from the Zoning Ordinances.

Ms. Pohl agreed and said that the Board has an obligation to make a decision but it doesn't have to be done immediately just to dodge potential litigation. She said that there are two options, and the Board needs to consider the circumstances.

Mr. McManus didn't see how it would serve the Town by postponing the waiver request to another meeting.

Adriana Salomon, 100 Woodland Road - Mrs. Salomon said that she and her husband made a mistake and they both respect the Zoning Ordinances. She asked the Board to use common sense in dealing with their request.

Ms. Kohl closed the Public Hearing at 9:10pm.

Mr. Coutu said that the inclination is to grant the waiver or equivalent thereof. He said that he was under the impression that after discussing it with Town Counsel the Board was going to request that Mr. Salomon reapply for the two-lot subdivision, and the Board was going to communicate that to Mr. Salomon.

Mr. Maggiore agreed with Mr. Coutu, and was surprised to see the waiver request.

Ms. Kohl stated that the Board had agreed to invite Mr. Salomon to reapply for a subdivision and the Board would approve it as a formality. The Board further agreed that the Town's Attorney would write a letter to this affect to Mr. Salomon, however the waiver request was filed prior to this letter being written.

Mr. Kroner said that he perceived the advice from Counsel to be that the Board needs to come up with a solution and one of the solutions was to grant the waiver.

Ms. Kohl said that she had spoken with Town Counsel right before the meeting and he advised that it would cost too much to the Town to do anything but grant the waiver request based on the Court Order. She said that the Board does not have to follow Town Counsels advice; majority rules.

Mr. Coutu moved and Mr. Maggiore second the motion to grant the waiver as requested on the basis that the conditions that were required have been satisfied, and further that no conditional changes to those conditions arise, and the extension for the conditional approval shall expire on December 31, 2010.

The vote passed in favor of the motion (6 in favor, 0 opposed and 1 abstention). Ms. Kohl abstained.

**At 9:20pm Mr. Maggiore moved and Ms. Pohl seconded the motion to take a 5 minute recess.
The Board reconvened at 9:25pm.**

Mr. Wilson rejoined the Board and resumed the Chair.

Dr. Arena was reseated.

Mr. McManus stepped down.

Mr. Kroner recused himself.

Mr. Wilson seated Mr. Coutu for Mr. Kroner.

**Dr. Arena moved and Mr. Coutu seconded the motion to suspend the rule of procedure and extend the meeting for 22 minutes for each of the next two applications.
The vote was unanimous in favor of the motion (6-0).**

#10:19 – Philbrick’s Fresh Market North Hampton, LLC, 775 Lafayette Road, Portsmouth, NH 03801.

Conditional Use Sign Application. The Applicant requests the following waivers: (1) Article V, Section 506.5.G – to allow channel letters “fresh market” to be internally illuminated, (2) Article V, Section 506.6.k – wall sign to allow 3 wall signs totaling approximately 447.06 square feet. Property owner: E. Stevens Inc.; Property location: 69 Lafayette Road; M/L 007-065-000; zoning district: I-B/R.

In attendance for this application:

Gary Stevens, property owner

Phil Philbrick & Vicki Turner, Applicants and owners of Fresh Market

Mr. Philbrick explained his request for the waiver from Article V, Section 506.5.G. He said that the new location of the store is quite a distance from Route 1. He said that he would like the channel letters internally lit with neon lights and green in color. He said that the lighting is not too bright. He submitted a rendition of the proposed sign.

Mr. Philbrick addressed the Board’s questions:

- The lights will be white LED bulbs
- The lights will not be seen through the channel letters
- The hours of operation will be 8:00am to 7:00pm in the winter and until 8:00pm in the summer
- The same lighting is being used on their sign at their Portsmouth store.

Mr. Wilson opened the Public Hearing at 9:42 for the waiver request to Article V, Section 506.5.G.

Lisa Wilson, 9 Runnymede Drive – requested that the Planning Board deny the waiver request for the internally lit sign. She said that the Rite Aid sign across the street was approved prior to the new sign ordinance. She suggested that the owner replaced the electronic reader board sign with more of a “village” type sign.

Mr. Wilson closed the Public Hearing at 9:45pm.

Ms. Kohl said that she is not in favor of the internally lighted sign and said that the “good” name of the business will do well without an internally lighted sign.

Ms. Pohl agreed with Ms. Kohl and said that the location is adequate for visibility needs.

Dr. Arena agreed that they will do well there just by their good reputation.

Mr. Groth commented that the Board recently denied an internally lighted sign for AutoZone.

Ms. Kohl moved and Ms. Pohl seconded the motion to deny the waiver request from Article V, Section 506.5.G – Internally lighted signs.

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

Ms. Kohl moved and Ms. Pohl seconded the motion to continue case #10:19 – Philbrick’s Fresh Market to the December 2, 2010 meeting.

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

Mr. Kroner was reseated.

Mr. Coutu left the meeting.

#10:20 – First Student (Michael Cline), 600 Vine St., Suite 1400, Cincinnati, OH 45202. The Applicant requests a change of use from a car dealership to a bus depot/office/maintenance facility. Property owner: Brian Tebault c/o Joseph Equipment Co., 300 Gay St., Manchester, NH 03103; property location: 25 Lafayette Road; M/L 003-087; zoning district I-B/R.

In attendance for this application:

Attorney Peter Saari, Casassa & Ryan

Michael Berounsky, Representative of First Student

Mr. Saari said that the change of use proposed will not be much of a difference because it’s going from “cars” to “buses”; the distinction is that the buses come and go from the lot twice a day. He said that there is no night activity and would be less of an impact on the neighborhood.

Mr. Kroner suggested the Board take a look at the second paragraph of Section 405.3 under prohibited uses into consideration concerning this application. *Large scale distribution and logistics facilities, including but not limited to facilities like those operated by trucking firms, by package and mail carriers such as FedEx and United Parcel service by major retail chains such as Wal-Mart, K Mart, and Sears and by automotive manufacturers for parts distribution.*

Dr. Arena commented that the proposal is not a new venture; they are literally moving right down the street from their current location.

Mr. Wilson said that he and Mr. Gould drafted this section of the Ordinance and had two businesses in mind when doing so; Abeniqui Carriers and First Student, but did not end up listing them into the Ordinance. He said that they were considering the impact of traffic with larger vehicles rather than smaller vehicles, especially coming and going from Cedar Road.

Mr. Saari said that there are 50 buses and they come and go twice a day at the same times of day.

Mr. Wilson said that the Board needs to determine if Section 405.3 applies the application, and if it does the application would need a variance from that ordinance.

515 Ms. Pohl said that the ordinance does apply because even though it doesn't actually state buses, it
516 states *including but not limited to*.
517
518 Mr. Groth said that he does not see that it would be a prohibited use; but does not see that it is a
519 permitted use either.
520 Dr. Arena said that the Town can't afford to lose the Business because of the tax revenue.
521
522 **Ms. Pohl moved and Mr. Maggiore seconded the motion that Large scale distribution and logistics**
523 **facilities under Section 405.3 applies to this application, therefore a variance is required.**
524 **Mr. Coutu made a friendly amendment to the motion to include and/or it is not a permitted use**
525 **therefore would require a variance.**
526 **The vote passed in favor of the motion (6-1-0). Ms. Kohl opposed.**
527
528 **Mr. Kroner moved and Ms. Pohl seconded the motion to take jurisdiction and preclude any conditions**
529 **if the Board were to approve it.**
530
531 Ms. Kohl asked if it would be appropriate of the Board to ask the applicant to provide a traffic study.
532 Mr. Wilson said that the Board could ask them to provide one at the next hearing or ask them to provide
533 traffic counts of the "in" and "out" trips of the buses during a specific time period of the day.
534
535 **The vote was unanimous in favor of the motion to take jurisdiction of the application (7-0).**
536
537 **Dr. Arena moved and Ms. Kohl seconded the motion to continue case #10:20 – First Student to the**
538 **December 2, 2010 meeting.**
539 **The vote was unanimous in favor of the motion (7-0).**
540
541 **A motion was made and seconded to adjourn the meeting at 10:22pm.**
542 **The vote was unanimous in favor of the motion (7-0).**
543
544 The Board signed the Jeppesen lot line adjustment Mylar; the conditions were satisfied.
545
546 Respectfully submitted,
547
548 Wendy V. Chase
549 Recording Secretary
550
551 Approved November 18, 2010