



Meeting Minutes
North Hampton Planning Board Work Session
Thursday, December 16, 2010 at 6:30pm
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, Chair; Shep Kroner, Joseph Arena, Laurel Pohl, and Jim Maggiore, Selectmen’s Representative.

Members absent: Barbara Kohl and Mike Hornsby

Alternates present: Michael Coutu

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

Mr. Wilson convened the meeting at 6:39pm, and noted for the record that the meeting was properly posted and that there was a quorum.

Old Business

#10:19 – Philbrick’s Fresh Market North Hampton, LLC, 775 Lafayette Road, Portsmouth, NH 03801. Conditional Use Sign Application. The Applicant requests the following waiver: 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. This case is continued from the December 2, 2010 Meeting.

In attendance for this application:
Attorney Bernard Pelech, Wholey & Pelech Law Offices
Phil Philbrick, Owner of Fresh Market Grocery

Mr. Kroner recused himself.

Mr. Pelech offered a new proposal of the sign that incorporated all the Board’s suggestions from the December 2, 2010 meeting.

- Letters reduced to 6”
- Sides of letters white, not internally illuminated
- Outrigger downward lighting and outrigger upward lighting that is “dark sky” friendly

Mr. Pelech explained that “outrigger” lighting is a solid band of lights giving the same effect as “goose neck” lighting.

45 Dr. Arena commented that the sign would be more pleasing to the eye if it were raised slightly higher.

46

47 Mr. Coutu said that he did not see the clear benefit of moving the sign up, and that the Applicant
48 accomplished the goals set out by the Board.

49

50 Mr. Groth concurred with Mr. Coutu and said that the Applicant responded appropriately to the Board's
51 comments from the last meeting.

52

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

54

55 **Lisa Wilson, 9 Runnymede Drive** – said that she would be concerned with the letters of “Fresh Market”
56 being raised higher; she said it is well positioned, as it appears on the newly submitted plan.

57

58 **Cindy Jenkins, Exeter Road** – made a comment that the Town is moving in a positive direction by
59 prohibiting internally lighted signs.

60

61 Mr. Wilson closed the Public Hearing at 7:47pm.

62

63 **Mr. Coutu moved and Dr. Arena seconded the motion to grant the waiver request from Article V,**
64 **Section 506.6.k – wall sign size, and allow the signs based on the drawing submitted to the Board on**
65 **December 16, 2010 by Attorney Pelech.**

66 **The vote was unanimous in favor of the motion (5-0).**

67

68 Mr. Groth presented his draft of proposed amendments to Section VI.E.2. of the Subdivision and Site
69 Plan Regulations to the Board.

70

71 Mr. Wilson suggested adding the provision the Board discussed at the last meeting that would require
72 the applicant to be present when requesting an extension to a conditional use approval. He suggested
73 adding the following at the end of proposed Section b: *The Applicant or Designee shall appear at the*
74 *meeting at which the Planning Board considers the request for an extension.*

75

76 Mr. Coutu suggested they rearrange the wording in proposed Section b, by moving “prior to the
77 expiration date” to the first sentence in that section after “sufficient time”.

78

79 The Board discussed Section e – *Only one (1) one-year extension may be granted.* The Board discussed
80 how it could be interpreted two different ways.

81

82 The Board agreed that they are able to waive their requirements, so if there is a case that has unique
83 circumstances and requires more than one extension they would be within their rights to waive the one-
84 year requirement and grant additional extensions.

85

86 **Mr. Kroner moved and Mr. Maggiore seconded the motion to move the proposed amendment to**
87 **Section VI.E.2 of the Site Plan and Subdivision Regulations to the first Public Hearing on January 20,**
88 **2011 at 6:30pm.**

89 **The vote was unanimous in favor of the motion (5-0).**

90

91 The Board was in receipt of a letter from Attorney Peter Loughlin regarding Thera Research's
92 Distributive Antenna System (DAS). They were before the Board in November and received an extension
93 on their approved Conditional Use Permit and were asked to come back before the Board with an
94 update on DAS. Attorney Loughlin explained in his letter to the Board that they were unable to attend
95 tonight's meeting. The Board decided to wait until next year (November 2011) when their one-year
96 extension expires to update the Board on DAS.

97

98 **Committee Updates**

99

100 **Long Range Planning Committee** – Mr. Kroner reported that it takes approximately (1) one hour per (5)
101 five surveys when entering the data into the computer. He plans to present the data results along with
102 a PowerPoint presentation at the January 20, 2011 Work Session. Mr. Kroner said that his stepfather
103 has been helping him with the data entry and publicly thanked him for his efforts.

104

105 **CIP** – Ms. Pohl reported that the CIP Committee met on Tuesday (December 14th) and completed the
106 tours of the facilities. She said that they did not tour the Highway Department because it is new. She
107 said that they will start the analysis phase and the drafting of the proposal for the Select Board and the
108 Budget Committee. She said that the School will be providing the Committee with a capital item.

109

110 Mr. Maggiore said that he is going to provide, to the CIP Committee, a ten-year perspective on spending
111 for each Department.

112

113 Mr. Kroner asked if the "issues" of receiving the data in a timely manner were addressed.

114

115 Ms. Pohl said they met in Non-public Session with the Select Board to address the issue but it was not
116 addressed at that time.

117

118 Mr. Maggiore said that in the Non-public Session the Town Administrator said that he provided all
119 available information that had been requested from the CIP Committee. He said that the Town
120 Administrator replied in an E-mail that some of the requested material was either not available or does
121 not exist.

122

123 Ms. Pohl said that data submission dates were established and agreed upon by the Committee and the
124 Select Board, and that the data to be submitted to the Committee would be due in September. Mr.
125 Maggiore said that the Town Administrator did explain that the tax rate is not established until October.
126 Mr. Maggiore said that he is not 100% sure if all of the material request by the Committee can be
127 provided by the Town Administrator in the requested time-frame, or whether it can be provided to the
128 Committee at all.

129

130 Ms. Pohl said that at the Select Board's meeting she commented that she was not sure what could be
131 provided to the CIP Committee by the September deadline, but said that she and the Town
132 Administrator could work together to make arrangements; and that's where the failure was, she said
133 she was ignored.

134

135 Mr. Wilson said that one of the advantages of the new arrangement of the CIP Committee is that it is
136 not the Planning Board's responsibility anymore. He said that the CIP Committee has to decide, along
137 with the Town Administrator, on how they want to define what they want from the Department Heads

138 to get the job done. Mr. Wilson further stated that the Planning Board does not have the authority over
139 the people in Town Administration to develop or deliver these items.

140

141 Dr. Arena asked Ms. Pohl if she has witnessed improvements with the new CIP Committee and she
142 replied, "No". She said that there was initial cooperation from the Select Board, but it curtailed in the
143 end.

144

145 **Agriculture Ad hoc Committee** – Ms. Kohl, Chair of the Ad hoc Committee and Ms. Wilson, Vice Chair of
146 the Committee were not present. Members Phelps Fullerton and Cindy Jenkins were present. The
147 Board was in receipt of the 4th draft of the proposed Agricultural Zoning Ordinance from the Ad hoc
148 Committee. They were before the Board to take suggestions/comments on the proposed Ordinance.

149

150 Mr. Wilson referred to the "Purpose" section of the proposed ordinance and said the final ordinance
151 would not include a reference to amending Section 508 because it will be amended when adopted by
152 the Town.

153

154 The Committee didn't know if they should include Section 302.3 in the paragraph.

155

156 Mr. Groth also suggested that the Committee define "agriculture" exactly how they want it defined.

157

158 Mr. Wilson said that the issue is whether to have the definition for "agriculture" under Section 302, and
159 if so, how should it be modified. He said they can include livestock and poultry in the definition and
160 suggested they change the word "and" and replace it with the word "or" under the definition of
161 *Agricultural operation, III.A.*

162

163 Mr. Wilson commented that there would be two separate changes; one change to Section 302.3 under
164 the definitions, and a change to Section 508, the actual ordinance.

165

166 The Board commended the Agricultural Ad hoc Committee on the tremendous job they have done so far
167 with the proposed ordinance.

168

169 Mr. Wilson said that because Ms. Kohl and Mr. Hornsby (both members of the ad hoc committee) were
170 not present it would not be a good use of the Board's time to go through each section of the proposed
171 ordinance and prepare it for a Public Hearing at this meeting. He said that the purpose of the discussion
172 should be to get an overview from the Committee Member's present, and get a general sense from the
173 Board whether or not they are going in the right direction with the proposed ordinance.

174

175 Mr. Fullerton said that a large part of the ordinance is directed by the State; he referred to RSA 21:34.

176

177 Mr. Groth asked for the logic behind the 4-acre requirement and said that the Committee should
178 consider acres of "contiguous upland".

179

180 Mr. Fullerton provided a summary of the proposed Agriculture Ordinance listing the goals:

181

- Promote and encourage agriculture activities
- Permit unrestricted agricultural operations conducted on lots consisting of 4 or more acres
- Permit animal husbandry operations on lots consisting of less than 4 acres; if the Planning Board approves a conditional use permit for that purpose.

182

183

184

- 185 • Permit unrestricted plan cultivation operations on lots less than 4 acres provide that operations
186 comply with New Hampshire Department of Agriculture and Food & Markets
- 187 • Require a conditional use permit for the harboring of roosters on all properties of less than 4
188 acres
- 189 • Regulate the square footage and type of temporary farm stands, and to ensure that the siting of
190 such stands complies with the NH DOT regulations. Mr. Fullerton spoke with Doug Deporter
191 from Division Six in Durham, and his primary concerns were locations of farm stands and people
192 backing their vehicles out into the roadway. He said that he has no problem with people pulling
193 off to the side of the road. He is also concerned with how far off the road to situate the farm
194 stand so not to impede the sight line of oncoming traffic.
- 195 • Regulate the siting of accessory structures, fencing, farm stand signage, and items for sale at a
196 farm stand
- 197 • Permit on lots of any size up to 4 or fewer animals and 12 poultry, with the exception of
198 roosters, which are not raised or kept for commercial purposes
- 199

200 Mr. Coutu pointed out that there seems to be controversy between paragraphs 1, 2, and 3 under
201 Section V.B. Under the definitions “Agricultural operations” it includes the cultivation of plants and
202 raising of animals or poultry; paragraph (1) states that “agricultural operations” may be conducted on
203 lots consisting of **4 acres** or more; paragraphs (2) “plant cultivation” may be conducted on lots consisting
204 of **less than 4 acres**; paragraph (3) “animal husbandry” may be conducted on less than 4 acres but will
205 require a conditional use permit from the Planning Board.

206
207 Mr. Fullerton said the Committee felt that the agricultural operations that included “plants only” didn’t
208 raise the “red flags” of those who had ten or twelve cows.

209
210 Mr. Groth said that there are three different terms; agricultural operation, plant cultivation and, animal
211 husbandry.

212
213 Mr. Wilson suggested that the first paragraph under B - Lot Size should state agricultural operations
214 involving only plant cultivation may be conducted anywhere in the town without constriction other than
215 that the operator is expected to abide by Best Management Practices. He said the next paragraph
216 should be, animal operations, which include animal husbandry, are restricted as follows.....

217
218 Dr. Arena said that the Committee has done a great job with the proposed ordinance. He did comment
219 that the way the proposed ordinance is drafted is for commercial purposes only, and most of the
220 agriculture in Town is not for commercial purposes.

221
222 Mr. Wilson said that they are very close to a final product. He suggested the Committee focus on:

- 223 • How to introduce the lot size restriction that pares is down to the “nub” of the matter
- 224 • The first item in the ordinance should be what is allowed/permitted
- 225 • List what the requirements are if they want to conduct animal husbandry operations on less
226 than 4 acres

227
228 The Committee did not build in any special relief from the standard restrictions for farm stands or
229 buildings into the proposed ordinance.

230

231 Mr. Kroner referred to Section V.C. *Accessory Structures* where it states that the structure is to be
232 erected in the rear of the property unless a conditional use permit is approved by the Planning Board to
233 allow siting in an alternate location. He said that the Planning Board would not be able to allow a
234 structure outside of the setback requirements; that would need relief from the ZBA by granting a
235 variance.

236

237 Mr. Groth referred to Section E.6. *Items for sale at a farm stand shall be agricultural products grown,*
238 *harvested, raised or produced by the farm owner.* He suggested that they change that section to make
239 allowances or give flexibility to encourage neighbors to combine what they produce to be sold at one
240 “farm stand” location.

241

242 Mr. Fullerton explained that the ordinance does not have specifics on animal density; it states that
243 animal density for lots of less than 4 acres shall be determined by “Best Management Practices” and
244 “Guidelines for Space and Housing of Farm Animals”. He said that there is a table that has suggested
245 space and housing guidelines for a variety of animals.

246

247 Mr. Wilson asked Mr. Groth to do a document search on the Zoning Ordinance to see if the word
248 “agriculture” appears, and if it isn’t anywhere else in the ordinance than the definition proposed by the
249 Committee would suffice.

250

251 Mr. Wilson suggested the Agriculture Ad hoc Committee takes the following suggestions into
252 consideration:

253

- 254 • Rearrange 5b to narrow things down
- 255 • Need to reconsider 5.E.6 and figure a way to allow sales by including such language as “if grown
256 and raised in North Hampton, you can sell it”
- 257 • Lot size in north Hampton acres of 4 or below...should this be a contiguous upland issue or
258 purely lot size?

259

260 Ms. Jenkins said that there is a provision in the ordinance under public health, safety and welfare that
261 requires the operator to adhere to regulations and comply with Best Management Practices even if they
262 have a 20-acre lot with only 1-acre of contiguous uplands.

263

264 Mr. Fullerton said if the Board comes up with any more suggestions to please forward them onto the
265 Committee.

266

267 Mr. Wilson reiterated that the proposed ordinance is a great start and the Committee is very close to an
268 end product.

269

270 **Code of Ethics** –Mr. Maggiore reported that the Committee is moving along on the Code of Ethics. He
271 said that they are very close to the finished product. He said that at the last meeting the Committee
272 dealt with the placement of the language and the placement of the definitions. Mr. Maggiore said that
273 the First Amendment was a tremendous issue for the Committee and they gave a lot of thought and a
274 lot of weight to it. Mr. Wilson said that they dealt with the issues of the “old” Code of Ethics effectively.

275

276 **IV. Other Business**

277

- 278 **1. Ratify the Chair’s decision** to postpone the regular Planning Board Meeting scheduled for
279 January 6, 2011 to January 20, 2011 preceding the Planning Board’s Work Session – Ms. Chase
280 informed the Board that there will be a few applications before the Board for the January
281 Meeting. It was determined that it made better sense not to combine the regular meeting and
282 work session meeting. Mr. Wilson withdrew his decision to postpone the meeting. The Board
283 decided to change their regular meeting from January 6, 2011 to January 13, 2011 at 6:30pm.
284 **2. Sign Corbett Mylar** – the Board Signed the Corbett Mylar
285 **3. Review FY12 PB budget** – the Board reviewed the proposed budget for the Planning Board.
286 **4. Minutes**
287 a. September 16, 2010
288 b. November 18, 2010
289 c. December 2, 2010
290

291 Ms. Pohl did not have her changes to the September 16th meeting minutes with her. **Mr. Maggiore**
292 **moved and Mr. Kroner seconded the motion to table the minutes of September 16, 2010,**
293 **November 18, 2010 and December 2, 2010 to the January 20, 2011 Work Session.**
294 **The vote was unanimous in favor of the motion (5-0).**
295

296 **5. Any other business to come before the Board** - Ms. Chase informed the Board that she received
297 a call from Attorney Saari regarding First Student’s conditions of approval. He said the ground is
298 frozen and they are unable to plant the (30) thirty Green Emerald Arborvitae trees as required. It
299 was determined by the Board that a Landscape Architect submit an estimate to plant the trees and
300 set up a surety account with the Town in that amount. The Applicant may request a “drawdown” of
301 no more than 75% of the total surety once the trees are planted and are inspected and approved by
302 the Building Inspector. The Town will hold the remaining 25% for two growing seasons.
303

304 **A motion was made and seconded to adjourn the meeting at 8:38pm with all in favor of the motion**
305 **(5-0).**

306 Respectfully submitted,

307 Wendy V. Chase

308 Recording Secretary
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