



**Meeting Minutes
North Hampton Planning Board
Tuesday, November 1, 2011 at 6:30pm
Town Hall**

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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: Barbara Kohl, Chair; Shep Kroner, Vice Chair, Joseph Arena, Laurel Pohl, Tim Harned, and Phil Wilson, Selectmen's Representative.

Members absent: Mike Hornsby

Alternates present: Mike Coutu

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

Ms. Kohl convened the Meeting at 6:30pm, and noted that the Agenda was properly posted, and that there was a quorum.

Ms. Kohl seated Mr. Coutu for Mr. Hornsby, and noted that this meeting is Mr. Coutu's last, because he is moving out of Town.

I. Unfinished Business

1. #11:13 – Shane Smith, 14401 Cervantes Avenue, Darnestown, MD 20874. The Applicant proposes a Lot Line Adjustment that will maintain three (3) existing lots of record while creating three (3) conforming lots. Property owner: Shane Smith, 14401 Cervantes Avenue, Darnestown, MD 20874; Property location: Woodland Road, North Hampton; M/L 006-133-007, 006-141-000 and 006-142-000; zoning district: R-2. This case is continued from the October 4, 2011 Meeting.

In attendance for this application:

Wayne Morrill, P.E., Jones and Beach Engineering
Michael Bouffard, LLS, Jones and Beach Engineering

Mr. Coutu recused himself because he is an abutter to the subject property.

Mr. Wilson recused himself because of his prior involvement, and opposition to, Mr. Salomon's 2-lot Subdivision Application.

Mr. Morrill gave a brief synopsis of the proposal. He explained that the first lot is the existing Shane Smith residence, the second lot has sufficient frontage, but not enough acreage, and the third lot has enough acreage, but not enough frontage. He said that the proposal is to reposition

47 the lot lines making all three lots conforming by meeting the minimum frontage and acreage
48 requirements.

49
50 Mr. Morrill referred to the plan sheet that showed the site plan and topography and described
51 changes made to the proposal as a result of the suggestions/recommendations made at last
52 month's meeting.

- 53 • The revised plan shows the ledge outcrop
- 54 • Test pits (witnessed by RCCD, Mike Cuomo) noted on the plan
- 55 • Moved the well to center of the lot to avoid overlapping of the well radius (the well radius
56 easement needs to remain on the north side of the lot)
- 57 • The north lot will utilize Pond Path for its driveway and the middle residence will have a
58 driveway off of Woodland Road
- 59 • Tree clearing plan is identified on the plan
- 60 • All season site distances on each of the proposed driveways noted on the plan
- 61 • Monuments were updated to conform to the Subdivision Regulations using granite
62 bounds on the property corners along the roadway and along the property line every
63 200-feet
- 64 • Identified the wetland area
- 65 • Limited tree cutting plan is noted on the plan
- 66 • John Weigold, an abutter to the property, that was not initially notified, was properly
67 notified.
- 68 • The ledge is located on the back side of the two lots; the north lot has sand 72" down
69 and the middle lot has boulders, but no ledge where the test pits were dug.
- 70 • The rainwater runoff from the roofs of the proposed buildings will go into a leaching pipe
71 that will direct it back into the ground to recharge.
- 72 • Shane Smith submitted a voluntary lot merger to the Town; the lots will be merged then
73 subdivided.
- 74 • Building envelopes were identified on the plan
- 75 • Identified soils as Hydric B soils
- 76 • Kari Schmitz question on the "land swap" regarding Mr. Smith's property; they did
77 research and there was a lot line change during the Boulders Subdivision that does not
78 affect Mr. Smith's lot.
- 79 • Notified Stephen Costello as an Abutter to Mr. Smith's property.
- 80 • The drainage from the lots drain along the north side of Mr. Smith's lot to the large
81 wetlands then wraps around the large ledge area and then up around towards Woodland
82 Road.

83
84 There were questions in regards to "Rangeways" and rights to "Pond Path" at the last meeting.
85 Licensed Surveyor, Michael Bouffard addressed those issues:

86
87 Mr. Bouffard submitted a historical tax map and an aerial overview of the current tax map; the
88 historical tax map is recorded at the Registry of Deeds.

89
90 Pond Path – Most of Pond path was merged into the Bradley subdivision; there is a small
91 portion that still exists and is on Mr. Smith's property. Mr. Bouffard said he wasn't a Lawyer and
92 couldn't speak on the legalities of who has rights, but during his research he didn't find any
93 documents that granted public rights for Pond Path. There were deeds that referenced parcels
94 having rights-of-way to Pond Path, but a good majority of those parcels have become Bradley

95 Lane. They would like to use the existing portion of Pond Path as a driveway to lot #3. There is
96 a woods trail still in existence that runs through the property and ends at Tax Map & Lot
97 11-6-27. He said that, in his opinion, the path, or the private rights, don't exist anymore.
98

99 Rangeway – they are ancient roadways and Mr. Bouffard said that when the Bradley and
100 Boulder subdivisions were approved and constructed no one bothered to depict the “Rangeway”
101 on the plans. The Client didn't favor Mr. Bouffard depicting it on the plan either, but the two lots
102 describe that they are “bounded on the South by a “Rangeway””. He hired Jerry Thayer to do
103 research and he traced it back to 1657; it is in the 2nd and 3rd “Rangeway” of the “Great Neck
104 Woods”. He could not determine the width of it or if it was ever constructed or utilized.
105

106 Dr. Arena asked who owned the “Rangeway”. Mr. Bouffard said that they have been dealt with
107 in the Supreme Court on a case by case basis.
108

109 Ms. Kohl commented on the concerns the abutters to the south of the proposal voiced at the last
110 meeting regarding excess water draining onto their properties.
111

112 Mr. Morrill referred to Sheet A-3 and explained the existing flow of runoff water. He said that
113 there will be no impact of the wetlands as a result of this proposal. Mr. Morrill explained that the
114 drainage analysis on the water shed showed a .4 cfs increase on a 100-year storm event; that
115 amount would infiltrate into the ground and recharge the ground water in that area. He said that
116 they are leaving a lot of the trees to help “soak up” the water. He explained that the rain amount
117 and duration in a 100-year storm is 6.5” of rain in a 24-hour period. He said that the .4 cubic
118 feet per second increase would not leave the property; it would be infiltrated directly into the
119 ground.
120

121 Mr. Kroner said that the flow of water eventually flows behind the Salomon property into the
122 stream and then into Little River just before Woodland Road. He asked what mechanisms can
123 be put into place to assure that the trees will not be “clear cut”.
124

125 Mr. Morrill said that he could expand on the “no clear cutting” note and add it to the recordable
126 plat, and also include it in the property deeds.
127

128 **Dr. Arena moved and Ms. Pohl seconded the motion to take jurisdiction of the**
129 **Application for Case #11:13.**

130 **The vote was unanimous in favor of the motion (5-0).**
131

132 Ms. Pohl said that a “site walk” of the property may be appropriate.
133

134 Mr. Groth suggested contacting Town Counsel in regards to the “rights” to “Range Ways” and
135 “Pond Path”.
136

137 Mr. Kroner said that the plans show the contour of the land.
138

139 Ms. Kohl and Ms. Pohl said that they would like to see how the water drains off of the land.
140

141 **Ms. Pohl moved and Mr. Harned seconded the motion to conduct a site walk of Shane**
142 **Smith's properties.**

143 **The vote passed (3 in favor, 2 opposed and 0 abstentions). Mr. Kroner and Dr. Arena**
144 **opposed.**

145 Ms. Kohl opened the Public Hearing at 7:25pm.

146

147 **Michael Coutu, 21 Cotton Farm Lane** – commented that most of the lots in the Boulders
148 Subdivision are in wetlands. He said he owns six (6) acres and four (4) of them are wet. He
149 said that the water drains off of the proposed lots onto his property, and if any new development
150 adds water to his property, it gives him great concern. He commented on the terms of “lot line
151 adjustment” and “subdivision” and wondered what this proposal fell under. He also suggested
152 that the Board check the applicable law in New Hampshire for “ancient roads”.

153

154 Mr. Kroner read from the Town’s Subdivision Regulations under Section III Definitions. Lot Line
155 Adjustment – means the change of boundary lines between abutting parcels and does not result
156 in the creation of any new building lots.

157

158 Mr. Morrill said that Mr. Smith submitted a completed voluntary lot merger form and he changed
159 the title of the plan to “subdivision/Lot Line Adjustment Plat.

160

161 **Kari Schmitz, 101 Woodland Road** – said that she has heard testimony that the water drains
162 onto her property. She is glad the Board is conducting a “site walk” on the lots to see how the
163 water drains. She said that she is unclear on what to do if the new owners in the future cut down
164 trees causing a drainage issue on her lot.

165

166 **Mary Meyer, 111 Woodland Road** – made the following comments: the plan presented shows
167 that she has no frontage on Woodland Road, and she does. She asked if there were any laws
168 about how close driveways can be; she borders the third lot on the North. She also mentioned
169 that a lot of “dumping” took place on the third lot.

170

171 **Craig Salomon, 100 Woodland Road** – Mr. Salomon complimented Mr. Morrill and said that
172 he did a good job answering the questions raised by the Board and the Abutters. He said that
173 the main concern the neighbors have is “drainage” and he understood a drainage analysis was
174 done and assumed that the analysis went to the Town Engineer for review. He said the same
175 amount of water falls whether there is impervious surface or not, but clear cutting trees changes
176 the velocity of how fast the water drains, so even though the water leaving the site is the same it
177 will increase surface water on the lots that already have drainage issues. He said that the site
178 distance is added to the plan but it doesn’t show the engineering standards on distances that
179 are required for safety purposes. He is concerned that the water from the 7-acre sub catchment
180 finds its way back to Woodland Road and that a High Intensity Soils Survey, and another look at
181 the drainage, is important. He pointed out that if the ledge is in back of the lots it would be
182 appropriate to add a condition, if approved, that no blasting be allowed in connection to the
183 construction or the houses or septic systems. In regards to the “dumping” on lot 3, construction
184 will change the hydrology and he is concerned about what would be flowing downstream. He
185 suggested Jones and Beach do research on the “dump”. He also suggested that due to
186 possible impacts on wildlife; they should do an Environmental Impact and Wetlands Function
187 analysis. He spoke about Range Ways.

188

189 Range Way – they were controlled by proprietors of the town and when the towns became
190 incorporated the proprietors gave up their rights in favor of the town. If the Rangeway is owned
191 by the town, which is unresolved in New Hampshire, the people on either side of it can’t have

192 any legal right to it. Don Wilson, a Register Land Surveyor and renowned national expert
193 witness on boundary issues, believes that towns own Range Ways. If the Town of North
194 Hampton owns the Rangeway then there is an issue of whether or not Mr. Smith has enough
195 acreage after the lot line adjustment, and on the plan it appears that there are lots that are
196 landlocked where the Rangeway runs.

197

198 Pond Path – the Applicant has the burden of proof as to who has rights to Pond Path. He said if
199 it is a public way, it bisects the third lot and then there wouldn't be contiguous footage on that
200 lot. It is important to establish the status of Pond Path to determine whether there is sufficient
201 acreage for the proposed lots.

202

203 Mr. Salomon suggested that an independent land surveyor look at the second lot to see if there
204 is enough frontage to create two more lots. He also mentioned that, it's not under the Planning
205 Board's jurisdiction, but Mr. Smith's property is in the Boulders Subdivision, and the Boulders
206 Subdivision has protective covenants, and he would need permission from the Association to
207 subdivide the land.

208

209 **Monica Frasier, 19 Bradley Lane** – commented on the “dump” on lot #3 and said that she has
210 lived there since 1988 and has found dumped items such as glass, tin cans, old pots and pans
211 and mattress springs. She said she doesn't know what lies underneath that land, and doesn't
212 know how long ago it was used as a “dump”.

213

214 Mr. Kroner questioned what a HISS would accomplish; he said that this application is very
215 different from Mr. Salomon's application. Mr. Salomon's property has a significant amount of
216 wetlands, and the subject property has very little jurisdictional wetlands.

217

218 Mr. Salomon said that a HISS would give a better understanding of the drainage.

219

220 Dr. Arena said that he wants to know the status of Pond Path; Mr. Kroner and Mr. Harned
221 agreed.

222

223 Mr. Groth commented that the Boulder's Subdivision Association's protective covenants have
224 no relevance on this Board's decision on the subdivision application. Dr. Arena mentioned that
225 it's still a question worth exploring and Mr. Groth agreed.

226

227 Mr. Kroner questioned why the plan did not depict the frontage of Mary Meyer's lot.

228

229 Mr. Morrill said that they are not making a statement that Ms. Meyer doesn't have frontage; the
230 line shown on the plan is a “deed line”; not a boundary line.

231

232 **John Weigold, 20 Bradley Lane** asked the Board to consider ways to preserve the integrity of
233 the view of the wooded area for those who abut the proposed third lot.

234

235 Mr. Salomon commented that the burden of proof is on the Applicant to inform the Board what
236 the status of Pond Path is.

237

238 Mr. Kroner referred to the proposed lot #2; the strip of frontage that doesn't appear on the tax
239 map referred to as map 6, lot 142. He would like proof of when it was subdivided and whether
240 or not the strip of land was considered a “strip of land”. He said that it is clear in the Zoning

241 Ordinance that no future reserved strips of land can be set aside with the intent of using that
242 strip in a future subdivision. He would like the history on the strip of land.

243 Ms. Kohl closed the Public Hearing at 8:05pm.

244

245 Mr. Bouffard said that "ancient roads" are dealt with on a case by case basis. He said that Pond
246 Path is a private way and found no information that it was public. He doesn't know who owns
247 the "Rangeways". He said a survey is a Surveyor's professional opinion expressed on paper
248 and he stands by his plan.

249

250 Ms. Kohl went over some of the issues the Board would like answers to:

- 251 • Actual ownership of Pond Path and the Rangeways
- 252 • Find out if Rangeways were addressed in the Boulder's Subdivision
- 253 • Information about the "dump" on proposed lot #3
- 254 • Information on the "protective covenants" that were mentioned.

255

256 Mr. Kroner suggested the Board offer the Applicant guidance on what may be expected of them
257 as far as supplying a High Intensity Soils Survey (HISS) and requesting a copy of the drainage
258 analysis to send to the Town's Engineer for review.

259

260 Ms. Kohl suggested waiting until after the "Site Walk" before determining those things.

261

262 **Dr. Arena moved and Mr. Kroner seconded the motion to continue case #11:13 to the**
263 **December 6, 2011 meeting, which will be held in the Mary Herbert Conference Room.**
264 **The vote was unanimous in favor of the motion (5-0).**

265

266 The Board agreed to conduct the "Site Walk" on the Smith properties on Tuesday, November 8,
267 2011, at 3:00pm.

268

269 Mr. Wilson rejoined the Board.

270

271 Mr. Coutu rejoined the Board.

272

273 **II. New Business**

274 **1. #11:18 – Michael Collins, Precision Fitness Equipment, 18 Lafayette Road, North**
275 **Hampton, NH 03862.** The Applicant requests a waiver from Article V, Section 506.6.K – Wall
276 signs to allow a second wall sign on the building where only one sign is allowed. Property
277 location: 18 Lafayette Road, North Hampton; Property Owner: Peggy Chidester, Stoneleigh
278 Park Plaza Inc., 18 Lafayette Road, North Hampton, M/L 003-098-001; zoning district: I-B/R.

279 In attendance for this application:

280 Michael Collins, Applicant

281 Patti Visconte, Commercial Realtor

282

283 Mr. Collins explained that they are requesting to replace the existing "Brain Wave" sign that is
284 internally lighted with a smaller sign externally lighted by a light bar illuminating downward. He
285 explained that there is a wall sign on the building above the front door and they are looking to
286 put a sign on the end of the building to be seen from Route 1.

287

288 Ms. Kohl commented that the Board prefers the “goose neck” lamps for external lighting. Mr.
289 Collins said that he would be agreeable to change the lighting to “goose neck” lamps.
290

291 Mr. Collins said that the sign color will be the same “red” color as depicted on the colored copy
292 of the sign presented to the Board.
293

294 Mr. Wilson asked if the Applicant had a sign on the Mall’s pylon sign; Mr. Collins said that they
295 did.
296

297 Mr. Groth pointed out that if the business has a sign on the pylon sign then it is only allowed a
298 12 square-foot wall sign. It was determined that the waiver request was for the additional sign;
299 not the size. It was determined that the waiver request from Section 506.6.K covers both size
300 and amount.
301

302 Mr. Coutu commented that the sign on the pylon is hard to see because traffic is going by it at
303 30 – 35 mph.
304

305 Ms. Kohl said that the waiver request should have included the fact that there was a pylon sign.
306 Mr. Collins said that the owner put it in after they applied for the waiver request to the Planning
307 Board.
308

309 Mr. Wilson said that a general principal for the Board to keep in mind is different shapes of
310 different buildings. This building is unique because the end gable faces Route 1.
311

312 Ms. Kohl asked what hours the sign would be lighted. Mr. Collins said that it’s on a “timer” and
313 automatically turns off at 9:00pm.
314

315 Dr. Arena suggested removing the sign from the pylon because it can’t be easily seen from the
316 road. Ms. Visconte said that the pylon sign is more of a directory.
317

318 Mr. Harned said if the sign is removed from the pylon then there is just an empty space.
319

320 Ms. Visconte commented that in this economy, signage is very important. She said the tenants
321 had an opportunity to move their business to Hampton, but decided North Hampton was a better
322 location, and they were under the impression they could replace all of the “Brain Waves” signs.
323

324 **Mr. Wilson moved and Mr. Kroner seconded the motion to take jurisdiction of the**
325 **application for case #11:18.**
326

327 Ms. Pohl commented on the building having two facades, and questioned if they should receive
328 “special privileges” because of that. She said that there are two other businesses in that Mall
329 that do not share that privilege. Mr. Harned agreed.
330

331 **The vote was unanimous in favor of the motion to take jurisdiction (7-0).**
332

333 Mr. Wilson suggested that instead of putting up the wall sign on the gable end, the can put up a
334 logo PFE sign in the windows facing Route 1. He said that they can cover up to 50% of the
335 window.
336

337 Ms. Kohl opened the Public Hearing at 8:53pm.

338

339 **Lisa Wilson, 9 Runnymede Drive** commented on the Verizon sign. She said that the
340 fluorescent bulb over the sign is visible. She suggested the Board consider making sure that
341 the material on the sign covers the fluorescent bulb, and they should also consider creating a
342 standard on the "brightness" of the bulb.

343

344 Ms. Kohl closed the Public Hearing at 8:56pm.

345

346 **Mr. Wilson moved and Dr. Arena seconded the motion to accept the proposal as**
347 **presented with the condition that the lighting is outrigger style and downwardly lit so**
348 **there is no light spillage in the eyes of people driving by it on Route 1. Dr. Arena**
349 **seconded the motion with the friendly amendment that the pylon sign be removed. Mr.**
350 **Wilson did not accept the friendly amendment. Dr. Arena's second was withdrawn and**
351 **Mr. Coutu seconded the motion without amendments.**

352

353 Mr. Wilson said he made the motion because the proposed sign is smaller and more conforming
354 than the previous sign, Brain Waves. The orientation of the business makes it difficult for
355 people travelling north to see the business. He said this is a good example of how the Board
356 needs to take another "look" at the Sign Ordinance.

357

358 Ms. Kohl said she liked Mr. Wilson's idea of putting the logo in the windows and only allowing
359 the one wall sign.

360

361 Dr. Arena said that he does not like to see signs in the windows; he likes to see the sign on the
362 building from the road.

363

364 Mr. Harned agreed with Dr. Arena, but also commented on setting a precedent by allowing a
365 second sign because of the orientation of the building.

366

367 Mr. Wilson said that the Board needs to look at the ordinance, and look at ways to solve the
368 problems they've been facing with the ordinance over the past few years.

369

370 **The vote passed in favor of the motion to approve the sign application (5 in favor, 2**
371 **opposed and 0 abstentions). Ms. Kohl and Ms. Pohl opposed.**

372

373 **Dr. Arena moved to rescind the previous motion to allow just the two wall signs and**
374 **eliminate the pylon sign.**

375

376 Mr. Coutu commented that the vote passed by a majority and cannot be rescinded.

377

378 **There was no second to the motion; the motion failed.**

379

380 Mr. Wilson suggested adding "Performance Surety" under "Other Business".

381

382 Ms. Kohl called for a 5 minute recess.

383

384

385 **III. Other Business**

386 1. Thera Research – DAS update and request for a one-year extension on the Site Plan
387 Approval of November 7, 2005, Case #05:19.

388 In attendance for this Request:

389 Denis Kokernak, Thera Research
390 David Maxson, Isotrope, LLC
391 Attorney Peter Loughlin

392

393

394 Mr. David Maxson presented a PowerPoint presentation, which is attached to these minutes, on
395 the status of wireless coverage in North Hampton and updates on DAS – Distributed Antenna
396 System.

397

398 Mr. Maxson spoke about “Femto Cells” that are commonly referred to as “Network Extenders”.
399 He explained that they are like mini cell sites and cost as much as a DVD player. He said some
400 wireless carriers offer them for free.

401

402 Mr. Maxson commented on how the North Hampton Wireless Telecommunications Facilities
403 Ordinance is very supportive in promoting the future use of DAS.

404

405 Mr. Coutu questioned what options there were for the areas that prefer underground utilities,
406 since DAS is usually located on utility poles. Mr. Maxson said that DAS can be placed on
407 attractive lamp posts in a neighborhood.

408

409 Mr. Maxson said that Thera Research is keeping up with technology so when other carriers are
410 ready DAS will be accommodating.

411

412 Mr. Maxson said that cell towers can cost hundreds of thousands of dollars, whereas a relatively
413 modest DAS with 3 to 6 nodes spread over a larger areas is more competitive.

414

415 **Mr. Coutu moved and Dr. Arena seconded the motion to extend the Conditional Use**
416 **Permit for Case 05:19 for 1-year to expire November 2012.**
417 **The vote was unanimous in favor of the motion (7-0).**

418

419 **Planning Board Alternate Candidate Discussion** – the board was in receipt of an email
420 communication from Nancy Monaghan requesting to be an Alternate to the Planning Board. Ms.
421 Monaghan was present.

422 Ms. Monaghan stated in her letter that she is new to North Hampton and is keenly interested in
423 land use issues. She said that she is a retired newspaper Publisher.

424

425 Mr. Kroner said that it would be an honor to have someone like Ms. Monaghan serve as an
426 Alternate.

427

428 Mr. Wilson commented on the fact that, as an Alternate, she may find herself sitting in place of a
429 regular member at each meeting.

430 Ms. Kohl asked Ms. Monaghan what issues she thinks the Town of North Hampton faces.

431

432 Ms. Monaghan said that she has read some of the past Planning Board minutes and thinks the
433 sign ordinance needs some work, as well as, addressing “junk yards” in Town.

434
435 **Dr. Arena moved and Mr. Coutu seconded the motion to appoint Nancy Monaghan as an**
436 **Alternate Member to the Planning Board with a term expiration date of May 2014.**
437 **The vote was unanimous in favor of the motion (7-0).**

438
439 **Performance Surety Agreement** - Mr. Coutu reported that Town Counsel informed him that a
440 “surety bond” would not be in the best interest of the Town of North Hampton. He said that
441 Attorney Raymond said that Bond Companies will use every means to avoid the payment of an
442 obligation of a Surety Bond, and they have “bigger” budgets to fight in court. It was suggested
443 that the Board reconsider the acceptability of using a surety bond or to not use a surety bond
444 and restrict the collateralization to either cash or a letter of credit.

445 Mr. Groth asked if a Bond Company would spend \$5,000 to stop payment on \$5,000. Mr. Coutu
446 didn’t think so unless there were presidential issues associated with the bond.

447
448 The Policy Agreement states that anything over \$5,000 requires a letter of credit.

449
450 Mr. Groth referred to the General Provisions for Collateralization under Appendix A of the
451 Subdivision, Site Plan and Excavation Regulations; #6 – *Surety bonds should only be accepted*
452 *as a last resort and only for amounts not to exceed \$5,000 and only under the terms and*
453 *conditions stated below.* The same is for cash and letter of credit as well.

454
455 Mr. Coutu said that the question before the Board is if it wants to eliminate “surety bonds” or
456 accept “surety bonds”.

457
458 Mr. Coutu was asked for his opinion. He said that “cash” is the most straightforward, but not
459 “bullet proof”. He said that first choice is a “letter of credit” and the second choice is cash and a
460 distant third would be “surety bond”. He pointed out the pros and cons contrasting a “surety
461 bond” to a “letter of credit”.

462
463 Letter of credit

- 464
- 465 ➤ Constitutes a separate, independent obligation of the issuing bank and issues (disputes,
466 fraud, etc.) with respect to the transaction which the letter of credit relates to does not
467 affect the bank’s obligation to honor the letter of credit provided that the beneficiary of
468 the letter of credit presents the documents called for in the letter of credit and that such
469 documents are properly prepared, i.e. conform the terms and conditions of the letter of
470 credit.
 - 471 ➤ The bankruptcy of the applicant of the letter of credit (which is the same party being
472 required by the Planning Board to provide collateral) does not per se affect the obligation
473 of the issuing bank again so long as the documents required are correctly prepared and
474 submitted. The bankruptcy court might seek to delay the payment of the letter of credit if
475 conforming documents are presented triggering the issuing bank’s obligation to pay but
476 such delay does not ultimately prevent the issuing bank from paying.

477 Surety bond

478

- 479 ➤ A surety bond is subject to various defenses if the bond is called. Those defenses,
480 generally known as suretyship defenses would allow the surety issuer to delay or avoid
481 payment if there is a dispute between the parties, fraud in the underlying transaction or if
482 the obligations of the obligor (the applicant) are not deemed to be valid and enforceable.
483 ➤ Surety bond issuers as a matter of course may seek, at least initially, to deny payment if
484 the bond is called even if there is no factual or legal basis to do so and may further seek
485 litigation to avoid its obligation to pay. Mr. Coutu noted, however, with a maximum cap
486 of \$5,000 for surety bonds, the likelihood that a surety issuer would seek to challenge
487 the payment of called bond through litigation is remote.
488 ➤ Bankruptcy of the obligor (the applicant) may delay, alter and avoid of the obligation of
489 the obligor to perform.
490 ➤ The one potential benefit of a surety bond when compared to a letter of credit, is that
491 surety issuers are less stringent about issues relating to the creditworthiness of the
492 applicant and are more likely to agree to issue a surety bond without requiring the
493 applicant to provide collateral whereas a bank typically will require collateral to secure
494 the applicant's reimbursement obligation to the bank if the letter of credit is called.
495

496 After the foregoing discussion, Mr. Wilson recommended that the Board not accept surety
497 bonds as acceptable collateral and the Board concurred. Mr. Groth correctly noted that the new
498 Planning Board policy governing acceptable collateral would need to be amended to delete
499 references to surety bonds as being acceptable to assure the performance of applicants under
500 subdivision, site or excavation applications.
501

502 **Mr. Wilson moved and Dr. Arena seconded the motion to adopt the proposal without**
503 **“Surety Bond”, and change the name to “Performance Security Agreement” instead of**
504 **“Performance Surety Agreement”.**
505

506 **The vote was unanimous in favor of the motion (7-0).**
507

508 The Board thanked Mr. Coutu for his diligent and persistent work on the Performance Security
509 Agreement.
510

511 Mr. Coutu submitted his letter of Resignation to the Chair.
512

513 **Dr. Arena moved and Mr. Wilson seconded the motion to table the Master Plan and Junk**
514 **Yard “updates” to the November 15, 2011 Work Session meeting.**
515

516 **The vote was unanimous in favor of the motion (7-0).**
517

518 **Mr. Wilson moved and Mr. Kroner seconded the motion to approve the Escrow**
519 **Agreement and to add Planning Board Administrator after Wendy Chase and add “or her**
520 **successor or assigns” after (“Escrow Agent”), and add the title to the signatory page.**
521 **The vote was unanimous in favor of the motion (7-0).**

522 Respectfully submitted,
523 Wendy V. Chase
524 Recording Secretary **Approved November 15, 2011**

THERA RESEARCH, INC.
PO BOX 890 NORTH HAMPTON, NH 03862

Status of Wireless Service in North Hampton

November 2011

THERA RESEARCH, INC.
PO BOX 890 NORTH HAMPTON, NH 03862

What's Up?

- **Goal:**
 - To ensure that residents have access to high quality, competitive wireless service that is deployed on sound community planning principles that respect the character of North Hampton.



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Coverage

- Rye Tower
 - Most carriers
- Walnut Ave Tower
 - Only Verizon
- Route 1 South of 111
 - Generally pretty good
- Route 1 North of 111
 - Less reliable for some
- Route 111 Coastal Area
 - Penetration from Rye Tower very helpful
 - DAS can do the rest

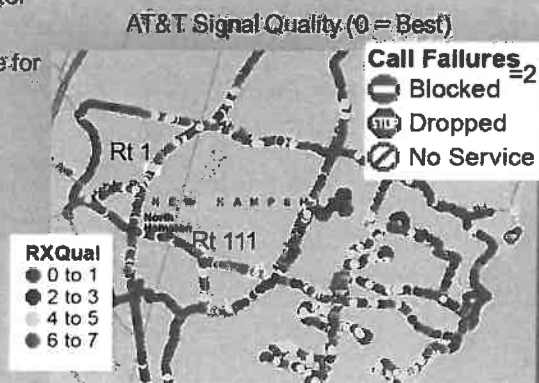


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Coverage

- Town police have solid communications
 - Wireless amplifiers in some cruisers work very well
 - New police radio repeater on Rye water tank
 - Full dispatch coverage for the first time
- “Femto-cells” now offered for in-home wireless connectivity



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Coverage

- Ordinance was ahead of its time
 - Anticipated DAS before it became popular
 - Withstood 2 court challenges
 - Allows towers in specified commercial areas



Wireless Antenna
On Utility Pole



Tower with
Extra Space

Thera Research, Inc.

PO Box 890 North Hampton, NH 03862

Carriers

- Thera Research Initiatives
 - Formal Development Plan presented & updated
 - DAS hub facility permitted – Ready when carriers are
 - Involved in Industry
 - DAS Forum of the PCIA
 - Technology Committee
 - Regulatory Committee

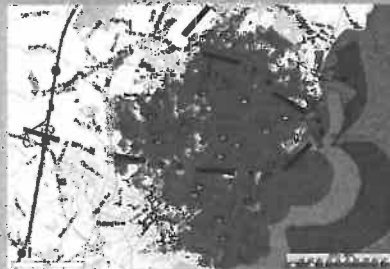


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Technology

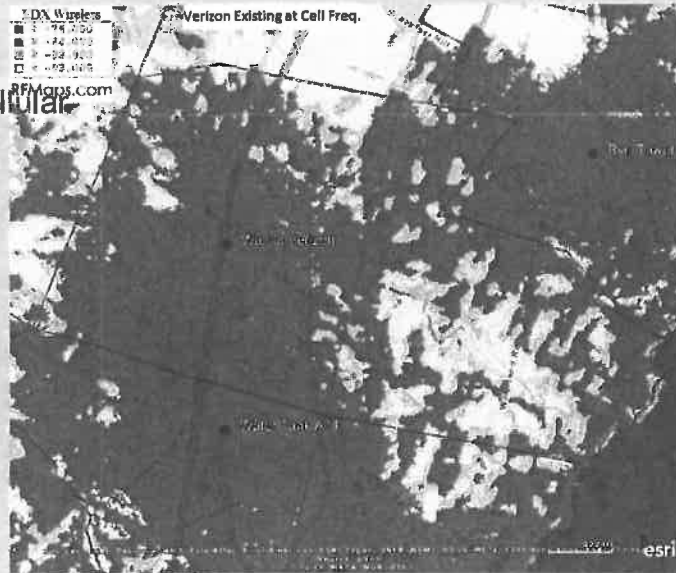
- Thera Research Initiatives
 - Base Station Hub Building Standing by
 - Commercial Area
 - Central to Town
 - Permitted
 - Coverage
 - System design to meet carrier specifications
 - System expandable to provide
 - More coverage
 - More capacity
 - More carriers
 - New technology



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Technology

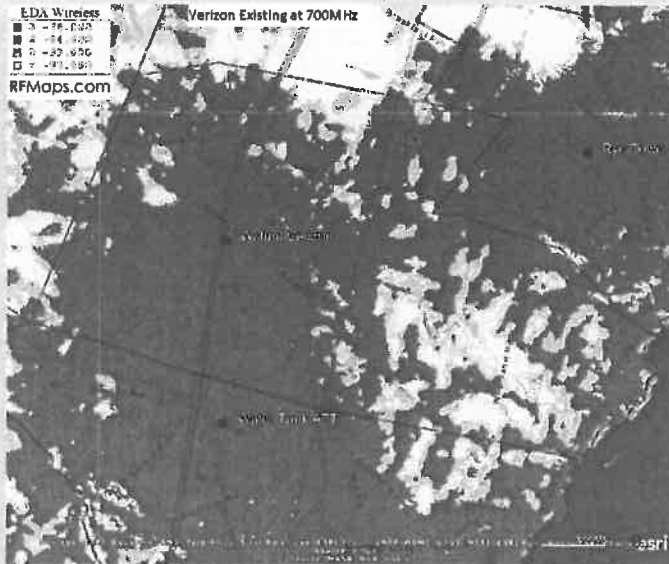
- Coverage
- Verizon Cellular



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Technology

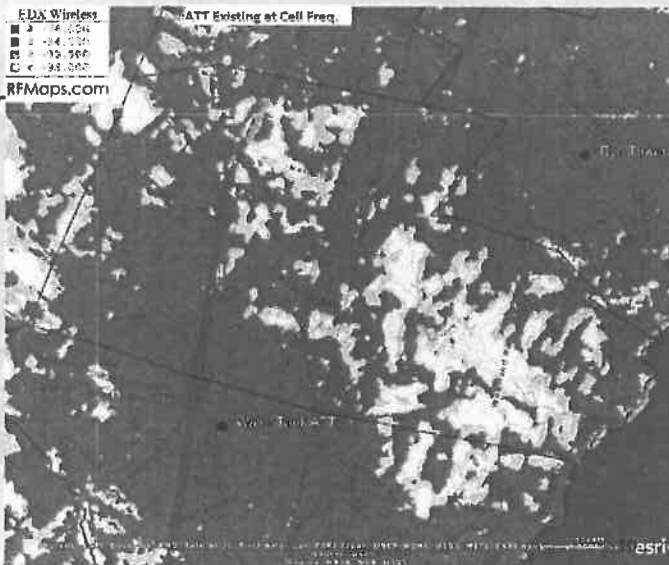
- Coverage
- Verizon 4G
– (planned)



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Technology

- Coverage
- ATT Cellular



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PO Box 890 North Hampton, NH 03862

Technology

- Coverage
- ATT 4G
 - (Planned)

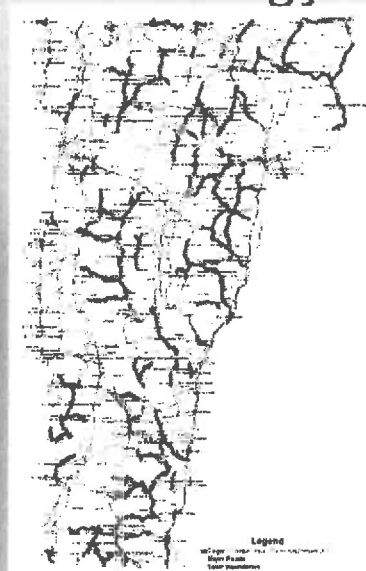


Thera Research, Inc.

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Technology

- Questions
 - Is DAS Still Viable?
 - More than viable – flourishing
 - >1500 DAS 'nodes' in eastern Mass & RI
 - Vermont Initiative
 - DAS RFP for 700 miles of under-served roads



Technology

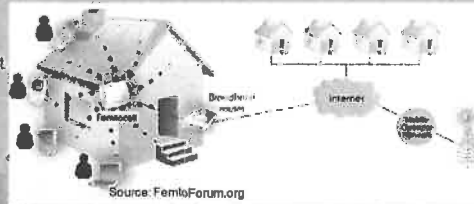
- Questions
 - DAS Obstacles?
 - Carrier Priorities
 - Projects funded year-to-year
 - No master planning
 - Town has to be ready when carrier is
 - New Technologies?
 - 4G Rollout
 - New Spectrum
 - New Equipment
 - Existing Sites First



13

Technology

- New Technologies?
 - Femtocell and WiFi (via home wireless servers)
 - Emphasis as a key element of wireless network design (PCIA 2011)
 - Sheds network load
 - Improves user experience at home



AT&T Wi-Fi usage skyrockets

CNET News 10/24/11 9:18 a.m. PST
AT&T is relying more and more on its Wi-Fi networks to help off-load data traffic, which should ultimately lead to better network performance for its wireless customers.

14

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Technology

- New Technologies
 - Clearwire's WiMAX network
 - LightSquared
 - Seeking FCC Approval
 - Sharing Sprint Cell Sites
 - T-Mobile, AT&T, Verizon data networks on new spectrum
 - 4G Technology (LTE) going on 700 MHz (old TV band)



clearwire

LightSquared 

"For data services, DAS is inevitable."
 Sunil Prasad
 Sprint Innovation Director

15

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Technology

- Standards
 - Foster inter-operability
 - OBSAI, CPRI
- New products
 - Smaller base stations
 - Smaller DAS nodes
 - Brains at the antenna
 - » LightCube
 - » Remote Radio Heads



- ADC Universal Radio Head
- Compact, Noiseless
- 16X16x30 inches – mounts on utility pole
- Multiple wireless carriers in one unit

CPRI
 Common Public Radio Interface

OBSAI 
OPEN SOURCE SOFTWARE FOR 3GPP UTRAN



**Smaller,
 Smarter,
 Faster**

16

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Technology

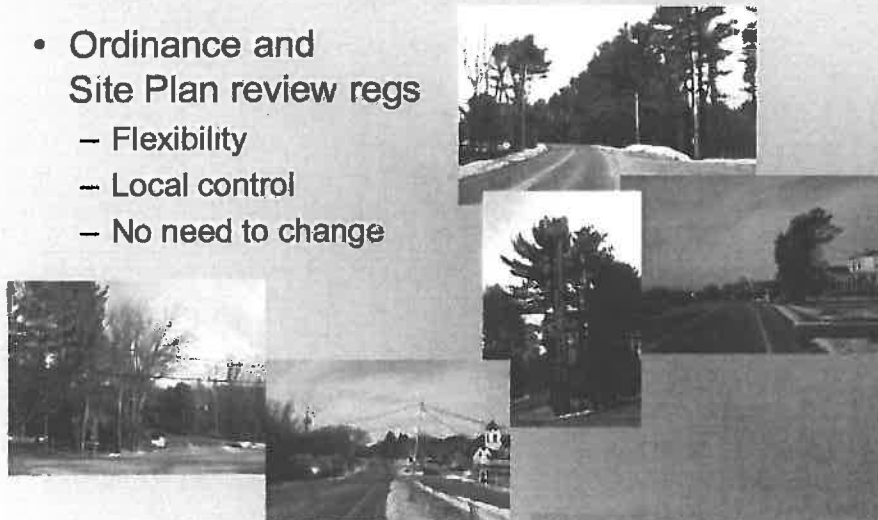
- **DAS Very Viable**
 - Business growing during recession
 - Strong investment and competition
 - Major acquisitions
 - The DAS Forum industry association actively working for expansion



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Technology

- **Ordinance and Site Plan review regs**
 - Flexibility
 - Local control
 - No need to change



Numerous North Hampton poles

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What's Next?

- When They Are Ready,
We're Ready
 - No new tower proposals
in North Hampton
 - DAS Hotel waiting for
first carrier
 - Permit Renewal:
 - Maintains carrier incentive
 - Shortens time to
completion



19