



Meeting Minutes
North Hampton Planning Board
Tuesday, December 6, 2011 at 6:30pm
Mary Herbert Conference Room

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

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12 **Members present:** Barbara Kohl, Chair; Shep Kroner, Vice Chair, Joseph Arena, Laurel Pohl (arrived at
13 6:40pm) and Mike Hornsby.

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15 **Members absent:** Tim Harned and Phil Wilson, Selectmen's Representative

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17 **Alternates present:** Nancy Monaghan

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

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21 Chair Kohl convened the Meeting at 6:34pm and noted for the record that there was a quorum.

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23 Chair Kohl seated Ms. Monaghan for Mr. Harned.

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25 **I. Old Business**

26

27 **1. #11:13 – Shane Smith, 14401 Cervantes Avenue, Darnestown, MD 20874.** The Applicant proposes a
28 Subdivision/Lot Line Adjustment that will maintain three (3) existing lots of record while creating three
29 (3) conforming lots. Property owner: Shane Smith, 14401 Cervantes Avenue, Darnestown, MD 20874;
30 Property location: Woodland Road, North Hampton; M/L 006-133-007, 006-141-000 and 006-142-000;
31 zoning district: R-2. This case is continued from the November 1, 2011 Meeting.

32 In attendance for this application:

33 Michael Bouffard, Jones and Beach Engineers

34 Michael Kerivan, Jones and Beach Engineers

35 Wayne Morrill, Jones and Beach Engineers

36

37 Mr. Bouffard addressed the "survey related" issues raised by the Town's Engineers, Keach and

38 Nordstrom, in their technical review of the project plans and drainage study as follows:

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40 • The Voluntary Lot Merger, to combine lots 6-141 and 6-142, has been submitted to the Town
41 and is ready to be recorded at the Rockingham County Registry of Deeds upon approval of this
42 application.

43 • The NH DES Subdivision Approval has been received, and has been added to the revised plans.

44 • The Applicant is prepared to apply for driveway permits prior to receiving an occupancy permit
as suggested by Keach and Nordstrom.

- 45 • A note has been added to the plan, as recommended by Keach and Nordstrom, identifying
- 46 Woodland Road as a Class V highway.
- 47 • Notes have been added to install boundary monuments along the westerly line of lot 133-7 and
- 48 the easterly line of lot 142B, as requested by Keach and Nordstrom.
- 49 • All boundary monuments will be set prior to final approval.
- 50 • Sheet A2 has been revised to include the easterly-most segment of the northerly line of lot
- 51 142B, as requested.
- 52 • Pond Path has been labeled on Sheet A3.

53
54 Mr. Kerivan addressed the “drainage related” issues raised by Keach and Nordstrom as follows:

- 55 • The plans and analysis have been revised to incorporate house roof and driveway drip edge
- 56 infiltration systems on each lot.
- 57 • Mr. Kerivan explained that he had made a mistake when stating that a High Intensity Soils
- 58 Survey (HISS) was performed; it was not. He explained that the information was taken from the
- 59 Natural Resources Conservation Services website, which is standard practice when dealing with
- 60 small site projects, such as this. He said that the Drainage Analysis has been corrected to reflect
- 61 this.
- 62 • The sub catchment areas have been broken up in the analysis to model the proposed infiltration
- 63 systems and roofs have been separated from the paved parking area for both sub catchments.
- 64 He stated that there will be sufficient area to construct homes while leaving the remainder as
- 65 woodland.
- 66 • The revised analysis shows that there will be no increases, in either peak discharge, or volume of
- 67 runoff as a result of this project.

68
69 Ms. Kohl said that she received a response from the Town’s Attorney regarding the “Range Way” and

70 “Pond Path” access and ownership issues the Board asked for a Legal Opinion on. Attorney Serge

71 basically said that the Town should hire an Archivist.

72
73 Mr. Bouffard offered the Board a copy of the document of the research that he did on “Pond Path and

74 the “Range Way”. He said that it’s roughly 75 pages long. He explained that the research determines

75 that a “Range Way” was on there as shown on the plan, but he believes it was never constructed.

76
77 Mr. Kroner referred to the copy of the April 1, 1985 Planning Board Minutes Mr. Morrill submitted to

78 the Board that stated Mr. Lerner as saying, “the Selectmen’s position on Pond Path was that the Town

79 has no legal interest in it”, and said that in his opinion it looked like an “off hand” remark. He voiced

80 concern over the possibility of a new owner purchasing the property only to find out that there is a

81 “right of way” that crossed over their property that they didn’t realize existed.

82
83 It was later determined that Mr. Lerner was the Selectmen’s Representative to the Planning Board and

84 he had previously met with the Select Board to address “Pond Path”, and it was at the April 1, 1985

85 Planning Board Meeting that he reported what the Select Board’s position was, that the Town had no

86 legal interest in “Pond Path”.

87
88 Mr. Bouffard commented that if there are existing “rights” to “Pond Path” or the “Range Ways”, no one

89 has been exercising those rights. Mr. Bouffard explained that there is a 250-foot portion of “Pond Path”

90 and they are proposing to utilize it for the proposed driveways.

91
92 Mr. Bouffard said that "Range Ways" are blanketed over the entire State of New Hampshire and were
93 originated by the King in the 1600s. He said that the original "Grants" may speak as to who owns the
94 titles of the "Range Ways". Mr. Bouffard said that he is just putting the public on "Notice" that there is a
95 possible "Range Way" there, and adding that fact to the plan.

96
97 Dr. Arena commented that there is no true answer as to the "rights" to the "Range Ways", and there is
98 nothing that can be done about it now so the Board shouldn't waste any more time on the matter and
99 just use "common sense".

100
101 Mr. Bouffard addressed the concerns made on the "dump site" on proposed lot #3. He said that it was
102 normal practice in the past for landowners to dump trash over embankments on their property. It was
103 Mr. Bouffard's opinion that the "dump" site, on proposed lot #3 that they inspected and observed, was
104 nothing more than that.

105
106 Ms. Pohl commented on the Attorney's suggestion to hire an Archivist and wondered if it would be
107 more prudent to hire a Title Insurer who may produce more meaningful results.

108
109 Mr. Bouffard said that would be more of a civil matter between the seller and the buyer of the property.
110 He said that, in his opinion, the Planning Board doesn't have a "stand" on private right issues; only
111 public right issues.

112
113 Mr. Kroner disagreed and said that the Planning Board has a responsibility to the public not to approve
114 things that could potentially have a civil issue. Mr. Kroner voiced concerns on proposed lot #3. He said
115 that the lot is made up of 2.46 acres and is 60 feet wide and 1,378 feet long. He asked if the .46 acres
116 had "perked" successfully. The "tail" on the lot is made up of approximately 2 acres and opined that it is
117 this type of lot that represents an un-unified development of the Town to be utilizing strips in this
118 manner to account for the two (2) acre lot. He said that it may meet the technical requirements, but it
119 leaves a bad type of lot design for the community.

120
121 Ms. Kohl commented that there are currently thirteen (13) developed properties that "Pond Path" runs
122 through. She said that the logical thing to do would be to recommend to the Select Board that they
123 officially abandon the Town's rights to "Pond Path" and the "Range Ways". She also concurred with Mr.
124 Kroner on his comments regarding the geometry of the "3rd lot".

125
126 Mr. Groth said that the Applicant is taking two non-conforming lots and making them conforming. He
127 said he understands the points Mr. Kroner made, and it would be nice to have gridded out lots, but they
128 are creating better conditions overall. Ms. Kohl agreed that it is important to consider that these will be
129 three (3) conforming lots.

130
131 **Dr. Arena moved to accept the proposed lots as three (3) conforming lots.**
132 **There was no second to the motion. The motion failed.**

133
134 Ms. Kohl commented that the drainage concerns were addressed at the site walk. New drainage plans
135 were submitted at the meeting. She said that after viewing the property and seeing how the water flows
136 off of it, she didn't think that the proposed subdivision would add to Kari Schmitz's "pond".

137

138 Mr. Morrill responded to comments made on “lot #3”. He said that the lot does meet the subdivision
139 requirements; they have received State subdivision approval. He said there is enough room to install a
140 leach field that won’t cross over Pond Path. The house will not be a mansion and they made sure to
141 leave the vegetation in the front so the houses will be set off of the road. He also suggested adding a
142 condition to restrict cutting of trees to just the 35-foot driveway entrances.

143
144 Mr. Groth said that the details on the plan come down to the issue of “Pond Path” and the “Range
145 Ways” and the Applicant has responded to those issues. He suggested the Board require a “clean letter”
146 from the Town’s Engineers stating that they are satisfied that Jones and Beach Engineering satisfied all
147 of their concerns. The “Range Ways” are dealt with on a case by case basis; they are antiquated
148 roadways.

149
150 Ms. Kohl opened the Public Hearing at 7:25pm.

151
152 **Kari Schmitz, 101 Woodland Road** – thanked the Board for conducting the Site Walk on the Smith lots.
153 She said that she believes that the proposed subdivision will not add water to her “pond”. She thanked
154 the Engineers from Jones and Beach for addressing her drainage questions.

155
156 **Craig Salomon, 100 Woodland Road** – submitted a letter to the Board outlining his concerns. He said
157 that he hopes the Town’s Engineer will review and “sign off” on the drainage plans that were submitted
158 by Jones and Beach this evening, as suggested by Mr. Groth. Mr. Salomon offered the following:

- 159 • The Board may want to add a condition to require a surety bond set in place by the Applicant in
160 case the drainage fails.
- 161 • It is undetermined whether the “Range Way” eats into the lots affecting the amount of actual
162 acreage on the proposed lots.
- 163 • Pond Path is described in an Article written by long time Selectman, Robert A. Southworth
164 entitled “Twists and Turns of the Old Roads”, (a copy is attached to the letter he submitted to
165 the Board) noting that gravel for construction of the trolley was hauled out from this area and in
166 earlier times it was a road leading to the fish houses in Rye. He said that based on this evidence
167 he thinks that the Applicant should seek a Variance as two of the lots are undersized by virtue of
168 being intersected by Pond Path.
- 169 • He said that you can’t get title insurance on a zoning issue and if an Archivist is to be hired, it
170 should be at the expense of the Applicant, because the burden of proof lies on the Applicant.

171
172 Ms. Kohl closed the Public Hearing at 7:30pm.

173
174 Mr. Bouffard submitted his research to determine the historical documentation specific to the area of
175 the Boulder and Bradley subdivisions, and the land owned by Mr. Shane Smith.

176
177 Mr. Morrill pointed out that the Voluntary Lot Merger addressed the lot line adjustment; the Board was
178 just approving a Subdivision Plan.

179
180 **Dr. Arena made a motion to approve the Application.**

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182 Ms. Kohl asked if the Board wanted to add a condition to require the Applicant to set up a surety bond
183 for the construction and maintenance of the drainage structure.

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Mr. Morrill said that the infiltration system will be built to have zero surface water runoff.

Mr. Harned was unable to make tonight’s meeting but sent an E-mail communication to the Board. Ms. Chase provided “hard” copies to the members and to Mr. Morrill. Mr. Harned’s main concerns were the lack of a legal opinion regarding the resolution of the “Range Way” and “Pond Path” access issues and with the water runoff from the property. He wrote that he agrees with Keach and Nordstrom’s comment, “more reasonable and realistic post-development drainage analysis” is necessary to really understand the runoff issue. He said that any constraints imposed to limit runoff must be a fixed part of the approved plans. He also commented that he does not believe the flooding of the Schmitz’s side yard during heavy rains is related to the wetlands and the wetlands outflow.

Mr. Morrill said that Mr. Kerivan addressed all of Keach and Nordstrom’s comments and demonstrated that there will be no water runoff increase on this lot. Mr. Morrill said that there will be no “blasting” done to put in the houses on either lot.

Dr. Arena continued his motion to approve and added the following conditions of approval:

- **Certificate of Monumentation**
- **Recordable Mylar**
- **“Clean Letter” from the Town’s Engineer, Keach and Nordstrom stating that they are satisfied that all their engineering review recommendations have been met.**
- **There shall be a limited tree clearing area along the building setbacks restricted to the driveway openings only, and shall be noted on the final plan.**
- **All applicable State Permits shall be received by the Town.**
- **The suggested notes from Keach and Nordstrom shall be added to the final plan.**

Mr. Hornsby seconded the motion. The vote passed in favor of the motion (4 in favor, 1 opposed and 1 abstention). Ms. Monaghan opposed and Mr. Kroner abstained because he was not satisfied with the “Pond Path” issue.

Ms. Kohl called for a recess at 7:58pm.
Ms. Kohl reconvened the meeting at 8:06pm.

II. New Business

There was no new business before the Board.

III. Other Business

Master plan update – Mr. Groth asked if the Board had a chance to review the Broadband Chapter, and if so, whether or not they had any comments. He had received comments from Mr. Harned already. There were no other Board comments.

Junk yard update – Mr. Kroner said that, void of personal feelings, there are a lot of commercial activities going on in Town that are not regulated in any way. He said that the “junk yards” have to have a license regardless if they are “grandfathered”.

230 Mr. Groth commented that the actual license is crafted by the Select Board. Dr. Arena disagreed and
231 said the Planning Board, not the Select Board, should be addressing the 'Junk Yard' issues because it is a
232 "land use" issue; the Planning Board's main responsibility.

233
234 Ms. Kohl said that she and Ms. Monaghan drove up and down Route 1 and noted all of the signs that are
235 in violation. She said that the interim Code Enforcement Officer is going to compile a list of Businesses
236 he gives a notice of violation to and she asked that the Board fill out a formal complaint and each
237 member sign it.

238
239 The Board discussed the sign violation at Precision Fitness. Ms. Monaghan suggested the Board take
240 some kind of action on that violation.

241
242 Ms. Pohl suggested revoking the sign approval. Mr. Groth suggested sending the Code Enforcement
243 Officer out there to begin assessing the fines for violation; those in violation usually start to comply
244 when they are being fined.

245
246 **CIP update** – Ms. Pohl reported that the CIP Committee met on December 2nd and discussed the
247 Highway Department's proposal. She said that they will meet again on December 9th to go over the Fire
248 Department's proposal and will be meeting weekly to go over all of the budgets.

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250 The meeting adjourned at 8:30 without objection.

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252 Respectfully submitted,

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254 Wendy V. Chase
255 Recording Secretary

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257 Approved December 20, 2011