



Meeting Minutes
North Hampton Planning Board
Tuesday, January 3, 2012 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.

11

12 **Members present:** Barbara Kohl, Chair; Joseph Arena, Ms. Pohl (arrived at 6:47pm), Mike Hornsby, Tim
13 Harned, and Phil Wilson, Selectmen's Representative.

14

15 **Members absent:** Shep Kroner

16

17 **Alternates present:** Nancy Monaghan

18

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

20

21 Ms. Kohl convened the Meeting at 6:32pm, and introduced the Members of the Board (as identified
22 above).

23

24 Ms. Kohl seated Ms. Monaghan for Mr. Kroner.

25

26 **I. Old Business**

27

28 There was no unfinished business before the Board.

29

30 **II. New Business**

31

- 32 1. **Case #11:19 – NH State Liquor Commission, 50 Storrs Street, Concord, NH 03301.** The Applicant
33 requests approval of a Conditional Use Sign Application with the following Waiver Requests: (1)
34 Article V, Section 506.5.F – Roof Signs to allow the "logo" portion of the sign to be located above
35 the roof line; (2) Article V, Section 506.6.K – Wall Sign to allow the size of the sign to exceed the
36 required 24 square-foot requirement; and (3) Article V, Section 506.5.G – Internally lighted signs
37 to allow the proposed sign to be internally lighted. Property Owner: E. Stevens Inc., 69
38 Lafayette Road, North Hampton, NH; Property location: 69 Lafayette Road, North Hampton; M/L
39 007-065-000; Zoning District I-B/R.

40

41 Ms. Kohl was in receipt of a copy of an E-mail communication from Mr. Buckley of the Liquor
42 Commission, sent to the Planning Administrator, stating that they have withdrawn their application for a
43 Conditional Use Sign application, but may be back before the Board in the future.

44

45 Mr. Wilson said that the State Law does state that a State Agency can do what it wants, but this is an
46 application from E. Dean Stevens, the owner of the plaza; not a State Agency. He suggested the Board
47 seek a legal opinion on the matter if they do decide to come back before the Board.

48

49 Mr. Groth explained that there is Case Law available where if the Government is a tenant it is considered
50 a governmental use, and there was Case Law a few years ago that determined that the sale of liquor was
51 a governmental function.

52

53 **III. Other Business**

54

55 **1. Discussion on possible "Joint Meeting" with the Conservation Commission and Zoning Board of** 56 **Adjustment regarding proposed Zoning Ordinance Amendments**

57 The Board was in receipt of copies of the proposed Zoning Ordinance Amendments drafted, and
58 recommended, by the Zoning Board of Adjustment.

59 The Board discussed whether or not there would be any benefit in holding a "Joint Meeting" with the
60 Conservation Commission and the Zoning Board about the proposed zoning amendments. Ms. Kohl
61 asked for the Board's input on the matter.

62

63 Ms. Kohl said that sometimes "Joint Meetings" accomplish nothing. She said in this case the Planning
64 Board needs to look at the proposed amendments and decide if it's appropriate to consider holding a
65 "Joint Meeting".

66

67 Mr. Hornsby said that sometimes "Joint Meetings" are useful and sometimes they accomplish nothing.
68 He suggested they look at each amendment individually and decide if meeting would be beneficial.

69

70 Ms. Monaghan thought the Board should know how the ZBA came up with the proposed amendments.

71

72 Dr. Arena said that he reviewed the proposals and it was obvious that the participating factors were of
73 the people who were involved that also serve as members of the ZBA. He commented that if the
74 matters pertaining to the proposals were addressed by the Code Enforcement Officer; these proposals
75 would never have had to be made by the ZBA.

76

77 Mr. Harned felt he didn't have enough background information to be familiar with what has transpired
78 to cause the ZBA to take these actions. He said that he is "open" to meeting with the ZBA to give them
79 the opportunity to explain what their justification and reason is for the proposed zoning amendments.
80 He said that he will go along with the majority of the Board on what to do.

81

82 Mr. Groth suggested that the Planning Board should meet with the other Boards in the spirit of
83 cooperation. He said that he could understand where some of the proposed amendments came from
84 but is not sure of some of the others so it would be worthwhile to hear their reasoning. He said that he
85 does not see the harm in meeting with them to discuss the proposals.

86

87 Ms. Pohl concurred with Mr. Groth.

88

89 Mr. Wilson said that as a matter of courtesy to another Board, the Planning Board should consider the
90 "Joint Meeting". He said as far as the individual proposals from the ZBA, they put a lot of time and effort

91 into considering the proposals and recommended the language, which is going above and beyond their
92 advisory role to the Planning Board. The ZBA recommendations are based on experience in dealing with
93 applications for Variances and Special Exceptions over the past couple of years, which makes it more
94 incumbent for the Planning Board to listen to their rationale on each proposed amendment.
95

96 Mr. Wilson commented on the proposals submitted by the ZBA. He referred to the "Compound"
97 proposal and said it stems from an issue that became contentious and ended up in Court. He said that
98 an interesting question is whether or not a collection of houses owned by the same owner in a
99 residential zone, but are leased out, would be considered a "commercial enterprise", and thought that
100 the Board should look at this proposal very carefully and added that he would like a legal opinion on it.
101 Mr. Wilson said that he would like more information on the Signs and Billboard proposal. He referred
102 to the "Rain Garden" proposal and said that "Rain Gardens" have sort of become an expected practice
103 to allow encroachment on the Wetlands, and if they are allowed, they have to be maintained in
104 perpetuity. Mr. Wilson said that the Town does need something "stronger" put into place when
105 allowing a "Rain Garden" to mitigate potential damage to the Wetlands; "Rain Gardens" degenerate
106 rapidly, and land owners need to know there is a significant commitment to maintain them. The
107 Conservation Commission is very interested in the standpoint of the affects of Wetlands and in the
108 standpoint of the effectiveness of "Rain Gardens". Mr. Wilson commented on the "water bodies"
109 proposal and said that it came from a case where the Applicant wanted to subdivide the land by using
110 land submerged in a body of water to make up the two-acre requirement. He said that this is a proposal
111 to clarify that issue.
112

113 Mr. Wilson said that it is important for the Planning Board to meet with the ZBA as a matter of courtesy;
114 to recognize and cooperate with a co-equal Board in Town. He said that the ZBA has put a lot of effort
115 into the proposals that call for serious consideration, and from which the Planning Board can learn, and
116 they have made proposals that may in fact improve the Zoning Ordinances.
117

118 Ms. Kohl suggested the Planning Board review the proposals and be prepared to present a consensus of
119 how they feel about each proposal to avoid a long and unproductive meeting.
120

121 Ms. Pohl suggested that each member come prepared with a list of questions to help narrow down the
122 discussion.
123

124 Mr. Harned suggested giving the ZBA the opportunity to spend about ten (10) minutes presenting the
125 background and rationale for each proposal, and then the Planning Board can retire to a separate
126 meeting and decide whether or not to accept and support the proposals.
127

128 Mr. Wilson commented that, in regards to the "Compound" proposal, he thinks the Board needs to
129 obtain a legal opinion because it sounds like stepping on individual property rights. He also commented
130 on the sign proposal and said that he thought it may stem from the "Beach Plum" case for a residential
131 sign for a grandfathered commercial enterprise in a residential zone. He said that "legislating" to deal
132 with one peculiar situation is not good policy unless that peculiar situation is so important it's the only
133 way to deal with it. He said it's important to know the ramifications for the entire Town. He said that
134 every one of the proposed amendments proposes legitimate questions, and the Board's should meet to
135 see what the ZBA has to say.
136

137 Ms. Kohl said that there needs to be parameters set in place prior to the meeting so that it is a
138 productive meeting.
139 Discussion ensued on ways to control the "Joint Meeting" to make it the most productive. It was
140 decided that the Board members will submit their lists of questions to the Planning Administrator prior
141 to the January 17th Work Session and authorize Ms. Kohl to meet with the Chairman of the ZBA to go
142 over procedures for the "Joint Meeting" and ask that he draft a "brief" on each of the proposals so that
143 the Board has an idea of how the ZBA came up with them.

144
145 Dr. Arena commented that Zoning Ordinances are the Planning Board's job. Mr. Wilson said that the
146 ZBA followed procedure appropriately by making recommendations to the Planning Board on proposed
147 Zoning Ordinances.

148
149 Dr. Arena commented that "Compounds" should not be allowed in Town, and that the issue stems from
150 the lack of enforcement.

151
152 Mr. Groth referred back to the "Compound" proposal and said that the Board should ask what the line is
153 between a "Compound" and a motel when posing the question to the Attorney.

154
155 Mr. Wilson referred to page two (d) of the "Compound" proposal that states, "The landowner or Person
156 holding a Special Exception shall make no material change to any residence within the "Compound"
157 without first obtaining the permission of the Zoning Board of Adjustment." He said that he finds this
158 provision to be offensive and would like to meet with the ZBA to give them the opportunity to explain
159 why they came up with some of the provisions.

160
161 **Mr. Harned moved and Mr. Wilson seconded the motion to authorize the Chair to meet with the ZBA**
162 **Chairman to set up acceptable ground rules for the "Joint Meeting", and to authorize the Chair to**
163 **make the commitment to have a "Joint Meeting" if she feels what they have come up with is**
164 **reasonable.**

165
166 Mr. Wilson said that the Chair of the Planning Board is under no obligation to agree on "ground rules"
167 with the Chair of the ZBA or the Chair of the Conservation Commission because pursuant to NH RSAs
168 any such "Joint Meeting" the Chair of the Planning Board shall reside. He suggested that when speaking
169 with the ZBA Chair Ms. Kohl should let him know the issues raised by the Planning Board and if all
170 Boards can go into the Meeting with ways of addressing the issues efficiently and effectively, the Boards
171 will be able to keep the meeting at a reasonable length and it would probably be more productive.

172
173 Mr. Wilson commented that the Conservation Commission has a direct interest in "Rain Gardens", as
174 well as, the proposed amendment regarding *bodies of water*.

175
176 Dr. Arena commented that there was no one to monitor the "Rain Garden" that was approved.

177
178 Mr. Wilson commented on the maintenance of "Rain Gardens". He said that you really can't establish
179 an escrow account for the maintenance of a "Rain Garden" because you can't have an escrow account in
180 perpetuity. He thought that the owner of the "Rain Garden" should enter into an agreement with an
181 organization that could monitor the "Rain Garden" in perpetuity, just as the Town's Conservation land is
182 monitored in perpetuity.

183

184 **Mr. Harned said that he accepted Mr. Wilson’s friendly amendment to his motion that in a “Joint**
185 **Meeting” the Planning Board Chairman Chairs the Meeting and sets the criterion if all else fails.**

186
187 Ms. Kohl will meet with Mr. Field and Mr. Ganotis and come up with a procedure for the “Joint Meeting”
188 and will also ask the ZBA Chair to prepare a brief explanation for each proposal to give the Planning
189 Board the rationale behind these proposals.

190
191 **The vote passed in favor of the motion (5 in favor, 0 opposed and 2 abstentions). Ms. Kohl and Dr.**
192 **Arena abstained.**

193
194 The Members will forward their questions to the Planning Administrator who will make copies for the
195 January 17th Work Session.

196
197 **Discussion on the Dealership/Inspection Station list**

198
199 The Board is in the process of verifying that vehicle dealerships and inspection stations are properly
200 licensed in Town. Alternate Member Monaghan volunteered to contact the State’s Dealer Desk and ask
201 for a list of all dealerships and inspection stations in Town. Unfortunately the State has three (3)
202 different data bases and it took a lot of time and effort on Ms. Monaghan part to retrieve a list. After
203 reviewing the list, it was determined that there are still businesses in Town that don’t appear on the
204 State’s list.

205
206 The Board discussed the legalities of a dealer’s license and thought that the actual motor vehicle license
207 associated with a particular lot; not an individual. A Dealer is not authorized to sell vehicles at another
208 location other than the authorized license address.

209
210 Dr. Arena commented that a “used car” dealership can be separate, quite a distance geographically,
211 from the original dealership.

212
213 Mr. Wilson and Mr. Groth thought that if they understood the law correctly, the license was associated
214 with a particular lot and no other vehicles, used or otherwise, could be sold on another lot under that
215 license.

216
217 Ms. Kohl said that the Board wants to make sure that every inspection station and motor vehicle dealer
218 has a license to sell motor vehicles. Ms. Kohl further stated that she invited the Code Enforcement
219 Officer, through Mr. Fournier, to attend the January 17th Work Session and Mr. Fournier confirmed that
220 Mr. Mabey would be there.

221
222 Mr. Harned asked is the following was correct: the Board is pulling together a list of inspection stations,
223 repair stations and dealerships and asking that the Code Enforcement Officer verify the list to make sure
224 the appropriate people have the licenses their supposed to have. The Board agreed that that was
225 correct.

226
227 Ms. Kohl referred to the State Statutes and said that RSA 259:18 gives the definition of “Dealer” and RSA
228 259:89.a gives the definition of a “Retail Dealer”, and some of the laws are under Saf-C 2000 Dealer
229 Registration Rules.

230 Dr. Arena commented that a dealership has a license and the dealership's repairmen have their own
231 individual license.

232 Ms. Monaghan said that she will contact the State's Dealer Desk again and requests the addresses for
233 the businesses. Mr. Wilson asked that she try to obtain a list of all those who are authorized to sell
234 motor vehicles.

235

236 Mr. Hornsby listed a few places in Town that did not appear on the list prepared by the State.

237

238 **Master Plan update**

239

240 Mr. Groth reported that he and Mr. Kroner will be meeting on Friday, January 6th to discuss and layout a
241 plan for the public input session (Charrette). He said he will have more information for the Board at the
242 next Work Session.

243

244 **Junk Yard update**

245

246 Ms. Kohl asked Dr. Arena if he had drafted the letter/communication to the Select Board asking that
247 they put a procedure in place to license "Junk Yards". Dr. Arena said that he is still working on it; it's
248 complex because of the historical work.

249

250 **Sign Ordinance Violation discussion**

251

252 The Board was in receipt of copies of "notice of violation" that were sent to businesses from the interim
253 Code Enforcement Officer regarding "feather flags". The Business owners have fifteen (15) (January 11,
254 2012) days to take them down and most have already done so.

255

256 Ms. Kohl said that she filled out a complaint form for potential sign violations for Fashion Nails and
257 signed it as the Planning Board, by Barbara Kohl. She will forward it to the Code Enforcement Officer.

258

259 The Board discussed potential Sign Ordinance violations at Precision Fitness Equipment for their
260 internally lighted signs, as well as other signs that may not be in compliance.

261

262 The Board authorized Ms. Kohl to submit a complaint form, on the Board's behalf, for the potential sign
263 ordinance violations at Precision Fitness Equipment.

264

265 There was no other business before the Board.

266

267 The Meeting adjourned at 8:07pm without objection.

268

269 Respectfully submitted,

270

271 Wendy V. Chase

272 Recording Secretary

273 Approved January 17, 2012