



Meeting Minutes
North Hampton Planning Board
Tuesday, February 4, 2014 at 6:30pm
Town Hall, 231 Atlantic Avenue

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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: Shep Kroner, Chair; Laurel Pohl, Vice Chair, Joseph Arena, Mike Hornsby, Dan Derby and Phil Wilson, Select Board Representative.

Members absent: Tim Harned

Alternates present: None

Others present: Jennifer Rowden, RPC Circuit Rider, and Wendy Chase, Recording Secretary
Mr. Kroner convened the meeting at 6:34pm.

I. Old Business

- 1. **Case #13:02 – Harbor Street Limited Partnership, 7B Emery Lane, Stratham, NH 03885.**
The Applicant, Joseph Falzone, Harbor Street Limited Partnership, submits a pre-application Design Review pursuant to Subdivision Regulation VI.A.2. – Design Review Phase, for a proposed 49-unit residential workforce housing subdivision and proposed road totaling 3,200 feet. Property owner: Field of Dreams at Post Road, LLC, 7B Emery Lane, Stratham, NH 03885; Property location: 160-186 Post Road, North Hampton; M/L 018-038-000; Zoning District R-1: High Density and R-2: Medium Density. This Case is continued from the December 3, 2013 meeting.

In attendance for this application:
No one was in attendance for the above Case.

Mr. Wilson explained that the process of purchasing the conservation easement for the property is still ongoing with the hope to have everything finalized by April 2014.

Mr. Wilson moved and Dr. Arena seconded the motion to continue Case #13:02 to the May 6, 2014 Meeting.
The vote was unanimous in favor of the motion (6-0).

II. New Business

45 **1. Case #08:15 – Rocky Ledge Conservation Subdivision – Richard Skowronski and Leila**
46 **Hanna, M/L 012-047.** Pursuant to Subdivision Regulation Article VI, Section E.2., the
47 Applicants request a one-year extension of the Conditional Approval for Case #08:15,
48 due to expire on March 5, 2014. The plan was originally approved by the Board on
49 March 5, 2009.

50
51 In attendance for this application:
52 Rick Skowronski, Owner/Applicant

53
54 Mr. Skowronski explained that, if agreeable to the Board, he would like them to grant a one-year
55 extension for his conditionally approved conservation subdivision, granted by the Board on March 5,
56 2009. He intends to try and begin the project this year barring any economic catastrophes.

57
58 Mr. Wilson commented that it was a “good” project when originally approved by the Board and it’s a
59 “good” project now. He had no objections to granting the requested extension.

60
61 **Mr. Wilson moved and Dr. Arena seconded the motion to grant the one-year extension as requested**
62 **by the owners to expire on March 5, 2015.**

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

64
65 **2. Case #14:01 – 22 Lafayette Road, LLC, Jeffrey Eiras, PO Box 265, North Hampton, NH**
66 **02862.** The Applicant proposes, through a Site Plan Review Application, to remove
67 portions of existing paved areas and construct a 2,667 sq ft 29.5’ x 96’ building addition
68 to Prowash Car Wash. The Applicant requests a waiver to Site Plan Review Regulation,
69 Section VIII.B.20 - Stormwater Drainage Control Plan. Property owner: 22 Lafayette
70 Road Condominium, C/O PO Box 265, North Hampton, NH 03862; property location: 22
71 Lafayette Road, North Hampton, NH; M/L 003-099-000; Zoning District: I-B/R.

72
73 In attendance for this application:
74 Geoffrey Aleva, P.E. Civil Consultants
75 Steve Elles, Applicant’s Counsel

76
77 Mr. Aleva reminded the Board that Prowash Car wash received conditional approval by the Board on
78 May 1, 2007 for a 12’ x 14’ 6” addition to the front of the business to house additional equipment. They
79 never built the addition. The Applicant is back before the Board with a new application. The new project
80 proposes to remove approximately 2,843 s.f. of existing paved area currently utilized as vacuum and
81 parking area and construct a 2,667 s.f. 29.5’ x 96.64’ building addition to re-house the existing auto
82 detailing facility. The existing detail shop will be used for an automotive related activity or other use
83 allowed in the I-B/R zone. The bathroom in the existing structure will be demolished and used as a
84 storage closet and a new handicapped accessible bathroom will be built. Pervious pavers will be used to
85 mitigate water runoff, and the impervious surface area will increase by 1%. The addition will mimic the
86 architecture of the current building.

87
88 Dr. Arena said that he read through the condominium documents submitted and they are quite
89 extensive and somewhat convoluted. He questioned who would be responsible for the septic systems.

90

91 Mr. Aleva said that the site is owned by one condominium association with a Board of Directors and that
92 unit 1 and unit 3 are owned by the same owner. The septic system in the back of the car wash is
93 designated for the car wash only (unit 3) and with the proposed addition they are not adding additional
94 flow to the system because it will be a detail area and the new bathroom is being swapped for the old
95 bathroom.

96
97 Mr. Aleva explained that there will be minimal hand washing of the vehicles before detailing and any
98 gray water will go into the drain in the existing car wash to the septic system.

99
100 Ms. Rowden referred to comments made by the Town's Engineer, Steven Keach in his report to the
101 Board. He recommended that an amended NH DOT Driveway Permit be obtained, and the Applicant
102 responded that there would be no changes to the existing entrance and traffic patterns to warrant a
103 change to the existing entrance requirements. Mr. Keach said he doesn't disagree with that, but
104 recommends that the Applicant provide the Board with confirmation from NH DOT whether or not they
105 will require issuance of an amended Driveway Permit.

106
107 Mr. Hornsby asked if there was going to be additional lighting installed. Mr. Aleva said that there is an
108 existing pole light that will remain and one or two building mount lights will be added to the building
109 with downward lighting. He said that the current hours of operation will remain the same.

110
111 Ms. Pohl asked where the cars would stack for detailing. Mr. Aleva said that they intend not to increase
112 staff and will be encouraging customers to make appointments. He pointed out where the two cars at a
113 time would be stacked and noted that there was additional parking on the lot.

114
115 Mr. Kroner opened the Public Hearing for the waiver request to Section VIII. B. 20 – Stormwater
116 Drainage Control Plan.

117
118 Mr. Kroner closed the Public Hearing without public comment.

119
120 Mr. Wilson noted that the subject lot was less than two (2) acres making it a non-conforming lot. He
121 referred to Zoning Ordinance, Article V, Section 501.2 – Non-conforming use and 302.31, the definition
122 of Non-conforming use.

123
124 Mr. Aleva said that the same situation took place in 2007 when the applicant applied to the Planning
125 Board they were directed to seek relief from the ZBA to the Non-conforming ordinance and the ZBA
126 ruled that the Applicant met the criteria of the ordinance. He didn't understand what the difference
127 would be with this application.

128
129 Mr. Wilson said the ZBA handles each case discreetly. He said that the Zoning Ordinance has this
130 peculiar provision that the Board faces every so often, that pertains to *any* change to a non-conforming
131 use, and the Planning Board can't approve an application without a variance.

132
133 Mr. Kroner read Section 501.5 into the record under Non-conforming uses: *Structures on a lot that is*
134 *non-conforming because it does not meet the existing dimensional requirements for frontage and/or lot*
135 *size can be expanded if the expansion meets current zoning.*

136
137 Ms. Rowden opined that the proposal does meet the current zoning requirements.

138

139 Mr. Wilson read Section 501.2 into the record under Non-conforming uses: *Non-conforming use [cf.*
140 *302.31] may be continued but may not be extended, expanded, or changed unless to a conforming use,*
141 *except as permitted by the Board of Adjustment in accordance with the provisions of this ordinance.* He
142 referred to the definition of Non-conforming uses, Section 301.31: *Non-conforming Use: Non-*
143 *conforming use is any use or arrangement of structures or land legally existing at the time of enactment*
144 *of this ordinance or any of its amendments, which does not conform to the provisions of this ordinance.*
145 He said this proposal is “an arrangement of land” that doesn’t meet the dimensional requirements of
146 the district.

147

148 Attorney Ells said that it is established that if an expansion doesn’t create greater non-conformity of the
149 lot, and the proposed addition meets the setback requirements, it would not make the lot any more
150 non-conforming. He said the purpose of the ordinance is to prevent non-conforming uses from getting
151 bigger and lasting forever. He said that he will go back and do the research and find the ZBA minutes in
152 2007, and come up with a summary of what went on and the justification behind the ZBA’s decision, and
153 maybe the Board could approve the application with the caveat that the approval is based upon the
154 Board’s satisfaction that the Applicant does not need any variances.

155

156 Mr. Wilson said that under the current law the Planning Board cannot refuse to act on an application
157 because some permit or variance is not given; they can add it as a “condition of approval”.

158

159 Mr. Wilson said that the Board may want to consider eliminating that peculiar provision of the
160 ordinance; Attorney Peter Loughlin has suggested that it be eliminated also, he said this is the only
161 municipality in New Hampshire with such a provision.

162

163 Mr. Derby said that having a copy of the ZBA minutes pertaining to the 2007 case would be handy to
164 have, so they could review why the ZBA made the decision that they made, and if it is clear, he would be
165 comfortable with not making the applicant go to the ZBA for a variance.

166

167 Mr. Wilson said that it would be helpful to have the ZBA minutes, but it is his understanding that ZBA
168 decisions are discreet. He said the ZBA is like the Select Board and cannot bind any future Zoning Boards.

169

170 Attorney Ells said that he will be looking into the 2007 ZBA records tomorrow and have copies submitted
171 to the *Planner* next week.

172

173 Ms. Rowden commented on the replacement of the bathroom and said that the applicant should satisfy
174 NH DES regulation 1004.15 by providing a letter stating that the bathroom is being replaced “in kind”
175 and to document whether there were any waivers requested. Mr. Aleva explained that they met all of
176 the criteria under 1004.15 applicable to the expansion of the existing structure.

177

178 Dr. Arena questioned whether or not Prowash had authority to expand the building since they were not
179 the only condominium owners on the site.

180 A discussion ensued regarding the condominium documents submitted by the Applicant between Dr.
181 Arena and Attorney Ells.

182

183 Dr. Arena said that under condominium ownership certain aspects have common ownership. He said
184 that in this particular condominium the owner owns outside of the building, both front and back. He said

185 that is unusual and that each building is unto itself, therefore there are 3 separate buildings on one lot
186 that is already *non-conforming*.

187

188 Attorney Ells said that the unit owners own their unit and they collectively own a “common area”. The
189 individual unit owner gets the tax bill. He said the proposed addition is going to be built in an area
190 exclusively reserved for the car wash.

191

192 Mr. Kroner said that the condominium ownership is not within the Planning Board’s purview. He
193 referred to the Consent letter signed by all of the condominium owners consenting to the plans and
194 proposal for the expansion of Unit #1 (Car Wash Unit).

195

196 Mr. Kroner opened the Public Hearing at 7:35pm for the Waiver request for Section VIII.B.20 –
197 Stormwater Control Plan.

198 Mr. Kroner closed the Public Hearing at 7:36pm without public comment.

199

200 **Mr. Derby moved and Ms. Pohl seconded the motion to approve the waiver request to Section**
201 **VIII.B.20 – Stormwater Control Plan.**

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

203

204 **Mr. Wilson moved and Dr. Arena seconded the motion to take jurisdiction of the application.**

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

206

207 Discussion ensued on whether or not the Applicant should seek a variance to Section 501.2 (expansion
208 on a non-conforming lot) and 302.31 (definition of non-conforming lot).

209

210 **Mr. Wilson moved and Mr. Hornsby seconded the motion to approve the Site Plan Review Application**
211 **for Case #14:01 – Prowash Car Wash with the following conditions:**

212 1. **Recordable Mylar.** Applicant shall submit a recordable Mylar of the approved plan with
213 signatures and seals affixed of all licensed professionals whose names appear on the plan.

214 All conditions of approval shall be listed on the Mylar pursuant to NH RSA 676:3.III.

215 2. **Certificate of Monumentation.** Applicant shall provide a copy of the Certificate of
216 Monumentation, stamped and signed by a NH LLS, certifying that all monuments depicted
217 on the plan have been properly set in accordance with the subdivision regulations.

218 3. **State Permits.** Applicant shall submit evidence of receipt of verification in the form of a
219 letter from NH DOT that either a driveway permit is not required or the one in place is
220 adequate.

221 4. Applicant shall submit to the Planning Board a communication from the ZBA that verifies
222 that they either received a variance as required by the ZBA, or that the ZBA has ruled no
223 variance is required for this application as it relates to Article V, Section 501.2 and Article
224 III, Section 302.31.

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

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227

228

229 **III. Other Business**

230

231 1. Pursuant to NH RSA 674:53, notification and review of proposed subdivision in the Town
232 of Hampton, NH. A portion of the property lies within North Hampton, NH. Property
233 owner: Lloyd T. Graves, 22 Post Road, North Hampton, NH; M/L 004-022-000; Zoning
234 District: R-1.

235

236 In attendance for this application:

237 Joe Coronati, Jones and Beach Engineering

238

239 Mr. Coronati explained that he is representing Lloyd Graves in an application for subdivision with the
240 Town of Hampton. A portion of the back land is in North Hampton; there will be no subdivision of land in
241 North Hampton. The land in North Hampton will be combined with the lot in Hampton designated as lot
242 #9. He said that the Town boundary line runs through the property and each town has their own tax
243 map and lot numbers for taxing purposes.

244

245 Mr. Coronati explained that he added a note to the plan there will be no building in North Hampton.

246

247 Mr. Hornsby asked about water runoff on the property. Mr. Coronati said that they are going through
248 the stormwater drainage review process in Hampton. They concluded that the land in North Hampton
249 drains onto the land in Hampton.

250

251 Mr. Wilson referred to NH RSA 674:53.III *an owner of contiguous land in more than one municipality*
252 *may treat such contiguous land as a single lot, tract, site or other division of land....* and asked if the land
253 in North Hampton would be used to fulfill any land for use in Hampton.

254

255 Ms. Rowden referred to 674:53.III (a) *all uses of land, buildings, or structures shall comply with the*
256 *regulations or ordinances of the municipality in which they are located.*

257

258 Mr. Coronati said that each lot in Hampton meets all setback and lot area requirements in Hampton
259 without the need of the land in North Hampton.

260

261 **Mr. Wilson moved and Mr. Hornsby seconded the motion to state for the record that the North**
262 **Hampton Planning Board has found no jurisdiction of the Application therefore makes no judgment**
263 **consistent with NH RSA 673:53.**

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

265

266 **2. Any other business to come before the Board.**

267

268 Ms. Chase presented the Board with a Mylar for Max BMW Motorcycles prepared by MSC Engineering.

269

270 The following facts were presented to the Board:

271 1. Max BMW motorcycles received Planning Board approval for a Site Plan Review, with
272 conditions, on May 1, 2007.

273 2. A building permit was issued on May 2, 2007.

274 3. The building was built.

- 275 4. The Mylar was never submitted and the “conditions” were not met.
276 5. Corey Coldwell, MSC Engineering drew up a recordable Mylar for what currently exists
277 at the site.
278 6. The Building Inspector, Kevin Kelley did a site walk and confirmed that the Mylar was
279 accurate to what is on the site currently, and has asked the board if they would sign the
280 Mylar so it could be recorded to “clean up’ the oversights made in the past.
281 7. The original conditions were: (1) Recordable Mylar to be submitted; (2) A note shall be
282 added to the plan stating that all new lighting will conform to *dark sky* standards; (3) the
283 Planning Board shall receive a letter from the Town’s Engineer stating that he details of
284 the new catch basin as depicted on the plan are adequate. Mr. Kelley believes that the
285 catch basin is adequate and the lighting conforms to *dark sky* standards.
286

287 **Mr. Wilson moved and Mr. Hornsby seconded the motion that the Building Inspector, Kevin Kelley,**
288 **finds the plan submitted, for which a Mylar was submitted, meets the conditions of approval in the**
289 **decision letter dated May 1, 2007.**

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

291

292 The Board Members signed the Mylar for Max BMW Motorcycles.

293

294 The meeting adjourned at 8:10pm without objection.

295

296 Respectfully submitted,

297

298 Wendy V. Chase

299 Recording Secretary

300

301 Minutes approved March 18, 2014