



Meeting Minutes
North Hampton Planning Board
Tuesday, April 1, 2014 at 6:30pm
Town Hall, 231 Atlantic Avenue

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

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

A Recording Secretary was not present. These Minutes were transcribed from the DVD recording.

Members present: Shep Kroner, Chair; Tim Harned, Vice Chair, Joseph Arena, Dan Derby, Barry Donohoe, and Jim Maggiore, Select Board Representative.

Members absent: Mike Hornsby

Alternates present: Nancy Monaghan

Others present: Jennifer Rowden, RPC Circuit Rider

Chair Kroner convened the meeting at 6:32pm.

I. Old Business

1. **Case #14:02 – Historic Runnymede Farm, LLC, 68-72 Atlantic Avenue, North Hampton, NH 03862.** The Applicant submits a Site Plan Review Application under Section, V.B.1.c - Use Change: any change of use which, in the opinion of the Building Inspector, requires Planning Board approval in order to safeguard the health, welfare, morals, convenience and safety of North Hampton’s citizens, for a proposal to build a 100’ x 250’ Riding Barn to provide an indoor area for exercising, training and running of horses and related activities. Property owner: Historic Runnymede Farm, LLC, 68-72 Atlantic Avenue, North Hampton, NH 03862; property location: 68-72 Atlantic Avenue, North Hampton, NH 03862; M/L 006-002-001 and 006-003-000; Zoning District: R-2. This Case is continued from the March 4, 2014 Meeting. The Applicants request the following waivers to the Site Plan Review Regulations: 1). Section X.B.4. – Width of Access Aisles, and 2). Section X.D.2.(b) & (c) – Screening.

Dr. Arena recused himself from Case #14:02, because he is a direct abutter to the subject property.

Chair Kroner seated Ms. Monaghan for Dr. Arena.

Chair Kroner directed those, who were going to submit any information, to put a copy in the folder at the Recording Secretary’s table for the permanent record.

46 Chair Kroner said that procedurally the Board had to take up jurisdiction of the application (completion
47 of the application).

48

49 Chair Kroner recapped and said that the Code Enforcement Officer deemed the proposal a Change of
50 Use requiring a Site Plan Review of the Planning Board. He said that, in his opinion, what is more
51 applicable is the provision is that any construction of a non-residential use or multi-family dwelling
52 requires a Site Plan Review.

53

54 Chair Kroner said that the Board has received new submissions from the Applicants with their objections
55 with being subjected to the site Plan review process, concluding that the riding arena is an accessory use
56 to the existing residence, barn and stable and therefore allowed as a matter of right; a permitted use in
57 Town that requires no Special Exception, Variance or Site Plan Review. He said he trusts that the
58 submissions were shared amongst the various Parties and that the Board was able to review them. All
59 submissions are a part of the public record.

60

61 Ms. Rowden said that she continues to believe that a Site Plan Review is required mainly because it is
62 the expansion of the non-residential use and that there is sufficient information that has been presented
63 for the Board to accept jurisdiction for the application.

64

65 Chair Kroner went over the different options the Board could consider:

- 66 1. The Board could take jurisdiction for the Application (meaning the application is complete), or
- 67 2. The Board could review the Site Plan and make a determination to deny, approve or approve
68 the Application with conditions, such as, requiring a Special Exception for a riding stable, or a
69 Variance for a commercial use in a residential zone, or
- 70 3. The Board could deny the application, without prejudice, as incomplete until the Applicant
71 receives (if the Board finds it is necessary) a Special Exception from the ZBA for a riding stable,
72 or a Variance for commercial use in a residential zone.

73 He said that the only outstanding item of this is whether the Board feels a Conditional Use permit will be
74 required because the riding arena is not placed in the back of the property. (Article V, Section 508.5.C.1
75 of the Zoning Ordinances). He commented that there were limitations with the setbacks limiting to
76 where the building can be oriented on the property. He said in the Zoning Ordinance an accessory
77 structure is subordinate to a main structure.

78

79 There were waivers to Site Plan Regulations requested by the Applicant. Ms. Rowden suggested the
80 Board take action on the waivers after they accept jurisdiction for the application.

81

82 Chair Kroner said that the Applicants requested the opportunity to speak on issues raised by the
83 abutters at the last meeting.

84

85 Attorney Tom Hildreth, co-counsel for the Applicant, said that he would like to speak to the issues raised
86 in the course of rebuttal. He commented that it is up to the Board on whether to require, or waive, a
87 Site Plan Review.

88

89 Mr. Derby commented that if the Applicant doesn't agree with the Code Enforcement Officer's decision
90 wouldn't the proper course be to appeal his decision to the Zoning Board.

91

92 Ms. Rowden said that ultimately it is the Planning Board's determination on whether or not a Site Plan
93 Review is required.

94

95 Mr. Hildreth said that his client is not withdrawing the Site Plan Review Application.

96

97 Mr. Harned said that it would behoove the Board to allow both sides to present information that will not
98 be a repeat because there may be new information that could bear on the decision of completeness.

99 The Board agreed with Mr. Harned.

100

101 Chair Kroner re-opened the Public Hearing.

102

103 Mr. Hildreth introduced those in attendance for the Application:

104

- 105 1. Alan Perkins, Principle of Historic Runnymede Farm, LLC
- 106 2. Blythe Brown, Principle of Historic Runnymede Farm, LLC
- 107 3. Ben Auger, General Contractor and Construction Manager
- 108 4. Paul Connolly, Civilworks Engineering
- 109 5. Robin Woodburn, Landscape Architect, Woodburn & Company
- 110 6. William Becket, Attorney for Historic Runnymede Farm, LLC
- 111 7. Gene Sweeney and A.J. Silva, Farm Managers and Horse Trainers at Runnymede Farm
- 112 8. Peter Fuller, Jr.

113

114 Mr. Hildreth said that Historic Runnymede Farm is an animal husbandry use and they only need a
115 building permit, and do not agree a Site Plan Review is necessary. He explained some of the things that
116 occurred since the March 4, 2014 Planning Board Meeting:

- 117 • An agreement was reached between the abutters, Mr. and Mrs. Baldini who will withdraw their
118 objection to the application.
- 119 • The proposed paddock closest to the Little River and the Baldini residence has been removed
120 and replaced with a landscape plan agreed upon by the Baldinis, and Historic Runnymede Farm
121 (HRF).
- 122 • HRF made attempts to do something similar with the closest Abutter, Mrs. Weldon, but they
123 came to no agreement.
- 124 • A Friesian foal was born on Saturday and will require an indoor arena this winter.
- 125 • HRF is not a commercial theatrical venue; it is an animal husbandry facility and meets the
126 definition of such in the Zoning Ordinance.
- 127 • The information regarding "Behind the Mask" was taken out of context and the websites were
128 taken down because they were confusing.
- 129 • "Behind the Mask" is run by Mr. Silva and Mr. Sweeney and performed at country fair circuits
130 for ribbons and "bragging rights". "Behind the Mask" has limited performances (zero in 2013)
131 and will have no impact at Runnymede Farm.
- 132 • There is no intention of making HRF financially viable.
- 133 • The subject lots, 68 and 72, have been voluntarily merged and the merger was recorded at the
134 Rockingham County Registry of Deeds.
- 135 • HRF is being rebuilt for pleasure and for pride and not for profit; it is not commercial.
- 136 • HRF is a "Gentlemen's Farm" and will continue to operate as it has this past year: practice
137 dressage, bedded horses, sold horses, riding instruction and training for "Behind the Mask".

- 138
- There is no adverse impact.
- 139
- The Rush property at 72 Atlantic Avenue could have been purchased and the building could
- 140
- have been razed and replaced with a large house 30-feet from the adjacent abutter, Virginia
- 141
- Weldon, and 35-feet high resulting in a bigger impact to Mrs. Weldon than the proposed arena.
- 142
- It was suggested the arena be built in front of the Antique barn, but that would obliterate the
- 143
- view of the barn, a view shared by everyone passing by.
- 144
- HRF has offered to augment the landscape plan with evergreen trees to obscure the view of the
- 145
- building; and would be able to make it so that it is not visible.
- 146
- They have a manure management plan and will always abide by Best Management Practices
- 147
- (BMP).
- 148
- The Agricultural Commission is welcome to inspect the site on a yearly basis.
- 149

150 Attorney Hildreth concluded:

- 151
- Agriculture is permitted in the R-2 District.
- 152
- Referenced Section 508.5.B.2.a – Lots of 4 acres or more – All Agricultural Operations, including
- 153
- Animal Husbandry, may be conducted on lots consisting of four (4) acres or more provided that
- 154
- these Agricultural Operations comply with the provision of this ordinance and the NH Dept of
- 155
- Agriculture and Food & Markets: BMP. Attorney Hildreth said that the proposal complies with
- 156
- this section and therefore they believe only a Building Permit is required.
- 157
- The Weldon’s property will be shielded with a row of trees and they will not hear or smell the
- 158
- horses in the arena.
- 159

160 Attorney Hildreth explained that there is a restrictive covenant on lot 1, where the house and antique
161 barn are located, that only allows one (1) structure on it unless the other parties agree that that
162 restriction may be waived.

163

164 Mr. Maggiore asked if the vegetation that would screen the arena from the abutter had been decided
165 yet.

166

167 Attorney Hildreth said that it has not been established; if the abutter doesn’t want to see the proposed
168 arena at all they will plant enough trees so that it isn’t visible to them. The landscape plan shows some
169 trees that will be planted but they are willing to add enough so that the building cannot be seen.

170

171 Chair Kroner invited the Representatives for Virginia Weldon and her family to address the Board.

172

173 Attorney Michael Donovan stated that he represented Virginia Weldon and her family and said that Jeff
174 Hyland, Landscape Architect and Alex Ross, Civil Engineer would be addressing the Board on behalf of
175 the Weldon’s also.

176

177 Chair Kroner called for a five minute recess to set up the projector for a PowerPoint presentation.

178 Chair Kroner reconvened the meeting.

179

180 Mr. Hyland did a landscape assessment of the property and reached the following conclusions:
181 It appears that the intensity of the development is inconsistent with R-2 zoning and said more
182 information is needed, such as, the number of anticipated staff, number of visitors per week, size of
183 potential events and parking calculations, etc. He said that the scale of the proposed building is eight (8)

184 times that of Mrs. Weldon's home and even with the trees he sees no way of buffering the size of the
185 proposed building without horizontal separation. Mr. Hyland explained that they used computer
186 software to simulate how the proposed building and vegetation will shade Mrs. Weldon's property. They
187 "plug in" the sizes of the building and trees, the latitude and longitude, time of day into the program and
188 it generates the images of the shadows on the neighboring property. He opined that the proposed
189 building and vegetation wipes out the sunlight from going into Mrs. Weldon's home in the winter
190 months.

191
192 Mr. Alex Ross explained that the development on the property has evolved over time and in smaller
193 increments. A Minimum Impact Wetland Permit is based on a certain threshold of area of disturbance
194 and if all the permits were applied for showing all of the work, larger permits may have been required.
195 He said that currently the drainage study is not taking into account the cumulative effects of all the site
196 work. Mr. Ross said he spoke to the Town's Engineer, Steven Keach, who agreed that the site cannot be
197 viewed in incremental steps. He said that the entire development should be reviewed instead of the
198 current piecemeal phased approach that is being used. Regarding the Town's Site Plan Review
199 Regulations it outlines the Board's task to ensure that the project will not have a detrimental effect on
200 the abutters and the environment.

201
202 Attorney Donovan stated reasons why the Board should not take Jurisdiction over the application:
203 • The voluntary lot merger was not completed. Chair Kroner stated that the voluntary lot merger
204 was completed and recorded at the Registry.
205 • A Conditional Use Permit, if the Board determined it to be necessary, was not completed.
206 • KNA, the Town's Engineer, have not reviewed any new plans addressing their concerns in their
207 original report.
208 • KNA has not reviewed the incremental development over the past 3 years as part of the
209 drainage analysis
210 • There is no use intensity statement
211 • There is no final landscape plan

212
213 Attorney Donovan quoted from the Site Plan Regulations that Site Plan Review is required for non-
214 residential uses. He said that the proposal is a massive non-residential use. He referred to Section V of
215 the Site Plan Review Regulations, specifically A.1, A.2, and A.3 that require a Site Plan Review, and each
216 section applies. He said the Applicants cannot comply with Section IV.E.1 – The Board shall take into
217 consideration the public health, safety and general welfare, the comfort and convenience of the general
218 public, and shall ensure that proposed development does not have a detrimental effect on the abutters,
219 the neighborhood and the environment of the town.

220
221 Attorney Donovan opined that it is a commercial use in a residential zone and will require a variance. He
222 submitted evidence that "Behind the Mask" is a business registered with the Secretary of States Office
223 with a location at Runnymede Farm. He referred to a memo he submitted from Kathleen Reagan, who
224 specializes in equine law, who stated that the 11 proposed parking spaces are indicative of a commercial
225 use.

226 Attorney Donovan submitted thirty (30) questions from his clients concerning the proposed use of the
227 arena and farm. He commented that there should be a comprehensive use statement outlining exactly
228 what will be done on the property and summarizing the impacts it may create.

229

230 Attorney Donovan spoke of reasons a Site Plan Review is required and read from the memo he
231 distributed to the Board. He said this proposal will diminish the value of the Weldon's property; it will
232 block the view and breeze, cast shadows on her property and there will be constant noise and
233 vibrations. He said that if the Planning Board should approve a Site Plan Review it should be conditioned
234 with an approved Variance from the Zoning Board for a commercial use in a residential zone.

235
236 Ms. Monaghan asked for Attorney Donovan's opinion on the Applicant's stand that it is considered an
237 Animal Husbandry Operation, and why he feels it is not.

238
239 Attorney Donovan referred to Section 508.3.D – definition of "Animal Husbandry Operation" *means an*
240 *agricultural operation concerned with the production and care of domestic animals*. He said that
241 "domestic animals" are animals used on the farm. He said the Friesian horses are not domestic animals.
242 He also referred to "commercial animal husbandry facilities", which are prohibited uses in all zones, and
243 the Friesian horses are used in a theatrical troupe which falls under commercial animal husbandry. He
244 said the horses are not domestic animals; they are trained at Runnymede farm to go off the premises to
245 put on performances that people go to and pay money to see.

246
247 Mr. Derby asked about the meeting the Applicants had with the Weldon's that was mentioned earlier,
248 and asked why a mutual agreement was not met.

249
250 Attorney Donovan said he and his client met with Attorney Hildreth once with the understanding that
251 the meeting would not be mentioned at this meeting. It is inappropriate for us to discuss what went on
252 at the settlement discussion because it may cause prejudice on one side or the other.

253
254 Mr. Maggiore asked what a "troupe" was and who and what are a part of a "troupe". He said he is trying
255 to understand whether or not it is a commercial operation.

256
257 Attorney Donovan read from "Behind the Mask" website, it is a theatrical troupe that is available to hire
258 for equine shows and expeditions and can be booked for weddings and special events.

259
260 Attorney Becket stated that Attorney Donovan misspoke when he said that Attorney Beckett referred to
261 the arena as a "riding stable". Attorney Donovan spoke up and said his statement was that Attorney
262 Beckett said the existing use is a riding stable and this will be a (unintelligible) to it.

263
264 Attorney Beckett said that the arena is not a riding stable because the horses will not live there or be
265 taken care of there. It will not be an expanded use of the existing stable. The riding arena is a place for
266 the horses to exercise.

267
268 Attorney Beckett said the Ms. Rowden mistakenly used the definition of "riding stable" from a British
269 English Dictionary and there is no definition of "riding stable" in the American English Dictionary.

270 Ms. Rowden concurred.

271
272 Ms. Rowden said that the Board should decide whether a Site Plan Review is required and whether or
273 not to take jurisdiction of the application, and in doing so, it does not mean that the Board is approving
274 the application because it is a permitted use. The Board would be taking it up so that the Board could
275 either, approve it, conditionally approve it or deny it.

276

277 Chair Kroner said that if the Board took jurisdiction of the application it would start the clock for Board
278 decision. He said they could deny the application without prejudice if the Board decided the Applicant
279 would need a Special Exception or a Variance, and then the Applicant could come back to the Planning
280 Board with the ZBA decision.

281
282 Ms. Rowden said that a lot of materials were submitted this evening to the Board and a lot to digest. She
283 said the Board doesn't have to make any decisions this evening.

284
285 Chair Kroner said that the Board has an avalanche of material for it to be able to make the basic decision
286 of whether or not a Site Plan Review is required. There has been a lot of new material submitted this
287 evening to ponder. He mentioned that the Board has a submission deadline before a meeting of any
288 new material.

289
290 Attorney Hildreth said addressed Mr. Maggiore's question of what a "troupe" is. He said that the horses
291 are domestic animals and trained which is included in the definition of Animal Husbandry Operations.
292 They are trained for dressage, 4-H fairs, horse and buggy rides, and for "Behind the Mask"
293 performances. Mr. Silva and Mr. Sweeney are owners of "Behind the Mask" and they do not make a
294 living at it; they did not do a single performance in 2013. They occasionally receive a performance fee
295 that doesn't cover the cost of their expenses.

296
297 Chair Kroner opened the meeting to those who wished to speak on the subject of "jurisdiction of the
298 application".

299
300 Dr. Joseph Arena, Jr., 8 Dancer's Image Lane, explained that he recused himself because he is an abutter
301 to the Applicant. He said that an equine is a horse and a domestic animal no matter the situation. The
302 discussion the Board should be concentrating on is the indoor arena, not "Behind the Mask". The
303 Friesian horses are not like the thoroughbreds that were there before, they need to be handled
304 differently. They need an indoor arena to exercise in the winter months. He said it is tiresome to hear
305 the same old arguments. He said Runnymede Farm has outdoor arenas and they need an indoor arena
306 to be able to keep the Friesian horses at Runnymede Farm. He said, as an abutter, he is in favor of it and
307 it would be a tremendous thing to have in North Hampton; common sense should be utilized.

308
309 Chair Kroner closed the Public Hearing.

310
311 Chair Kroner said the Board needs to determine whether or not the Applicant needs a Site Plan Review.

312
313 Chair Kroner said there was a thoroughbred racing horse stable at Runnymede Farm for a long time. The
314 lot with the merger is now over 6 acres, plus they have acreage of grazing rights and conservation
315 easements. The stable is a "grandfathered use" because they had less than four (4) acres and more than
316 four (4) animals. They have merged a lot to the original Runnymede lot and proposed a 26,000 sq. ft.
317 riding arena. He said that it is an expansion of the use before. There is a large structure being proposed
318 in a non-residential zone. The Site Plan Review Regulations serve for these purposes to put a process in
319 place that allows abutters and the community an opportunity to be heard. It is the Board's responsibility
320 to try and have the Parties come up with a compromise or to make conditions that would help diminish
321 the impacts on those who may be affected by it.

322

323 Mr. Harned agreed and referred to the Site Plan Review Section 5.1 – the construction of any non-
324 residential use..... He said that the lot where the arena is going is residential and the building being put
325 on it is not residential, so it is a conversion or an enlargement of an existing non-residential use. He said
326 it is clear that a Site Plan Review is required for this particular Case.

327
328 Ms. Monaghan said it is the construction of a non-residential building and it is clear that a Site Plan
329 Review is required.

330
331 Mr. Derby said that a Site Plan Review is required. He said the question they need to address is the
332 common interpretation or “riding arena” and of “riding stable”.

333
334 Mr. Maggiore said that it requires Site Plan Review, and that the Board should take jurisdiction of the
335 Application.

336
337 **Mr. Harned moved and Mr. Maggiore seconded the motion that it is the consensus of the Board that a**
338 **Site Plan Review is required according to Section V, A.1 of the Site Plan Review Regulations, *The***
339 ***construction of any non-residential use or multi-family dwellings.***

340
341 Chair Kroner said he felt the Applicant thought by right they should be able to build the arena because it
342 is an accessory structure to a use that is already taking place, and it said it is not so much an accessory
343 structure; it is an expansion of the site. Mr. Harned agreed.

344
345 **The vote was unanimous in favor of the motion (6-0).**

346
347 **Jurisdiction –**

348
349 Chair Kroner said the proposed arena is in relationship to the existing stable and the Architects of the
350 Zoning Ordinances encourages agriculture; it is important, but for some reason they made a distinction
351 for “riding stable”. The distinction was put in there because they probably anticipated the potential of a
352 large structure and assumed the Zoning Board was better suited to deal with it.

353
354 Mr. Harned said he struggled with it and is something that he would like to see happen at the farm, but
355 the Ordinances were put in to protect the owner of the property, but also to protect the neighbor from
356 having something done with significant impacts. He said that the current stable at Runnymede Farm is a
357 “riding stable” and agrees the “riding arena” is necessary and that it is an arena not a “stable”, but he
358 believes the arena is an extension of the “riding stable”. He said when there are two conflicting things in
359 the Ordinance the more restrictive applies, and he thinks the “riding stable” under Special Exception, is
360 more restrictive.

361
362 Mr. Maggiore said that the Planning Board has to weigh the impacts of the entire community, as well as,
363 the neighbors, and therefore agrees that it should go to the Zoning Board for a Special Exception.

364 Mr. Derby said that the issues are complex enough to require both a Special Exception and a Site Plan
365 Review.

366
367 Discussion ensued on the different scenarios regarding the application.

368

369 Mr. Harned asked that if the Board denied the application, without prejudice, and the Applicant
370 received a Special Exception would they be able to come back to the Planning Board where they just left
371 off regarding the Site Plan Review application. The Board agreed that to be the case.

372
373 Attorney Beckett said for the record that they were not in agreement.

374
375 Ms. Rowden said that the Zoning Board could add conditions of approval to a Special Exception.

376
377 **Ms. Monaghan moved and Mr. Harned seconded the motion that this Board denies the application as**
378 **incomplete, without prejudice, because the Board believes the Applicant needs a Special Exception**
379 **from the Zoning Board as an expansion of a Riding Stable, and for any further consideration the**
380 **Zoning Board may want to give, given the complexity and arguments given of the use of this property.**

381
382 Ms. Monaghan was asked to reiterate the motion that she made.

383
384 **Ms. Monaghan moved to deny this application as incomplete because the Board believes it requires**
385 **an Exception as an expansion of the property as a Riding Stable; therefore would need to go to the**
386 **Zoning Board for such an Exception.**

387 **Mr. Harned made a friendly amendment to refer to the Exception as a Special Exception.**

388 **Ms. Monaghan accepted the friendly amendment.**

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

390

391 Dr. Arena rejoined the Board.

392

393 **II. New Business**

394

395 **1. Case #14:03 – Annette Lee and Nicole Carrier, 2 Elm Road, North Hampton, NH 03862.**

396 The Applicants request an amendment to the Site Plan (Case #13:05), approved by the
397 Planning Board on June 4, 2013, to add a building adjacent to the existing barn. The
398 existing brewery would be relocated to this proposed new building to produce beer and
399 operate a tasting room/event space. The Applicants request the following Waiver to the
400 Site Plan Review Regulations, Section VIII.B.20. – Stormwater Drainage Control Plan; a
401 Stormwater Drainage Control Plan was submitted with the original approved Site Plan
402 Review application. Property Owners: Same as Applicants; Property Location: 2 Elm
403 Road, North Hampton, NH; M/L: 013-009-000; Zoning District: I-B/R & R-1.

404

405 There was no one in attendance for this application.

406

407 The Board was in receipt of a letter from the Applicants requesting a continuance to the May 6, 2014
408 meeting.

409 **Mr. Derby moved and Ms. Monaghan seconded the motion to grant the request for a continuance for**
410 **Case #14:03 to the May 6, 2014 meeting.**

411 **The vote passed in favor of the motion (6 in favor, 0 opposed and 1 abstention). Mr. Maggiore**
412 **abstained.**

413

414 **III. Other Business**

415
416 Mr. Kroner read the Preamble to the Code of Ethics into the record.
417
418 The meeting adjourned without objection.
419
420 Respectfully submitted,
421
422 Wendy V. Chase
423 Recording Secretary
424
425 Approved May 20, 2014
426