



**Meeting Minutes
North Hampton Planning Board
Tuesday, August 19, 2014 at 6:30pm
Town Hall, 231 Atlantic Avenue**

6

7

8

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:** Shep Kroner, Chair; Tim Harned, Vice Chair, Dan Derby, Phil Wilson and
13 Jim Maggiore, Select Board Representative.

14

15 **Members absent:** Dr. Arena and Barry Donohoe

16

17 **Alternates present:** Nancy Monaghan

18

19 **Others present:** Wendy Chase, Recording Secretary

20

21 **I. Public Hearing**

22

23 **The North Hampton Planning Board will hold a Public Hearing on Tuesday, August 19, 2014 at 6:30 pm**
24 **at the Town Hall to change the Site Plan and Subdivision Regulations to add the requirement that all**
25 **application documents, plans, supporting documents and other material shall be provided in digital**
26 **pdf format, one file for each plan. Digitally submitted files are in addition to and do not replace any**
27 **current submission requirements.**

28

29 Mr. Harned convened the Public Hearing at 6:36 p.m.

30

31 Ms. Monaghan was seated for Dr. Arena.

32

33 Mr. Harned read the proposed amendment into the record:

34

35 **Digital File Submission Requirement**

36

37 **All application documents, plans, supporting documentation and other materials shall also be**
38 **provided in digital Portable Document Format (PDF), one file for each plan. Digitally submitted files**
39 **are in addition to and do not replace any current submission requirements. Digital files shall be**
40 **complete and exact copies of the corresponding paper submittals (e.g., plans shall be at the same**
41 **scale and sheet size as the paper copies).**

42

43 **Applicants may submit additional digital files to assist in presentations at public hearings, but such**
44 **additional digital files shall not be considered part of the application unless corresponding paper**
45 **documents are also provided. This digital format will be kept in the Planning Department digital files**

46 **and may be used to send plans to Planning Board Members, abutters, peer review engineers, and all**
47 **other interested parties.**

48

49 Discussion ensued on the word “shall” and the legal ramifications it may possibly create.

50

51 Mr. Harned said the Board was trying to use a word that would strongly encourage people to submit a
52 digital copy.

53

54 After reviewing other paragraphs within the site plan application requirements, the Board agreed,
55 through general consensus, that the word “shall”, would be fine. The waiver section of the regulations
56 does give leeway.

57

58 Mr. Harned opened the Public Hearing at 6:43 p.m.

59 There was no one present from the public; Mr. Harned closed the Public Hearing at 6:46 p.m.

60

61 **Mr. Kroner moved and Mr. Wilson seconded the motion to approve the addition to the Regulations of**
62 **the application submission requirement, to include the requirement, as read by the Vice-Chair,**
63 **Mr. Harned.**

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

65

66 The Board agreed that the addition to the Regulations would be inserted after the first paragraph as a
67 separate paragraph under VIII.A.1 in both the site plan and subdivision regulations. *Secretary's note: It*
68 *will be added in the excavation regulations after the first paragraph under Section 5.*

69

70 **II. Old Business**

71

72 **1. Prioritized Work Order updates**

73

74 **a. Dan Derby & Barry Donohoe – Minor Site Plan and Subdivision Regulations** – Mr. Donohoe
75 was not present. Mr. Derby explained that he and Mr. Donohoe met and Mr. Derby made
76 suggested changes to the Site Plan and Subdivision Regulations that Mr. Donohoe was going
77 to review and comment on. Mr. Derby said that the fundamental objection is to create a
78 simpler process for minor site plans and minor subdivisions that will be less technical and
79 less of a financial burden for the Applicant, and a better streamline for the administrative
80 staff. He suggested that they create a list of criteria for minor site plan and subdivision
81 plans and if the proposal doesn't meet the criteria then it would not be considered *minor*.
82 Mr. Derby said that some towns have the administrative staff review some of the minor
83 plans. He said that he and Mr. Donohoe did not agree with that process and said that even if
84 they design a simpler method, proposed plans would still have to go before the Board for
85 final approval.

86

87 Mr. Kroner said that the Town of Rye recently retooled their entire Zoning Ordinances and
88 they implemented a minor site plan and minor subdivision review process. He said that he
89 knew of six or eight area towns that are doing the same thing and thought that the process
90 was borne from the Rockingham Planning Commission.

91

92 Mr. Wilson said that the Town already has a “Change of Use” application, which is a big
93 distinction from a Site Plan Review. He voiced concern over adding another layer of
94 bureaucracy to the process.

95
96 Mr. Kroner suggested the Board read Rye’s “step” approach. He said he could invite Mel, a
97 member of the Rye Planning Board, to attend a Work Session and explain what they were
98 trying to achieve.

99
100 Mr. Maggiore said that it is challenging to make the checklist simplest enough, and broad
101 enough, but if the process can be simplified for people; that is always a good idea.

102
103 Mr. Wilson asked what would stop property owners from expanding sites in small
104 increments over a period of years; proposals that would meet the *minor* site and subdivision
105 plan threshold, but end up changing the site in a major way. Mr. Harned said he shares that
106 concern.

107
108 Mr. Derby said that most of the towns have a very specific list of tests.

109
110 Mr. Harned said he would like to take the next step. He suggested Mr. Derby send
111 Ms. Chase any materials relating to the minor subdivision and site plan process and she will
112 distribute them to the other Board members in time for the next Work Session.

113
114 Mr. Kroner said that he planned on attending the Stratham Planning Board meeting regarding the
115 proposed Rollins Farm subdivision that abuts Goss Road, and also includes a small portion of a lot on
116 Goss Road in North Hampton.

117
118 Mr. Wilson suggested that the North Hampton Planning Board request of Stratham that the proposal be
119 considered to have regional impact so that the surrounding towns are notified and allowed to speak at
120 the Public Hearing. He asked if the subdivision abutted the Corbett property. Mr. Maggiore said he
121 would find out.

122
123 **b. Tim Harned & Nancy Monaghan – Wetlands** – Mr. Harned and Ms. Monaghan reviewed the
124 wetland related ordinances and came up with a list. The relevant sections of the Town
125 Ordinances regarding wetlands are:

126 Zoning Ordinance: Section 403 Wetland Conservation District

127 Zoning Ordinance: Section 409 Wetland Conservation Areas

128
129 Both Mr. Harned and Ms. Monaghan updated the Board on their research and preliminary thoughts and
130 suggestions:

131
132 **#1 – Septic Setback**

133 **The septic setback is not correct as stated in the ordinance. It says 75 ft from the Wetland**
134 **Conservation District (409.8.A). The district is defined to include the wetland buffer (403) which is 100**
135 **ft (lots not of record), 75 ft or 50 ft (lots of record with less than 16,000 sq ft buildable). So the septic**
136 **setback is 175 ft or 150 ft or 125 ft depending on the case. This is not what was intended.**

137

138 We believe it needs to be changed to 75' from the wetland boundary (not the district) which is the
139 current intent. We are hesitant to make it more at this time without really doing our homework. So this
140 would be a clarification, but not a strengthening or weakening of the ordinances.

141

142 **#2a – “Natural Vegetation” buffers in the Wetland buffer**

143 **If lots of record have less than 16,000 sq ft buildable and they reduce the wetland district buffer**
144 **setback to 50 or 75 ft., should we require 50% of the buffer to be “Natural Vegetation”? Basically that**
145 **means no lawn or landscaping. We are trying to find a good definition for Natural Vegetation Buffer”.**
146 **(See Portsmouth’s below.) This would be a strengthening of the ordinances.**

147

148 **#2b - “Natural Vegetation” buffers in the Wetland buffer**

149 **Here is one for discussion (we are trying to get data to say if it is a good idea or not) that could have a**
150 **couple options. It is regarding the 100 ft buffer only.**

151 **A – Require 25 ft Natural Vegetation Buffer in the first 25 ft of the wetland buffer. The 100 ft stays as**
152 **is (this would be a strengthening).**

153 **B – Allow a reduction to a 75 ft wetland buffer if the first 50 ft is a Natural Vegetation Buffer.**
154 **(Stronger or weaker –we are trying to find out. we would only propose if it is stronger).**

155

156 Mr. Wilson said that any time the Board proposes these types of changes they must have scientific
157 evidence to back it up.

158

159 **A few other wetland comments unrelated to setbacks and the natural vegetation issue:**

160

161 The Building Inspector, Mr. Kelley, suggested that permanent markers be placed at intervals marking the
162 wetland boundary (or) wetland buffer boundary. He said that Hampton Falls uses this process and
163 provided a copy of the Hampton Falls Zoning Ordinance. He explained that it is easy for a Building
164 Inspector to see and determine where the boundary is after being delineated.

165

166 Mr. Kroner said this only happens with new subdivisions where the wetlands are delineated.

167

168 The Board voiced concern over people removing the markers, and the wetlands boundary changes over
169 time.

170

171 Mr. Harned will ask Mr. Kelley for more information on this matter.

172

173 **409.5B - Does the existing ordinance include "manure" as a hazardous material? Should there be**
174 **some wetland protection from animal waste?**

175

176 Mr. Derby said that enforcement of the current rules should be addressed, rather than creating more
177 ordinances.

178

179 **409.7E - Fill less than 3000 square feet of surface area. If someone wanted to challenge this, and had a**
180 **property of 50 acres and wanted to put multiple areas of fill, none of which exceeded 3000 square**
181 **feet, would they be within the ordinance? Or if they had two contiguous properties and made one big**
182 **fill area of 6000 feet straddling the two lots, 3000 on each lot, is that OK? Is this section important**
183 **enough to try to strengthen it?**

184

185 Mr. Wilson said that it is not related to the size of the property; it is the size of the wetland.

186

187 **409.9B(a) = ..."or was constructed subject to a validly issued building permit." we don't know if this is**
188 **a big deal but what is the definition of a validly issued building permit? If it's issued wrongfully, i.e.,**
189 **the building inspector erred and should not have issued it but you have a permit in your hand, is it**
190 **valid? We learned from the cell tower case that there was a permit issued but it wasn't valid after the**
191 **Zoning Board ruled it was improper.**

192

193 The Board discussed the meaning of the word "validly". It was a consensus of the Board that a *validly*
194 *issued building permit* is a *building permit* that has been issued and has surpassed the 45-day appeal
195 period to the Zoning Board of Adjustment. Mr. Harned suggested keeping the current language and
196 adding a definition of "validly issued permit" to the definition section. The added definition would have
197 to go on the March ballot.

198

199 **411 Minimum Lot Area - the last few words of this that there "shall be one contiguous acre of non-**
200 **wetland soils for the site of a house." Do we want to clarify this? Remembering that a lot on the**
201 **Woodland Road subdivision where the "contiguous acre" was a torturous calculation that included**
202 **that six-foot-wide tail. The Maple subdivision had continuous upland that was effectively fragmented**
203 **by wetlands. Do we want to rewrite this to prevent that in the future?**

204

205 Ms. Monaghan commented that Section 411 needs to be "tightened up" so not to allow weird shaped
206 pieces of land to satisfy the one-acre of contiguous upland requirement.

207

208 Mr. Wilson said that it is an important issue that needs to be rectified.

209

210 Mr. Derby said that the issue must have been heard in Court numerous times. He suggested researching
211 court cases that dealt with this matter and how the issue was resolved.

212

213 Mr. Harned suggested delineating the perimeter of the land. He said he would work on it.

214

215 **c. Shep Kroner & Dr. Arena – Duplexes –**

216

217 Mr. Kroner commented that the Town just went through the exercise of determining the definition of
218 "duplex". He brought a copy of the Town's Master Plan and questioned whether "duplexes" are
219 consistent with the Master Plan. He said at one time they served as a more affordable way of owning a
220 home in North Hampton but over time land values have increased tremendously and with the 2 ¼ acre
221 requirement to build a duplex, more people will purchase properties of that size to possibly tear down
222 the existing structure to allow for a duplex, which will change the character of the neighborhood and
223 have impacts on town services and traffic. He said the Town currently has larger setback requirements
224 for multi-family, but not for duplexes.

225

226 Ms. Rowden had forwarded her opinion by E-mail. She recommended that the Board look to limit the
227 percent of impervious surface allowed on lots (this would affect all buildings, not just duplexes),
228 increase the required non-wetland area, or amend the regulations to require increasing lot size and
229 frontage based on the number of residential units proposed for a lot.

230 Duplexes are allowed in all zoning districts in Town on lots of 60,000 square feet of uplands. Mr. Derby
231 commented that there are houses in Town that can be converted into duplexes.

232
233 Mr. Kroner commented that the Town of Brentwood does not allow duplexes.
234
235 The Board wondered what the legal implications would be by not allowing duplexes.
236
237 Mr. Wilson commented that duplexes reduce the two acre lot size for single family homes. The cost of
238 land in North Hampton is high, and the duplexes are not helping with affordable housing in North
239 Hampton.
240
241 The Board discussed allowing duplexes only in the R-1 zone. Allowing duplexes in the I-B/R district
242 would adversely affect the tax base. The Town would not receive the same tax revenue from a duplex
243 than it would from a business. The Master Plan relays the importance of maintaining the rural character
244 of the Town; it may not be wise to encourage residential development in the I-B/R zone because the
245 Town receives more tax revenue from business use, than from residential use.
246
247 Mr. Kroner will come back to the Board with recommendations, as well as, ramifications.
248

249 **d. Jim Maggiore and Phil Wilson – Wireless Telecommunications –**

250
251 Mr. Maggiore said that he read the Wireless Ordinance and the architectural standards for Wireless
252 Telecommunications Facilities (WTCF) under the Site Plan Regulations along with the new WTCF law-
253 RSA 12-K. He said that the ordinance is strong but there are a few areas that may need to be changed.
254 The timing to make a decision under RSA 12-K should be included in the ordinance, 90 days from the
255 application being submitted, and 30 days from the application date to ask the applicant for additional
256 information. The Board may also want to add language specific to the Distributive Antenna System (DAS)
257 and specific language precluding WTCFs on conservation land and on buildings or structures of historical
258 significance, unless specifically allowed in the conservation easement to have a cell tower. Towers
259 cannot be placed anywhere; they need to be placed in the highest area; the need to extend beyond the
260 tree line has not changed.
261

262 Mr. Wilson said that in Section 415.5.A. it appears to give the Planning Board authority to grant a
263 “waiver” to the Zoning Ordinance. He didn’t think the Board had the authority to waive a Zoning
264 Ordinance; it would require a Variance from the ZBA; the Board may want to look and see if that needs
265 to be changed.
266

267 Mr. Wilson referred to Section 415.7.5.v.xi & xii and said that there is an approved plan for DAS, so
268 perhaps it should be specifically mentioned in the regulations.
269

270 Mr. Wilson said that if there are any inconsistencies with the law, regulation and ordinance, they need
271 to be fixed.
272

273 Mr. Harned said that the new law streamlines the collocation process. He said that the height of the
274 structure is addressed, but the load-bearing capability is not. Mr. Maggiore will review again the new
275 law, the regulations and the zoning ordinance to see if load-bearing is addressed for new structures.
276

277 Mr. Maggiore said that they have been pursuing the DAS opportunity, but have not had any response
278 regarding it. He said that the Town needs communication, especially at the beach. There are serious
279 holes in service as proven by the lightening strike the municipal complex experienced in July.

280

281 Mr. Harned said that Ms. Rowden sent out an E-mail of a tentative timeline for required Public Hearings
282 on proposed Zoning Ordinance amendments. There are two more Work Sessions before the November
283 meeting.

284

285 III. New Business

286

287 1. Committee Updates

288

a. Long Range Planning (LRP) – there was no committee update.

289

b. Capital Improvement Plan (CIP) – there was no committee update.

290

c. Rules and Regulations/Procedures – there was no committee update.

291

d. Application Review Committee (ARC) – there was no committee update.

292

e. Economic Development Committee – there was no committee update.

293

f. Select Board – Jim Maggiore - discussion on a proposed amendment to Article V,
294 Section 506.4.J. – Political Signs – possibly schedule a Public Hearing. Mr. Maggiore said
295 the Select Board met, and suggested that the Sign Ordinance, Article V, Section 506.4.J.
296 Political Signs be amended to exclude the Select Board from the paragraph. Political
297 Signs are regulated by NH RSA 664:17; the Select Board should not be involved. The
298 sentence to be eliminated is “during periods specified by the Select Board”.

299

**The Board agreed to amend the paragraph to read: Political signs are regulated by RSA
300 664:17 and do not require permits. The rest of the paragraph shall remain the same
301 and eliminate the last phrase “please refer to RSA 664.17”.**

302

Mr. Maggoire will type something up and circulate it to the members.

303

304 IV. Other Business

305

306 1. ¹Items laid on the table

307

a. Proposed Zoning Ordinance amendments/additions and/or Regulation
308 amendments/additions Discussion.

309

310 2. Correspondence from Attorney Hildreth regarding Historic Runnymede Farm, LLC.

311

The Board was in receipt of a letter from Attorney Hildreth explaining that, due to the possible appeal of
312 the ZBA Decision made by the Zoning Board on July 22, 2014 by the abutters to HRF LLC, they felt it
313 prudent not to proceed with the review of the Site Plan Application they intended on presenting at the
314 September 2, 2014 Planning Board meeting.

315

316 3. Minutes

317

a. July 15, 2014

318

b. August 5, 2014

319

**Ms. Monaghan moved and Mr. Kroner seconded the motion to approve the July 15, 2014 minutes as
319 written.**

320

**The vote was unanimous in favor of the motion (5-0). Mr. Wilson did not vote; he was appointed at
321 the July 15, 2014 meeting to fill Mr. Hornsby’s vacated seat until March 2015.**

322

**Ms. Monaghan moved and Mr. Wilson seconded the motion to approve the August 5, 2014 meeting
323 minutes as written.**

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

325

326 The meeting adjourned at 8:15pm without objection.

327

328 Respectfully submitted,

329

330 Wendy V. Chase

331 Recording Secretary

332

333 Approved October 21, 2014