



**Meeting Minutes**  
**North Hampton Planning Board**  
**Tuesday, October 7, 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; Tim Harned, Vice Chair, Dan Derby, Phil Wilson and Jim Maggiore, Select Board Representative.

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

**Alternates present:** Nancy Monaghan

**Others present:** Jennifer Rowden, RPC Circuit Rider, and Wendy Chase, Recording Secretary

Chair Kroner called the meeting to order at 6:35pm.

Chair Kroner seated Ms. Monaghan for Mr. Donohoe.

**I. New Business**

1. Case #14:11 – Applicant Christine Harvey, Sea Breeze Sleep, 27 Lafayette Road, Suite C2, North Hampton, NH 03862. Conditional Use Sign Application – The Applicant requests a waiver to Article V, Section 506.6.K – Wall Sign. The applicant would like to exceed the 12-foot square footage requirements. Property owner: North Hampton Capitol Group, C/O Minco Development, 231 Sutton St., Suite 1-B, North Andover, MA 01845; property location: 27 Lafayette Road, Suite C-2, North Hampton, NH 03862; M/L: 007-057-000; Zoning District: I-B/R – Industrial Business Residential.

In attendance for the Application:

Christine Harvey, Applicant

Ms. Harvey explained that her customers regularly complain about not being able to “find her” on Route 1. She has requested a waiver to be able to put up a larger sign for visibility, as well as, keeping in line with the businesses in the same complex. Ms. Harvey called earlier in the day and informed Ms. Chase that the proposed dimensions of the sign are 34” x 185’. Throughout the discussion it was determined that Ms. Harvey had an existing wall sign and although it falls within the same Zoning Ordinance Section 506.6.k., it was not specified in the notice that the waiver was also to request more than one wall sign.

46 After further discussion regarding the size of the sign it was determined that the application was  
47 incomplete. Ms. Harvey was given the option to continue her case to the November 4, 2014 meeting to  
48 give her the opportunity to gather and provide information the Board needs to act on the application.  
49

50 Ms. Monaghan said that the current sign has muted and light colors and asked if the applicant  
51 considered using darker colors instead of a larger sign.  
52

53 Ms. Harvey said that the general complaint from her clients is that her smaller sign is getting “swallowed  
54 up” by the much larger and brighter signs surrounding her business.  
55

56 The Board requested the following additional information:

- 57 • Request a waiver from Article V, Section 506.6.K. to allow more than one wall sign and the exact  
58 square footage of the relief requested.
- 59 • Accurate rendering of the sign to be placed on the wall.
- 60 • A statement of accurate dimensions of the proposed wall sign.  
61

62 The Applicant requested a continuance of her Case #14:11 to the November 4, 2014 meeting. She  
63 supplied a written request for the record.  
64

65 **Mr. Derby moved and Mr. Harned seconded the motion to grant the Applicant’s request to continue**  
66 **case #14:11 to the November 4, 2014 meeting.**

67 **The vote was unanimous in favor of the motion (6-0).**  
68

## 69 **II. Other Business**

70

71 Mr. Eric Weinberg, Altus Engineering was before the Board to request a change to a condition of  
72 approval to Case #14:10 – Seacoast Power Equipment, 104 & 106 Lafayette Road. The Applicant, Ernest  
73 Delle Donne requested a change of use to relocate his existing business (Seacoast Power Equipment) to  
74 the adjacent lot. The “use” of the new location would remain the same, retail and storage, but because  
75 of the added propane filling station and fencing the Building Inspector determined that the proposal  
76 would require Planning Board approval. The Planning Board conditionally approved the Change of Use,  
77 at their September 2, 2014 meeting, with a condition that the Applicant shall submit a recordable Mylar  
78 of the approved plan that shall depict the required 17 parking spaces including at least 1 handicapped  
79 space, the propane refilling station and fenced areas.  
80

81 Mr. Weinberg explained that he prepared a site plan showing the proposed fence and propane tank and  
82 requested that the plan be submitted along with a recordable affidavit citing the changes to the Town  
83 instead of a Recordable Mylar as stated in the first condition of approval. He said that because the site  
84 plan is not an “as-built” plan the surveyor will not stamp the plan. They would have to do an existing  
85 conditions plan requiring a full survey. He said creating a new Recordable Mylar is a matter of cost.  
86

87 Ms. Rowden said that her suggestion to best remedy the situation is, instead of requiring a Recordable  
88 Mylar, that the Planning Board require an affidavit describing the propane tank, restriping of the parking  
89 area and the proposed fencing and attach it to the plan describing the actual changes to the site. The  
90 affidavit will also include that the plan is filed at the Town Office. She reminded the Board that the  
91 application was a Change of Use, not an Amended Site Plan Application.

92 Mr. Harned pointed out that the Town has a Recorded Mylar on file of the proposed site plan and what  
93 was originally built there is not exactly how the recorded plan depicts. He asked if the affidavit the  
94 Applicant is requesting to be attached to the plan detailing all the approved changes would also include  
95 all the changes made over the years from the original recorded plan.  
96

97 Mr. Weinberg said it is uncommon that site plans and what is actually built on the site is exact. He said  
98 that one of the planters on the original site plan was not installed on the site, and small changes like that  
99 that should not require a resurvey of the entire site.  
100

101 Mr. Wilson said he is concerned that plans the Board has approved are not what was actually built. He  
102 said that the original plan included the installation of the planter to meet the vegetated % requirement  
103 and by not installing it probably put the overall plan under the required %, so things like that are not  
104 small and incidental changes. Mr. Wilson said that the Board has the authority to require as-built plans  
105 but seldom do because of the additional expense. They usually require them when they believe there  
106 will be mediation with the plan; the more complex the plan, the more need for an as-built plan.  
107

108 Mr. Maggiore said it is a consensus of the Board that it is a concern but he doesn't believe it is up to the  
109 current Applicant to right the wrong, but he also had no solution for the next occupant coming in.  
110

111 Chair Kroner said he would like to see the propane filling station codified on the Mylar, because years  
112 down the line people will know that the propane tank was approved.  
113

114 Mr. Weinberg said that the affidavit will include all the changes and be recorded at the Registry of Deeds  
115 and will also include direction to the revised plan filed at the Town Office.  
116

117 Mr. Wilson said it is not this Applicant's problem to remedy the solution; it's the property owner's.  
118

119 Mr. Weinberg said he understands the Board's concerns, but they are not changing the boundaries and  
120 to a trained eye the difference to the plan and the site can be noticed; most people would be able to see  
121 the difference.  
122

123 Mr. Wilson said that at the time they discover the problem is the time to remedy it.  
124

125 Mr. Derby said that a remedy has been presented that is not pure but sounds effective to him. The  
126 question is the materiality of the deviation and there is a Professional before the Board stating that it is  
127 minor.  
128

129 Mr. Harned said that he is sympathetic to the Applicant but he has a problem with having a plan on  
130 record that doesn't represent what is there, and then having a verbal description (affidavit) of the  
131 changes and additions to a plan that is not accurate to what is there.  
132

133 Chair Kroner said that the Board has lessened many requirements. He said that as long as there is an  
134 affidavit that pinpoints the changes it should suffice. He said it would be overkill to scrutinize every  
135 plan. He said that the proposal is a change of use from retail to retail and under normal circumstances  
136 the Board never would have had this application before them.

137 Ms. Monaghan said that she agrees with Mr. Harned and Mr. Wilson that when a plan is discovered to  
138 be incorrect it should be corrected. She said that the Planning Board should not be put in a position to  
139 decide the degree of the change and what costs the Applicant can handle or can't handle.

140

141 Mr. Wilson said that if the Board ends up going along with the process of an affidavit as part of the  
142 rationale of all site plans, the Board should change the process that before a Certificate of Occupancy is  
143 issued the Mylar shall be submitted as an as-built plan. The Building Inspector goes out for a final  
144 inspection for a Certificate of Occupancy and notes all the changes made from the plan that the  
145 engineer puts on the plan as an as-built plan and before the Certificate of Occupancy is issued the  
146 Recordable Mylar shall be submitted for an as-built and recorded at the Registry of Deeds.

147

148 Pat, Co-owner of Seacoast Power Equipment said that the Board should consider that they want to build  
149 their business in Town and they are trying to do everything right. He said it is not just the previous  
150 owners fault, but also the Planning Board for not requiring an as-built plan originally. He said the  
151 buildings added to the site are the correct sized buildings that were proposed on the plan. They are  
152 requesting a change of use that really isn't a change of use because it is going from retail and  
153 warehousing to retail and warehousing but they are adding fencing and a propane tank.

154

155 Mr. Maggiore said that if the process is changed it should be very well thought out. He said that the  
156 Applicant should not be responsible for the mistakes made in the past. He said he is in favor of the  
157 affidavit.

158

159 **Mr. Wilson moved that the Planning Board approve the Applicant's request that an affidavit be**  
160 **submitted along with a paper site plan kept at the Town Office that shows the alterations to this site**  
161 **that are being approved as a change of use at this time conditioned upon the Applicant's agreement**  
162 **that when he takes possession of this property he adds a restriction in the deed that is recorded**  
163 **stating that any future alteration to this property that triggers a site plan review or a change of use**  
164 **review by the North Hampton Planning Board he will submit an as-built plan in Recordable Mylar**  
165 **form after that site plan change or change of use is approved and construction is complete.**

166

167 The Applicant did not agree with a deed restriction. He thought the proposed affidavit would suffice.

168

169 Ms. Rowden said that recorded affidavit would become part of the site plan.

170

171 Mr. Wilson withdrew his motion.

172

173 Mr. Harned said that if the same engineers did the original site plan then they would have all the original  
174 data and didn't see why it would be so difficult to update and produce a Recordable Mylar.

175

176 Mr. Weinberg explained that the boundaries have not changed, but because it is not an as-built plan  
177 they would need to start from scratch with all the buildings on the property and survey the entire site.

178

179 **Mr. Wilson moved and Mr. Maggiore seconded the motion to (1) approve the Applicant's request**  
180 **that a paper site plan be accepted for the approved Change of Use in lieu of a Recordable Mylar; (2) to**  
181 **approve the Applicant's proposal that a recordable affidavit be accepted in lieu of the Recordable**  
182 **Mylar that describes the alterations to the site, that are being approved, as a result of the approved**  
183 **Change of Use, and (3) Included in the affidavit shall be a statement that the Applicant agrees that in**

184 **the event that at any future date a change in the site is proposed that triggers a review by the**  
185 **Planning Board, that it will be a condition of any approval of that proposal, that an as-built Recordable**  
186 **Mylar be submitted when the proposed project is completed.**

187 **The vote passed in favor of the motion (4 in favor, 1 opposed and 1 abstention). Ms. Monaghan**  
188 **opposed. Mr. Harned abstained.**

189

190 **Prioritized Work Order updates**

191

192 **Jim Maggiore & Phil Wilson – Wireless Telecommunications**

193

194 Mr. Maggiore said that the Select Board is determined to address this issue. He reread the Wireless  
195 Zoning Ordinance, SB 101, now within RSA 12 K, and the Site Plan Regulations. He and Mr. Wilson  
196 discussed it via email and Mr. Wilson came up with grammatical changes. He said he did not see any  
197 substantive changes to the current ordinance or regulations.

198

199 Mr. Maggiore said that the Town was given a 5-acre piece of property from the Lamprey family on Mill  
200 Road to put a cell tower on. He said the property has Aquarion Water Company equipment on it. A  
201 Representative of the wireless company along with Town Administrator Paul Apple visited the site and  
202 deemed it suitable for a cell Tower. Mr. Maggiore suggested putting a balloon 150' in the air to give  
203 people a visual of how tall the tower will be. He said that there are two access points on the property  
204 but one crosses wetlands, and the other more appropriate access way would require widening the  
205 access and consideration from the landowners. Mr. Maggiore said that proposed site behind the  
206 Elementary School has been taken off the table because it is in the air craft fly zone which would not  
207 allow a tower over 60-feet tall, way below the tree line.

208

209 Mr. Kroner said he is familiar with the site. The property has an approved Conservation Subdivision on it.  
210 The cell tower site would have to be accessed from 163 Mill Road.

211

212 Discussion ensued on the Distributive Antenna System (DAS). Ms. Chase informed the Board that  
213 Attorney Peter Loughlin emailed her requesting to be placed on the November 4<sup>th</sup> agenda to request an  
214 extension of Thera Research Inc.'s Conditional Use Permit that the Planning Board approved in 2007.  
215 They have come back annually and then biannually requesting extensions for that approval so that they  
216 will be prepared to install the antennas when wireless companies agree to sign on with them.

217

218 The Board discussed collocation.

219

220 Mr. Maggiore said that collocation requires a building permit only and involves quicker turnaround  
221 times for approvals from towns.

222

223 Mr. Harned said that the substantial changes were solely with collocation on existing towers. He  
224 suggested reorganizing the ordinance and separate the comingling of collocation and new cell towers  
225 and list everything pertaining to collocation under that section and strip everything about collocation  
226 from the new cell tower section. He said that weight bearing in regards to existing towers is not  
227 mentioned in the ordinance.

228

229 Ms. Rowden said it is clear that collocation has to be on existing structures and the Board has no  
230 purview to regulate collocation. She said if the collocation involves a substantial modification and that's

231 when the Town can “chime in”, because it would have to meet the current building codes, and that is  
232 when weight bearing issues can be addressed. She agrees that there are “holes” in SB 101.

233  
234 Mr. Wilson said the simplest way, is to cite the new law, RSA 12 K. He said once you start tweaking the  
235 wireless ordinance you have to involve lawyers.

236  
237 Ms. Rowden said that other towns have provisions in their ordinances that if the Board doesn’t have  
238 jurisdiction then the rest doesn’t apply and there is a fair bit that doesn’t apply because State Law  
239 trumps it. She recommended that the Board at least add the “shock clock” times in the Site Plan  
240 Regulations. The law also changed the timing for new towers in the Federal Law.

241  
242 **Duplexes**

243  
244 Chair Kroner said that duplexes are allowed under the Inclusionary Housing Ordinance, the I-B/R and R-1  
245 district and he is concerned with the lack of continuity. He questioned whether getting rid of duplexes in  
246 the R-2 zone would reduce tax revenue. He gave the example of the duplexes on Morgan Way that are  
247 in the R-2 zone and questioned whether a single family home would receive the same value as the  
248 appraised 1.3 million dollar duplex there.

249  
250 Mr. Harned said we are not trying to get rid of duplexes, we are trying to focus them back to the real  
251 reason why duplexes were established in the first place. Chair Kroner agreed.

252  
253 The Board discussed lowering the number of bedrooms per lot in duplexes. Ms. Rowden suggested a  
254 maximum of 3 bedrooms per unit.

255  
256 Chair Kroner said that he will have the change to the language for the next Work Session that will state  
257 the maximum number of bedrooms shall be three (3) per unit of a duplex. He said the Board can start  
258 thinking about scheduling public hearings for the proposed zoning amendments at the next meeting.  
259 The Political Sign amendment is ready to go.

260  
261 **Wetlands**

262  
263 Mr. Harned said that he will have Ms. Chase forward information to the Board Members tomorrow  
264 regarding proposed changes to the wetlands ordinances. He would like the members to take a hard look  
265 at them and funnel any suggestions or changes through Ms. Chase to him so that he can be prepared at  
266 the October 21, 2014 Work Session.

267  
268 Chair Kroner said that he got a call from Glenn Greenwood from RPC and was asked if the Planning  
269 Board would consider changing the Board’s meeting dates to the first and third Thursday of the month  
270 while Ms. Rowden is out on maternity leave. It would be the months of December, January and  
271 February. He asked the Board to think about it.

272  
273 Ms. Rowden said that the RPC has contracted a person to take her place over the next few months but  
274 that person is unable to meet on Tuesday evenings. She said that if the Board is not able to change their  
275 meeting time then they can either have Cliff Sinnott come in for the Tuesday meetings or not have  
276 anyone come in and the RPC will still review applications and field questions but will not attend the  
277 meetings.

278  
279 Mr. Maggiore supplied copies of the bacteria and water quality sampling report prepared by FB  
280 Environmental Associates for the Board's review. He explained that the contamination report is relative  
281 to both the Little River and the Winnicut River.

282  
283 Chair Kroner said that he has been receiving updates from Stratham regarding the Rollins Farm  
284 Subdivision in Stratham. It has been deemed as a Regional Impact development and North Hampton is a  
285 direct abutter. The development is a direct contribution to the Exeter water supply. The Stratham  
286 Conservation Commission is requesting a Hydrological Study from the Developer.

287  
288 Ms. Rowden said that the RPC will schedule a regional impact meeting regarding the Rollins Farm  
289 subdivision.

290  
291 Chair Kroner said that the Planning Board should review Section 409.3 of the Zoning Ordinance that  
292 deals with the wetlands maps. He said that he will be attending a site walk at 14 Maple Road tomorrow  
293 that was recently approved by the Board for a two lot subdivision. The new owner/developer, Paul  
294 Powell is constructing a duplex on one lot and has had the second lot re-delineated for contiguous  
295 uplands and came up with the required 60,000 square feet of contiguous uplands to be allowed to build  
296 a duplex.

297  
298 Chair Kroner said that the process is supposed to be that if there is a discrepancy between the wetland  
299 delineation from a Wetland Scientist and the Town's wetlands maps then the Applicant is supposed to  
300 go to the Conservation Commission for clarification, and any changes have to be approved, and  
301 technically, the map should be updated at that time.

302  
303 Members of the Board agreed that the wetlands maps in at the Town Office are not precise. Ms.  
304 Rowden said that they are derived from the National Wetlands Inventory; there is a margin of error  
305 there.

306  
307 Chair Kroner asked the Board to review the Section 409.3 and determine if it is the correct procedure  
308 and one that we should be advising people to go through.

309  
310 Chair Kroner said that if there are factual changes with the wetlands delineation at 14 Maple Road,  
311 nothing will happen without review of the Planning Board. Any changes of what was approved have to  
312 come back before the Planning Board for any alterations. He said the Code Enforcement Officer asked  
313 Mike Cuomo, RCCD, to go on the site walk and assess the new delineations done by the Applicant's Soil  
314 Scientist. The Code Enforcement Officer has the right, according to the Ordinance, to hire a third party  
315 expert for validation, but that doesn't mean the Planning Board withdraws its process if that Applicant  
316 comes back for an amended subdivision plan. The Board can either accept what the consultant says or  
317 not.

318  
319 Mr. Harned said that everyone is in agreement that the approved site plan is what is to be done and if  
320 the wetland delineation on the plan is going to be modified it has to come back to the Planning Board in  
321 order to do that. The Code Enforcement Officer has the right to hire a third party expert at the owner's  
322 expense which will be Mike Cuomo who will not go out and verify what the Applicant's Soil Scientist  
323 delineated, he is going to perform his own delineation of the wetlands. If it comes back to the Planning

324 Board it will be up to the Board to accept it or hire a 4<sup>th</sup> Soil Scientist. If Mr. Cuomo discovers that there  
325 is no change from the original plan it will be a moot point.

326

327 Mr. Harned said that there are “lots of record” that do not have a site plan on file and do not show  
328 where the wetlands are and it reverts back to the Normandeau Wetlands Map at the Town office that  
329 shows where the wetlands are. If there is disagreement as to what is shown, there is a process to go  
330 through outlined in 409.3. He said the Board should maybe be more diligent in comparing the Town  
331 Wetland Map when looking at a site plan showing where the delineation is and acknowledging the fact  
332 that by approving the site plan they are also approving the update to the Town Map.

333

334 The Meeting adjourned at 9:52 p.m. without objection.

335

336 Respectfully submitted,

337

338 Wendy V. Chase

339 Recording Secretary

340

341 Approved October 21, 2014