



**Meeting Minutes  
Public Hearing & Work Session  
North Hampton Planning Board  
Tuesday, December 16, 2014 at 6:30pm  
Town Hall, 231 Atlantic Avenue**

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

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13 **Members present:** Shep Kroner, Chair, arrived at 7:23pm; Tim Harned, Vice Chair; Dr. Joseph Arena,  
14 Dan Derby,  
15 Phil Wilson and Jim Maggiore, Select Board Representative.

16

17 **Members absent:**

18

19 **Alternates present:** Nancy Monaghan

20

21 **Others present:** Cliff Sinnott, RPC Circuit Rider, and Wendy Chase, Recording Secretary

22

23 Mr. Harned convened the meeting at 6:35pm.

24

25 **1. The First Public Hearing on proposed amendments to Article III, Section 302.39 – Definition of**  
26 **“Structure”, to include septic fields and tanks, swimming pools, and tennis courts.**

27 Mr. Wilson stated the existing definition has caused some questions over time because of its ambiguity.  
28 This has led to a problem in defining whether two residences that were connected by a retaining wall, of  
29 sorts, really qualified as a duplex.

30

31 Mr. Wilson stated the board is proposing to try to be more specific, and at the same be clearer as to  
32 what is actually a structure and what is not.

33

34 The proposed new definition would read as follows:

35

36 Definition 39, and section 302 of the North Hampton Zoning Ordinance: “Anything constructed or  
37 erected the use of which requires a fixed location on or in the ground or requires an attachment to  
38 something having a fixed location on the ground. Structures under this definition include but are not  
39 limited to buildings, billboards, carports, porches, septic fields and tanks, swimming pools, tennis courts  
40 and other building features. For the purposes of this zoning ordinance, sidewalks and driveways fences  
41 and patios are not deemed to be structures.

42

43 Mr. Wilson stated this will make clear if something is built on the ground and not specifically excluded  
44 in the definition, then it will be considered a “structure”.

45 Mr. Harned opened the Public Hearing at 6:41 pm.

46

47 Dieter Ebert, 12 Cedar Road, - said he was curious as to why septic tanks and leach fields had been  
48 added to the structures list and wondered whether the Board is trying to “backdoor” an increase to the  
49 wetland buffer setbacks.

50

51 Mr. Harned explained that currently there are no setbacks for leach fields, so a neighbor could build  
52 their leach field right up to a property line. The proposal will make a septic system adhere to side, front,  
53 and rear setbacks.

54

55 Mr. Wilson commented that proposed amendment would create the need for property owners to seek a  
56 variance from the ZBA if the leach field is put in right up to the road setback.

57

58 Mr. Ebert stated that there are State standards for setbacks regarding septic tanks and leach field and  
59 the town has always adhered to those standards.

60

61 Mr. Wilson said that it is permissible to have a more restrictive standard than the State.

62

63 Mr. Harned said the intent is to clarify what is to be considered a structure and what is not a structure.

64

65 Mr. Ebert didn't think it wise to bring the septic into a smaller building envelope.

66

67 Mr. Wilson said what they perceive is that there are a number of septic leach fields too close to Route 1.

68

69 Mr. Ebert commented that leach fields have a vegetated buffer on top of them per State standards.

70

71 Mr. Harned suggested separating the septic tank and leach field under the definition.

72

73 Glenn Martin, 196 Atlantic Avenue – said that he has an approved lot on Hampshire Drive and if the new  
74 proposed change were in effect, his lot would be unbuildable. The leach field takes up a lot of buildable  
75 land. He gave an example of a conduit running to a lamp post from a house and asked if that would be  
76 considered a “structure”. He opined that the proposed change is not completely accurate and a  
77 disadvantage to the people in North Hampton.

78

79 Mr. Harned closed the Public Hearing at 7:03pm.

80

81 Mr. Derby asked how the Board dealt with this in the past and what was the reason that made the  
82 Board take this issue up.

83

84 Mr. Wilson said the only time it comes up is when there is a subdivision proposal. The septic leach fields  
85 are shown on the subdivision plan. He said that the owner will always have the option to go to the ZBA  
86 for a variance if they did not comply with the amended ordinance. He said that there are two reasons  
87 for the change, 1) aesthetics and 2) is nuisance. He said the Board may want to modify the proposed  
88 amendment after taking into consideration what was discussed tonight. He said that if the leach field is  
89 essentially invisible then it can be satisfied by the State setbacks, if it is a big mound and visually  
90 noticeable then it would have to comply with proposed new definition of “structure”.

91 Mr. Harned said that Mr. Kroner, who was not yet present, relayed to him that the tank should be part  
92 of the definition of “structure” and the setbacks for leach fields should be increased, but not lumped  
93 into the definition of “structure”.

94  
95 Mr. Derby suggested striking out the words “and fields” and replace it with “septic tanks” in the second  
96 sentence of the definition.

97  
98 Mr. Kroner arrived and said that the Town of Rye has separate setbacks for septic tanks and leach fields.  
99

100 Mr. Sinnott said that it is not uncommon to separate the two.

101  
102 **Mr. Wilson moved and Mr. Maggiore seconded the motion to take the following amended and**  
103 **emended proposed zoning ordinance to a Second Public Hearing, to be held on Wednesday, January 7,**  
104 **2015 (the actual public hearing was scheduled for January 12, 2015): “Structures under this definition**  
105 **include, but are not limited to, buildings, billboards, carports, porches, swimming pools, tennis courts,**  
106 **building features, septic systems and leach fields that are, in whole, or in part, constructed above**  
107 **grade. For the purposes of this zoning ordinance, sidewalks, driveways, fences, patios and leach fields**  
108 **that are constructed entirely below grade are not deemed to be structures”.**  
109 **The vote was unanimous in favor of the motion (7-0).**

110  
111 **2. The First Public Hearing on proposed amendments to Article IV, Section 411 – Wetlands Minimum**  
112 **Lot Area. The intent of the proposed amendment is to add the requirement “there shall be a building**  
113 **envelope of ¼ acre for the site of a house”.**

114 Ms. Monaghan stated the proposed amendment seeks to have the best and simplest way to reduce the  
115 use of odd “finger shaped” land towards the contiguous upland requirement.

116 Discussion ensued on the word “contiguous”. The board agreed this proposal significantly reduces the  
117 use of “finger shaped” land towards the contiguous upland requirement.

118 Mr. Sinnott suggested adding the words “at least” in front of ¼ acre.

119  
120 Mr. Wilson suggested “there shall be at least one building envelope of ¼ acre or more for the site of a  
121 house”.

122  
123 Mr. Harned opened the Public Hearing at 8:09pm.

124  
125 Dieter Ebert, 12 Cedar Road – said he was significantly concerned with making a change to an ordinance  
126 in this fashion with no scientific backing. He further stated he was there to speak about protecting the  
127 wetlands, as well as, not taking away the landowners rights. He said that he did not see any scientific  
128 rationale to impose yet another setback to landowners to make this type of change.

129  
130 Glenn Martin, 196 Atlantic Avenue - stated he sat through the Planning Board’s conversations last  
131 month and he feels this is a knee jerk reaction to an approval in town, which he believes to be on Maple  
132 Road.

133

134 Mr. Martin stated that he owns hundreds of acres, and he doesn't know what this could do to his or his  
135 daughter's future. He further stated he felt this proposal is a reaction to a unique circumstance and  
136 the Board is looking to impose restrictions on landowners because of a unique situation that was  
137 approved. He asked the Board to reconsider passing the proposal as written.

138  
139 Mr. Harned closed the Public Hearing at 8:17pm.

140  
141 Ms. Monaghan read the proposed amendment again for clarity as requested by Mr. Kroner:  
142  
143 "for construction of a dwelling unit on lots of two acres or more, there shall be one contiguous acre of  
144 non-wetland soils, and at least one building envelope of ¼ acre or more for the site of a house."

145  
146 Mr. Wilson stated there will be more and more proposals of land to build on that will have special  
147 conditions.

148  
149 Mr. Harned stated the town has less and less completely "high and dry" land to build on, and this is  
150 becoming more of an issue.

151  
152 **Mrs. Monaghan moved and Dr. Arena seconded the motion to take the amended Zoning Ordinance,**  
153 **Section 411, to the January 7, 2015 (the actual public hearing was scheduled for January 12, 2015)**  
154 **second Public Hearing.**

155 **The vote passed in favor of the motion (6 in favor, 1 opposed and 0 abstentions). Mr. Kroner voted**  
156 **against.**

157  
158 **3. The First Public Hearing on proposed amendment to Article IV, Section 409.2 – Definition of**  
159 **District. The intent is to add Section D. "All buffers and setbacks around all such wetlands as described**  
160 **in this section (Section 409.2).**

161  
162 Mr. Harned stated this proposed amendment is for clarification as there was some ambiguity in the  
163 definition of the wetland conservation district setbacks and how that was applied to septic systems et al.  
164 He further stated the change is to Section D to read "all buffers and setbacks around all such wetlands as  
165 described in this section, (Section 409.2)."

166  
167 Mr. Wilson stated this does not change anything substantive; the wetlands setbacks still apply whether  
168 this change is made or not. He further stated this makes it clear they are part of this district as opposed  
169 to the alternative which is R1, R2 or IB/R.

170 Mr. Harned opened the public hearing at 8:33 pm.

171  
172 Mr. Harned closed the public hearing at 8:33 pm without public comment.

173  
174 **Mr. Wilson moved and Mr. Maggiore seconded the motion to put the proposed amendment to**  
175 **Section 409.2 on the official town warrant as presented.**

176 Mr. Harned suggested making a change to the amendment to read: "all buffers and setbacks as  
177 described below (Section 409.9) around all such wetlands as described in this section (Section 409.2)."

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Mr. Maggiore withdrew his second. Mr. Wilson withdrew his motion.

**Mr. Maggiore moved and Mrs. Monaghan seconded the motion to bring the amendment to Section 409.2 to a second Public Hearing on January 7, 2015 (the actual public hearing was scheduled for January 12, 2015) as follows: add to Section D “all buffers and setbacks as defined below in Section 409.9 around all such wetlands as described in the section (Section 409.2).”**

**The vote was unanimous in favor of the motion (7-0).**

4. The First Public Hearing on proposed amendment to Article IV, Section 409.8 – Prohibited uses in the Wetlands Conservation District. The intent is to separate the ordinance into two parts, a. and b. Section 409.8.a prohibits septic systems, leach fields, or on site disposal systems within 75-feet of the wetland area boundaries and Section 409.8.b. prohibits storage of gasoline, fuel oil, pesticides, hazardous agricultural and other materials or road-salt stock piles within 100-feet of the wetland area boundaries.

Mr. Harned explained that the proposed amendments are for clarification, and to remove what was an error in the ordinances, and to set the setbacks back to what was originally intended.

Mr. Harned opened the public hearing at 8:46 pm.

Dieter Ebert 12 Cedar Road stated in general he agrees with the zoning ordinance change. He further stated the original intent was to allow the storage at 75 feet and this proposal will increase it to 100 feet. He stated it is a drastic increase but, is personally not opposed.

Mr. Ebert stated the wetlands ordinance is very verbose and extremely difficult to follow. He further suggested the town update its setback chart to include setbacks, sidelines, and wetlands and would like to see if consolidated into one chart rather than having to “dig through” the zoning ordinances.

Mr. Harned closed the public hearing at 8:49 pm.

**Mr. Maggiore moved and Dr. Arena seconded the motion to bring the proposed amendment to Section 409.8 to the official warrant as posted here.**

**The vote was unanimous in favor of the motion (7-0).**

**5. The First Public Hearing on proposed amendment to Article IV, Sections 409.9.A and 409.9.B. to include a 25-foot vegetated buffer closest to the wetland boundary included in the 100-foot wetland setback requirement.**

Mr. Harned explained that the proposed amendment is to Article IV, Section 409.9.A and not 409.9.B, but rather Section 409.9.A. 1 and 2.

Mr. Harned stated Section 409.A.1 is undeveloped lots of record existing as of March, 2003 or any lots created subsequently and Section 409.A.2 is undeveloped lots of record existing prior to March, 2003.

Mr. Harned opened the public hearing at 8:59 PM.

223

224 Dieter Ebert, 12 Cedar Road, asked what the impetus of this change is.

225

226 Mr. Harned stated the reason for the change is to make the buffer zone more effective without  
227 increasing its size as well as the setbacks. The intent is to try and make the setbacks a bit more  
228 protective of the wetlands. Currently, you are able to mow and fertilize right up to the edge of the  
229 wetlands.

230

231 Mr. Kroner stated a major weakness in the wetland ordinance was the lack of a vegetated buffer.  
232 Fertilizers are the number one reason we are losing our hatcheries and estuary in Great Bay.

233

234 Mr. Ebert stated he is a member of the agricultural commission and discussed this issue at their last  
235 meeting, and wondered what the impact on agriculture in North Hampton will be. Mr. Ebert further  
236 stated this ordinance would essentially nix a significant amount of agriculture in town. He further stated  
237 the agricultural commission would like to exclude agriculture and forestry activities following best  
238 management practices from the ordinance.

239

240 Mr. Wilson stated there was no intent to prevent reasonable or acceptable agricultural activities.

241

242 Mr. Harned suggested that the agricultural commission come up with the language they want added and  
243 it can be taken to the next public hearing.

244

245 Mr. Ebert stated the town keeps imposing more and more setbacks, instead of looking at developed lots  
246 and how to impose regulations to help protect the wetlands; not put restrictions on new lots making  
247 them pay for the developed lots past sins. Mr. Ebert stated the new amendment would only affect new  
248 undeveloped lots of record.

249

250 Mr. Kroner stated this is not just protecting wetlands, it's protecting the residents. He further stated  
251 wetlands also protect people's homes and investments as well.

252

253 Glenn Martin, 196 Atlantic Avenue, stated a lot of money has been spent on a soil scientist on the lot on  
254 Hampshire Drive. He requested having Mr. Ebert's input and take it to a public hearing.

255

256 Mr. Harned closed the public hearing at 9:25 PM.

257

258 Mr. Wilson suggested taking the proposed amendment to a second Public Hearing so that the  
259 Agriculture Commission could have a chance to comment and make suggested changes to the proposed  
260 Zoning Amendment – Naturally vegetated buffer.

261

262 **Mr. Wilson moved and Dr. Arena seconded the motion to take the proposed amendment to Section**  
263 **409.9.A 1 and 2 to a second public hearing on January 7, 2015 (the actual public hearing was**  
264 **scheduled for January 12, 2015).**

265 **The vote was unanimous in favor of the motion (7-0).**

266

267 **6. The First Public Hearing on proposed addition to the Zoning Ordinance. Add Section 409.9.C.**  
268 **Naturally Vegetated Buffer under Article IV. The intent of the new Zoning Ordinance is to improve the**  
269 **protection of wetlands without increasing wetland setbacks.**

270 Mr. Harned stated it is the description of the naturally vegetated buffer mentioned in the proposed  
271 amendment to Article IV, Section 409.9.A 1 and 2.

272

273 Mr. Harned opened the public hearing at 9:36 PM.

274

275 Dieter Ebert, 12 Cedar Road, stated he is not seeing substantial benefits of imposing this on only  
276 undeveloped lots of record. He further stated if it was imposed on the whole legislative body and if it  
277 stated as a vegetative buffer instead of a naturally vegetative buffer it would be more palatable to him.

278

279 Glenn Martin, 196 Atlantic Avenue, stated he was concerned with the mentioning of gardens in this  
280 proposal as well as the forestry of six inch in diameter trees.

281

282 Mr. Harned closed the public hearing at 9:40 PM.

283

284 Glenn Martin, 196 Atlantic Avenue stated he attended the last public hearing and came at 7:00 PM as  
285 was posted in the *Portsmouth Herald*. He further stated there was still time to re hear that public  
286 hearing and urged the board to do so as there were several other people that attended at 7:00 PM and  
287 missed the hearing.

288

289 Mr. Harned stated the notice was posted correctly for 6:30 PM but that a reporter had written an article  
290 in the paper and incorrectly stated the public hearing started at 7:00 PM.

291

292 **Mr. Maggiore moved, and Ms. Monaghan seconded to bring the proposed amendment to Section**  
293 **409.9 C to the second public hearing on January 7, 2015 (the actual public hearing was scheduled for**  
294 **January 12, 2015) pending input from the agricultural commission regarding edits for agriculture and**  
295 **forestry.**

296 **The vote was unanimous in favor of the motion (7-0).**

297

## 298 **Work Session**

299

## 300 **II. New Business**

301

302 **1.** Appointment of a Primary Planning Board Member to replace Barry Donohoe who resigned  
303 from the Planning Board – term expiration: March 2015. Following Candidates:

304

305 **a. Nancy Monaghan** – Ms. Monaghan is currently serving as an Alternate Member to the  
306 Planning Board.

307

308 **Dr. Arena moved, and Mr. Wilson seconded to appoint Nancy Monaghan as a replacement for the**  
309 **position vacated by Barry Donohoe. Mr. Wilson noted Ms. Monaghan has been to most of the**  
310 **planning board meetings and has worked on various committees.**

311

312 **The vote was unanimous in favor of the motion (6 in favor, 0 opposed and 1 abstention). Ms.**  
313 **Monaghan abstained.**

314

315

316 2. Discuss proposed amendment to Article V, Section 514 – Floodplain Development  
317 Ordinance. Schedule 1<sup>st</sup> Public Hearing – January 6, 2015.

318  
319 **Mr. Wilson moved and Dr. Arena seconded to put Article V, Section 514 on January 7**  
320 **agenda for the first public hearing (the actual Public Hearing was scheduled for January**  
321 **12, 2015).**

322 **The vote was unanimous in favor of the motion (7-0).**

323  
324 3. Discussion of Article IV, Section 409.12 – Conditional Use Permits – Nancy Monaghan

325  
326 Ms. Monaghan stated the question arose at the last work session as to whether or not the  
327 conditional use permit ought to be with one body as it is now with the planning board. This  
328 section is in regards to official lots of record prior to March 8, 1988. What this means is any  
329 official lot of record after March 8, 1988 goes to the zoning board of adjustment. She  
330 further stated the task was to determine as to leaving it as it is or make a change.

331 Ms. Monaghan stated she and Mr. Wilson, as a committee of two, came up with three  
332 options:

333  
334 Option 1: Same as what is written except the removal as a condition the fact that it was an official lot of  
335 record as of March 8, 1988 meaning, all requests for expanding or building within the wetlands area or  
336 the buffer zone would go to the planning board.

337  
338 Option 2: Remove the entire section and have everything go as a variance to the zoning board of  
339 adjustment.

340  
341 Option 3: Keep all with the planning board removing the notation that the planning board only has  
342 jurisdiction on lots of record prior to March 8, 1988.

343  
344 Ms. Monaghan stated if the board has an interest in changing the ordinance it should be with either the  
345 zoning board or the planning board.

346  
347 Lengthy discussion on this article by Ms. Monaghan, Mr. Harned, Mr. Wilson and Mr. Sinnott and  
348 whether or not applicants should go to the zoning board of adjustment or the planning board.

349  
350 (Secretary's Note: Mr. Maggiore had to leave the meeting, but stated before leaving he would like to  
351 see this handled by the planning board.)

352  
353 Mr. Kroner stated an applicant has to give sworn testimony if they are to go to the zoning board of  
354 adjustment and it is one distinction he wanted to recognize.

355  
356 Mr. Wilson stated the ordinance states it is the responsibility of the planning board to determine the  
357 suitability of land for development, and it should rest with the planning board.

358  
359 Mr. Wilson stated he is in favor of the planning board having control and believes fairness is treating like  
360 things alike and what this does is say the applicant has to show the restriction placed on their property  
361 somehow affects them in a different way than everyone else that has similar properties.



362 **Mr. Wilson moved, and Ms. Monaghan seconded to move Option 3 to the January 7, 2015 public**  
363 **hearing (the actual Public Hearing is scheduled for January 12, 2015) with added criterion “B” and that**  
364 **the new structure or expansion will cause no diminution of property values in the neighborhood.**  
365 **The vote was unanimous in favor of the motion (6-0). (Mr. Maggiore had left the meeting and**  
366 **therefore was unable to vote.)**

367  
368 **1. Discuss proposed amendment to Article IV, Section 409.3 – Wetlands Map. Schedule 1<sup>st</sup>**  
369 **Public Hearing – January 7, 2015.**

370  
371 **Mr. Kroner moved and Mr. Wilson seconded the motion to take proposed amendments to Article IV,**  
372 **Section 409.3 to a first public hearing on January 7, 2015 (the actual public hearing was scheduled for**  
373 **January 12, 2015).**

374  
375 **Mr. Kroner moved, and Mr. Wilson seconded the motion to continue the rest of the business listed**  
376 **below, to the January 20, 2015 work session.**  
377 **The vote was unanimous in favor of the motion (6-0). All in favor 6-0.**

- 378  
379 2. Communication from Hinckley, Allen & Snyder, re: Hampton Rod and Gun Club, Inc. Property.  
380  
381 3. Discussion in regards to adopting a “Blasting” application that reflects the Planning Board’s Blasting  
382 Regulation adopted in 2011.  
383  
384 4. Committee Updates  
385  
386 a. Long Range Planning (LRP) –  
387 b. Capital Improvement Plan (CIP) –  
388 c. Rules and Regulations/Procedures –  
389 d. Application Review Committee (ARC) –  
390 e. Economic Development Committee –  
391 f. Select Board – Jim Maggiore –

392  
393 **III. Other Business**

- 394  
395 **1. Minutes**  
396 **a. November 18, 2014 –**  
397 **b. December 2, 2014 -**  
398  
399 **2. Any other business to come before the Board.**

400  
401 **The meeting adjourned at 10:35pm without objection.**

402  
403 The minutes were prepared by a combined effort by Wendy Chase and Janet Facella.  
404 (Thank you, Janet).

405  
406 Approved January 20, 2015

407