



Meeting Minutes
North Hampton Planning Board
Tuesday, May 5, 2015 at 6:30pm
Town Hall, 231 Atlantic Avenue

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9 These minutes were prepared as a reasonable summary of the essential content of this meeting, not as a
10 transcription.
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12 **Members present:** Shep Kroner, Chair; Dan Derby, Phil Wilson, Nancy Monaghan, Josh Jeffrey
13 and Jim Maggiore, Select Board Representative.
14

15 **Members absent:** Tim Harned, Vice Chair
16

17 **Alternates present:** None
18

19 **Others present:** Jennifer Rowden, RPC Circuit Rider, and Wendy Chase, Recording Secretary
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21 Chair Kroner called the meeting to order at 6:35pm.
22

23 **I. Old Business**

24 **1. Case #15:04 – Applicant, Greg Bauer, Principal Partner of Millie Bauer, LLC, for property**
25 **located at 52 Lafayette Road, North Hampton, NH 03862, proposes the following:** (1)
26 Conditional Use Permit under Article IV, Section 418 – Inclusionary Housing; (2) Conditional Use
27 Permit under Section 409.10 for fill in excess of 3,000 square-feet; (3) Site Plan Review. The
28 Applicant proposes to renovate the existing multi-family building, maintaining all four dwelling
29 units, as well as construction of a new building which will have a garage for business equipment
30 and maintenance with one additional residential dwelling unit above. As part of this project, one
31 residential dwelling unit shall be designated for Workforce Housing. Property Owner: Jarib
32 Sanderson 2013 Revocable Trust, 33 Hobbs Road, North Hampton, NH (Greg Bauer, Millie Bauer,
33 LLC, 16 Woodknoll Drive, North Hampton, NH 03862, has a valid Purchase and Sales agreement
34 for the property); property location: 52 Lafayette Road, North Hampton, NH; M/L 008-024-000;
35 Zoning District: I-B/R and R-1 Industrial Business Residential and Residential High Density
36 Districts. The Planning Board took jurisdiction of the plan on April 7, 2015 and the application is
37 continued from the April 7, 2015 meeting. A site walk of the property was held on April 16,
38 2015.
39

40 In attendance for this application:

41 Greg Bauer, Applicant

42 John Chagnon, Ambit Engineering Inc.

43 Colin Dinsmore, PE Ambit Engineering, Inc. drainage analysis and site design
44

45 Chair Kroner explained that the Planning Board took jurisdiction of the plan at the April 7, 2015 meeting.
46 The Board also conducted a site walk of the property on April 16, 2015 that was open to the public.
47

48 The Applicant met with the Conservation Commission at their April 14, 2015 meeting and presented
49 their case. The Conservation Commission recommends approval of the Conditional Use Permit (Article
50 IV, Section 409.10), provided that all work that is done complies fully with the plan as proposed and that
51 the Planning Board arrange for independent review and oversight of the work to ensure that it complies
52 fully with the plan.

53

54 Mr. Chagnon went over the changes made to the plan set to satisfy the Circuit Rider and Town
55 Engineer's concerns and issues outlined in their reviews:

56

- 57 • The 15-foot setback was corrected on the plan.
- 58 • Sheet One – added the new setback and pavement markings and zone lines.
- 59 • Sheet C2 – moved proposed garage closer to the property line.
- 60 • Sheet Two – added two ramps for ADA access to lead people to the floor elevation to enter the
61 retail space.
- 62 • Sheet C3 – added stop bars and building location revised.
- 63 • Sheet C5 - added notes to the location of the culverts.
- 64 • Sheet C6 – added the single-family house in the back and defined the house to a specific design
65 and added house elevations.
- 66 • The back lot will be serviced by a drilled well.
- 67 • Sheet 1, 2 and 3 – septic plans for the proposed garage.
- 68 • Sheet 2 – Leach Fields.
- 69 • The Septic plans have been approved by RCCD and in the process of being approved by NH DES.

70

71 A major concern with the original design was the location of a detention pond to serve the new single
72 family home, it would have created a basin of water that would fill up and cause localized ponding on
73 Norma Brindamour's property. Mr. Dinsmore explained that the new designed system is a
74 sedimentation basin and allows for more water to pass through and will not cause water to back up on
75 Mrs. Brindamour's property. He said that the town's engineer reviewed the drainage calculations and is
76 satisfied with the design.

77

78 Chair Kroner opened the Public Hearing at 7:11pm.

79

80 William Brindamour, representing his mother Norma Brindamour, 23 Sylvan Road, a direct abutter to
81 the proposed single family house. He questioned whether or not a variance would be required because
82 the current frontage of the property is 103-feet where 175-feet is required, and since it abuts two
83 streets, it needs to meet the 175-feet on both streets. He said that there is no reason why the driveway
84 can't come off of Fern Road and stated that it is poor plan, and was handled poorly with the abutters
85 and in the interest of the town. He said he is not against Mr. Bauer improving his property but just
86 thinks it could have been designed a better way and communication with the abutters could have been
87 much better than it was.

88

89 Chair Kroner explained to Mr. Brindamour that the Inclusionary Housing Ordinance frontage
90 requirement is 100-feet; the plan meets that requirement.

91

92 John Bateman, 16 Meadowfox Road – questioned the Board's acceptance of the plan as it pertained to
93 the Site Walk they conducted on April 16th.

94 Ms. Rowden said that the Board accepted the plan at the April 7th meeting just to consider it; the
95 application was not approved. They conducted a Site Walk to get a better understanding of the
96 proposed layout. She said the proposed single family home will qualify as Workforce Housing where the
97 occupant will have to meet a certain income level to live there.
98

99 Mr. Bateman said that the former Building Inspector was inspecting the site and said that there had to
100 be a stream there that empties into the Winnicut River.
101

102 Chair Kroner said that the "stream" is a tributary to the Winnicut River and they did find where it comes
103 out of the ground on the Site Walk, it is on the north side of the lot as it transitions to an abutting lot. He
104 said it is more like a natural spring than a stream. He said according the town's engineering the water
105 filtering into the stream will be of a higher quality than what's currently going into the stream because it
106 will be getting another level of treatment that it is not currently getting.
107

108 Mr. Bateman voiced concerns over the proposed driveway to the new house.
109

110 Chair Kroner said that the driveway will cross over the wetland buffer and they will be installing a culvert
111 under the driveway and the water sheet-flow off of Sylvan and Meadowfox Roads will travel underneath
112 the culvert into the tributary stream. He said the Conservation Commission met to discuss this
113 specifically and recommended that the Planning Board grant the Conditional Use Permit for the
114 disturbance.
115

116 Chair Kroner asked Mr. Chagnon if he broke down the two disturbed areas into two separate Conditional
117 Use requests in case a board member was supportive of one disturbance, but not the other.
118

119 Mr. Chagnon provided one copy for the file that broke it down: there would be 14,723 square-feet of
120 disturbance for the driveway off of Sylvan Road and 19,806 square-feet of disturbance off for the
121 detention pond and construction area off of 52 Lafayette Road.
122

123 Chair Kroner closed the Public Hearing at 7:24pm.
124

125 Ms. Monaghan said it is too large of a disturbance and takes issue that they proposed it to be the only
126 productive use of the land. The law regarding productive use of the land does not give the property
127 owner the right to build whatever they want. The original plan did not include the single-family
128 residence; Mr. Bauer was only interested in developing the parcel for his business, and feels it is too
129 risky because of the drainage issue.
130

131 Mr. Wilson agreed that it is a large disturbance, but the section of the lot where the single-family house
132 will be located is in the R-1 zone and the only use in that zone is residential and since under the
133 Workforce Housing proposal the only alternative is to put in multi-family housing so he thinks the
134 proposed single-family residence is consistent with the ordinance. He said the only way to avoid the
135 disturbance is to construct the driveway off of Fern Road passing over the commercial part of the
136 property, and that doesn't make good planning sense to him. He said after going on the Site Walk he
137 saw the erosion caused by the sheet-flow off of Sylvan Road and said it seems this proposal will
138 remediate a problem probably made by the Sylvan Road development years ago.
139

140 Mr. Maggiore said that he would have preferred the driveway off of Fern Road, but after learning it
141 would be to service a single-family home where children may live, it would be safer to construct the
142 driveway off of Sylvan Road. He said the engineers did their best to mitigate and doesn't know how they
143 could have done it differently to make it safer and with less impact.
144

145 Mr. Jeffrey said it is a lot of disturbance, but after walking the site and witnessing the issues
146 downstream it does appear that the development will mitigate some of the issues and hopefully
147 minimizes future disturbances.
148

149 Mr. Derby opined that if he were an abutter he would rather have a view of a single-family home than a
150 commercial enterprise. He said the town's engineer reviewed the plans and accepted them.
151

152 Chair Kroner said that the project will retain the single-family home environment in the Sylvan Road
153 area. He said there is nothing stopping someone from receiving a timber cut permit and clear-cutting
154 the pine trees in that area. He said that putting in a single-family house will prevent something like that
155 from happening.
156

157 **Mr. Derby moved and Mr. Wilson seconded the motion to grant the Conditional Use Permit – Article**
158 **IV, Section 409.10 to allow fill in the amount of 34,529 square-feet.**
159 **The vote passed in favor of the motion (5 in favor, 1 opposed and 0 abstention). Ms. Monaghan voted**
160 **against.**
161

162 **Conditional Use Permit – Article IV, Section 418 – Inclusionary Housing**

163

164 Mary Crowley introduced herself and said she will be the monitoring agent for the Workforce Housing
165 aspect of the proposed project. The Ordinance requires an annual update from the Monitoring Agent.
166 She has done two other Workforce Housing projects and monitors 300 low income units in Roxbury MA.
167

168 The units designated as "Workforce Housing" are (1) the proposed apartment above the garage, (2) the
169 newly constructed single-family dwelling and (3) a two-bedroom unit in the existing multi-family
170 building.
171

172 Ms. Rowden suggested that, if approved, a note be added to the plan indicating that this proposal is the
173 first Workforce Housing development for the town because of the "first-in-first-out" provision in the
174 ordinance.
175

176 It was mentioned that the Certificate of Occupancy includes the date, and that is a matter of record.
177

178 **Monitoring Agent**

179

180 ***Affordability Monitoring Agent.*** *As a condition of approval, the applicant shall negotiate and submit*
181 *written evidence that an agreement has been executed with a qualified third party, acceptable to the*
182 *Planning Board, as Monitoring Agent for the development.*

- 183 1. *The Monitoring Agent shall review and approve all documentation required to ensure that*
184 *affordability provisions of this Article are fully enforced and maintained initially and over the*
185 *duration of the required period of affordability.*
- 186 2. *Said Agent shall not be changed without prior approval of the Planning Board.*

- 187 3. *Should said Agent cease to provide such services for any reason without due prior notice, the*
188 *applicant, his/her successor or designee shall promptly notify the Planning Board and propose a*
189 *successor Monitoring Agent for approval of the Board.*
190 4. *Said Agent shall submit annually a written report to the applicant and Planning Board that*
191 *characterizes all transactions that have been reviewed by the Agent and states the sales prices*
192 *or lease prices of all units subject to the Agent's purview.*
193 5. *Said Agent shall submit annually written certification that, during the reporting period, all units*
194 *under his or her purview have continuously met affordability standards under this Article.*
195

196 Discussion ensued on the ordinance provision 481.9.D.3.b. – “first-in-first-out”.

197
198 The Workforce Housing Ordinance allows for less setback and frontage requirements than a normal
199 development. The Board discussed what would prevent a developer from developing a site under the
200 Inclusionary Housing Ordinance and then come back to the board in a few years to apply for a lien
201 release and flip the units to “fair market value”.

202
203 Chair Kroner said that the developer would have to request variances if they wanted out of the
204 Workforce Housing contract because it wouldn't meet the setbacks and frontage requirements.

205
206 Mr. Wilson said that the Town would exercise the lien. The lien is set up to compensate the town for the
207 fact that relief is given to stringent dimensional requirements. The lien is a penalty for a developer to
208 opting out of the Workforce housing system. Whether it is an adequate penalty or not is a different
209 issue.

210
211 Mr. Derby asked if they could sell the house separately. Ms. Rowden said that they could sell the house
212 if they do a condominium conversion.

213
214 The town doesn't have a condominium conversion ordinance so it wouldn't require Planning Board
215 approval if they did condominiumize it.

216
217 Ms. Rowden said that the Board doesn't need to put conditions of approval on a Conditional Use Permit
218 because you have to meet all of the provisions of the Workforce Housing Ordinance for it to be
219 approved by the Board.

220
221 Chair Kroner opened the Public Hearing at 8:31pm.
222 Chari Kroner closed the Public Hearing at 8:32pm without public comment.

223
224 **Mr. Derby moved and Mr. Wilson seconded the motion to grant the Conditional Use permit – Article**
225 **IV, Section 418 – Inclusionary Housing Ordinance to allow “Workforce Housing” units as part of a multi**
226 **use development. The units designated as “Workforce Housing” are (1) the proposed apartment**
227 **above the garage, (2) the newly constructed single-family dwelling and (3) a two-bedroom unit in the**
228 **existing multi-family building.**

229 **The vote passed in favor of the motion (5 in favor, 0 opposed and 1 abstention). Ms. Monaghan**
230 **abstained.**

231
232 The Board discussed the “Notice of conditions letter” required to be sent to the Applicant by the Board
233 pursuant to Section 418.5.

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Mr. Wilson suggested reiterating the motion made to grant the Conditional Use Permit and to add “by the Planning Board’s approval of the Conditional Use Permit, the Applicant has accepted the provisions of the Inclusionary Housing Ordinance as stated in the North Hampton Zoning Ordinance.”

Site Plan Review -

The Applicant requested a waiver to the paving requirement, which was received late and not legally noticed. Ms. Rowden stated in her review that the waiver request was not necessary because the gravel parking area is not intended for public parking.

Ms. Monaghan reminded Mr. Bauer that at the last meeting she had asked how many vehicles would be parked outside the garage, and he had replied none. She noted that he was now listing dump trucks, trailers and heavy equipment that will be parked outside the garage. Mr. Bauer replied, “There is not enough room for everything in the garage.” Ms. Monaghan asked if Mr. Bauer had known that at the last meeting. He said: “I knew it butI wasn’t aware of the answer to the question in full, I guess.” He said he will store approximately six vehicles outside, as depicted on the plan..

Mr. Bauer said that the salt will be surrounded by concrete blocks and covered.

The Fire Department noted that they would like the proposed driveway off of Sylvan Road to accommodate all fire apparatus.

The materials stored on the site are depicted on the plan.

3. On a vote of 5 in favor, 0 opposed and 1 abstention, the Planning Board approved the Site Plan Review Application to allow the renovation of the existing multi-family building, including office space, construction of a single-family dwelling designated as “Workforce Housing”; construction of a garage for business equipment and maintenance with one apartment unit above it designated as “Workforce Housing”, with the attached conditions of approval:

1. **Recordable Mylar.** Applicant shall submit a recordable Mylar of the approved plan with signatures and seals affixed of all licensed professionals whose names appear on the plan. All conditions of approval shall be listed on the Mylar pursuant to NH RSA 676:3.III.
2. **Certificate of Monumentation.** Applicant shall provide the Board with a Certificate of Monumentation, stamped and signed by a NH LLS, certifying that all monuments depicted on the plan have been properly set in accordance with the subdivision regulations.
3. **State Permits.** Applicant shall submit evidence of receipt of NH DES Subsurface approval and shall note their numbers, as appropriate, on the plan.
4. **The Inclusionary (Workforce Housing) units shall be identified on the plan.**
5. **A note shall be added to the plan identifying Mary Crowley, LLC as the Monitoring Agent for the Inclusionary Housing units.**
6. **A letter shall be submitted by Mary Crowley listing her qualifications and agreement to serve as the Monitoring Agent.**

- 279 **7. The location of the fuel tank shall be reviewed and approved by the Building Inspector to**
280 **ensure it meets the required distance from the single-family dwelling, pursuant to the**
281 **Building Codes.**
- 282 **8. The salt storage shed shall be depicted on the plan.**
- 283 **9. The dumpster shall be depicted on the plan and properly screened from view.**
- 284 **10. No Certificate of Occupancy shall be issued for buildings on the Lafayette Road side until**
285 **the landscaping and detention pond is completed on the Lafayette/Fern Road side.**
- 286 **11. No Certificate of Occupancy shall be submitted for the Single-family dwelling until the**
287 **stormwater management system has been completed on the Sylvan Road right-of-way**
288 **(R.O.W.)**
- 289 **12. A memo shall be submitted from the Deputy Fire Chief stating that the Sylvan Road**
290 **driveway is acceptable in its design and that it will accommodate appropriate fire**
291 **apparatus.**
- 292 **13. L-CHIP Fee. Applicant shall submit a check made payable to the Rockingham County**
293 **Registry of Deeds for \$25.00. (This mandatory State Fee is to fund The Land and**
294 **Community Heritage Investment Program).**
- 295 **14. Fees. All fees incurred by the Planning Board, including but not limited to, Consulting,**
296 **Engineering and Legal fees, have been paid by the Applicant.**
- 297 **15. There shall be no changes to the Mylar except to meet these Conditions of Approval.**

298 **Mr. Wilson moved and Ms. Monaghan seconded the motion to suspend the Planning Board's rule and**
299 **allow New Business after 9:30pm.**

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

301

302 **II. New Business**

- 303 **1. Case #15:06 – Applicant Robert R. MacDonald, for property located at 227 Lafayette Road,**
304 **North Hampton, NH, 03862, proposes the following:** through a site plan review application to
305 construct an 11,000 square-foot mixed-use building, with an attic, along with the associated
306 parking, utility and stormwater management improvements. The mixed-use will include a
307 proposed wood shop, of 200 square-feet; Retail of 3,800 square-feet; Warehouse of 4,000
308 square-feet, and office of 3,000 square-feet. The Applicant has also applied for a Conditional
309 Use Permit under Section 414.5.F.1.a, because the subject property is in the Aquifer Protection
310 District. Property owner: Robert R. MacDonald 90 Lovering Road, North Hampton, NH 03862;
311 property location: 227 Lafayette Road, North Hampton, NH; M/L 020-012; Zoning District: I-B/R
312 – Industrial Business Residential.

313

314 In attendance for this application:

315 Rick Friberg, TEC, Inc.

316 Robert MacDonald, Owner/Applicant

317

318 Chair Kroner mentioned that the Applicant received a Special Exception from the Zoning Board for light
319 manufacturing for a wood shop that would occupy 200 square feet of the proposed 11,000 square foot
320 building. He also mentioned that the Board was in receipt of a letter from Phil Michaud, a direct abutter

321 to the subject lot that listed 8 suggested conditions of approval if the board decided to approve the
322 application. Mr. Michaud was not able to attend the meeting.

323

324 Mr. Friberg presented Case 15:06 on behalf of Mr. MacDonald:

- 325 • The proposal is for a mixed use building two stories with an attic
- 326 • The footprint of the building is 7,800 square-feet – 11,000 square-feet total aggregate of
327 building
- 328 • There are 27 parking spaces where 25 spaces are required
- 329 • There is paved parking area in the front of the lot and gravel in the back of the lot
- 330 • The site is in the aquifer protection district
- 331 • Water will be provided by Aquarion Water and they have submitted a letter of commitment to
332 the Board
- 333 • The septic design has been approved by NH DES and will located in the rear of the building
- 334 • Propane will service the building and the tanks will be located in the back of the building on
335 concrete slabs
- 336 • The applicant received copies of the review letters from the town’s engineer and RPC Circuit
337 Rider and will incorporate their suggestions into a new plan to the board.
- 338 • The applicant received a copy of the letter from an abutter and asked if the Board wanted them
339 to incorporate any of his suggestions into the new plan.

340

341 Mr. Friberg said that they are requesting a Conditional Use Permit because the site is in the aquifer
342 protection district and one requirement is there is a maximum 20% lot coverage or the applicant can
343 provide the appropriate stormwater management to accommodate groundwater recharge and not
344 increasing peak flows off site. They prepared drainage calculations that were reviewed by the town’s
345 engineer and he believes the condition has been satisfied for granting the Conditional Use Permit for
346 commercial property in the aquifer protection district. They are also before the Board for a Site Plan
347 Review.

- 348 • Any loading will be done at the rear of the building
- 349 • The front of the building will be retail spaces
- 350 • The rear of the building will be the warehouse and offices and wood shop will be on the second
351 floor
- 352 • The water main is across the street and will require a trench across Route 1 to gain water service
353 from Aquarion Water
- 354 • There will water quality swales along the edge of the property
- 355 • No additional water volume will leave the site than what leaves today

356

357 Chair Kroner commented that it is highly unlikely that water will be drawn from that aquifer because it is
358 across the street from the Coakley Landfill and the water has serious industrial chemicals in it; it’s one of
359 the biggest “hot spots” on the east coast.

360

361 **Conditional Use Permit -**

362

363 **Mr. Wilson moved and Ms. Monaghan seconded the motion to grant the Conditional Use Permit**
364 **based on the stormwater drainage analysis as presented through the recommendations made by the**
365 **Town’s Engineer and Circuit Rider.**

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

367
368 The town's engineer suggested that if the Board grants the CUP that it be noted on the final site plan.
369

370 **Mr. Wilson moved and Ms. Monaghan seconded the motion to take jurisdiction of the plan.**
371 **The vote was unanimous in favor of the motion (6-0).**
372

373 There was no one from the public in attendance.
374

375 Chair Kroner went over the letter from Phil Michaud, an abutter to the property:

- 376 • Location, current or future allow food preparation or "drive thru" service
 - 377 • No lighting above 7 feet on the southeast side
 - 378 • The public should not be allowed to drive beyond the limits of the front of the building
 - 379 • No allowances for stock piling of any materials (gravel, sand, mulch, etc.)
 - 380 • Hours of operation for retail not before 7am and not later than 8pm
 - 381 • Heavy equipment not to operate before 7am or later than 6pm
- 382

383 Mr. Wilson said that the septic system is not designed for food service and if a restaurant were to go in
384 the applicant would have to come back to the Board for a change of use application.
385

386 The Board agreed that a "drive thru" could be for a bank and not an easy condition to impose.
387

388 Mr. Wilson commented, in order to meet the parking requirements the public has to be allowed to
389 access the site.
390

391 The Board agreed that all lighting has to meet "dark sky standards".
392

393 There are no town ordinances regarding hours of operation for retail businesses. Chair Kroner said that
394 retail businesses don't usually open before 9am.
395

396 Ms. Monaghan asked if the construction vehicles will be coming and going from the site.
397

398 Mr. MacDonald said that they park the vehicles there at the end of the day and pick them up in the
399 morning to go to work sites. It is no different from anyone else getting their vehicle ready to go to work.
400

401 **Mr. Wilson moved and Ms. Monaghan seconded the motion to continue Case #15:06 – Robert R.**
402 **MacDonald to the June 2, 2015 meeting.**
403 **The vote was unanimous in favor of the motion (6-0).**
404

405 **I. Other Business**

406 **1. Any other business to come before the Board.**

407 The Board determined that it would be appropriate to invite Mr. Richard Skowronksi to the next Work
408 Session to discuss his Conservation Subdivision easement issue.

409 **The meeting adjourned at 10:40pm without objection.**

410 Respectfully submitted,
411
412 Wendy V. Chase
413 Recording Secretary
414
415 **Approved June 16, 2015**