



Meeting Minutes
North Hampton Planning Board
Tuesday, November 3, 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.
11

12 **Members present:** Shep Kroner, Chair; Tim Harned, Vice Chair, Phil Wilson, Nancy Monaghan,
13 Josh Jeffrey and Jim Maggiore, Select Board Representative.
14

15 **Members absent:** Dan Derby
16

17 **Alternates present:** None
18

19 **Others present:** Jennifer Rowden, RPC Circuit Rider, and Wendy Chase, Recording Secretary
20

21 Chair Kroner called the meeting to order at 6:35pm.
22

23 **I. Old Business**
24

- 25 1. Continued Public Hearing on a proposed amendment to Article I – Purpose. The purpose of
26 the proposed amendment is to clarify that the Town and Little Boars Head Village District do
27 not have concurrent jurisdiction.
28

29 Chair Kroner explained that the Little Boars Head Village District Commissioners submitted an
30 amendment to the proposed amendment to Article I – Purpose at the prior Public Hearing. The Planning
31 Board met with Town Counsel to discuss the Commissioner’s proposed amendment. This Public Hearing
32 is a continuation from the September 1, 2015 Public Hearing.
33

34 Chair Kroner opened the Public Hearing for public input on the proposed amendment at 6:37pm, and
35 read the proposed amendment into the record:
36

37 Article I – Purpose

38 For the purpose of promoting the health, safety, and the general welfare of the community, the
39 following ordinance is hereby enacted by the legislative body of the Town of North Hampton (a
40 municipal corporation in the County of Rockingham and State of New Hampshire) in official meeting
41 convened: *3/14/68. **The ordinance shall not apply to the Little Boars Head Village District, which was**
42 **granted exclusive Planning and Zoning authority by an act of the New Hampshire Legislature in 1937.**

43 For the purpose of promoting the health, safety, and the general welfare of the community, the
44 following ordinance is hereby enacted by the legislative body of the Town of North Hampton (a
45 municipal corporation in the County of Rockingham and State of New Hampshire) in official meeting

46 convened: *3/14/68. Except with respect to the powers and responsibilities of the Town of North
47 Hampton Building Code and Fire Inspectors concerning site inspections and issuance of building permits
48 and certificates of occupancy, which shall continue to apply in the Village District of Little Boars Head,
49 the ordinance shall not apply to the Little Boars Head Village District, which was granted exclusive
50 Planning and Zoning authority by an act of the New Hampshire Legislature in 1937.

51

52 Red – Planning Board’s proposed amendment

53

54 Light Blue – LBH Commissioner’s proposed amendment

55 Chair Kroner closed the Public Hearing at 6:40pm.

56

57 Mr. Wilson suggested the Board follow the advice of town counsel, to approve the original amendment
58 by the Planning Board.

59

60 **Mr. Wilson moved and Mr. Harned seconded the motion to adopt the amendment as originally
61 proposed by the Planning Board.**

62 **The vote passed in favor of the motion (5 in favor, 0 opposed and 1 abstention). Mr. Jeffrey abstained.**

63

64 **Mr. Wilson moved and Mr. Harned seconded the motion to place the proposed amendment to
65 Article I – Purpose on the 2016 Town Warrant.**

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

67

68 **The proposed amendment to Article I – Purpose will go on the 2016 Town Warrant as follows:**

69

70 Article I – Purpose

71 For the purpose of promoting the health, safety, and the general welfare of the community, the
72 following ordinance is hereby enacted by the legislative body of the Town of North Hampton (a
73 municipal corporation in the County of Rockingham and State of New Hampshire) in official meeting
74 convened: *3/14/68. The ordinance shall not apply to the Little Boars Head Village District, which was
75 granted exclusive Planning and Zoning authority by an act of the New Hampshire Legislature in 1937.

76 2. **Case #15:13 – Applicant RE Davis Automobile Sales for property located at 172 Lafayette**
77 **Road, North Hampton, NH, submits a Site Plan Review Application to expand the auto**
78 **display area 8,000 square feet with porous asphalt.** The Applicant requests the following
79 waiver from the Site Plan Review Regulations: X.C.2 – 100-year Stormwater System Design.
80 Property owners: E. Dean Stevens & Cora A. Stevens 1994 Rev Trust; Property location: 172
81 Lafayette Road, North Hampton, NH; M/L 017-084-001; Zoning District: I-B/R Industrial
82 Business Residential. The case is continued from the October 6, 2015 meeting.

83 In attendance for this application:

84 There was no one in attendance for this application.

85

86 The Board was in receipt of a request from the Applicant’s Representative, Jack McTigue to continue
87 Case #15:13 to the December 1, 2015 meeting.

88

89 **Mr. Maggiore moved and Mr. Wilson seconded the motion to grant the request to continue Case**
90 **#15:13 to the December 1, 2015 meeting.**
91 **The vote was unanimous in favor of the motion (6-0).**

92

93 **3. Case # 15:14 – Applicants John Normand and Colleen Lawson, 75 South Road, North**
94 **Hampton, NH, propose a Site Plan Review Application under Essential Services to install a**
95 **solar array garden in the rear of their property.** The applicants request the following
96 waivers from the Site Plan Review Regulations: Property owners: John Normand and
97 Colleen Lawson; property location: 75 South Road, North Hampton, NH; M/L: 008-109-000;
98 Zoning District: R-1 High Density Residential District. The Board voted to take jurisdiction of
99 the plan and continue the case from the October 6, 2015 meeting.

100 In attendance for this application:

101 John Normand, owner/applicant

102

103 The Board reviewed the updated plan submitted by the Applicant that included the screening of the 25-
104 foot vegetated buffer. Two rows of bushes were added to the eastern and northern side of the property.

105

106 The Board conducted a Site Walk of the property on October 19, 2015.

107

108 Mr. Normand said that even though the plan shows the rows of hedges, it was his understanding that
109 the site walk that took place allowed the Board to view the property so that the actual amount of
110 plantings could be opened for discussion. He said he is concerned with the cost involved of putting in
111 the vegetated screening.

112

113 The Board discussed the waiver request for “screening”. Ms. Rowden said that the screening has to be
114 on all sides of the array according to regulation IV.E.2.a – Buffers used to screen from neighboring
115 properties.

116

117 Mr. Normand was requesting the waiver to screening along the access road and the back portion of the
118 lot. The trees along the access road are on the neighboring property owned by Steve Pearce, 73 South
119 Road, and some of the trees on the back portion of the property are on the neighboring property and
120 some are on Mr. Normand’s property.

121

122 Mr. Normand said that the south side of the property will have screening as shown on the plan and he
123 asked Mr. Pearce if he could put in trees to fill in gaps of his existing trees so that he doesn’t have to
124 plant a whole row of trees.

125

126 Mr. Wilson said that Mr. Pearce commented at the last meeting they he did not want the vegetation his
127 property considered to meet the requirement of the Ordinance so the Board has to act on the waiver.

128

129 Ms. Monaghan said that the Ordinance requires that it be properly screened and it is up to the owner to
130 meet that requirement. She is concerned with “jury-rigging” the plantings of the trees.

131

132 Ms. Rowden said that the “screen” is not a wall; seeing through the gaps is still considered “screening”.

133

134 **Waiver request to Section IV.E.2.a, of the Site Plan Review Regulations –**

135

136 Chair Kroner opened the Public Hearing at 7:01pm.

137

138 Richard Cote, 36 and 40 Post Road – said that Mr. Pearce’s driveway separates his property from Mr.
139 Normand’s property and is concerned with the lack of screening along the driveway.

140

141 Chair Kroner said that the proposal calls for a row of hedges along the driveway that leads to
142 Mr. Pearce’s property. Mr. Normand’s waiver request is for some relief from that requirement.

143

144 Steve Pearce, 73 Post Road - said that the regulations are quite clear on what needs to be installed to
145 screen the arrays to totally block from the site. The site is supposed to be blocked from view and the
146 Board needs to make sure there is no detrimental effect on the neighborhood. He said if the array is
147 visible it will have a negative impact on real estate. He opined that the only solution is to plant
148 arborvitae trees on at least three sides of the array. He commented that he would not have as big an
149 objection if the solar panels were placed on Mr. Normand’s roof. He said if the solar garden is allowed in
150 a residential district it should be covered from view.

151

152 Chair Kroner closed the Public Hearing on the waiver request at 7:10pm.

153

154 Mr. Normand asked what the height requirement is for the screening. He said the hedging, if trimmed
155 on top, fills out over a couple of years. He also asked whether fencing is an option for screening.

156

157 Ms. Rowden said that arborvitae need room for growth so they don’t kill each other off when mature.
158 She said there is no height requirement for the screening and fencing is an option. She commented that
159 a vegetated buffer already exists and that the Board is discussing the “screening”, not the vegetated
160 buffer.

161

162 Chair Kroner said it is not up to the Board to tell the applicant what to use to screen; the screening must
163 comply with the regulations. He said that fencing alone cannot be used for screening.

164

165 Mr. Normand said he is concerned with the shadow cast from the trees on the solar array. He said the
166 hedges have to be at least 16-feet away from the panels. He said he would plant them at least 25-feet
167 away from the array to get additional height.

168

169 Ms. Monaghan commented that four rows of panels are 10’, 4” tall and 80-feet long and 14’wide, and
170 even as wonderful as solar power is, the array is an eyesore to the surrounding area.

171

172 Chair Kroner said that he doesn’t totally agree that it should be categorized as Essential Services under
173 the Zoning Ordinance.

174

175 Ms. Rowden said that it falls under the metering law that passed a few years ago. A solar array garden is
176 considered a public utility and under the definition of essential service includes public utility.

177 Mr. Normand will be selling power to the power company, Eversource.

178

179 Mr. Normand said that Eversource recently contacted him and said that they are concerned that they
180 will be able to install a net meter before the end of the year because they have 600 solar array projects
181 throughout the State. He said that he doesn’t intend to install his proposed solar garden until the spring.

182

183 Mr. Wilson commented that the applicant proposed to put a commercial use in a residential district. It
184 will change the nature of the neighborhood even with proper screening and may diminish property
185 values around it. The Essential Services definition has been in effect since 1991 and when the definition
186 was written he didn't think installation of solar arrays was considered in the backyards of the residential
187 districts. He said that he is in favor of the concept of solar net metering, it helps promote clean energy
188 and energy independence, but the rights of the abutters also have to be taken into consideration.
189

190 **Mr. Harned moved and Ms. Monaghan seconded the motion to deny the waiver request from Site**
191 **Plan Regulation IV.E.2.A.**

192 **The vote was unanimous in favor of the motion (6-0).**
193

194 Mr. Normand said that the proposal is to use the power from the solar array garden to power his home
195 and whatever extra power that is generated goes back onto the grid. By PUC regulations, they require
196 you to sign up other customers that would equal the load that he does no use. For example, if the
197 system generates 50,000 kWh, and he uses 10,000; the 40,000 left over kWh is for customers that have
198 signed a contract agreeing to use "green" energy as their power source.
199

200 Chair Kroner opened the Public Hearing at 7:33pm on the Application.
201

202 Steve Pearce, 73 Post Road – asked if the proposed screening is enough to satisfy the regulation.
203

204 Chair Kroner called for a five minute recess at 7:35pm so that the Mr. Pearce could review the updated
205 plan submitted by the applicant on November 13, 2015.
206

207 Chair Kroner reconvened the meeting at 7:44pm.
208

209 Mr. Pearce referred to the required landscape surety of 25% to be held by the Town in case any
210 plantings die and need to be replaced. He said that the huge issue is the screening as far as the
211 application itself. Under Section IV.E.1 – "shall ensure that the proposed development does not have a
212 detrimental effect on the abutters, the neighborhood, and the environment of the Town."
213

214 Chair Kroner closed the Public Hearing at 7:53pm.
215

216 Mr. Normand said that he wanted to make it clear that the proposal is not "set in stone". It is going to
217 be much more costly now because of the denial of the waiver to Regulation IV. E.2.a. He said that he will
218 be receiving an assessment from Eversource and there may be additional costs associated with the
219 proposal, so they may need to scale it back. He said he is hoping to get the assessment sometime this
220 week, but definitely by the end of the month.
221

222 It was a general consensus of the Board to continue the case to the December 1, 2015 meeting.
223

224 Mr. Wilson agreed to continue the application and said that the landscape plan proposed is not the
225 Board's typical plan; it doesn't specify the species or the arrangement of the plantings. He said with the
226 amount of the screening the Board will have to require the landscape surety, but doesn't think an
227 estimate can be made according to this plan. He said that even though the Board accepted jurisdiction
228 of the plan they still don't have all the information to make a decision on it. He said he is in favor of the
229 solar array garden, but thinks it needs to be done right.

230
231 Mr. Normand said that he is talking to landscapers and once he gets some information he will forward it
232 to the Board.

233
234 Chair Kroner commented that communities like North Hampton haven't had time to put in protective
235 regulations regarding solar and wind power. He fears that there will be solar gardens in every open field.
236 The open fields provide habitat for a range of different animals. He said that personally he is against
237 industrial wind in New England, but is in favor of solar power. He said there are acres of rooftops
238 perfectly suited for solar panels.

239
240 Mr. Harned said that it is up to the Applicant to present a landscape plan to the Board for approval.

241
242 Mr. Normand is working with landscapers on a plan. He asked about the landscape surety.

243
244 Chair Kroner explained that an escrow account is held by the Town that equals 25% of the total cost of
245 plantings for a period of two years, in case dead plantings need to be replaced.

246
247 Mr. Normand asked if he could request an extension if he needed to continue the case.

248
249 Chair Kroner said that if Mr. Normand wanted to request an extension, he could do so by requesting it in
250 writing to the Board prior to the meeting.

251
252 **Mr. Wilson moved and Ms. Monaghan seconded the motion to continue Case #15:14 to the**
253 **December 1, 2015 Meeting.**
254 **The vote was unanimous in favor of the motion (6-0).**

255
256 **II. New Business**

257 **1. Case # 15:15 – Applicants William and Jane Cummings, for property located at 22 Mill**
258 **Road, North Hampton, NH, submits a Conditional Use Permit Application to Article IV,**
259 **Section 409.12 to allow the construction of a 10' x 24' screened porch within a wetlands**
260 **area, according to the Normandeau Map.** Property owners: William and Jane Cummings, 22
261 Mill Road, North Hampton, NH 03862; M/L 003-058-000; Zoning District: R-1 Residential –
262 High Density.

263
264 Ms. Rowden explained that the Building Inspector interpreted the Cummings property to be in the
265 wetlands conservation district based on the map at the town office. It was determined that the map
266 used is a soil based map and not the Normandeau Map referred to in the Zoning Ordinance. Because the
267 wrong map was consulted the building permit was denied, but after using the correct map it was
268 determined that a Conditional Use Permit was not required. The Building Inspector rightfully used what
269 he believed to be the correct wetlands map to guide him in either issuing or denying a building permit.
270 Determining wetlands is site specific, delineated by a soils scientist and the wetlands map is used only as
271 a guide.

272
273 Ms. Chase informed the Board that the Cummings application was the only one denied based on the
274 map at the town office. Mr. Mattucci's application was also denied, but is shown on the Normandeau
275 Map as being in the Wetlands District.

276

277 Ms. Rowden delivered a copy of the Normandeau Map to the town office. The Normandeau Map
278 depicts the wetlands in green that includes the wetland buffer.
279

280 **III. Other Business**

281 **1. Items left on the table**

282 **a. Proposed Zoning Ordinance amendments/additions and/or Regulation**
283 **amendments/additions Discussion.** – Ms. Rowden distributed a proposed
284 amendment to the Zoning Ordinance Article V, Section 501.2 – non-conforming use
285 and Article III, Section 302.31 definition of non-conforming use. The Board has
286 struggled with the section and the proposed amendment will help clarify it.
287

288 Mr. Kroner suggested the Board Members study the proposed amendments submitted by Ms. Rowden
289 to discuss at the Work Session.
290

291 The meeting adjourned at 8:50pm without objection.
292

293 Respectfully submitted,
294

295 Wendy V. Chase
296 Recording Secretary
297

298 Approved November 17, 2015
299