



REGULAR MEETING MINUTES
TOWN OF NORTH HAMPTON
ZONING BOARD OF ADJUSTMENT
November 17, 2004

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Minutes for November 17, 2004 Meeting of the North Hampton ZBA

Meeting was called to Order at 7:10 PM

All regular members present.
Witnesses sworn in.

Acceptance of Minutes for Sept. 15, 2004 Meeting

Luff-motion to accept as is.
Turchan-second
4-0-1. Simmons abstained.

Acceptance of Minutes for Nov. 1, 2004 Meeting

Peckham-motion to accept as is.
Smith-second
5-0.

2004:25 --Rehearing for Aquarion Engineering Services, 222 St. John St., Ste 314, Portland, ME 04102 - requests a Special Exception from Article IV, Section 405.2. for relocation of the operations building to a newly constructed building located on the same site. North Hampton Property location: 7 Mill Road, R-1 zone district, Tax Map #003-004-000 and 003-048-000. Hampton Property locations: Map/Lot #57/5, 57/7, 58/1, 58/2 and 72/14.

Simmons read Standard from ordinance into record (405.2)

Representing the Applicant:
Steve Bradstreet, Aquarion-Portland Office
Sean Bradford, Aquarion-Hampton office

Held abutters mtg. Last week and presented the same application as at Sept. 15. They have not done anything to address abutter concerns.

They have contacted a traffic engineer to do a traffic study. Does not know when it will be done. 3 wk. Turnaround time.

Evaluating any other property within the parcel that might be suitable for the building. One possibility was trying to put the building on the Hampton side. Surveyor is working on delineating wetlands in the Hampton portion to see if this is possible.

The current buildings sit back quite a way from the road, materials storage, fenced in area: they want to relocate a portion of it to the front. The two main reasons for this are:

1-have been mandated by DES to cease and remove a septic tank that is located near the building and is within the well protection area shown by the red circles on the plan.

2-best management practices- remove items and equipment that are within wellhead protection areas in case of oil leaks, etc that would be potential contaminants to the wells. This application would get them outside those protection areas.

Will house the current 10 on-site employees (5 in Hampton office at Merrill industrial park in the administrative/corporate office that they will relocate here too). They do not anticipate any other employees.

Customer payment MAY take place at this location.

Parking would be on the opposite side of the building furthest from the road. The facility will remain behind the gated area that currently exists. There are no wetland setback issues. Aquarion is fine with the original condition from September about getting the building as far back as possible.

Old 2850 sq ft.: new 3276 + attached garage

Landscaping would be much like typical home landscaping.

There were questions regarding muting the effect of trucks coming and going. Loader/backhoe, 1 dump truck, several pick-up trucks, etc. This will not change from what it is now.

What will stay out back?

4-bay garage

pipes hydrants and valves

gravels, etc that they use to restore areas once excavation is done

Some of the pavement will be taken back up.

2 options on septic: 1- Hampton vote for sewer hook-up; 2- private well in different location.

What other options beside expansion of the North Hampton Site? No other properties in the Hampton area. Portland is engineering, NY, CT, etc.

Contamination issues would lead to having to shut down the wells. DES has only flagged the potential septic contamination issues as a problem, not the lubricants, oil, etc issues. Not relocating the facilities leaves the non-septic potential contamination as an issue.

This site is about 20% of total drawing capacity of their system.

Public Participation:

Read "Petition" (Exhibit A) submitted by Mike Lynch, of 15 Mill Road

Email from Jeremiah O'Sullivan (Exhibit B)

Shep Kroner letter (Exhibit C)
Abutter Testimony (Exhibit D) from Mike Lynch.

Mike Lynch, 15 Mill Road, presented Exhibit D.
He attended the abutters meeting referenced above. All neighbors he spoke with were unanimous in their opposition and "fairly vehement" in their fervor. Aquarion's parent companies are a \$1.5 Billion company, so they have options. The number given at the abutters meeting was 150 customers a day which means 300 "passes" a day, which is significant. Mill Road is a fairly busy road and it is getting worse.

Fitting the pipes, which are very large,
Increased light will affect his ability to use telescope.
Values will be affected.
This WILL be a big industrial building, and Aquarion said this at the abutters building.
Thinks other options should be explored.

Jennifer Lerner, 5 Park Circle
In 1986 or 1987 they tried to open a dog training facility on the corner of Mill and Cedar. That was not allowed for much the same reasons as stated by abutters this evening. The thinking then was that businesses need to be on Route 1.

John Bosen, Esquire, representing the O'Sullivans, 11 Mill Road.
They have 8 acres of land and three children. It is a very pristine area and very quiet. They oppose the project.
Exhibit E is an appraisal of their home showing a diminished value of his property

RSA 674:33 must be in harmony of the ordinance and in strict compliance to the ordinance.

405.2.2.1 says the project "shall" not diminish values

Traffic: previous meeting September 15, 2004 Aquarion said there would be no paying customers on site. Now they are saying there will be. Aquarion has not done a traffic study and it is reckless to not have done one already. It is of no value to do one afterward. They believe the traffic will be much higher than what has been estimated. Increased traffic will increase the amount of motor vehicle accidents in the area, which is already a problem.

405.2.2.2 says the special exception, if approved, shall not unreasonably adversely affect the public interests, safety, health or welfare.

Chlorine- moving these closer to O'Sullivan- not in his best interests
Sound of doors opening and closing all day long, industrial operations are noisy by nature.
Light spillage- Aquarion had no answer at the abutters meeting. There are no lights indicated on the plan and Aquarion will put whatever they want on the site.

Aquarion has not approached this project in a prudent manner. As of November 4, 2004 they had not explored any options. As a multi-billion dollar company, they have more options than the

O'Sullivan's do.

Aquarion could continue to rent at Merrill Industrial Drive. They could explore other properties.

Peter Stanhope, Certified appraiser. Expert for state and federal courts and BTLA.

Look at the 3 S's:

Sight

Sound

Scent: Not an issue here.

Retail (payments); Warehousing; Manufacturing (things assembled on site)

Are these compatible with the zone and general character of the neighborhood. See last 4 pp. Of his report.

Craig Lardent, 19 Mill Road

Not direct abutters, but traffic is exceedingly significant. Any additional traffic is really awkward getting in and out. The plan should mitigate issues of closeness to lot lines and the size of the septic system to reflect increased employees. If they maintain the building sheds in the back, they still have not solved the potential contaminants that are non-septic related. With the vehicles, etc, remaining, contamination still is possible.

George Ball, 4 Mill Road

Objects because he is directly across the driveway, will see the lights, etc. Does not feel Aquarion has been honest.

Bud O'Connor, 10 Mill Road

They are across the road. They abut the IBR, the airfield, etc. He also uses a telescope and every bit of light pollution counts. They would see the additional light. They do not see the cars. They have felt the impact of Route 1 growing also. Wonders if everything going on now is permitted due to the incremental growth over the years. DES does have jurisdiction over hazardous materials, so they would have jurisdiction over the non-septic issues on site.

Elaine Sabino, 17 Mill Road

Lives next to Mike Lynch. Daughter will have to get on bus. Bend in road in this area and the cars come whipping around. Increased traffic is definitely a problem.

Rebuttal from Applicant:

The previous representation about no additional customers was true at the time. At that time, other sites were being looked at. This has not come to fruition and they continue to look for others sites, but for now they need to plan that the people WILL be coming on site. They will try to not have to do this, but they are proposing that people would come.

DES jurisdiction issues: there are different departments and they were not dealing with the hazardous materials department.

Chlorine: spill containment is twice capacity. Climate controlled. Building is locked at all times.

Not really any manufacturing on site. They don't fit the pipes at this location. They do it on site on the road.

Septic must be TOTALLY removed from the radius. Cannot even pipe it up nearer the road to a new leach field because you would have to pipe it through the radius.

They will meet whatever light requirements are necessary to meet the spirit of the ordinance. The issue with lighting is one of security. They cannot have anyone breaking in and putting anything in the water supply.

Board discussion:

Peckham- wants to see traffic study and also alternative locations.

Luff- agrees with Peckham.

Peckham- Motion to Postpone awaiting traffic study, lighting study, and more info regarding whether billing is required on site based on the project being located as is currently applied for.

Turchan- seconded the motion.

Motion passed: 3-2. Luff, Turchan, Peckham- yes; Smith, Simmons-no.

Peckham-Motion to postpone to January 2005 meeting.

Luff-second.

Recess.

Reconvened.

Request from Atty. Pelech to Postpone 2004:32 to January meeting. Request granted.

Smith left. Lermer seated in her place.

2004:29 -- ARGM Corporation/Joseph Guilmette, 122 Lafayette Road, North Hampton, NH 03862, requests a Special Exception referencing Article V, Section 506.8 and 506.9. for installation of two temporary "A-Frame" signs used for promotions of retail businesses on U.S. Route 1 [Lafayette Road] of a maximum size of 6 square feet. Property location: 122 Lafayette Road, I-B/R zone district, Tax Map #017-004-000.

Joseph and Nancy Guilmette appeared. They referenced the Planning Board's proposed Sign Ordinance that would allow these types of signs, if passed.

The speed limit is 45 MPH and they need the advertising for their business to attract attention there.

405.2.2.1; 405.2.2.2; 405.2.2.3 were addressed.

This is one parcel with two addresses: 122 and 124 Lafayette Road; four businesses in there.

They might take turns with the signs if they needed to. Would take it in at night.

Will not negatively affect cars' ability to see traffic, get out of driveway, etc.

They have done what they could to improve the lot and the business district. This will help the business.

Will not be used for signage, but to advertise promotionals.

Ronald Marshall, 200 Lafayette Road

Signs are very important for businesses. People are definitely responding to the signs.

Luff moved to grant 2 A-frame signs subject to the conditions laid out in the draft of the sign ordinance proposal that has been proposed by the Planning Board (Exhibit A)

Lerner seconded.

Vote was 5-0.

2004:30-- Allison and Robert J. Field, 228 Post Road, North Hampton, NH 03862, requests a Variance from Article IV, Section 406 for relief from the 35-foot side setback requirement for a bump-out on the rear of their house to allow a side setback of 33 feet. Property location: 228 Post Road, R-3 zone district, Tax Map #022-019-001.

Want a gas fireplace. Cannot put it there without the variance. Written offer of proof re: five criteria submitted. Photos of the home shown.

Turchan moved to grant a 3x5 addition to the rear of the house for the fireplace.

Lerner seconded.

5-0.

2004:31 -- Elaine Sabino, 17 Mill Road, North Hampton, NH 03862, requests a Variance from Article IV, Section 406 for relief from the 25-foot side setback requirement for a building addition to allow a side setback of 21.8 feet. Property location: 17 Mill Road, R-1 zone district, Tax Map #003-008-000.

She actually will have a 22.6 setback instead of 21.8.

Drawings submitted.

Written evidence on criteria submitted.

Martha Lardent, 19 Mill Road

Abutter. Supports.

Mike Lynch, 15 Mill Road

Supports.

Luff-move to accept at 21.8

Peckham seconded.

5-0.

2004:32 -- Sally Ann Marcotte, P.O. Box 417, North Hampton, NH 03862, requests a Variance from Article IV, Section 406 for relief from the 30-foot rear setback requirement for a building renovation and relocation to allow a side setback of 9 feet. Property location: 44 Ocean Boulevard, R-2 zone district, Tax Map #001-118-000.

Continued to the January meeting at request of Applicant's Attorney.

2004:33 -- Barlo Signs, 158 Greeley Street, Hudson, NH 03051 - requests Variances from Article V, Section 506.3 E. to allow a 65.5 square foot internally illuminated wall sign where two (2) 12 square foot wall signs are allowed. Property location: 18 Lafayette Road, I-B/R zone district, Tax Map #003-098-001.

Don Reed, 158 Greeley Street, Hudson, NH, graphic designer for Barlo.

Kevin Barnes, owner, was also in attendance

Written evidence on 5 criteria submitted with application.

Letters themselves are 35' sq. feet

Will keep the 24' sq. feet on the parking lot side.

Is not currently using the second 24' sq. ft. sign for the other unit. CEO has determined that since it is one unit now, he only gets one 24' sq. ft., not two of them.

Simmons moved to grant variance for sign as submitted in Exhibit A but changing the dimensions to be that the lettered portion shall be not more than 24' sq. feet, allowing for the non-lighted waves, etc. to remain.

Turchan seconded.

4-1. Lermer dissents.

Rules of Procedure:

Report from Peckham re: cost of requiring applicants to file their decision letter.

\$10 for first page, and \$4 for each additional page.

We will be requiring that the Decision letter be filed, so it will really be one page.

Since the Registry has become picky about what they will record and what they won't, Peckham to look into whether or not the RCRD will accept these or not. Final vote to be taken in January.

Motion to Adjourn by Simmons.

Seconded by Luff. 5-0.