



Meeting Minutes
North Hampton Planning Board
Tuesday, January 8, 2019 at 6:30pm
Town Hall, 231 Atlantic Avenue

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

In attendance: Tim Harned, Chair; Nancy Monaghan, Vice Chair; Members Phil Wilson, Dan Derby, and Jim Maggiore, Select Board Representative; Alternate Members Lauri Etela and Valerie Gamache; Jennifer Rowden, RPC Circuit Rider; and Rick Milner, Recording Secretary.

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

Mr. Harned appointed Mr. Etela to stand in for Mr. Belluche.

Mr. Harned appointed Ms. Gamache to stand in for Mr. Kilgore.

I. Public Hearing

Town of North Hampton, NH review of amendments to zoning ordinances for inclusion on the 2019 Town Warrant.

Town of North Hampton, NH: New Section Accessory Structures, Accessory Structure for Agriculture in Section 508 Agriculture, and Section 302 Definitions. Revisions intended to create a definition for accessory structures and establish permitting regulations for the construction of accessory structures within all zoning districts of the Town of North Hampton. Second Public Hearing.

Mr. Harned presented proposed language for a new Accessory Structures section of the zoning ordinance and revisions to the Agriculture Accessory Structures section of the zoning ordinance. The intent of the proposed language is to create a definition for accessory structures and establish permitting regulations for the construction of accessory structures within all zoning districts of the Town of North Hampton.

The proposed language, revised per Board comments at the December 18 work session, included:

- a. a definition for accessory structures,
- b. allowed sizes for accessory structures based on the size of the lot,
- c. required setback distances based on the size of the proposed accessory structure ,
- d. clarification that any size accessory structure is allowed in the Industrial-Business/Residential District, and
- e. a conditional use permit process for proposed accessory structures that do not meet the zoning ordinance standards.

Mr. Harned opened the public hearing at 6:42pm.

Dieter Ebert addressed the Board. Speaking in his capacity as the Agricultural Commission Chair, Mr. Ebert stated that the Agricultural Commission was concerned with the provision in the proposed language which restricted the siting of an accessory structure no closer to the road than the principal

structure on the lot. Many agricultural properties are large lots that have principal structures set hundreds of feet back from the road. The proposed language would create a burden shouldered primarily by agricultural property owners. An agricultural property owner may be forced to place an accessory structure in an undesirable location as it relates to the proposed use of the accessory structure. The conditional use permit process to allow accessory structures which do not conform to the ordinance is burdensome.

Mr. Ebert suggested a revision to the language which would allow siting of an accessory structure no closer to a public road than the principal structure or 50 feet from the front lot line. The closest minimum setback distance shall apply.

Mr. Ebert further stated his personal opinion that the proposed size for a garage does not allow, based on the size of current vehicles, adequate space to move within the garage or place items normally associated with garage storage or construction in the garage. He suggested an increase to at least 1,200 square feet from the proposed 1,008 square feet. Mr. Ebert also stated his personal opinion that accessory structures which are attached to the principal structure should not have restrictions placed on them.

Mr. Harned closed the public hearing at 6:48pm.

Ms. Monaghan stated that the intent of the proposed accessory structures language is to protect neighborhoods from the impact of larger accessory structures. The conditional use permit process is not overly burdensome and helps weigh the impact on the neighborhood of a larger accessory structure placed closer to the road or lot lines.

Mr. Ebert stated that the proposed no closer to the road front setback requirement is disproportionate to other setback requirements. He does not see the rationale for establishing such a large front setback. A front setback distance of 50 feet would not negatively impact the neighborhood.

Ms. Monaghan moved that the proposed revisions language to the Town of North Hampton Zoning Ordinance New Section Accessory Structures, Accessory Structure for Agriculture in Section 508 Agriculture, and Section 302 Definitions creating a definition for accessory structures and establishing permitting regulations for the construction of accessory structures within all zoning districts of the Town of North Hampton appears on the 2019 Town Warrant as presented. Second by Mr. Wilson.

Discussion of motion – Mr. Wilson stated that the increase in the size of a garage to 1,200 square feet could be revisited if it is found from future experience that the proposed 1,008 square foot size requirement is too restrictive. Mr. Wilson also stated the proposed setbacks are reasonable in most cases to protect the character of residential neighborhoods from the impact of large, imposing accessory structures. The conditional use permit process allows for a simple, straightforward process for dealing with special cases.

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

The version of the proposed accessory structures zoning ordinance presented at this meeting is attached as Appendix A to these minutes.

II. New Business

1. Case #19:01 – Applicant, Donald Cook – D.D. Cook Builders, Inc., P.O. Box 697, Greenland, NH 03840. The Applicant requests Planning Board review of a condominium conversion plan for duplex units. Property Owner: D.D. Cook Builders, Inc., P.O. Box 697, Greenland, NH 03840. Property Location: 74-1 and 74-2 Mill Road, North Hampton, NH 03862; M/L: 007-002-003; Zoning District: R-1, High Density District.

In attendance for this application:

Donald Cook, property owner; John Chagnon, engineer for the applicant.

Mr. Chagnon addressed the Board. Mr. Chagnon stated that the property previously received subdivision approval and a 2016 lot line adjustment approval from the Planning Board in order for the property to meet the zoning ordinance requirements to construct a duplex on the lot. The applicant would like to convert the property to condominium use and ownership. The property has received NHDES subdivision and septic system approvals. Per the Town of North Hampton Subdivision Regulations, a condominium conveyance is a type of subdivision which requires Planning Board review. Mr. Chagnon presented the following items to the Board for review:

- a. condominium site plan
- b. unit floor plans
- c. utilities plan
- d. declaration of condominium document

Mr. Wilson asked why the two units shared one septic system leach field and did not each have their own septic system leach field.

Mr. Chagnon explained that constraints on the lot such as location of boundary lines and location of ledge and proximity to water lines affected the type of septic system designed and its location.

Mr. Cook explained that the only other suitable location was in the rear of the property far from the building. Extensive tree cutting and trucking over the property would negatively impact a large portion of the property if the alternate location which could handle two leach fields was used. It has been his experience that having two leach fields is not as important as having two separate tank systems for each of the duplex units. This building has two separate tank systems.

Mr. Wilson asked for clarification regarding the enforcement procedures for inspection of the septic system.

Mr. Cook stated that the condominium association would be responsible for maintenance and inspection activities. Mr. Cook also stated that he stays in contact with the new condominium owners for two years to advise the new owners on proper property maintenance procedures, especially septic system monitoring.

Ms. Monaghan moved that the Planning Board find that the application is complete and take jurisdiction of the application for Case #19:01 to review condominium plans associated with duplex building at 74 Mill Road. Second by Mr. Derby. The vote was unanimous in favor of the motion (7-0).

Mr. Harned opened the public hearing at 7:17pm. No comments were made. Mr. Harned closed the public hearing at 7:18pm.

Mr. Wilson moved that the Planning Board approve the condominium plan and associated condominium association documents for property designated as Map/Lot 007-002-003 as submitted to the Planning Board. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (7-0).

2. Case #19:02 – Applicant, Laurence Knowlton, 74 South Road, Rye Beach, NH 03871. The Applicant requests a change of use from the previous retail use to a restaurant and takeout eatery use. The applicant also requests a Conditional Use Permit to allow replacement of septic system and walkway currently existing within the Wetlands Conservation District buffer zone. Property Owner: Laurence Knowlton, 74 South Road, Rye Beach, NH 03871. Property Location: 85 Lafayette Road, NH 03862; M/L: 013-042-000; Zoning District: I-B/R, Industrial – Business/Residential District.

In attendance for this application:

Laurence Knowlton, property owner; Dina Williams, business operator; Corey Colwell, engineer for the applicant; Gary Spaulding, septic system designer and engineer.

Mr. Knowlton addressed the Board. Mr. Knowlton stated that he has purchased the 85 Lafayette Road property with the intention of replacing the current home garden supplies retail store with a restaurant and take-out eatery business. The restaurant would provide breakfast and lunch service. The business would provide no dinner service and close at 6:00pm. The applicant has met with the Building Department, Fire Department, and Planning staff in preparation for this meeting.

Mr. Colwell addressed the Board. Mr. Colwell presented a change of use plan which indicated the following for the 0.77 acre site:

- a. Floor plans for restaurant with 24 seat capacity and 300 square foot take-out space.
- b. No exterior changes to building except improved walkway and ramp for ADA compliance.
- c. Two access drives and traffic flow.
- d. Topography, wetlands, and setbacks.
- e. Proposed improvement to existing septic system currently located within the wetlands buffer zone.
- f. Locations and striping for 19 parking spaces. 18 parking spaces required by regulations.
- g. Lighting plan, proposed signage location, generator placement, and various maintenance easements.

Mr. Colwell stated that there is no wetlands disturbance proposed in the plan. However, there is disturbance within the wetlands buffer area created by the replacement of the existing septic system with an improved system in the same approximate area of the property and the improved walkway at the front of the building.

Mr. Spaulding addressed the Board. Mr. Spaulding described the features of the proposed improved septic system. The new system will more effectively handle and treat high volumes of wastewater and containments such as grease, oil, etc. The system will remove 90% of the containments contained in the wastewater. The specialized treatment system allows for the installation of a smaller leach field. The property owner is required by the New Hampshire Department of Environmental Services (NHDES) to annually inspect the septic system. In many cases, the inspections are handled by the system installer through a maintenance contract agreement.

Ms. Monaghan asked if the new septic system will infringe upon the wetlands buffer area more than the current system.

Mr. Colwell estimated that the tank system may infringe slightly more than the current system. However, the new leach field will infringe less upon the wetlands buffer area.

Ms. Monaghan asked how the size of the proposed septic system compared to other similar business systems.

Mr. Spaulding replied that the proposed septic system is smaller than other types of similar systems.

Mr. Etela suggested that a condition of approval be that the annual septic system inspection report be submitted to the Building Department on an annual basis.

Ms. Monaghan asked if the lighting will use timers or dimmers.

Mr. Colwell responded that for security reasons the lights will remain on at night. There are no dimmers proposed.

Ms. Monaghan noted the zoning ordinance requirement that the lighting comply with Illuminating Engineering Society of North America (IESNA) standards.

Mr. Colwell noted that the proposed lighting plan indicates a small amount of light spillage near the southerly lot line and along the roadway.

Ms. Monaghan suggested that the applicant explore lighting alternatives which would eliminate possible light spillage beyond the 85 Lafayette Road site.

Mr. Wilson suggested that the Board address the applicant's waiver request regarding light spillage. The Board discussed whether to allow the proposed light spillage. The Board also discussed possible changes to the type of lighting or the location of proposed lighting to eliminate light spillage.

Mr. Colwell stated that, based on the Board's discussion, the applicant was officially withdrawing the waiver request and committing to no light spillage as a condition of approval for the proposed change of use plan.

Mr. Maggiore moved that the Planning Board find that the application is complete and take jurisdiction of the application for Case #19:02 to allow a change of use from the previous retail use to a restaurant and takeout eatery use. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (7-0).

Mr. Harned presented a conditional use permit application to allow replacement of septic system and walkway currently existing within the Wetlands Conservation District buffer zone.

Mr. Harned opened the public hearing for the conditional use permit application at 8:13pm.

Abutter David Farrell addressed the Board. Mr. Farrell asked for clarification regarding the noise associated with the compressors for the proposed new septic system.

Mr. Spaulding stated that there would be no discernible noise beyond five feet from the compressors.

Mr. Harned closed the public hearing for the conditional use permit application at 8:17pm.

Mr. Derby moved that the Planning Board approve the Conditional Use Permit application for Case #19:02 to allow replacement of septic system and walkway currently existing within the Wetlands Conservation District buffer zone. Second by Mr. Etela. The vote was unanimous in favor of the motion (7-0).

Mr. Harned opened the public hearing for the change of use application at 8:18pm.

Abutter Andrew Tilbury addressed the Board. Mr. Tilbury stated his concern regarding possible increased commercial activity on the site and its associated noise. The current activity on the lot is minimal. Increased customer traffic and truck deliveries may create disruptive noise at more irregular hours. Mr. Tilbury suggested the creation of a tree screen which would block noise, lighting, and negative visual impact on his abutting property. Mr. Tilbury presented a concept which included the placement of 18 trees along the easterly border of the 85 Lafayette Road property.

Mr. Corey responded that there currently exists over 70 feet of vegetative buffer area along the entire easterly border on the 85 Lafayette Road property.

Mr. Farrell stated his concern that lighting from the 85 Lafayette Road property currently spills into his windows. During the fall and winter seasons, a vegetative buffer does not exist.

Mr. Harned closed the public hearing for the change of use application at 8:32pm.

Mr. Knowlton stated the following:

- a. He was willing to provide tree screening in order to improve noise, lighting, and visual issues expressed by the abutters.
- b. He was willing to comply with no spillage lighting standard and other lighting requirements.
- c. He does not believe that traffic to the site will be any more intrusive than traffic that already exists along Route 1.

Ms. Monaghan asked for clarification on hours that the business would be open.

Mr. Knowlton stated that the proposed customer service hours are 7:00am to 6:00pm.

Mr. Maggiore asked for clarification regarding truck deliveries on the site.

Mr. Knowlton responded that the deliveries would be made by smaller trucks during normal daytime business hours.

Ms. Monaghan asked for clarification regarding adequacy of the snow storage area indicated on the plan.

Mr. Colwell stated that the proposed snow storage area was adequate for a typical New England winter. He does not anticipate the need for off-site snow storage.

The Board discussed that other improvements indicated on the proposed plan, such as light poles, signs, etc., were located within the wetlands buffer zone area. Mr. Harned suggested that the previously approved conditional use permit did not apply to these additional improvements within the wetlands buffer zone area.

Mr. Maggiore moved that the Planning Board reconsider the motion approving the Conditional Use Permit application for Case #19:02. Second by Mr. Wilson. The vote was unanimous in favor of the motion (7-0).

Mr. Maggiore moved that the Planning Board rescind its vote approving the Conditional Use Permit application for Case #19:02. Second by Mr. Wilson. The vote was unanimous in favor of the motion (7-0).

Mr. Wilson moved that the Planning Board approve the Conditional Use Permit application for Case #19:02 to allow all construction within the Wetlands Conservation District buffer zone represented on the approved plan for the 85 Lafayette Road site including light pole, sign, septic system, and walkway. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (7-0).

Mr. Wilson moved that the Planning Board approve the Change of Use application for Case #19:02 to allow a change of use from the previous retail use to a restaurant and takeout eatery use at 85 Lafayette Road as represented in the application presented to the Board subject to the following conditions:

1. A note shall be added to the plan indicating that:

a. The applicant and all subsequent owners of the property shall maintain an annual maintenance contract for the septic system paid for by the property owner.

b. A copy of the septic system annual inspection report shall be submitted to the Town of North Hampton Building Inspector on an annual basis.

2. The approved lighting plan shall evidence no spillage of light from the property. All lighting fixtures shall be dark sky compliant.

3. The approved plan shall include a landscape buffer of 18 evergreen trees aligned near the eastern boundary line of the property in a manner that will minimize year-round visibility of business operations.

4. Customer service hours shall be limited to 7:00am – 6:00pm.

5. Applicant shall submit evidence of receipt of all required federal, state, and local permits, including, but not limited to, NHDOT driveway and NHDES subsurface system approvals and shall note their numbers on the plan.

6. All fees incurred by the Planning Board, including, but not limited to, consulting, engineering, and legal fees, have been paid by the applicant.

7. There shall be no changes to the approved plan except to meet these conditions of approval.

Second by Mr. Derby. The vote was unanimous in favor of the motion (7-0).

III. Other Business

Mr. Harned presented the minutes of the December 18, 2018 Planning Board meeting.

Ms. Gamache suggested that her comments in lines 66-67 of the December 18, 2018 minutes be changed to the following:

"Ms. Gamache noted a critical consideration for the siting of a greenhouse is sun exposure, which may not be at the rear of the property."

Mr. Wilson moved that the Planning Board accept the minutes of the December 18, 2018 Planning Board meeting as amended. Second by Ms. Monaghan. The vote was 5-0-2 in favor of the motion with Mr. Etela and Ms. Gamache abstaining.

The meeting was adjourned at 9:14pm without objection.

Respectfully submitted,

Rick Milner
Recording Secretary

APPENDIX A

2019 ZONING ORDINANCE WARRANT ARTICLE #5

SECTION 302 DEFINITIONS (New Language)

Accessory Structure:

Any structure on a lot, that is detached or not from the principal structure on that lot and is or its use is incidental and subordinate to that principal structure. Garages for motor vehicles, with a footprint no greater than 1,008 square feet, attached or not to the principal structure, are not considered Accessory Structures as long as that garage is the first instance of a garage on a Lot of Record.

SECTION 408 ACCESSORY STRUCTURES (New Language)

408.a All Accessory Structures shall be sited no closer to a public road than the principal structure on that lot unless attached to the principal structure by a common interior wall.

408.b Accessory Structures are permitted in the I-B/R District regardless of footprint size and shall meet all zoning and planning requirements.

408.c For lots less than two (2) acres in the R-1 and R-2 Districts, Accessory Structures with a footprint no greater than 1,008 square feet are permitted.

408.d For lots of at least two (2) but less than four (4) acres in the R-1 and R-2 Districts, Accessory Structures with a footprint no greater than 1,440 square feet are permitted.

408.e For lots of four (4) acres or greater in the R-1 and R-2 Districts, Accessory Structures with a footprint no greater than 4,000 square feet are permitted.

408.f Accessory Structures with a footprint no greater than 1,008 square feet shall require side and rear minimum setback depths of 15 feet in the R-1 District, 15 feet in the R-2 District and shall meet all other zoning and planning requirements.

408.g Accessory Structures with a footprint greater than 1,008 but no greater than 1,440 square feet shall require side and rear minimum setback depths of 25 feet in the R-1 District, 30 feet in the R-2 District and shall meet all other zoning and planning requirements.

408.h Accessory Structures with a footprint greater than 1,440 but no greater than 2,500 square feet shall require side and rear minimum setback depths of 35 feet in both the R-1 and R-2 Districts and shall meet all other zoning and planning requirements.

408.i Accessory Structures with a footprint greater than 2,500 square feet but no greater than 4,000 square feet shall require side and rear minimum setback depths of 50 feet in the R-1 and R-2 Districts and shall meet all other zoning and planning requirements.

408.j Conditional Use Permit Required. A Conditional Use Permit is required for any Accessory Structure that does not meet the previous requirements of this Section 408. The Conditional Use Permit ("CUP") review process provides abutters and other affected parties an opportunity to comment on proposed projects and also allows the Planning Board to consider reasons an applicant offers to justify a project that does not fully conform to applicable provisions of the Zoning Ordinance.

408.k Conditional Use Permit Review. The following process shall be used by the Planning Board in considering applications for a Conditional Use Permit under this Section:

- (a) An application shall be submitted to the Planning Board. The application shall contain details of the type and extent of the structure proposed for the property, including the proposed use of the structure. A hand-drawn approximate-to-scale rendering with accurate structure size and location measurements of proposed structure and operations shall be acceptable for the application.
- (b) The Planning Board shall conduct a public hearing for which proper notice has been given to abutters and the public. Notice standards shall be the same as those that apply to Site Plan Review Applications.
- (c) The Planning Board shall have authority to impose reasonable conditions of approval that the Board deems appropriate under the specific circumstances presented in the application process and shall provide a written notice of decision to the applicant within five (5) business days of the date of the decision.

408.l A Conditional Use Permit may be granted to allow an Accessory Structure on a lot provided that the following conditions are found to exist:

- (a) The Accessory Structure shall not diminish the value of surrounding properties.
- (b) The Accessory Structure shall not unreasonably adversely affect the public interests, safety, health, or welfare.

SECTION 508 AGRICULTURE (Changes in RED or ~~Struck-out~~)

508.3.F Accessory Structure for Agriculture

~~F. Accessory Structure for Agriculture: "Accessory Structure for Agriculture" means a building or structure, detached from but located on the same lot, which is incidental and subordinate to the principal building. *3/8/2016~~

F. Accessory Structure for Agriculture: "Accessory Structure for Agriculture" is used only for agriculture purposes and shall both have the same definition as "Accessory Structure" and meet the same setback and other requirements.

508.5.C.1 Accessory Structures for Agriculture

1. All structures erected to be used in the pursuit of agricultural activities and raising of animals and poultry shall be sited ~~in the rear of the property; no closer to a public road than the principal structure on that lot unless attached to the principal structure by a common interior wall.~~

508.5.C.3.f Accessory Structures for Agriculture

f. Fees. In order to encourage agricultural activities and reduce the financial burden on applicants, application fees for a conditional use permit for the ~~Aceessory Building~~ **Accessory Structure for Agriculture** location shall be limited to the fee for certified, return-receipt-requested notifications to abutters in the Site Plan Review process.