



Meeting Minutes
North Hampton Planning Board
Tuesday, April 2, 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, Shep Kroner, Wally Kilgore, Lauri Etela, and Jim Maggiore, Select Board Representative; Alternate Member Valerie Gamache; Jennifer Rowden, RPC Circuit Rider; and Rick Milner, Recording Secretary.

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

I. Old Business

1. Case #19:03 - Applicant, I & M Realty, LLC – Brent Flemming, 331 Exeter Road, Hampton Falls, NH 03844. The Applicant requests a Site Plan Review to construct a 12,120 square foot, 9-unit commercial building. The Applicant also requests Conditional Use Permits to allow construction and fill activities within the Wetlands Conservation District. Property Owner: Rocky Giuliano, LLC, 255 E. Main Street, Gloucester, MA 01930; Property Location: 58 Lafayette Road, North Hampton, NH 03862; M/L: 007-118-000; Zoning District: I-B/R, Industrial – Business/Residential District and R-1, High Density District.

In attendance for this application:

Brent Flemming, applicant; Joseph Coronati, engineer; Timothy Phoenix, attorney; and Charles Hoyt, architect;

Mr. Coronati addressed the Board. Mr. Coronati presented a revised site plan which has been reviewed by the Town Engineer and the Circuit Rider Planner. Mr. Coronati mentioned that the Planning Board conducted a site walk of the property on March 19. Mr. Coronati noted the following plan features:

- a. Based on the most inclusive calculations, 37 parking spaces are required by the regulations. The site plan now includes 37 outdoor parking spaces.
- b. Signage detail has been added to the plan set.
- c. Windows have been added to the architectural renderings to comply with the site plan regulations.
- d. NHDOT approval for driveway access and NHDES approval for removal of the existing culvert are still pending.

Mr. Harned asked for clarification regarding the location of the 37 outdoor parking spaces and how the total was calculated.

Mr. Coronati showed the 37 parking spaces on the site plan and explained the variety of uses within the proposed building. Mr. Coronati explained that the applicant revised the parking calculations to include the most conservative interpretation of the proposed uses in order to provide more parking than proposed in earlier version of the site plan.

Mr. Harned presented to the Board a Conditional Use Permit application to allow fill in excess of 3,000 square feet of surface area in the Wetlands Conservation District pursuant to Section 410.09 of the Town of North Hampton Zoning Ordinance.

Mr. Harned opened the public hearing for discussion of Section 410.09 Conditional Use Permit application at 6:49pm. No comments were made. Mr. Harned closed the public hearing at 6:50pm.

Ms. Monaghan stated that construction of the proposed building did not satisfy all of the conditions listed in the zoning ordinance. The wetlands regulations were in place prior to the applicant purchasing the property. The applicant has created a self-imposed hardship by proposing construction of a building that significantly extends into the wetlands buffer area. There is some building area available outside of the wetlands buffer area. There is no evidence that productive use of the property could not be accomplished without some other type of development outside of the buffer area.

Mr. Coronati responded that the site was already developed and has current negative wetlands impacts. The applicant has diligently worked with the Board over the span of many months to create several site improvements that will bring positive impacts to the site. The applicant's proposal would reduce the amount of impervious surface and the impact on the wetlands buffer by approximately 6,700 square feet. More greenspace would be added to the site. A revised plan to construct a smaller building outside of the wetlands buffer would provide no such site improvements.

Mr. Kilgore stated that he agrees that no remediation to the wetlands impact on the site will occur if a smaller building proposal is utilized. He prefers fixing the problem with the remediation plan proposed by the applicant, rather than possibly making the situation worse with another type of development.

Mr. Hoyt addressed the Board and presented an architectural rendering of the proposed commercial building. Mr. Hoyt stated the applicant proposes to dramatically improve an eyesore property with site development that will greatly benefit the Town.

Ms. Monaghan agreed that in isolation the site improvements are a benefit to the Town. However, a larger view of the Industrial/Business-Residential District as a whole indicates approximately 28 other sites that may have current wetlands impacts. By not adhering to the wetlands regulations now, a ripple effect may occur with future projects on residential and other commercial properties which compromise the integrity of the wetlands. The Town may be taken on a course of diminishing or eliminating the wetlands ordinance regulations.

Mr. Coronati responded that this site is different than other sites in that it is already disturbed and developed. The type of development proposed by the applicant is an improvement that should be encouraged on other similar previously impacted wetlands or buffer area properties.

Mr. Phoenix addressed the Board. Mr. Phoenix stated that the particular circumstances of this site allow it to stand alone in isolation. This project should be judged on its own merits.

Mr. Wilson stated that this site's wetlands buffer integrity has been overly compromised for approximately 70 years. The Planning Board must make a judgement whether the benefits of the restoration efforts and the proposed use of the site outweigh the continuing detrimental effect on the wetlands of having the setbacks and buffer area compromised. His judgement is that the improvements

that will be made to the flow of the water, the restoration of the stream, the removal of invasive species, and other aesthetic features are worth it for the Town. Strict application of the zoning ordinance conditions is not best in this case. The question is whether the applicant is improving the situation. The applicant has worked with the Board over several meetings to improve the situation.

Mr. Kroner stated that he agrees with Mr. Wilson's comments.

Mr. Maggiore stated that he agrees with Mr. Wilson's comments. The applicant has shown a history of improving other properties in North Hampton. Based on the particular circumstances associated with this case, he is supportive of the proposed site plan.

Mr. Etela stated the applicant has reached every goal that the Planning Board has set in approximately three months of consideration of this site plan. The site plan improves the situation on the site.

Mr. Harned stated that the site plan is a reasonable design. However, his concern is that the proposed plan impacts the site within a few feet of the wetlands within the wetlands setbacks. Compromises can be made. However, wetlands setbacks are not arbitrary figures. Setbacks were enacted by a vote of the townspeople and compromising those setbacks should be seriously considered.

Mr. Wilson moved that Planning Board find that criterion A for Section 410.09 of the Wetlands Conservation District section of the zoning ordinance does not apply to this application due to the fact that the application is associated with redevelopment and remediation of a previously impacted site and not new development on the site. Second by Mr. Maggiore.

Discussion of the motion – Ms. Rowden suggested that the more appropriate method for stating the Board's intent is to state that the application meets the spirit and intent of the zoning ordinance criterion, not to state that the criterion does not apply.

Mr. Maggiore withdrew his second to the Motion. Mr. Wilson withdrew the motion.

Mr. Milner suggested that, even though the Board should consider all of the Conditional Use Permit criteria during its deliberation, the Board should not vote on each criterion separately. The Board should vote whether to approve or deny the conditional use permit.

Mr. Wilson moved that the Planning Board approve the Conditional Use Permit application pursuant to Section 410.09 of the Town of North Hampton Zoning Ordinance based on the fact that the application has met the spirit and intent of the zoning ordinance language for granting a Conditional Use Permit. Second by Mr. Kilgore. The vote was 6-1 in favor of the motion with Ms. Monaghan opposed.

Mr. Harned presented to the Board a Conditional Use Permit application to allow erecting a new structure within the Wetlands Conservation District pursuant to Section 410.10 of the Town of North Hampton Zoning Ordinance.

Mr. Harned opened the public hearing for discussion of Section 410.10 Conditional Use Permit application at 7:35pm. No comments were made. Mr. Harned closed the public hearing at 7:36pm.

Mr. Wilson moved that the Planning Board approve the Conditional Use Permit application pursuant to Section 410.10 of the Town of North Hampton Zoning Ordinance based on the fact that the

application has met the spirit and intent of the zoning ordinance language for granting a Conditional Use Permit. Second by Mr. Kilgore. The vote was 6-1 in favor of the motion with Ms. Monaghan opposed.

Mr. Harned opened the public hearing for discussion of the 58 Lafayette Road site plan application at 7:38pm. No comments were made. Mr. Harned closed the public hearing at 7:39pm.

Ms. Monaghan stated that the specific uses of the units are not necessarily known at this time. Having knowledge of the specific uses is important due to the location of the proposed building within the wetlands buffer. Ms. Monaghan asked how the uses will be monitored in the future.

Ms. Rowden and Mr. Milner noted that monitoring will occur as each new tenant applies for occupancy to a unit. Some uses will require review and approval by the Zoning Board of Adjustment. Also, each new tenant is required to submit a permit application to the Building Department to be approved for occupancy of a unit or units.

Mr. Coronati stated that the general categories of proposed uses are listed on the site plan. Also, there are yearly reporting requirements detailed in the site plan regulations which landowners must follow.

Mr. Harned asked for clarification regarding easements for driveway access to the site which partially lies on the abutting property.

Mr. Coronati stated that easements are not necessary at this time since both properties are owned by the same person. There is a note on the plan which states that easements will be executed upon transfer of ownership of the property.

Mr. Coronati asked the Board for clarification regarding the Town Engineer's comments suggesting that a performance guarantee be established for the project.

Ms. Rowden suggested that a performance guarantee should be established for landscaping, wetlands restoration, stormwater management, drainage infrastructure, and utility relocation.

Mr. Wilson moved that the Planning Board approve the Site Plan Review application for Case #19:03 to construct a 12,120 square foot, 9-unit commercial building at 58 Lafayette Road subject to the following conditions:

1. Applicant shall submit a letter from Aquarion Water Company acknowledging the water company's ability and intent to serve the proposed construction at the 58 Lafayette Road property.

2. Applicant shall provide a performance guarantee approved by the Town Engineer and in a form acceptable to the Town of North Hampton in an amount equal to 100% of the cost for materials and installation to ensure for the Town the completion of the following elements of site construction:

- a. wetlands restoration,**
- b. stormwater management,**
- c. drainage infrastructure, and**
- d. utility relocation.**

3. Applicant shall provide a performance guarantee approved by the Town Engineer and in a form acceptable to the Town of North Hampton in an amount equal to 25% of the cost for materials and installation of the landscaping features. The landscaping guarantee shall be held by the Town of North

Hampton for two growing seasons after installation of plantings to ensure prompt replacement of any dead plantings.

4. Note #26 on the recorded page of the plan shall be changed to the following language:

“Any change of use or a change of tenant for any individual unit or group of units on the site shall be reviewed by the Building Inspector to ensure compliance with the Town of North Hampton parking requirements and any other applicable Town ordinances and regulations.”

5. Note #27 on the recorded page of the plan shall be changed to the following language:

“An access easement shall be executed upon transfer of ownership to a different owner of Lot 007-118-000, Lot 007-118-001, or Lot 007-119-000.”

6. A note shall be added to the recorded page of the plan indicating that Conditional Use Permits per Wetlands Conservation District Sections 410.09 and 410.10 of the Town of North Hampton Zoning Ordinance were granted for the site plan by the Planning Board on April 2, 2019.

7. Applicant shall submit clean letters from the Town Engineer and the Circuit Rider Planner.

8. 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.

9. Applicant shall submit a Certificate of Monumentation, stamped and signed by a NH Licensed Land Surveyor, certifying that all monuments depicted on the plan have been properly set.

10. 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, as appropriate, on the recorded page of the plan.

11. Applicant shall submit a check made payable to the Rockingham County Registry of Deeds in the amount of \$25.00 for mandatory state fee to fund the Land and Community Heritage Investment Program (LCHIP).

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

13. There shall be no changes to the approved site plan on the recordable Mylar except to meet these conditions of approval.

Second by Mr. Kilgore.

Discussion of the motion – Mr. Harned stated that he would not be voting in favor of the application due to his opinion that more respect should be paid to the wetlands setbacks enacted by the townspeople. It would be better if a smaller building with one or two fewer units which created less of a wetlands setback imposition were proposed.

The vote was 6-1 in favor of the motion with Mr. Harned opposed.

II. New Business

1. Case #19:07 – Applicants, Shelly and Stacey Patrick, 388 South Road, Rye, NH 03871. The Applicants request a voluntary lot merger of three lots totaling approximately 3.57 acres. Property Owners: Shelly and Stacey Patrick, 388 South Road, Rye, NH 03871. Property Locations: Woodland Road adjacent to Rye town line, North Hampton, NH 03862; M/L: 011-012-000, 012-010-000, and 012-011-000; Zoning Districts: R-2, Medium Density District, and Village District of Little Boar’s Head.

In attendance for this application:

Timothy Phoenix, attorney; Joseph Coronati, engineer.

Mr. Phoenix addressed the Board. Mr. Phoenix presented a plan showing a voluntary lot merger of three properties located within the jurisdictions of the Town of North Hampton and the Village District of

Little Boar's Head adjacent to the Rye town line in the vicinity of Woodland Road. Mr. Phoenix explained that the three lots were created in their present configuration by the March 5, 2019 Planning Board approval to use the Rye town line as a property line for the lots. The establishment of the new lot line created a lot without frontage. The proposed voluntary lot merger would correct this non-conformity by providing frontage for the land. The lot merger would make the land more conforming. The voluntary lot merger document would also need to be signed by the Village District of Little Boar's Head representative. Mr. Phoenix read the language of State of NH RSA 674:39-a which requires that the voluntary lot merger be approved unless there is a violation of the current ordinances.

Ms. Rowden stated her opinion that the proposed voluntary lot merger does not create any non-conformity with the Town of North Hampton Zoning Ordinance.

Mr. Wilson moved that the Planning Board authorizes the Chair to sign the document detailing the voluntary lot merger of Tax Map/Lots 011-012-000, 012-010-000, and 012-011-000. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (7-0).

2. Case #19:08 – Applicant: TD Bank, 9000 Atrium Way, Mount Laurel, NJ, 08054. The Applicant requests a site plan review to replace septic system and add parking, lighting, landscaping, and stormwater control features. Property Owner: TD Bank NA, 380 Wellington Street, B Tower, 10TH Floor, London, Ontario, Canada N6A4S4. Property Location: 46 Lafayette Road, North Hampton, NH 03862; M/L: 007-115-002; Zoning District: I-B/R, Industrial-Business/Residential District.

In attendance for this application:
Ron Bell, engineer.

Mr. Bell addressed the Board. Mr. Bell presented a site plan which detailed replacement of the septic system, additional parking, lighting, landscaping, and stormwater control features. Mr. Bell explained that TD Bank closed another branch and moved some employees and operations to the North Hampton branch. The increased employee and customer traffic at the 46 Lafayette road site necessitated the improvements presented in the proposed site plan.

Mr. Bell stated that the new parking spaces will be located in the southeast corner of the site in order to avoid disturbing area abutting the residential neighborhood on the westerly side of the site. The new parking spaces will expand approximately 22 feet into the adjoining grassed area. Mr. Bell also noted that the plan has been reviewed by the New Hampshire Department of Transportation (NHDOT).

Mr. Bell acknowledged that the Town Engineer's review letter listed numerous comments. Mr. Bell has addressed many of these comments; but has not yet prepared a revised site plan with the corrections included.

Ms. Rowden stated that, in her opinion, the site plan application is not complete due to the fact that the application does not comply with the stormwater management regulations. Either the site plan needs to be revised to meet the stormwater management redevelopment criteria or a waiver to the stormwater management regulations needs to be granted in order for the application to be considered complete. Additionally, there are outstanding items in the Town Engineer and Circuit Rider Planner review letters which need to be addressed in a revised site plan submittal. Sheet 2 of the plan set is not in a form that

is recordable at the County Registry. Another version of sheet 2 should be prepared in a way that is recordable and included in the plan set along with original sheet 2.

Mr. Harned suggested that the best way for the applicant to proceed may be for the applicant to request a continuance to the next meeting date in order to prepare a revised plan set and other materials in order for the Board to consider a complete application.

Mr. Bell requested a continuance of Case #19:08 to the May 7, 2019 meeting date.

Ms. Monaghan moved that the Planning Board continue Case #19:08 to the May 7, 2019 meeting date. Second by Mr. Wilson. The vote was unanimous in favor of the motion (7-0).

Mr. Maggiore left the meeting at 9:05pm.

III. Other Business

1. Town of North Hampton, NH. Planning Board review of proposed zoning ordinance re-organization. Mr. Milner presented a proposed revision of the zoning ordinance. There would be no language changes, additions, or deletions. Only a re-grouping and re-numbering of categories would occur. The goal of the project is to create a more logical, less scattered flow to the ordinance manual and bring subjects which are more relevant for residents and business owners to the front of the manual.

The Board came to a consensus without objection to move forward with the zoning manual re-organization project.

2. Planning Board March 19, 2019 meeting and site walk minutes.

Mr. Harned presented the minutes of the March 19, 2019 Planning Board meeting.

Ms. Monaghan moved that the Planning Board accept the minutes of the March 19, 2019 Planning Board meeting as written. Second by Mr. Wilson. The vote was 5-0-1 in favor of the motion with Mr. Kilgore abstaining.

Mr. Harned presented the minutes of the March 19, 2019 Planning Board site walk.

Ms. Monaghan moved that the Planning Board accept the minutes of the March 19, 2019 Planning Board site walk as written. Second by Mr. Wilson. The vote was 4-0-2 in favor of the motion with Mr. Kilgore and Mr. Kroner abstaining.

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

Respectfully submitted,

Rick Milner
Recording Secretary