



Meeting Minutes
North Hampton Planning Board
Tuesday, August 6, 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, Wally Kilgore, Lauri Etela, Shep Kroner, and Jim Maggiore, Select Board Representative; 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 #19:13 – Applicants: Shelly and Stacey Patrick, 388 South Road, Rye, NH 03871. The Applicants request a Conditional Use Permit to allow construction of a driveway within the Wetlands Conservation District vegetative buffer zone. 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 and 011-011-000; Zoning Districts: R-2, Medium Density District, and Village District of Little Boar's Head.

In attendance for this application:
Joseph Coronati, engineer.

Mr. Coronati addressed the Board. Mr. Coronati presented a conditional use permit application to allow construction of a driveway within the Wetlands Conservation District vegetative buffer zone prohibited by Section 501.8.6B of the zoning ordinance along the path of the existing woods road on the property to provide access to a single family home. Mr. Coronati presented a plan indicating the location of the proposed driveway which lies adjacent to wetlands on the property and of which approximately 120 feet lies within the jurisdiction of the Town of North Hampton Planning Board. Mr. Coronati also noted that the Planning Board conducted a site walk of the proposed driveway area on August 5.

Ms. Monaghan asked how many trees would be cut to create enough space for the proposed driveway.

Mr. Coronati stated that he does not know an exact number. The intent is to cut as few trees as possible. The trees on the uphill side of the proposed driveway opposite the wetlands would be cut, not the trees on the wetlands side. There are some older, dead trees which need to be removed. In his opinion, the area is fairly clear of trees. Some overhanging trees may need to be cleared for emergency vehicle access. Mr. Coronati presented a page of the plan set which showed how a fire truck could access the site.

Mr. Milner read excerpts from Fire Department comments for a previously proposed subdivision plan on the property which recommended a minimum 12 foot width for the finished portion of the proposed driveway and an additional 2 feet of clearance width on both sides of the driveway.

Mr. Harned asked for details regarding the materials proposed to be used for the driveway surface.

Mr. Coronati stated that the intent is to pave the first 20 feet from the road and then use gravel, approximately 12 inches in depth, for the remainder of the proposed driveway.

Mr. Wilson suggested that pervious pavers be used where possible outside of the Town right of way to allow for better infiltration of water within the vegetative buffer zone.

Mr. Harned opened the public hearing at 6:47pm.

Abutter Amy Margolis addressed the Board. Ms. Margolis stated that the existing woods path was never used for 40 years. The Patrick family started using the path within the last year or so and made improvements to the path creating the current conditions which have existed only in recent times. Ms. Margolis stated that the following concerns:

- a. the amount of rocky ledge on the site could create space problems for adequate emergency vehicle access in addition to the wetlands concerns,
- b. due to the amount of rocky ledge in the area, existing wells on abutting properties could be negatively impacted by construction methods used to remove the rocky ledge, and
- c. new areas of flooding or excessive water run-off could be created by the proposed new construction.

Gregory Michael, an attorney for Ms. Margolis, addressed the Board. Mr. Michael stated that the conditional use permit criteria for allowing the construction of the proposed driveway's impermeable surface prohibited by Section 501.8.6B is not clearly indicated in the zoning ordinance. Abutters have the right to know the precise criteria that the Planning Board will use when considering the conditional use permit application or the decision is void.

Abutter Richard Simmons stated his concern that allowing the construction in close proximity to the wetlands as proposed in this plan will set a precedent of allowing construction in the wetlands in the future.

Mr. Milner read a letter from Abutter Diane Louise Paul stating that the woods road was made in the last few years before the Patrick family put their property up for sale. The Patrick family themselves widen the woods path that was just a small path into a road way. This path was not used for cars. The Patrick family did a lot of work on this path right before they put this land up for sale.

Mr. Harned closed the public hearing at 7:01pm.

Mr. Wilson stated that, due to the similar characteristics regarding the nature of water flow off of structures and impermeable surfaces, it is reasonable to use the conditional use permit criteria associated with Section 501.10 regarding erecting a structure within the Wetlands Conservation District when considering an application to allow construction of an impermeable surface within the vegetative buffer which is not in compliance with Section 501.8.6B.

Ms. Rowden stated that the implicit criteria when considering the conditional use permit application is whether or not that the applicant's request meets the spirit and intent of the ordinance. This Planning Board would only be considering the conditions as they apply to the approximately 120 feet within this Board's jurisdiction.

Mr. Wilson stated that the area under consideration is subject to flooding inundation during severe storm events.

Mr. Coronati suggested that if the applicant used a pervious surface instead of the proposed gravel surface, then a conditional use permit may not be required.

Mr. Wilson stated that applying the conditional use permit criteria listed within Section 501.10 would be consistent with the spirit and intent of the zoning ordinance. In his opinion, more information and precise details regarding the driveway construction is needed for the Board to make an informed decision such as:

- a. number of trees to be cut,
- b. amount of vegetation to be removed, and
- c. specific characteristics of the proposed driveway surface.

Ms. Monaghan suggested that the Fire Department review the current situation and the current proposed plan and provide an updated review letter.

Mr. Harned stated his opinion that the applicant may not need a conditional use permit for non-compliance with 501.8.6B if a pervious surface is used for the proposed driveway. However, the applicant may still need a conditional use permit for tree cutting or removal of other vegetation within the vegetative buffer which does not comply with Section 501.8.6C. He suggested that the applicant provide a detailed plan for tree and vegetation removal. Mr. Harned also stated that the application of the conditional use permit criteria in Section 501.10 seemed reasonable for this case.

Mr. Wilson suggested that the applicants' wetlands scientist submit an opinion as to what needs to be done to protect the wetlands given the conditions that will occur as the result of the proposed driveway construction. An evaluation of the applicants' wetlands scientist opinion by the Planning Board's wetlands scientist should also be submitted.

Mr. Wilson moved that the Planning Board authorizes the Rockingham County Conservation District wetlands scientist to submit an evaluation letter to the Planning Board stating confirmation of, or exceptions to, the applicants' wetlands scientist's opinion as to what needs to be done to protect the wetlands given the conditions that will occur as the result of the proposed driveway construction. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (6-0).

Mr. Harned asked if any 100 year flood lines crossed through the area.

Ms. Rowden stated that the property was not in any FEMA designated flood zones.

Ms. Monaghan moved that the Planning Board continue Case #19:13 to the September 3, 2019 meeting date. Second by Mr. Wilson. The vote was unanimous in favor of the motion (6-0).

Mr. Kroner arrived at 7:30pm.

2. Case #19:14 – Applicant: Zachary Haithcock, 603 Solar, One New Hampshire Avenue, Suite 125, Portsmouth, NH 03801. The Applicant requests a Conditional Use Permit for a Ground-Mounted Solar Array. Property Owners: Mitchell S. Snyder, Jr. and Marie Snyder, 76A Winnicut Road, North Hampton, NH 03862; Property Location: 76A Winnicut Road, North Hampton, NH 03862; M/L: 023-012-000; Zoning District: R-2, Medium Density District.

In attendance for this application:

Mitchell Snyder, property owner; Zachary Haithcock, installation representative.

Mr. Haithcock addressed the Board. Mr. Haithcock presented photographs of two other properties which showed that the solar arrays on those properties could be seen from the road. He asked the Planning Board for its reasoning why it was requiring the solar array associated with this application to be essentially invisible.

Ms. Monaghan stated that the solar array on one of the properties was installed prior to the ordinance requiring Planning Board review was established. She further stated that the solar array on the second property was installed prior to a permit application being submitted to the Board. The Board had to determine how best to remedy the situation after the fact.

Mr. Haithcock presented the following screening options to the Board:

- a. No additional screening. The current vegetation and distance from neighbor homes provides adequate screening.
- b. Attach camouflage tarp to the back of the solar array.
- c. Plant 4 or 5 Giant Western Arborvitae trees approximately 8 feet directly behind and to the north of the solar array. The trees will grow 3 to 5 feet per year and reach a height of 25 to 30 feet and a width of 8 to 10 feet.

Ms. Monaghan asked how long it would take for the propose trees to create screening of the solar array from the neighbor's view.

Mr. Haithcock stated it would take about 2 to 3 years to create screening of the solar array from the neighbor's view if the trees were 5 feet tall when planted.

Mr. Snyder started that his preference is to provide no screening. Solar arrays are located throughout the State of New Hampshire. In his opinion, solar arrays are not obtrusive or abnormal to the view in today's society.

Mr. Kroner stated that the essentially invisible standard for screening a solar array is an overreach in his opinion. The standard is difficult to legislate due to the fact that the view created by a solar array is no different, or possibly less onerous, than RV's, boats, trucks, trailers, etc. being placed on a property in clear view.

Ms. Monaghan stated that she is in favor of using the tree screening method suggested in the applicant's third option.

Mr. Harned opened the public hearing at 7:46pm.

Abutter Robert Hart addressed the Board. Mr. Hart stated that he was in favor of using the tree screening method suggested in the applicant's third option. This was his only request.

Mr. Harned closed the public hearing at 7:48pm.

Ms. Monaghan moved that the Planning Board approve the Conditional Use Permit application for Case #19:14 to allow a Ground-Mounted Solar Array at 76A Winnicut Road subject to the condition that six (6), five (5) foot tall Giant Western Arborvitae trees are planted as presented in the application. Second by Mr. Etela. The vote was unanimous in favor of the motion (7-0).

3. Case #19:15 – Applicant: Leo J. Crotty, Jr., 216 Lafayette Road, North Hampton, NH 03862. The Applicant requests a Site Plan Review to construct two building additions (1,905 and 1,730 square feet) with associated stormwater management improvements. The Applicant also requests a Conditional Use Permit to allow construction of building addition within the Wetlands Conservation District 100 foot buffer zone. The Applicant also requests waivers from the following Town of North Hampton Site Plan Regulations associated with Architecture/Appearance Standards:

- a. Section X.E.2.b – Foundation plans
- b. Section X.E.2.c – Floor plans
- c. Section X.E.2.e – Roof plans
- d. Section X.E.3.b.ii – Building materials

Property Owner: Leo J. Crotty, Jr., 216 Lafayette Road, North Hampton, NH 03862. Property Location: 216 Lafayette Road, North Hampton, NH 03862; M/L: 021-028-001; Zoning District: I-B/R, Industrial – Business/Residential District.

In attendance for this application:

Henry Boyd, engineer; James Scully, attorney.

Mr. Boyd addressed the Board. Mr. Boyd presented a revised plan which showed proximity of the wetlands to the northerly property line and location of phragmites in the wetlands based on comments made by Board members at the July 30 site walk of the property.

Mr. Boyd stated that the applicant's variance request to not require submittal of a hydrogeologic study was denied by the Zoning Board of Adjustment (ZBA).

Mr. Wilson stated that, since the submittal of a hydrogeologic study is a requirement of the zoning ordinance, the Board cannot proceed without the submittal of the study or a reversal of the ZBA's decision. He suggested that the case be continued.

Mr. Boyd asked if there was any additional information which the applicant needed to provide to the Board.

Mr. Harned suggested that the applicant provide the building elevations for both proposed additions indicated in the plan set.

Mr. Boyd stated that the applicant was agreeable to a continuance and a possible extension of the 65 day deadline for the Planning Board to act on the application.

Mr. Wilson moved that the Planning Board continue Case #19:15 to the September 3, 2019 meeting date. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (7-0).

II. New Business

1. Case #19:16 – Applicant, Dan O’Brien Kia, 137 Lafayette Road, North Hampton, NH 03862. The Applicant requests a Conditional Use Permit for signage associated with automobile sales business. Zoning Ordinance Section 306.6.A waiver requests to allow more than one wall sign and wall signs in excess of 24 square feet. Property Owner: 137 North Hampton RE LLC, 549 US Highway 1 Bypass, Portsmouth, NH 03801; Property Location: 137 Lafayette Road, North Hampton, NH 03862; M/L: 017-041-001; Zoning District: I-B/R, Industrial – Business/Residential District.

In attendance for this application:

No one in attendance.

Mr. Harned asked for suggestions on how the Board may proceed without an applicant present.

Mr. Milner suggested that the Board could decide that the application is complete and continue the case to the next meeting date.

Ms. Rowden stated that the application was complete in her opinion.

Mr. Wilson moved that the Planning Board find that the application is complete and take jurisdiction of the Conditional Use Permit application for Case #19:16 for signage associated with automobile sales business and continue Case #19:16 to the September 3, 2019 meeting date. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (7-0).

2. Case #19:17 – Applicant, Scott Baker, 208 Atlantic Avenue, North Hampton, NH 03862. The Applicant requests a preliminary consultation to discuss the approval process for placement of a shed on commercial property. Property Owner: 208 Atlantic LLC, 6 Squier Drive, North Hampton, NH 03862; Property Location: 208 Atlantic Avenue, North Hampton, NH 03862; M/L: 007-076-000; Zoning District: I-B/R, Industrial – Business/Residential District.

In attendance for this application:

Scott Baker, property owner.

Mr. Baker addressed the Board. Mr. Baker presented a conceptual drawing showing the location for the placement of a 16 foot by 28 foot shed on the 208 Atlantic Avenue property with a non-residential use in the Industrial-Business/Residential District. Mr. Baker stated that the shed would be placed on an existing asphalt surface approximately 45 feet from the wetlands. There would be no change in the amount of impervious surface on the property. The shed would be no closer to the wetlands than the existing impervious surface. The location of the shed would be within the structural setbacks from the lot lines. A variance from the ZBA would be necessary to place the shed in the proposed location.

Mr. Baker asked the Board if it would consider allowing placement of the shed through a minor review process, not a major site plan review process.

Ms. Rowden stated that, according to the Site Plan Regulations, the proposal does not qualify for a minor review due to the fact that the proposed shed footprint is greater than 300 square feet and the 208 Atlantic Avenue site does not have an approved site plan. However, waivers to the Site Plan Regulations may be requested to allow for a minor review. Per the zoning ordinance, a conditional use permit would be required for placement of the shed within the wetlands buffer zone. Ms. Rowden also reminded the Board and the applicant that the preliminary consultation discussions are non-binding on the Planning Board and the applicant.

Ms. Monaghan stated that there are a number of issues which are not in conformance with the minor review regulations. This proposal may not be the best case for a minor review.

Mr. Baker asked what the Town would learn from a major site plan review that it does not already know.

Ms. Monaghan stated that the wetlands regulations and site plan review help prevent degradation of the wetlands. If all of the waivers that are needed for this proposal to be allowed a minor review are granted, then there is no reason to have the regulations in place. The Planning Board would learn what is located on the site and the site conditions. A site plan would provide a record of what is on the site.

Mr. Wilson stated that the Board has been consistent throughout the years with requiring a major site plan review when no site plan existed for a site. The Board would learn a lot of information that would become a part of the official record such as boundary lines, electricity location, water supply locations, and septic system locations. The Board often discovers conditions that were not previously known during a major site plan review.

III. Other Business

1. Review of septic system inventory grant proposal.

Ms. Rowden presented a grant proposal to create a mapping database and inventory of septic systems throughout the town. These water quality planning funds allocated through a New Hampshire Department of Environmental Service 604B Water Quality Planning Grant will help prioritize lots on which septic systems may present a greater risk to water quality and target education to property owners of these lots. Ms. Rowden stated that the Conservation Commission was seeking a letter from the Planning Board supporting the grant proposal.

Ms. Monaghan moved that the Planning Board authorizes the Chair to sign a letter in support of the New Hampshire Department of Environmental Service 604B Water Quality Planning Grant request by the Town of North Hampton. Second by Mr. Kilgore. The vote was unanimous in favor of the motion (7-0).

2. Planning Board July 16, 2019 meeting minutes and July 30, 2019 site walk minutes.

Mr. Harned presented the minutes of the July 16, 2019 Planning Board meeting.

Ms. Monaghan moved that the Planning Board accept the minutes of the July 16, 2019 Planning Board meeting as written. Second by Mr. Wilson. The vote was unanimous in favor of the motion (7-0).

326 Mr. Harned presented the minutes of the July 30, 2019 site walk.

327 **Ms. Monaghan moved that the Planning Board accept the minutes of the July 30, 2019 site walk as**
328 **written. Second by Mr. Wilson. The vote was unanimous in favor of the motion (7-0).**
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330 3. State of New Hampshire Housing Appeals Board.

331 Mr. Maggiore stated that the recent passage of the State of NH budget included language establishing a
332 housing appeals board which would have the authority to reverse local municipal board decisions
333 regarding housing matters is opposed by a large amount of officials throughout the state. The Select
334 Board may send a letter to the State Legislature and the Governor requesting the repeal of the language
335 which established the housing appeals board. Mr. Maggiore asked the Planning Board if the Board
336 would have any reservations with the Select Board sending such a letter.

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338 Ms. Monaghan, Mr. Harned, Mr. Wilson, Mr. Etela, and Mr. Kroner stated their support of the effort to
339 repeal the language which established the housing appeals board.

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341 The meeting was adjourned at 8:54pm without objection.

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343 Respectfully submitted,

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347 Rick Milner
348 Recording Secretary