



Meeting Minutes
North Hampton Planning Board
Tuesday, September 3, 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, 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.
Ms. Gamache was seated for Mr. Kroner.

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:

Michael Garrepy, applicant representative; Timothy Phoenix, attorney; and 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 501.8.6C of the zoning ordinance along the path of the existing woods road on the property to provide access to a single family home on an approximately 9 acre lot. 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 noted the following information associated with the application:

- a. The proposed driveway will be constructed with a stable, pervious surface for the entire length of the driveway within the Town of North Hampton and Village District of Little Boar's Head jurisdictional wetlands buffer areas.
- b. A letter from the applicant's wetlands scientist describing construction methods for the proposed driveway to minimize detrimental impact upon the wetlands site. Some recommended actions would be to install plantings on the down slope side of the proposed driveway and push snow to the uphill side of the driveway during the winter.
- c. A letter from Rockingham County Conservation District wetlands scientist concurring with the applicant's wetlands scientist construction recommendations for the proposed driveway.

d. A letter from the Town of North Hampton Fire Department stating that, after review of the driveway proposal and inspection of the site, Fire Department requirements for driveway access to a proposed home on the site can be met.

e. Photos showing marked trees to be cut to allow for proposed driveway construction. Six trees are proposed to be cut.

f. Applicant responses to the conditional use permit criteria indicated in Section 501.10 of the zoning ordinance which, in the opinion of the applicant, justify the issuance of the conditional use permit.

Mr. Harned asked for clarification of the length of pervious surface proposed.

Mr. Coronati stated that approximately 500 feet of pervious surfaced driveway is proposed.

Ms. Rowden suggested that note #17 on page A1 of the proposed lot consolidation plan state that structure and uses on the site comply with both North Hampton and Little Boar's Head ordinances.

Mr. Harned opened the public hearing at 6:43pm.

Abutter Amy Margolis addressed the Board. Ms. Margolis stated that the existing woods path to be used for the location of the proposed driveway was made only recently. The path did not exist prior to 2015. She suggested that an alternate path from Rye backlands could be used to access the site, rather than the woods road off of Woodland Road.

Abutter Diane Louise Paul addressed the Board. Ms. Paul stated that the woods road path existed for many years and was abandoned. The path was cleared in recent years. Ms. Paul expressed her concerns that construction of the proposed driveway may block the normal flow of water from leaving her property. She also was concerned that snow plowed off of the proposed driveway would be deposited on her property.

Abutter Dominique MacDonald asked why another location for the driveway is not proposed.

Mr. Garrepy stated that the location of the proposed driveway on uplands adjacent to the wetlands is the least impactful on the wetlands. Other paths would cross the wetlands for a significant distance.

Ms. MacDonald suggested that tree screening remain along the property line shared with her property. She is also not in favor of a driveway in such close proximity to the wetlands whether it has a pervious or impervious surface.

Gregory Michael, an attorney for Ms. Margolis, addressed the Board. Mr. Michael stated the following opinions:

a. The application has changed and requires new noticing to the abutters in order for the abutters to review the application materials and make appropriate comments.

b. The proposal does not conform to the Wetlands Conservation District section of the zoning ordinance. Therefore the proposal requires a variance prior to approval.

c. No criteria for the proposed conditional use permit are detailed in the zoning ordinance. The criteria listed in Section 501.10 are not applicable to this situation. Specific criteria applicable to this situation are necessary to allow abutters to understand the parameters under which an approval may be issued.

Mr. Milner read Section 501.2 of the Wetlands Conservation District section of the zoning ordinance which states that any non-compliance with the Wetlands Conservation District section shall be allowed through the issuance of a conditional use permit issued by the Planning Board.

Mr. Harned closed the public hearing at 7:07pm.

Mr. Phoenix addressed the Board. Mr. Phoenix stated that appropriate notice regarding this application has been given to the abutters. The change regarding the applicable section of the zoning ordinance was discussed at the previous Planning Board meeting at which abutters were present. Also, the applicant has used the most stringent criteria listed in the zoning ordinance to justify approval of a conditional use permit for the proposed driveway.

Mr. Garrepy noted for the record that Boulders Realty Corporation has purchased the properties from the Patrick family. Boulders Realty Corporation is now the property owner and project developer.

Mr. Wilson stated that the property owners have the right to develop their property. Also, abutters have the right to comment on an application. However, every substantive issue has been raised during the public discussions of this application and addressed by the applicant with the materials and information presented in the application. With regards to applying the appropriate criteria associated with the proposed conditional use permit, the Board should use common sense. A structure and a driveway are both impervious and affect the transfer or infiltration of water. Therefore, using similar criteria for both circumstances satisfies the spirit and intent of the zoning ordinance's goal of protecting the environment. Based on the wetlands scientist letters presented to the Board, approval of a conditional use permit for the driveway construction within the Town of North Hampton jurisdiction is completely consistent with the spirit and intent of the zoning ordinance.

Mr. Harned stated that the Board came to a consensus at the previous meeting to use the most rigorous criteria listed in Section 501.10 during its consideration of the conditional use permit application.

Ms. Monaghan asked how the pervious nature of the proposed driveway will be protected in perpetuity against changes by future property owners.

Ms. Rowden stated that a note can be added to the plan. Mr. Coronati added that the lot consolidation plan will be recorded at the County Registry.

Mr. Wilson moved that the Planning Board approve the Conditional Use Permit application for Case #19:13 to allow construction of a driveway within the Wetlands Conservation District vegetative buffer zone subject to the following conditions:

1. Note #17 on Sheet A1 of the lot consolidation plan shall be revised as follows: "Any proposed new structure or use on the property must conform to North Hampton's and Little Boar's Head's Zoning Ordinance."

2. Sheet A1 of the lot consolidation plan shall be recorded at the Rockingham County Registry of Deeds.

3. The owner of the property agrees to add a note to the lot consolidation plan as well as a restriction to the property deed stating that the portion of the driveway in North Hampton will remain pervious in perpetuity.

Second by Mr. Maggiore.

Discussion of the motion – Mr. Garrepy expressed his concern with the use of the term “in perpetuity” in the motion. Technologies, situations, and ordinances change over time.

Ms. Rowden suggested that the language of the third condition in the motion could state that a note is added to the plan and deed requiring any change in the driveway structure or construction be approved by the Planning Board.

Mr. Garrepy agreed to the language suggested by Ms. Rowden.

Mr. Wilson amended the third condition of the motion as follows:

3. A note shall be added to the lot consolidation plan, as well as a restriction to the property deed, stating that the portion of the driveway in North Hampton shall remain pervious except with prior approval by the North Hampton Planning Board.

Mr. Maggiore seconded the amended motion. The vote was 6-1 in favor of the motion with Ms. Monaghan opposed.

2. 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:

James Scully, attorney.

Mr. Kilgore recused himself.

Mr. Scully addressed the Board. Mr. Scully stated that the applicant has filed a rehearing request with the Zoning Board of Adjustment (ZBA) regarding the ZBA’s decision to not grant a variance to the zoning ordinance requirement that a hydrogeologic study be submitted for the applicant’s development proposal within the Aquifer Protection District. Mr. Scully requested a continuation of the case to the October 1, 2019 meeting date. Mr. Scully stated that the applicant agrees to an extension of the NH RSA 676:4 deadline which requires the Planning Board to act on an application within 65 days of taking jurisdiction of the application.

Ms. Monaghan moved that the Planning Board continue Case #19:15 to the October 1, 2019 meeting date. Second by Mr. Wilson. The vote was unanimous in favor of the motion (6-0).

Mr. Kilgore returned to the Board.

3. 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:
Wayne Chalker, facilities director.

Mr. Chalker addressed the Board. Mr. Chalker presented a sign application which included color depictions and locations for four non-illuminated wall signs to be placed on the car dealership building at 137 Lafayette Road:

- a. ‘Kia’ logo approximately 5 feet high by 10 ½ feet wide
- b. ‘Dan O’Brien’ dealership name approximately 2 feet high by 16 feet wide
- c. ‘Service’ location indicator approximately 2 feet high by 10 feet wide
- d. ‘Delivery’ location indicator approximately 2 feet high by 12 feet wide.

Mr. Chalker stated the following justifications for the waiver requests to allow more than one wall sign and signs exceeding the allowed 24 square feet.

- a. The business requires multiple signs in order to properly direct customers to their respectful points of business. One of the proposed signs will barely be visible from the road travelling in one direction. It will be posted at the far corner of the building. Another sign will not be visible at all from the road or the surrounding area and will be used solely for the purpose of directing customers on the lot.
- b. The sizes of the logo and dealer name signs are based on corporate standard calculations for the distance at which a sign can adequately viewed in order to attract buyers. None of the proposed signs will be lit.

Ms. Monaghan stated that the application was excessive with regards to the amount of signs and the over 100 square feet of total proposed sign size. She suggested that the applicant propose alternatives.

Mr. Chalker stated that he was open to suggestions from the Board. However, the business owner would like to maintain the desired purposes of the proposed signage which are to direct customers in one preferred direction while travelling on the lot and present branding which is integral to sustaining a successful business.

Ms. Monaghan presented standards from the international sign council regarding appropriate sign sizes for adequately viewing signs from certain distances. These standards noted that signs 8 inches in height can be adequately viewed from 90 feet away.

Mr. Wilson stated that the purpose of signs is to provide information that is necessary for customers such as address, product sold, and business name. The goal of the sign ordinance is to allow the presentation of necessary information in a way that does not create a lot of clutter and preserves the rural atmosphere of the town. In his opinion, there are too many signs proposed and the signs are too large.

Mr. Kilgore stated that he understands the business owner's reasoning for promoting service aspects of the business and wanting larger size signs.

The Board and the applicant's representative discussed several different alternatives regarding the amount of signs to be placed on the walls of the building and their allowed size. Mr. Harned presented the Zoning Ordinance Section 306.6.A waiver requests to allow more than one wall sign and wall signs in excess of 24 square feet. Mr. Harned opened the public hearing regarding the waiver requests at 8:32pm. No comments were made. Mr. Harned closed the public hearing regarding the waiver requests at 8:33pm.

Ms. Monaghan moved that the Planning Board grant waivers to Zoning Ordinance Section 306.6.A to allow more than one wall sign and wall signs in excess of 24 square feet as presented in the application subject to the following conditions:

- 1. The 'Kia' logo sign shall be the same size as presented in the application.**
 - 2. The 'Dan O'Brien' dealership name sign shall be reduced to 18 inches in height and reduced the same proportional amount in width.**
 - 3. The 'Service' location indicator sign shall be reduced to 10 inches in height and reduced the same proportional amount in width.**
 - 4. The 'Delivery' location indicator sign shall be removed from the application and not installed.**
- Second by Mr. Etela. The vote was unanimous in favor of the motion (7-0).**

Mr. Harned opened the public hearing regarding the application at 8:36pm. No comments were made. Mr. Harned closed the public hearing regarding the application at 8:37pm.

Mr. Wilson moved that the Planning Board approve the Conditional Use Permit application for signage to be installed on the Dan O'Brien Kia automobile sales business building at 137 Lafayette Road subject to the conditions and restrictions noted in the waiver request approval for Case #19:16. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (7-0).

II. New Business

1. Case #19:18 – Applicants: Shawn Padulo and Diana Adams, 29 Mill Road, North Hampton, NH 03862. The Applicants request a Conditional Use Permit for an Accessory Dwelling Unit. Property Owners: Shawn Padulo and Diana Adams, 29 Mill Road, North Hampton, NH 03862. Property Location: 29 Mill Road, North Hampton, NH 03862; M/L: 003-014-000; Zoning District: R-1, High Density District.

In attendance for this application:

Shawn Padulo and Diana Adams, property owners; Joseph Pepe, architect.

Mr. Pepe addressed the Board. Mr. Pepe presented a plan set for a 27 foot by 30 foot building addition approximately 22 feet in height attached to the existing home at 29 Mill Road. The following building features were noted on the plan set:

- a. a two car garage on the ground floor
- b. a one bedroom accessory dwelling unit approximately 800 square feet in size on the second floor
- c. location for new septic system behind the home
- d. slider door entrance for the accessory dwelling unit in rear of the addition at the top of a staircase to an elevated deck

e. approximately 13.8 foot front yard setback and 18.9 foot side yard setback from the addition to the lot lines

f. floor plan for the proposed accessory dwelling unit

g. proposed new driveway location, topography, and site drainage features.

Mr. Pepe stated that the proposed addition will require structural setback and expansion of non-conforming use variances prior to issuance of a building permit. The applicants have filed a variance request application with the ZBA.

Ms. Monaghan asked for clarification regarding the front facing features of the addition.

Mr. Pepe presented a depiction of the addition as seen from the road and the side opposite the home. The garage doors will be on the side of the addition. The front face will only have windows which will be similar to the existing windows on the home. Mr. Pepe noted that two parking spaces in the garage will be for the owner and two parking spaces in new driveway near rear of the addition will be for tenants.

Mr. Wilson stated his opinion that the addition will look like a part of the home with a section of basement exposed.

Ms. Monaghan asked if the proposed addition would create lot coverage non-conformity.

Ms. Rowden responded that the proposed addition would not create lot coverage non-conformity.

Mr. Harned opened the public hearing regarding the application at 8:49pm. No comments were made. Mr. Harned closed the public hearing regarding the application at 8:50pm.

Ms. Monaghan stated her opinion that the proposed addition creates very dense development on this lot. With the inclusion of the structural setbacks, there is not much space to place the addition on the lot as proposed.

Mr. Padulo stated that, after considering many options, the proposal was the best possible design.

Mr. Maggiore moved that the Planning Board approve the Conditional Use Permit application for Case #19:18 to allow an accessory dwelling unit at 29 Mill Road as presented subject to the following conditions:

1. The applicants receive front structural setback, side structural setback, and expansion of non-conforming use variances from the ZBA.

2. The applicants receive all required federal, state, and local permits; including, but not limited to, NHDES subsurface system and NHDOT driveway approvals.

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

2. Case #19:19 – Applicant: Francisco Salicrup, Spirit Halloween, 6826 Black Horse Pike, Egg Harbor Township, NJ 08234. The Applicant requests a Conditional Use Permit for signage associated with retail sales business.

A. Zoning Ordinance Section 306.6.A waiver requests to allow more than one wall sign and wall signs in excess of 24 square feet.

B. Zoning Ordinance Section 306.6.B waiver request to allow window signage in excess of 50% of total window area.

Property Owner: W/S North Hampton Properties OP LLC, c/o WS Asset Management, Inc., 33 Boylston Street, Suite 3000, Chestnut Hill, MA 02467. Property Location: 35 Lafayette Road, North Hampton, NH 03862; M/L: 007-052-000; Zoning District: I-B/R, Industrial – Business/Residential District.

In attendance for this application:
Francisco Salicrup, District Manager.

Mr. Salicrup addressed the Board. Mr. Salicrup presented a sign application which included color depictions and locations of the signs to be placed on the retail store building at 35 Lafayette Road:
a. two 5 foot high by 26 foot wide wall signs to be placed on the street facing side of the building and over the customer entrance
b. four window cling signs sized to fit the entire space contained within four windows adjacent to the customer entrance.

Mr. Salicrup stated that there was ample space on the building for the proposed size of the signs. The business has chosen family friendly versions of the characters represented in the window cling signs.

Ms. Monaghan stated that the proposed 130 square feet for each wall sign is a vast difference from the allowed 24 square feet.

Mr. Salicrup responded that other size options for the wall signs are available.

Ms. Monaghan asked if the Halloween seasonal supplies retail store was a temporary business.

Mr. Salicrup responded that the business would operate for approximately two months. The business may operate on a temporary basis yearly.

Mr. Harned stated that, based on the photos presented in the application, the window cling signs may or may not exceed the allowed 50% of total window area.

Ms. Monaghan suggested that the size of each wall sign be reduced to 75 square feet. Also, due to the temporary nature of the business, having a second wall sign on the building as a way to identify the business from both directions seemed reasonable.

Mr. Salicrup agreed to reduce the size of each wall sign to 75 square feet.

Mr. Harned opened the public hearing regarding the waiver requests for the wall signs at 9:12pm. No comments were made. Mr. Harned closed the public hearing regarding the waiver requests for the wall signs at 9:13pm.

Mr. Wilson moved that the Planning Board grant waivers to Zoning Ordinance Section 306.6.A to allow more than one wall sign and wall signs in excess of 24 square feet as presented in the application subject to the condition that the two approved wall signs do not exceed 75 square feet each. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (7-0).

Mr. Harned opened the public hearing regarding the waiver requests for the window cling signs at 9:14pm. No comments were made. Mr. Harned closed the public hearing regarding the waiver requests for the wall signs at 9:15pm.

Ms. Monaghan moved that the Planning Board grant a waiver to Zoning Ordinance Section 306.6.B to allow the four window cling signs as presented in the sign application to whatever extent that they cover the four windows depicted in the application. Second by Mr. Maggiore. The vote was unanimous in favor of the motion (7-0).

Mr. Harned opened the public hearing regarding the application at 9:16pm. No comments were made. Mr. Harned closed the public hearing regarding the application at 9:17pm.

Ms. Monaghan moved that the Planning Board approve the Conditional Use Permit application for two wall signs to be installed on the Spirit Halloween retail store building at 35 Lafayette Road subject to the condition that each wall sign does not exceed 75 square feet in size. Second by Mr. Wilson. The vote was unanimous in favor of the motion (7-0).

Ms. Monaghan moved that the Planning Board approve the Conditional Use Permit application for four window cling signs as presented in the application. Second by Ms. Gamache. The vote was unanimous in favor of the motion (7-0).

III. Other Business

1. Planning Board August 20, 2019 meeting minutes.

Mr. Harned presented the minutes of the August 20, 2019 Planning Board meeting.

Mr. Wilson noted that line 121 of the minutes incorrectly indicated that he seconded a motion at the meeting which he did not attend. Mr. Milner stated that he would review his notes and correct the minutes.

Ms. Monaghan moved that the Planning Board accept the minutes of the August 20, 2019 Planning Board meeting as adjusted to indicate the correct Board member seconding the motion on line 121 of the minutes. Second by Mr. Wilson. The vote was 4-0-3 in favor of the motion with Mr. Wilson, Mr. Kilgore, and Ms. Gamache abstaining.

The meeting was adjourned at 9:22pm without objection.

Respectfully submitted,

Rick Milner
Recording Secretary