



Meeting Minutes
North Hampton Planning Board
Tuesday, October 1, 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 6:43pm.

Mr. Harned asked the Board members and the applicants if anyone had an objection to re-ordering the agenda items so that cases requiring less discussion are considered prior to Case #19:15. No objections were raised.

I. New Business

1. Case #19:20 – Applicant: Henry Brandt, 182 Post Road LLC, 182 Post Road, North Hampton, NH 03862. The Applicant requests a Design Review for future site plan review application proposing farmer's market, horse boarding, and public-private event uses. Property Owner: 182 Post Road LLC, 182 Post Road, North Hampton, NH 03862. Property Location: 160-186 Post Road, North Hampton, NH 03862; M/L: 018-038-000; Zoning District: R-1, High Density District.

In attendance for this application:
Henry Brandt, property owner.

Mr. Harned presented a letter to the Board from the applicant's attorney requesting that the case be continued to the November meeting date.

Ms. Monaghan moved that the Planning Board continue Case #19:20 to the November 5, 2019 meeting date as requested by the applicant's attorney. Second by Mr. Wilson. The vote was unanimous in favor of the motion (7-0).

2. Case #19:21 – Applicant: Christopher Lane, P.O. Box 1386, North Hampton, NH 03862. The Applicant requests a voluntary lot merger of two lots totaling 34.01 acres. Property Owner: Christopher Lane, P.O. Box 1386, North Hampton, NH 03862. Property Location: 146 Post Road and southerly adjoining property, North Hampton, NH 03862; M/L: 014-130-000 and 014-130-001; Zoning District: R-1, High Density District.

In attendance for this application:
Christopher Lane, property owner.

Mr. Lane addressed the Board. Mr. Lane explained that he had previously subdivided his property into three lots with the intention of selling two of the lots and residing on the middle lot. He has sold Tax Map Lot 014-130-002. However, he no longer wishes to sell Tax Map/Lot 014-130-001 and wants to combine this lot with Tax Map/Lot 014-130-000.

Ms. Rowden stated that the proposed lot merger creates no non-conformities with the zoning ordinance and no violations of regulations.

Mr. Wilson moved that the Planning Board approve the voluntary lot merger of Tax Map/Lots 014-130-000 and 014-130-001. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (7-0).

II. Old Business

1. 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:

Leo J. Crotty, Jr., property owner; Henry Boyd, engineer; David Niemeyer, geologist; James Scully, attorney.

Mr. Kilgore recused himself.

Mr. Boyd addressed the Board. Mr. Boyd explained to the Board that the applicant's variance request to allow non-submittal of a hydrogeologic study as required by the zoning ordinance for the applicant's development proposal within the Aquifer Protection District was denied by the Zoning Board of Adjustment (ZBA). The applicant's request to have the ZBA rehear the variance request case was also denied by the ZBA. Therefore, the applicant has submitted a letter to the Planning Board from a professional geologist stating his opinion that the proposed development activities will not adversely impact groundwater within the parcel to be developed or the surrounding land.

Mr. Boyd presented renderings of the two proposed building additions and photographs of existing buildings which use materials similar to the unique building fabric outer surface and steel framing infrastructure as proposed for the building additions. Mr. Boyd stated that the waivers requested by the applicant relate to the unconventional construction methods proposed for the two building additions.

Mr. Wilson asked if the applicant believes that the Board should accept the submitted professional geologist letter as meeting the standard of a hydrogeologic study as required by the zoning ordinance.

Mr. Niemeyer addressed the Board. Mr. Niemeyer stated his opinion that his letter answers to the purpose of a hydrogeologic study to evaluate the potential development's impact on groundwater within both the parcel to be developed and the surrounding land as outlined in the zoning ordinance. As detailed in his letter, he performed a complete inspection of the property, interviewed people associated with the business activities, and found no evidence to indicate that the site represents a potential contamination source either currently or as proposed. In his professional opinion, based on 30 years of experience in hydrogeology, his letter serves as a hydrogeologic study as it directly relates to the stated purpose of the zoning ordinance.

Mr. Kroner stated that his observation of the site indicates that the wetlands area, which appears to be a man-made excavation, acts as a stormwater management area. He stated his concern that the significant encroachment upon the wetlands buffer area of one of the proposed buildings may adversely affect the stormwater run-off capabilities of the site.

Mr. Boyd stated that the applicant has addressed all of the Town Engineer's review letter comments. The proposed plan improves stormwater management by treating not only the additional run-off created by the new structures, but also treating approximately half of the previously untreated water run-off on the site.

Mr. Maggiore stated his concern that accepting the applicant's letter as a hydrogeologic study may create a problem for future cases in which a more detailed hydrogeologic study is necessary. Future applicants may find it acceptable to submit insufficient information.

Mr. Niemeyer stated that, in his professional opinion, his letter is a hydrogeologic study. Per professional hydrogeologic guidance standards, the conditions of the 216 Lafayette Road site do not warrant a more detailed study. Other sites may require a more detailed, thorough study based on the inherent conditions of the site or items discovered on the site.

Mr. Kroner moved that the Planning Board accept the hydrogeologic study presented by the applicant in that it meets the zoning ordinance requirement of a hydrogeologic study for the unique conditions of this case. Second by Mr. Maggiore. The vote was 5-1 in favor of the motion with Mr. Etela opposed.

Mr. Harned suggested that the Board consider the applicant's waiver requests.

Mr. Etela stated his opinion that the proposed building construction does not comply with the architectural appearance standard of maintaining a small town, traditional New England architectural appearance along the Lafayette Road corridor.

Mr. Crotty responded that the proposed building additions are set back on the property and will not be seen from the road. However, he is willing to work with the Board to create buildings that the Board finds aesthetically pleasing.

Mr. Kroner stated that there are other commercial properties in North Hampton with buildings that are less aesthetically pleasing and less conforming to New England architectural appearances than the proposed buildings.

Mr. Wilson stated that this is an unusual application with respect to architectural standards in that the unique building materials, construction methods, and site design are an integral part of the business model. Mr. Wilson stated his opinion that he is in favor of granting waiver requests due to the fact that the proposed building additions are set back on the property and any attempts to add traditional New England features to the additions may actually make them more unsightly.

Mr. Crotty stated that he wished to get approval of waiver requests and a conditional approval of the site plan application prior to incurring the significant expense of creating fully engineered design and construction plans.

Ms. Monaghan noted that there were several items that still need to be addressed in the construction plans. She suggested final plans for all features of the proposed site work should be submitted prior to considering additional waiver requests beyond those currently submitted or granting an approval with multiple conditions. Many conditions could be satisfied when the Board reviews the final version of the plans.

Mr. Harned suggested that the Board consider the waiver requests submitted by the applicant.

Mr. Harned opened the public hearing regarding the foundation plan waiver request only at 8:03pm. No comments were made. Mr. Harned closed the public hearing regarding the foundation plan waiver request only at 8:04pm.

Ms. Monaghan moved that the Planning Board grant the request to waive the requirements of Site Plan Regulations Section X.E.2.b – Foundation Plans. Second by Mr. Wilson.

Discussion of the motion – Mr. Wilson stated that, if the Board grants a waiver, then the applicant does not have to submit construction plans as noted in comments by Ms. Monaghan. The situation may change when final version of the plans is reviewed.

Mr. Crotty stated that he is willing to submit revised construction plans and site plan pages.

Mr. Wilson withdrew the second to the motion. Ms. Monaghan withdrew the motion.

Mr. Kroner suggested that the Board consider the conditional use permit application regarding wetlands ordinance requirements.

Mr. Crotty explained his justification to allow construction of a building addition within the Wetlands Conservation District 100 foot buffer zone. There were no other options available on the site for the placement of the proposed building addition which will shelter the non-operational Chinook helicopter. The proposed location fits best with the current business logistics set-up.

Mr. Harned opened the public hearing regarding construction in the Wetlands Conservation District 100 foot buffer zone at 8:12pm. No comments were made. Mr. Harned closed the public hearing regarding construction in the Wetlands Conservation District 100 foot buffer zone at 8:13pm.

Ms. Monaghan moved that the Planning Board approve the Conditional Use Permit application to allow construction of a building addition within the Wetlands Conservation District 100 foot buffer zone at 216 Lafayette Road. Second by Mr. Maggione. The vote was unanimous in favor of the motion (6-0).

Ms. Rowden noted that the proposed commercial use for the site also needs a conditional use permit to allow the proposed commercial use within the Aquifer Protection District per Zoning Ordinance Section 503.6.G. An application has been submitted.

Mr. Harned opened the public hearing regarding Zoning Ordinance Section 503.6.G at 8:20pm. No comments were made. Mr. Harned closed the public hearing regarding Zoning Ordinance Section 503.6.G at 8:21pm.

Ms. Monaghan moved that the Planning Board approve the Conditional Use Permit application to allow the proposed commercial use for the 216 Lafayette Road site within the Aquifer Protection District as presented in the application. Second by Mr. Etela. The vote was unanimous in favor of the motion (6-0).

Ms. Rowden suggested that the Planning Board and the applicant agree 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. Mr. Scully stated that the applicant agrees to an extension to the November 5, 2019 meeting date.

Mr. Maggiore moved that the Planning Board continue Case #19:15 to the November 5, 2019 meeting date. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (6-0).

Mr. Kilgore returned to the Board.

III. Other Business

1. 2020 Zoning Ordinance proposed amendments review.

Mr. Milner presented proposed zoning ordinance amendments language previously approved by the Planning Board. The intention of the agenda item was to move consideration of the amendments to a public hearing. Ms. Monaghan and Mr. Wilson suggested a grammatical change in the proposed language in Section 502.3.C. The Board came to a consensus without objection to make the language change.

Ms. Monaghan moved that the Planning Board schedule a public hearing at the October 15, 2019 Planning Board meeting to consider the adoption of the zoning ordinance revisions language as presented and edited at the October 1, 2019 Planning Board meeting for inclusion on the 2020 Town Warrant. Second by Mr. Wilson. The vote was unanimous in favor of the motion (7-0).

The proposed zoning ordinance amendments language as edited and approved at this meeting are attached as Appendix A to these minutes.

2. Planning Board September 17, 2019 meeting minutes.

Mr. Harned presented the minutes of the September 17, 2019 Planning Board meeting.

Ms. Monaghan moved that the Planning Board accept the minutes of the September 17, 2019 Planning Board meeting as written. Second by Mr. Wilson. The vote was 5-0-2 in favor of the motion with Mr. Maggiore and Mr. Kilgore abstaining.

3. Disturbed Wetlands Redevelopment research.

Mr. Harned stated that the Disturbed Wetlands Redevelopment Ad Hoc Committee of the Planning Board was working on drafting language for a zoning ordinance amendment to address options for

233 developers to restore wetlands that were disturbed prior to the creation of the wetlands sections of the
234 zoning ordinance. The ad hoc committee was seeking professional advice to determine if a soil scientist
235 could determine when a wetlands disturbance occurred. The ad hoc committee was requesting that
236 funds not to exceed \$600.00 be allocated from the Planning Board operating budget to hire a wetlands
237 professional to advise the ad hoc committee.

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239 **Mr. Kilgore moved that the Planning Board authorize expenditure by the Disturbed Wetlands**
240 **Redevelopment Ad Hoc Committee of an amount not to exceed \$600.00 to obtain advice from a**
241 **wetlands professional. Second by Mr. Etela. The vote was unanimous in favor of the motion (7-0).**
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243 The meeting was adjourned at 8:36pm without objection.

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245 Respectfully submitted,

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249 Rick Milner
250 Recording Secretary

Changes in RED or ~~STRUCK OUT~~

1. Revise Section 710 as follows:

SECTION 710 SPECIAL EXCEPTION

710.1

A ~~n~~ **Special** Exception is a use that would not be appropriate generally or without restriction throughout a particular zone but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in a particular zone as a **Special** Exception, only if specific provisions for such **Special** Exception are made in this Zoning Ordinance, and if the **Special** Exception is approved by the Zoning Board of Adjustment. *3/2/1976, 3/10/2020

710.2

Standards for the Zoning Board of Adjustment (ZBA) in Applying and Considering Applications for Special Exceptions.

A. In instances where standards for a listed Special Exception are defined in the Zoning Ordinance, the ZBA shall apply those standards.

B. In instances where specific standards are not defined for a listed Special Exception, the ZBA shall apply the following standards:

1. The Special Exception, if approved, shall not diminish the value of surrounding properties.

2. The Special Exception, if approved, shall not unreasonably adversely affect the public interests, safety, health, or welfare. The ZBA shall consider whether the proposed Special Exception may cause abutting or neighboring lots, or the I-B/R District generally, to be subjected to any form of pollution or discharge of harmful or noxious substances, noise, dust, vibration, smoke, odors, light spillage, or other unpleasant, unhealthy or hazardous by-products of the proposed business which threatens to adversely and unreasonably affect the environment, welfare of residents, or quality of life in and adjacent to the I-B/R District.

C. Notwithstanding approval by the ZBA of an application for a Special Exception, in cases where a site plan is normally required, the Planning Board shall independently review a Site Plan for the proposed use.

710.3

As authorized by State of NH RSA 674:33.IV, Special Exceptions granted on or after August 19, 2013 shall be valid only if exercised within two (2) years from the

Changes in **RED** or **STRUCK OUT**

date of final approval. Special Exceptions granted before August 19, 2013 shall be valid only if exercised within two (2) years from March 11, 2021. *3/10/2020

2. Revise Section 711 as follows:

SECTION 711 VARIANCE

711.1

A variance is a relaxing of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of the Ordinance will result in unnecessary or undue hardship. The Zoning Board of Adjustment shall have the power to authorize upon appeal in specific cases such variance from the terms of this Ordinance, as will not be contrary to public interest, where owing to special conditions, a literal enforcement of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done. *3/6/1973

711.2

As authorized by State of NH RSA 674:33.I-a, variances granted on or after August 19, 2013 shall be valid only if exercised within two (2) years from the date of final approval. Variances granted before August 19, 2013 shall be valid only if exercised within two (2) years from March 11, 2021. *3/10/2020

3. Change Section 203.9 as follows:

203.9 No **building structure** shall be constructed on any lot that does not have the minimum frontage that is required by applicable sections of the Town of North Hampton Zoning Ordinance on a street that has been accepted by the Town of North Hampton. For the purpose of this paragraph, a street that is located in the Town of North Hampton and is under construction may be considered at the discretion of the Building Inspector to be accepted only for the issuance of building permits thereon. *3/12/1985

4. New Section

203.4.B For existing lots of record that do not meet minimum frontage requirements per table in 203.4.A and have existing legal structures, an accessory structure may be erected with a building permit provided that the accessory structures meet requirements of applicable sections of the Town of North Hampton Zoning Ordinance.

Section **203.4** will be re-numbered as **203.4.A**.

Changes in **RED** or **STRUCK OUT**

5. Add new definition to clarify meaning of feedlots and delete conflicting references regarding feed lots in various sections of the zoning ordinance.

SECTION 104 DEFINITIONS

XX. Animal Feedlot: A commercial agricultural establishment where a concentration of animals are confined and fed. (Animal feedlots are prohibited by Section 202.8.A of the Town of North Hampton Zoning Ordinance.)

202.8 Prohibited Uses

Notwithstanding that each of the following uses might be deemed a specific instance of one or more Permitted Use or Special Exception listed in the tables, they are considered inconsistent with goals for development of North Hampton as expressed in the Master Plan, beyond the capacity of the Town's infrastructure, and incompatible with criteria noted in 202 and 710. They are, therefore, prohibited in all districts in North Hampton.

A. Commercial animal husbandry facilities, including but not limited to ~~feed lots~~ **Animal Feedlots**, slaughterhouses, breeding facilities, egg farms, and hog, chicken, turkey and other domestic fowl production facilities, except for production for sale at farms stands, farmers' markets, and local food stores.

502.3.C Conditional Uses

The following uses are presumed to be toxic or hazardous to groundwater quality and will be permitted only if and to the extent that anyone proposing to engage in any such activity can demonstrate ~~the ———contrary to the Planning Board. to the satisfaction of the Planning Board that the proposed activity will not be harmful to groundwater quality.~~ These uses, if allowed in the underlying zoning districts, are permitted only after a Conditional Use Permit is granted by the North Hampton Planning Board.

1. Junk and salvage lots;
2. Chemical and bacteriological laboratory operation;
3. Dry Cleaning;
4. Electronic circuit manufacturing;
5. Metal plating, finishing, and polishing;
6. Motor and machinery service and assembly;
7. Painting, wood preserving and furniture stripping;
8. Photographic processing;
9. Printing;
10. On-site handling, disposal, discharge, storage, processing or recycling of toxic or hazardous materials including bulk storage of toxic materials for resale or distribution (except for routine delivery of heating oil);

Changes in **RED** or **STRUCK OUT**

11. Industrial processes which discharge contact type process waters on site;

~~12. Commercial animal feed lots.~~

503.4 Definitions

~~**A. Animal Feedlot, Permitted:** A commercial agricultural establishment where concentration of animals are confined and fed simultaneously. Animal feedlots are prohibited by Section 202.8.A of the zoning ordinance.~~