



**Meeting Minutes**  
**North Hampton Planning Board**  
**Tuesday, May 5, 2020 at 6:30pm**  
**NO PHYSICAL LOCATION FOR MEETING**  
**MEETING ACCESSED THROUGH ELECTRONIC MEANS ONLY**

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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, Lauri Etela, Wally Kilgore, Shep Kroner, 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. Mr. Harned noted that the meeting was being held by electronic means as authorized by State of NH Executive Orders associated with the current public health crisis. The public may participate during public comment periods using the posted email address or phone number.

**Mr. Wilson moved that the Planning Board authorize that the meeting be held by electronic means. Second by Ms. Monaghan. The roll call vote was unanimous in favor of the motion (7-0).**

**I. Old Business**

**1. Case #20:03 – Applicant: Henry Brandt, 182 Post Road LLC, 182 Post Road, North Hampton, NH 03862.** The Applicant requests a Site Plan Review for proposed farm stand, farmers' market, horse boarding, and public-private event uses. The Applicant also requests waivers to Site Plan Regulations Section X.B.1 regarding paving of parking area and drive and Section VIII.B.20 regarding stormwater drainage control plans. 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:

Timothy Phoenix, attorney.

Mr. Harned stated that the Planning office has received a request in writing from the applicant to continue consideration of Case #20:03 to the June 2, 2020 meeting date.

Mr. Phoenix addressed the Board and confirmed the continuance request.

**Mr. Wilson moved that the Planning Board continue Case #20:03 to the June 2, 2020 meeting date. Second by Ms. Monaghan. The roll call vote was unanimous in favor of the motion (7-0).**

**II. New Business**

**1. Case #20:04 – Applicant: Michael Lefebvre, 3 Sandpiper Lane, Seabrook, NH 03874.** The Applicant requests a two (2) lot subdivision of property. The Applicant also requests a Conditional Use Permit to

allow construction of a driveway within the Wetlands Conservation District vegetative buffer zone.  
Property Owner: Michael Lefebvre, 3 Sandpiper Lane, Seabrook, NH 03874; Property Location: 19A Pine Road; M/L: 007-010-000; Zoning District: R-1, High Density District.

In attendance for this application:

Michael Lefebvre, property owner; James Scully, attorney; Henry Boyd, engineer; and Sergio Bonilla, wetlands scientist.

Mr. Boyd addressed the Board. Mr. Boyd presented a proposed plan to subdivide the 19A Pine Road property into two lots. The plan showed the existing single family home, existing driveway, proposed lot lines, proposed shared driveway, wetlands boundaries, wetlands setbacks, proposed septic system area, and proposed building envelope for a single family home. The two proposed lots would contain the following:

- a. Lot A - existing home, 5.69 acres, contiguous upland area exceeding 70,000 square feet and
- b. Lot B – proposed home, 8.12 acres, contiguous upland area of approximately 117,700 square feet.

Mr. Boyd also stated that the proposed subdivision plan has been granted the following variances by the Zoning Board of Adjustment (ZBA):

- a. variance to allow less than the required amount of frontage for both lots and
- b. variance to allow less than the required size for a building envelope on Lot B.

Mr. Boyd stated that the subdivision plan proposes a driveway to be shared by the existing and proposed homes. An easement will be put in place to allow access to Lot A home from Lot B access point along Pine Road.

Mr. Bonilla addressed the Board. Mr. Bonilla stated that proposed driveway to the proposed home would be partially within the 25 foot wetlands vegetative buffer area of a small, disturbed wetland area and within the 100 foot buffer of the large contiguous forested wetland on the property. The driveway will be constructed with porous pavement and pervious pavers and require approximately 11,000 square feet of fill. The applicant is requesting a conditional use permit for construction of the driveway within the vegetative buffer and fill within the Wetlands Conservation District (including paving and grading for driveway and septic system).

Mr. Bonilla stated that the applicant has voluntarily committed to installing porous pavement and pervious pavers to facilitate infiltration of water and mitigate detrimental impacts on the wetland buffer areas. Infiltration strips will also be added around the home. Even with the proposed development, a substantial amount of wetlands buffer area will remain undisturbed. Mr. Bonilla further stated that he presented detailed explanations how the proposed development satisfies the criteria for granting a conditional use permit in the application materials presented to the Board.

Mr. Wilson asked Mr. Bonilla to explain the method that he used to delineate the wetlands boundaries.

Mr. Bonilla stated that he used the three factors for wetland identification: soils, vegetation, and hydrology. Mr. Bonilla explained the types of soils and wetlands found on the property and their approximate locations.

Mr. Wilson asked for clarification regarding the location of the wetlands on the abutting property adjacent to the southerly lot line for proposed Lot B near the proposed home and septic system area.

Mr. Bonilla stated that the area on the abutting property adjacent to the southerly lot line for proposed Lot B consisted of a good amount of uplands. He did not have access to this area. However, the county soil map shows upland soil extending well to the south of the proposed Lot B southerly lot line.

Mr. Wilson asked if Mr. Bonilla was willing to certify that there are no wetlands on the abutting property closer to the proposed building envelope than the required wetlands setbacks.

Mr. Bonilla stated he could not certify the type of soil on the abutting property. However, the wetlands delineation lines on the plan set show a significant distance between wetlands boundary points along the southerly lot line.

Mr. Wilson stated that, in his opinion, he is not sure that the Planning Board can approve the subdivision plan without knowing that the proposed building area meets wetlands setback requirements. The Planning Board is concerned about the preservation of water resources. Contamination of water resources does not recognize property boundary lines.

Mr. Boyd stated that the wetlands scientist report presented to the Board shows the extra work that the applicant proposes to protect the wetlands.

Mr. Wilson stated that he appreciates everything that has been done on the proposed plan to mitigate detrimental impact on the wetlands. However, there is a need to verify that the proposed septic system and the building envelope are not within the required wetlands setbacks in all directions to ensure that wetlands in the area will not be contaminated by the proposed development. Mr. Wilson suggested that the applicant ask the southerly abutting property owner for permission to enter the property to confirm that wetlands do not exist within the required wetlands setbacks for the proposed development.

Mr. Kroner stated the following observations:

- a. There is an area of ledge depicted along the southerly lot line.
- b. The town wetlands map shows an area of uplands along the southerly lot line extending into the abutting property.
- c. There is an existing home on the abutting property which rests on an upland area near the proposed building envelope on Lot B.

Mr. Harned stated that he has similar concerns as Mr. Wilson regarding the wetlands delineation along the southerly lot line for the proposed Lot B.

Ms. Rowden stated that the Normandeau wetlands map shows that the area to the south of the proposed building envelope is most likely not wetlands.

Mr. Kilgore stated his opinion that the area near the proposed building envelope is dry.

Mr. Maggiore asked for clarification regarding the width of the proposed driveway.

Mr. Boyd stated that the proposed 16 foot width with the additional shoulder on the porous pavement section of driveway beyond the existing home is passable for two vehicles. The applicant's goal is to have the least amount of detrimental impact on the wetlands and control construction costs.

Mr. Scully noted that the Fire Department has issued a letter which states that the driveway dimensions meet its parameters.

Mr. Harned asked how far does the proposed fill area for the driveway encroach into the buffer area.

Mr. Boyd stated that the fill area is 17 feet away from the wetlands at its closest point.

The Board discussed various driveway construction details with the applicant's representatives.

**Mr. Wilson moved that the Planning Board take jurisdiction of the Conditional Use Permit application for Case #20:04 to allow construction of a driveway within the Wetlands Conservation District. Second by Mr. Maggiore. The roll call vote was unanimous in favor of the motion (7-0).**

Mr. Harned opened the public hearing regarding the Conditional Use Permit application at 7:47pm. No comments were made. Mr. Harned closed the public hearing at 7:50pm.

Mr. Kroner stated that, even though many of the criteria for granting the conditional use permit have been satisfied, he is not sure if the proposal satisfies the criteria which requires that the proposed activity is essential to the productive use of land outside of the Wetlands Conservation District.

Mr. Maggiore stated that the proposed use brings a higher value to the land; thereby satisfying the productive use of land standard.

**Mr. Wilson moved that the Planning Board approve the Conditional Use Permit application for Case #20:04 to allow construction of a driveway within the Wetlands Conservation District as represented in the application presented to the Board. Second by Mr. Kilgore. The roll call vote was 5-2 in favor of the motion. Mr. Harned, Mr. Wilson, Mr. Etela, Mr. Kilgore, and Mr. Maggiore in favor. Ms. Monaghan and Mr. Kroner opposed.**

The Board began consideration of the subdivision application. Mr. Kroner suggested that the plans be revised to indicate an easement for utility lines connected to the home on the abutting property to the north if an easement exists. Mr. Harned suggested that the depiction of the no cut buffer boundary required by the ZBA be corrected on the plan set to extend along all boundary lines between Lots 007-010-000 and 007-019-000 as stated in the ZBA variance decision letter.

**Mr. Kroner moved that the Planning Board find that the application is complete and take jurisdiction of the Subdivision application associated with Case #20:04 for a two (2) lot subdivision of property at 19A Pine Road. Second by Ms. Monaghan. The roll call vote was unanimous in favor of the motion (7-0).**

Mr. Harned opened the public hearing regarding the Subdivision application at 8:07pm. No comments were made. Mr. Harned closed the public hearing at 8:09pm.

Mr. Wilson stated that he was reluctant to approve the subdivision application unless the wetlands scientist could ensure that the building envelope or septic system areas are not within the wetlands setback from all directions, including the abutting property to the south.

Mr. Harned stated that he shares Mr. Wilson's concern.

Ms. Monaghan stated that she shares Mr. Wilson's concern. Ms. Monaghan also stated that she is reluctant to approve the subdivision application because the proposal, in her opinion, does not conform to the zoning ordinance in many ways. The proposal goes against the spirit of the wetlands section of the zoning ordinance.

Mr. Scully asked if the Board was willing to grant a continuance of the case to allow the applicant an opportunity to ask the southerly abutting property owner for permission to enter his property and delineate the wetlands in that area.

**Mr. Kilgore moved that the Planning Board continue Case #20:04 to the June 2, 2020 meeting date. Second by Ms. Monaghan. The roll call vote was unanimous in favor of the motion (7-0).**

**2. Case #20:05 – Applicant: Boulders Realty Corporation, 149 Epping Road, Suite 2A, Exeter, NH 03833.** The Applicant requests a Conditional Use Permit to allow construction of a driveway within the Wetlands Conservation District vegetative buffer zone. Property Owner: Boulders Realty Corporation, 149 Epping Road, Suite 2A, Exeter, NH 03833; Property Location: Woodland Road adjacent to Rye town line, North Hampton, NH 03862; M/L: 012-010-000; Zoning District: R-2, Medium Density District.

In attendance for this application:

Michael Garrepy, applicant representative; Timothy Phoenix, attorney; Joseph Coronati, engineer; and Jim Gove, wetlands scientist.

Mr. Coronati presented a conditional use permit application to allow construction of a driveway within the Wetlands Conservation District vegetative buffer zone along the path of the existing woods road on the Tax Map/Lot 012-010-000 property off Woodland Road to provide access to a proposed single family home. The application included 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. The remainder of the proposed driveway and the location of the proposed home lie within the jurisdiction of the Village District of Little Boar's Head.

Mr. Phoenix addressed the Board. Mr. Phoenix stated the 120 feet of proposed driveway will be made with a pervious surface. The proposed driveway location is the only place that is not wetlands in the immediate vicinity. Other suggested routes for a driveway coming in from the Rye town line to the north are not feasible since there is a significant amount of wetlands that would need to be disturbed and crossed.

Mr. Phoenix noted that the Planning Board was hearing the case for a second time since the previous Planning Board approval was vacated by the Superior Court. The Superior Court found that the Town of North Hampton Zoning Ordinance did not have specific criteria for approval which could be applied to the specific wetlands ordinance non-conformance issue presented by the application. Amendments to the 2020 Town of North Hampton Zoning Ordinance adopted at the recent town elections established

criteria which could be applied to the specific wetlands ordinance non-conformance issue presented by the application. Mr. Phoenix noted:

- a. A report from Mr. Gove presented in the application materials which made recommendations for how the proposed development would minimize detrimental impact on the wetlands.
- b. A professional appraiser report presented in the application materials which came to the opinion that property values would not be diminished by the proposed development.
- c. A Circuit Rider Planner review letter which states that the application appears to minimize impacts on the wetlands and is a complete application.
- d. A memo from a Rockingham County Conservation District representative which verified the wetlands flagging locations as accurate and agreed that Mr. Gove's recommendations would minimize detrimental impact on the wetlands.

Mr. Phoenix presented responses to the wetlands zoning ordinance criteria for granting a conditional use permit included in the application materials submitted to the Board. The applicant is legally entitled to put a home on his property. Required approvals have been granted by the Village District of Little Boar's Head. Driveways are an allowed use in a residential zone. There is no other way to get to the buildable upland area on the property without going through the wetlands themselves.

Mr. Harned asked if the current plan set is the same as the plan set previously approved by the Board.

Mr. Coronati responded that both plan sets are substantially the same. Some minor details such as various permit approval numbers have been added to the current plan set. Also, the lots have been consolidated on the current plan to recognize the Planning Board's previous lot consolidation approval. The features associated with the conditional use permit application have not changed.

**Mr. Wilson moved that the Planning Board find that the application is complete and take jurisdiction of the Conditional Use Permit application for Case #20:05 to allow construction of a driveway within the Wetlands Conservation District vegetative buffer zone. Second by Ms. Monaghan. The roll call vote was unanimous in favor of the motion (7-0).**

Mr. Harned opened the public hearing at 8:48pm.

Abutter Aimee Margolis addressed the Board. Ms. Margolis stated that the proposed driveway on wetlands/buffer zone areas is an unnecessary hardship for the community. The proposed location is wet for most of the year. The old woods path did not exist until the previous property owners created it in 2017. Granite and slate in the area will impede any driveway construction and the building of a septic tank and well. The Board should strengthen the intention and meaning of the rules prohibiting construction on wetlands and buffer areas, not permit construction.

Roy Tilsley, an attorney representing Ms. Margolis, addressed the Board. Mr. Tilsley stated that the application does satisfy the second criteria for granting a wetlands conditional use permit. The proposal does not provide enough level of detail to prove that it will minimize detrimental impact on the wetlands. The application also does not satisfy the fifth criteria for granting a wetlands conditional use permit. The appraisal submitted by the applicant does not use the appropriate criteria to make an accurate determination that property values are not diminished by the proposed activity. The appraisal uses engineering and science standards, not appropriate real estate marketplace standards. The

appraiser is not qualified to make the engineering and scientific opinions expressed in the appraisal report.

Mr. Harned stated that the following abutters sent letters to the Planning Board expressing their concerns with the conditional use permit application: Richard Simmons, Diane Louise Paul, and Tim and Dominique MacDonald.

Mr. Harned closed the public hearing at 9:07pm.

Mr. Kroner asked if the applicant gave any consideration to accessing the property from Rye.

Mr. Phoenix stated that no consideration was given to accessing the property from Rye. That proposal does not make sense since it would be more impactful on a large area of wetlands.

Mr. Gove stated there is an extensive area of wetlands, including a significant stream, along the Rye town line. Any attempt to get a road through this area would fail and significantly impact the wetlands.

Mr. Wilson stated that, with regards to diminution of value, the appraiser used by the applicant is an accomplished and respected appraiser. He would not discount the opinions expressed in the appraisal report. Mr. Wilson further stated that property owners have the right to develop their property if they can meet the zoning ordinance criteria. In his opinion, the criteria have been met.

**Mr. Wilson moved that the Planning Board approve the Conditional Use Permit application for Case #20:05 to allow construction of a driveway within the Wetlands Conservation District vegetative buffer zone. Second by Mr. Kilgore.**

Discussion of the motion – Mr. Kroner suggested that language stating that the criteria have been met should be included in the motion.

**Mr. Kilgore withdrew his second. Mr. Wilson withdrew the motion.**

**Mr. Wilson moved that the Planning Board has found that all the criteria for authorizing the Conditional Use Permit have been met. Therefore, the Planning Board approves the Conditional Use Permit application for Case #20:05 to allow construction of a driveway within the Wetlands Conservation District vegetative buffer zone as represented in the application presented to the Board. Second by Mr. Kilgore. The roll call vote was 6-1 in favor of the motion. Mr. Harned, Ms. Monaghan, Mr. Wilson, Mr. Etela, Mr. Kilgore, and Mr. Maggiore in favor. Mr. Kroner opposed.**

**3. Case #20:06 – Applicants: Annette Lee and Nicole Carrier, 2 Elm Road, North Hampton, NH 03862.**

The Applicants request a site plan review to amend previous site plan approvals by making improvements to current business operations for Throwback Brewery located at 2 Elm Road including building renovation and additional parking areas. The Applicant also requests a waiver to Site Plan Regulations Section X.B.1 regarding paving of parking areas. Property Owner: Annette Lee and Nicole Carrier, 2 Elm Road, North Hampton, NH 03862; Property Location: 2 Elm Road, North Hampton, NH 03862; M/L: 013-009-000; Zoning Districts: I-B/R, Industrial – Business/Residential District and R-1, High Density District.

In attendance for this application:

Annette Lee, property owner.

Mr. Maggiore recused himself from consideration of the case.

Mr. Kroner noted that the time was 9:35pm. Planning Board rules require that no new business may begin after 9:30pm unless authorized by a Board vote.

**Mr. Wilson moved that the Planning Board waive the rules regarding time limits and proceed with consideration of the case. Second by Mr. Kilgore. The roll call vote was unanimous in favor of the motion (6-0).**

Mr. Kilgore left the meeting.

Ms. Lee addressed the Board. Ms. Lee presented a site plan showing the proposed renovation of the existing barn structure facing the parking lot on the south wall of the main barn building. The purpose of the renovation is to increase the size of the space by 900 square feet to accommodate an additional 60 customer seats for the restaurant operations. The site plan also includes expanded parking areas to the west and south of the main building. A total of 103 parking spaces, including 6 ADA parking spaces, will be provided. A minimum of 97 parking spaces are required by the site plan regulations.

Ms. Lee also presented a waiver request to allow parking areas not to be paved as required by the site plan regulations. The ADA spaces will be paved. Gravel surface will be used in other parking areas.

Mr. Harned asked how the current gravel parking areas have performed over time.

Ms. Lee stated that the gravel parking areas drain well and are easily maintained on a yearly basis.

Mr. Harned asked the applicant to explain the revised stormwater management features indicated on the plan set.

Ms. Lee explained how stormwater will be directed from developed areas to grass treatment swales to minimize water runoff volume, treat the stormwater, and infiltrate the water into the ground within the property. The stormwater pond near Hobbs Road will be enlarged to accommodate increased stormwater capacity.

Mr. Kilgore returned to the meeting.

**Mr. Kilgore moved that the Planning Board find that the application is complete and take jurisdiction of the Site Plan Review application to amend previous site plan approvals by making improvements to current business operations for Throwback Brewery located at 2 Elm Road including building renovation and additional parking areas. Second by Ms. Monaghan. The roll call vote was unanimous in favor of the motion (6-0).**

Mr. Harned presented the request to waive Site Plan Regulations Section X.B.1 regarding paving of parking areas.

**Ms. Monaghan moved that the Planning Board grant a waiver from Site Plan Regulations Section X.B.1 to allow parking areas not to be paved as proposed in the amended site plan application for Case 20:06. Second by Mr. Etela. The roll call vote was unanimous in favor of the motion (6-0).**

Mr. Harned asked for clarification regarding the planting details included in the site plan.



Ms. Lee presented the landscaping plan and vegetative screening proposed for the west side of the property. The landscaping and screening are approximately 20% complete at this time.

Ms. Rowden suggested that the service shed approved on a previous amended site plan be labelled as not yet constructed. Mr. Harned suggested that all areas approved on previous amended site plans be labelled as not yet constructed.

Mr. Kroner asked if the expanded parking was being built because it was required by the regulations or because it will be needed.

Ms. Lee stated that the expanded parking will most likely be needed during good weather when the outdoor seating area and the indoor seating areas are being used at the same time.

Mr. Etela stated that the architectural drawings of the building exterior were well done. He suggested that the roof be added to the existing silo if possible.

Mr. Harned opened the public hearing at 10:00pm. No comments were made. Mr. Harned closed the public hearing at 10:03pm.

**Ms. Monaghan moved that the Planning Board approve the Site Plan Review application for Case #20:06 to amend previous site plan approvals by making improvements to current business operations for Throwback Brewery located at 2 Elm Road including building renovation and additional parking areas subject to the following conditions:**

- 1. 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.**
- 2. 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.**
- 3. 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.**
- 4. 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).**
- 5. All fees incurred by the Planning Board including, but not limited to, consulting, engineering, and legal fees, have been paid by the applicant.**
- 6. 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. The roll call vote was unanimous in favor of the motion (6-0).**

### **III. Other Business**

Mr. Maggiore returned to the Board.

Mr. Harned presented the minutes of the March 3, 2020 meeting.

**Ms. Monaghan moved that the Planning Board accept the minutes of the March 3, 2020 meeting as written. Second by Mr. Wilson. The roll call vote was unanimous in favor of the motion (7-0).**

420 Mr. Harned presented the minutes of the April 7, 2020 meeting.  
421 **Ms. Monaghan moved that the Planning Board accept the minutes of the April 7, 2020 meeting as**  
422 **written. Second by Mr. Maggiore. The roll call vote was 5-0-2 in favor of the motion. Mr. Harned, Ms.**  
423 **Monaghan, Mr. Etela, Mr. Kroner, and Mr. Maggiore in favor. Mr. Wilson and Mr. Kilgore abstaining.**  
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425 The meeting was adjourned at 10:10pm without objection.  
426  
427 Respectfully submitted,  
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431 Rick Milner  
432 Recording Secretary