



Meeting Minutes

North Hampton Planning Board

Tuesday, May 4, 2021 at 6:30pm

NO PHYSICAL LOCATION FOR MEETING

MEETING ACCESSED THROUGH ELECTRONIC MEANS ONLY

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, Shep Kroner, Valerie Gamache, 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. 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.

I. New Business

1. Case #21:08 – Applicant: Pensco Trust Company, c/o Mark Collins IRA, P.O. Box 173859, Denver, CO 80217. The Applicant requests a Conditional Use Permit to allow construction of a driveway and utility services within the wetlands and wetlands buffer area. Property Owner: Pensco Trust Company, c/o Mark Collins IRA, P.O. Box 173859, Denver, CO 80217. Property Location: 46 Chapel Road, North Hampton, NH 03862; M/L: 005-039-000; Zoning District: R-2, Medium Density District.

In attendance for this application:

Mark and Karen Collins, property owners; Eric Weinrieb, engineer.

Mr. Weinrieb addressed the Board. Mr. Weinrieb presented the following information:

- a. subdivision plan showing creation of current 4.36 acre lot at 46 Chapel Road,
- b. driveway permit for 46 Chapel Road property,
- c. NHDES septic system and wetlands crossing permits for 46 Chapel Road property, and
- d. plan detailing proposed wetlands crossing and driveway to be constructed within the Wetlands Conservation District on the 46 Chapel Road property.

Mr. Weinrieb stated that the proposed wetlands crossing culvert and driveway will be approximately 12 feet wide. Approximately 2,950 square feet of disturbed area will impact the wetlands and wetlands buffer. The proposed driveway location was chosen during previous consultation with the Director of Public Works, John Hubbard. The proposed driveway location on the plan provides the safest driver sight lines. Mr. Weinrieb also noted that the Conservation Commission submitted a letter stating that the Commission had no objections to the proposed plans.

Mr. Kroner asked if the current proposed drainage system conforms to the original drainage system reviewed by the Planning Board in 2012.

Mr. Weinrieb stated that the current proposed drainage system location is within a couple feet of the earlier proposed drainage system location.

Mr. Harned asked why the existing catch basin to the east of the proposed driveway was being changed.

Mr. Weinrieb stated that the existing catch basin is being replaced and moved slightly, not removed. An abutter to the east of the applicant's lot expressed concerns about drainage flow. After consultation with Mr. Hubbard, the applicant is proposing the catch basin change to improve hydraulics in the area and address the abutter's concerns.

Mr. Wilson moved that the Planning Board find that the application is complete and take jurisdiction of the Conditional Use Permit application for Case #21:08 to allow construction of a wetlands crossing, driveway, and utility services within the Wetlands Conservation District. Second by Ms. Monaghan. The roll call vote was unanimous in favor of the motion (7-0).

Mr. Harned opened the public hearing at 6:50pm. No comments were made. Mr. Harned closed the public hearing at 6:53pm.

The Board came to a consensus without objection that the criteria listed in Section 501.9.A.1-6 and Section 501.9.B.3 of the zoning ordinance for approval of a conditional use permit have been satisfied. Additionally, the Board came to a consensus without objection that the proposed driveway location provided the best alternative for traffic safety.

Mr. Kroner moved that the Planning Board approve the Case #21:08 Conditional Use Permit application to allow construction of a wetlands crossing, driveway, and utility services within the Wetlands Conservation District prohibited by Town of North Hampton Zoning Ordinance Section 501.6.C.1 as represented in the application presented to the Board and based on the determination by the Board that the criteria listed in Section 501.9.A.1-6 and Section 501.9.B.3 have been satisfied. Second by Mr. Wilson. The roll call vote was unanimous in favor of the motion (7-0).

2. Case #21:09 – Applicant: Veronica Pillard, 15A Bonair Avenue, Hampton, NH 03842. The Applicant requests a Minor Review to allow placement of a food truck on the site. Property Owner: Black Marble Realty Trust, John McGonagle, Trustee, P.O. Box 1740, North Hampton, NH 03862. Property Location: 17 Lafayette Road, North Hampton, NH 03862; M/L: 003-086-000; Zoning District: I-B/R, Industrial – Business/Residential District.

In attendance for this application:
Veronica and Jason Pillard, applicants.

Mr. Pillard addressed the Board. Mr. Pillard presented the following information:

- a. site drawing of 17 Lafayette Road property showing location of 27 foot by 7 ½ foot food truck in the parking lot of the Seacoast Harley-Davidson retail business,
- b. picture of the food truck exterior,
- c. floor plan of food truck interior showing location of cooking appliances, sink/cleaning areas, and storage areas,
- d. Hours of operation – Thursday thru Sunday, 8:00am to 5:00pm, May thru October, and
- e. intent of the business is to service Seacoast Harley-Davidson customers.

Ms. Rowden asked if the proposed hours of operation allowed for clean-up.

Ms. Pillard stated that the customer service hours should end by 4:00pm, allowing time for clean-up by 5:00pm.

Ms. Rowden asked for clarification regarding trash handling.

Ms. Pillard stated that the food truck business will use recycling and trash barrels. The business has trash disposal agreements which will allow for daily removal of trash and cooking oils from the site.

Ms. Rowden asked if there will be any outdoor seating.

Ms. Pillard stated that there will be no additional outdoor seating associated with the food truck business. The only outdoor seating is what already exists for the Seacoast Harley-Davidson retail business.

Mr. Harned asked if the food truck will move every day or stay on the site overnight.

Mr. Pillard stated that the food truck will most likely stay on the site overnight during Thursday thru Sunday time period. Other times, the food truck may leave the site to get supplies or be used at other locations.

Mr. Harned asked for clarification regarding utility connections.

Mr. Pillard stated that the food truck will connect to electrical outlets from retail building. There will be no water connection.

Mr. Etela asked if the food truck will be running during business operations.

Mr. Pillard stated that the food truck will not be running during business operations. Mr. Pillard also noted that the food truck business will follow state fire prevention regulations and have appropriate fire safety equipment.

Mr. Wilson asked if the food truck will operate at the same time as other events on the site which may occur outside of the proposed business hours.

Mr. Pillard stated that he wished to operate the food truck at same time as other events. However, he will comply with the allowed hours of operation.

Mr. Wilson asked if the parking spots taken by the location of the food truck will affect uses on the site.

Ms. Rowden stated that there is more than an adequate amount of parking spaces on the site to handle the food truck business and other retail uses.

Mr. Wilson stated that he believes that the application should not be classified as a minor site review. Approval of a minor site review would establish approval of a food truck business on the site in perpetuity. Mr. Wilson suggested that the application should be classified as a conditional use permit for placement of a temporary structure on the site. In this way, the Board can evaluate the impacts of the use on a temporary-seasonal basis and determine if the use should be permitted to continue.

Disclaimer – these minutes are prepared by the Recording Secretary within five (5) business days as required by NH RSA 91A:2, II. They will not be finalized until approved by majority vote of the Planning Board.

Ms. Monaghan asked if the location of the food truck could be moved to the back of the property to avoid attracting extra customer traffic from passersby on US Route 1.

Mr. Pillard stated that the only electrical power connection was located at the front of the property.

Mr. Kroner stated his opinion that the food truck business will not significantly increase traffic volume on the site.

The Board came to a consensus without objection that the food truck application should not be considered as a minor site review. The application should be considered as a request for a conditional use permit to allow a temporary structure on the site.

Mr. Wilson moved that the Planning Board find that the Case #21:09 application does not meet the requirements of a minor site review. The application meets the standards for consideration of a conditional use permit to allow placement of a temporary structure. Second by Ms. Gamache. The roll call vote was unanimous in favor of the motion (7-0).

Mr. Wilson moved that the Planning Board find that the application is complete and take jurisdiction of the Conditional Use Permit application for Case #21:09 to allow placement of a temporary structure (food truck) on the Map/Lot 003-086-000, 17 Lafayette Road property. Second by Ms. Monaghan. The roll call vote was unanimous in favor of the motion (7-0).

Mr. Harned opened the public hearing at 7:37pm. No comments were made. Mr. Harned closed the public hearing at 7:39pm.

Ms. Rowden stated that, in her opinion, the application appears to comply with the zoning ordinance criteria for allowing a temporary structure on a site.

Mr. Wilson asked if there will be any additional exterior lighting on the truck beyond the existing parking lot lighting.

Mr. Pillard stated that there will be no additional exterior lighting on the truck.

The Board came to a consensus without objection that the food truck may operate during any day of the week.

Mr. Wilson moved that the Planning Board approve the Conditional Use Permit application for Case #21:09 to allow placement of a temporary structure (food truck) on the Map/Lot 003-086-000, 17 Lafayette Road property based on the determination of the Board that the application complies with the standards listed in Town of North Hampton Zoning Ordinance Section 302.2 and subject to the following conditions:

- 1. The food truck shall only be in operation from May, 2021 to October, 2021.**
- 2. Daily hours of operation shall be 8:00am to 5:00pm.**
- 3. The food truck shall be removed from the property no later than October 31, 2021.**
- 4. No signage is allowed except 'Open' flag.**

Second by Ms. Gamache. The roll call vote was unanimous in favor of the motion (7-0).

3. Case #21:10 – Applicant: Alex Ross, Ross Engineering, 909 Islington Street, Portsmouth, NH 03801.

The Applicant requests the following items:

- a. Lot Line Adjustment between properties located at 8 and 10 Kimberly Drive.
- b. Conditional Use Permit to allow an accessory dwelling unit on the property at 8 Kimberly Drive.
- c. Conditional Use Permit to allow placement of a structure within the wetlands buffer area at 8 Kimberly Drive.

Property Owners: Dale E. and Judith M. Flemming Revocable Trust, Dale E. and Judith M. Flemming, Trustees, 8 Kimberly Drive, North Hampton, NH 03862; and Robert E. and Donna A. Garland, 12 Kimberly Drive, North Hampton, NH 03862; Property Locations: 8 and 10 Kimberly Drive, North Hampton, NH 03862; M/L: 013-066-000 and 013-065-000; Zoning District: R-1, High Density District.

In attendance for this application:

Dale and Judith Flemming, property owners; Robert Garland, property owner; Monica Kieser, attorney; Alex Ross, engineer; and Marc Jacobs, wetlands scientist.

Ms. Kieser addressed the Board. Ms. Kieser presented a proposed lot line adjustment plan between the properties located at 8 and 10 Kimberly Drive and a proposed accessory dwelling unit plan for the 8 Kimberly Drive property which included the following:

- a. transfer approximately 4,595 square feet of land from the 10 Kimberly Drive property to the 8 Kimberly Drive property,
- b. proposed replacement septic system with associated mound raised above the existing grade of the land with new location near southeasterly lot line on 8 Kimberly Drive property,
- c. proposed 1,141 square foot structure to be used as a two car garage with an accessory dwelling unit (ADU) on upper floor above garage connected to the existing home with an elevated, second floor hallway connector allowing passage to the backyard underneath the elevated connector on 8 Kimberly Drive property,
- d. infiltration trench around proposed structure and rain garden near wetlands along northwesterly lot line to improve stormwater drainage on 8 Kimberly Drive property,
- e. wetlands buffer plantings, and
- f. combination asphalt and pervious pavers driveway on 8 Kimberly Drive property.

Ms. Kieser noted that the proposed plan has received Zoning Board of Adjustment variances to allow:

- a. lot areas of 21,301 square feet on 10 Kimberly Drive property and 27,288 square feet on 8 Kimberly Drive property where a minimum 87,120 square foot lot area is required,
- b. frontage of 113.50 feet on 10 Kimberly Drive property and 99.09 feet on 8 Kimberly Drive property where a minimum of 175 feet is required, and
- c. placement of raised leach field structure with beginning of grading slope 11.6 feet from the side yard lot line where a minimum distance of 25 feet is required.

Ms. Kieser noted that the proposed plan has received the support of abutters on both sides of the 8 Kimberly Drive property. The proposed plan has also been reviewed and stamped by a wetlands scientist.

Ms. Kieser noted that the proposed new septic system leach field will be located on the side of the 8 Kimberly Drive property furthest away from the wetlands and will use modern technology that will better treat wastewater and produce a cleaner effluent to be dispersed into the ground.

Ms. Kieser stated that the intent of the lot line adjustment was to provide more space between the proposed structure and the property line. This will allow for proper maintenance of the structure and aid drainage on the site. The lot line adjustment will also correct the irregular shape of the 8 Kimberly Drive lot. The intent of the ADU is to provide space for visiting family members.

Mr. Wilson stated that the proposed lot line adjustment creates new lots for the 8 and 10 Kimberly Drive properties as of the date that the lot line adjustment is recorded. As a result of the creation of the new lots, the exception in the zoning ordinance that allows these lots to apply a 50 foot wetlands buffer will no longer be valid. The new lots will be subject to the 100 foot wetlands buffer required by the zoning ordinance. The application may not be complete in that the application may not adequately address the change in buffer area created by the lot line adjustment.

Mr. Wilson also expressed the following concerns:

- a. the proposed development may be too intense for the smaller sized 0.63 acre lot to sustain,
- b. proposed rain gardens and pervious pavers require significant time and effort to maintain in a condition such that they perform drainage functions as designed,
- c. the proposed septic system pumping apparatus may need an alarm system, and
- d. the property owners may not fully understand the wetlands buffer implications created by the lot line adjustment and the maintenance and reporting standards that must be followed when rain gardens and pervious pavers are installed on a property.

Mr. Kroner noted that a previous application for placement of a shed in the Wetlands Conservation District on another property in this neighborhood raised concerns from the Board. There are flooding issues and significant water movement in this neighborhood. The area is already heavily developed. The existing conditions in the area make it currently difficult to handle water flow in the neighborhood.

Mr. Wilson suggested that the Board not take jurisdiction of the application. He further suggested that the applicants submit more information that is necessary to adequately consider the changed site conditions, the larger disturbance area created by a 100 foot wetlands buffer area, and the ability to adequately protect the water resources of the Town.

Ms. Kieser stated her opinion that, with regards to the imposition of a 50 foot or 100 foot wetlands setback, the clock starts when the original subdivision of the lots was created.

Mr. Wilson stated that a lot line adjustment is a form of subdivision. Once the lot line adjustment becomes recorded, the 100 foot wetlands buffer requirement must be imposed.

Mr. Ross stated that the proposed plan will not substantially change whether a 50 foot or a 100 foot wetlands buffer is imposed. The septic system location, structure location, and stormwater drainage improvements will remain essentially the same. The proposed plan will be a significant improvement to the current conditions with regards to stormwater drainage, wastewater treatment, and impacts on the wetlands.

Mr. Harned stated his opinion that the lot line adjustment will create new lots which lose the ability to use the 50 foot wetlands buffer zoning ordinance exception. He suggested that the applicants seek a continuation to submit additional information to the Board.

Mr. Wilson noted that proposed septic tank, proposed septic pump system, and the asphalt driveway would all be within the wetlands buffer area if the 100 foot wetlands setback is imposed. These and possibly other items are changed conditions which may create an impact on the wetlands and wetlands buffer area that the application needs to address and the Board needs to consider.

Ms. Kieser requested, on behalf of the applicants, a continuance of the case to the June 1, 2021 Planning Board meeting date.

Mr. Wilson moved that the Planning Board continue Case #21:10 to the June 1, 2021 meeting date at the request of the applicant. Second by Ms. Monaghan. The roll call vote was unanimous in favor of the motion (7-0).

II. Other Business.

1. Minutes.

Mr. Harned presented the minutes of the April 20, 2021 meeting.

Mr. Wilson moved that the Planning Board accept the minutes of the April 20, 2021 meeting as written. Second by Mr. Etela. The roll call vote was unanimous in favor of the motion (7-0).

The meeting was adjourned at 9:02pm without objection.

Respectfully submitted,

Rick Milner
Recording Secretary