



Meeting Minutes

North Hampton Planning Board

Tuesday, June 1, 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; Alternate Member John Sillay; 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. Old Business

1. 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; Monica Kieser, attorney.

Ms. Kieser addressed the Board. Ms. Kieser requested, on behalf of the applicant, a continuance of the case to the July 6, 2021 Planning Board meeting date.

Mr. Wilson moved that the Planning Board continue Case #21:10 to the July 6, 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. New Business

1. Case #21:11 – Applicant: David Graham, 164 Mill Road, North Hampton, NH 03862. The Applicant requests a Conditional Use Permit to allow placement of an accessory structure (shed) within the accessory structure setback. Property Owners: David and Talia Graham, 164 Mill Road, North Hampton, NH 03862. Property Location: 164 Mill Road, North Hampton, NH 03862; M/L: 012-050-000; Zoning District: R-2, Medium Density District.

In attendance for this application:
David Graham, property owner.

Mr. Graham addressed the Board. Mr. Graham explained that he would like to place a 10 foot by 14 foot shed on the 164 Mill Road property approximately five feet from the southerly property line. The zoning ordinance requires that an accessory structure, such as a shed, be located no closer than 15 feet to a side or rear property line. If the shed were placed in conformance with the setback requirement, it would impede upon the existing leach field in the back yard. Also, significant modifications to grading of the land around the leach field side slopes on the property would be necessary. Mr. Graham presented a satellite photo of the property with the existing leach field and proposed shed approximate locations indicated on the photo.

Mr. Graham further stated that the placement of the shed in the proposed location would not create an burden on neighbors or have a detrimental impact on property values. Mr. Graham presented a letter of support from the abutter along the southerly lot line, Travis Billingham.

Mr. Harned asked if the back yard land sloped downward toward the westerly rear lot line.

Mr. Graham stated that the land did slope downward toward the westerly rear lot line. This was another factor contributing to the proposed shed location.

Ms. Monaghan asked how the shed would be used and if electric or water utilities will be added to the shed.

Mr. Graham stated that the shed would be used for storage of a lawn mower and other gardening equipment. There will be no electric or water utilities in the shed.

Ms. Monaghan moved that the Planning Board find that the application is complete and take jurisdiction of the Conditional Use Permit application for Case #21:11 to allow placement of a shed within the accessory structure setbacks. Second by Mr. Wilson. 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 6:52pm.

Mr. Wilson moved that the Planning Board approve the Conditional Use Permit application for Case #21:11 to allow placement of a shed within the accessory structure setbacks as presented on the basis that the conditions specified in Section 301.12 of the Town of North Hampton Zoning Ordinance have been met. Second by Ms. Gamache. The roll call vote was unanimous in favor of the motion (7-0).

2. Case #21:12 – Applicant: C & R Partnership c/o Mark Stevens, P.O. Box 284, Stratham, NH 03885.

The Applicant requests a Conditional Use Permit to allow construction of a wetlands crossing and driveway within the wetlands and wetlands buffer area. Property Owner: C & R Partnership, P.O. Box 432, Stratham, NH 03885. Property Location: Exeter Road near Stratham and Hampton town lines, North Hampton, NH 03862; M/L: 010-002-000; Zoning District: R-2, Medium Density District.

In attendance for this application:

Rob Graham, contractor; Joe Coronati, engineer; John Ratigan, attorney; and James Gove, wetlands scientist.

Mr. Coronati addressed the Board. Mr. Coronati explained that the applicant was seeking the approval of a Conditional Use Permit to allow the construction of a wetlands crossing and driveway within the Wetlands Conservation District area on the property located at Map/Lot 010-002-000 on Exeter Road for the purpose of gaining access to the buildable portion of the property to construct a new home. The lot is entirely within North Hampton in the vicinity of the intersection of the North Hampton, Hampton, Stratham, and Exeter town lines. Mr. Coronati noted the following details regarding the history of the proposed home construction project:

- a. 2014 - The Conservation Commission signed an NHDES expedited wetlands permit application. The NHDES wetlands permit and NHDOT driveway permits were issued.
- b. 2015 – Portion of driveway with wetlands crossing near roadway constructed. Construction activities voluntarily stopped at that time.
- c. 2020-21 – Land clearing activities begun to prepare for home construction and building permit application submitted. Activities halted when the applicant was informed by the Building Department that Planning Board approval of activities within the Wetlands Conservation District was necessary.

Mr. Coronati presented a plan set which showed current conditions on the property and proposed improvements to the property. The plans included the following items:

- a. extent of land clearing and grubbing of the property,
- b. location of erosion control berm surrounding the area of land disturbance,
- c. a buildable area of 15,096 square feet if the current 100 foot wetlands setback was imposed on the property,
- d. the 50 foot wetlands setback line allowed by the zoning ordinance if buildable area is less than 16,000 square feet when 100 foot setback is imposed,
- e. 75 foot septic system setback from wetlands,
- f. 25 foot vegetative buffer from wetlands,
- g. location of proposed three bedroom, single family home outside of the 100 foot wetlands structure setback,
- h. location of leach field outside of the 75 foot wetlands septic system setback, and
- i. location of wetlands crossing and proposed driveway within the Wetlands Conservation District along with notes indicating proposed wetlands buffer impact of 3,359 square feet and extent of proposed pervious surface to be used to construct portion of the driveway within the Wetlands Conservation District.

Ms. Monaghan noted that the proposed driveway to the proposed home had an extension which seemed to also access property in Hampton at the rear of this property. She asked what the purpose of this driveway extension was and for what types of uses was the property in Hampton zoned.

Mr. Graham explained that the driveway extension was to provide access to a property owned by the applicant that has no other means of access. The property was zoned for industrial use. However, the applicant has no intention to develop an industrial use on the property. The property is approximately 22 acres in size with a significant amount of wetlands and only three to four acres of uplands.

Ms. Rowden stated her opinion that the application was complete. The sections of the wetlands zoning ordinance regarding filling more than 3,000 square feet of surface area within the Wetlands Conservation District and the vegetative buffer area disturbance are applicable in this case.

Mr. Wilson asked if both North Hampton and Hampton needed to approve the proposed activities. It appears that the erosion control berm extends into Hampton.

Ms. Rowden stated that approval by Hampton was not necessary. The lot and proposed improvements are entirely within North Hampton.

Mr. Wilson moved that the Planning Board find that the application is complete and take jurisdiction of the Conditional Use Permit application for Case #21:12 to allow construction of a wetlands crossing and driveway within the Wetlands Conservation District. Second by Ms. Gamache. The roll call vote was unanimous in favor of the motion (7-0).

Mr. Harned, Ms. Monaghan, and Mr. Wilson expressed their concern regarding the potential use of the proposed driveway extension creating access to the property in Hampton that is zoned for industrial use. The Board discussed the possibility of placing conditions on any conditional use permit approval that would restrict allowed uses for the driveway on Map/Lot 010-002-000 property.

Ms. Rowden presented a wetlands map showing large areas of wetlands and smaller areas of uplands on the Hampton property abutting along the southerly rear lot line of the Map/Lot 010-002-000 property.

Mr. Ratigan suggested that the Board could include a condition of approval which limited the use of the driveway to a single family home and accessory use on Map/Lot 010-002-000 property and only an accessory use on the Hampton property.

Mr. Wilson suggested that the accessory uses in both North Hampton and Hampton should conform to what is permitted by the Town of North Hampton zoning ordinance.

Mr. Harned asked if the applicant would be comfortable with such a condition being placed on a conditional use permit approval.

Mr. Graham stated that the applicant would be comfortable with such a condition being placed on a conditional use permit approval.

Mr. Harned opened the public hearing at 7:34pm.

Mr. Milner read a letter submitted by abutter Josh Jeffrey which included the following comments:

- a. If proposed driveway is meant only for access to a proposed single family home on the Map/Lot 010-002-000 property and not to access 22 acre Hampton property, then he takes no exception to this use.
- b. Ever since the site was cleared and graded, abutter Gert Dionne has been getting water coming off of the applicant's property and flooding her basement. A site grading plan should be considered and prepared for the site in order to prevent water from being directed to and flooding her property or his property.

c. He suggested that the Planning Board review final grading of the site and inform the abutters if the grades or direction of water flow will be changed on the site that could cause locations on his property to become flooded and thus unexpectedly become classified as wetland.

No other comments were made. Mr. Harned closed the public hearing at 7:40pm.

Mr. Coronati stated that, once the site is stabilized, there will be no issues with stormwater drainage.

Mr. Graham stated that the applicant is not altering any of the existing drainage features. There is a small area of disturbance that is controlled and well contained. All construction areas are surrounded by a berm which maintains erosion and drainage controls. The issues noted by the abutters are not being caused by work on the Map/Lot 010-002-000 property.

Mr. Kroner suggested that expansion activities on the commercial lot on the other side of Exeter Road with large amounts of increased impervious surface may be a more likely source of drainage changes in the area than clearing activities on a small residential lot.

Mr. Wilson suggested that further examination of the abutters' concerns may be necessary in order to ensure that the proposed activities will not result in a diminution of the value of abutting properties as stated in the applicable zoning ordinance criteria for approving the Conditional Use Permit.

Mr. Ratigan explained how the proposed wetlands crossing and driveway construction project satisfies the zoning ordinance criteria for granting the Conditional Use Permit. Mr. Ratigan noted the following:

- a. The crossing of the Wetlands Conservation District will be at the narrowest point of wetlands along the frontage of the lot. There is no alternative access point to the buildable portion of the lot without crossing wetlands.
- b. The applicant proposes to construct a porous driveway for that portion of the driveway that is within the wetlands buffer. Previous pavement and grading activities will improve site conditions as they relate to the wetlands and the wetlands buffer area.
- c. The applicant received Conservation Commission signature on a NHDES expedited wetlands application and received NHDES Wetlands Permit for the wetlands crossing and driveway construction project.
- d. Most of the driveway work has already been completed. Installation of the porous portion of the driveway and final grading and fill work will not diminish the value of abutting properties.
- e. The driveway construction plan is designed to minimize wetland impacts and restore the land as nearly as is practicable to its original grade and condition, including re-vegetation and new plantings.

Mr. Graham noted that the grading for the driveway and the culvert has existed in its current condition for several years.

Mr. Wilson stated his opinion that the abutters' comments call into question whether the proposed plan minimizes detrimental impact on the Wetlands Conservation District. A grading plan may be necessary.

Mr. Kroner suggested that the fill brought onto the lot which has elevated the previous topography may have an impact on drainage patterns. However, the surrounding properties have existed with very wet conditions for many years.

Mr. Gove stated his company flagged the wetlands area on both the North Hampton and Hampton properties for the original NHDES permit application several years ago. He has visited the site many times over several years and has not seen any changes in the hydrology of the wetlands in the area.

Mr. Harned suggested that the Board seek an independent opinion regarding whether the activities on Map/Lot 010-002-000 property are having an adverse impact on abutting properties as they relate to stormwater drainage and wetlands. Mr. Harned also suggested that the Board perform a site walk of the property.

The Board discussed using the Town Engineer to perform an independent evaluation of the impact of the proposed activities as they relate to stormwater drainage and wetlands.

Ms. Monaghan moved that the Planning Board schedule a site walk at the Map/Lot 010-002-000 site off Exeter Road as part of the Conditional Use Permit application review process for Case #21:12 on June 29, 2021 at 3:00pm. Second by Ms. Gamache. The roll call vote was unanimous in favor of the motion (7-0).

Ms. Monaghan moved that the Planning Board assign the Town Engineer to visit the Map/Lot 010-002-000 property, review the applicant's plan and the abutter's comments, and submit a report to the Board prior to the June 29, 2021 site walk which offers an opinion as to whether or not drainage on the Map/Lot 010-002-000 property, as the result of the driveway construction and other land disturbance, could possibly be causing additional flooding on abutting properties. Second by Mr. Etela. The roll call vote was unanimous in favor of the motion (7-0).

Mr. Wilson moved that the Planning Board continue Case #21:11 to the July 6, 2021 meeting date. Second by Ms. Monaghan. The roll call vote was unanimous in favor of the motion (7-0).

III. Other Business.

1. Minutes.

Mr. Harned presented the minutes of the May 18, 2021 meeting.

Ms. Monaghan requested that the following language be added to the May 18 minutes after line 59 language: "The Planning Board will continue discussions regarding mixed use at the June work session."

Mr. Wilson moved that the Planning Board accept the minutes of the May 18, 2021 meeting as amended. Second by Mr. Kroner. The roll call vote was unanimous in favor of the motion (7-0).

2. Electronic meeting format.

Mr. Harned informed the Board that State of NH Executive Orders allowing electronic meetings may expire shortly. Board members should be prepared to conduct in-person meetings at a physical location in the near future.

The meeting was adjourned at 8:32pm without objection.

Respectfully submitted,

Rick Milner
Recording Secretary

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.