



Meeting Minutes
North Hampton Planning Board
Tuesday, February 1, 2022 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, Shep Kroner, Lauri Etela, Valerie Gamache (electronic connection), 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. Wilson moved that the Planning Board allow Ms. Gamache to participate in the meeting by electronic connection. Second by Ms. Monaghan. The roll call vote was unanimous in favor of the motion (5-0).

I. Old Business

1. Case #21:22 – Applicant: Prince Corner Garage, P.O. Box 1351, North Hampton, NH 03862. The Applicant requests a Site Plan Review to amend previous site plan approval with a change of use and site improvements. The Applicant also requests a Conditional Use Permit to allow proposed uses within the Aquifer Protection District. Property Owner: Millie Bauer, LLC, 16 Woodknoll Drive, North Hampton, NH 03862. Property Location: 50-52 Lafayette Road, North Hampton, NH 03862; M/L: 008-024-000; Zoning Districts: I-B/R, Industrial – Business/Residential District and R-1, High Density District.

In attendance for this application:

Greg Bauer, property owner.

Mr. Harned informed the Board that, due to the continuation of the Zoning Board of Adjustment (ZBA) case associated with the 50-52 Lafayette Road project to February 22, 2022, the applicant has requested that the Planning Board continue consideration of the application to the March 1, 2022 Planning Board meeting date.

Mr. Wilson moved that the Planning Board continue Case #21:22 to the March 1, 2022 meeting date. Second by Ms. Monaghan. The roll call vote was unanimous in favor of the motion (6-0).

II. New Business

1. Case #22:01 – Applicant: Joseph Nichols, 102 Chester Road, Fremont, NH 03044. The Applicant requests a Conditional Use Permit to allow placement of a septic system leach field within the Wetlands Conservation District buffer zone. Property Owners: David and Irene Tomkinson, 224 Atlantic Avenue, North Hampton, NH 03862. Property Location: 224 Atlantic Avenue, North Hampton, NH 03862; M/L: 007-067-000; Zoning District: R-1, High Density District.

In attendance for this application:

Irene Tomkinson, property owner; Joseph Nichols, engineer.

Mr. Nichols addressed the Board. Mr. Nichols presented a site plan for the 224 Atlantic Avenue property which indicated the following items:

- a. lot line boundaries and wetlands boundaries for the subject property and abutting properties,
- b. an existing three unit apartment building with attached barn and attached deck,
- c. the existing failed septic system disposal areas and tanks to be replaced,
- d. a proposed septic system tank behind the building, and
- e. a septic system leach field and piping behind the building approximately 45.4 feet from the wetlands boundary at its closest point where a distance of 75 feet is required by the Wetlands Conservation District section of the zoning ordinance.

Mr. Nichols stated that the wetlands on the property were poorly drained soils that surrounded a man-made pond located behind the building. Multiple test pits to evaluate adequate soils for a proposed septic system were created in different locations on the property. Test pits in areas outside of the wetlands buffer zone in the front and along sides of the property indicated ledge material not suitable for placement of a leach field. The test pit behind the building within the wetlands buffer zone indicated no layers of soil/material that would restrict placement of the septic system.

Mr. Nichols stated that the location for the leach field proposed in the plan is the most feasible location on the site. Mr. Nichols presented the following reasons how the proposed plan satisfies the zoning ordinance criteria for issuing a Conditional Use Permit:

- a. If the septic system is located outside of the wetlands buffer zone, problematic grading on the site would produce drainage pitching towards the building. The proposed location will allow water on the site to drain away from the building.
- b. If the septic system is located outside of the wetlands buffer zone, a pumped septic system would be necessary. A pumped system would not operate during a power outage. The proposed location would allow for a gravity feed septic system that does not require power to operate effectively.
- c. The replacement a 1950's era septic system with a new, modern, environment-friendly septic system will provide better protection to the wetlands, wildlife habitat, and groundwater in that wastewater disposal will be properly treated and dispersed.
- d. A septic system is essential to the productive use of a residential lot.
- e. The proposed activity is not otherwise prohibited by the zoning ordinance.
- f. There will be no diminution of value to the surrounding properties.
- g. NHDES Subsurface Bureau Permit application has been submitted.

Ms. Rowden stated that the application is complete in her opinion.

Ms. Monaghan moved that the Planning Board find that the application is complete and take jurisdiction of the Conditional Use Permit application for Case #22:01 to allow placement of a septic system leach field within the Wetlands Conservation District buffer zone. Second by Mr. Wilson. The roll call vote was unanimous in favor of the motion (6-0).

Mr. Harned opened the public hearing at 6:46pm.

Resident Kathleen Kilgore addressed the Board. Ms. Kilgore stated that she lived two properties away from the 224 Atlantic Avenue property. Ms. Kilgore stated her concern is that a septic system that is not contained may leak into the water supply.

Mr. Nichols responded that there are no types of septic systems that have a containment feature except for older types of holding tanks that the State of New Hampshire Department of Environmental Services (NHDES) no longer supports. The proposed septic system is a modern system with enviro-septic piping which treats waste effluent better than older, conventional septic systems and is a substantial improvement on the existing septic system.

Mr. Wilson asked if a holding tank method is a reasonable septic system solution for this property.

Mr. Nichols stated that a holding tank method is not a reasonable septic system solution for this property.

Ms. Kilgore asked if the NHDES was aware of the wetlands located on the property.

Mr. Nichols showed the areas of wetlands certified by a wetlands scientist that were indicated on the septic system plan submitted to NHDES for approval.

Irene Tomkinson addressed the Board. Ms. Tomkinson stated that, as the property owner of 224 Atlantic Avenue, she is also concerned about water contamination and is making the situation better by installing a modern system which is an improvement on the existing system.

Mr. Harned closed the public hearing at 6:57pm.

Ms. Rowden asked if it was possible to move the leach field away from the wetlands and closer to the building.

Mr. Nichols stated that it was not possible to move the leach field closer to the building due to regulations regarding how close the system could be to a building foundation.

Mr. Harned asked if the new septic system could be placed in the location of the existing septic system.

Mr. Nichols stated that it was not possible to use the existing septic system location because there was not enough area to fit larger tanks and leach field associated with a modern septic system. Also, test pits in the current location indicated restrictive layers of soil/material which prohibit locating the new septic system in the same location as the older system.

Mr. Maggiore asked for confirmation that, if the proposed septic system was placed in the current septic system location, then the new septic system would need other types of setback relief besides the wetlands buffer area relief.

Mr. Nichols confirmed that, if the proposed septic system was placed in the current septic system location, it would need other types of relief.

Mr. Wilson moved that the Planning Board approve the Case #22:01 Conditional Use Permit application to allow construction of a septic system within the Wetlands Conservation District buffer zone as represented in the application presented to the Board. Second by Ms. Monaghan. The roll call vote was unanimous in favor of the motion (6-0).

Mr. Kroner arrived at 7:02pm.

2. Case #22:02 – Applicant: James Avallon, 3 River Road, North Hampton, NH 03862. The Applicant requests a Conditional Use Permit to allow placement of a garage addition and a porch within the Wetlands Conservation District buffer zone. Property Owners: James Avallon and Michael Gendre, Trustees, Avallon-Gendre Family Trust, 3 River Road, North Hampton, NH 03862. Property Location: 3 River Road, North Hampton, NH 03862; M/L: 006-126-000; Zoning District: R-2, Medium Density District.

In attendance for this application:

James Avallon, property owner; Paige Libbey, engineer.

Ms. Libbey addressed the Board. Ms. Libbey presented a site plan for the 3 River Road property which indicated the following items:

- a. an existing home, existing deck on southwesterly rear corner of the home, existing garage, and existing shed on the property,
- b. a proposed 300 square foot porch on the southeasterly rear corner of the home located at its closest point approximately 33 feet from the wetlands boundary on the property, and
- c. a proposed 242 square foot addition to the garage with no foundation located at its closest point approximately 25 feet from the wetlands boundary on the property.

Ms. Libbey stated that the garage addition would be used as a shed to store lawn and snow blowing equipment, fuels, and lawn care products. The proposed structures would only impact existing lawn area on the property. The wetlands vegetative buffer area would not be impacted.

Mr. Harned asked for clarification that the proposed garage addition would not have a foundation and would be supported by columns.

Ms. Libbey confirmed that proposed garage addition would be supported by columns. This method of construction would limit the amount of impact in the wetlands buffer area.

Ms. Rowden stated that the application is complete in her opinion.

Ms. Monaghan moved that the Planning Board find that the application is complete and take jurisdiction of the Conditional Use Permit application for Case #22:02 to allow placement of a garage addition and a porch within the Wetlands Conservation District buffer zone. Second by Mr. Wilson. The roll call vote was unanimous in favor of the motion (7-0).

Mr. Wilson asked if the proposed porch/deck would have spaces between the floor boards that would allow water through to the ground for infiltration.

Ms. Libbey confirmed that the proposed floor boards would be spaced to allow water through to the ground. Also, the applicant intends to construct a two inch wide by two foot deep stone drip edge around the proposed garage addition to aid water infiltration in that area.

Mr. Harned opened the public hearing at 7:09pm. No comments were made. Mr. Harned closed the public hearing at 7:10pm.

Ms. Libbey addressed the criteria for granting a conditional use permit to allow the proposed structures within the Wetlands Conservation District buffer zone.

Ms. Monaghan stated her opinion that the property is being productively used at the present time and does not agree that granting the proposed relief is necessary to the productive use of the property.

Ms. Libbey stated that the needs of a home in the current day are greater than in the past.

Mr. Wilson asked for clarification regarding the spill control process that will be used within the proposed garage addition.

Ms. Libbey stated that the inherent nature of an enclosed space will prevent hazardous chemical contamination of the wetlands.

Mr. Wilson stated his opinion that the proposed wooden floor in the addition will not necessarily contain a hazardous chemical spill. He suggested that the applicant use some sort of containment vessel to store chemicals in the proposed garage addition to mitigate the possibility of chemical fluid spillage infiltrating the surrounding ground.

Mr. Avallon suggested that he could store the chemical fluids in the existing garage which has a concrete floor rather than in the proposed garage addition. This should mitigate the possibility of chemical fluid spillage infiltrating the surrounding ground.

Ms. Monaghan stated that the property is not necessarily so unique that a conditional use permit should be granted.

Ms. Libbey stated that the subject lot has no room to make improvements based on its smaller size and the significant amount of wetlands buffer area on the property.

Mr. Wilson stated the zoning ordinance allows for special conditions of a property that distinguish it from other properties in order to grant a conditional use permit. The subject property has the following special conditions:

- a. The small parcel and existing structures pre-date the zoning regulations now in effect.
- b. The property would qualify for a reduction in the wetlands setback from 100 feet to 50 feet if the 1950's era home was proposed to be built today.
- c. The close proximity of the existing home to the Little River reduces the available building space on the property.
- d. Conditions can be established to mitigate wetlands adverse impact concerns and satisfy the intention of the zoning ordinance. The applicant has taken some mitigation steps by including a drip edge around the proposed garage addition.

Mr. Kroner stated that a balance must be achieved between the protection of the wetlands and the reasonable use of a property. In his opinion, the applicant's plan is reasonable due to the limited sizes of the proposed structures.

Ms. Rowden suggested that, if an approval is granted for this application, the following two conditions be added to the approval:

a. Any hazardous or regulated substances shall be stored inside either over an impervious surface or within secondary containment

b. A NHDES Shoreland permit shall be received and approval number noted on the plan.

Mr. Wilson moved that the Planning Board approve the Case #22:02 Conditional Use Permit application to allow construction of a garage addition and a porch within the Wetlands Conservation District buffer zone as represented in the application presented to the Board subject to the following conditions:

1. Any hazardous or regulated substances shall be stored inside either over an impervious surface or within secondary containment.

2. A NHDES Shoreland permit shall be received and approval number noted on the plan.

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

3. Case #22:03 – Applicant #1: Kirsten Marella, Actuarial Bookstore, 6 Greenleaf Woods #201, Portsmouth, NH 03801. The Applicant requests a Minor Review for a book warehouse business. The Applicant also requests a Conditional Use Permit to allow a book warehouse use within the Aquifer Protection District. Property Owner: Sabbia, LLC, 2 Walnut Hill Park, Suite 4, Woburn, MA 01801
Property Location: 198 Lafayette Road, North Hampton, NH 03862; M/L: 021-026-000; Zoning District: I-B/R, Industrial – Business/Residential District.

Applicant #2: Rick Boumel, Minuteman Security Technologies, One Connector Road, Andover, MA 01810. The Applicant requests a Conditional Use Permit to allow a security system business use within the Aquifer Protection District. Property Owner: Sabbia, LLC, 2 Walnut Hill Park, Suite 4, Woburn, MA 01801; Property Location: 198 Lafayette Road, North Hampton, NH 03862; M/L: 021-026-000; Zoning District: I-B/R, Industrial – Business/Residential District.

In attendance for this application:

Joe and Jay Surianello, property owners; John Chagnon, engineer

Mr. Harned informed the Board that the two applicants requesting review of their Conditional Use Permit and Minor Review applications no longer intend to move their businesses to the 198 Lafayette Road site. The applications have been withdrawn. However, the property owners wish to proceed with obtaining approval of site changes included on a proposed amended site plan for the property.

Mr. Chagnon addressed the Board. Mr. Chagnon presented a proposed amended site plan which included the following features:

a. back building on the property containing one previously approved unit proposed to be split into two units,

b. addition of electrical transformer on concrete pad near the southerly side lot line, underground electrical lines, and new electrical utility pole as required by the utility company for electrical service upgrades on the site, and

c. addition of warehouse use to the proposed use table on the proposed amended site plan.

Mr. Milner noted that the proposed electrical transformer and concrete pad location received a structure setback variance from the Zoning Board of Adjustment.

Ms. Monaghan moved that the Planning Board find that the application is complete and take jurisdiction of the Minor Review application for Case #22:03 to amend previous site plan approval as represented in the amended site plan presented to the Board. Second by Mr. Wilson. The roll call vote was unanimous in favor of the motion (7-0).

Ms. Monaghan asked for clarification regarding the proposed contractor shop uses in the back building.

Jay Surianello stated that the contractor shop would be used for storage of equipment/tools/supplies and some minor vehicle/equipment maintenance associated with the Surianello's construction/site work company.

Mr. Harned opened the public hearing at 7:59pm. No comments were made. Mr. Harned closed the public hearing at 8:00pm.

Ms. Monaghan asked if new businesses moving onto the 198 Lafayette Road site in the future will need to obtain a Conditional Use Permit to operate within the Aquifer Protection District.

Ms. Rowden stated that, unless the specific characteristics of a new business were the same as a previously approved use, then the new business would need to obtain a new Conditional Use Permit approval to operate within the Aquifer Protection District if required by the zoning ordinance.

Mr. Milner suggested that the language of Note #9 on the previously approved site plan be changed to more accurately reflect the Board's intent to have future new businesses at the 198 Lafayette Road site obtain a Conditional Use Permit to operate within the Aquifer Protection District.

Mr. Wilson suggested that Note #9 be revised to state as follows:
Unless specifically permitted within the Aquifer Protection District, any change of use, occupancy, or tenancy of the units must receive a Conditional Use Permit from the Planning Board prior to occupancy of the units.

Ms. Rowden noted that, as stated in the Site Plan Regulations, this proposed site change is the one site change which is allowed to follow the Minor Review process for approval. Any future site change approval will require a full amended site plan review.

Ms. Monaghan asked for clarification regarding the proposed uses of the second floor in the front building units.

Jay Surianello stated that the second floor spaces will be used only by the approved tenant of the entire unit. There will not be different tenants on separate floors within the same unit.

Mr. Wilson moved that the Planning Board approve the Minor Review application for Case #22:03 to amend previous site plan approval as represented in the amended site plan presented to the Board subject to the following condition:
1. Note #9 on the site plan shall be revised to state the following: "Unless specifically permitted within the Aquifer Protection District, any change of use, occupancy, or tenancy of the units must receive a Conditional Use Permit from the Planning Board prior to occupancy of the units."
Second by Mr. Maggiore. The roll call vote was unanimous in favor of the motion (7-0).

327 **III. Other Business.**

328 1. Minutes.

329 Mr. Harned presented the minutes of the January 18, 2022 meeting.

330 **Mr. Wilson moved that the Planning Board accept the minutes of the January 18, 2022 meeting as**
331 **written. Second by Ms. Monaghan. The roll call vote was unanimous in favor of the motion (7-0).**

332

333 The meeting was adjourned at 8:20pm without objection.

334

335 Respectfully submitted,

336

337

338

339 Rick Milner

340 Recording Secretary