



Meeting Minutes
North Hampton Planning Board
Tuesday, July 5, 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, Lauri Etela, Valerie Gamache, and Jim Maggiore, Select Board Representative; Alternate Member Rob Omberg; Jennifer Rowden, RPC Circuit Rider; and Rick Milner, Recording Secretary.

Chair Harned called the meeting to order at 6:35pm.
Mr. Omberg seated for Mr. Kroner.

I. New Business

1. Case #22:10 – Applicant: Glenn A. Martin, P.O. Box 281, North Hampton, NH 03862. The Applicant requests an eight (8) lot subdivision with associated roadway and utility improvements through the implementation of Town of North Hampton Zoning Ordinance Section 603 – Conservation Subdivision Design. The Applicant also requests waivers from the Town of North Hampton Subdivision Regulations:

- a. Section X.A.3 – Street Design and Construction Standards to allow a cul-de-sac
- b. Section X.B.1 – Roadway Specifications to allow a 22 foot wide roadway

Property Owner: Glenn A. Martin, P.O. Box 281, North Hampton, NH 03862; Property Location: Lot 007-168-000 off of Atlantic Avenue east of the school property; M/L: 007-168-000; Zoning District: R-1, High Density District.

In attendance for this application:

Glenn Martin, property owner; Tim Phoenix, attorney; Erik Saari, engineer; and Marc Jacobs, soil scientist.

Mr. Saari addressed the Board. Mr. Saari presented a subdivision plan which indicated the following:

- a. eight (8) single family home lots ranging from 0.322 acres to 0.410 acres in size on a 14.58 acre lot,
- b. approximately 700 foot long by 22 foot wide roadway off of Atlantic Avenue with cul-de-sac at end,
- c. 12 foot wide driveway off end of the cul-de-sac to access gun club property abutting the rear lot line and applicant's back lot,
- d. approximately 10.31 acres of conservation open space,
- e. topography, wetlands, granite ledge, and other natural features,
- f. grading, drainage, underground utilities, rain gardens, and other infrastructure features, and
- g. allowed density calculation figures.

Mr. Saari stated that the applicant has responded to most of the Town Engineer's plan review comments.

Mr. Saari explained that the applicant used figures associated with standards for duplex units to create the maximum density calculation for the project. According to the applicant, this calculation showed that four duplex house lots containing eight dwelling units were able to be built on the property according to the regulations listed in the conservation subdivision section of the ordinance. The

applicant has submitted an additional waiver request to Zoning Ordinance Section 603.11.G and L to allow eight single family house lots instead of four duplex lots. Both the single family and duplex scenarios would include eight dwelling units.

Mr. Phoenix addressed the Board. Mr. Phoenix stated that Section 603.4.C of the Conservation Subdivision Design allows the applicant to prepare either a Yield Plan or a Maximum Density Calculation to represent the maximum number of house lots into which a parcel may realistically be subdivided under the restrictions of the underlying zoning district. The Planning Board shall evaluate the applicant's proposal and decide whether to accept the results. Mr. Phoenix stated his opinion that he does not see why the Planning Board would not accept the results of the maximum density calculation presented in the current application since the ordinance language encourages creativity and flexibility.

Ms. Monaghan asked for clarification regarding the clear cutting of trees on the property.

Mr. Saari explained that the tree cutting was associated with a lawful timber harvesting project on this property and other lots behind this property.

Mr. Phoenix stated that the applicant has communicated with the gun club membership in order to establish safety measures for coexistence between the conservation subdivision property and the gun club property. An easement allowing access to the gun club property from the subdivision roadway will be created.

Ms. Monaghan asked if the general public will be allowed to access the conservation open space within the conservation subdivision.

Mr. Phoenix stated that there was no intention to allow public access to the conservation open space within the conservation subdivision.

Mr. Wilson asked for the approximate percentage of the proposed conservation open space on the property that was clear cut.

Mr. Saari estimated that approximately 25% of the proposed conservation open space area was clear cut.

Mr. Wilson stated his opinion that the proposal may not be eligible for approval as a conservation subdivision since many of the criteria and objectives associated with a conservation subdivision as stated in the zoning ordinance cannot be achieved due to the previous tree cutting activities and other site conditions.

Mr. Wilson also stated that the Planning Board has the right to either accept or not accept the applicant's maximum density calculation. At the last meeting, the Planning Board asked that a yield plan showing a feasible conservation subdivision plan conforming to all the requirements of the specific underlying zoning district in which the property is located be developed for the proposed project. The purpose of the yield plan is to determine the maximum number of house lots that could realistically be created on the property. In his opinion, eight lots cannot realistically be created on the property if all zoning and subdivision regulations requirements are met.

Mr. Wilson asked if Mr. Saari could show at this time that a conventional subdivision could realistically be created on the property following all of the zoning and subdivision regulations.

Mr. Saari stated that he believed that a conventional subdivision could be created on the property. However, he could not show it at this time. He would have to do some research to make sure that he could present an accurate depiction to the Board.

Mr. Wilson moved that the Planning Board does not accept jurisdiction of the Case #22:10 application for an eight (8) lot subdivision with associated roadway and utility improvements through the implementation of Town of North Hampton Zoning Ordinance Section 603 – Conservation Subdivision Design. The application is not complete because the Planning Board finds that the maximum density calculation provided by the applicant is not adequate to determine that the proposed number of lots or structures is feasible given the geometry of the lot and the restrictions of the underlying zoning district. The Planning Board needs a yield plan to adequately evaluate the proposed conservation subdivision project. Second by Ms. Monaghan.

Discussion of the motion –

Ms. Rowden stated that, with the submittal of the waiver request regarding the proposed single family house lots, the application is complete in her opinion.

Mr. Phoenix stated that he understands the analysis using duplex figures to calculate the maximum density and then converting to single family home lots is not correct. However, the applicant has submitted a waiver request to address the issue.

Ms. Monaghan stated that the Board, based on the Town Engineer's initial project review comments indicating concern with the applicant's proposed maximum density calculations, requested a yield plan, not a density calculation, from the applicant at the last meeting in order to better determine the allowed density for this project.

Mr. Wilson stated that he does not agree with the mathematical calculation used to determine the proposed allowed maximum density for the project. The maximum density calculation presented by the applicant does not consider the unique characteristics of the property. A yield plan will provide more definitive evidence that the unique characteristics of the property support the allowed density of a conventional subdivision as outlined by the restrictions of the underlying zoning district and the subdivision regulations.

Mr. Phoenix stated that the applicant was agreeable to the Board not accepting jurisdiction as long as the applicant had the opportunity to present new information as part of the current application and did not have to start over with an entirely new application.

The vote was unanimous in favor of the motion (7-0).

Mr. Phoenix requested that the case be continued to allow the applicant time to prepare additional information for the Board's consideration.

Mr. Wilson moved that the Planning Board continue Case #22:10 to the August 2, 2022 meeting date as requested by the applicant. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (7-0).

Mr. Harned stated that a public hearing will not occur until the Board has accepted jurisdiction of the application. However, if people in attendance at this meeting cannot attend future meetings, the Board will allow them to speak at this time. Mr. Milner noted that the Board will have to rescind its motion to continue the meeting to the next meeting date to allow the public to speak at this time.

Mr. Maggiore moved that the Planning Board reconsider the motion to continue Case #22:10 to the August 2, 2022 meeting date. Second by Mr. Wilson. The vote was unanimous in favor of the motion (7-0).

Mr. Maggiore moved that the Planning Board rescind the motion to continue Case #22:10 to the August 2, 2022 meeting date. Second by Mr. Wilson. The vote was unanimous in favor of the motion (7-0).

Mr. Harned asked for public comments. No comments were made.

Mr. Maggiore moved that the Planning Board continue Case #22:10 to the August 2, 2022 meeting date as requested by the applicant. Second by Mr. Wilson. The vote was unanimous in favor of the motion (7-0).

2. Case #22:11 – Applicant: Allen Frechette, 54 Post Road, North Hampton, NH 03862. The Applicant requests a Conditional Use Permit to allow placement of an accessory structure (garage) within the accessory structure setback. Property Owners: Allen and Dianne Frechette, Trustees, Frechette Family Revocable Trust, 54 Post Road, North Hampton, NH 03862; Property Location: 54 Post Road; M/L: 008-139-000; Zoning District: R-1, High Density District.

In attendance for this application:

Allen Frechette, property owner.

Mr. Frechette addressed the Board. Mr. Frechette presented a site plan for the 54 Post Road property which indicated the following:

- a. a small, 1950's era ranch style home on a 0.55 acre property,
- b. a proposed 36 foot by 24 foot garage off the front portion of the home closest to the southerly lot line, and
- c. a proposed 10 foot wide addition off the southerly end of the home within 21.1 feet of the southerly lot line at the front of the home and 22.9 feet of the southerly lot line at the back of the home.

Mr. Frechette stated that he was seeking approval of a Conditional Use Permit to allow placement of an accessory structure, an attached garage, closer to the road than the principal structure, an existing home. The proposed two car garage is intended to replace the existing garage within the principal structure at the northerly end of the home. The existing garage space will be converted to living space. The proposed improvements will add much needed living space to the current 720 square foot living area and provide adequate parking space for larger, current era vehicles. Mr. Frechette showed pictures of the existing structure to illustrate the small size of the home and existing garage. Mr. Frechette

showed drawings of the proposed garage addition. Mr. Frechette explained that the proposed 10 foot wide addition to the southerly portion of the home has been granted a side yard setback variance by the Zoning Board of Adjustment.

Mr. Frechette addressed the criteria for granting the Conditional Use Permit.

a. The proposed accessory structure will not diminish the value of surrounding properties in that the 54 Post Road residential structure is currently in a state of disrepair due to several years of neglect as a rental property. The proposed improvements will create an aesthetically pleasing home that will enhance surrounding property values.

b. The accessory structure will not adversely affect the public interest, safety, or health in that the existing home is sub-standard in size with the existing ground floor living space barely meeting the minimum required living area for a dwelling unit in North Hampton. The proposed expansion of the living area would bring the home more in line with the character of the neighborhood.

Mr. Frechette presented letters of support from abutters Karin Backstrom and Francis and Gail Ferraro.

Mr. Wilson moved that the Planning Board find that the application is complete and take jurisdiction of the Case #22:11 Conditional Use Permit application to allow placement of an accessory structure (garage) within the accessory structure setback for property located at 54 Post Road. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (7-0).

Mr. Harned opened the public hearing at 7:45pm. No comments were made. Mr. Harned closed the public hearing at 7:46pm.

Mr. Wilson moved that the Planning Board approve the Case #22:11 Conditional Use Permit application to allow placement of an accessory structure (garage) within the accessory structure setback for property located at 54 Post Road as represented in the plan presented to the Board. Second by Ms. Gamache.

Discussion of the motion –

Ms. Monaghan asked for clarification regarding the extent of living areas upon completion of the proposed improvements.

Mr. Frechette indicated the location and size of the living spaces within the home after completion of the proposed improvements. There will be no living space in the proposed attached garage.

The vote was unanimous in favor of the motion (7-0).

3. Case #22:12 – Applicant: Joshua Sheets, 53 Exeter Road, North Hampton, NH 03862. The Applicant requests a Conditional Use Permit for an Accessory Dwelling Unit. Property Owner: Joshua Sheets, 53 Exeter Road, North Hampton, NH 03862; Property Location: 53 Exeter Road; M/L: 009-043-000; Zoning District: R-2, Medium Density District.

In attendance for this application:

Joshua Sheets, property owner.

Mr. Wilson stepped down from the Board.

Mr. Sheets addressed the Board. Mr. Sheets requested that the case be continued to allow time to prepare additional information for the Board's consideration.

Mr. Maggiore moved that the Planning Board continue Case #22:12 to the August 2, 2022 meeting date as requested by the applicant. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (6-0).

4. Case #22:13 – Applicant: Jennifer Kutt, 149 Post Road, North Hampton, NH 03862. The Applicant requests a Conditional Use Permit for an Accessory Dwelling Unit. Property Owner: Kutt Property Management, LLC, 149 Post Road, North Hampton, NH 03862; Property Location: Lot 018-008-001 adjacent to 149 Post Road property; M/L: 018-008-001; Zoning District: R-1, High Density District.

In attendance for this application:

Jennifer Kutt, property owner; Christos Valhouli, attorney.

Mr. Wilson returned to the Board.

Mr. Valhouli addressed the Board. Mr. Valhouli presented a site plan and application information for the M/L 018-008-001 property which indicated the following:

- a. a proposed three bedroom single family home with a one bedroom accessory dwelling unit (ADU) within the home on a 3.14 acre lot,
- b. an approved septic system design plan for a four bedroom single family home with a one bedroom accessory dwelling unit,
- c. interior floor plans for a single family home and accessory dwelling unit within the home, and
- d. architectural renderings depicting the proposed construction and style of the home.

Mr. Valhouli stated that the applicant is seeking approval of a Conditional Use Permit to allow an accessory dwelling unit within the proposed single family home construction. Mr. Valhouli stated his opinion that the application complies with all of the criteria indicated in the Town of North Hampton Zoning Ordinance to allow an accessory dwelling unit on a property.

Ms. Rowden stated her opinion that the application appears to be complete. However, the Planning Board should verify that the interior door between the proposed garage and the accessory dwelling unit meets the spirit and intent of the ADU criteria under Zoning Ordinance Section 401.5.

Mr. Wilson moved that the Planning Board find that the application is complete and take jurisdiction of the Case #22:13 Conditional Use Permit application to allow an accessory dwelling unit within the proposed single family home on M/L 018-008-001 property. Second by Mr. Etela. The vote was unanimous in favor of the motion (7-0).

Ms. Monaghan stated that she does not agree that the applicant has satisfied the requirements listed in the zoning ordinance criteria for granting a Conditional Use Permit to allow an ADU. Ms. Monaghan stated the following reasons supporting her opinion:

- a. The application does not conform to Section 401.10 in that the design of the proposed home resembles a duplex, not a single family home.
- b. The application does not conform to Section 401.5 in that there is no interior door between the two living spaces. The doors from the principal dwelling to the garage and from the garage to the ADU do not comply with the spirit and intent of the ordinance.

Ms. Monaghan suggested that the proposed home construction be re-designed to resemble a more traditional single family home design.

Mr. Valhouli stated that the interior door which the applicant proposes to be in conformance with the zoning ordinance criteria is between the ADU unfinished space on the second floor above the garage and the second floor principal dwelling space. Also, in his opinion, the proposed home is not a duplex style in that the accessory dwelling space is a small, less than 800 square foot living space. Duplex style homes traditionally contain a second living space which is a mirror image of the first living space having a shared wall and the same amount of living area.

Mr. Milner noted that, if the second floor unfinished space was considered a part of the ADU to comply with the interior door requirement, then the space within the ADU would exceed the maximum 800 square feet allowed by the zoning ordinance criteria.

Mr. Harned stated his opinion that if any part of the second floor is considered a part of the ADU, then the ADU would exceed the maximum 800 square feet allowed by the zoning ordinance criteria. All of the second floor space must be considered a part of the principal dwelling in order for the proposed plan to conform to the zoning ordinance. The interior door that complies with the zoning ordinance criteria would need to be located at the top of the stairs accessing the unfinished storage area on the second floor. However, the actual size of the spaces must be more precisely determined to ensure compliance with the zoning ordinance.

Ms. Monaghan stated her opinion that the square footage of the stairs leading up from the ADU to the second floor would increase the size of the ADU to an amount which exceeds the allowed maximum square footage. In her opinion, the application as presented does not comply with the zoning ordinance criteria. Ms. Monaghan suggested that an interior door placed on a first floor shared wall between the proposed principal dwelling living unit and proposed ADU living unit would meet the spirit and intent of the ordinance. This type of interior door design is important for access between the two units as envisioned by the original intent of the state law providing for accessory dwelling units.

Mr. Valhouli stated that the zoning ordinance criteria does not give specific guidance as to the placement of the interior door as Ms. Monaghan suggests. The second floor unfinished areas can be added to the principal dwelling plan. In this way, the interior door at the top of the stairs accessing the second floor unfinished storage area would comply with the zoning ordinance in his opinion.

Mr. Wilson stated his opinion that the first floor ADU footprint as shown on the plan is 835 square feet which exceeds the 800 square foot maximum allowed by the zoning ordinance. The applicant's plan indicates a living area of 790 square feet. For the purpose of evaluating compliance with the zoning ordinance criteria, the size of the ADU is determined by the footprint square footage, not the living area as presented by the applicant.

Mr. Wilson stated the following concerns with the ADU application:

- a. He has a stricter interpretation of the interior door criteria than the applicant.
- b. The proposed home has the appearance of a duplex, not a single family home. State of NH law states that aesthetic considerations are relevant when considering a proposed ADU application.
- c. The unfinished second floor spaces have the potential to be finished in the future.
- d. The applicant's reasoning for calculating the size of the ADU must be more clearly defined.

e. In his opinion, the proposed application does not meet the spirit of the ordinance.

Mr. Valhouli stated that the applicant will consider the Board's comments and reexamine the proposed plan and proposed home design. Mr. Valhouli requested that the case be continued to allow the applicant time to prepare additional information for the Board's consideration.

Ms. Monaghan moved that the Planning Board continue Case #22:13 to the August 2, 2022 meeting date as requested by the applicant. Second by Mr. Wilson. The vote was unanimous in favor of the motion (7-0).

5. Case #22:14 – Applicants: Andrew Hart and Joanna Broom (Hart), 21 Squier Drive, North Hampton, NH 03862. The Applicants request a Conditional Use Permit to allow construction of a pool, deck, patio, and planting area within the Wetlands Conservation District buffer zone. Property Owners: Andrew and Joanna Hart, 21 Squier Drive, North Hampton, NH 03862. Property Location: 21 Squier Drive, North Hampton, NH 03862; M/L: 012-030-013; Zoning District: R-2, Medium Density District.

In attendance for this application:

Andrew Hart property owner; Justin Pasay, attorney; Henry Boyd, engineer; and Sergio Bonilla, wetlands scientist.

Mr. Wilson recused himself.

Mr. Pasay addressed the Board. Mr. Pasay presented a site plan and application information for the 21 Squier Drive property which indicated the following:

- a. an existing dwelling on a 3.91 acre lot with a stream and wetlands approximately 50-60 feet from the rear of the home,
- b. a proposed salt water pool in the rear yard,
- c. a proposed pervious paver deck around the pool,
- d. a proposed pervious paver patio off the southerly end of the pool-deck,
- e. a proposed 2,191 square foot wetlands buffer enhancement planting area between the pool-deck and the wetlands in the rear yard,
- f. a wetlands scientist report explaining the level of functions and values of the current site conditions and the enhancements to the wetlands function and values proposed by the application, and
- g. a narrative letter explaining the project details and addressing the criteria for granting a Conditional Use Permit to allow the construction proposed in the application.

Mr. Pasay stated that the applicant was seeking a Conditional Use Permit to construct a 30 foot by 14 foot pool with associated pervious pool deck and patio, as well as a 2,191 square foot buffer enhancement planting area within the 100 foot upland buffer zone of the Wetlands Conservation District which extends from the wetlands bordering the stream in the rear yard of the 21 Squier Drive property. The proposed construction will add 591 square feet of impervious surface area and 919 square feet of pervious surface area to the property.

Mr. Pasay explained that the applicant's professional representatives believe that the net result of the proposed project will be the creation of an area which will better satisfy the purpose and intent of the Wetlands Conservation District zoning ordinance than the existing site conditions. Currently, the buffer zone consists of previously disturbed area that accommodates the existing dwelling, mature landscaping

areas, and mowed lawn. The property is encumbered by a significant amount of wetlands. However, the wetlands currently have minimal function and value.

Mr. Bonilla explained that the proposed buffer enhancement planting area will provide the following benefits which will enhance the function and value of the wetlands:

- a. spreading wildlife conservation seed mix,
- b. planting high quality shrubs,
- c. erecting wildlife habitat structures,
- d. enhancing visual aesthetics with persistent, no-maintenance wildflower and grasses ground cover
- e. increasing stormwater buffering and retention,
- f. stabilizing the buffer area along the stream, and
- g. halting the advancement of invasive species.

Mr. Bonilla explained that the salt water proposed for the pool will require less maintenance and be more environmentally friendly than water dependent on chemicals for maintenance.

Mr. Maggiore moved that the Planning Board find that the application is complete and take jurisdiction of the Case #22:14 Conditional Use Permit application to allow construction of a pool, deck, patio, and planting area within the Wetlands Conservation District buffer zone at 21 Squier Drive. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (6-0).

Mr. Maggiore stated that the elimination of lawn area and the amount of fertilizer to maintain the lawn is beneficial to the wetlands and buffer zone areas. However, the criteria requiring that the proposed activity be essential to the productive use of land not within the Wetlands Conservation District is not satisfied by the application. The pool project is not essential to the productive use of the land.

Mr. Pasay stated that if you strictly interpret whether an activity or improvement is essential to the productive use of the land, then no activity or improvement would be allowed at any time. In his opinion, the intent of the zoning ordinance is to determine if the activity or improvement is reasonable relative to the existing conditions of the property and the nature of the wetlands. Since:

- a. almost all of the property is within the wetlands buffer area,
- b. the existing home was built within the current buffer area under previous, less stringent regulations which allowed its construction, and
- c. the proposal creates site conditions which improve the function and value of the wetlands, the proposed construction and buffer enhancements are reasonable and warrant the granting of a Conditional Use Permit.

Ms. Monaghan stated that the 100 foot buffer provides more area to best filter toxins from water run-off before it enters into the sensitive wetlands. The wetlands regulations protect the quality of drinking water for the entire Town. The proposed pool will create a greater disturbance of the buffer area than other types of structures. The proposed plantings intended to enhance the function and value of the wetlands may not last into perpetuity. The enhancement may be lost over time. In her opinion, the risks to the wetlands caused by the pool construction outweighs the benefits of the plantings.

Mr. Pasay responded that the Board does not have any expert analysis to contradict the expert testimony of the applicant's wetlands scientist that the net result of the proposed project will be a property that is in better conformance to the goals and intentions of the Wetlands Conservation District

than the property is today. State of NH courts have long held that Planning Boards should heed such expert testimony when no other contradictory expert testimony is presented. Also, the intention of the buffer enhancement planting area is to let nature grow back and take over the buffer area. There will be no need to maintain the plantings. Natural growth and sustainment of the new growth will occur. This growth will be an improvement on the current fertilized lawn conditions in this area.

Mr. Bonilla explained how the plantings will enhance the food chain dynamic of the insects and animals within the newly created natural habitat. The improvements proposed in the uplands buffer area of the property will enhance the fringe wetlands along the stream in the rear yard and the stream itself. The salt water and filter cartridges to be used in the proposed pool reduces the need for flushing of water.

Mr. Boyd addressed the Board. Mr. Boyd stated that it is usual for a wetlands scientist such as Mr. Bonilla to review the installation of a buffer area to ensure that it is performing its function properly. Mr. Boyd suggested that the applicant could submit an annual report to the Town indicating the status of the buffer enhancement area and certify to its effectiveness.

Ms. Gamache stated that she understands the importance of the planting enhancements. However, there is no assurance that future property owners will preserve the site conditions as the application proposes.

Ms. Monaghan suggested that some sort of property deed language be created to ensure preservation of the wetlands buffer enhancement features.

Mr. Pasay suggested that the proposed deed language could prohibit any cutting or other activities that would not be in conformity with the proposed plan.

Mr. Harned suggested that the 25 foot vegetative buffer/no disturbance area extending westerly out from the wetlands along the stream and the stream in the rear yard be extended from the northerly lot line to the southerly lot line. The existing tree lines on the property should be added to the plan.

Mr. Pasay agreed that the applicant would add the tree lines to the plan and add the 25 foot vegetative buffer to the plan as suggested by Mr. Harned.

Ms. Rowden suggested that the following items be added to any potential approval as conditions of approval:

a. The design specifications for the pervious pavers shall be consistent with design criteria specified by the University of New Hampshire Stormwater Center and the manufacturer's specifications shall be provided to the Town prior to the issuance of a Building Permit.

b. The pervious pavers shall be maintained according to the manufacturer's specifications.

c. The proposed buffer enhancement planting area shall be planted within one year of the issuance of the Building Permit.

Mr. Pasay noted that the applicant has submitted detailed responses within the application documents explaining how, in the applicant's opinion, the proposed project satisfies the criteria indicated in the Town of North Hampton Zoning Ordinance to allow construction of a pool, deck, patio, and planting area within the Wetlands Conservation District buffer zone.

Mr. Harned acknowledged that the Board members received the applicant's wetlands criteria justifications for this project. Mr. Harned opened the public hearing at 9:17 pm.

Resident John Sillay asked where the salt water in the pool will be moved when the pool needs to be drained for maintenance.

Mr. Hart stated that he will most likely have a pool maintenance company truck any wastewater from the pool off of the property.

Mr. Harned closed the public hearing at 9:18pm.

Mr. Pasay suggested the following conditions of approval with which the applicant would agree:

- a. An annual monitoring report will be submitted to the Town for two years.
- b. Deed restriction language will be created and submitted to the Town for approval.
- c. The existing tree line will be depicted on the plan.
- d. The 25 foot vegetative, no disturb buffer will be depicted on the plan from the northerly lot line to the southerly lot line.
- e. Pervious paver design specifications and maintenance will be done in accordance with the comments presented by Ms. Rowden.
- f. The buffer enhancement plantings will be installed within either 12 or 18 months.
- g. No salt water will be discharged onto the property and must be trucked away.

Ms. Gamache asked for clarification regarding the survivability of the proposed plantings.

Mr. Bonilla responded that approximately 75% of the original plantings will survive. However, the natural environment will be given a greater ability to take over the area with new growth.

Mr. Maggiore moved that the Planning Board approve the Case #22:14 Conditional Use Permit application to allow construction of a pool, deck, patio, and planting area within the Wetlands Conservation District buffer zone at 21 Squier Drive as represented in the plan and application materials presented to the Board subject to the following conditions:

- 1. The applicant shall provide deed restrictions to the Town prohibiting any cutting or the reduction in the approved buffer enhancement planting area within the Wetlands Conservation District.**
- 2. No mowing or fertilizing activities shall occur within the Wetlands Conservation District 25 foot vegetative buffer.**
- 3. The property plan shall depict the 25 foot vegetative buffer extending westerly out from the wetlands along the stream and the stream in the rear yard for the entire length of the rear yard from the northerly lot line to the southerly lot line.**
- 4. The property plan shall depict the existing tree lines on the property.**
- 5. The property plan notes shall include the following comments from the Circuit Rider Planner review letter concerning this project:**
 - a. The design specifications for the pervious pavers shall be consistent with design criteria specified by the University of New Hampshire Stormwater Center and the manufacturer's specifications shall be provided to the Town prior to the issuance of a Building Permit.**
 - b. The pervious pavers shall be maintained according to the manufacturer's specifications.**
 - c. The proposed buffer enhancement planting area shall be planted within one year of the issuance of the Building Permit.**

6. Any water drained from the pool shall be trucked off the property.

7. An annual report prepared by a wetlands scientist indicating the status of the buffer enhancement area and certifying to its effectiveness shall be submitted to the Town of North Hampton for a period of two years.

Second by Ms. Gamache.

Discussion of the motion – Ms. Monaghan stated that she supports the wetlands disturbance mitigation features proposed in the application. However, she is not in favor of the application as a whole because the proposal is not essential to the productive use of land not within the Wetlands Conservation District.

The vote was 5-1 in favor of the motion with Ms. Monaghan opposed.

II. Other Business

1. Minutes.

Ms. Monaghan presented the minutes of the June 21, 2022 meeting.

Ms. Monaghan requested that the Board's discussion regarding membership of the Coastal Hazards Advisory Committee be included in the June 21, 2022 meeting minutes. Mr. Milner stated that he would revise the minutes to include discussion regarding the Coastal Hazards Advisory Committee as detailed by Ms. Monaghan.

Ms. Monaghan moved that the Planning Board accept the minutes of the June 21, 2022 meeting as revised. Second by Mr. Etela. The vote was unanimous in favor of the motion (6-0).

The meeting was adjourned at 9:37pm without objection.

Respectfully submitted,

Rick Milner
Recording Secretary