



Meeting Minutes
North Hampton Planning Board
Tuesday, September 6, 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, 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.

I. Old Business

1. Case #19:03 – Applicant: Norse Properties, LLC – Brent Flemming, 331 Exeter Road, Hampton Falls, NH 03844. The Applicant requests the release of the site work performance guarantee held by the Town of North Hampton associated with 2019 site plan approval. Property Owner: Norse Properties, LLC, 331 Exeter Road, Hampton Falls, NH 03844; Property Location: 58 Lafayette Road; M/L: 007-118-000; Zoning District: I-B/R, Industrial – Business/Residential District and R-1, High Density District.

In attendance for this application:

Joe Coronati, engineer.

Mr. Coronati addressed the Board. Mr. Coronati explained that the landscaping work within the wetlands restoration area associated with the 2019 site plan for the new building project at 58 Lafayette Road has now been completed. The wetlands channel is now full of vegetation and the plantings indicated on the site plan have been installed. The applicant requests the release of the remaining \$24,802.00 of the site work performance guarantee. The applicant understands that the \$5,700.00 performance guarantee associated with ensuring the sustainability of the site plantings will be held for the remainder of the first two growing seasons required by the Site Plan Regulations.

Mr. Harned and Mr. Milner stated that they inspected the site and agree that the landscaping conforms to the site plan and appears to be functioning as intended.

Mr. Maggiore moved that the Planning Board authorize the release of the \$24,802.00 site work performance guarantee held by the Town of North Hampton associated with the 2019 site plan approval for the property located at 58 Lafayette Road and retain the \$5,700.00 landscaping guarantee for the remainder of the two growing seasons required by the Site Plan Regulations. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (7-0).

2. 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 the following waivers:

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

c. Zoning Ordinance Section 603.11.G and L – Maximum Density to allow eight single family homes
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; and Erik Saari, engineer.

Mr. Saari addressed the Board. Mr. Saari noted that the case was continued at the last meeting to allow the Planning Board to seek legal counsel advice. Mr. Saari asked the Board for feedback from the Board's session with legal counsel.

Mr. Harned explained that the Board's session with legal counsel was confidential and considered a non-meeting by State of New Hampshire RSA's. The Board did not provide information regarding its session with legal counsel.

Mr. Saari asked if any Board members had additional questions or comments regarding the proposed conservation subdivision plan. No questions or comments were raised. Mr. Saari requested that the Board consider taking jurisdiction of the application.

Mr. Wilson moved that the Planning Board find that the application is complete and take jurisdiction of the Case #22:10 Subdivision 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 on property located at Tax Map 007-168-000. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (7-0).

Mr. Wilson suggested that the Board take up the waiver requests in the order listed on the meeting notice.

a. Subdivision Regulations Section X.A.3 – Street Design and Construction Standards to allow a cul-de-sac.

Mr. Wilson stated his opinion that a waiver to allow a cul-de-sac roadway design which is prohibited by the regulations is not necessary since the applicant has demonstrated in the proposed yield plan that a roadway design which conforms to the regulations is achievable.

Mr. Kroner stated his opinion that the cul-de-sac roadway design which proposes the installation of less pavement than a conforming roadway design is more consistent with the purpose and intent of the conservation subdivision ordinance provisions.

Mr. Harned opened the public hearing at 6:50pm.

Arthur Nadeau addressed the Board. Mr. Nadeau stated that he was in favor of a cul-de-sac since less impervious surface will be installed with this type of roadway design.

James Irish, Hampton Road and Gun Club Board of Directors member, addressed the Board. Mr. Irish stated a loop type roadway which conforms to the regulations would encroach upon the 300 foot safety buffer from the gun club's shooting range and hinder gun club activities.

Mr. Harned closed the public hearing at 6:55pm.

Mr. Wilson stated his opinion that, if a cul-de-sac roadway design which is not in conformance to the regulations is allowed, then a condition of approval should be included which makes the proposed road a private road. There should be a balance between the Town's roadway regulation requirements and the proposed relief to the applicant to allow a denser development on a shorter span of roadway. The concept of a conservation subdivision is not a matter of right. It is something that is allowed if the overall purpose of conservation subdivision section of the zoning ordinance and certain provisions of the ordinance are satisfied.

Mr. Phoenix stated that the condition requiring that a cul-de-sac roadway design be a private road is not consistent with other examples of subdivision proposals and is not fair or reasonable to impose in this case.

Mr. Harned expressed his concern that, if the Board approved a cul-de-sac roadway design and the conservation subdivision proposal was not approved, then the applicant could use a cul-de-sac design in a revised proposal for a conventional subdivision.

Mr. Saari, Ms. Rowden, and Mr. Milner all advised the Board, that if the conservation subdivision application was not approved, then any proposal for a conventional subdivision would be considered a new application for which none of the Board's decisions regarding waivers for the conservation subdivision would apply.

Mr. Kroner moved that the Planning Board grant the request to waive the requirements of Subdivision Regulations Section X.A.3 to allow a cul-de-sac roadway where a loop is required as represented in the application presented to the Board. This decision is based on the following findings of fact:

1. The criteria indicated in Town of North Hampton Zoning Ordinance 603.6.C.1-3 have been met in that:

a. The waiver is related to unique physical conditions peculiar to the proposed subdivision and the application proposes a conservation subdivision which reduces the adverse impact of roadway and impervious surfaces.

b. Granting the waiver will not be contrary to the purposes and objectives of the Conservation Subdivision section of the Zoning Ordinance.

c. Granting the waiver will not adversely affect the public good.

2. The criteria indicated in Town of North Hampton Subdivision Regulations Section XIII.B.1 have been met in that adherence to Subdivision Regulations Section X.A.3 is not requisite to the interest of public health, safety, general welfare, and does not contribute to the objectives of the regulations because of special circumstances and conditions relating to this particular conservation subdivision proposal.

Second by Ms. Gamache. The vote was 6-1 in favor of the motion with Mr. Wilson opposed.

b. Subdivision Regulations Section X.B.1 – Roadway Specifications to allow a 22 foot wide roadway.
Mr. Harned opened the public hearing at 7:21pm. No comments were made. Mr. Harned closed the public hearing at 7:22pm.

Mr. Kroner moved that the Planning Board grant the request to waive the requirements of Subdivision Regulations Section X.B.1 to allow a roadway width of 22 feet where 24 feet is required as

represented in the application presented to the Board. This decision is based on the following findings of fact:

1. The criteria indicated in Town of North Hampton Zoning Ordinance 603.6.C.1-3 have been met in that:

a. The waiver is related to unique physical conditions peculiar to the proposed subdivision and the application proposes a conservation subdivision which reduces the adverse impact of roadway and impervious surfaces.

b. Granting the waiver will not be contrary to the purposes and objectives of the Conservation Subdivision section of the Zoning Ordinance.

c. Granting the waiver will not adversely affect the public good.

2. The criteria indicated in Town of North Hampton Subdivision Regulations Section XIII.B.1 have been met in that adherence to Subdivision Regulations Section X.B.1 is not requisite to the interest of public health, safety, general welfare, and does not contribute to the objectives of the regulations because of special circumstances and conditions relating to this particular conservation subdivision proposal. Second by Ms. Gamache. The vote was unanimous in favor of the motion (7-0).

c. Zoning Ordinance Section 603.11.G and L – Maximum Density to allow eight single family homes. Mr. Harned opened the public hearing at 7:25pm. No comments were made. Mr. Harned closed the public hearing at 7:26pm.

Ms. Monaghan stated that the applicant relied on a maximum density calculation and a yield plan which used lot size figures associated with duplex development to obtain eight dwelling units (four duplex buildings with two dwelling units each) and converted the dwelling units to eight single family units because the applicant knew that the allowed density would be significantly less using lot size figures associated with single family homes. In her opinion, if the applicant proposes single family homes, then lot size figures associated with single family homes should be used to calculate the allowed density. Ms. Monaghan stated that she is opposed to the waiver request since the applicant's density calculation process does not follow reason.

Mr. Wilson stated that the applicant's density calculation process is not consistent with the spirit and intent of the conservation subdivision section of the zoning ordinance.

Ms. Monaghan moved that the Planning Board deny the request to waive the requirements of Zoning Ordinance Sections 603.11.G and L to allow eight single family home lots within the proposed conservation subdivision. This decision is based on the following finding of fact:

The applicant's use of lot size figures associated with duplex development when formulating the proposed maximum density calculation and the proposed yield plan to obtain a proposed allowed density of four duplex lots with eight dwelling units and converting the units into eight proposed single family home lots does not stand to reason and is not consistent with the spirit and intent of the zoning ordinance. Second by Mr. Wilson. The vote was 5-2 in favor of the motion with Mr. Kroner and Ms. Gamache opposed.

Mr. Saari stated that, based on the Board's decision to not allow eight single family home lots, the applicant will revise the proposed plan by eliminating every other lot line and creating four duplex home lots along the same proposed cul-de-sac roadway with the same utility and infrastructure improvements.

Mr. Saari addressed the Board regarding the Conditional Use Permit portion of the application. Mr. Saari noted the following conditions of the property:

- a. The 14 acre property has been aggressively timber cut.
- b. The wetland buffers are still intact.
- c. There is a significant portion of forested land at the rear of the property.
- d. The open timber cut portion of the property will re-grow vegetation in the future.
- e. There are links to other land which have conservation value.
- f. The proposed development has been consolidated near the front of the property to allow as much land as possible on the property to remain open.

Mr. Wilson asked Mr. Saari to estimate where the previous timber cutting activity ends and the forested land begins.

Mr. Saari indicated on the proposed plan an estimated location of the boundary line between the cut and forested areas on the property. Mr. Dave Michno, Hampton Road and Gun Club Board of Directors member, addressed the Board. Mr. Michno discussed the estimated tree cut boundary line location and estimated amounts of tree cover at the rear of the property in the vicinity of the gun club property with the Board.

Ms. Rowden recommended that the Board conduct a site walk of the property and obtain a third party review of the functions and values of the proposed open space on the property for conservation purposes.

Mr. Wilson suggested that the applicant mark the locations of the selective tree harvesting and the extensive timber clear cutting on the property in preparation for a site walk. Mr. Wilson asked for clarification on the width of the access easements to the gun club property and the applicant's other property adjacent to the rear of the subject property.

Mr. Saari stated that the access easements will be 20 feet wide.

Mr. Kroner moved that the Board authorize the Chair to engage Leonard Lord or other suitable professional to evaluate the functions and values of the proposed open space on the property for conservation purposes relative to the specific criteria of Town of North Hampton Zoning Ordinance Section 603 – Conservation Subdivision Design. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (7-0).

Mr. Kroner moved that the Planning Board schedule a site walk at the Map/Lot 007-168-000 site off Atlantic Avenue as part of the Subdivision application review process for Case #22:10 on September 27, 2022 at 3:00pm with a rain date of September 29, 2022 at 11:00am. Second by Mr. Maggiore. The vote was unanimous in favor of the motion (7-0).

Mr. Wilson moved that the Planning Board continue Case #22:10 to the October 4, 2022 meeting date. Second by Mr. Etela. The vote was unanimous in favor of the motion (7-0).

3. 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. Valhouli addressed the Board. Mr. Valhouli explained that the case had been continued to allow the applicant to revise her application in order to address the following concerns of the Board with the original proposal:

- a. common door location between the accessory dwelling unit (ADU) and the principal dwelling unit and
- b. the features of the home resembled a duplex structure, not a single family home.

Mr. Valhouli presented revised architectural and floor plans for a single family home with an ADU contained within the structure. The revised application now includes the following features in conformance with the zoning ordinance:

- a. a structure which resembles a single family home, not a duplex,
- b. the proposed ADU living area is located entirely above the proposed garage,
- c. a proposed floor area for the ADU of 794 square feet which is less than the 800 square foot maximum allowed by the zoning ordinance,
- d. no front entrance for the ADU, and
- e. the common doorway is centrally located between the accessory dwelling unit (ADU) and the principal dwelling unit living areas.

Mr. Kroner stated that the redesigned home and ADU conform with the structural element requirements of the zoning ordinance in his opinion. Mr. Kroner asked if one of the units will be owner occupied as required by the zoning ordinance.

Mr. Valhouli stated that the home will be occupied by the applicant's family members who are members of the limited liability company that owns the property.

Ms. Monaghan asked for clarification regarding the common doorway location and if the square footage of the stairway to the ADU unit is included in the ADU floor area calculation.

Mr. Valhouli indicated the common doorway location on the proposed floor plan. Mr. Valhouli stated that the square footage of the stairway to the ADU unit was included in the ADU floor area calculation.

Mr. Harned opened the public hearing at 8:15pm. No comments were made. Mr. Harned closed the public hearing at 8:16pm.

Mr. Wilson moved that the Planning Board approve the Case #22:13 Conditional Use Permit application to allow an accessory dwelling unit for the property located at Tax Map/Lot 018-008-001 as represented in the plan and application materials presented to the Board. This decision is based on the following finding of fact:

1. The application meets all of the criteria for an accessory dwelling unit as indicated in Zoning Ordinance Section 401.

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

4. Case #22:17 – Applicant: Rowan Perkins, 108 Exeter Road, North Hampton, NH 03862. The Applicant requests a Conditional Use Permit to allow agricultural and animal husbandry activities. Property Owner: Susanne J. Cronin, 108 Exeter Road, North Hampton, NH 03862; Property Location: 108 Exeter Road; M/L: 009-006-000; Zoning District: R-2, Medium Density District.

In attendance for this application:

Rowan Perkins, applicant.

Mr. Harned informed the public that the case had been continued from the last meeting to allow the applicant to review the proposed animal husbandry activities with the Agricultural Commission as required by the zoning ordinance. A review letter from the Agricultural Commission and the minutes of the Agricultural Commission meeting with the applicant have been submitted to the Planning Board members.

Ms. Rowan addressed the Board. Ms. Rowan stated that members of the Agricultural Commission conducted a site walk of the 2.3 acre property at 108 Exeter Road to evaluate the animal husbandry proposal. The Agricultural Commission indicated its support of the Conditional Use Permit application in its review letter. Also, in its review letter the Agricultural Commission noted that:

- a. The applicant had moved the proposed locations of the manure piles away from the easterly abutter's property.
- b. The easterly abutter expressed to the Agricultural Commission that she felt better about the proposal with the re-location of the manure piles.

Ms. Rowan stated that the revised application included the following:

- a. removal of the winter manure pile from the proposal,
- b. moved isolation manure pile away from the easterly abutter's property to the westerly side of the property,
- b. the maximum total number of animals at any one time, excluding poultry, will be 15 (up to 13 goats, one sheep, and one pig), and
- c. 11 chickens on the property.

Ms. Monaghan asked Ms. Rowan to explain the nature of animal neglect complaints associated with previous animal care activities on the property.

Ms. Rowan stated that previous animal neglect complaints associated with Ms. Rowan and the property owner were investigated by the Police Department. The Police Department found no evidence of neglect. There was one instance of neglect associated with other people who were renting space on the property to care for pigs. The applicant and the property owner no longer rent space to other people for animal care.

Ms. Rowden suggested that, if the Board approves the application, a condition of approval be added which states that the applicant must follow State of NH Best Management Practices associated with the types of animals that the applicant proposes to care for on the site.

Mr. Etela stated his concern that animal husbandry activities for 15 animals and 11 chickens on a 2.3 acre property seems to be a lot.

Mr. Harned stated his opinion that the proposal satisfies the Best Management Practices required by the State of NH.

Mr. Harned opened the public hearing at 8:29pm.

John Sillay addressed the Board. Mr. Sillay stated that he does not consider the area of North Hampton where the 108 Exeter Road property is located as being rural in nature. Mr. Sillay also stated his concerns with the future care of animals on the property based on the past neglect complaints.

Joan Ganotis, Agricultural Commission Vice Chair, addressed the Board. Ms. Ganotis stated that, upon review of the past animal neglect reports, most of the neglect complaints were dismissed. The animals currently on the site receive good care. There are no excessive odors or pests emanating from the manure piles. The increase in the number of animals on the property will be gradual over time. The goats and other animals are smaller in size and will not overwhelm the property. Ms. Ganotis stated that she is confident that the proposed animal husbandry activities will be a benefit to the Town of North Hampton.

Christopher Johnson, owner of the easterly abutting property, addressed the Board. Mr. Johnson stated that, upon more thorough review of the proposed activities and learning the intention of the animal husbandry plan, he is now in support of the application. However, Mr. Johnson suggested that annual check-ins be conducted to ensure that the animal husbandry activities are operating as approved. Also, the code enforcement officer should become involved immediately in resolving possible future code violations.

Mr. Harned closed the public hearing at 8:38pm.
The Board discussed various aspects of code enforcement.

Mr. Maggiore moved that the Planning Board approve the Case #22:17 Conditional Use Permit application to allow animal husbandry activities at 108 Exeter Road as represented in the plan and application materials presented to the Board.

This decision is based on the following finding of fact:

1. The criteria indicated in Town of North Hampton Zoning Ordinance 602.5.B.2.b. have been met in that the application is in conformance with best management practices and guidelines based on the New Hampshire Department of Agriculture manual entitled "Best Management Practices for Handling of Compost, Fertilizer and Manure" and The University of New Hampshire Cooperative Extension publication entitled "Guidelines for Space and Housing of Farm Animals" as detailed in the Town of North Hampton Agricultural Commission letter dated August 18, 2022.

This decision is subject to the following conditions:

1. The applicant shall follow the best management practices and guidelines outlined by the State of New Hampshire Department of Agriculture, the University of New Hampshire Cooperative Extension, and the Town of North Hampton Agricultural Commission letter dated August 18, 2022.

2. The applicant shall submit an annual report by October 1 of each year affirming that the allowed animal husbandry activities as approved by the Planning Board have been conducted in conformance with the best management practices and guidelines.

Second by Mr. Kroner.

Discussion of the motion – Mr. Kroner stated that he is familiar with similar animal husbandry businesses with much larger amounts of animals on a two acre property which operate without creating any problems for the community.

The vote was 6-1 in favor of the motion with Ms. Monaghan opposed.

II. New Business

1. Case #22:19 – Applicant: Rico Riciputi, 47 Wild Rose Lane, Hampton, NH 03842. The Applicant requests a Minor Review for operation of an indoor golf simulator and social club. Property Owner: Gary Stevens, Trustee, The Stevens Realty Trust, 69 Lafayette Road, North Hampton, NH 03862; Property Location: 69 Lafayette Road, North Hampton, NH 03862; M/L: 007-065-000; Zoning District: I-B/R, Industrial – Business/Residential District.

In attendance for this application:

Rico Riciputi, applicant; Gary Stevens, property owner.

Mr. Riciputi addressed the Board. Mr. Riciputi stated that he intends to operate an indoor instructional golf and social club within a unit next to the auto parts supply store located at 69 Lafayette Road. Mr. Riciputi explained that he is the Director of Instruction at a local golf club and is certified as a PGA professional. The indoor club will have the following features;

- a. three trackman golf simulators to be used for instructional and recreational activities,
- b. 500 square foot putting green,
- c. lounge area,
- d. storage room, and
- e. beer, wine, liquor, and soft drinks will be served along with snacks from a commercial refrigerator placed behind a small check-in counter.

Ms. Monaghan asked if the proposed club will be open to the public or be limited to club members.

Mr. Riciputi stated that the club is geared toward membership. However, the public may come in between the hours of 10:00am and 4:00pm, Monday through Friday, to use the facility. The club will be open from 8:00am to 8:00pm for members.

Ms. Monaghan asked for clarification regarding the instruction and lounge areas.

Mr. Riciputi presented a floor plan from the application package and indicated the instruction and lounge areas on the floor plan. Mr. Riciputi stated that there will be no restaurant included within the club.

Mr. Etela stated his concern with excessive noise from clubs striking golf balls and golf balls striking the simulator backdrops disrupting tenants in adjoining units.

Mr. Harned stated his opinion that the property owner will be responsible for handling noise problems between different tenants inside the building.

Gary Stevens, property owner, addressed the Board. Mr. Stevens stated that the unit has thick fire walls with insulation that were recently installed within the past year. This type of wall should reduce any noise problems. Also, he will address noise concerns if there are complaints from tenants.

Mr. Wilson moved that the Planning Board find that the application is complete and take jurisdiction of the Case #22:19 Minor Review application for operation of an indoor golf simulator and social club at 69 Lafayette Road. Second by Mr. Maggiore. The vote was unanimous in favor of the motion (7-0).

Mr. Harned opened the public hearing at 9:09pm. No comments were made. Mr. Harned closed the public hearing at 9:10pm.

Mr. Maggiore moved that the Planning Board approve the Minor Review application as presented for an indoor golf simulator and social club business at 69 Lafayette Road. This decision is based on the following findings of fact:

1. The application meets all of the criteria for a Minor Review as indicated in Site Plan Regulations Section V.C.

2. The proposed use is a permitted use within the underlying Industrial-Business/Residential Zoning District as indicated in Zoning Ordinance Section 202.4.

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

III. Other Business

1. Planning Board operating budget review.

Mr. Milner stated that the Select Board requested that all departments submit a proposed Fiscal Year (FY) 2023-2024 operating budget for review by the Select Board. Mr. Milner presented the current FY2022-2023 operating budget figures to the Board. Mr. Milner asked the Board if it was comfortable with submitting a level-funded budget with no additional discretionary spending for FY2023-2024. The Board came to a consensus without objection to submit a proposed FY2023-2024 operating budget for the Planning and Zoning Department level funded in relation to the discretionary spending lines of the FY2022-2023 operating budget.

Mr. Harned suggested that the Select Board consider adding funds to the Town's legal consultation line within future operating budgets to account for possible additional legal counsel consultation activities in the future necessitated by recently adopted state laws requiring land use boards to craft decisions with detailed findings of facts and legal justifications. Mr. Maggiore stated that he will take Mr. Harned's suggestion to the full Select Board for consideration.

2. Minutes.

Mr. Harned presented the minutes of the August 16, 2022 meeting.

Ms. Monaghan moved that the Planning Board accept the minutes of the August 16, 2022 meeting as written. Second by Mr. Wilson. The vote was unanimous in favor of the motion (7-0).

The meeting was adjourned at 9:18pm without objection.

Respectfully submitted,

Rick Milner, Recording Secretary