



**Meeting Minutes**  
**North Hampton Planning Board**  
**Tuesday, March 7, 2023 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, and Valerie Gamache; Alternate Member Rob Omberg; Jennifer Rowden, RPC Circuit Rider; and Rick Milner, Recording Secretary.

Chair Harned called the meeting to order at 6:35pm.

**Ms. Monaghan moved that the Planning Board allow Mr. Maggiore to participate in the meeting by electronic connection. Second by Mr. Wilson. The roll call vote was unanimous in favor of the motion (6-0).**

Mr. Maggiore could not establish an electronic connection to the meeting. Mr. Maggiore did not participate in the meeting.

**I. Old Business**

**1. Case #22:24 – Applicant: Route One Convenience Store, LLC, 39 Freetown Road, Unit 1, Raymond, NH 03077.** The Applicant requests a Site Plan Review for proposed demolition of two existing buildings and construction of a 4,350 square foot convenience store building, motor vehicle refueling service facility, and other site improvements within 62,200 square foot area at front of 180 Lafayette Road multi-use commercial property. The Applicant also requests a Conditional Use Permit to allow convenience store and motor vehicle refueling facility uses within the Aquifer Protection District. The Applicant also requests a Conditional Use Permit to allow some lighting fixtures to exceed the maximum height allowed by the zoning ordinance. Property Owners: Arlene A. Jewett, Trustee, The Arlene A. Jewett Revocable Trust of 2002; Edward Jewett, Trustee, The Edward Jewett Revocable Trust of 2002; Kellie A. Jewett, Trustee, The Kellie A. Jewett Living Trust; Timothy J. Wallace, Trustee, The Timothy J. Wallace Living Trust; Twilight Years, LLC; All owners above c/o 39 Freetown Road, Unit 1, Raymond, NH 03077. David E. Howard, Trustee, The David E. Howard Revocable Trust, c/o P.O. Box 3385, Concord, NH 03302; Property Location: 180 Lafayette Road, North Hampton, NH 03862; M/L: 017-086-000; Zoning District: I-B/R, Industrial – Business/Residential District.

In attendance for this application:

Kellie A. Jewett, property owner; Curt Neufeld, engineer; Justin Pasay, attorney; Brandon Cummings, consultant.

Mr. Neufeld addressed the Board. Mr. Neufeld presented a revised site plan to the Board which included the following changes to address concerns expressed by Board members at previous meetings:

- a. underground fuel storage tanks and refilling area moved to the southerly side of the site,
- b. stormwater management features moved to the northerly side of the site,
- c. septic system design reconfigured,
- d. parking spaces reconfigured, and
- e. traffic flow changes.

Mr. Wilson stated that the applicant's attorney has submitted a letter to the Planning Board requesting that the Planning Board refer the case to Town Counsel for review and comment. The substance of the request is that the applicant's attorney argues that the Planning Board has no jurisdiction over the question of an aquifer district conditional use permit being applied to this case.

**Mr. Wilson moved that, in view of the applicant's request, the Planning Board continue Case #22:24 to the April 4, 2023 meeting date and refer the issue to Town Counsel for advice. Second by Ms. Monaghan. The roll call vote was unanimous in favor of the motion (6-0).**

## **II. New Business**

**1. Case #23:03 – Applicant: Brian Dube, 64 Cobblers Ridge Road, Danville, NH 03819.** The Applicant requests Conditional Use Permits to allow the following:

- a. construction of a driveway and wetlands crossing culvert within the wetlands buffer and
- b. construction of a septic system which does not meet Aquifer Protection District Ordinance separation from ground water requirement.

Property Owner: WNRV, LLC, 7B Emery Lane, Stratham, NH 03885. Property Location: Road front lot and back land lot off of Post Road between 75 and 83 Post Road; M/L: 008-100-000 and 008-101-000; Zoning District: R-1, High Density District.

### In attendance for this application:

Brian Dube, applicant; Tim Phoenix, attorney; Christopher Albert, wetlands scientist; Abby Thompson Fopiano, hydrologist.

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

- a. a 1.46 acre lot (M/L 008-100-000) with 0.37 acres of uplands and frontage along Post Road,
- b. a 4.67 acre lot (M/L 008-101-000) with 1.67 acres of uplands on back land with no frontage along a town road abutting the rear of the Post Road lot,
- c. an existing dirt path starting on Post Road, crossing through the front lot, and ending at the upland area of the rear lot,
- d. a brook along the boundary line shared by both properties,
- e. a wetlands crossing culvert at the point where the dirt path crosses the brook,
- f. delineated wetlands areas, wetlands setback areas, and uplands areas on both lots,
- g. proposed single family home and septic system construction within uplands area on the rear lot (M/L 008-101-000),
- h. proposed driveway and utilities construction from Post Road, through front lot (M/L 008-100-000), and ending at the proposed home, and
- i. proposed reconstruction of the wetlands crossing culvert.

Mr. Phoenix stated that the dirt road and front lot (M/L 008-100-000) have been in existence since 1939. The rear lot (M/L 008-101-000) was created in 1951. The front lot is burdened by an existing right of way along the dirt road for the benefit of accessing the rear lot. The application of the allowed 50 foot wetlands setback on the rear lot provides sufficient area for the proposed construction of a single family home on the rear lot. The proposed home will be served by municipal water, septic system, and a driveway along the existing woods path from Post Road and crossing over the front lot. The applicant was granted a variance from the Zoning Board of Adjustment (ZBA) to allow construction of the proposed home and other improvements on a lot with no frontage (M/L 008-101-000).

Mr. Phoenix stated that the applicant is seeking relief from the wetlands setbacks requirements for construction of the proposed driveway and wetlands crossing culvert. The applicant is also seeking relief from the Aquifer Protection District Ordinance requirement that the seasonal high water table must be at least two feet below the original ground surface of the leaching field associated with the proposed septic system.

Mr. Albert addressed the Board. Mr. Albert presented recently received State of NH permits for the proposed project and review letter from the Town of North Hampton Fire Chief. Mr. Albert noted that the State of NH Natural Heritage Bureau requested that the culvert be made with concrete instead of plastic. Other minor changes from the original submittal are noted on the plan set.

Mr. Wilson asked why corrugated steel is not proposed to be used to construct the culvert.

Mr. Albert explained that concrete has a longer life expectancy than corrugated steel.

Mr. Harned asked Mr. Albert to explain the changes on the plan set which differ from the original submittal.

Mr. Albert stated that the only changes are the culvert construction material and proposed parking/pull-out area for emergency vehicles near the entrance to the driveway on Post Road.

Ms. Fopiano presented aquifer mapping of the M/L 008-101-000 property and a review letter from the Conservation Commission. Ms. Fopiano stated that there will be no wellhead contamination issues associated with this proposal since the home will be serviced by a water line, not a well. The closest wells are 1,300 to 2,500 feet away from the proposed home construction area. The proposed leach field is not considered a potential contamination source for ground water in that the septic system is specially designed to treat wastewater prior to effluent disposal. The proposed residential use would not store any potentially hazardous materials.

Ms. Gamache asked if any materials or chemicals commonly bought by a homeowner at a retail store would be a possible groundwater contamination source.

Ms. Fopiano responded that, as long as a homeowner followed the manufacturer's specifications for a particular product, store bought materials or chemicals would not be a groundwater contamination source.

Mr. Albert noted that the proposed raised septic system, including the sloped mound, will meet the 75 foot wetlands setback requirement.

Mr. Kroner asked if the driveway will be constructed or will the path just be covered with gravel.

Mr. Albert stated that the driveway was already constructed in 1951. The driveway surface will be modified with the addition of crushed gravel.

Mr. Phoenix stated that the groundwater is presently 12 to 15 inches below the ground. The proposed septic system will be raised 30 inches to provide more than the required 24 inches of groundwater separation from the leach field.

Mr. Phoenix read from his memorandum submitted in the application materials. The memorandum stated the applicant's reasoning for how the proposal satisfies the several criteria for granting a conditional use permit to allow the construction of the driveway and culvert within the wetlands setbacks and for granting a conditional use permit to allow construction of the septic system as proposed within the Aquifer Protection District.

Ms. Monaghan asked for clarification regarding the conditions attached to the ZBA variance approval.

Mr. Phoenix explained that the properties could not be sold separately and that no structures or development could occur on the front lot (M/L 008-100-000) with the exception of the driveway and utilities necessary for the proposed home on the rear lot (M/L 008-101-000).

Mr. Harned asked why the applicant did not merge the two lots to gain the required frontage for development.

Mr. Phoenix explained that, if the two lots were merged, the new lot would be subject to a 100 foot wetlands setback as opposed to a 50 foot wetlands setback if the lots remained separate. With a 100 foot wetlands setback, the proposed home, garage, septic system, and longer portions of driveway would need wetlands setback relief. The applicant decided that it was more reasonable to keep the lots separate and request a frontage variance rather than more substantial relief associated with the 100 foot wetlands setback requirement.

Mr. Wilson asked if the lots may be merged at a later date.

Mr. Phoenix stated that it was possible that the lots could be merged in the future.

**Ms. Monaghan moved that the Planning Board find that the applications are complete and take jurisdiction of the Case #23:03 Conditional Use Permit applications to allow construction of a driveway and wetlands crossing culvert within the wetlands buffer and construction of a septic system which does not meet Aquifer Protection District Ordinance separation from ground water requirement. Second by Mr. Wilson. The roll call vote was unanimous in favor of the motion (6-0).**

Mr. Kroner asked if the proposed home would have a basement due to the high water table.

Mr. Albert responded that the ground level at the proposed home location will be raised to allow for a basement in the proposed home.

Ms. Rowden suggested that any Planning Board approval have the same conditions as the ZBA variance approval.

Mr. Harned opened the public hearing regarding relief from the wetlands setback requirement for the proposed driveway and culvert construction at 7:25pm. No comments were made. Mr. Harned closed the public hearing at 7:26pm.

**Mr. Wilson moved that the Planning Board approve the Case #23:03 Conditional Use Permit application to allow construction of a driveway and wetlands crossing culvert within the Wetlands**

Conservation District buffer zone as represented in the plan presented to the Board subject to the following conditions:

1. As voluntarily proposed and agreed to by the applicant and the property owner, the following deed restrictions shall be established and recorded for both M/L 008-100-000 and M/L 008-101-000:

a. M/L 008-100-000 and M/L 008-101-000 shall only be conveyed together, not separately.

b. No structures shall be erected and no development shall occur on the M/L 008-100-000 property, with the exception of the driveway and wetlands crossing which enable access to the M/L 008-101-000 property and necessary utilities features for the proposed home on the M/L 008-101-000 property within the area of the proposed driveway.

2. The applicant receives all required federal, state, and local permits and approvals including, but not limited to, Building Department and Fire Department permits and approvals.

This decision is based on the following finding of fact:

1. The application meets all relevant Conditional Use Permit criteria as indicated in Zoning Ordinance Section 501.

Second by Mr. Etela. The roll call vote was unanimous in favor of the motion (6-0).

Mr. Harned opened the public hearing regarding relief from the Aquifer Protection District requirement for the proposed septic system construction at 7:31pm. No comments were made. Mr. Harned closed the public hearing at 7:32pm.

Mr. Wilson moved that the Planning Board approve the Case #23:03 Conditional Use Permit application to allow construction of a septic system in an area which does not meet Aquifer Protection District Ordinance Section 503.6.F.2 seasonal high water table requirement as represented in the plan presented to the Board subject to the following conditions:

1. As voluntarily proposed and agreed to by the applicant and the property owner, the following deed restrictions shall be established and recorded for both M/L 008-100-000 and M/L 008-101-000:

a. M/L 008-100-000 and M/L 008-101-000 shall only be conveyed together, not separately.

b. No structures shall be erected and no development shall occur on the M/L 008-100-000 property, with the exception of the driveway and wetlands crossing which enable access to the M/L 008-101-000 property and necessary utilities features for the proposed home on the M/L 008-101-000 property within the area of the proposed driveway.

2. The applicant receives all required federal, state, and local permits and approvals including, but not limited to, Building Department and Fire Department permits and approvals.

This decision is based on the following finding of fact:

1. The application meets all relevant Conditional Use Permit criteria as indicated in Zoning Ordinance Section 503.

Second by Ms. Gamache. The roll call vote was unanimous in favor of the motion (6-0).

2. Case #23:04 – Applicant: Frank Kurland, Jr., 252A Atlantic Avenue, North Hampton, NH 03862. The Applicant requests Conditional Use Permits to allow the following:

a. construction of an accessory structure (garage) within the side yard structural setback,

b. construction of a deck within the wetlands buffer, and

c. construction of a driveway within the wetlands buffer.

Property Owner: Frank Kurland, Jr., 252A Atlantic Avenue, North Hampton, NH 03862. Property Location: 252A Atlantic Avenue, North Hampton, NH 03862; M/L: 014-031-000; Zoning District: R-1, High Density District.

In attendance for this application:

Frank Kurland, Jr., property owner; Justin Pasay, attorney; Henry Boyd, engineer; Brenden Walden, wetlands scientist.

Mr. Pasay addressed the Board. Mr. Pasay presented a site plan to the Board which included the following:

- a. an existing home and gravel driveway on a 5.38 acre property,
- b. delineated wetlands areas, wetlands setback areas, and uplands areas,
- c. a proposed 36 foot by 30 foot garage with perimeter stormwater infiltration trench and proposed gravel driveway in the rear southwesterly corner of the property,
- d. a proposed 700 square foot planting area to contain 20 shrubs along driveway near new garage, and
- e. a proposed 10 foot by 20 foot deck off the rear of the home.

Mr. Pasay also presented the following documents in the application materials submitted to the Board:

- a. site condition photos,
- b. wetlands scientist report,
- c. architectural renderings for the proposed garage, and
- d. Town wetlands maps.

Mr. Pasay explained that the property was heavily constrained by a large area of wetlands. If the 100 foot wetlands setback requirement is applied, only 4,000 square feet of buildable area would remain. Therefore, a 50 foot wetlands setback is allowed by the zoning ordinance for this property. However, the result of the applicant's proposal, as outlined in the wetlands scientist report, will be a net positive for the site and the wetlands in the area.

Mr. Pasay stated that the 414 square feet of proposed driveway surface which lies within the 50 foot wetlands buffer area will be constructed with a pervious surface that will infiltrate water. He believes that a conditional use permit to allow the driveway construction is not necessary.

The Board members discussed the pervious nature of the driveway material. The Board came to a consensus without objection that a conditional use permit is not required to allow construction of the proposed driveway as long as the pervious nature of the driveway is maintained in the future.

Mr. Pasay explained that the proposed garage construction needed relief through issuance of a conditional use permit to allow the garage to be placed within 12.4 feet of the side yard lot line where a 25 foot setback is required.

**Ms. Monaghan moved that the Planning Board find that applications are complete and take jurisdiction of the Case #23:04 Conditional Use Permit applications to allow construction of an accessory structure (garage) within the side yard structural setback and construction of a deck within the wetlands buffer.**

**Second by Mr. Kroner. The roll call vote was unanimous in favor of the motion (6-0).**

Mr. Harned opened the public hearing regarding relief from the side yard structural setback requirement for the proposed garage construction at 7:45pm. No comments were made. Mr. Harned closed the public hearing at 7:46pm.

Ms. Monaghan asked for clarification regarding the uses of the proposed garage structure.

Mr. Kurland addressed the Board. Mr. Kurland stated that the garage would be used for covered storage of personal items such as a boat, car, and/or motorcycle.

Ms. Monaghan asked if the garage would be serviced by any utilities.

Mr. Kurland stated that the garage would only have electrical service.

Ms. Monaghan asked why the proposed remote rear location was chosen for the garage.

Mr. Kurland stated that the proposed location was the only feasible location in order to allow access to the rear of the home, the septic system, and the garage at the same time.

Mr. Boyd addressed the Board. Mr. Boyd stated that the proposed garage location was the only area outside of the 50 foot wetlands setback on the property.

**Mr. Wilson moved that the Planning Board approve the Case #23:04 Conditional Use Permit application to allow placement of an accessory structure (garage) within the accessory structure setback for property located at 252A Atlantic Avenue as represented in the plan presented to the Board. This decision is based on the following finding of fact:**

**1. The application meets all relevant Conditional Use Permit criteria as indicated in Zoning Ordinance Section 301.**

**Second by Ms. Gamache. The roll call vote was 5-1 in favor of the motion with Mr. Harned, Mr. Wilson, Mr. Kroner, Mr. Etela, and Ms. Gamache in favor and Ms. Monaghan opposed.**

Mr. Harned opened the public hearing regarding relief from the wetlands setback requirement for the proposed deck construction at 7:50pm. No comments were made. Mr. Harned closed the public hearing at 7:51pm.

Mr. Pasay stated the property has unique site conditions which he believes allows for the granting of a conditional use permit. The large five acre property has only 2.2% impervious coverage. The proposal will only add 0.6% impervious coverage to the property. As stated in the wetlands scientist report, the proposed improvements will have no adverse impact on the wetlands in the area. Proposed plantings, nesting areas, and bat houses will help to mitigate any effects of the improvements on the wetlands area and its functions. The deck will be a reasonable 10 feet by 20 feet in size, only one level high, and located 24.4 feet from the wetlands boundary at its closest point.

Ms. Monaghan asked how a deck is necessary to the productive use of the property.

Mr. Pasay stated that a deck is a common residential feature that is essential for the applicant's quiet enjoyment of his property which is almost entirely encumbered by wetlands. The deck is not contrary to the stated purposes of the residential zone in the zoning ordinance

Mr. Wilson noted that a deck is pervious by nature in most cases.

**Mr. Wilson moved that the Planning Board approve the Case #23:04 Conditional Use Permit application to allow construction of a deck within the Wetlands Conservation District buffer zone as represented in the application presented to the Board. This decision is based on the following finding of fact:**

**1. The application meets all relevant Conditional Use Permit criteria as indicated in Zoning Ordinance Section 501.**

**Second by Ms. Gamache. The roll call vote was unanimous in favor of the motion (6-0).**

**Mr. Wilson moved that the Planning Board finds that the Conditional Use Permit application to allow construction of a driveway within the wetlands buffer was not required subject to the following conditions:**

**1. The driveway is constructed as represented in the plan presented to the Planning Board and maintained as represented in the plan presented to the Planning Board in perpetuity.**

**2. A note indicating this decision is added to the notices of decision associated with the proposed construction of a garage and deck on the 252A Atlantic Avenue property.**

**Second by Mr. Etela. The roll call vote was unanimous in favor of the motion (6-0).**

**3. Case #23:05 - Applicant: Jessica King, The Honey Tree Learning Center, LLC, 135 High Street, Exeter, NH 03833.** The Applicant requests a Preliminary Consultation to discuss approval process for proposed child day care business. Property Owner: J & S Greystone Village, LLC, P.O. Box 1627, North Hampton, NH 03862; Property Location: 223 Lafayette Road, North Hampton, NH 03862; M/L: 021-001-000; Zoning Districts: I-B/R, Industrial – Business/Residential District and R-1, High Density District.

In attendance for this application:

Jessica King, applicant.

Ms. King addressed the Board. Ms. King stated that she was requesting advice from the Board regarding the appropriate approval process for operating a proposed child day care business within the building at the front of the 223 Lafayette Road property which also includes the Greystone Village mobile home park. A variance was granted in 2010 to allow only a professional office use in the building. The proposed child day care use will need a variance to allow a different type of business use on the residential property. Ms. King presented a site plan draft, site condition photos, and a description of the business operations for the Board's consideration.

Mr. Milner stated that the Planning office staff has given the applicant a preliminary opinion that a Minor Review application should be submitted to the Planning Board to receive Planning Board approval of the proposed use.

Mr. Harned asked if the septic system and the toilet facilities in the building are adequate for a day care use.

Ms. King explained that there are two toilets in the building. This amount satisfies the state requirements for the maximum number of children that will be on site at any one time. The maximum number of children that will use the facility at one time will be 40. The septic system is capable of



handling 1000 gallons of effluent per day. The estimated effluent produced by the proposed child day care use will be 430 gallons per day.

Ms. Rowden stated that she agrees that a Minor Review and a variance are necessary for review and approval of the proposed child day care business. In her opinion, the parking currently existing on the site is adequate for the proposed use.

Mr. Kroner stated that, as part of a minor review process, the applicant should present traffic flow/control and child drop-off plans for the site.

Ms. King stated that the Town of North Hampton Building and Fire Departments have started their review and inspection process.

Mr. Harned stated his opinion that a Minor Review application is the appropriate process for Planning Board review and approval of the proposed use. However, this opinion is non-binding and could change based on information presented in the official application.

### **III. Other Business.**

#### **1. Minutes.**

Mr. Harned presented the minutes of the February 21, 2023 meeting.

**Ms. Monaghan moved that the Planning Board accept the minutes of the February 21, 2023 meeting as written. Second by Mr. Wilson. The roll call vote was unanimous in favor of the motion (6-0).**

The meeting was adjourned at 8:30pm without objection.

Respectfully submitted,

Rick Milner  
Recording Secretary