



Meeting Minutes
North Hampton Planning Board
Tuesday, May 2, 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: Phil Wilson, Chair; Rob Omberg, Vice Chair; Members Nancy Monaghan, Shep Kroner, Lauri Etela, and Jim Maggiore, Select Board Representative; Alternate Member John Sillay; Jennifer Rowden, RPC Circuit Rider; and Rick Milner, Recording Secretary.

Chair Wilson called the meeting to order at 6:35pm.
Mr. Sillay was seated for Ms. Gamache.

I. Continued Business

1. Case #22:10 – Applicant: Glenn A. Martin, P.O. Box 281, North Hampton, NH 03862. The Applicant requests a four (4) lot Subdivision with associated roadway and utility improvements through the implementation of Town of North Hampton Zoning Ordinance Section 603 – Conservation Subdivision Design. 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; Marc Jacobs, wetlands scientist; and Ken Smith, blasting and drilling technical supervisor

Mr. Phoenix addressed the Board. Mr. Phoenix presented the following items based on Board member comments at the previous meetings:

- a. revised conservation easement documents,
- b. the bylaws, covenants, conditions, and restrictions for the homeowners association proposed for ownership of the conservation subdivision, and
- c. an agreement in principle with the gun club at the rear of the property regarding limited access to the portion of the 300 foot safety perimeter buffer from the rifle range on the gun club property which lies within the conservation open space area on the M/L 007-168-000 property.

Mr. Phoenix acknowledged that the applicant still needs to submit access easement draft language to allow access to the gun club property and Mr. Martin's back lot property through the M/L 007-168-000 property for the Board's review.

Mr. Smith addressed the Board regarding proposed blasting and drilling activities that will be required to prepare the land on the M/L 007-168-000 property for construction of the conservation subdivision. Mr. Smith stated that he has 48 years of blasting and drilling experience. In his opinion, the Town of North Hampton's blasting and excavation regulations, as written, are very protective of the surrounding neighborhood. The levels of allowed vibrations and the control procedures that must be followed are similar to NFPA and State of New Hampshire regulations.

Mr. Smith stated that the blasting/drilling/hammering activities associated with the proposed conservation subdivision project are not a significant challenge in his opinion. Any blasting charges will be scaled to the distance from the blasting area to the closest structure (i.e. the smaller the distance, the smaller the size of the blasting charge). The blasting activities will produce less vibration than existing environmental forces such as normal ground expansion/contraction or a thunder clap. If the applicable codes are followed during the blasting/drilling/hammering activities, there is a high probability of non-damage to surrounding structures.

Ms. Monaghan asked how long the proposed blasting activities will occur.

Michael Waterman, blasting technician, addressed the Board. Mr. Waterman stated that the blasting activities associated with this project would most likely last 20 days with more days to remove the dislodged rock. Based on 8-10 hour work days, Monday thru Friday, the entire blasting/drilling/hammering/removal activities should last approximately 35 days.

The Board and Mr. Smith discussed various aspects of the blasting/drilling/hammering activities such as noise levels, site security plans, hours of operation, pre-blast and post-blast survey details, vibration sensor placement, and communication with the school and abutters in the surrounding neighborhood.

Mr. Wilson opened the public comment session at 7:03pm.

Abutter Rick Dumont asked how pre-blast and post-blast surveys can recognize damage under water of pool or behind finished walls in a basement.

Mr. Smith stated that features of structures will not be opened to inspect behind finished surfaces. The structures will be protected by the limited vibration level of the blasting activities that has been recognized not to cause a high probability of damage based on 40 years of blasting research conducted by the United States Bureau of Mines.

Mr. Wilson closed the public comment session at 7:06pm.

The Board and Mr. Smith discussed noise and vibration levels caused by drilling and hammering activities and methods of notification to the neighborhood of blasting/drilling/hammering activities.

Mr. Phoenix suggested that the Board review the changes to the conservation easement documents and the homeowners association documents. The Board and Mr. Phoenix discussed the following items associated with the documents:

- a. gun club review of easement language,
- b. no hunting status within the conservation easement area,
- c. forester tree cutting recommendations,
- d. clarification regarding the width of the access and utility easements, and
- e. area of property to be used for calculation of septic system viability for each proposed lot.

Mr. Wilson suggested that the easement documents and homeowners association documents be completed and submitted to Town Counsel for review prior to the next Planning Board meeting.

Mr. Saari stated the following changes that have been made to the site plan:

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- a. removal of pavement along current gun club driveway access to be abandoned and
- b. addition of screening berm and plantings adjacent to southwesterly abutting property.

Mr. Wilson suggested that Mr. Martin and the property owners of the southwesterly abutting property try to come to an agreement regarding adequate screening between the two properties.

Mr. Sillay asked if the excavation required for the home foundations is included in the 35 day estimate for the blasting/drilling/hammering activities.

Mr. Waterman stated that the 35 day estimate was associated only with the road construction portion of the project.

Mr. Saari stated that it is not known at this time when the homes will be constructed.

Mr. Phoenix requested a continuance to the next meeting date to allow the applicant time to complete information for the Board's consideration. Mr. Phoenix stated that the applicant agrees to waive the NH RSA 65 day clock requirement for the Planning Board to act on the application until the next meeting date.

Ms. Monaghan moved that the Planning Board continue Case #22:10 to the June 6, 2023 meeting date as requested by the applicant with the understanding that the Planning Board and the applicant agree to waive the NH RSA 676:4 requirement that the Planning Board act on the conservation subdivision application within 65 days of determination that the application is complete. Second by Mr. Maggiore. The vote was unanimous in favor of the motion (7-0).

2. Case #23:05 - Applicant: Jessica King, The Honey Tree Learning Center, LLC, 135 High Street, Exeter, NH 03833. The Applicant requests a Minor Review for operation of a 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 would like to operate a child care facility for no more than 40 children, ages 2-5 years, within the building and surrounding grass area at the front of the 223 Lafayette Road lot adjacent to Route 1 (Lafayette Road). Ms. King noted the following updates to the proposed application information since the last meeting:

- a. A variance was granted by the Zoning Board of Adjustment (ZBA) to allow the child day care facility use on the site. As a condition of approval, the ZBA required that a staggered drop-off/pick-up schedule be established for the child day care business.
- b. A staggered drop-off/pick-up schedule is now proposed for the child day care business. Individual families will be assigned specific drop-off/pick-up times. No more than seven families will be scheduled within 15 minute intervals.
- c. The drop-off/pick-up procedure has been changed from a continuous loop line method to a traditional parking method. There will be 22 parking spaces available for drop-off/pick-up and four employee parking spaces.

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d. A New Hampshire Department of Transportation (NHDOT) driveway permit has been issued for the business to use the Greystone Way entrance in its current configuration with the addition of a stop sign and painted stop line.

e. The North Hampton Fire Chief has submitted a letter stating that the proposed child day care business and any potential increase in traffic at the Greystone Way entrance will have no effect on emergency vehicle response times to the homes in the 55+ residential community.

f. The Building Department and the Fire Department have inspected the building to be used for the child day care business.

g. The State of New Hampshire child day care business licensing process has begun.

Ms. King stated that she and the property owner will work with residents to mitigate any issues that may arise from the child day care business operations. The proposed business will be separated and screened from the residential community by the fencing and large evergreen trees that exist on the site.

Mr. Sillay asked how any potential violations of the drop-off/pick-up schedule will be enforced.

Mr. Wilson stated that the Town of North Hampton Code Enforcement Officer can address reported violations with the business owner. Contractual agreements between the business owner and the business customers can include enforcement provisions.

Ms. King confirmed that the proposed child day care business will have contractual agreements and a parent handbook which will outline penalties for consistent violation of the drop-off/pick-up schedule.

Mr. Wilson opened the public comment session at 8:13pm. No comments were made. Mr. Wilson closed the public comment session at 8:14pm.

Mr. Maggiore stated that the proposed child day care business may not be the best use of the building site next to the 55+ residential community. However, no evidence from NHDOT or the Fire Department confirms the traffic safety concerns of the Greystone Village residents. He supports approval of the application.

Ms. Monaghan stated that the building site at the front of and adjacent to the 55+ residential community is not an appropriate place for a child day care business in close proximity to elderly residents. She does not support approval of the application.

Mr. Kroner stated that the traffic safety concerns of the Greystone Village residents were not confirmed by NHDOT and the Fire Department. The concerns of the Greystone Village residents that the child day care business will create noise issues that will disrupt their quiet enjoyment of their homes is contradicted by the existing traffic noise along Route 1/Lafayette Road and the adjacent industrial/commercial businesses in the area. In his opinion, the noise of children playing during the outdoor activity hours will not be heard above the existing noise of the surrounding area. The 35-40 children proposed to be cared for is small compared to other child day care facilities. In his experience, larger facilities have presented no problems to neighboring residents. He supports approval of the application.

Mr. Omberg stated that he does not believe that the child day care business will present noise problems due to the existing noise created by Route 1/Lafayette Road traffic and the surrounding business activities in the area. He supports approval of the application.

Mr. Maggiore moved that the Planning Board approve the Case #23:05 Minor Review application for operation of a child day care business at 223 Lafayette Road as represented in the plan presented to the Board subject to the following conditions:

1. The hours for outdoor activities shall not exceed 2.5 hours per day.

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.

3. The Zoning Board of Adjustment decision granting a variance for the proposed child day care business shall be noted on the Planning Board notice of decision.

Second by Mr. Kroner.

Discussion of the motion -

Mr. Sillay stated that placement of a child day care business with potential noise issues at the 223 Lafayette Road location is not fair to residents who have bought a home expecting a quiet, 55+ residential community.

Mr. Wilson stated that the Greystone Village resident comments are valuable. However, the surrounding area has a lot of existing noise. The outdoor activities of the children on the site will create a minimal increase in the amount of noise in the area. Any impacts will only affect the four homes directly abutting the proposed business site. The 223 Lafayette Road location may not be the ideal place for the proposed business. However, the use is a permitted use in the I-B/R zoning district in which the building site lies. Also, a variance was granted to allow the child day care use. The Board must balance the interests of the property owner with the interests of the neighbors. He supports approval of the application.

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

II. New Business

1. Case #23:06 - Applicants: Annette Lee and Nicole Carrier, Throwback Brewery, 2 Elm Road, North Hampton, NH 03862. The Applicants request the following:

a. A Minor Review for construction of an egress deck off the southernmost portion of the restaurant building.

b. A Conditional Use Permit to allow installation of a tent over outdoor customer seating area as a temporary structure.

c. A Conditional Use Permit to allow installation of an outdoor ice skating rink as a temporary structure.

Property Owner: Taste the Local, LLC, 2 Elm Road, North Hampton, NH 03862; Property Location: 2 Elm Road, North Hampton, NH 03862; M/L: 013-009-000; Zoning Districts: I-B/R, Industrial – Business/Residential District and R-1, High Density District.

In attendance for this application:

Annette Lee, property owner.

Ms. Lee addressed the Board. Ms. Lee explained that she was seeking approval for construction of a proposed egress deck off the exit doors of a function room building addition at the Throwback Brewery restaurant location.

Ms. Lee stated that there is a large drop-off from the function room exit doors to the ground. The proposed deck would provide a safer exit route for customers leaving the function room area as opposed to a stairway with a steep pitch. The deck structure would also direct customers away from the driveway and truck delivery area when exiting the function room area.

Ms. Monaghan asked if the egress deck would be used as an emergency exit only.

Ms. Lee stated that the egress deck would not be used solely as an emergency exit.

Ms. Monaghan asked if additional seating would be located on the deck.

Ms. Lee stated that no additional seating would be located on the deck.

Ms. Monaghan asked if customers would be allowed to congregate on the deck.

Ms. Lee stated that customers would be allowed to congregate on the deck with drinks or snacks.

Mr. Sillay asked if the deck would be used as a smoking area.

Ms. Lee stated that the business does not allow smoking.

Mr. Maggiore stated that the new building addition with the new egress deck is an improvement to the customer flow and safety within the restaurant.

Ms. Monaghan moved that the Planning Board find that the application is complete and take jurisdiction of the Case #23:06 Minor Review application for construction of an egress deck. Second by Mr. Omberg. The vote was unanimous in favor of the motion (7-0).

Mr. Wilson opened the public comment session at 8:35pm. No comments were made. Mr. Wilson closed the public comment session at 8:36pm.

Ms. Rowden suggested that a condition of approval be that no additional seating is allowed on the egress deck.

Mr. Kroner moved that the Planning Board approve the Case #23:06 Minor Review application for construction of an egress deck off the southernmost portion of the restaurant building at 2 Elm Road as represented in the plan presented to the Board subject to the following conditions:

1. No additional seating shall be allowed on the egress deck.

2. Alcohol may be consumed, but not served, on the egress deck.

3. The applicant receives all required federal, state, and local permits and approvals.

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

Ms. Lee explained that she was seeking approval for installation of a tent over the existing beer garden outdoor seating area from May to October and installation of an outdoor ice skating rink from December to March on the commercially zoned portion of the property next to the outdoor seating area.

Ms. Rowden suggested that, if the applicant intended for the temporary tent and skating rink structures to be installed every year, then the structures should be added to a future amended site plan.

Ms. Monaghan asked if the tent created space for additional outdoor seating.

Ms. Lee stated that the installation of the tent reduces the amount of outdoor customer seating due to the space taken up by the poles and wires that are used to support the tent.

Ms. Monaghan moved that the Planning Board find that the applications are complete and take jurisdiction of the Case #23:06 Conditional Use Permit applications to allow installation of a tent over outdoor customer seating area and installation of an outdoor ice skating rink as temporary structures. Second by Mr. Etela. The vote was unanimous in favor of the motion (7-0).

Mr. Wilson opened the public comment session at 8:42pm. No comments were made. Mr. Wilson closed the public comment session at 8:43pm.

Ms. Monaghan moved that the Planning Board approve the Case #23:06 Conditional Use Permit applications to allow installation of a tent over outdoor customer seating area and installation of an outdoor ice skating rink as temporary structures for one year at 2 Elm Road as represented in the plan presented to the Board. Second by Mr. Maggione. The vote was unanimous in favor of the motion (7-0).

2. Case #23:07 – Applicants: Robert and Sharon Ahlgren, 13 Squier Drive, North Hampton, NH 03862.

The Applicants request a Conditional Use Permit to allow construction of an accessory structure (garage) within the wetlands buffer. Property Owner: Sharon Ahlgren Revocable Trust, Sharon Ahlgren Trustee, 13 Squier Drive, North Hampton, NH 03862. Property Location: 13 Squier Drive, North Hampton, NH 03862; M/L: 012-030-017; Zoning District: R-2, Medium Density District.

In attendance for this application:

Robert Ahlgren, applicant; Paige Libbey, engineer.

Ms. Libbey addressed the Board. Ms. Libbey stated that the applicant is seeking approval for the construction of a 30 foot wide by 24 foot deep two car garage on the northerly side of the property adjacent to the existing driveway within the 100 foot wetlands buffer area. The proposed garage location meets accessory structure setback requirements. However, the proposed garage location lies within 10 feet of a small area of wetlands.

Ms. Libbey stated that the 1,200 square foot area of wetlands on the northerly side of the property was most likely created during construction of the home on the property. A larger area of wetlands exists in the westerly, rear portion of the property. The combination of the two wetlands areas places almost the entire property within the 100 foot wetlands buffer area. The applicant proposes to establish a 1,619 square foot wetland buffer enhancement area which will contain plantings and seed mix that will enhance the functionality of the larger wetlands buffer area in the rear of the property to balance any impacts created by the garage construction next to the small wetlands area.

Ms. Monaghan moved that the Planning Board find that the application is complete and take jurisdiction of the Case #23:07 Conditional Use Permit application to allow construction of an

accessory structure (garage) within the wetlands buffer. Second by Mr. Maggiore. The vote was unanimous in favor of the motion (7-0).

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

a. a. Section 501.9.A.1 – The proposed garage construction is essential to the applicant’s need to store vehicles and property maintenance equipment.

b. Section 501.9.A.2 – Detrimental impact on the wetlands buffer area will be minimized by the construction of a retaining wall around the garage to avoid additional grading of the land and tree cutting. The wetlands buffer enhancement area adjacent to the wetlands at the rear of the property will offset any potential impacts of the garage on the northerly side portion of the property.

c. Section 501.9.A.3 – There is no alternative location which will be less detrimental to the impact on the district due to the fact that almost the entire property is included within the 100 foot wetlands buffer zone. Only a small portion of the property in front of the home and near the roadway lies outside the buffer zone. The small, isolated wetlands area adjacent to the proposed garage location has no principal functions normally identified with wetlands.

d. Section 501.9.A.4 – The proposed accessory structure is a permitted use within the underlying zoning district.

e. Section 501.9.A.5 – The proposed garage will increase the applicant’s property value. Neighboring property values will not be diminished as the result of storage of yard maintenance equipment within an aesthetically pleasing structure as opposed to outside in the yard. Also, the increase in the applicant’s property will help increase neighbor property values.

f. Section 501.9.A.6 – The necessary permits from state and local authorities will be obtained prior to construction.

g. Section 501.9.B.3.a – The property has unique conditions in that, when the existing home on the property was built, the wetlands buffer area only extended 50 feet out from the wetlands boundary. Also, the isolated pocket of wetlands adjacent to the proposed garage location was most likely man-made during the grading of the house lot.

h. Section 501.9.B.3.b – Only a small portion of the property in front of the home and near the roadway lies outside the buffer zone. This area is not a feasible alternative due to accessory structure setback requirements established to protect the character of the neighborhood.

i. Section 501.9.B.3.c – The proposed use meets the requirements of the Wetlands Conservation District except for the construction for which relief is being requested.

j. Section 501.9.B.3.d – The design and construction of the proposed use do not appreciably diminish natural resource values of the Wetlands Conservation District and are consistent with the intent and purpose of the Wetlands Conservation District Ordinance in that the small, isolated wetlands area adjacent to the proposed garage location is a low functioning wetlands area. The proposed buffer enhancement area at the rear of the property will improve the natural resource values and provide long-term benefits to the wetlands functions and values. A stone drip edge will be installed around the garage to collect and infiltrate stormwater run-off and mitigate any effects on water quality in the area.

Mr. Kroner noted that many lots in the neighborhood are very constrained by wetlands. There were many environmental challenges that needed to be overcome when the Squier Drive neighborhood was initially developed.

Ms. Monaghan noted that the construction of the Squier Drive neighborhood within the existing environment of that area was the impetus for the current wetlands regulations.

Mr. Maggiore stated that the applicant's proposal will create a positive impact on the wetlands in the area.

Mr. Omberg asked how maintenance of the wetlands buffer enhancement area will be enforced.

Ms. Rowden stated that a provision regarding maintenance of the wetlands buffer enhancement area could be added to the deed for the property.

Mr. Sillay asked for clarification regarding the use of the proposed garage.

Mr. Ahlgren stated that the garage would be used for storage of personal items and yard maintenance equipment. The garage would have electricity and a water spicket to attach a hose for yard use.

Mr. Wilson opened the public comment session at 9:01pm. No comments were made. Mr. Wilson closed the public comment session at 9:02pm.

Mr. Maggiore moved that the Planning Board approve the Case #23:07 Conditional Use Permit application to allow construction of an accessory structure (garage) within the Wetlands Conservation District buffer zone at 13 Squier Drive as represented in the application presented to the Board subject to the condition that an amendment to the deed shall be recorded at the County Registry which indicates that the wetlands buffer enhancement area adjacent to the wetlands at the rear of the property shall be maintained and not disturbed. Second by Mr. Etela. The vote was 6-1 in favor of the motion with Mr. Kroner opposed.

III. Other Business.

1. Minutes.

Mr. Wilson presented the minutes of the April 18, 2023 site walk.

Ms. Monaghan moved that the Planning Board accept the minutes of the April 18, 2023 site walk as written. Second by Mr. Omberg. The vote was unanimous in favor of the motion (7-0).

Mr. Wilson presented the minutes of the April 18, 2023 meeting.

Ms. Monaghan moved that the Planning Board accept the minutes of the April 18, 2023 meeting as written. Second by Mr. Omberg. The vote was unanimous in favor of the motion (7-0).

The meeting was adjourned at 9:06pm without objection.

Respectfully submitted,

Rick Milner
Recording Secretary