



**Meeting Minutes**  
**North Hampton Planning Board**  
**Tuesday, July 18, 2023 at 6:30pm**  
**Town Hall, 231 Atlantic Avenue**

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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, Valerie Gamache, and Jim Maggiore, Select Board Representative; Alternate Member John Sillay; and Rick Milner, Recording Secretary.

Chair Wilson called the meeting to order at 6:30pm.  
Mr. Sillay seated for Mr. Etela.

**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 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; Erik Saari, engineer; Tim Phoenix, attorney; and Marc Jacobs, wetlands scientist.

Mr. Phoenix addressed the Board. Mr. Phoenix presented a memo from the Town Engineer stating that he was satisfied with the site plan for the proposed development and roadway. Mr. Phoenix also presented a memo from the Town Counsel with the following recommendations regarding the various easement and homeowners' association documents:

a. The access easement for the gun club should be amended to allow the Rockingham County Conservation District (RCCD), as the monitoring agent for the conservation open space area, to enter the gun club shooting range safety perimeter within the conservation open space area on M/L 007-168-000.

b. The only proposed restriction for the access easement to Mr. Martin's M/L 013-090-000 property at the rear of the proposed subdivision property is that the access way will not be paved or improved with any impervious surface. Since this access way bisects the proposed conservation open space area, the Planning Board may want to consider adding restrictions for certain types of travel and other uses associated with the access way. The proposed restrictions associated with the access way are contained within the conservation easement document. The restrictions for the access way should be contained in a separate access easement document.

c. The grading and drainage easements should be amended to include language permitting the Town of North Hampton to enforce the maintenance requirements for the easements.

Mr. Phoenix stated that the applicant agrees to amend the easement documents to allow the RCCD to enter the shooting range safety area to accomplish its monitoring duties, allow Town enforcement of the easement provisions, and create a separate access way easement document. However, the

applicant wishes to retain the ability to install underground utilities and allow construction trucks to use the access way to M/L 013-090-000 if development of the property is envisioned in the future. Also, the applicant wishes to retain the ability to use the access way to M/L 013-090-000 as a means for trucks to access the site for logging activities. Other types of restrictions for vehicles, such as snowmobiles, dirt bikes, or other forms of transportation, which may negatively impact wildlife or other purposes of the conservation subdivision are acceptable to the applicant.

Mr. Phoenix also stated that the applicant would address the recommendations of the Conservation Commission regarding:

- a. clarifying the specific roles of the homeowners' association, the Town, and the third-party enforcement agent,
- b. ensuring the Town, as the holder of the executory interest in the conservation easement, not the Planning Board, receives notices mandated by the conservation easement document, and
- c. specifying allowed and prohibited activities within the conservation open space area, such as passive recreational activities and hunting.

Mr. Phoenix stated that the landscape screening agreement between Mr. Martin and the M/L 007-167-000 abutting property owners has been executed.

Mr. Phoenix asked that the Board consider granting a conditional use permit approval for the project with conditions of approval added regarding the satisfactory completion of the easement documents.

Mr. Wilson stated that conservation easement document needs to better clarify the role of the RCCD as a monitoring agent and the Town's role as an enforcement agent.

Ms. Monaghan stated that she is not in favor of granting any approvals for the project at this time due to the outstanding issues regarding the easement document language.

Ms. Monaghan asked if a hunting prohibition will be added to the conservation easement documents.

Mr. Phoenix agreed that a hunting prohibition will be added to the conservation easement documents.

Mr. Wilson stated that he does not believe that a conditional use permit approval should be granted at this time due to the following concerns:

- a. The easement language for the access way to Mr. Martin's back lot (013-090-000) should be within its own document separate from the conservation easement document.
- b. More specific details regarding the allowed and prohibited uses for the back lot access easement need to be clarified. There should be no allowed uses that inhibit wildlife activities and the free movement within the conservation open space area for people with the right to use that area.
- c. The conservation easement language, as proposed, is subordinate to the gun club easement language.
- d. If the gun club ceases to operate, then the shooting range safety zone area on M/L 007-168-000 must become a part of the conservation open space area and subject to the conservation easement provisions.
- e. Conservation easement language needs to clarify that enforcement responsibility starts with the homeowners' association and then the Town if necessary. Language needs to be added that the Town may recoup expenses associated with any enforcement activities.

Mr. Wilson noted several suggested changes to the easement document language that would address his concerns and clarify other provisions contained in the documents.

The Board discussed whether the access way to the gun club from the proposed town road cul-de-sac should have a paved or gravel surface.

Mr. Phoenix stated that Mr. Martin's agreement with the gun club allowed for the access way to be paved. A gravel drive could become rutted or damaged.

Mr. Saari stated that heavy rains or spring thawing could create movement of the soil that would bring portions of a gravel driveway surface into the conservation open space area. A paved surface is the most stable, long-term option for the gun club access drive surface.

The Board came to a consensus with some objection that the gun club access drive should be paved.

The Board and Mr. Phoenix discussed details for appointing a professional forester acceptable to both the Town and the property owner to evaluate appropriate tree cutting operations on the conservation subdivision site that will enhance the purpose of the conservation open space area and satisfy safety concerns regarding dead or dying trees. Mr. Phoenix stated that the easement documents had been amended to eliminate the 100-foot clear cut area on either side of the gun club access drive and only allow for the cutting of dying or dead trees in that area.

Mr. Saari noted that the only change to the conservation subdivision plan set from the last meeting was the addition of the septic system footprint areas for each of the four individual lots.

Mr. Sillay asked for clarification regarding how access is defined as it is associated with the easement to the 013-090-000 back lot.

Mr. Phoenix stated that access would mean the ability for people, who have the lawful right, to enter the 013-090-000 property through the 007-168-000 property by pedestrian or vehicular means. However, the applicant will follow the Town Counsel recommendations to prohibit structures within the access way that would inhibit free movement of animals or people while retaining the applicant's rights to conduct logging operations or develop the property.

Mr. Sillay asked if the cul-de-sac portion of the proposed Town road was sufficient for accommodating large equipment trucks and emergency vehicles.

Mr. Saari stated that the proposed Town road was designed to accommodate large equipment trucks and emergency vehicles.

Mr. Wilson asked if the access drive to the 013-090-000 back lot property was sufficient for accommodating heavy vehicles since the applicant has expressed an intention to possibly log or develop the property in the future.

Mr. Saari stated that, in his opinion, the access way to 013-090-000 may not be adequate for use by heavy vehicles. The current condition of the access way, along with the wet condition of much of the

land on M/L 013-090-000 may prevent any sort of heavy vehicle travel to, or development on, the property.

Ms. Monaghan suggested that, due to the short time frame to prepare suggested revisions to the easement documents before the next meeting on August 1, the case be continued to the September 5 meeting date.

Mr. Phoenix stated that the applicant agrees to a continuance of the case to the September 5 meeting date and waiving the NH RSA 65 day clock requirement for the Planning Board to act on the application until that meeting date.

**Ms. Monaghan moved that the Planning Board continue Case #22:10 to the September 5, 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 Ms. Gamache. The vote was unanimous in favor of the motion (7-0).**

**2. Case #23:09 – Applicant: Colin Peddie, 111 Walnut Avenue, North Hampton, NH 03862.** The Applicant requests a Conditional Use Permit to allow construction of an accessory structure (barn) within the accessory structure setback. Property Owner: Moor Farm, LLC, 102 Wellesley Street, Weston, MA 02493. Property Location: 111 Walnut Avenue, North Hampton, NH 03862; M/L: 019-024-000; Zoning District: R-2, Medium Density District.

In attendance for this application:

Colin Peddie, applicant; Pollyanna Ford, property owner; Justin Pasay, attorney.

Mr. Pasay addressed the Board. Mr. Pasay presented a plan of land showing a barn replacement at 111 Walnut Avenue. The current barn will be demolished and replaced by the construction of a new barn on the 16.67 acre property which has historically been used for agricultural purposes. Mr. Pasay presented architectural renderings of the proposed barn which will have a total impervious footprint area of 50 feet by 50 feet and a height of 34 feet. The size of the proposed barn meets the zoning ordinance requirements for an accessory structure on a four or more acre property. The new barn will be in approximately the same location as the current barn with the front of the new barn being oriented in the direction of the road and away from the home to facilitate egress and ingress of farm equipment. The new barn will be used for the same purpose as the current barn – sheltering of cow, pig, and chickens and storage of farm vehicles and equipment – and have additional space for storage of personal items.

Mr. Pasay stated that the location of the new barn does not conform to the Town of North Hampton Zoning Ordinance Section 301 accessory structure setback requirements and the Town of North Hampton Zoning Ordinance Section 602 accessory structure for agriculture setback requirements. The new barn is proposed to be located closer to the road than the home on the property at a distance of approximately 112 feet where a distance of 150 feet is required. The applicant is requesting that the Planning Board approve Conditional Use Permits to allow the placement of the new barn as shown on the proposed plan. The new barn will be in conformance with other structure setback requirements in that it will be located 35 feet from the side lot line, 149 feet from wetlands, and nine feet from the conservation easement area on the property.

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Mr. Pasay addressed the criteria for granting a Conditional Use Permit for an accessory structure not in compliance with the setback requirements indicated in Sections 301 and 602 of the zoning ordinance.

a. The proposed barn will not diminish the value of surrounding properties in that it will replace an existing barn. The new barn will have enhanced architectural stylings and be more aesthetically pleasing than the current barn while retaining traditional New England building characteristics.

b. The proposed barn will not adversely affect the public interests, safety, health, or welfare in that it will be used for the same agricultural purposes as the current barn which are encouraged by the Town's zoning ordinance.

c. The proposed barn will comply with the agriculture zoning ordinance requirement that structures which house poultry are built above ground.

d. The proposed barn will be situated on the property in a location that avoids or minimizes the spillage of noise, odors, and other nuisances onto neighboring properties in that the new barn will be setback 112 feet from the roadway and 150 feet from the nearest structure on abutting property to the east and hundreds of feet from any structure on any other abutting property.

Ms. Monaghan asked if the proposed barn would contain any living space.

Mr. Pasay stated that the proposed barn will not contain any living space.

Mr. Sillay asked if any utilities will be installed in the proposed barn.

Ms. Ford stated that water and electricity will be installed in the new barn.

Mr. Kroner stated his opinion that the proposal was a minor change from the existing situation on the property.

Mr. Maggiore stated that he was familiar with the farming activities on the property. He is in favor of the proposed improvements for the barn. Location options for the proposed barn are limited by the conservation easement on the property which prohibits erection of a structure in the large, conserved area.

**Ms. Monaghan moved that the Planning Board find that the application is complete and take jurisdiction of the Case #23:09 Conditional Use Permit application to allow construction of an accessory structure (barn) within the accessory structure setback at 111 Walnut Avenue. Second by Mr. Sillay. The vote was unanimous in favor of the motion (7-0).**

Mr. Wilson stated his opinion that the proposed barn satisfies the conditional use permit criteria as follows:

a. The aesthetic improvements associated with the new barn will improve the character of the neighborhood and not diminish property values.

b. The public welfare will not be adversely affected in that the proposed barn will not be encroaching on wetlands buffer areas or blocking abutting property owner sightlines.

c. The proposed barn is located in such a way that the spillage of noise, odors, and other nuisances onto neighboring properties is minimized.

Ms. Monaghan asked for clarification regarding how noise and odor impacts are minimized.

Mr. Pasay stated that surrounding abutters are situated at a great distance from the proposed barn location. The 111 Walnut Avenue property has been used for agricultural activities for many years without complaints. The proposed agricultural use on the property will be similar to the current agricultural use.

Mr. Wilson opened the public comment session at 7:54pm. No comments were made. Mr. Wilson closed the public comment session at 7:55pm.

**Mr. Kroner moved that the Planning Board approve the Case #23:09 Conditional Use Permit application to allow construction of an accessory structure (barn) within the accessory structure setback required by Town of North Hampton Zoning Ordinance Section 301 and the accessory structure for agriculture setback required by Town of North Hampton Zoning Ordinance Section 602 at 111 Walnut Avenue as represented in the application presented to the Board based on the following finding of fact:**

**1. The application meets all relevant Conditional Use Permit criteria as indicated in the Town of North Hampton Zoning Ordinance specifically:**

**a. The proposed barn will improve upon the aesthetical character of the neighborhood and not diminish the value of surrounding properties.**

**b. The public health, safety, and welfare will not be adversely affected in that the proposed barn construction will not encroach upon wetlands or block sightlines.**

**c. The proposed barn will be situated on the property in a manner to minimize the spillage of noise, odors, and other nuisances onto neighboring properties.**

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

## **II. New Business**

**1. Case #23:13 - Applicants: Marcy Royce and Andrew Tilbury, 127 Exeter Road, North Hampton, NH 03862.** The Applicants request a Lot Line Adjustment between properties located at 127 Exeter Road and westerly abutting property. Property Owners: Marcy Royce and Andrew Tilbury, 127 Exeter Road, North Hampton, NH 03862; Property Location: 127 Exeter Road and westerly abutting property, North Hampton, NH 03862; M/L: 009-021-000 and 009-020-000; Zoning District: R-2, Medium Density District.

In attendance for this application:

Andrew Tilbury, property owner; Henry Boyd, engineer.

Mr. Boyd addressed the Board. Mr. Boyd presented a plan prepared by a licensed land surveyor which depicted a minor lot line adjustment between the properties located at 127 Exeter Road (M/L 009-021-000) and the westerly abutting property (M/L 009-020-000). Approximately 4.14 acres of land is proposed to be transferred from the M/L 009-020-000 property to the 009-021-000 property. The M/L 009-020-000 property will be reduced to a conforming two acre lot with a 0.31 acre buildable envelope and 4,000 square foot area for a future septic system. The current 12.27 acre, 127 Exeter Road property on which the applicants' home lies will increase in size to 16.41 acres. Both properties are owned by the applicants. There is no development proposed at this time.

Mr. Boyd stated that the purpose of the proposed lot line adjustment is to add land to the applicants' residential property for their enjoyment and sell the remaining two acre parcel. The plan also clearly delineates a current easement on the M/L 009-020-000 property with precise metes and bounds for future reference.

**Ms. Monaghan moved that the Planning Board find that the application is complete and take jurisdiction of the Case #23:13 Lot Line Adjustment application for properties located at 127 Exeter Road and westerly abutting property. Second by Mr. Maggiore. The vote was unanimous in favor of the motion (7-0).**

Mr. Wilson opened the public comment session at 8:01pm. No comments were made. Mr. Wilson closed the public comment session at 8:02pm.

Mr. Wilson noted that, as indicated in the Circuit Rider Planner review letter, the proposed lot line adjustment will result in two lots which conform to the zoning ordinance regulations.

**Ms. Monaghan moved that the Planning Board approve the Case #23:13 Lot Line Adjustment application for properties located at 127 Exeter Road (M/L 009-021-000) and westerly abutting property (M/L 009-020-000) as represented in the plan presented to the Board subject to the following conditions:**

**1. Applicant shall submit a recordable Mylar of the approved plan with signatures and seals affixed of all licensed professionals whose names appear on the plan. All conditions of approval shall be listed on the Mylar pursuant to NH RSA 676:3.III.**

**2. Applicant shall submit a Certificate of Monumentation, stamped and signed by a NH Licensed Land Surveyor, certifying that all monuments depicted on the plan have been properly set.**

**3. Applicant shall submit evidence of receipt of all required federal, state, and local permits including, but not limited to, NHDOT driveway and NHDES subsurface system approvals and shall note their numbers, as appropriate, on the recorded page of the plan.**

**4. Applicant shall submit checks made payable to the Rockingham County Registry of Deeds for required Land and Community Heritage Investment Program (LCHIP) and recording fees.**

**5. All fees incurred by the Planning Board including, but not limited to, consulting, engineering, and legal fees, have been paid by the applicant.**

**6. There shall be no changes to the approved site plan on the recordable mylar except to meet these conditions of approval.**

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

**2. Case #23:14 – Applicants: Corinne Baldwin and Colin Cabral, 9 River Road, North Hampton, NH 03862.** The Applicants request a Conditional Use Permit to allow replacement of septic system within the Wetlands Conservation District buffer zone. Property Owners: Corinne Baldwin and Colin Cabral, 9 River Road, North Hampton, NH 03862. Property Location: 9 River Road, North Hampton, NH 03862; M/L: 006-155-000; Zoning District: R-2, Medium Density District.

In attendance for this application:

Colin Cabral, property owner; Micah Denner, septic system designer.

Mr. Denner addressed the Board. Mr. Denner presented a septic system design plan for the non-conforming, 0.40 acre property at 9 River Road. The plan included the following items:

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- a. septic system rated for a four bedroom home with a raised leach field contained within a mound that rises four feet above the current grade of the land at the front southeasterly corner of the property, one pre-treatment tank, and two effluent separator tanks,
- b. wetlands boundaries on and adjacent to the property,
- c. the slope of the mound beginning 66 feet from the wetlands boundary at its closest point, and
- d. the slope of the mound beginning immediately adjacent to the easterly front lot line and southerly side lot line.

Mr. Denner stated that the applicant is requesting approval of a conditional use permit for installation of the raised leach field mound structure at a distance of 66 feet from the wetlands where a distance of 75 feet is required by the zoning ordinance regulations. The installation of the new septic system is necessitated by the failure of the current, older septic system on the property. Mr. Denner explained that the proposed septic system location is the only location on the lot that is not entirely covered by the Town's wetlands buffer zone. The location and design for the proposed septic system meet State of New Hampshire regulations. The proposed location immediately next to the front and side yard lot lines will require the granting of a variance by the Zoning Board of Adjustment (ZBA).

Mr. Denner also explained that the home currently has three bedrooms. The applicants are installing a septic system rated for four bedrooms based on the applicants' future plans to add another bedroom to the home.

Mr. Denner addressed the criteria for granting a Conditional Use Permit for non-compliance with the Wetlands Conservation District regulations.

- a. The proposed activity is essential to the productive use of the land in that the proposed septic system is replacing an existing failed septic system.
- b. The proposed activity will minimize detrimental impact on the wetlands district in that the new septic system will employ technology and adhere to current regulations which make the new system more environmentally sound than the current system.
- c. No alternative with less detrimental impact on the wetlands district is feasible in that the 9 River Road lot is a small, non-conforming lot which is almost entirely impacted by the wetlands buffer zone. The proposed location is farthest available location from the wetlands surrounding the property.
- d. The proposed septic system use is otherwise authorized by the zoning ordinance.
- e. The proposed activity will not result in the diminution of abutting property values in that other septic systems in the River Road neighborhood are mounded and located near the property lines.
- f. The applicant has applied to the ZBA for a required lot line setback variance.

**Mr. Maggiore moved that the Planning Board find that the application is complete and take jurisdiction of the Case #23:14 Conditional Use Permit application for replacement of a septic system within the Wetlands Conservation District buffer zone at 9 River Road. Second by Mr. Omberg. The vote was unanimous in favor of the motion (7-0).**

Mr. Wilson opened the public comment session at 8:13pm.

Abutter Brian Holtham addressed the Board. Mr. Holtham stated that he was the owner of the southerly abutting property. The proposed raised leach field mound structure will be located immediately next to the property line that his property shares with the 9 River Road property. Mr. Holtham stated his



opinion that the raised leach field mound would be unsightly and will lower his property value and property values of other lots in the neighborhood.

Mr. Holtham also stated his opinion as a professional engineer that there may be other high tech options for the proposed septic system design that may eliminate the need for a mound or enable re-locating the septic system away from the road and his lot. He suggested that the plan be re-evaluated to see if other options are available for the septic system design.

Mr. Denner responded that he has already researched other septic system design options. The leach field must be raised, and a mound constructed, due to the high water table on the property regardless of the septic system technology used. The location at the front corner of the property is being dictated by state and local regulations. In his professional opinion, the proposed plan is the best option for the 9 River Road property.

Resident James Avallon addressed the Board. Mr. Avallon stated that he is in favor of a septic system upgrade. However, a mound is not aesthetically pleasing for the neighborhood.

Mr. Wilson closed the public comment session at 8:20pm.

Mr. Wilson asked Mr. Denner to clarify how the septic system must be located as proposed and designed with a mound structure as proposed.

Mr. Denner indicated the green highlighted area, on a sheet submitted with the application, which depicted the only area on the property that substantially met both state and local regulations. Mr. Denner also explained how the high water table on the property necessitated the raised leach field. There are currently at least two other raised leach fields contained within mounds on other properties in the River Road neighborhood as a result of the high water table in the area.

Mr. Kroner stated his opinion that the proposed septic system using modern technology will have a positive impact on the environment near the Little River watershed. He suggested that some sort of landscaping features could be used to screen the proposed mound to address neighbor concerns about the unsightly look of the mound.

Mr. Wilson re-opened the public comment session at 8:33pm at the request of Mr. Holtham.

Mr. Holtham suggested that methods limiting the water flow into the proposed leach field, such as gutters on the home, should be established as the part of any approval for the septic system project.

Mr. Wilson closed the public comment session at 8:34pm.

Mr. Denner responded that the addition of gutters or other water infiltration methods would not have any impact on the efficient operation of the proposed septic system or eliminate the need for a mound. The slope of the land naturally takes water towards the wetlands at the back of the property and away from the front yard location of the proposed leach field. The high water table will exist regardless of any proposed water infiltration improvements.

Mr. Maggiore stated that the proposed septic system design plan was the best available option in his opinion.

**Ms. Monaghan moved that the Planning Board approve the Case #23:14 Conditional Use Permit application to allow replacement of a septic system within the Wetlands Conservation District buffer zone at 9 River Road as represented in the application presented to the Board. Second by Mr. Omberg. The vote was unanimous in favor of the motion (7-0).**

**3. Case #23:15 – Applicant: Red Barn Dog Ops MA, LLC, 855 Main Street, Suite 1030, Bridgeport, CT 06604.** The Applicant requests a Minor Review for proposed dog daycare, spa, and overnight boarding business. The Applicant also requests a Conditional Use Permit for signage associated with the business. Property Owner: W/S North Hampton Properties Op, LLC, c/o WS Asset Management, Inc., 33 Boylston Street, Suite 3000, Chestnut Hill, MA 02467. Property Location: 45 Lafayette Road, Unit 3, North Hampton, NH 03862; M/L: 007-053-000; Zoning District: I-B/R, Industrial – Business/Residential District.

In attendance for this application:

James Riley and Kayla Seely, applicant representatives.

Mr. Riley addressed the Board. Mr. Riley stated that he is the real estate development director for the applicant. The applicant operates 29 Dogtopia dog care franchises throughout the eastern seaboard states. Mr. Riley presented a site plan, unit floor plans, and business operations details for a proposed dog day care, spa, and overnight boarding business in the former Olympia Sports retail store unit next to the Shaw's Supermarket in the Lafayette Crossing shopping center. The floor plan for the 4,733 square foot unit indicated the following business features:

- a. a 1,289 square foot gym room capable of holding a maximum of 32 dogs at one time,
- b. a 1,037 square foot romper room capable of holding a maximum of 34 dogs at one time,
- c. a 627 square foot toy room capable of holding a maximum of 31 dogs at one time,
- d. a 171 square foot room for grooming and spa services,
- e. 210 square feet of dog evaluation space, and
- f. customer lobby, office, and laundry spaces.

Ms. Seely addressed the Board. Ms. Seely stated that she is the business operations manager for the applicant. Ms. Seely stated that the business focuses on socialization and exercise activities for dogs. As explained in the business operations outline submitted with the application, the business model pays particular attention to maintaining clean facilities, especially in its animal play and meal areas. The business has been certified by national animal care councils regarding safety and infectious disease management. Ms. Seely explained the following business operations details:

- a. Business will be open 7:00am to 7:00pm, seven days per week, for dog care and grooming services with overnight boarding of dogs provided as well.
- b. Staff have injury and illness training.
- c. The business space has cameras which monitor the dogs at all times.
- d. The unit will include an air cleaning system with a specialized cleaning solution to kill viruses.
- e. The units will be cleaned with biological enzyme based, not chemical based, solutions to control odors.
- f. Solid and liquid animal waste will be cleaned immediately and disposed of in a dumpster dedicated to the dog care business with regularly scheduled pick-ups. There will be no adverse impact on the site's septic system.

g. The business will employ 20-25 full time and part time staff members. Dog to staff member ratios will follow State of NH Best Management Practices.

h. The business activities will be conducted entirely indoors within a climate and sound-controlled environment. The Dogtopia dog day care business has not received any noise or nuisance complaints as the result of operations in its 200 nationwide locations.

Mr. Riley stated that the proposed dog care business has been granted a use variance by the ZBA. No changes will be made to the outdoor site. The only changes will be made within the leased business space unit.

Ms. Monaghan asked how the applicant calculated that the 4,733 square foot unit could hold a maximum of 97 dogs at one time.

Ms. Seely responded that the Dogtopia company has established company standards which are stricter than State of NH Best Management Practices standards.

Ms. Monaghan asked how indoor dog waste is handled.

Ms. Seely stated that the dog waste is cleaned immediately by staff using a bio-enzyme cleaning solution.

Mr. Kroner asked how the dog waste is disposed. Mr. Kroner expressed his concern with the large amount of waste that could be created by a busy dog care business.

Ms. Seely stated that the dog waste is double bagged and disposed of in a dumpster dedicated to the dog care business. The dumpster has regularly scheduled pick-ups.

Mr. Maggiore noted that some complaints regarding animals getting sick from the ingestion of chemicals used in the business have been associated with this business.

Ms. Seely stated that all of the solutions used by the business are pet safe. There have been no reported veterinary visits due to the ingestion of chemicals at any of the 29 franchise locations controlled by the applicant.

Ms. Gamache stated that, in her experience as a dog owner, dog waste is a common issue for this type of business and is dealt with in an efficient manner.

Mr. Wilson asked if the dumpster used for the business is sealed.

Ms. Seely stated that the dumpster is contained and does not leak disposed materials. The dumpster is regularly cleaned with a citrus-based wash.

The Board discussed dog waste anti-contamination standards and US Environmental Protection Agency best practices for handling dog waste.

Ms. Seely stated that the company's waste management operations are standard throughout the dog care industry and have proven to be effective in preventing adverse impacts at other business locations.

Mr. Sillay expressed his concern with the possible ingestion of chemicals by animals at the proposed dog care business site.

**Ms. Monaghan moved that the Planning Board find that the application is complete and take jurisdiction of the Case #23:15 Minor Review application for a proposed dog daycare, spa, and overnight boarding business at 45 Lafayette Road, Unit 3. Second by Mr. Sillay. The vote was unanimous in favor of the motion (7-0).**

Mr. Sillay asked for clarification regarding staffing for the overnight boarding activities.

Ms. Seely stated that the applicant is focused on the safety of the dogs that stay in its facilities overnight. The unit will be fitted with motion activated cameras and water and temperature monitoring systems that monitor dog activity and site conditions. Staff are generally on site until 10:30pm at night and back in by 5:00am the next morning. Staff members are on call to respond to any nighttime incident in a short period of time.

Mr. Kroner asked for clarification regarding sound abatement methods that will be used to mitigate animal noise problems.

Mr. Riley responded that the interior and exterior walls are insulated with acoustical partitions that reduce noise vibrations and create a separate, disconnected envelope from the main wall that does not allow sound outside of the unit. The noise reduction technology has been effective in a wide variety of locations, including units on the ground floor of residential apartment buildings.

Board members asked for clarification regarding procedures in case of an emergency or fire at the site.

Ms. Seely stated that the Fire Department is notified at the same time as company officials if a fire or other emergency is detected. The company ensures that a staff member is within minutes of the facility in order to respond to an emergency situation. The unit will include a water sprinkler system to respond to a fire. The business will create an emergency evacuation plan tailored to the specific site.

Mr. Sillay asked how many staff members are generally on site when the business is open.

Ms. Seely responded that five to six staff members are generally on site when the business is open.

Mr. Wilson opened the public comment session at 9:02pm.

Resident Kirsten Larsen Schultz addressed the Board. Ms. Larsen Schultz stated her concern with child safety as the result of the proposed dog care business being located in close proximity to the child play area business in the same shopping center.

Ms. Seely responded that an existing dog grooming business has been located on the same side of the shopping center as the child play business for some time. The applicants' company has other franchises located near residential areas or other child-centered areas which have operated without incident. The dog care business also has a curb-side pick-up system where an employee comes outside the unit to escort a dog into the facility. This process eliminates any dog interaction with the public at large.

Resident Lisa Wilson addressed the Board. Ms. Wilson expressed her concern that dogs may be brought outside for exercise or other activities behind the shopping center building. The Town of North Hampton has conservation land behind the shopping center which could be adversely impacted by consistent outdoor activities conducted by the dog care business.

Ms. Seely stated that the dog care business does not engage in dog walking or other outdoor activities with the dogs. The dogs stay inside the unit until picked-up by their owners.

Mr. Wilson closed the public comment session at 9:07pm.

Mr. Omberg suggested that a condition of approval be added which prohibits the proposed business from conducting outdoor activities with the dogs in its care except in the case of an emergency evacuation.

**Mr. Omberg moved that the Planning Board approve the Case 23:15 Minor Review application for a proposed dog daycare, spa, and overnight boarding business at 45 Lafayette Road, Unit 3 as represented in the application presented to the Board subject to the condition that there shall be no outside activity, including, but not limited to, dog walking, except in the event of an emergency requiring evacuation of the unit. Second by Ms. Gamache. The vote was 4-3 in favor of the motion. Mr. Wilson, Mr. Omberg, Ms. Gamache, and Mr. Maggiore in favor. Ms. Monaghan, Mr. Kroner, and Mr. Sillay opposed.**

Mr. Riley presented information associated with a wall sign for the outside wall of the proposed dog care business unit. The applicants requested approval of a conditional use permit to allow a proposed 40 square foot wall sign where the zoning ordinance regulations allow a maximum size of 24 square feet. The sign included the Dogtopia business name and logo with orange and gray colored, non-illuminated lettering and a shielded, dark sky compliant light bar fixture with LED bulbs no greater than 3000 Kelvin color temperature.

Mr. Riley stated that the larger sign size was necessary because the business unit location is set far back from the road. Also, there is no available space on the monument sign near the road. The proposed sign size is consistent with other businesses in the same shopping center.

Ms. Monaghan stated that the other businesses have larger sign sizes because the size of their front walls are larger. Also, some of the signs were installed prior to the adoption of the current regulations. In her opinion, the large sign size is not necessary to find the business location or advertise the service provided by the business. In the interest of fairness to all proposed businesses and current businesses that have complied with the regulations, the Board must maintain a consistent view and adhere to the regulations regarding allowed sign sizes. The maximum allowed 24 square feet is adequate in this situation.

Mr. James stated that the fitness business unit adjacent to the proposed dog care business unit has approximately the same size wall frontage as the dog care business unit. The proposed sign is consistent with the size of the fitness business sign.

Mr. Kroner stated his opinion that the large distance from the road for the business unit location should be considered by the Board as a mitigating factor regarding the allowed size of the sign.

Ms. Gamache stated that, on occasion, she finds business locations by looking for their sign. Also, signs draw her interest to a business. The applicant's proposal is reasonable since it is comparable to other businesses located in the same shopping center and not excessive in her opinion.

**Ms. Monaghan moved that the Planning Board find that the application is complete and take jurisdiction of the Case #23:15 Conditional Use Permit application for signage associated with the proposed dog care business at 45 Lafayette Road, Unit 3. Second by Mr. Omberg. The vote was unanimous in favor of the motion (7-0).**

Mr. Wilson opened the public comment session at 9:38pm.

Resident Lisa Wilson addressed the Board. Ms. Wilson stated that she agrees with Ms. Monaghan that it is important to maintain sign standards. In her opinion, the proposed sign letters are too large. The proposed sign logo is intrusive.

Mr. Wilson closed the public comment session at 9:40pm.

**Ms. Monaghan moved that the Planning Board deny the Case #23:15 Conditional Use Permit application for signage associated with the proposed dog care business at 45 Lafayette Road, Unit 3 for the following reasons:**

**a. The applicant has not provided an adequate justification to permit a sign larger than the ordinance regulations allow.**

**b. Granting the applicant's request would not be fair to other businesses that have complied with the zoning ordinance regulations.**

**No second to the motion. The motion failed.**

**Mr. Maggiore moved that the Planning Board approve the Case #23:15 Conditional Use Permit application for wall signage to be installed on the Dogtopia business unit at 45 Lafayette Road, Unit 3 as represented in the application presented to the Board. Second by Mr. Omberg. The vote was 4-1-2 in favor of the motion. Mr. Omberg, Ms. Gamache, Mr. Kroner, and Mr. Maggiore in favor. Ms. Monaghan opposed. Mr. Wilson and Mr. Sillay abstaining.**

**4. Case #23:16 – Applicants: Shawn and Pollyanna Ford, 109 Walnut Avenue, North Hampton, NH 03862.** The Applicants request a Conditional Use Permit for an accessory dwelling unit. Property Owners: Shawn and Pollyanna Ford, 109 Walnut Avenue, North Hampton, NH 03862. Property Location: 109 Walnut Avenue, North Hampton, NH 03862; M/L: 019-024-001; Zoning District: R-2, Medium Density District.

In attendance for this application:

Shawn and Pollyanna Ford, property owners; Justin Pasay, attorney.

Mr. Wilson noted that the time was 9:46pm. The Planning Board Rules of Procedure state that no new business may begin after 9:30pm. Mr. Wilson suggested that the Board consider suspending the time limit rule.

**Mr. Kroner moved that the Planning Board suspend the time limit rule and continue consideration of the items on the agenda. Second by Mr. Omberg. The vote was unanimous in favor of the motion (7-0).**

The Board took a five minute recess. The Board returned at 9:51pm

Mr. Pasay addressed the Board. Mr. Pasay stated that the applicants wished to demolish the existing garage connected to their home at 109 Walnut Avenue and build a new 40 foot by 36 foot addition with a gable roof connected to the home that will contain a new garage and a 798 square foot, one bedroom accessory dwelling unit (ADU). There will be a six square foot entryway and door connecting the ADU to the principal dwelling unit. Mr. Pasay stated that the new addition will contain a partial second story area to be used for storage of personal items only and be accessed only through the garage and the principal dwelling unit, not the ADU. The proposed addition will be consistent with the New England Colonial style of the existing home. Mr. Pasay presented the following application information:

- a. site plan of the 109 Walnut Avenue property showing the existing home and garage structure and proposed new addition,
- b. floor plans for the ADU and the garage addition
- c. pictures of the existing home from various angles,
- d. architectural renderings of the proposed new construction, and
- e. NHDES approved septic system plans for the three bedroom home with a connected one bedroom ADU.

**Ms. Monaghan moved that the Planning Board find that the application is complete and take jurisdiction of the Case #23:16 Conditional Use Permit application for an accessory dwelling unit at 109 Walnut Avenue. Second by Mr. Sillay. The vote was unanimous in favor of the motion (7-0).**

Mr. Pasay explained how the proposed ADU application and plans comply with each of the 12 criteria for granting a conditional use permit to allow an accessory dwelling unit as detailed in the submitted application information.

Mr. Wilson opened the public comment session at 10:06pm. No comments were made. Mr. Wilson closed the public comment session at 10:07pm.

**Mr. Maggiore moved that the Planning Board approve the Case #23:16 Conditional Use Permit application for an accessory dwelling unit at 109 Walnut Avenue as represented in the application presented to the Board based on the following finding of fact:**

**1. The application meets all relevant Conditional Use Permit criteria as indicated in the Town of North Hampton Zoning Ordinance Section 401.**

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

### **III. Other Business**

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

Mr. Wilson presented the minutes of the June 20, 2023 meeting.

**Mr. Kroner moved that the Planning Board accept the minutes of the June 20, 2023 meeting as written. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (7-0).**

700 The meeting was adjourned at 10:09pm without objection.

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702 Respectfully submitted,

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706 Rick Milner

707 Recording Secretary