



Meeting Minutes
North Hampton Planning Board
Tuesday, September 5, 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, Valerie Gamache, 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 6:30pm.

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

Mr. Phoenix addressed the Board. Mr. Phoenix presented revisions to the various legal documents associated with the conservation subdivision project (conservation open space easement, gun club access easement, Lot 13-90 access easement, roadway grading and drainage easement, homeowners association covenants, and property deed for the subdivision land) based on Planning Board, Town Counsel, and Hampton Rod and Gun Club attorney comments to the previous versions of the documents.

Mr. Milner noted that Mr. Phoenix submitted additional revisions to the legal documents just prior to the meeting which reinstated rights for motorized vehicle access to the Lot 13-90 property for that property's owner and removed prohibitions on other uses along the access way to Lot 13-90.

Ms. Monaghan asked what type of vehicles would be allowed to use the Lot 13-90 access way. Ms. Monaghan stated her concern that recreational vehicles would adversely impact the conservation open space area while trying to access the Lot 13-90 back lot using the Lot 13-90 access way.

Mr. Phoenix stated that normal passenger vehicles and pedestrians would be allowed to access the Lot 13-90 property. Also, Mr. Martin desired to retain the right to allow logging trucks to access the property for legal logging purposes. The proposed gate at the end of the proposed Town road cul-de-sac would restrict access to unauthorized vehicles on the gun club and Lot 13-90 access ways.

Mr. Wilson stated his opinion that the Planning Board's intent is not to allow commercial or recreational uses to use the Lot 13-90 access way and operate on Lot 13-90. The Planning Board's intent for the Lot

13-90 access way is for uses that are reasonably and customarily associated with a residence or development of a residence.

Mr. Phoenix stated that Mr. Martin agrees to restrict snowmobiles, ATVs, and dirt bikes from using the Lot 13-90 access way.

Mr. Wilson stated that the Planning Board did not intend to eliminate all vehicular activity along the Lot 13-90 access way. The property owner of Lot 13-90 has a right to reasonable access to the property by vehicular means. The intent of the Planning Board is to ensure that the Lot 13-90 access way which goes through the proposed conservation open space on the proposed subdivision property does not fragment the conservation open space area in a way that would make it less attractive as a wildlife habitat or adversely impact the goals of preserving the area for conservation purposes.

Mr. Wilson suggested that if the application is approved that a condition of approval be added which requires the submittal of a letter from Town Counsel affirming that the Lot 13-90 easement complies with the intentions of the Planning Board.

Ms. Monaghan asked if hunting would be allowed in the Lot 13-90 access way area.

Mr. Phoenix stated that a prohibition against hunting would be re-inserted into the Lot 13-90 access easement language.

Mr. Wilson asked if the Lot 13-90 access way would remain as a gravel surfaced drive.

Mr. Phoenix read language from the Lot 13-90 easement document which stated that the access way shall not be paved.

The Board discussed some minor revisions to the legal documents with Mr. Phoenix.

Mr. Phoenix noted minor changes to the proposed conservation subdivision plan set including the depiction of a berm, plantings, and a 15 foot wide vegetative buffer for the benefit of screening the proposed subdivision development from Lot 7-167 which abuts the front, southwest corner of the proposed conservation subdivision property. Notes have also been added to the plan set indicating the construction sequence for the proposed subdivision including at what point in the construction sequence the screening berm and plantings will be completed.

Richard Dumont, owner of the Lot 7-167 property, addressed the Board. Mr. Dumont stated that he was satisfied with the conservation subdivision plans as presented and the agreement made between himself and Mr. Martin regarding the conservation subdivision project.

Mr. Wilson opened the public comment session regarding the Conditional Use Permit application at 7:10pm.

Ed Ford, attorney representing the Hampton Rod and Gun Club, addressed the Board. Mr. Ford stated that the gun club is aware that the Lot 13-90 access way goes through the 300 foot shooting range safety area. Mr. Ford also stated that it was important that the easement documents referring to the gun club

access way be recorded prior to any of the other documents to ensure that the gun club's rights are protected.

Resident Michael Kotzen addressed the Board. Mr. Kotzen stated the following concerns:

a. the removal of a large number of trees on the subject property has created an adverse visual aesthetic for the surrounding neighborhood,

b. the adverse impact on the quality of life in the surrounding neighborhood as the result of possible extensive hammering and blasting operations for development of the road and homes in the proposed subdivision, and

c. the lack of certainty as to how long the hammering and blasting operations will last.

Mr. Wilson stated his opinion that property owners have the inherent right to develop their property. The costs associated with a hammering or blasting operation will most likely limit the amount of time spent on these activities.

Mr. Wilson closed the public comment session regarding the Conditional Use Permit application at 7:23pm.

The Board considered the criteria stated in Section 603.5 of the Town of North Hampton Zoning Ordinance for granting a Conditional Use Permit for a conservation subdivision application. The Board came to a consensus with some objections that the Case #22:10 application met the criteria for granting a Conditional Use Permit for the proposed conservation subdivision.

Mr. Maggiore stated his opinion that he was opposed to the application since it did not meet the criteria for minimizing the alteration of natural features. The proposed project significantly alters the natural features of the property with a large amount of tree removal and proposed excavation of granite.

Mr. Omberg stated that, even though he does not necessarily agree that the proposed excavation of granite is suitable for the land, he must rely on the expert testimony provided to the Board which states that the purposes of the conservation subdivision ordinance will be satisfied by the project.

Ms. Monaghan stated her opinion that, while the existing large amount of tree removal on the subject property may be legal, the tree removal activity prior to Planning Board review of the conservation subdivision proposal was not consistent with the purposes and objectives of the conservation subdivision ordinance.

Mr. Kroner stated that, even though he has a concern with how long the excavation activities associated with the proposed subdivision will last, the application proposes to preserve 10 acres of land from future development in perpetuity.

Mr. Phoenix stated that the application meets the intent of the conservation subdivision ordinance in that it preserves a significant amount of land in his opinion. The ordinance should be considered in its entirety, not by one narrow criteria. Town and applicant experts have stated no adverse impacts that would result from the proposed subdivision. The tree cutting that has already occurred may actually be beneficial by encouraging new vegetative growth in the conservation open space area.

Mr. Omberg moved that the Planning Board approve the Case #22:10 Conditional Use Permit application for 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 based on the finding that the application has met the criteria stated in Section 603.5 regarding acceptability of proposed conservation open space area. Second by Ms. Gamache. The vote was 5-2 in favor of the motion with Mr. Wilson and Mr. Maggiore opposed.

Mr. Wilson stated that he does not agree with the Planning Board's previous decisions to accept the proposed number of living units and the cul-de-sac roadway design included in the subdivision plan. The conservation subdivision design as proposed is a mistake.

Mr. Wilson opened the public comment session regarding the Subdivision application at 7:53pm.

Resident Jennifer Kotzen addressed the Board. Ms. Kotzen stated her concern regarding the adverse impact on the quality of life in the surrounding neighborhood as the result of possible extensive hammering and blasting operations for development of the road and homes in the proposed subdivision.

Resident John Sillay asked for clarification regarding the subdivision approval process as it relates to the limits of excavation activities and tree removal.

Mr. Wilson explained how the Subdivision Regulations and the proposed subdivision plan address the limits of excavation activities and tree removal.

Resident Jennifer Burgeson addressed the Board. Ms. Burgeson stated her concern that the noise associated with excavation activities will adversely impact the quality of daily life at the school in close proximity to the subject property.

Mr. Wilson closed the public comment session regarding the Subdivision application at 8:06pm.

Mr. Kroner stated his concern regarding the suitability of the land for a subdivision due to the unusual amount of granite ledge on the subject property.

Ms. Monaghan suggested that the applicant or future developer consult with school officials prior to excavation activities to ensure that any possible adverse impacts on school activities is minimized.

Mr. Wilson suggested several conditions of approval if the application is approved including, but not limited to:

- a. notes added to the plan indicating the waivers granted for the roadway width and cul-de-sac design,
- b. establishment of a performance guarantee for project infrastructure approved by the Town Engineer,
- c. installation and construction of infrastructure completed prior to the sale of any lots, and
- d. approval of easement and other legal documents by Town Counsel.

Mr. Maggiore moved that the Planning Board approve the Case #22:10 Subdivision application for 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 as represented in the application presented to the Board subject to the following conditions:

1. Excavation activities, including hammering and blasting activities, shall conform to the Town of North Hampton Excavation Regulations, including hammering and blasting provisions of the regulations.
 2. Applicant shall submit evidence of consultation with North Hampton School administration regarding most acceptable hours of operation for excavation activities.
 3. A note shall be added to the plan indicating the waivers granted allowing width and cul-de-sac design of the proposed roadway as indicated on the plan and the date of waiver approvals.
 4. A note shall be added to the plan indicating the Conditional Use Permit granted for the proposed conservation subdivision and the date of the permit approval.
 5. Applicant shall provide a performance guarantee in a form acceptable to the Town of North Hampton equal to the cost estimate for infrastructure improvements of the proposed project, including, but not limited to, roadway construction, utility installation, and drainage installation as approved by the Town Engineer.
 6. The installation of infrastructure improvements including, but not limited to, roadway construction, utility installation, and drainage installation shall be completed prior to the sale of any lot.
 7. Applicant shall provide a letter from Town Counsel approving all legal documents associated with the conservation subdivision, including, but not limited to, deeds, easements, and declaration of covenants.
 8. 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.
 9. 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.
 10. 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.
 11. Applicant shall submit checks made payable to the Rockingham County Registry of Deeds for required recording fees.
 12. All fees incurred by the Planning Board, including but not limited to, consulting, engineering and legal fees, have been paid by the applicant.
 13. There shall be no changes to the approved site plan on the recordable mylar except to meet these conditions of approval.
- Second by Ms. Gamache. The vote was 5-1-1 in favor of the motion with Mr. Kroner opposed and Mr. Wilson abstaining.**

The Board took an eight minute recess. The Board returned at 8:38pm

II. New Business

1. **Case #23:19 – Applicant: Dana Tibbetts, Releve Dance Academy, 50 Piscassic Road, Newfields, NH 03856.** The Applicant requests a Minor Review for a proposed dance studio within a unit previously used for commercial storage. Property Owner: TSR Realty, LLC, P.O. Box 695, North Hampton, NH 03862. Property Location: 10 Lafayette Road; M/L: 003-093-000; Zoning District: I-B/R, Industrial – Business/Residential District.

In attendance for this application:

Dana Tibbetts, applicant.

Ms. Tibbetts addressed the Board. Ms. Tibbetts presented a copy of the 10 Lafayette Road site plan, an aerial picture of the lot, parking spaces, and buildings, and floor plans for the proposed business unit. Ms. Tibbetts stated that she was requesting that the Planning Board approve a proposed dance studio within a unit previously used for commercial storage. Ms. Tibbetts explained that she operates an established dance studio within one of the units on the 10 Lafayette Road property. She would like to expand the dance studio operations to an additional unit on the other side of the parking lot on the 10 Lafayette Road property. The expanded dance activities will include aerial dance instruction on equipment supported by a steel beam structure. All equipment will be professionally inspected.

Ms. Tibbetts further stated that the lot has an ample amount of parking. Parking will not be greatly impacted by the proposed expansion of the activities in that most students will be dropped off and picked up by parents at the beginning and end of classes. There will be minimal extended parking times. Any movement of students between the separate dance studio units across the parking lot will be supervised by adults.

Mr. Maggiore moved that the Planning Board find that the application is complete and take jurisdiction of the Case #23:19 Minor Review application for a proposed dance studio within a unit previously used for commercial storage. Second by Mr. Etela. The vote was unanimous in favor of the motion (7-0).

Mr. Wilson opened the public comment session at 8:40pm. No comments were made. Mr. Wilson closed the public comment session at 8:41pm.

Ms. Gamache asked Ms. Rowden if there was adequate parking on the lot for the proposed expanded business use.

Ms. Rowden stated that there was adequate parking on the lot in her opinion.

Ms. Monaghan moved that the Planning Board approve the Case #23:19 Minor Review application for a proposed dance studio within a unit previously used for commercial storage at 10 Lafayette Road as represented in the application presented to the Board. Second by Mr. Maggiore. The vote was unanimous in favor of the motion (7-0).

2. Case #23:20 – Applicant: Vertex Towers, LLC c/o Francis Parisi, 225 Dyer Street, Providence, RI 02903. The Applicant requests a Site Plan Review for construction of a wireless telecommunications facility/cell tower with associated driveway and utility improvements. The Applicant also requests a Conditional Use Permit to allow construction of a wireless telecommunications facility/cell tower with associated driveway and utility improvements within the Wetlands Conservation District. Property Owners: Richard E. Skowronski and Leila A. Hanna, 142 Mill Road, North Hampton, NH 03862. Property Locations: Back lots off Mill Road in the vicinity of 142 Mill Road and accessed from driveway between 140 and 144 Mill Road; M/L: 012-065-000, 012-067-000, and 012-072-000; Zoning Districts: R-1 High Density District and R-2 Medium Density District.

In attendance for this application:

Francis Parisi, representative for the applicant; Tom Johnson civil engineer.

Mr. Kroner stated his opinion that the application was not adequately noticed to all property owners which may be impacted by the construction of the cell tower. In his opinion, due to possible adverse health impacts associated with a cell tower's placement, all property owners within 500 meters of a proposed cell tower should be notified.

Mr. Parisi stated that the applicant complied with State of NH law regarding legal noticing for the wireless telecommunications facility application.

Mr. Kroner moved that the Planning Board send notices by certified mail at the Town's expense to notify all property owners whose property lies within 500 meters of the proposed cell tower location of the wireless telecommunications application being considered by the Planning Board. Second by Ms. Monaghan.

Discussion of the motion – The Board discussed the implications of the additional noticing on the Board's consideration of the application.

Ms. Monaghan withdrew her second to the motion. Mr. Kroner withdrew his motion.

Mr. Parisi addressed the Board. Mr. Parisi presented the following information to the Board:

a. a site plan proposing construction of a 150 foot monopole cell tower, associated utility structures, and fencing on Map/Lot 012-072-000 (a back lot off Mill Road in the vicinity of 142 Mill Road), an access drive from Mill Road through Map/Lots 012-065-000 and 012-067-000 to the proposed cell tower location, utility improvements from Mill Road to the cell tower location, and wetlands culvert crossings along the access drive.

b. an existing conditions plan showing topography, location of wetlands, and location of existing gravel drive,

c. a project narrative letter explaining the types of antenna equipment and telecommunications service provided by the proposed facility and how the proposal satisfies the criteria included in the Wireless Telecommunications Facility and the Wetlands Conservation District sections of the Town of North Hampton Zoning Ordinance,

d. federal aviation airspace report,

e. alternative cell tower site placement analysis,

f. Radio Frequency Engineer opinion report regarding improvements to wireless telecommunications coverage within the proposed cell tower area of influence,

g. satellite image maps indicating current wireless telecommunications coverage, gaps in coverage area, and proposed improvement to wireless telecommunications coverage in the eastern section of North Hampton, and

h. cell tower removal cost estimate associated with the removal guarantee required by the zoning ordinance regulations.

Mr. Parisi explained that the applicant is seeking waivers to some site plan regulations and zoning ordinance requirements including waivers to not provide required stormwater drainage calculations and to allow the cell tower to be located outside of the Wireless Telecommunications Facility District. The proposal will also require a variance be granted by the Zoning Board of Adjustment to allow construction of the facility on a lot that does not have the required minimum frontage on a street that has been accepted by the Town of North Hampton. Mr. Parisi further explained that the proposal will require the approval of a Conditional Use Permit to allow wetlands culvert crossings along the access drive to the proposed facility and other wetlands buffer zone impacts created by the proposed facility construction.

Mr. Parisi provided the following information to the Board:

a. Vertex Towers is an experienced wireless infrastructure provider that has completed several projects in New Hampshire.

b. The proposed site is the only viable alternative for placement of a cell tower due to existing wireless telecommunications coverage gap in the area and the complex regulation requirements associated with placement of a wireless facility.

c. There has been a change in the communications environment in the last 20 years that necessitates the placement of a cell tower in closer proximity to residences to eliminate gaps in communications coverage for emergency services and residents who use cell phones more regularly in their daily lives.

d. The area east of Routes 95 and 1 in North Hampton is not adequately covered by wireless telecommunications to serve the emergency service and resident needs in that area. Along with a proposed cell tower in Hampton, the gap in coverage will be filled.

Mr. Wilson suggested that the applicant explore the option of installing a cell tower to the maximum allowed height of 180 feet to see if the added height will provide better communications coverage in the area than a cell tower at a height of 150 feet. Mr. Wilson also suggested that a cell tower visibility demonstration be conducted by setting balloons at heights of 150 and 180 feet.

Mr. Kroner asked how the proposed Mill Road location is better than a location with a higher elevation such as Drake Hill.

Mr. Parisi stated that the existing wireless communications gap is located in the easterly section of North Hampton closer to the ocean. The more easterly Mill Road location is a better alternative to provide adequate coverage in this section of North Hampton. Other locations may create more problems than they solve.

Ms. Monaghan agreed with Mr. Wilson's suggestion to explore building a higher cell tower. It would be a mistake to build a shorter cell tower and not maximize possible wireless communications coverage.

Ms. Gamache stated that the proposal provides significantly more wireless communications coverage than presently exists in the easterly area of North Hampton. The proposal would be a huge improvement for public safety.

Mr. Wilson suggested that the waiver request to allow location of the proposed wireless facility outside of the wireless facility district should be considered before other matters. If the proposed location is not approved, then the rest of the application becomes meaningless.

Ms. Monaghan suggested that additional noticing for residents within 500 meters of the proposed cell tower location be accomplished prior to the Board considering the cell tower location waiver request.

Ms. Rowden suggested that the applicant revise the narrative letter to indicate the reasonings more clearly for each of the various criteria that need to be satisfied to approve the application. Many justifications for criteria contained within the narrative letter are comingled and cannot be clearly recognized in her opinion. Ms. Rowden stated that the application is not complete in her opinion due to:

a. the lack of specific information provided regarding amount of wetlands buffer area impacted by the proposed construction,

b. the need to delineate the 100 foot wetlands buffer and the 25 foot vegetative buffer on the plan set, and
c. the need to indicate the amount of impervious surface being created within the wetlands buffer area.

Monaghan suggested that the applicant request a continuance to prepare more complete application information.

Mr. Parisi stated that the applicant did not want to request that consideration of the case be continued without a determination as to the completeness of the application. The application is complete in his opinion. Applicable laws state that consideration of a wireless facility proposal be handled expeditiously. However, he is willing to provide supplemental information, such as a response to Town Engineer comments, at the next meeting.

Mr. Wilson stated that the application is complete in his opinion. The waiver requests and rationale for not providing stormwater drainage calculations as stated in the application are adequate. The wetlands are delineated on the site plan. The procedure for addressing wetlands impacts during construction has been provided in the site plan details.

Mr. Maggiore moved that the Planning Board find that the application is complete and take jurisdiction of the Case #23:20 Site Plan Review application for construction of a wireless telecommunications facility/cell tower with associated driveway and utility improvements. Second by Ms. Gamache. The vote was 5-2 in favor of the motion with Ms. Monaghan and Mr. Kroner opposed.

The Board came to a consensus without objection to have the applicant conduct a cell tower visibility demonstration by setting balloons at heights of 150 feet and 180 feet at the proposed cell tower location on Lot 12-72.

The Board came to a consensus without objection to send notices by certified mail at the Town's expense to notify all property owners whose property lies within 500 meters of the proposed cell tower location of the wireless telecommunications application being considered by the Planning Board.

Mr. Maggiore moved that the Planning Board continue Case #23:20 to the October 3, 2023 meeting date. 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 August 15, 2023 meeting.

Ms. Monaghan moved that the Planning Board accept the minutes of the August 15, 2023 meeting as written. Second by Ms. Gamache. The vote was unanimous in favor of the motion (7-0).

The meeting was adjourned at 9:59pm without objection.

Respectfully submitted,

Rick Milner
Recording Secretary