



Meeting Minutes
North Hampton Planning Board
Tuesday, November 7, 2023 at 6:30pm
Town Hall, 231 Atlantic Avenue

These minutes were prepared as a reasonable summary of the essential content of this meeting, not as a transcription.

In attendance: Phil Wilson, Chair (electronic connection); Rob Omberg, Vice Chair; Members Nancy Monaghan, Shep Kroner, Valerie Gamache, and Jim Maggiore, Select Board Representative; Alternate Members Dan Derby and Tom McManus; Jennifer Rowden, RPC Circuit Rider (electronic connection); and Rick Milner, Recording Secretary.

Vice Chair Omberg called the meeting to order at 6:30pm.

Mr. Kroner moved that the Planning Board allow Mr. Wilson to participate in the meeting by electronic connection. Second by Ms. Monaghan. The roll call vote was unanimous in favor of the motion (5-0).

Mr. Kroner moved that the Planning Board seat Mr. McManus for Mr. Sillay. Second by Ms. Gamache. The roll call vote was unanimous in favor of the motion (6-0).

I. Continued Business

1. Case #21:28 – Applicant: Veronica Pillard, 15A Bonair Avenue, Hampton, NH 03842. The Applicant requests a one year extension of Conditional Use Permit approval to allow placement of a food truck on the site. Property Owner: Black Marble Realty Trust, John McGonagle, Trustee, P.O. Box 1740, North Hampton, NH 03862. Property Location: 17 Lafayette Road, North Hampton, NH 03862; M/L: 003-086-000; Zoning District: I-B/R, Industrial – Business/Residential District.

In attendance for this application:
Veronica Pillard, applicant.

Ms. Pillard addressed the Board. Ms. Pillard explained that she received two previous one year approvals to allow placement of the food truck business on the 17 Lafayette Road property. Ms. Pillard requested an approval to allow placement of the food truck business on the 17 Lafayette Road site for an additional one year. Ms. Pillard presented the following information:

- a. site drawing of 17 Lafayette Road property showing location of 27 foot by 7 ½ foot food truck moved to the back of the parking lot at the Seacoast Harley-Davidson retail business,
- b. site drawing also showed two tables with chairs placed next to the food truck and the entire food truck and table area roped off from the rest of the parking area,
- c. hours of operation – Thursday through Sunday, 8:00am to 5:00pm.

Ms. Monaghan moved that the Planning Board find that the application is complete and take jurisdiction of the Conditional Use Permit application associated with Case #21:28 to allow placement of a food truck at 17 Lafayette Road for an additional one year period. Second by Ms. Gamache. The roll call vote was unanimous in favor of the motion (7-0).

Mr. McManus asked if the Town had received any complaints regarding the food truck business.

Mr. Milner stated that the Town had not received any complaints regarding the food truck business.

Mr. Omberg opened the public hearing at 6:37pm. No comments were made. Mr. Omberg closed the public hearing at 6:38pm.

Mr. Wilson suggested that, if the intention was to keep the food truck business on the property for multiple years going forward, the property owner should seek approval of an amended site plan instead of the applicant requesting a conditional use permit approval every year.

The Board also discussed considering the possibility of creating zoning ordinance regulations which may eliminate the need for a food truck business to seek Planning Board approval every year.

Mr. Maggiore moved that the Planning Board approve extension of the Case #21:28 Conditional Use Permit allowing placement of a temporary structure (food truck) on the 17 Lafayette Road property for an additional one year period subject to the following conditions:

- 1. The food truck shall only be in operation until November 7, 2024.**
- 2. The food truck shall be removed from the property no later than November 7, 2024.**
- 3. Daily hours of operation shall be 8:00am to 5:00pm.**
- 4. No signage is allowed except 'Open' flag.**

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

II. New Business

1. Case #23:23 – Applicant: Richard Harvey, Harvey Signs, Inc., 30 Osgood Street, Methuen, MA 01844.

The Applicant requests a Conditional Use Permit for signage associated with automobile sales business.

Property Owner: DMO North Hampton Realty, LLC, 10 Al Paul Lane, Suite 102, Merrimack, NH 03054.

Property Location: 137 Lafayette Road, North Hampton, NH 03862; M/L: 017-041-001; Zoning District:

I-B/R, Industrial – Business/Residential District.

In attendance for this application:

Richard and Andrew Harvey, applicants.

Mr. Omberg stated that this case is being moved up in the agenda due to the anticipated lengthy discussion associated with Case #23:20.

Andrew Harvey addressed the Board. Mr. Harvey presented a sign application which included color depictions and locations for three non-illuminated wall signs to be placed on the car dealership building and a non-illuminated, two-sided, roadside monument sign at 137 Lafayette Road with the following sign dimensions:

- a. 'Kia' logo wall sign approximately 3 feet high by 12.75 feet wide
- b. 'Enxing' dealership name wall sign approximately 1.5 feet high by 7.75 feet wide
- c. 'Service' location indicator wall sign approximately 1 foot high by 4.5 feet wide
- d. 'Kia' logo monument sign approximately 5 feet high, 5.5 feet wide, and 1.75 feet deep

Ms. Monaghan asked for clarification of the color scheme for the proposed signage.

Mr. Harvey stated that the signs would have a black and silver color scheme.

Ms. Monaghan moved that the Planning Board find that the application is complete and take jurisdiction of the Case #23:23 Conditional Use Permit application for signage associated with the automobile sales business at 137 Lafayette Road. Second by Mr. Maggiore. The roll call vote was unanimous in favor of the motion (7-0).

Mr. Omberg opened the public hearing at 6:44pm. No comments were made. Mr. Omberg closed the public hearing at 6:45pm.

Ms. Monaghan asked Mr. Harvey to confirm that the proposed signs would use no lighting and not be serviced by electricity.

Mr. Harvey confirmed that the proposed signs would use no lighting and not be serviced by electricity.

Ms. Monaghan stated that the sign specification sheets mentioned electrical connections in the notes.

Mr. Milner stated that the notes associated with the electrical connections will be removed from the approved application on file with the Town.

Ms. Monaghan moved that the Planning Board approve the Case #23:23 Conditional Use Permit for wall and monument signage to be installed at the Enxing Kia business at 137 Lafayette Road as represented in the application presented to the Board subject to the condition that all references to electrical service being provided to the signage are removed from the application materials. Second by Ms. Gamache. The roll call vote was unanimous in favor of the motion (7-0).

III. Continued Business

1. 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. Parisi addressed the Board. Mr. Parisi acknowledged that the Planning Board held a consultation session with Town Counsel and a wireless technology professional to discuss legal and technical aspects of the application. Mr. Parisi also acknowledged that the applicant has not yet completed stormwater management plans and calculations information required by the site plan regulations.

Ms. Monaghan asked Mr. Parisi if the applicant intended to submit the required stormwater management information.

Mr. Parisi stated that the applicant intends to submit a stormwater management plan. However, the applicant has submitted a waiver request to allow the applicant not to create the detailed stormwater calculation information required by the site plan regulations.

Ms. Rowden stated that the detailed calculations are an integral part of the stormwater management plan. A stormwater management plan is not valid if it does not have supporting calculation information.

Ms. Monaghan suggested that submittal of a stormwater management plan and supporting calculations could be a conditional of approval.

Mr. Kroner stated that there was a small impervious surface impact associated with this proposal.

Mr. Parisi stated his opinion that activities associated with efficient stormwater management, such as tree clearing, could be detrimental to other goals of the project, such as maintaining a visual barrier and vegetative buffer around the cell tower facility. There is not a great need for a detailed stormwater management plan due to the remote location of the cell tower facility. Stormwater will not run off onto lots owned by neighbors or Town roads.

Ms. Rowden stated her opinion that activities associated with efficient stormwater management will not be extensive and will create a minimal impact on the surrounding area. Submittal of a stormwater management plan and supporting calculation information is a reasonable condition of approval.

Ms. Monaghan stated her opinion that it was prudent for the Board to follow the advice of the Town Engineer and the Circuit Rider Planner and require submittal of a stormwater management plan and supporting calculations. Ms. Monaghan asked Mr. Parisi if he was willing to withdraw the applicant's waiver request.

Mr. Parisi stated that he is withdrawing the waiver request associated with the required submittal of a stormwater management plan and supporting detailed calculations.

Mr. Wilson stated that there is a very long access driveway with more than one wetlands crossing in addition to the wireless facility equipment pad which must be considered within the stormwater management plan and calculations.

Mr. Omberg explained that the Planning Board engaged the services of David Maxson, a wireless technology professional, to provide the Board with an analysis of the technical aspects of the proposed wireless telecommunications facility including, but not limited to, service coverage area, health impacts, and federal telecommunications regulations.

Mr. Maxson addressed the Board. Mr. Maxson stated his opinion that the applicant's proposal was better than previous wireless telecommunications facility/cell tower proposals presented over several years in North Hampton with regards to visual impacts, environmental impacts, and intended coverage area. There is an urgent need for wireless telecommunications service in the eastern section of North Hampton. The proposed cell tower will provide significant coverage in a coverage gap area and will be complimentary to other proposed cell towers in neighboring towns.

Mr. Maxson also stated his opinion that the applicant's proposed cell tower location was centrally located within the coverage gap area on high ground and well separated from residential uses. Mr. Maxson suggested that any approval for the proposed project include a condition which requires that a wireless service provider be contracted to provide service from the proposed cell tower prior to the construction of the cell tower.

Mr. Maxson also stated his opinion that raising the height of the cell tower from the proposed 150 feet to 180 feet would not provide better service coverage by filling in additional areas of the coverage gap area. Mr. Maxson further stated that the Board was prohibited from rejecting the applicant's proposal for health risks associated with wireless service emissions if the applicant's proposal conformed with the emission standards of the federal Telecommunication Act of 1996. Mr. Maxson explained his background as a long-standing member of a committee which develops and monitors wireless telecommunications emissions safety standards. Mr. Maxson further explained that current emission standards are similar to those established by the Telecommunication Act of 1996. There is no health risk associated with cell tower emissions for people on the ground in the neighborhoods surrounding the cell tower at its proposed location and proposed 150 foot height. In his opinion, the applicant's proposed wireless telecommunications facility will be compliant with the federal standards by a large margin.

Ms. Monaghan asked for clarification regarding potential service coverage in the Ocean Boulevard and beach area.

Mr. Maxson explained the service coverage expectations in the Ocean Boulevard and beach area. Cell phones will most likely work for phone calls with some minor variations. There will be a substantial signal footprint around the Mill Road area and east to the coast.

Ms. Monaghan asked for clarification regarding whether the applicant's proposal meets the Town's need for better wireless telecommunications service coverage.

Mr. Maxson explained that there were not any other available locations in North Hampton which would provide the combination of enhanced wireless service coverage, less visual impacts, and less environmental impacts in his opinion.

Mr. Omberg asked Mr. Maxson to confirm that a cell tower taller than the 150 foot proposed cell tower would not materially increase wireless service coverage in the area and that the proposed cell tower would be in conformance to federal safety regulations.

Mr. Maxson confirmed that a cell tower taller than the 150 foot proposed cell tower would not materially increase wireless service coverage in the area and that the proposed cell tower would be in conformance to federal safety regulations.

Mr. Omberg stated that Town Counsel has advised the Planning Board that the Planning Board has no legal basis for rejecting the application for health and safety concerns.

Mr. Maggiore asked if the Town would be allowed to co-locate municipal equipment associated with emergency services communications on the proposed cell tower.

Mr. Parisi stated that the Town would be allowed to co-locate municipal equipment associated with emergency services communications on the proposed cell tower within reasonable limits. Municipal use agreements are common with this type of project.

Mr. Omberg opened the public comment session at 7:23pm.

Boutilier Lane resident Frank Arcidiacono addressed the Board. Mr. Arcidiacono stated his opinion that the Planning Board adhere to federal regulations allowing 150 days to make a decision regarding the application and take additional time to consider the application, its implications, and alternative wireless service coverage options.

Mr. Milner stated that he received legal opinions from the New Hampshire Municipal Association and Town Counsel which advised the Planning Board that it must adhere to the NH RSA 65 day time limit for making a decision regarding a site plan application. The Board would need to make a decision at this meeting to comply with State of New Hampshire law.

Mr. Arcidiacono stated that there are alternative sites on the lots adjoining the proposed cell tower lot which are under the same ownership and could be used to construct a cell tower that would be closer to the coverage gap area and further away from Boutilier Lane residents. Mr. Arcidiacono presented coverage maps which, in his opinion, supported a reasonable alternative location for construction of a cell tower that would satisfy the Town's wireless service needs.

Mr. Wilson stated that the Board's consideration of the application is governed by the laws of the State of New Hampshire. The Board is not in a position to consider alternative locations. The Board can only consider the information presented as it relates to the applicant's proposal. The only way for the Board to consider an alternate cell tower location is to deny the current application and consider an alternate site application when it is appropriately submitted to the Board. However, in his opinion, there is no reason to deny the current application.

Boutilier Lane resident Paul Stinson addressed the Board. Mr. Stinson stated his opinion that the application is not complete due to the lack of a stormwater management plan. The Board should require submittal and review of the stormwater management plan prior to making a decision. It is important to understand the stormwater drainage implications associated with the proposed driveway in addition to the cell tower construction area.

River Road resident Jim Avalon addressed the Board. Mr. Avalon stated that the Board should wait to see if the proposed cell tower in Hampton is approved before making a decision on the North Hampton application in order to completely understand the area that may or may not be covered by wireless telecommunications service.

Mill Road resident Don McEvoy addressed the Board. Mr. McEvoy stated the following:

- a. A smaller cell tower at 120 feet, rather than the proposed 150 feet, would provide the same amount of wireless service coverage and create less of a fall zone issue.
- b. There are other types of wireless service technology which can fill in coverage gaps in smaller increments and be less intrusive than a larger cell tower. He suggested that the Board consider these wireless service alternatives.

c. The Board should consider whether the amount of wireless service coverage gained by the proposal outweighs the environmental impact on the wetlands created by the proposed construction.

d. The Town should require co-location of municipal communication equipment on the proposed cell tower if the application is approved.

Mr. Omberg closed the public comment session at 7:52pm.

Mr. Parisi stated the following in response to the public comments:

a. He has been personally involved in finding a wireless telecommunications facility to provide service to the eastern portion of North Hampton for several years. There are issues with every site that is considered. The site proposed by the applicant is the best available site. Additionally, federal law prohibits endless searching for the best site with the least amount of issues.

b. The applicant did review the alternative site proposed by Mr. Arcidiacono. However, the site would move any potential impacts from Boutilier Lane residents to Mill Road residents. The alternative site could potentially place more impact on a larger number of people.

Mr. Kroner asked if the wireless service coverage gap in the eastern section of North Hampton is satisfactorily covered by the applicant's proposal.

Mr. Maxson stated that the wireless service coverage gap in the eastern section of North Hampton is more than satisfactorily covered by the applicant's proposal. It is very well covered.

Mr. Omberg suggested that the Board consider the waivers needed for the application.

Mr. Milner read the criteria for granting a waiver from the Town of North Hampton Zoning Ordinance Section 605 Wireless Telecommunications Facilities.

Mr. Maggiore moved that the Planning Board grant a waiver to the requirements of Town of North Hampton Zoning Ordinance Section 605.3 - Wireless Telecommunications Facilities District and Map to locate the proposed wireless telecommunication facility and cell tower outside the wireless telecommunications facilities district as represented in the application and plans submitted to the Planning Board based upon the finding that the application meets all relevant criteria for granting a waiver as indicated in Town of North Hampton Zoning Ordinance Section 605. Second by Mr. McManus.

Mr. Omberg opened the public comment session at 8:03pm. No comments were made. Mr. Omberg closed the public comment session at 8:04pm.

The roll call vote was unanimous in favor of the motion (7-0).

Mr. Maggiore moved that the Planning Board grant a waiver to the requirements of Town of North Hampton Zoning Ordinance Section 605.7.B.6.b – Information Required to allow submission of the required National Environmental Policy Act evaluation report, and, if necessary, an Environmental Assessment or Environmental Impact Statement, prior to final approval of the wireless telecommunication facility and cell tower application rather than as part of the wireless telecommunication facility and cell tower application submittal considered by the Planning Board based upon the finding that the application meets all relevant criteria for granting a waiver as indicated in Town of North Hampton Zoning Ordinance Section 605. Second by Mr. Kroner.

Mr. Omberg opened the public comment session at 8:08pm. No comments were made. Mr. Omberg closed the public comment session at 8:09pm.

The roll call vote was unanimous in favor of the motion (7-0).

Mr. Maggiore moved that the Planning Board grant a waiver to the requirements of Town of North Hampton Zoning Ordinance Section 605.6.B - Setbacks and Separation for the wireless telecommunication facility and cell tower as represented in the application and plans submitted to the Planning Board, based upon the finding that the application meets all relevant criteria for granting a waiver as indicated in Town of North Hampton Zoning Ordinance Section 605 subject to the following condition:

The applicant shall submit recordable easement documents for all applicable lots (012-067-000, 012-070-000, 012-072-000, and 012-074-000) which ensure that no occupied structures shall be built or placed on any lot within 193 feet (tower height plus 25%) of the cell tower location.

Second by Ms. Monaghan.

Mr. Omberg opened the public comment session at 8:15pm. No comments were made. Mr. Omberg closed the public comment session at 8:16pm.

The roll call vote was unanimous in favor of the motion (7-0).

Mr. Milner read the criteria for granting a waiver from the Town of North Hampton Site Plan Regulations.

Mr. Maggiore moved that the Planning Board grant a waiver to the requirements of Town of North Hampton Site Plan Regulations Section VIII.B.3 - Plan Format and Information Required to allow the plan format as represented in the application and plans submitted to the Planning Board in a scale not in conformance with the regulations based upon the finding that the application meets all relevant criteria for granting a waiver as indicated in Town of North Hampton Site Plan Regulations Section XVI.

Second by Ms. Monaghan.

Mr. Omberg opened the public comment session at 8:19pm. No comments were made. Mr. Omberg closed the public comment session at 8:20pm.

The roll call vote was unanimous in favor of the motion (7-0).

Mr. Omberg suggested that the Board consider the Conditional Use Permits needed for the application. Mr. Milner read the criteria for approving a Conditional Use Permit associated with Town of North Hampton Zoning Ordinance Section 501 Wetlands Conservation District.

Mr. Maggiore moved that the Planning Board approve the Conditional Use Permit application for construction of a wireless telecommunication facility and cell tower with associated driveway and utility improvements within the Wetlands Conservation District as represented in the application and plans presented to the Planning Board, based upon the finding that the application meets all relevant conditional use permit criteria indicated in Town of North Hampton Zoning Ordinance Section 501.

Second by Mr. McManus.

Mr. Omberg opened the public comment session at 8:24pm. No comments were made. Mr. Omberg closed the public comment session at 8:25pm.

The roll call vote was unanimous in favor of the motion (7-0).

Mr. Milner stated that there were no specific criteria for approving a Conditional Use Permit associated with Town of North Hampton Zoning Ordinance Section 605 Wireless Telecommunications Facilities other than compliance with zoning ordinance and site plan regulations.

Mr. Maggiore moved that the Planning Board approve the Conditional Use Permit application for construction of a wireless telecommunication facility and cell tower with associated driveway and utility improvements as represented in the application and plans presented to the Planning Board, based upon the finding that the application meets all relevant conditional use permit criteria indicated in Town of North Hampton Zoning Ordinance Section 605. Second by Mr. McManus.

Mr. Omberg opened the public comment session at 8:27pm. No comments were made. Mr. Omberg closed the public comment session at 8:28pm.

The roll call vote was unanimous in favor of the motion (7-0).

Mr. Omberg suggested that the Board consider the Site Plan Review application.

Mr. Maggiore moved that the Planning Board approve the Site Plan Review application for construction of a wireless telecommunications facility and cell tower with associated driveway and utility improvements on Map/Lot 012-072-000, 012-067-000, and 012-065-000 as represented in the application and plans presented to the Board subject to the following conditions:

1. The applicant shall submit evidence of contractual agreement for at least one wireless telecommunications service provider to install equipment on and operate wireless telecommunications service from the proposed cell tower prior to the commencement of any wireless telecommunications facility activities or cell tower construction.

2. The applicant shall allow a reasonable amount of space at the top of the cell tower for co-location of municipal equipment, mutually agreed upon by the Town of North Hampton and the applicant, on the proposed cell tower in perpetuity at no charge to the municipality. The applicant shall:

a. ensure that the co-location will satisfy the operational requirements of the municipal equipment,

b. ensure that no interference with municipal equipment will occur by the placement of any future third party equipment on the cell tower, and

c. correct any instance of interference with municipal equipment that may occur.

3. The applicant shall submit recordable easement documents for all applicable lots (012-067-000, 012-070-000, 012-072-000, and 012-074-000) which ensure that no occupied structures shall be built or placed on any lot within 193 feet (tower height plus 25%) of the cell tower location.

4. The applicant shall submit a National Environmental Policy Act evaluation report and, if necessary, an Environmental Assessment or Environmental Impact Statement, as required by the Town of North Hampton Zoning Ordinance.

5. The applicant shall submit a stormwater management plan and calculations in compliance with the Town of North Hampton Site Plan Regulations and approved by the Town Engineer.

6. The applicant shall provide a removal and disposal performance guarantee for the wireless telecommunications facility and cell tower in conformance with Town of North Hampton Zoning Ordinance 605.B – Security and Insurance, and in an amount and a form acceptable to the Town of North Hampton and approved by the Town Engineer.

7. The applicant shall submit evidence of receipt of a certificate of insurance covering the constructed facilities in conformance with the Town of North Hampton Zoning Ordinance Section 605.B – Security and Insurance.

8. The applicant shall submit a clean letter from the Town Engineer.

9. A note shall be added to the recorded page of the plan indicating all Zoning Board of Adjustment and Planning Board approvals and the dates of the approvals.

10. The applicant shall submit a recordable Mylar of the approved plans 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.

11. Applicant shall submit a Certificate of Monumentation, stamped and signed by a licensed NH Licensed Land Surveyor, certifying that all monuments for Map/Lot 012-072-000 have been properly set as required by Town of North Hampton regulations.

12. The applicant shall submit evidence of receipt of all required federal, state, and local permits.

13. The applicant shall submit checks made payable to the Rockingham County Register of Deeds for mandatory recording fees.

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

15. There shall be no changes to the approved site plan on the recordable Mylar except to meet these conditions of approval.

Second by Ms. Monaghan.

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

The roll call vote was unanimous in favor of the motion (7-0).

IV. Other Business

1. Minutes.

Mr. Omberg presented the minutes of the October 17, 2023 meeting.

Mr. Wilson moved that the Planning Board accept the minutes of the October 17, 2023 meeting as written. Second by Mr. Maggiore. The roll call vote was 6-0-1 in favor of the motion with Mr. McManus abstaining.

The meeting was adjourned at 9:04pm without objection.

Respectfully submitted,

Rick Milner
Recording Secretary