

**HAMPTON ZONING BOARD OF ADJUSTMENT**  
**MINUTES – Draft**  
**April 18, 2019**

**Members Present**

Bryan Provencal, Chairman  
Norma Collins, Clerk  
Tom McGuirk  
Bill O'Brien,  
Ed St. Pierre  
Fred Rice, Alternate

The Pledge of Allegiance was said.

Chairman Provencal introduced the members of the Board.

**PETITION SESSION**

**13-19...**The continued petition of Chinburg Property located at Mary Batchelder Rd./Timber Swamp Rd. seeking relief from Article II, Section 2.1.4 and Article III, Section 3.8 to permit a 46-unit detached single-family condominium residential development on property located off of Mary Batchelder Road and Timber Swamp Road and further identified as Town Tax Map 102, Lot 3 (the "Property"). This property is located on Map 102, Lot 3 and in the G./I Zone.

Attorney Justin Pasay, Donahue, Tucker & Ciandella, and architect Corey Colwell came forward. Attorney Pasay said that in December 2017, Attorney Steve Ells obtained relief for a similar concept. This is a new concept and a much better one. The original concept was for 41 single family condos and 11 single family lots. They then went down to a total of 35 condo units for a total of 46. The plan for sewer was to tie in to the Liberty Lane system. It was later found that this could not be done. The new proposal has 46 units so density is the same, but there are 11 fewer curb cuts.

Mr. Colwell said there are no frontage lots. The new plan has no septic. Recreational area has gone from 21,000 square feet to 55,000 square feet. This plan also has cemetery access. The buffers between units are larger and there is more green space and more presence of vegetation.

Attorney Pasay went through the five criteria and said he felt they had been met.

*Questions from the Board*

Mr. St. Pierre asked if there was a building dedicated to recreation. Mr. Colwell said there was not.

Mr. O'Brien asked if there was access from Liberty Lane West. Mr. Colwell said there was not.

Mr. O'Brien asked if they had surveyed the wetlands so they wouldn't need any other variances. Mr. Colwell said they had not.

Mr. Provencal asked if the units would tie in to sewer and water. Mr. Colwell said they would.

*Comments from the Audience*

Beverly Warrens, Timber Swamp Road, said she was happy about this project.

*Back to the Board*

Chairman Provencal said he felt that this proposal is overcrowded.

Mr. St. Pierre said he liked this proposal better than the prior one.

Mr. O'Brien asked what the difference was between the old and the new proposal regarding unit size. Mr. Colwell said they are the same.

Mr. O'Brien asked if Unitil would have to cross through the property. Mr. Colwell said no..

**Moved** by Mr. McGuirk, seconded by Mr. O'Brien, to grant Petition 13-19.

Chairman Provencal asked the Board if the five criteria had been met. All members agreed that they had.

**Vote:** 5 yes, 0 no. Motion passed unanimously.

**14-19...**The petition of East Coast Development, LLC for properties located at 431 and 435 Ocean Blvd. seeking relief from Article(s) 2.3.4 B; 4.1.1;4.4;2.3.7.C.2 for demolition of all existing structures on 2 lots to be combined. Construction of a 23 unit multi family structure with ground level parking garage, pool and cabana. These properties are located on Map 266 Lots 27 & 47 and in the BS Zone.

Attorney Justin Freilich, Joe Coronati, Jones & Beach, and Tom Hall, architect came forward. Attorney Freilich said this same proposal was granted several variances back in 2008. This time the height has increased by 4 feet. This is because of a request from the Fire Department.

Regarding the parking garage. There is also the pitch roof which is more attractive than a flat roof.

Attorney Freilich went through the five criteria and said he felt they had been met. Mr. Coronati said he had worked on this in 2008. This new proposal will have more green space and there will be a reduction in pervious surface on the site. Mr. Hall described the building in more detail. The proposed height of the building is 61.9 feet.

#### *Questions from the Board*

Chairman Provencal asked about the location of the mechanicals. Mr. Hall said they would be on the roof.

Ms. Collins asked about the height of the ceilings in the units. Mr. Hall said they were 8 foot ceilings.

Mr. O'Brien asked who met with the Fire Department. Mr. Hall said it was Brad Richards of East Coast Development. Mr. O'Brien asked Mr. Richards when he met with the Fire Dept. He said approximately two months ago.

Mr. O'Brien said he was against going up to 61 feet. It would be better to delete a floor and put 9 foot ceilings in the units.

#### *Comments from the Audiencr*

Diane Beach, 445 Ocean Blvd. Unit 1, asked if the fence is currently being considered as the boundary. Chairman Provencal said no, it is at the property line. Ms. Beach asked about the marshland. Chairman Provencal said they will not be building in the marsh.

Rayann Dionne, Conservation Coordinator, said the Town does have a wetlands process. The Conservation Commission has not reviewed this at all. Ms. Dionne said she would request that the Board take no action or if action is taken it be a condition that the Applicant goes to the Conservation Commission.

Melanie Roy, 429 Ocean Blvd., said the rendering is beautiful. The Riviera is definitely an eyesore. Ms. Roy said she would like this new building to be the same height as hers. She said she is thrilled that something this beautiful will be next to her.

Charlie Dow, 429 Ocean Blvd., expressed concern about demolition damaging his automobile. Chairman Provencal said the Building Department will make sure no damage is done.

Chairman Provencal asked what the top of the living space is. Mr. Hall said it was 58 feet.

Chairman Provencal suggested that the Applicant come back next month with a letter from the Fire Department outlining what they want as this is basically what is causing the height problem.

Ms. Collins asked Mr. and Mrs. Roy how tall their building is and the height of the ceilings in the units. Mr. Roy replied height is 50 feet and ceilings are 8-1/2 feet.

**Moved** by Mr. St. Pierre, seconded by Mr. McGuirk, to continue Petition 14-19 next month unless the plan changes. This will be first on the Agenda.

**Vote:** 5 yes, 0 no. Motion passed unanimously.

At this time, Mr. McGuirk stepped down from the Board and Mr. Rice stepped up.

**15-19...**The petition of Donik Corporation for properties located at 535 and 537 Ocean Blvd. seeking relief from Article(s) 4.4 to modify and supplement the applicant's January 16, 2019 approval (the "January application") to increase the height of the building by two feet six inches and to reduce the number of units from 36 to 32. These properties are located on Map 255, Lots 8 & 9 and in the BS Zone.

Will Soucy, Don Garcia, Joe Coronati, and Attorney Peter Saari came forward. Attorney Saari said this is an "encore" to their petition which was approved on January 16, 2019. There have been some unintended occurrences and 2 feet, 6 inches are needed for height. This petition will also reduce the number of units from 36 to 32. Attorney Saari went through the five criteria and said he felt they had been met.

#### *Questions from the Board*

Mr. O'Brien said he loved the drawing that was being displayed, but that it was a rendering of the building requested in January. The new building is just a big square and not attractive.

Mr. St. Pierre said he was against the proposal as presented.

Mr. O'Brien said he is against this proposal because it is going up to 58 feet, 6 inches and also because it is a square building. There were two stepbacks in the original proposal which added to its attractiveness. Now there is only one.

Chairman Provencal said he thought the prior project was fine and that is why he approved it. He said he liked the other plan much better.

Mr. Soucy said they would like to come back. Mr. Rice said if they do, they should try to keep the double setback.

**Moved** by Mr. St. Pierre, seconded by Ms. Collins, to continue Petition 15-19 at the next meeting at which time it will be second on the Agenda.

**Vote:** 5 yes, 0 no. Motion passed unanimously.

At this time Mr. Rice stepped down from the Board and Mr. McGuirk stepped up.

### **BUSINESS SESSION**

Mr. St. Pierre said he wants everyone to know that the Board strives to be fair regarding height.

### **Tom McGuirk – clarification on motion made for Petition #47-18**

Mr. McGuirk said the Planning Department wants clarification on the amount of sealed surface that would be present on the combined lots. The amount is 90.1%.

It was suggested to write a letter from the Board stating that the amount of sealed surface is 90.1% for the combined lots. The Minutes would then need to be corrected.

Chairman Provencal said he had a meeting with the Town Planner and the Town Attorney and it is fine for Mr. McGuirk to proceed. He will not be held up.

Mr. McGuirk said he would prefer to go before the Board next month with a new application and show the 90.1% sealed surface for the combined lots.

**Moved** by Mr. O'Brien, seconded by Chairman Provencal, that Mr. McGuirk will come before the Board next month with a new application.

**Vote:** 5 yes, 0 no. Motion passed unanimously.

### **Approval of Minutes**

**Moved** by Mr. O'Brien, seconded by Chairman Provencal, to approve the Minutes of March 21, 2019 as amended.

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**Vote:** 5 yes, 0 no. Motion passed unanimously.

**Adjournment**

**Moved** by Mr. O'Brien, seconded by Chairman Provencal, to adjourn the meeting at 10:11 p.m.

**Vote:** 5 yes, 0 no. Motion passed unanimously.

Respectfully submitted,

Joan Rice  
Secretary