

HAMPTON PLANNING BOARD – MINUTES

August 6, 2003

PRESENT: Thomas Gillick, Chairman
Robert Viviano, Vice Chairman
Fran McMahon, Alternate
Tom Higgins
Jack Lessard
Keith Lessard
Skip Sullivan, Selectman
Jennifer Kimball, Town Planner

ABSENT:
Tracy Emerick, Clerk

Mr. Gillick called the meeting to order at 7:00 p.m. by introducing the Board members. Mr. Gillick then asked Mr. McMahon to lead the Pledge of Allegiance.

I. CONTINUED PUBLIC HEARINGS:

1. 389 High Street Realty Trust (Jerome Sakurai)
Special Permit to remove a duplex and construct one 8-unit building
within the Wetland Conservation District at
389 High Street
Map 180, Lot 3A
Owners of Record: 389 High Street Realty Trust and Four B Realty Trust
2. 389 High Street Realty Trust (Jerome Sakurai)
Site Plan application to construct one 8-unit building and associated
Conditional Use Permit for development within the Aquifer Protection District at
389 High Street
Map 180, Lot 3A
Waiver Requested: Site Plan Regulations Section VII.D (Storm Drainage),
waiver only needed for Drainage Plan Option A
Owners of Record: 389 High Street Realty Trust and Four B Realty Trust
Jurisdiction Accepted June 4, 2003

Mr. Gillick read a memo dated August 6, 2003, from Joe Coronati, Jones & Beach Engineers requesting these applications be continued to the September 3, 2003 Planning Board meeting. Mr. J. Lessard **MOTIONED** these applications be continued, at the request of the applicant, to September 3, 2003. Mr. McMahon **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

II. NEW PUBLIC HEARING:

- 1) Andrew Kyriazis Special Permit
Planning Board consideration of compliance with condition #6 of its
May 7, 2003 conditional approval per RSA 676:4 I(i)
at 90 Island Path
Map 281, Lot 25
Owner of Record: Andrew Kyriazis

Mr. Gillick recapped this particular application for the Board. It was recalled this involved use of what was perceived as an abandoned portion of Garland Street. When a public right of way is abandoned the abutters have the right to the middle of the road. Mr. Mark Gearreald, Town Attorney, was present tonight and Mr. Gillick asked him to highlight the significance of the confusion and controversy surrounding this application. Mr. Gearreald outlined his memo, dated June 19, 2003, which discusses the legal issues where there are competing claims as to the title and ownership of the abutting street, who owns it, and who has the right to develop it. The Special Permit previously granted by this Board is now in appeal process in Superior Court. An answer will be due in early September and the parties are now discussing what can occur to resolve the dispute. Simultaneously, Mr. Kyriazis is planning to file, with the Zoning Board, a request for a variance to allow a slightly modified plan to be presented to the Planning Board that would possibly allow the applicant to proceed with without using this strip of road. Mr. Gillick read a memo dated August 6, 2003, from Jones & Beach Engineers requesting postponement until October 1, 2003, with a handwritten comment from Attorney Saari requesting postponement of further discussion until Mr. Kyriazis can be heard at the ZBA. Mr. Alan Ganz, Attorney for Dana Patterson, Inc., the appealing abutter, was present and agreed with all parties to continue the hearing. Mr. K. Lessard asked why the Board should not rescind the prior approval since the issue of resolving the ownership of the road by Attorney Gearreald could not occur. He asked what would happen if a variance was granted. Mrs. Kimball answered: the applicant would have to file a new application, and the Board would be looking at a different plan. Mr. Gillick answered the Board can overturn the previous motion. Attorney Gearreald also interjected the reason not to overturn the previous motion tonight is it hasn't been resolved who owns the strip of road. Should Mr. Kyriazis be declared ownership the previous Board action will stand as is. Attorney Gearreald also suggested any future question, any doubt or irregularities as to ownership rights, the Board should not proceed to approve the project until title/ownership issues are resolved. Mr. J. Lessard **MOTIONED** to postpone the above referenced application, at the applicant's request, to the October 1, 2003 meeting. Mr. Viviano **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

- 2) Barbara A. McCafferty
Condominium Conversion at
90-92 Kings Highway
Map 196, Lot 9
Waiver Requested: Subdivision Regulations V.E (submittal of Detailed Plan)
Owners of Record: Barbara A. McCafferty and Mary T. Bolduc

Mr. Ernie Cote introduced himself as representing the applicant and sitting with him was the applicant, Ms. McCafferty. A letter of authorization from Mary Bolduc, additional owner of said property, was submitted this evening. Mr. Cote proceeded to explain there would be no physical changes to the property. Mr. Gillick and Mrs. Kimball reconfirmed this address is only two units and any future changes would require additional applications and variances. Mr. Cote confirmed that there are four onsite-parking spaces currently allotted for this property. Mr. Sullivan added, this property lies within the sewer moratorium area and expected sewer corrections will be forthcoming.

OPEN PUBLIC HEARING:

Ms. Sheila Francouer of 88 Kings Highway introduced herself. Being a direct abutter to the South of the said property, her concerns are to allow only two units at this address. Additionally, she is concerned that, in the future, the garage may be altered to another condominium. Also, she is requesting adequate parking be a condition.

CLOSE PUBLIC HEARING.

Mrs. Kimball, once again, confirmed with the owner that there are, and will be, only two dwelling units. Mr. J. Lessard **MOTIONED** to grant the Waiver Requested: Subdivision Regulations V.E (submittal of Detailed Plan). Mr. Sullivan **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.** Mr. K. Lessard **MOTIONED** to accept jurisdiction of and approve the Condominium Conversion at 90-92 Kings Highway, Map 196, Lot 9, of plan # 4-58-5054, dated 7/10/03, subject to:

Submittal of revised plans as per comments #4 & #5 from Jennifer Kimball, Town Planner memo dated August 4, 2003.

Mr. Viviano **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

- 3) Marco Rotondo
Special Permit to move 3 existing wetland buffer zone markers (moving buffer away from house) and fill in new area "outside" of buffer with gravel, creating gradual slope from house, with a stone wall at the base of the slope all within the Wetland Conservation District at 8 Mohawk Street
Map 113, Lot 11-2
Owner of Record: Same as Above

Mr. Rotondo introduced himself and proceeded to present his application. Also included were handouts he prepared with pictures of the proposed plan, as well as the Buffers for Wetlands and Surface Waters (A Guidebook for NH Municipalities – 11/95 (revised 5/97)). Mr. Gillick stated this plan calls for moving of wetland buffer monumentation he does not recall the Board ever approving such a request. Mr. Gillick then read a memo dated July 23, 2003 from the Conservation Commission, which pointed out the exact reasons this project would not be justified and gave suggestions of solutions that would be acceptable for Mr. Rotondo to utilize, with proper approval, on his property. Mr. Rotondo gave reason for approval of his request sighting the NH Municipalities handout which states that grassed filter strips are preferred over native vegetation. Also, that his house is located next to a 5 foot drop-off. Mr. Gillick confirmed that Mr. Rotondo, through his contractor, sited the house. Mr. Rotondo agreed. Mrs. Kimball explained that a filter strip is an engineered strip of vegetation specifically designed in length and slope to filter runoff and is not just a lawn. Mr. K. Lessard pointed out in the NH Municipalities handout, the next paragraph, after the one Mr. Rotondo referred, states the exact opposite of the proposed and it is best to be left in the natural state.

OPEN PUBLIC HEARING:

Mr. Pete Tilton of 125 Landing Road introduced himself. Mr. Tilton is a member of the Conservation Commission and read a written statement he wrote - the true issues of this application are inconsistent with the established purposes of Section 2.3.5 and Section 2.3.1. The suggested vegetation and fencing could be an alternate solution. Mr. Tilton does not agree with this application as it is currently outlined.

CLOSE PUBLIC HEARING.

Mr. Sullivan **MOTIONED** to deny the Special Permit to move 3 existing wetland buffer zone markers (moving buffer away from house) and fill in new area “outside” of buffer with gravel, creating gradual slope from house, with a stone wall at the base of the slope all within the Wetland Conservation District at 8 Mohawk Street Map 113, Lot 11-2 due to the concerns outlined in the Town of Hampton Conservation Commission’s memo dated July 23, 2003 of non-consistency with wetlands ordinances. Mr. J. Lessard **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

- 4) Blake Chichester and James A. & Kelley A. Kean
Lot Line Adjustment at
63 & 71 Little River Road
Map 129, Lots 9 & 9-2
Waiver Requested: Subdivision Regulations Section V.E (Detailed Plan)
Owner of Record: Same as Above

Mr. Cote introduced himself as representing the applicant. Also present was Mr. Chichester. Mr. Cote prepared to explain the application because the driveway is right up against the property line. Moving the lot line 10’ in the front and 10’ in the back would make it a simple lot line adjustment that would actually improve the property and benefit the abutting neighbor’s lot line as well. A letter of authorization from Mr. James Kean, abutting property owner, was submitted this evening.

OPEN PUBLIC HEARING: no comment.

CLOSE PUBIC HEARING.

Mr. Higgins asks to clarify if the frontage measurements are before or after the changes. Mrs. Kimball verifies the measured numbers on the plan denote the proposed changes and conforms to zoning requirements.

Mr. J. Lessard **MOTIONED** to grant the Waiver Requested: Subdivision Regulations Section V.E (Detailed Plan). Mr. Viviano **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.** Mr. Viviano **MOTIONED** to accept jurisdiction of and approve the Lot Line Adjustment at 63 & 71 Little River Road, Map 129, Lots 9 & 9-2, of plan #3-58-6670, dated 7/18/03, subject to:

Submittal of revised plans as per comments #3, #4 & #5 from Jennifer Kimball, Town Planner memo dated August 5, 2003.

Mr. K. Lessard **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

- 5) Guy DeFilippo
Lot Line Adjustment at
510 & 514 Winnacunnet Road
Map 222, Lots 97 & 98
Waiver Requested: Subdivision Regulations Section V.E (Detailed Plan)
Owner of Record: Same as Above

Mr. Ernie Cote introduced himself as representing the applicant. Also present were the applicant Mr. DeFilippo of Burlington, MA and Ms. Mary Roche, 11 Tamarind Lane, Exeter, NH, daughter of the applicant. Mr. Cote explained, at one time the property was one parcel of land being three separate lots. Currently, the applicant would like to make it two lots of better size to attain more of the zoning requirements and be more conforming of the currently regulations.

OPEN PUBLIC HEARING: no comment.

CLOSE PUBIC HEARING.

Mr. K. Lessard **MOTIONED** to grant the Waiver Requested: Subdivision Regulations Section V.E (Detailed Plan). Mr. Sullivan **SECONDED. VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.** Mr. Sullivan **MOTIONED** to accept jurisdiction of and approve the Lot Line Adjustment at 510 & 514 Winnacunnet Road Map 222, Lots 97 & 98, of plan #3-61-5459, dated 7/17/03, subject to:

Submittal of revised plans as per comments #3 through #8 from Jennifer Kimball, Town Planner memo dated August 5, 2003.

Mr. Higgins **SECONDED. VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

III. OLD BUSINESS:

- 1) Hampton Woods, LLC
Amended Site Plan review to add 5 units for project formally known as "Seacoast Woods," conditionally approved on November 7, 2001
off Walker Circle
Map 157, Lot 2A
Owner of Record: Same as Above
- 2) Drakes Appleton Corporation
Amended Special Permit application associated with changes proposed to project formally known as "Seacoast Woods," conditionally approved on November 7, 2001
off Walker Circle
Map 157, Lot 2A
Owner of Record: Hampton Woods, LLC/Drakes Appleton Corp.

Mr. K. Lessard steps down for these applications.

Mr. Tom Nigrelli introduced himself as Manager of Hampton Woods, LLC. Also present was Mr. Michael Donahue, Attorney representing the applicant. Mr. Nigrelli presents the revised plans and having taken the suggestions of the Board is confident the changes incorporated will be acceptable.

Mrs. Kimball summarizes for the Board that the plans were sent out for review to various departments and she reads some of the comments from the memos: John Hangen, DPW, dated July 17, 2003 denotes being satisfied with the revised plans as submitted, additionally, concurring with the Developer, Walker Circle should be privately owned. Consensus of the Board agreed with Mr. Hangen that Walker Circle should be privately owned.

Mrs. Kimball continued highlighting two separate memos dated July 24, 2003 from Scott McDonald, Bureau of Fire Prevention: one stating the previous concerns were addressed and the other memo stated conditions to be met regarding the amended plan showing the private road. Mrs. Kimball suggested the applicant should submit a final design in communication with the Fire Department and DPW, and apply to the zoning board for variances should they choose to make Walker Circle a private road. Additionally, Ambit Engineering is in receipt of the current set of plans and most of the concerns outlined in the July 29, 2003 have been addressed. Some minor outstanding items (erosion control and filter strips) would not impact the actual placement of structure or road design. Mr. Gillick asked Mrs. Kimball what the next step should be. Mrs. Kimball indicated that if the Board wanted to take positive action, she could assist in conditions. The Board discussed a number of potential conditions. They agreed that finalizing Walker Circle, whether public or private, should not hold up construction. Also, if the applicant did receive the necessary variances, they would return to amend the plans and apply for a Lot Line Adjustment.

Mr. J. Lessard **MOTIONED** to approve the Amended Special Permit application associated with changes proposed to project formally known as "Seacoast Woods," conditionally approved on November 7, 2001, off Walker Circle, Map 157, Lot 2A, subject to the conditions of the November 7, 2001 meeting (November 9, 2001). Mr. Viviano **SECONDED. VOTE: 4=YES. 1=ABSTAIN** (Mr. Higgins). **MOTION PASSES IN THE AFFIRMATIVE.**

Mr. J. Lessard **MOTIONED** to accept jurisdiction of and approve the Amended Site Plan review to add 5 units for project formally known as "Seacoast Woods," conditionally approved on November 7, 2001 off Walker Circle, Map 157, Lot 2A, subject to:

- 1) Review and approval of outstanding issues by Ambit Engineering prior to final approval,
- 2) Review of submitted condominium documents by Jennifer Kimball, Town Planner, to ensure they address issues of stormwater facility maintenance, "no cut zones," trash collection and road maintenance,
- 3) Prior to the introduction of sanitary flows, submittal of engineering certification of completion that the sewer construction has been inspected and meets Town standards,
- 4) Completion of Walker Circle from Drakeside Road, road deeded to and accepted by the Town, deed reviewed by Town Counsel as a condition subsequent,
- 5) Receipt of DES Sewer Discharge Permit, for 23 Units, prior to issuance of building permit,
- 6) Posting of \$10,000.00 surety for engineering review, certification, and site monumentation,
- 7) Submittal of copy of the ingress/egress easement for Hampton Woods Apartments to the Board and filed with the Registry,
- 8) Final plans, mylars, and recording fees. Payment of independent review fees. Final plans and mylars stamped by LLS,
- 9) Submittal of certification of monumentation prior to release of surety.

Mr. Viviano **SECONDED. VOTE: 4=YES. 1=ABSTAIN** (Mr. Higgins). **MOTION PASSES IN THE AFFIRMATIVE.**

I. ATTENDING TO BE HEARD:

- 1) Paula Tsiatsios Pierce
Parking Lot Application for 15 spaces at
419 Ocean Boulevard
Map 226-1, Lot 3
Owners of Record: Paula T. Pierce, John Tsiatsios, Charles Tsiatsios, George Tsiatsios

Ms. Paula Tsiatsios Pierce introduced herself. She and her brothers are the owners of the Beachcomber Motel for many years. The proposal is to use 15 parking spaces as a commercial “for pay” lot. Mr. Higgins asks is the house and cabins occupied. Ms. Pierce answered no occupancy permit needed for the house because she is living in it, and the cabins do not have a current occupancy permit. Mrs. Kimball clarified that if you receive additional certificates of occupancy for the cabins, parking requirements will have to be met, which may reduce the number of “for pay” spaces. The Board discussed the driveway location and need to have two spaces for the house. Mr. Sullivan **MOTIONED** to approve the Parking Lot Application for 15 spaces at 419 Ocean Boulevard, Map 226-1, Lot 3, subject to:

- 1) Submittal of deed showing right of way, and,
- 2) Submittal of revised plan denoting driveway and two additional parking spaces used by the main house.

Mr. K. Lessard **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

II. CONSIDERATION OF MINUTES – July 30, 2003:

Mr. Higgins stated Page 7 (re: Golden Corridor & Hampton Harbor Condominiums, LLC) just before the motion should read: *The Board expressed concern that the Pier issue be resolved before it accepts jurisdiction. Mrs. Kimball clarified that a memo would be sent to the Town Manager asking him to come to the meeting regarding this discussion.*

Mr. K. Lessard **MOTIONED** to approve and amend the minutes as discussed. Mr. Viviano **SECONDED**. **VOTE: 4=YES. 2=ABSTAIN** (Mr. Sullivan & Mr. McMahon). **MOTION PASSES IN THE AFFIRMATIVE.**

III. CORRESPONDENCE:

Mrs. Kimball read a memo dated August 6, 2003, from Elizabeth Ware of Drakes Appleton Corp. regarding release of the \$50,000.00 surety for the Hampton Meadows Project. Additionally, Mrs. Kimball read a letter dated August 6, 2003 from Frederick Sprague of Millette, Sprague, Colwell, Civil Engineers stating they did an inspection of the final phase of construction and found the on-site drainage and landscaping to be complete as per the design plans. Mr. Gillick recommends the Board to ask the DPW to review the request and certification and comment before the release of the surety. A memo will be sent regarding such.

IV. OTHER BUSINESS:

Mrs. Kimball will not be attending the August 20, 2003 meeting.

Mr. J. Lessard **MOTIONED** to adjourn. Mr. Sullivan **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Meeting adjourned at 8:50 p.m.

Respectfully Submitted,
Janine L. Fortini
Planning Board Secretary