

## HAMPTON PLANNING BOARD – MINUTES

January 5, 2005

**PRESENT:** Robert Viviano, Chairman  
Tracy Emerick, Vice Chairman  
Tom Gillick  
Tom Higgins  
Keith Lessard  
Fran McMahon, Clerk  
Bill Bilodeau, Alternate  
Jim Workman, Selectman Member (7:07 PM)  
John Harwood, Town Planner

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

### I. 2005 PROPOSED ZONING AMENDMENTS PUBLIC HEARING

Mr. Viviano asked Mr. McMahon to read each of the proposed zoning amendments. He then asked Mrs. Jennifer Kimball to address each of these amendments, explaining the change, its impact on the Ordinance and the rationale for each proposal.

- ARTICLE A -Amending -Section 1.2 - Reconstruction of Non-Conforming Uses;  
To add “the intentional demolition an/or removal” to this Section. Mrs. Kimball explained that this change was to explicitly state the manner in which this Section is intended and currently administered.
- ARTICLE B - Amending Section 1.3 Expansion, Alteration, and Abandonment of Non-Conforming Uses and add a new definition under Section 1.6 for “Expansion of Non-Conforming Structure”;
- ARTICLE C - Adding a new Section 1.3-a for “Alteration of Non-Conforming Land”;
- ARTICLE D - Adding a new Section 1.5-a to allow Planning Board Preliminary Subdivision Review;
- ARTICLE E - Amending Section 1.6, Definition of a Parking Space;
- ARTICLE F - Amending Section 2.3 Wetlands Conservation District to conform with changes in State Law, RSA 482-A:2 and 674:55, definition of a wetland;
- ARTICLE G - Amending Section 2.3.7, Special Provisions (of the Wetlands Conservation District) by adding a new Section C-a after existing Section C;
- ARTICLE H - Amending Section 2.4 Special Flood Area and Section 11.6 Floodplain Development Regulations to adopt new Flood Insurance Rate Maps;
- ARTICLE I - Amending the Town’s Impact Fee Ordinance to conform with changes in State Law, RSA 674:21.

Mrs. Kimball reviewed the procedures for addressing these changes. She indicated that any amendments voted will be placed on the ballot in March. She noted that this is the last opportunity to hold a public hearing. There can be no substantive changes to the amendments. It is also too late to make any additions. The Board can take three possible courses of action - make editorial changes to the proposed amendments, vote to move them to the ballot, with our without editorial changes, or vote to not move the amendments to the ballot.

Mrs. Kimball indicated that Town Attorney Mark Gearreald had reviewed all of the amendments.

She then addressed the specific amendments:

ARTICLE A – This proposed amendment was added at the request of the Town Attorney. His opinion was that there may be a loophole in the Section currently because intentional demolition of property is not explicitly specified in the Section. The additional language would strengthen the ordinance without changing it.

#### BOARD

Mr. Lessard asked for a definition of “intentional demolition. Mrs. Kimball replied that it means that an individual applies for a Demolition permit for demolition of a property. The section is being administered this way, but the Section doesn’t specifically state the intent.

Mr. McMahan asked for clarification. Mrs. Kimball clarified that the non-conforming use of a property could remain as long as the new structure conformed to current zoning requirements.

Mr. McMahan asked for clarification of when the 2-year time line runs. Mrs. Kimball clarified that the 1-year time period begins from the date of the event (destruction or demolition). She stated that the Building Department enforces the time limits specified in the Section, and that department could clarify the time limits further.

#### PUBLIC

Mr. Ted Guthrie, 20 Boston Avenue, asked for clarification of when the 1-year time period starts – when the Building Permit is issued or when the first nail is driven.

Mr. Arthur Moody, 3 Thomsen Road, stated that the Town Attorney misses the point of the Section. With this additional wording, it will now equate intentional destruction with an Act of God. Per Mr. Moody, this is “like blasphemy”. He stated that, according to his interpretation, the ordinance was intended to give relief to people who had no control over the destruction of their property. This change would allow intentional continuation of a non-conforming use. He stated that the object of the Zoning Ordinance, and amendments thereto, is to make non-conforming structures and uses become conforming. He mentioned a specific example where someone was allowed to expand a use within the perimeter of a non-conforming structure.. He states he is opposed to this amendment.

Mr. Vic Lessard, stated that he is of the opinion that we shouldn’t go forward with anything where the time line is unclear, because of the complexity of the process today , which takes time. He stated he agrees with Mr. Moody.

#### BOARD

Mr. Gillick stated that it is possible to have a building which is non-conforming and a use that is non-conforming – each distinct from the other. If someone chooses to take down a building, that act involves the structure only. A non-conforming use is a separate matter. The amendments being brought to the Board by the former Town Planner are administered by the Building Department on a daily basis. The purpose of the amendment is to clarify the ordinance. He has respect for the people who brought the amendments forward and wants to approve them.

Mr. Lessard stated he is not comfortable with change for those who want to intentionally demolish and renovate a structure. Why can’t they come in for site plan approval?

Mr. Gillick noted that all new buildings must conform to regulations.

Mr. Workman stated there are two circumstances involved – non-conforming use within a non-conforming building. He clarified the application of this amendment with respect to rebuilding the building and continuing the use. The change addresses the use rather than the building.

MOVED by Mr. Gillick to send the amendment to the ballot.

SECONDED by Mr. Higgins.

VOTE: 6-1-0 (Mr. Emerick opposed)

MOTION PASSED

ARTICLE B - Mrs. Kimball then addressed the amendment to Section 1.3. The purpose of the change in title by adding the word “Structures” is intended as a clarification. The purpose of the amendment is to reword the section for clarification. The intent of rewording “discontinuation” is to make it more clear for the lay person.

PUBLIC

Mrs. Jeanina Scanlon, 4 J Street, stated that, in her opinion, there appears to be inconsistency between Section 1.3 and the referenced Article 4, Footnote 9. The word “Any” in the amendment appears to negate the possibility of enforcing Article 4, Footnote 9. She stated that, in New Hampshire, non-conforming uses are protected. She cited State law, indicating that this amendment would take away the property rights of the owner.

BOARD

Mr. Higgins asked for clarification from Mrs. Kimball as to precisely which portion of the amendment is being questioned.

PUBLIC

Mr. Mike Scanlon, 4 J Street, cited Article 64.16. He references a book “The Law of Non-conforming Uses”. He states, as a real estate broker, he looks at contracts every day. He provided the Board with an excerpt from the referenced book and requested it be reviewed before the amendment goes forward.

Mr. Arthur Moody stated that the Section 1.3 change and Article 4, Footnote 9, should be looked at together. He states it should take more than one lawyer to figure this out.

Mrs. Jeanina Scanlon stated that by adopting the new definition, the Town is contradicting itself between two Articles.

BOARD

Mr. Emerick states he defers to the people who live with the Ordinance on a daily basis.

Chairman Viviano asked Mrs. Kimball to confirm that the intent of the amendment is to clarify the language only and not to change the Ordinance.

Mr. Higgins indicated he felt revisions were clearer than original language.

MOVED by Mr. Emerick that ARTICLE B changes be forwarded to the ballot

SECOND BY Mr. Gillick

VOTE: 3-4-0

MOTION FAILED

ARTICLE C - Mrs. Kimball explained the purpose was to include a definition of "land" in Article C. She gave an example of altering non-conforming land to make it more non-conforming.

Mr. McMahan asked for clarification, which Mrs. Kimball provided.

## PUBLIC

Mr. Arthur Moody states he believes that change should include reference to the minimum requirements specified in Article 4.

Mrs. Jeanina Scanlon states that there is no definition in the Ordinance of what is a non-conforming parcel. The proposed change does not define what a non-conforming parcel is. She believes amendment needs more clarification before going forward.

Mr. Mike Scanlon showed a picture of the beach area. He stated that we have a lot of examples of non-conforming uses in a commercial zone in the beach area. In his opinion, we have to be sure the new definition covers everything that is happening in the Town.

## BOARD

Chairman Viviano asked how this amendment came up.

Mrs. Kimball stated it came up in discussion of the Ordinance, but it would not change how the Ordinance is being enforced.

MOVED by Mr. Lessard to not move this Article forward to the ballot.

SECOND by Mr. Emerick

VOTE: 5-1-0

MOTION PASSED

ARTICLE D – Mrs. Kimball explained that there is a change in State law with respect to making preliminary subdivision review a requirement. If the Town should want to adopt the state change, the Town has to first adopt an Authorization within the Zoning Ordinance. Then the second step would be a change to the Subdivision Regulations. This is the first step if the Planning board should ever want to change Planning Subdivision Regulations.

## BOARD

Mr. Emerick asked if it was enforceable and Mrs. Kimball stated it was, explaining the process.

Mr. Emerick asked how you would know what required preliminary subdivision review. Mrs. Kimball stated that this would need to be defined when the Subdivision Regulations were done.

Mr. Higgins asked when this change would be useful.

Ms. Kimball indicated that it is useful in large tract subdivisions. It is helpful to have preliminary review before large scale engineering work is done on a project.

Mr. Gillick provided clarification by stating that there are towns in New Hampshire that have large tracts of land. Citizens were complaining about development of these large tracts. The State felt it would give the public the opportunity to be informed before major development started.

MR. Lessard stated that we may not need this in Hampton, since we have design review.

Mrs. Kimball indicated that this change would make design review a requirement.

Mr. Emerick asked how much land we have in Hampton that might be subject to this.

Mr. Lessard stated that with future changes in the Zoning Ordinance, there could be a lot of land.

#### PUBLIC

Mr. Mike Scanlon indicated that he believed this amendment would be adding a layer of bureaucracy. He is more concerned with a planned use in zoning.

Mr. Arthur Moody asked if this is the whole State law. Do all subdivisions have to be treated alike.

Mrs. Kimball read the State law that changed RSA 674.75 under “power to regulate subdivisions.”

Mr. Moody asked if preliminary review would be a public hearing process.

Mrs. Kimball stated she believed it was not a public hearing process.

Mr. Moody stated that the process of who has to go to review should not be arbitrary

#### BOARD

MOVED by Mr. Lessard that the amendment not be sent to the ballot

SECOND by Mr. Workman

VOTE: 6-0-0

MOTION PASSED

#### ARTICLE E – DEFINITION OF A PARKING SPACE.

Mrs. Kimball read the proposed change. She clarified that this was not changing what a parking space was. The Town Attorney asked that this Article be included because the term “stacked parking” is used all the time, but the term does not appear in our Ordinance. The amendment’s intent is to add the term to make the Ordinance more clear.

#### BOARD

Mr. Higgins asked for clarification of the new statement in the amendment. He felt it was clearer without the last sentence.

The Board proceeded to discuss this statement.

#### PUBLIC

Mr. Andrew Guthrie, 10 Boston Avenue, indicated that he represents a group from his neighborhood. He recommends not forwarding this amendment to the ballot. His group takes issue with the phrase “satisfactory ingress and egress”. He feels Section 1.6 should be left as is.

Mr. Mike Scanlon delivered a note to the Chairman from John Christianson. He wanted to point out something on Epping Avenue. There are 21 properties on Epping Avenue. He believes that the

amendment would greatly increase non-conformity on Epping Avenue. Speaking for himself, he doesn't want to see a situation where diminution of value will occur to existing property.

Chairman Viviano clarified that there is no intent to change existing situations.

Mr. Charlie Preston, Glade Path, states that his mother's house is at 63 Ocean Boulevard and has had stacked parking for years. Where would they stand if they wanted to expand the property. He stated that stacked parking has always worked at the beach.

Mrs. Kimball responded that adding dwelling units would need Planning Board Review. Then the whole situation would be looked at. She stated that each situation would be taken on a case-by-case basis.

Mr. Ted Guthrie, 20 Boston Avenue, stated that if changes were made to a structure, would this be non-conforming. He objected to the fact that the term "satisfactory" is not defined in the amendment. He asked that this not move forward to the ballot.

Mr. Medlock, 23 Concord Avenue, indicated that his interpretation is that the amendment is trying to make definition of "satisfactory" clearer. He felt it should not go forward to the ballot.

Mr. Guthrie feels that the Board is incorrect in saying nothing is changing in this proposed amendment.

Mr. Michael Tage, 7 Concord Avenue, indicated he agrees with previous speaker. He feels that it is changing the Ordinance. He is opposed to it going forward.

Mrs. Jeanina Scanlon asked about driveways versus aisle ways. Mrs. Kimball described this. Mrs. Scanlon does not feel that this amendment should be moved to the ballot. She feels this will be injurious to people with stacked parking.

Mr. Mike Scanlon indicated he does not want this amendment to go to the ballot.

BOARD

MOVED by Mr. Lessard that the amendment not be moved forward to the ballot.

SECOND by Mr. Gillick

VOTE: 6-1-0

MOTION PASSED

ARTICLE F – Changes to Section 2.3 - Wetlands Conservation District

Mrs. Kimball stated that wherever the word "wetland" appeared in this Section, with the amendment, it now reads "wetland & very poorly and poorly drained soils". She indicated that this wording change was necessary to be in conformance with State law.

BOARD

No comment

PUBLIC

No comment

MOVED by Mr. Gillick to move the amendment forward to the ballot.

SECOND by Mr. Higgins

VOTE: 6-0-0

MOTION PASSED

ARTICLE G – Amendment to Section 2.3.7, adding new Section C-a.

Mrs. Kimball explained that the intent of this is to close a loophole that was created when the Section was changed in 2003. The Conservation Commission asked in 2003 for a change in the Ordinance. In the course of making that change, existing lots of record were not addressed. This proposal is to go back to what the regulation stated prior to the 2003 changes, with respect to existing lots of record. The Section is no more restrictive than it was two years ago. The amendment simply reverts to the old method of calculation for existing lots of record. The Section remains as is for new lots.

PUBLIC

Mr. Vic Lessard related examples of lots that have been flooded. He states that he has property with a lot of wetlands. He recommends taking out “existing” from the proposed wording. He is opposed to the amendment, feeling that it will have a negative effect.

BOARD

Mr. Emerick asked how the Section was before 2003. Mrs. Kimball explained that prior to 2003 all lots were required to have a minimum lot area. The 2003 amendment addressed new lots. The reference to existing lots of record was inadvertently dropped. The purpose of this amendment is to put existing lots of record back into the Section. It does have an impact on lots which have a lot of wetland. There is a much higher standard applied to new lots than to existing lots of record.

MOVED by Mr. Gillick to move the amendment to the ballot.

SECOND by Mr. McMahon

VOTE: 4-2-1

MOTION PASSED

ARTICLE H – Amendment to Section 2.4 – Special Flood Area

Mrs. Kimball indicated that the purpose of this amendment is to adopt new flood maps. If this amendment is not passed, we will not be able to get FEMA protection. She clarified that no new flood study has been done. They have simply used topography imagery to modernize the maps. Flood areas are essentially the same as they have been.

PUBLIC

No Comment

BOARD

No Comment

MOVED by Mr. Lessard to move the amendment to the ballot.

SECOND by Mr. Higgins

VOTE: 6-0-0

MOTION PASSED

ARTICLE I – To amend Town’s Impact Fee Ordinance to conform to changes in State Law, RSA 674:21

Mrs. Kimball explained that this doesn’t change our impact fees. They are now collected at time of issuance of a Building Permit, because it is too difficult to collect the fees at the time of issuance of a Certificate of Occupancy. The Planning Board can specify on a new structure that Impact Fee must be paid at time of issuance of a Building Permit.

Mr. Gillick gave background information on the changes in State Law. This was an effort to make clear it is the Planning Board’s responsibility to set the rules. The Planning Board needs to state that these are the conditions for collection of the impact fees.

PUBLIC

No Comment

BOARD

No Comment

MOVED by Mr. Gillick to move the amendment forward to the ballot

SECOND by Mr. Workman

VOTE: 6-0-0

MOTION PASSED

## II. CONTINUED PUBLIC HEARINGS

Before proceeding with the order of cases as published in the agenda, Mr. Viviano announced that there may be insufficient time to hear all items on the agenda at this meeting.

1. Brian Hayes  
Special Permit to construct a 2-unit residential condominium within the Wetlands Conservation District at  
0 Post Road  
Map 43, Lot 9  
Owner of Record: George J. Foster Company, Inc.

Chairman Viviano stated that applicant requested to be continued to the January 19 meeting, because he does not have a letter from the State Department of Transportation.

The Board discussed this request.

MOVED by Mr. Gillick to continue this application to the March 16<sup>th</sup> meeting.

SECOND by Mr. Lessard

VOTE: 6-0-0

MOTION PASSED

2. Hampton River Marina, LLC (Phase III)  
Site Plan Review to construct 44 Townhouse Condominiums in 2 buildings with associated road & utility work (existing Marina to stay in operation) at  
55 Harbor Road  
Map 295, Lot 1  
Waiver Request: Site Plan Regulations Section VII.D.2 & 5 (increase in stormwater)

Owner of Record: Same as above  
*Jurisdiction accepted October 20, 2004, extended by applicant*

3. Hampton River Marina, LLC (Phase III)  
Special Permit to work within the Wetlands Conservation District for work associated with Site Plan Review at  
55 Harbor Road  
Map 295, Lot 1  
Owner of Record: Same as above

The presenters for these applications introduced themselves: Peter Saari, Attorney; Mark Maynard, Applicant and Joe Coronati, Jones & Beach Engineers.

Mr. Harwood reviewed the status of these applications. He indicated that the Board may wish to look at lighting of the Marina in the plans.

Mr Coronati indicated that they added light plan. But it is impossible to get higher foot candles in the area. There is existing lighting at the marina but it is on the individual docks. Also, people light up there boats.

Mr. Harwood asked if there were any 10-foot lighting standards. (BH) indicated that there were utility poles with high-powered lights, but it is proposed that these be removed, since that lighting is considered to be intrusive. The plan is to add more low-powered lights. Mr. Maynard indicated that he wishes to have adequate lighting for security purposes. Mr. Maynard reinforced that adequate lighting is wanted because of liability issues. Mr. Harward said that the concern of the Board is that the marina be adequately lit, but not with high-powered lights. Mr. Maynard indicated that the small lights are adequate to meet that objective.

Mr Gillick asked for an explanation of certain notations on the lighting plan. The applicant responded that these were foot-candle designations. A discussion of the lighting plan then took place.

It was explained that there was no lighting intrusion off site with the proposed lighting plan.

Mr. Coronati stated that the condominium site plan has been modified as the Board suggested. Roads are now common areas. There are designated "marina-use" areas and designated "condo-use" areas.

Mr Gillick asked what we are supposed to do with item #1. Inherent in the Site Plan Review is a Waiver Request. Chairman Viviano stated that the goal was to approve or deny both the Site Plan Review and the Waiver tonight.

Mr. Gillick agrees with Site Plan Review. Bur the Waiver Request deals with drainage.

It was clarified that the Waiver Request needs to be voted before the Site Plan Review can be voted.

Mr. Harwood indicated that yes all could be voted this evening.

Mr. Higgins asked if the Town and the abutters were satisfied that the road changes/intersection are acceptable.

Chairman Viviano stated that Mr. Harwood had prepared a memo saying that all items are addressed, but that there are 9 or 10 conditions for approval.

Mr. Higgins asked the following question: In a 12/21 memo from Vanasse & Associates – page 2 paragraph 2 – what does “committed mitigation to be implemented:” mean. It seems the intersection change has to be done for Phase 2, and Phase 3 can’t go forward without that happening.

Mr. Maynard explained that this work has been bonded and the money is there to do it

Mr. Lessard asked about access to the fuel storage area by fuel delivery trucks. This is still an unresolved issue.

Mr. Coronati said that they did do a turning radius plan for the fuel delivery. There are 36 feet available to allow movement for a hinged 50-foot trailer.

Mr. McMahon questioned a statement in John Hangen’s memo saying that the sewer line needs to be capped. What is the purpose of this?

Mr. Maynard explained that they pump boats with a portable sewerage pump. The Marina is working with the State to eventually have a direct system, rather than using portable pumps. Mr. Hangen is worried about spillage. If Mr. Hangen feels its needed, spillage can go into an overflow tank. Mr. Hangen hasn’t seen this yet. At this point, the pipe will be put in but not attached.

Mr. Gillick asked what boats will be allowed to discharge sewerage. He wants to be assured that only the Marina’s own boats will be discharging sewerage. Transient boats will not be able to discharge sewerage.

**PUBLIC**

No Comment

**BOARD**

No additional comment

**MOVED** by Mr. Gillick to approve the Special Permit to work within the Wetlands Conservation District, subject to the following conditions:

- A DES Wetlands Bureau permit must be issued prior to final approval
- Either a DES Shoreland Variance or letter stating that one is not required shall be submitted prior to final approval.
- No salt or de-icing chemicals to be used on the peninsula grassed area.
- The conditions described in the Conservation Commission memos dated October 31, 2004.(excepting item #2) and January 5, 2005.

**SECOND** by Mr. Workman

**VOTE: 6-0-0**

**MOTION PASSES**

**MOVED** by Mr. Gillick to grant the Waiver Request

**SECOND** by Mr. Lessard

**VOTE: 6-0-0**

**MOTION PASSES**

Site Plan Review

**MOVED** by Mr Gillick to grant the Site Plan Review subject to the following conditions:.

1. Conditioned on items required by the Hampton Public Works Department's memo 12/28/04
2. Completion of off-site improvements associated with Phases I and II must be completed prior to the issuance of COs to any buildings. Applicant is responsible for completing these measures if Phases I and II do not move forward.
3. Impact fee for a multi-family structure of \$1,898 per unit shall be due at the application for the building permit.
4. Surety must be posted for off-site improvements on Phases III in conformance with. DPW 12/28/04
5. No boat trailer parking will be allowed on site and should be noted on the plans and in the condominium documents.
6. This will require site-specific permit prior to final approval.
7. Unit owners of this phase have first option on leasing a boat slip.
8. Preparation of deed to land for area at the new intersection of Harris and Fellows. The deed to be reviewed by the Town Attorney and accepted by the Board of Selectmen prior to final approval.
9. Completion of re-alignment of Harris and Fellows prior to the issuance of COs for the units.
10. A certificate of monumentation is required prior to final approval.
11. The Board defines "active and substantial" for the purposes of RSA 674:39 as after issuance of the C/O for the property.
12. Docks are part of the condominium recreation space and cannot be gated-off or access denied to unit owners.
13. Bumper blocks shall be used to delineate parking spaces on grassed/gravel areas of the peninsula.
14. Notify the Conservation Commission at the start and finish of the project and provide them with an "as built" drawing of the project.

Prior to final approval, the applicant shall submit final plans, a recordable mylar, and the appropriate recording fees.

SECOND by Mr. Emerick

Mr. Higgins stated he thought that the public was allowed access to the docks.

Mr. Lessard asked if we were supposed to notify the Conservation Commission. The motion was amended to include that notification

VOTE: 6-1-0

MOTION PASSES

Mr. Higgins stated that he was opposed because of potential future conflicts between condominium owners and marina slip renters. He said he hopes he is wrong.

### III. NEW PUBLIC HEARINGS

1. Thomas & Marguerite Levesque  
Condominium Conversion at  
12 Mace Road  
Map 128 Lot 37  
Waivers from Subdivision Regulation Section V, part E (detailed plan).  
Owner of Record: Thomas & Marguerite Levesque

The presenters for this application introduced themselves: Stephen Ells, Attorney on behalf of applicants, Ernie Cote, Engineer/Surveyor for project and Mr. & Mrs. Levesque, the applicants. Mr. Ells stated that there would be no changes to the structure and no changes to the use. Their intent is to simply change the form of ownership.

#### BOARD

Mr. Higgins asked how the parking was going to be assigned, especially the two “stacked” parking areas. Mr. Ells said they will assign 2 spaces to each unit as limited common area. The spaces designated as 5, 6, 7 and 8 are “stacked” parking. Mr. Higgins would like the parking spaces to be numbered and assigned to specific units. Mr. Ells indicated there would be no problem renumbering spaces currently designated as #5, 6, 7, 8 to #5 and #6 only.

Mr. McMahon asked for clarification with respect to parking spaces. Mr. Cote and Mr. Ells provided that clarification.

#### PUBLIC

No Comment

#### BOARD

Mr. Gillick asked for clarification regarding the fact that, in our Zoning Ordinance, condominium conversions are considered a subdivision.

MOVED by Mr. Lessard to grant the condominium conversion at 12 Mace Road with the following conditions:

1. The existing parking area on the north side of the property shall be marked as aisleway and each assigned to a specific unit. This should be drawn and noted on the mylar plat.
2. Receipt of a recordable mylar, and appropriate recording fees.

SECOND by Mr. Gillick

VOTE – 6-1-0 (Workman)

MOTION PASSES

2. Arthur Brown  
Minor lot line adjustment  
87 & 93 Barbour Road  
Map 91 Lot 4-1 & 7

Waivers from Subdivision Regulation Section V, part E (detailed plan).  
Owner of Record: Arthur Brown

The presenters for this application introduced themselves: Bob Cassassa, Attorney from Cassassa & Ryan and Arthur Brown, the applicant.

The plan proposes to square off the lot on which Mr. Brown's residence sits, leaving sufficient frontage in the second lot to result in two conforming lots.

Mr. Gillick asked for reassurance that the adjustment will result in two buildable lots. Mr. Cassassa stated that that is the case.

Mr. McMahon asked the presenters to clarify the change involved. The presenters did so.

PUBLIC

No Comment

BOARD

MOVED by Mr. Gillick to grant the waiver from subdivision regulations subject to the following condition:

Receipt of a certificate of monumentation, a recordable mylar, and appropriate recording fees.

SECOND by Mr. Lessard

VOTE: 6-0-0

MOTION PASSES

3. Scott & Paula Cataldi  
Condominium conversion at  
23 N & 16 O Streets  
Map 293 Lot 130  
Waivers from Subdivision Regulation Section V, part E (detailed plan). & VII part C (storm drainage plan)  
Owner of Record: Scott & Paula Cataldi

The presenters for this application introduced themselves: Ernest Cote, Engineer/Surveyor, who prepared the plan and Scott Cataldi, the applicant.

Mr. Higgins asked if alleged encroachment on O Street has been resolved. The Board will need a letter to that effect. Parking was an issue on this property because of a set of outside stairs.

Mr. Cote indicated that the stairs are now gone.

Also, the foundation of a porch on O Street was on the street line and some of the wood was encroaching.

Mr. Gillick asked if there are any waivers of exemptions from the Zoning Board of Adjustment on these properties.

Mr. Cote referred to Note #9.

Chairman Viviano read Note #9 - The Zoning Board of Adjustment granted variances to Sections 1.3, 4.1.1 and 4.5.3 on February 27, 2004. At that time property was to be divided into lots.

Mr. Higgins indicated that, technically, they should have a letter from the neighbor saying that it is okay to go onto their property to do work. He also believes a condition should be attached that any future paving be done with echo pavers.

Lot lines should come off, however, they now define limited common area.

Mr. McMahon asked if we knew where curb cuts will be during the street reconstruction. These curb cuts should be indicated on plans to be resubmitted.

## PUBLIC

No Comment

## BOARD

Mr. Higgins indicated that this application needed review by the Department of Public Works.

MOVED by Mr. Lessard to move this application to a date certain of February 16, 2005. It should be sent out to the Town Attorney and to the Department of Public Works.

SECOND by Mr. Higgins

VOTE: 6-0-0

MOTION PASSES

4. Christopher & Madison Corp and J. & C. Gizzi  
Lot line adjustment at  
144 & 150 Ashworth Avenue  
Map 293 Lots 75 and 66 & 74  
Waivers from Subdivision Regulation Section V, part E (detailed plan). & VII part C (storm drainage plan).  
Owner of Record: Christopher & Madison Corp and J. & C. Gizzi
  
5. Mr J. & C. Gizzi  
Site plan to expand the existing multifamily building at  
150 Ashworth Avenue  
Map 293 Lots 75  
Waivers from Subdivision Regulation Section V, part E (detailed plan). & VII part C (storm drainage plan).  
Owner of Record: J. & C. Gizzi

Mr. Higgins recused himself from this application. Mr. Bilodeau replaced him on Board.

The presenters for this application introduced themselves: Peter Saari, Attorney, Ernest Cote, Surveyor/Engineer, and Joe Gizzi, the applicant.

Mr. Saari indicated that this lot line adjustment involves acquiring a piece of land. The Site Plan involves work on the back of the property and stacked parking.

## BOARD

Mr McMahon commented that a lot of work has been accomplished. He asked how did it had gotten to this point.

Mr. Gizzi stated that all work to date had been permitted and approved. The Site Plan Review is for the purpose of adding a third floor and new decks to the structure.

Mr Emerick asked about the parking plan. There are two spaces in front and three spaces in the rear of the building.

Mr. Lessard indicated that he does not wish to grant the waiver for the site plan or the drainage plan. It is a major undertaking and he feels that to waiver would be a disservice to the community.

Mr. Saari indicated that coverage of the lot would remain the same in terms of what is pervious and impervious.

Mr. Bilodeau asked for clarification of the parking layout. There are a total of five parking spaces on site. The applicant secured a variance for the shortfall of three parking spaces.

Mr. Gillick asked for clarification of what has already been done and what is needed to go forward.

Mr. Harwood clarified that the Code Enforcement Officer had noted that the project was more than renovation and brought it forwarded to Planning for Site Plan Review.

Mr. Emerick asked what was behind Parking space # 3. Mr. Gizzi said that is a cantilevered bump out that will be removed.

Mr. Lessard asked for clarification of the previous number of dwelling units and the proposed dwelling units. There are four dwelling units.

Mr. Gillick asked for clarification that the applicant got relief from parking requirement of eight to nine spaces. Mr. Saari indicated that the same plan presented here with five parking spaces was presented to the Zoning Board of Adjustment.

Mr. McMahon asked if there were any number of parking spaces specified in the variance. Also, he is concerned about curb cuts coming with the Ashworth Avenue reconstruction.

Mr. Emerick indicated he had no problem with lot line adjustment.

## PUBLIC

No Comment

## BOARD

Chairman Viviano reviewed the Lot Line Adjustment with waiver for storm drainage plan.

MOVED by Mr. Emerick to grant the waiver for a lot line adjustment

SECOND by Mr. Lessard

VOTE: 6-0-0

MOTION PASSES

MOVED by Mr. Emerick to grant the lot line adjustment at 144 and 150 Ashworth Avenue subject to the following conditions:

- Receipt of a certificate of monumentation, a recordable mylar, and the appropriate recording fees.
- A letter of authorization from the second property owner, Christopher & Madison Corp. is required.

SECOND by Mr. Bilodeau

VOTE: 6-0-0

MOVED by Mr. Lessard to deny the waivers requested on Site Plan Review. A storm drainage plan is needed.

SECOND by Mr. McMahon

VOTE: 6-0-0

MOTION PASSES

MOVED by Mr. Lessard to continue the Site Plan Review to February 16, 2005 to secure a storm drainage plan.

SECOND by Mr. Bilodeau

VOTE: 6-0-0

MOTION PASSES

At this point, Mr. Higgins returned to the Board to replace Mr. Bilodeau.

6. DeNiro Development  
Four-lot subdivision at  
691 Exeter Road  
Map 14 Lot 4  
Owner of Record: DeNiro Development Corp.

Ken Healy – Beals &

The presenters for this application introduced themselves: Ken Healy, Beals & Associates, Tom Moulton, DeNiro Development, and Peter Saari, attorney from Cassassa and Ryan..

Mr. Saari described the proposed subdivision.

Mr. Healy said that it is all internally drained. There is a detention pond with the road sloped to drain to the detention area. The lot is pitched to drain to the easement in back and to the road in front.

Mr. Lessard asked for clarification of land in Lot Four.

PUBLIC

Mr. Spratt, Exeter Road, indicates his leach field is near the proposed detention pond. He is concerned that his septic system could fail because of the detention pond. If this occurs, he asks what his recourse is.

The existing driveway protects him, but removing it will push water into his land. He also questioned who would check and clean drains after a major storm.

Mr. Campbell, 687 Exeter Road, states the whole lot tilts east to his lot. He currently has a water/flooding problem. If the lot is developed, it will make the water problem worse.

#### BOARD

Mr. Healy states the detention ponds will hold storm events. He also states Mr. Campbell's problem can be solved with a design change.

The Board and Mr. Healy discussed the drainage issues raised.

Mr. Lessard asked if Mr. Moulton could identify Mr. Spratt's septic system on plans.

Mr. Gillick asked where water goes today after it goes under Exeter Road.

Mr. Healy states drainage plan will result in less runoff to abutters.

Mr. Higgins stated that by putting road in middle of lot, it creates drainage problems on both sides.

At a request to Mr. Harwood, we could send out the plan to the Department of Public Works, AMBIT Engineering and Vannasse.

MOVED by Mr. Emerick to accept jurisdiction to March 2, 2005 and to send out the plan to all departments mentioned.

SECOND by Mr. Gillick

VOTE: 6-0-0

MOTION PASSES

#### **IV. OTHER BUSINESS:**

MOVED by Mr. Emerick that new petitions be heard at the first meeting of each month and Continued hearings at the second meeting of the month.

SECOND by Mr. Lessard

VOTE: 6-0-0

MOTION PASSES

Planning Board Procedures.

Meeting adjourned at 11:22p.m.

Respectfully Submitted,  
Barbara Renaud  
Acting Planning Board Secretary