

HAMPTON PLANNING BOARD - Minutes  
MARCH 2, 2005 – 7:00 PM

**PRESENT:** Robert Viviano, Chairman  
Tracy Emerick, Vice Chairman  
Tom Gillick  
Tom Higgins  
Keith Lessard  
Fran McMahan, Clerk  
Jim Workman, Selectman Member  
**ABSENT:** John Harwood, Town Planner

Chairman Viviano began the meeting at 7:07 PM by introducing the Board members. Keith Lessard led the Pledge of Allegiance to the flag. Chairman Viviano then asked for a moment of silence for prayer/well wishes for John Harwood, the Town Planner, who is currently hospitalized.

**I. NEW PUBLIC HEARINGS**

1. Dean & Barbara Grimaldi  
Condominium conversion at  
4 Red Coat Lane & 16 King's Highway  
Map 223 Lot 140  
Waivers from Subdivision Regulation Section V. part E. (detailed plan) & VII part C (storm drainage plan)

Dean Grimaldi & Peter Saari, Attorney, presented the application. Mr. Saari described the property involved. He indicated that there are currently two houses on the property.

**BOARD**

Mr. Gillick asked it to be noted that this conversion was for a single- family basis in each of the two structures.

Mr. Higgins requested the dimensions for the driveways.

Mr. Workman asked if there would be any limited common area for this condominium. There will be no limited common areas except for the decks. The rest of the property would be owned in common.

**MOVED** by Mr. Gillick to approve the waiver from Subdivision Regulation Section V. Part E

**SECOND** by Mr. Emerick

**VOTE:** 6-0-0

**MOTION PASSED**

**MOVED** by Mr. Gillick to approve the waiver from Subdivision Regulation Section VII. Part C

**SECOND** by Emerick

**VOTE:** 6-0-0

**MOTION PASSED**

**MOVED** by Mr. Gillick to approve the condominium conversion at 4 Red Coat Lane and 16 King's Highway with the following conditions:

- That the conversion is for 2 single family houses;
- That the Kings Highway driveway will be noted on plan.

**SECOND** by Mr. Emerick

**VOTE:** 6-0-0

**MOTION PASSED**

2. Patrick Mulcahy  
 Condominium Conversion at  
 16 Bragg Avenue  
 Map 292 Lot 44-1  
 Waivers from Subdivision Regulation Section V part E (detailed plan) & VII part C (storm drainage)

Peter Saari, Attorney, presented for this application, providing a letter to the Board, indicating he had authority to speak on behalf of Mr. Mulcahy. He stated that there are two buildings on the lot. There is one dwelling unit in the front building, and there are two dwelling units in the rear building. There is one legal parking space on the property. The applicant's plan is to raise the front building to provide two parking spaces underneath. Otherwise, the structures will remain the same except that, in the front building, the block foundation will become a poured foundation.

**BOARD**

Mr. Emerick asked for clarification on the parking capability. There will be three legal parking spaces once the building project is completed.

Mr. Gillick stated he couldn't see where the parking spaces are on the plan. Also, he does not see how the west side of the property could be accessed without going through tidal wetland.

Mr. Saari asked if Mr. Gillick meant that the request was premature without the redesigned plan showing the proposed parking spaces.

Mr. Higgins agreed with Mr. Gillick, with respect to access from the west, indicating that the project may be 40 feet away and may be in the wetland buffer.

Mr. Gillick applauds anyone trying to solve the parking situation in that area but believes that plans are needed before it can be considered.

Mr. Lessard questioned the letter of February 11th attached to the application. The signature is not clear and there is no letterhead. He does not feel it's a properly identified letter.

Discussion took place as to whether the building redesign is feasible; whether the option holder would be able to secure building permits; and whether it would have to go to the Zoning Board and the Conservation Commission.

**MOVED** by Mr. Gillick to postpone this Condominium Conversion Application to April 20<sup>th</sup>.  
 A plan is to be submitted at that time for the changes proposed to the first building.

**SECOND** by Mr. McMahon.

**VOTE:** 6 -0-0

**MOTION PASSED**

1. Golden Corridor, LLC  
 Minor lot line adjustment

5 & 5-A Ocean Boulevard  
Map 295 & 298 Lots 66 & 1  
Waivers from Subdivision Regulation Section V. Part E (detailed plan).

Peter Saari, Attorney, and Joe Coronati, Jones & Beach Engineers, presented for the applicant.

Mr. Coronati first described the issues involved with a future request for a change to the Special Permit and the solution proposed. This solution is to construct a riprap wall rather than the originally proposed retaining wall along the beach and dunes.

He then addressed the lot line adjustment application. He indicated the lot line needed to be moved 14 feet to the north to accommodate an easement.

Mr. Higgins asked for clarification of where the new lot line would be, since there are structures present. Mr. Coronati, indicated that two buildings would need to be razed to create the new lot line.

Mr. Gillick asked the applicant to clarify that this would now make the southerly lot a buildable lot.

It was pointed out that Plan Note 5 indicates all existing buildings will be razed.

Mr. Higgins asked if these parcels have been before the Board previously. The response was that they had not. He stated that he recalled that Map 295 Lot 66 was supposed to give an easement for the widening of the intersection at Harbor Road.

Mr. Lessard stated that it appears as if detailed plans are needed.

#### PUBLIC

Michael Scanlon stated that he is the property manager for the Gebhardt's. He informed the Board that these abutters would be back in the area the second week of April.

**MOVED** by Mr. Lessard to deny the waiver until detailed plans are submitted.

**SECOND** by Mr. Gillick

**VOTE** 6-0-0

**MOTION PASSED**

Mr. Coronati stated that he didn't remember giving the easement. Mr. Higgins stated that an easement was promised in Golden Corridor Phase 2 to widen the intersection because there was concern that the intersection was too dangerous. Further discussion of this issue took place.

Mr. Lessard asked for clarification that three buildings would be razed.

**MOVED** by Mr. Lessard to postpone this public hearing to April 20<sup>th</sup>.

**SECOND** by Mr. Gillick

**VOTE:** 5-1-0

**MOTION PASSED**

2. Vertical Building & Associates – The Breckenridge  
Site plan at  
Ocean Boulevard at J & K Streets

Map 290 Lots 144, 145,146 & Map 293, Lot 8

As a point of information, Mr. Scanlon asked the status of a State House Bill regarding motions for rehearing. Mr. Gillick explained that this bill was passed and only changes definition of the first day starting the 30 days period for a motion for rehearing. Mr. Scanlon then asked if there was a conflict of interest for any member of the Board on this application. He then asked if this was a new application.

The members of the Board informed him that none had conflicts of interest on the application and that this was a new application.

Presenters for this application were Shannon Alpert, TMS Architects of Portsmouth and Peter Saari, Attorney. Mr. Alpert then described the project. He showed plan layouts by floor. He indicated setbacks, greenery and the retail area. He then showed elevations. He indicated that after going through the Zoning Board of Adjustment, the elevation for the project is now 69 feet. A mix of façade materials is planned.

He then showed side and rear elevations. A change made was to the west elevation. The garage is 5 feet from the lot line on the East side. A small portion of the West wall of the building is 7 from the lot line. The smallest setback on that wall is 4 feet from the lot line. Mr. Alpert then summarized the changes his architectural firm made to the design of the building.

He then presented sun studies. Mr. Lessard stated that he would like to see the sun study on Labor Day at 6:00 PM in relationship to the sand on the beach.

Mr. Higgins asked for a description of doors/openings on the West wall of the structure. Mr. Alpert explained these.

Mr. Higgins then asked for clarification of other changes on the plan. Mr. Alpert responded to these.

Mr. Coronati then stated this new plan shows new sidewalks and parking. A project underway now is to move the sidewalks onto town property. There is plenty of room now, with the new road configuration, to plant a grass strip and to have some trees along the sides of the building. There is now over 6 feet from the building to the sidewalk in some areas. The engineers will be working with the Department of Public Works and Faye, Spoffard & Thorndike on utilities and utility upgrades on J & K Streets.

In response to a question, the presenters indicated that drainage is still contained under the ramp.

In response to Mr. Lessard's question, it was clarified that traffic would enter the garage on J Street and would both enter and exit on K Street.

Mr. Lessard and Mr. Higgins asked questions regarding the parking garage. Parking issues were then addressed. The footprint of the parking layout is the same as before.

Mr. Lessard then asked how the elevator emptied and what the nature of the recreational area was. Mr. Alpert described the elevator function at two different levels. He said plans have not been finalized for the recreational area. There is some private patio space (of the units) that will be flush with the recreational space. Mr. Alpert is considering planters to divide the patios from the public recreational area. Mr. Lessard is concerned about security issues with this layout.

Mr. Gillick asked Mr. Workman if it is known what the traffic flow will be on the beach in the future. Mr. Workman responded that this is not known with any specificity. Mr. Higgins asked if the Board could assume traffic can get into and out of the building as planned. That assumption can't be made

at this time. Mr. Gillick wants to say publicly that it's premature for us to say how traffic will be flowing on these streets in the future.

Mr. Higgins asked how the elevator would be policed. The response was that residents would have a card or a punch key. He then asked how a handicapped person would access the elevator. The response was that this would be through a phone at the elevator. He asked what would prevent someone from exiting onto J Street. The response was that there was nothing there right now.

Chairman Viviano then read into the record a letter from Jeanne Lilienthal to the Board regarding the project.

Mr. Alpert said the building would collect all of its own rainwater and there would be a heated space/unheated space buffer so that icicles should not form. Mr. Lessard noted that icicles would be falling 50 feet from this new roofline. He believes that this is a legitimate danger with respect to the project.

#### PUBLIC

Kim Barone, direct abutter on K Street, asked about balconies on the rear of the building, lighting on the west side of the building, and exhaust fumes from the garage.

Mr. Alpert explained that the lighting would be sconces pointed downward at 8 to 9 feet above ground. Exhaust from the garage is an issue that they are talking about, but there can be a fire issue trying to vent the gasses upward. There are no balconies on the back of the building.

Ms. Barone then read a letter she had drafted voicing her concerns regarding the project. She addressed traffic, noise and light nuisance, and sun and shadowing. She stated that there would be an affect on the rental of her property to have an elevator shaft 5 feet from her bedroom windows. There will now be 62 units on J and K Streets. The owners will have visitors that will need parking spots. This could mean 124 additional visiting vehicles. The building on the west side cannot be laddered, creating a fire hazard. She stated that during the fire that destroyed the previous structures on this property, the firefighters were on her property fighting the fire.

Geaninna Guzman-Scanlon, 4 J Street, stated she had questions regarding the presentation. She asked for a further description of the planters. She then asked what would happen to egress for the handicapped during a power outage. Mr. Alpert responded to these questions. She then asked when she could address the Board regarding the more global issues with respect to this project. She stated some issues on this project would not be discussed and looked at it through the process. She asked when a 97% sealed surface gets discussed. She does not believe that it is fair to the architect to pose issues that the architect doesn't control.

Mr. Gillick responded that once the Planning Board accepts jurisdiction of this proposal it will be sent out to several other parties, including the Conservation Commission, to make sure that all of these issues are considered and that the Board gets appropriate advise and counsel so that the Planning Board can make an informed decision.

Mrs. Scanlon then stated that in her reading of the ordinances, the Planning Board could require a greater buffer than required if it is in the best interest of the community. She said issues such as drainage, shading etc are being addressed not only for this project but also for other projects in the future. She stated she is interested in the cumulative effect of the precedent set here. She stated that the Board would not answer her questions.

Mr. Higgins noted that the concerns raised involve height, density, and setbacks, which are all variances that have been granted and do not fall within the jurisdiction of this Planning Board.

Mike Scanlon states he has a major concern about drainage from Ocean Boulevard down J and K Streets during storm events. He then passed around pictures of shadows on the beach and expressed his concern about shadowing. He then expressed his concerns about pedestrian egress from the building. He then spoke to floor area ratios as discussed in a Faye, Spofford & Thorndike report presented to the Selectman. He asked Mr. Workman if the Faye-Spofford report was approved by the Selectman.

Mr. Workman stated that we need to use the ordinances that are in effect now to address the application.

Mr. Scanlon asked for the clearances in the parking garage. Mr. Alpert stated the minimum is 7 feet 10 inches.

Mrs. Scanlon then returned to the podium and asked again how to address her questions to the Board. Chairman Viviano suggested that she put them in writing addressed to the Board.

## BOARD

**MOVED** by Mr. Gillick, on the assumption that we have a complete application, that the Board accept jurisdiction for the application and send it out to all of the agencies to which the application has been sent previously. He moved that the application be continued to be heard at the meeting of April 20<sup>th</sup>.

**SECOND** by Mr. Emerick

**VOTE:** 6-0-0

**MOTION PASSED**

Mr. Lessard indicated that he wants to see where the drip edges will be and where the cooling towers will be. Mr. Alpert responded that the condensers will be on the roof. Mr. Lessard indicated that they don't have a lighting plan and should have one. He also stated that the applicant needs to address snow and trash removal. He also asked how the fence will be handled.

Mr. Higgins stated that the Board needs an approved plan to address some of the issues raised.

5. Stephen Blyth  
Lot line adjustment at  
34 Barbour Rd & 39 Milbourn Ave.  
Map 110 Lots 14 & 17  
Waivers from Subdivision Regulation Section V. part E. (detailed plan) & VII part C (storm drainage plan)

Stephen Blyth presented his application. He owns the lot at 34 Barbour. He has an agreement with Barbara Buttrick to take 4000 square feet from her lot to add to his lot.

Mr. Gillick asked for the sizes of the lots. The Barbour Road lot will be 14,716 square feet and the Milbern lot will be 18,450 square feet.

Mr. Gillick has a concern that the Board not create a non-buildable lot. Mr. Blyth stated they are both buildable lots. Mr. Blyth said he has received a variance to build on the Barbour Road lot.

Mr. Gillick would like guidance from the Town Attorney before allowing this lot line adjustment so that the Board is not creating a non-buildable lot.

PUBLIC

No comment

BOARD

**MOVED** by Mr. Gillick to grant waiver from Subdivision Regulation Section V. part E. (detailed plan).

**SECOND** by Mr. Emerick

**VOTE:** 6-0-0

**MOTION PASSED**

**MOVED** by Mr. Gillick to grant waiver from Subdivision Regulation Section VII part C (storm drainage plan)

**SECOND** by Mr. Emerick

**VOTE** 6-0-0

**MOTION PASSED**

**MOVED** by Mr. Gillick to approve this lot line adjustment with the following conditions:

- Favorable comment from the Town Attorney regarding the appropriateness of this lot line adjustment
- Receipt of a recordable Mylar and appropriate recording fees.

**SECOND** by Mr. Emerick

**VOTE:** 6-0-0

**MOTION PASSED**

## II. CONTINUED PUBLIC HEARINGS

1. DeNiro Development  
Four-lot subdivision at  
691 Exeter Road  
Map 14 Lot 4  
Owner of Record: DeNiro Development Corp.  
Jurisdiction Accepted: January 10, 2005

Peter Saari, Attorney, and Ken Healy, Beals Associates, presented this continued application.

Mr. Healy stated that he met with Mr. Harwood on the prior Tuesday to discuss the concerns of Ambit Engineering and the Department of Public Works. What has changed on the plans is drainage. Mr. Hagen of DPW wants a zero discharge to Exeter Road. This is not possible, but they have decreased the amount of drainage to Exeter Road. As is, the plans are conforming to the ordinances.

The Board reviewed documentation received to date on this project. It was noted that certain departments had not as yet responded with respect to the project. Also, several bullets on Mr. Hagen's memo have not as yet been addressed.

Chairman Viviano read a letter from Mr. Robert Campbell, an abutter, into the record.

Mr. Healy indicated that they have taken all of Mr. Campbell's points into account, and he then described the drainage changes made to address these points.

Mr. Lessard asked for specifics regarding these changes.

Mr. Higgins asked if any consideration was given to putting a berm along Mr. Campbell's property. Mr. Healy said they considered it but it would not improve the situation for Mr. Campbell.

Mr. Emerick raised the issue of possible poorly drained soils on the property. Correspondence from New Hampshire Soils was reviewed. In response to Mr. Lessard's question, Mr. Healy indicated that New Hampshire Soils had done a survey on the property.

Mr. Gillick then asked if the 9 concerns expressed in Mr. Hangen's February 14th memo have been addressed. Mr. Healy said yes they had.

Mr. Lessard asked about maintenance of the drainage areas.

A discussion took place of turning radii on the cul-de-sac. There was an attempt to determine Mr. Hangen's intent in making his recommendations on this issue.

Mr. Gillick stated that the Board should be consistent in its handling of this issue.

Chairman Viviano read into the record the letter from New Hampshire Soils. There were poorly drained soils identified on the property. The property would be classified as moderately well drained.

## PUBLIC

Craig Salomon, Attorney, stated that he represented two abutters - the Spratts and the Campbells. He has reviewed the documentation in the application.

Mr. Campbell is concerned about a water problem. He spoke with Mark West about whether Mr. Campbell's property might have wetland currently or wetland created by the new construction.

Technical notes indicate level spreader was not to be built over fill. But documentation indicates a driveway will be removed and fill brought in. That is a concern.

On sheet D1 in the detail it is indicated that filter strips need to be inspected after every major rainstorm. Someone needs to be responsible for that.

Mr. Salomon asked that the Board not take any action tonight so that the changes can be addressed.

Ambit Engineering, the Department of Public Works and the applicant's engineer need to reach a reasonable agreement. He is also concerned about icing on the roadways during the winter, and minimizing the freezing on the road.

## BOARD

**MOVED** by Mr. Lessard to postpone action on the application until the April 20<sup>th</sup> meeting to allow input from Ambit Engineering, the Department of Public Works and Beals Associates in addressing the issue of maintenance of the detention pond.

**SECOND** by Mr. Emerick

**VOTE:** 6-0-0

**MOTION PASSED**

2. Ted Palmieri –  
Special Permit for building in wetland buffer at  
1019 Ocean Blvd.  
Map 116 Lot 47

The applicant was not present to speak to the application.

**MOVED** by Mr. Lessard to continue the Special Permit Application to the April 20<sup>th</sup> meeting.

**SECOND** by Mr. Workman

Mr. McMahon stated that he has heard the applicant is revisiting issues in his application

**VOTE:** 5-0-1

**MOTION PASSED**

III. OLD BUSINESS

None

IV. ATTENDING TO BE HEARD

None

V. CONSIDERATION OF MINUTES – FEBRUARY 16, 2005

**MOVED** by Mr. Emerick to accept the minutes as written.

**SECOND** BY Mr. Higgins

**VOTE: 5-0-1**

**MOTION PASSED**

V. CORRESPONDENCE

Chairman Viviano read a letter from Tom Nigrelli of Drakes Appleton inviting the Board Members for a site visit at 241 Drakeside Road on March 5<sup>th</sup> or March 12<sup>th</sup>. This invitation was discussed.

The Board will respond to Drakes Appleton that it appreciates this offer and may take Mr. Nigrelli up on it in the future, but a site visit would not be relevant at this time.

VI. OTHER BUSINESS

Mr. Gillick expressed his thanks to Chairman Viviano for his work in chairing the committee and to Mr. McMahon and Mr. Bilodeau for stepping in when needed to carry on the Board's work. This may be the last meeting of this Board.

Chairman Viviano also thanked the Board for their efforts and contributions.

**MOVED** by Mr. Emerick to adjourn.

**SECOND** by Mr. Higgins

**VOTE: 6-0-0**

**MOTION PASSED**

Meeting adjourned at 10:34 PM.

Respectfully Submitted,  
Barbara Renaud  
Acting Planning Board Secretary