

HAMPTON PLANNING BOARD – MINUTES  
April 19, 2006 – 7:00 PM

- PRESENT:** Tracy Emerick, Chairman  
 Bob Viviano, Vice Chairman  
 Jim Workman, Selectman  
 Tom Gillick  
 Tom Higgins  
 Keith Lessard  
 Donna Mercer, Alternate Acting Clerk  
 James Steffen, Town Planner
- ABSENT:** None

Chairman Emerick began the meeting at 7:00 PM by introducing the Board members. Mr. Lessard led the Pledge of Allegiance to the flag.

**I. APPOINTMENTS**

Appointment of Alternates

**MOVED** by Mr. Gillick to reappoint Fran McMahon and Bill Bilodeau as Alternates to the Planning Board.

**SECOND** by Mr. Viviano

**VOTE: 7-0-0**

**MOTION PASSED**

The Chairman noted that Mr. McMahon’s term would be for two years and Mr. Bilodeau’s term would be for three years.

**II. ATTENDING TO BE HEARD**

- 6-39) Eileen Caulfield  
 Change of Use from Nail Salon to Delicatessen at  
 23 Ocean Boulevard  
 Map 296 Lot 65  
 Owner of Record: Owen Carter

Mr. Higgins recused himself from this application.

Ms. Caulfield presented her request. She described the delicatessen she proposes to run. There will be no baking on premises. There will be no indoor seating.

**MOVED** by Mr. Gillick to grant the change of use at 23 Ocean Boulevard, Map 296 Lot 65, from a nail salon to a delicatessen.

**SECOND** by Mr. Viviano

**VOTE: 6-0-0**

**MOTION PASSED**

**III. CONTINUED PUBLIC HEARINGS – PLANNING BOARD APPLICATIONS**

- 6-16) Rademo Realty Trust  
Special Permit to Impact Wetlands Conservation District at  
7A Merrill Industrial Drive  
Map 142 Lot 4-1  
Owner of Record: Rademo Realty Trust
  
- 6-17) Rademo Realty Trust  
Site Plan Review at  
7A Merrill Industrial Drive  
Map 142 Lot 4-1  
Owner of Record: Rademo Realty Trust  
*Jurisdiction accepted: February 1, 2006*

Peter Saari, Casassa and Ryan, and Daniel Balfour, AMES MSC Engineers, presented this application. Mr. Tom Moulton, owner, was present. Mr. Balfour distributed updated plans. He stated he spoke with Jon True, Fire Prevention Officer, regarding access to the building. He stated that Officer True indicated he was not concerned about access to the front of the building.

Mr. Gillick asked for a letter for the file from Officer True to that effect.

**PUBLIC**

No Comments

**BOARD**

Mr. Gillick asked Mr. Steffen if his memo covered all issues pertinent to this application. Mr. Steffen stated that the applicant has agreed to limit truck size to FEDEX/UPS size vehicles. He stated the lighting plan needs to be corrected. He also recommended an additional pole light. The primary outstanding issue is that the Board does not have final comments from Ambit Engineering. The other outstanding item is the Fire Department's approval.

Mr. Higgins asked when the dumpster at 7 Merrill is planned to be relocated, per the previous approval. Mr. Balfour stated it was their plan to move the dumpster out of the wetland buffer.

Mr. Lessard commented that the Town currently has just one Fire Prevention Officer so we cannot expect immediate turnaround on these reviews.

**MOVED** by Mr. Gillick to grant the Special Permit to Impact Wetlands Conservation District at 7a Merrill Industrial Drive, Map 142 Lot 4-1 with the conditions stipulated in the Conservation Commission's letter of January 26, 2006.

**SECOND** by Mr. Viviano  
**VOTE: 7-0-0**

**MOTION PASSED**

**MOVED** by Mr. Gillick to approve the Site Plan Review at 7a Merrill Industrial Drive, Map 142 Lot 4-1, subject to the following conditions:

- Concurrence of the Fire Department with the final plans.
- No trucks greater than 36 feet in length will be allowed to use the facility.
- The final site plan shall be stamped by the NH licensed land surveyor associated with the project.
- The Board defines “active and substantial” for the purposes of RSA 674:39 as after construction and completion of basic infrastructure to support the development (foundation walls and footings; driveways, parking areas to a minimum of gravel base; and utilities placed in underground conduit ready for connection to the building); drainage improvements and installation of all erosion and sedimentation control measures.
- Final plans shall be revised to address any Ambit Engineering, Inc. comments still outstanding on the engineering review.
- Approval of the proposed water connection by Aquarion.
- The final site plan shall be revised to correct the address for the property on the cover sheet.
- The final site plan shall be revised to correct the lighting specifications, and the light pole/utility pole conflict.
- The final site plan shall be revised to correct the location of dumpster on the adjacent property at 7 Merrill Industrial Drive.
- Compliance with the Public Works Director’s stipulations in his inter-office memo dated March 13, 2006.
- Prior to final approval, the applicant shall submit seven (7) paper copies of the final plans, recordable Mylar, and applicable recording fees.

**SECOND** by Mr. Viviano  
**VOTE: 6-1-0**

**MOTION PASSED**

6-32) Village Square at Hampton LLC  
 Request for Waiver from School Impact Fee at  
 428 Lafayette Road  
 Map 160 Lot 17  
 Owner of Record: Village Square at Hampton LLC

Mr. Lessard recused himself from this application.

Mr. Tom Nigrelli, Manager of Village Square, presented this request.

Chairman Emerick stated that the Board had consulted with Town Attorney. Counsel indicated that this was a matter of Planning Board policy and not a legal issue.

**PUBLIC**

No Comment

**BOARD**

Mr. Gillick stated that when the Impact Fee was first designed, he recalled that there was no differentiation of whether there would or would not be children in a dwelling unit. He does not believe that whether children will live there or not is relevant to the discussion. He believes the Board should be clear as to whether it wishes to exempt one-bedroom apartments from the Impact Fee.

Mr. Nigrelli stated that there is also only one parking space, which would discourage occupancy by couples.

Mr. Workman asked if there was something in the condominium documents prohibiting school age children. There is not.

**MOVED** by Mr. Higgins to deny the request for Waiver from School Impact Fee at 428 Lafayette Road, Map 160 Lot 17

**SECOND** by Mr. Mercer

**VOTE: 5-1-0**

**MOTION PASSED**

- 5-36) Dovaro 12 Atlantic, LLC  
 Condominium Conversion at  
 12 Atlantic Avenue  
 Map 296 Lot 40  
 Waivers from Subdivision Regulations Section V.E (Detailed Plan) & VII.C  
 (Storm Drainage)  
 Owner of Record: Dovaro 12 Atlantic, LLC

Peter Saari, Attorney, and Robert Palmisano, Owner, presented this application. Mr. Saari reviewed the current status of the application.

**BOARD**

No questions

**PUBLIC**

Ed Smith, 11 Boston Avenue, asked if the parking would be stacked. It will. He stated that it appears that there will be four additional vehicles on an already overcrowded street. He asked who would control the stacked parking.

Mr. Saari stated the parking situation will be the same as it is now, except that there will be condominium documents.

Mr. Smith's second question is where the cars will park in the winter when on-street parking is banned. He also asked where the snow would be stored. The applicant indicated that the snow will be trucked off site. Mr. Smith recommended that the second building be razed to create adequate parking for the remaining units.

Mr. Saari clarified the parking issue. The owner has agreed to remove the front deck to improve the parking situation. He is also willing to remove 10 feet of the second building to increase parking area.

Mr. Palmisano then read a letter from Wayne Douglas, an abutter to the property. Mr. Douglas is in favor of the conversion.

Paul Bourbeau, 10 Atlantic Avenue, stated he is in agreement with Mr. Douglas with regard to the improvement of the property. He is opposed to condominiums because there will be seven owners instead of one. He stated that during the renovation work the owner was disrespectful of Mr. Bourbeau's property, using his property to do the renovation. He also feels the parking is an issue. No one can guarantee how the owners will use the property (seasonal, year-round, rental, etc). Seven different owners may have 7 different agendas. He feels that by creating 7 different owners there is an intensification of use-particularly if these owners rent the properties year-round.

Ann Hardy, 14 Atlantic, shares the driveway with Mr. Palmisano's property. She indicated the left side of the driveway is hers. She indicated she has had an issue with not being able to park in her driveway. The tenants currently park in her parking spaces. She indicated that there is no seventh parking space. In winter, they will not be able to plow and they won't be able to back out of the driveway. She leases a parking space from the State for her own tenant. Her other issue is the drainage. She believes there is still a drainage issue on the property.

Mr. Palmisano stated he used a real estate agency last summer to rent the property and was not there. He feels that renters are less respectful of the parking requirements than owners.

Ms. Hardy stated that condominium owners will rent or give their units to people to use. She believes that people will still park illegally.

Mr. Saari stated that he does not believe the change of ownership will make the situation different from what it is now except that it is an improved building.

Mr. Steffen stated that legal counsel has indicated the new ordinance (Article 6.3.10) can be applied to this application.

Mr. Gillick asked how this application would be different if there were four units instead of seven. Mr. Gillick stated what he is hearing from the public tonight is that this conversion will create chaos in the neighborhood. At the least, it will be a nuisance.

Ms. Mercer stated she believes that the form of ownership will not change the parking situation. It has been bad as a rental property and will stay that way as a condominium.

Mr. Gillick asked if we should take this opportunity to improve the situation. He applauds the fact that the applicant has improved the property. He is glad that investors are willing to purchase the condominiums. His concern is that the use is too intense for the site. Mr. Gillick stated that if there are no grounds to deny it, why is the board discussing it?

Chairman Emerick indicated that at the last hearing of this application there was discussion of the public nuisance aspect of the project.

Mr. Viviano stated that it will be more difficult to deal with seven different owners than it is to deal with one owner.

Mr. Saari stated the question is whether the change of ownership will intensify the nuisance problem.

Ms. Mercer stated her preference is to have owners of the units. She asked the applicant if it would be feasible to prohibit rental of the units. There was further discussion of how this type of scenario would play out.

Mr. Lessard stated that he has concerns. Where will snow be stored? Where will trash be stored? Snow will be trucked off of the property. Trash will be in barrels in an enclosure out front.

Chairman Emerick asked the applicant to allow the Board to continue this case to the next meeting. He would like the applicant to show some of his proposals on the plan, i.e. removal of the front porch, removal of 10 feet of the back building, and trash storage out front. He also suggested that Mr. Palmisano talk with Ms. Hardy to see if they can work out the parking situation. He said there might be a mutual solution to help both of them. He stated he would have trouble supporting a difficult situation.

**MOVED** by Mr. Gillick to continue the application to the May 3<sup>rd</sup> meeting to give the Board the opportunity to review changes to the proposal. Revised plans are to be submitted showing how far it is to the property lines on the east and west sides; snow solution; cutting back of the rear building, and trash barrel storage.

**SECOND** by Mr. Viviano

**VOTE: 7-0-0**

**MOTION PASSED**

- 6-23) Marjorie Cypres  
Special Permit to Impact Wetlands Conservation District at  
471 Exeter Road

Map 36 Lot 3  
Owner of Record: Marjorie Cypres

Sean Moriarty, NH Soil Consultants, stated the drainage study has been completed. He provided it to the Board members. He also provided copies of the variance granted by the Zoning Board of Adjustment. The conclusion of the study was that the culvert will not back up. In a 50-year storm event there will be an 8-inch high water backup into the 15-inch culvert.

Mr. Higgins asked if the garage has been moved. It has and the plan is much improved.

**MOVED** by Mr. Lessard to grant a Special Permit to Impact Wetlands Conservation District at 471 Exeter Road, Map 36 Lot 3, subject to the following conditions:

- The back portion of the lot will be placed into a conservation easement.
- The driveway will be of a permeable surface that maintains its integrity i.e., no crushed stone, stone dust or gravel (something similar to Grasspave II should be used).
- The temporary impacts around the building should be returned to their original grade and allowed to re-vegetate naturally (no grass plantings, fertilizer, insecticides, etc.).
- Monumentation at 50-foot intervals along the wetland boundaries as approved by the Planning Board
- Use of Wetlands Conservation District markers along the wetland buffer at the owner's expense with Conservation Commission approval.
- Lawn care must follow the guidelines set forth in the Shoreland Protection Act. Grass clippings will not be placed in the buffer or in the wetlands.
- Per the State Shoreland Protection Act, no more than 50% of the trees shall be cut within a 20-year period, with Conservation Commission notification.
- Proper erosion control will be in place before construction begins and remain in place until the area is stabilized and removed after construction is complete. (Silt fence and hay bales)
- The buffer should remain undisturbed to the degree possible in the process of construction and elevations not be changed. No additional fill is allowed. No change in elevation is allowed using existing fill.
- Spot elevation grades shall be submitted prior to construction and upon completion.
- There are to be no additional structures such as sheds, swimming pools, gazebos, patios or other sealed surface in the buffer, other than that shown on the plan. A new Special Permit is required for the erection of any structure in the buffer.
- The Conservation Commission will be notified in writing upon commencement and completion of the project and before an occupancy permit is issued.

**SECOND** by Mr. Gillick

**VOTE: 7-0-0**

**MOTION PASSED**

- 5-52) Seaview at Hampton, LLC  
Special Permit to Impact Wetlands Conservation District (transformer pad only) at 24 Harbor Road  
Map 295 Lot 64  
Owner of Record: Seaview at Hampton LLC

Joe Coronati, Jones & Beach Engineers, and Peter Saari, Casassa & Ryan, presented this application. Scott Kilgore, Thibault Corp, Bob Meissner, Principal, and Sam Horton, Unitil, were also present.

Mr. Coronati reviewed the status of the application and the additional documentation that had been provided for this meeting. The noise study concluded that the existing noise in the area exceeds the noise from the transformer. The response from the Fire Department is that the fire lane must be clear to allow access to the yacht club by a fire truck. The letter from Unitil indicates that the transformer cannot be moved.

Mr. Higgins asked if the fire lane needs to be of a material that will support a fire truck. Mr. Coronati stated that it will be grassed but it needs to be constructed with a gravel base to support the fire truck. The plan will be amended.

Chairman Emerick asked about the 3-phase power. Mr. Steffen stated that Faye Spofford & Thorndike, design engineers for the government pier stated in an email that they do not need 3-phase power for the pier.

Sam Horton, Unitil, said there are three customers on the transformer and that two require 3-phase power. He said the yacht club and a residential unit have 3-phase power. The pier has not as yet requested power so he can't speak to their power needs. This transformer does not feed the adjacent marina.

## **PUBLIC**

Linda Gebhart, 4 Bailey Avenue, said she had questioned need for 3-phase power. She challenged Unitil's prior statement that they didn't have access to a previous small transformer, but now a fire truck will have access. She also asked about the swale area being filled in on the other side of the property.

Chairman Emerick said the swale issue is the responsibility of the Building Inspector. Ms. Gebhart referenced RSA 676.15. She asked if a copy of this statute could be placed in the file.

Ms. Gebhart said that Mr. Coronati has referenced an old easement that they have used. She believes this easement is now going to a different lot from the original easement. She asked that the easement being used be placed in the file. She stated that she does not believe the planned landscaping will have a mitigation impact.

Mr. Gillick asked Ms. Gebhart what grounds the Board could use to deny the special permit application. Ms. Gebhart said the applicant deviated from the approved plan, didn't inform anyone, and impacted the wetland. They are now coming after-the-fact for the permit. By allowing this amended plan, the Board is sending a message to the public that they can submit false plans to the Board.

She then asked if the transformer was wet or dry. She stated that a wet transformer has oil and PCB's and will contaminate water if it is flooded.

Sam Horton, spoke to three of the issues brought up. He said PCB's were outlawed in the 1960's and are not used. It is a wet transformer. He said he spoke with the Fire Chief about transformer locations. The Fire Chief would not allow the transformer to be in any of the possible alternative locations. The 3-phase power needs to be used for 2 customers and has the potential to be used for the fire pier.

Jane Gallagher, 31 Harbor Road, distributed a copy of the original plan that was approved and pictures of the transformer that is near her property. She suggested that it is not the Board's responsibility to come up with a solution for the project. The Board is here to protect the citizens. She asked the Board to consider refusing the permit because of diminution in value and enjoyment of her property.

John Gebhart, 4 Bailey Avenue, suggested another means of transformer placement.

Sam Horton stated he couldn't just switch transformers.

Owen Carter, 2 Bailey Avenue, stated he has a problem with the way it was left last meeting. It should have gone out to someone independent to look at the issue. He believes that the transformers could be moved. He believes that this problem was self-imposed by the developer.

Mr. Coronati said there was always 3-phase power running down this road and it had to be continued. He noted that the easement he had talked about previously was an access easement – a different one from the one described by Mrs. Gebhart. He then discussed notes on the plan regarding placement of utilities. He asked everyone to keep in mind what this area looked like prior to this project. Now there is a sidewalk, a yacht club, and \$20 million in condominiums. The whole area has been upgraded. The site was a mess before and has been greatly improved.

## **BOARD**

Mr. Gillick said it is hard to separate the Special Permit from the Site Plan. He believes there is an approved site plan. If the transformers have been moved, should there have been an amended site plan filed. He asked if we had a letter from the Conservation Commission. Mr. Steffen read the Conservation Commission letter.

Mr. Gillick asked if this permit application was after-the-fact. Yes it is. Chairman Emerick said requested this because of the change of ownership and the fact that there appeared to be things amiss with the approved site plan.

Mr. Higgins indicated he is not inclined to vote in favor tonight. He would like to see a fence, plantings and soundproofing completed to see if it appeases the neighbor.

Chairman Emerick said the dilemma is that if they vote “no” tonight, the applicant can’t continue working in the wetlands buffer to do further landscaping.

Mr. Steffen said if it continues without the Board taking action it will be harder and more costly to correct in the future.

Bob Meissner, DHB partner in Seaview, said they originally made an agreement with Ms. Gallagher. She now states she doesn’t like it. He asked what he would do if, after it’s landscaped, she still doesn’t like it.

The Board discussed alternative courses of action.

**MOVED** by Ms. Mercer to deny the Special Permit to impact the wetlands Conservation District (transformer pad only) at 24 Harbor Road, Map 295 Lot 64.

Motion withdrawn for lack of a second.

**MOVED** by Mr. Gillick to grant the special permit to impact the Wetlands Conservation District at 24 Harbor Road, Map 295, Lot 64, subject to the following conditions:

- The applicant will supply a fence and shrubs to block the view of the transformer from the abutting property at 31 Harbor Road..
- The applicant will install tidal buffer plantings between the old boat ramp near 31 Harbor Road to the yacht club along the backside of the seawall to try to help increase filtration of runoff before it enters the harbor.
- Lawn care must follow the guidelines set forth in the Shoreland Protection Act. Grass clippings will not be placed in the buffer or in the wetlands.
- Proper erosion control will be in place before construction begins and remain in place until the area is stabilized and removed after construction is complete. (Silt fence and hay bales)
- The buffer should remain undisturbed to the degree possible in the process of construction and elevations not be changed. No additional fill is allowed. No change in elevation is allowed using existing fill.
- Spot elevation grades shall be submitted prior to construction and upon completion.
- There are to be no additional structures such as sheds, swimming pools, gazebos, patios or other sealed surface in the buffer, other than that shown on the plan. A new Special Permit is required for the erection of any structure in the buffer.
- The Conservation Commission will be notified in writing upon commencement and completion of the project and before an occupancy permit is issued.

**SECOND** by Mr. Workman

Mr. Lessard offered an amendment to the motion to include the sound barrier in the proposed work. This will be placed between the fence and the plantings around the transformer.

**VOTE: 4-3-0**

**MOTION PASSED**

**IV. NEW PUBLIC HEARINGS – PLANNING BOARD APPLICATIONS**

- 6-38) Dianne LeBlanc & Paul Beaudry  
Special Permit to Impact Wetlands Conservation District at  
178 Towle Farm Road  
Map 156 Lot 2  
Owner of Record: Dianne LeBlanc & Paul Beaudry

Ms. Mercer recused herself from this application.

Dianne LeBlanc presented this application. She indicated she wishes to demolish the existing structure and build a 2-family structure. There will be an additional impact on the wetland buffer.

**MOVED** by Mr. Lessard to grant the special permit to Impact the Wetlands Conservation District at 178 Towle Farm Road, Map 156 Lot 2 subject to the following conditions:

- The elevation and grade within the buffer will remain as it is currently.
- Due to the increased footprint within the buffer there will be no future additional construction of decks, sheds, etc. to occur within the buffer.
- Monumentation at 50-foot intervals along the wetland boundaries as approved by the Planning Board.
- Permeable surface driveway.
- Lawn care must follow the guidelines set forth in the Shoreland Protection Act. Grass clippings will not be placed in the buffer or in the wetlands.
- Per the State Shoreland Protection Act, no more than 50% of the trees shall be cut within a 20-year period, with Conservation Commission notification.
- Proper erosion control will be in place before construction begins and remain in place until the area is stabilized and removed after construction is complete (Silt fence and hay bales).
- The buffer should remain undisturbed to the degree possible in the process of construction and elevations not be changed. No additional fill is allowed. No change in elevation is allowed using existing fill.
- Spot elevation grades shall be submitted prior to construction and upon completion.
- There are to be no additional structures such as sheds, swimming pools, gazebos, patios or other sealed surface in the buffer, other than that shown on the plan. A new Special Permit is required for the erection of any structure in the buffer.

- The Conservation Commission will be notified in writing upon commencement and completion of the project and before an occupancy permit is issued.

**SECOND** by Mr. Viviano

**VOTE: 7-0-0**

**MOTION PASSED**

**V. CONSIDERATION OF MINUTES of April 5, 2006**

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

**SECOND** by Mr. Viviano

**VOTE: 7-0-0**

**MOTION PASSED**

**VI. CORRESPONDENCE**

None

**VII. OTHER BUSINESS**

- Change of Use Review – ADA Handicap Accessibility

Mr. Steffen reviewed the situation that raised this issue and offered recommendations to the Board to address it with future changes of use.

**MOVED** by Mr. Gillick to accept the Planner’s recommendation and schedule a public hearing to amend the Site Plan Regulations.

**SECOND** by Mr. Viviano

**VOTE: 7-0-0**

**MOTION PASSED**

- Rademo Realty Trust - 5 Merrill Industrial Drive

Mr. Steffen reviewed the history of this issue. Mr. Hangen at the Department of Public Works has indicated that the work was not done according to plans. The Board discussed how to handle this since the CO has been issued. The Board determined it could enforce this through the Building Inspector or a lien on the property.

- Hampton Harbor II – Phase 2 – Catch Basin Submittal SK 1

Mr. Steffen noted it has been determined they need an additional catch basin to drain a low spot at Unit 3, and he wanted to know if this needed to come back to the Board for amended site plan approval.

**MOVED** by Mr. Higgins to approve this change.

**SECOND** by Mr. Viviano

Mr. Coronati indicated that he has 2 or 3 more changes coming to the site plan. He asked for the Board’s direction on these changes.

Mr. Higgins withdrew his motion. Mr. Viviano withdrew his second. It was the consensus that these changes should be first brought to the attention of the Town Planner

and he would have the authority to then make the determination as to whether to approve or bring them to the Board for plan approval.

**MOVED** by Mr. Gillick to authorize the Town Planner to review revisions to site plans and to bring to the Board those issues that are significant. The Planner has the authority to send plans out for independent engineering review as appropriate.

**SECOND** by Mr. Higgins

**VOTE 7-0-0**

**MOTION PASSED**

- Bond Reduction Request - Hampton Harbor Phase II

**MOVED** by Mr. Lessard to continue the bond reduction request for 60 days.

**SECOND** by Mr. Higgins

**VOTE: 7-0-0**

**MOTION PASSED**

**MOVED** by Mr. Gillick to adjourn

**SECOND** by Mr. Viviano

**VOTE: 7-0-0**

**MOTION PASSED**

Meeting adjourned at 10:12 PM.

Respectfully Submitted,  
Barbara Renaud  
Planning Board Secretary