

HAMPTON PLANNING BOARD – MINUTES  
August 2, 2006 – 7:00 PM

**PRESENT:** Tracy Emerick, Chairman  
Bob Viviano, Vice Chairman  
Fran McMahon, Clerk  
Jim Workman, Selectman  
Tom Gillick  
Tom Higgins  
Keith Lessard  
Bill Faulkner, Alternate  
Donna Mercer, Alternate  
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. WITHDRAWALS AND POSTPONEMENTS**

- 6-40) Thomas G Burness  
2-lot Subdivision at  
31 Park Avenue  
Map 190 Lot 12  
Waivers from Subdivision Regulations V.E.5, V.E.7, V.E.9 + V.E.14  
Owner of Record: Thomas G Burness
- 6-41) Thomas G Burness  
Special Permit to Impact Wetlands Conservation District at  
31 Park Avenue  
Map 190 Lot 12  
Owner of Record: Thomas G Burness

Chairman Emerick announced that this applicant has withdrawn his applications.

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

- 6-65) Kenneth G Fisher  
Special Permit to Impact Wetlands Conservation District at  
26 Island Path  
Map 282 Lot 17  
Owner of Record: Kenneth G & Debra E Fisher

Kenneth and Deborah Fisher presented this application. Mr. Fisher indicated he would like to raise his structure.

**BOARD**

Mr. McMahon indicated that the Conservation Commission has reached agreement with the applicants for this project.

Chairman Emerick advised the applicants that they will need a driveway permit. Mr. Fisher said the Department of Public Works has advised him that it isn't necessary.

Mr. Gillick stated that the Board should have a letter from the Department of Public Works to that effect.

**PUBLIC**

No Comments

**BOARD**

**MOVED** by Mr. Gillick to approve a Special Permit at 26 Island Path, Map 282 Lot 17, subject to the Conservation Commission conditions as stated in their memo of July 25, 2006, and receipt of a Department of Public Works letter regarding a driveway permit.

**SECOND** by Mr. Viviano

**VOTE: 7-0-0**

**MOTION PASSED**

6-66) Family Hill Properties, LLC  
16-unit Condominium Conversion at  
105 Winnacunnet Road  
Map 176 Lot 19  
Waiver from Subdivision Regulations Section V.E (Detailed Plan)  
Owner of Record: Family Hill Properties, LLC

Mr. Faulkner recused himself from this application because he resides at the property. Mr. Lessard asked if there were any objections to his sitting for this application, since a school is an abutting property. The applicant had no objection.

Mr. John Ryan, Casassa and Ryan, presented this application. He introduced the Ross family members also present. He began by reviewing the existing property plan. There are 3 pieces of property involved. The first is 105 Winnacunnet Road (The Elms). This is the property addressed by this application. The second property is Ross Colony Court, which is addressed in the application that follows (85 and 87 Winnacunnet Road). The third property is owned by a partnership and is not involved in this current conversion request.

This application (The Elms) has 34 parking spaces – 2 per unit plus 2 visitor spaces. Mr. Ryan described the location of those spaces. Some of them will come by easement from the second property involved in conversion. The spaces will be marked on the ground when a unit is purchased and the owner has selected spaces. There will be no physical changes to the building and no changes to the parking. There will be a condominium

association for each of the two properties converting at this time. There will also be a master Condominium Association that will take care of the common elements for all of the three properties. Each of the two condominium associations will designate a Board member to the master condominium association. The third member of the master association will be from the Ross Colony Partnership.

Mr. Ryan stated that the intent is not to displace tenants. Every effort will be made to relocate tenants to other rental units as units are sold. There is a statute 356c in New Hampshire. Under this statute, tenants will have 60 days to purchase their units. There will be a below-market-value price list for these tenants. Tenants, if they choose not to purchase, will have 9 or 18 (elderly) months or the length of their existing lease to move. Most of these items will be included in the condominium documents. "Elderly", for this purpose, is defined as age 62 or disabled. The building itself is built under Housing for Older Persons, which is age 55 or older. This 55-plus requirement remains under conversion.

## **BOARD**

There was a question regarding clarification of frontage. 105 Winnacunnet is the only property of the three that has frontage.

There was a request for clarification of the three-association condominium management arrangement. Common areas are the well, a garage, a gazebo, a laundry, a community room and office, grounds and roads. The master association will control these.

There was a question regarding easements for the driveway.

There was a question regarding representation for the convertible buildings that will remain rentals for the time being. Mr. Ryan stated the applicant has 5 years to bring the convertible buildings into the condominium. Once the 5-year period of control expires, all purchased units will have a voice. The applicant indicated the plan to use convertible buildings extends their period of control from 2 years to 5 years.

## **PUBLIC**

No comments

## **BOARD**

There was discussion of the parking arrangement being proposed. The inside (underground) parking will be purchased. The outside parking spaces will not have an extra charge. There are 12 underground spaces that will be sold separately. Spaces #11 and #12 will be the guest parking spaces.

Mr. Ross stated that he will be changing the asphalt in the parking lot. The Board indicated that this should be noted on the site plan.

There was further discussion of the absence of assigned parking spaces and the intent to sell the indoor parking spaces.

**MOVED** by Mr. Lessard to continue this application until the second application for the property is heard.

**SECOND** by Mr. Higgins

**VOTE: 7-0-0 -**

**MOTION PASSED**

6-67) Ross Colony Court, Inc  
26-unit Condominium Conversion at  
85-87 Winnacunnet Road  
Map 176 Lot 26-1  
Waiver from Subdivision Regulations Section V.E (Detailed Plan)  
Owner of Record: Ross Colony Court, Inc

Mr. John Ryan, Casassa and Ryan, presented this application. Mr. Ryan described the component of the property that will become The Oaks condominium. Buildings 87 and 85 will make up this condominium association. Parking spaces #1 to #12 on the plans will be assigned to these buildings. The balance of this lot will be designated convertible land, which means that the buildings will be brought into the condominium in the next 5 years. Each of those buildings will have 10 parking spaces (buildings 89 and 91). These are the actual parking spaces being used now. These buildings were built in 1970 and are pre-existing nonconforming properties.

## **BOARD**

In response to a question from the Board, Mr. Ryan said the statute requires that the convertible land be shown by metes and bounds, hence the dotted line on the plans.

There are a total of 104 parking spaces on the property. Chairman Emerick stated that the parking spaces for the other buildings are not relevant to tonight's discussion. There was additional discussion of this issue.

## **PUBLIC**

No comments

## **BOARD**

Mr. Steffen referred to his written recommended conditions.

**MOVED** by Mr. Gillick to approve the requested waiver from Subdivision Regulations Section V.E (Detailed Plan) at 85-87 Winnacunnet Road,  
Map 176 Lot 26-1

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

**MOTION PASSED**

**MOVED** by Mr. Gillick to approve the 26-unit condominium conversion at 85-87 Winnacunnet Road, Map 176 Lot 26-1, subject to the conditions stated in the Planner's memo of August 1, 2006.

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

**MOTION PASSED**

**MOVED** by Mr. Gillick to approve the requested waiver from Subdivision Regulations Section V.E (Detailed Plan) at 105 Winnacunnet Road, Map 176 Lot 19.

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

**MOTION PASSED**

**MOVED** by Mr. Gillick to approve the 16-unit condominium conversion at 105 Winnacunnet Road, Map 176 Lot 19, subject to the conditions stated in the Planner's memo of July 31, 2006.

**SECOND** by Mr. Higgins

There was discussion of the parking spaces for this building. The Board agreed that the condition will read that every unit will have 2 parking spaces in perpetuity and the two visitor parking spaces for The Elms will be marked on the plans and on-site.

Mr. Gillick amended his motion to include the condition discussed with respect to parking spaces.  
**SECOND** by Mr. Viviano

**VOTE: 7-0-0 -**

**MOTION PASSED**

Mr. Viviano recused himself from the rest of the meeting at this time. Mr. Faulkner replaced Mr. Viviano on the Board. Ms. Mercer joined the Board as the Alternate.

6-68) McGuire & Sons Realty Trust  
Steven C McGuire, Trustee  
5-unit Condominium Conversion at  
2, 4 + 6 Keefe Avenue  
Map 290 Lot 72  
Waiver from Subdivision Regulations, Articles V.E (Detailed Plan)  
Owner of Record: McGuire & Sons Realty Trust

Peter Saari, Casassa and Ryan, Tom Broderick and Steve McGuire presented this application. Mr. Saari stated that this is an existing 5-unit building. Parking is designated on the plan. There will be no changes to the structure. It is a change of ownership only.

Mr. Steffen noted that Lots 87 and 88 are reversed on the plan. This will need to be corrected prior to recording.

**BOARD**

The current Rental Certificate of Occupancy for this property is for Seasonal use only. Mr. Saari stated that, eventually, the units will be rehabilitated and converted to year round occupancy.

Mr. Higgins stated that the questions and concerns expressed in a letter from an abutter need to be addressed. The responses will be stated in the minutes.

Snow storage will be behind parking spaces #1 and #2.

The parking appears to be adequate with a deck removed as planned.

There was a question regarding Zoning Board of Adjustment history. Mr. Saari said the applicant had gone before the Zoning Board to construct a new building at this location. That petition was denied.

**PUBLIC**

Paula McGuire asked about why the deck needed to be torn down. This is to create a legal parking space before the plan can be approved.

**BOARD**

**MOVED** by Mr. Gillick to grant the requested waiver from Subdivision Regulations, Articles V.E (Detailed Plan).

**SECOND** by Mr. Workman

**VOTE: 7-0-0 -**

**MOTION**

**PASSED**

**MOVED** by Mr. Gillick to grant the 5-unit condominium conversion at 2, 4 + 6 Keefe Avenue, Map 290 Lot 72, subject to parking space #5 becoming a legal parking space prior to recording and the conditions stated in the Planner's memo of July 31, 2006.

**SECOND** by Mr. Higgins

**VOTE: 7-0-0 -**

**MOTION**

**PASSED**

**III. CONTINUED PUBLIC HEARINGS**

Mr. Higgins recused himself for the next three applications. Ms. Mercer joined the Board to replace him.

- 6-61) William Ryan  
2-Unit Condominium Conversion at  
49 Ocean Boulevard  
Map 293 Lot 171

Waiver Requested from the Subdivision Regulations Section V.E  
(Detailed Plan)  
Owner of Record: William Ryan

Mr. Steve Ells, Attorney, and Mr. William Ryan, Owner, presented this application. There are 2 dwelling units with year-round Certificates of Occupancy. The physical property will remain unchanged. There is one legal parking space for each unit. There is also lawn area for smaller parking spaces. Access to property is unusual. There are cross easements with the abutting property owner for the common driveway. The arrangement to be made is that the condominium association will maintain the driveway.

**BOARD**

Mr. Gillick asked about trash collection. There is public street pickup and that will continue. Mr. Gillick asked that this be included in the condominium documents.

**PUBLIC**

No comments

**BOARD**

**MOVED** by Mr. Workman to grant the requested waiver from the Subdivision Regulations Section V.E (Detailed Plan)

**SECOND** by Mr. Gillick

**VOTE: 7-0-0 -**

**MOTION PASSED**

**MOVED** by Mr. Gillick to approve the 2-unit condominium conversion at 49 Ocean Boulevard, Map 293 Lot 171, subject to the conditions stated in the Planner's memo of July 31, 200.

**SECOND** by Ms. Mercer

**VOTE: 7-0-0 -**

**MOTION PASSED**

- 6-62) Jerry Sayers  
Special Permit to Impact Wetlands Conservation District at  
23 Glade Path  
Map 273 Lot 26  
Owner of Record: Jerry Sayers

Jerry Sayers presented this application. He described the project he is proposing. He would like to raise the house to provide for parking on the first level.

**BOARD**

Mr. McMahon commented that he was at the Conservation Commission meeting and that the applicant agreed to the conditions of the Conservation Commission.

Mr. Lessard noted that the plans show the garage as open. The garage will be enclosed. Parking under the deck will be open. The driveway will be paved. This was approved by the Conservation Commission. This appears on Plan S1.

There is a driveway permit in place.

## **PUBLIC**

No comments

## **BOARD**

**MOVED** by Mr. McMahon to approve a Special Permit to Impact Wetlands Conservation District at 23 Glade Path, Map 273 Lot 26, subject to the conditions as stated in the Conservation Commission's letter of July 25, 2006.

**SECOND** by Mr. Lessard

**VOTE: 7-0-0 -**

**MOTION PASSED**

- 6-52) Keith Crowley/NTC Real Estate Development LLC  
Site Plan Review to construct a 31-unit hotel condominium at  
31-33 Ocean Boulevard  
Map 296 Lots 20, 32 and 33  
Owner of Record: Keith Crowley/NTC Real Estate Development LLC  
JURISDICTION ACCEPTED: JUNE 7, 2006

Ms. Mercer recused herself from this application.

Mr. Lessard asked if the Board or Applicant objected to his sitting for this application since he had not been in attendance at previous meetings.

Joe Coronati, Jones & Beach Engineers, and Peter Saari, Casassa & Ryan, presented this application.

## **BOARD**

Mr. Steffen said this meeting's purpose is to get an update of the various activities, which have taken place. He recommended getting consent from the applicant for continuation to a future meeting.

An opinion was received from Town Counsel regarding the language in the 1899 lease regarding "cottages and dwelling houses". The legal opinion stated that the 1899 lease has expired, and Town Counsel recommended not locking out development that was not envisioned in 1899.

Mr. Steffen stated the Board had a question regarding whether the office space would be for hotel use. There was also an engineering update needed.

Mr. Saari said that the office space would be used for the hotel.

There was a question as to what would be included in the kitchenette. Mr. Coronati said they anticipated having a microwave oven, a small refrigerator and a sink. There was additional discussion of the kitchenette area.

## **PUBLIC**

Walter Wyse, 3 River Avenue, stated that his concern is health hazards. He asked how many storm chambers there were to be under the structure. Mr. Coronati said there would be 55. Mr. Wyse relayed existing conditions at this property. He asked specific questions about the drainage system. He asked for the Board's consideration of his concerns regarding drainage.

Mr. Coronati noted that the proposed drainage system is tied into the Town system.

Donna Mercer, 41 Ocean Boulevard, stated she believes this project is overkill for the neighborhood. She would prefer conversion of what is there. She stated that the area is very residential.

Andrew Guthrie, 10 Boston Avenue, stated that he believes a microwave oven constitutes a cooking area. He believes that since there is no definition of a "contel", the definition of this project should revert to the more restrictive definition of a "dwelling unit". In this case, 6 dwelling units would be allowed on this parcel under today's Zoning Ordinance. He stated the Ordinance definition of a hotel specifies "transient lodging accommodations on a daily rate to the general public". He does not believe the proposed project meets this definition.

With respect to parking, Mr. Guthrie stated that, in his opinion, predominant parking is not on Ocean Boulevard, as required by Statute. The Board responded that predominant parking is on Ocean Boulevard. He asked about parking requirements for the office use of the building. Per Article 6, Section 6.1.1, of the Zoning Ordinance, there is no parking requirement. He asked if handicapped parking was required. It is not, because the structure is not open to the public.

Walter Wyse, 3 River Avenue, said there is no guarantee where water will go from the drainage system. He stated there is a water problem in the neighborhood. He does not believe the ground can handle the water. He reiterated his concerns about drainage.

Andrew Guthrie, 10 Boston Avenue, disputed the parking requirements. It was clarified.

## **BOARD**

Mr. Gillick asked if the outstanding engineering questions were addressed and resolved. That is where the application is right now.

Mr. Lessard asked about the overhead electric. Mr. Coronati described Unitil's requirements for distance of overhead wires.

Mr. McMahon asked if the Board would be seeing transformer issues on this project. Mr. Coronati said there is a dedicated utility room in the building. The electric will go overhead into the building.

Mr. Steffen stated that a note on the plan regarding underground electric needs to be corrected.

Mr. Saari will provide a plan of the kitchenette for review by the Board.

Chairman Emerick asked how close Jones & Beach and Ambit Engineering were on engineering issues.

**MOVED** by Mr. Gillick to continue this application to the September 6<sup>th</sup> meeting of the Planning Board.

**SECOND** by Mr. Workman

**VOTE: 6-0-0 -**

**MOTION PASSED**

Mr. Higgins rejoined the Board

#### **IV. CONSIDERATION OF MINUTES of July 19, 2006**

**MOVED** by Mr. Workman to accept the minutes as presented.

**SECOND** by Mr. McMahon

**VOTE: 6-0-1**

**MOTION PASSED**

#### **V. CORRESPONDENCE**

Mr. Steffen advised that Maury Friedman has volunteered to be an Alternate to the Rockingham Planning Commission

**MOVED** by Mr. Gillick to recommend to the Board of Selectmen that Mr. Friedman be appointed as an Alternate to the Rockingham Planning Commission

**SECOND** by Mr. Workman

**VOTE: 7-0-0**

**MOTION PASSED**

#### **VI. OTHER BUSINESS**

Mr. Lessard asked about whether the Planning Board should be seeking outside professional assistance while Mr. Gearrauld is serving as Interim Town Manager. There may be ongoing court cases and other items where the Board may want a legal opinion that would not be the financial responsibility of the applicants.

The Board discussed the definition of a kitchen at length. There was discussion of the need to find a means of clearly distinguishing a dwelling unit from a hotel room.

Mr. Workman said we should ask Mr. Gearrauld if he can serve multiple purposes while he is the Interim Town Manager. If he says that he can't, then we should look at going outside for Legal Counsel. Mr. Lessard suggested using Peter Loughlin.

Mr. Steffen advised that proposed zoning ordinance amendments would be ready for the next Planning Board meeting. This would be a work session to discuss the proposed changes.

**MOVED** by Mr. Gillick to adjourn

**SECOND** by Mr. Faulkner

**VOTE:** 7-0-0

**MOTION PASSED**

Meeting adjourned at 8:57PM.

Respectfully Submitted,  
Barbara Renaud  
Planning Board Secretary