

HAMPTON PLANNING BOARD – MINUTES
February 7, 2007– 7:00 PM

PRESENT: Tracy Emerick, Chair
Robert Viviano, Vice-Chair
Ken Sakurai, Clerk
Jim Workman, Selectman Member
Tom Higgins
Tom Gillick
Fran McMahon, Alternate
James Steffen, Town Planner

ABSENT: Keith Lessard

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

I. WITHDRAWALS AND POSTPONEMENTS

- 6-75) Atlantic Breeze Suites LLC
Site Plan Review to construct 15 condo hotel units at
429 Ocean Boulevard
Map 265 Lot 18
Owner of Record: Henry J & Lucille Archambault, Trustees
JURISDICTION ACCEPTED: 9/6/06
CONTINUATION ACCEPTED: 1/3/07

This applicant has requested a continuation to the February 21st meeting of the Planning Board.

MOVED By Mr. Sakurai to continue the application of Atlantic Breeze Suites LLC to the February 21st meeting of the Planning Board at the applicant's request.

SECOND By Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

II. NEW PUBLIC HEARINGS – PLANNING BOARD APPLICATIONS

- 7-04SP) Thomas J Bassett
Special Permit to Impact Wetlands Conservation District to replace
existing home at
12 Gentian Road
Map 168 Lot 39
Owner of Record: Thomas J Bassett Self-Declaration of Trust

Bernard Christopher, Great Post & Beam Co, presented this application on behalf of the applicant who is out of state. There was written authorization for this representation in the file. Mr. Christopher indicated they wished to replace the structure on pilings rather

than with the existing crawl space. It will basically be in the same footprint except for aligning it more squarely on the lot so that it conforms to required setbacks.

BOARD

Mr. Gillick asked if this would help with the periodic flooding situation. Mr. Christopher indicated that it would.

PUBLIC

No comments

BOARD

MOVED By Mr. Gillick to grant the Special Permit to Impact the Wetlands Conservation District at 12 Gentian Road, Map 168 Lot 39, subject to the conditions as stated in the Conservation Commission memo of January 29, 2007.

SECOND By Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

7-05CC) Village at Hampton Center, LLC
2-unit Condominium Conversion at
5 Purington Lane
Map 120 Lot 5A
Waiver from Subdivision Regulations Section V.E (Detailed Plan)
Owner of Record: Village at Hampton Center, LLC

Peter Saari, Casassa and Ryan, and Kevin O'Donnell, Principal, presented this application. They indicated all required parking is available.

BOARD

Mr. Gillick asked if there would be any exterior changes. There will be none.

PUBLIC

No comment

BOARD

MOVED By Mr. Gillick to grant a waiver from Subdivision Regulations Section V.E (Detailed Plan) for 2-unit condominium conversion at 5 Purington Lane, Map 120 Lot 5A.

SECOND By Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

MOVED By Mr. Gillick to grant the 2-unit condominium conversion at 5 Purington Lane, Map 120 Lot 5A, subject to the conditions stated in the Town Planner's memo of February 1, 2007.

SECOND By Mr. Workman

VOTE: 7-0-0

MOTION PASSED

7-06SUB) Steven & Sarah Jane Constantine
2-lot Subdivision at
7 Hemlock Street
Map 209 Lots 22 and 22-1
Waivers from Subdivision Regulations Section V.E & VII.C
Owner of Record: Steven & Sarah Jane Constantine

Peter Saari, Casassa and Ryan, and Steven Constantine, Applicant, presented this application. Mr. Saari indicated that the applicant had purchased the property as two lots. These lots were combined in the Assessor's office for tax purposes. Their request is to subdivide these again. The Registry of Deeds has them recorded as two lots. They are two lots on the deed.

BOARD

Mr. Gillick said anyone looking at the plans would not know what the variances are, since there are referenced by Article number only. He would be more comfortable if the plan stated what these variances were.

Mr. Higgins asked for clarification of when the lots were two lots. The deed and the Registry have had them as two lots for many years. It was only the Assessor's office having them as one lot for tax purposes. The Constantine's purchased the property as two lots.

PUBLIC

No comments

BOARD

Mr. McMahon asked for clarification of the variances secured in 2006. Mr. Saari indicated they were all for dimensional requirements.

MOVED By Mr. Gillick to grant waivers from Subdivision Regulations Section V.E & VII.C for 2-lot subdivision at 7 Hemlock Street, Map 209 Lots 22 and 22-1.

SECOND By Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

MOVED By Mr. Viviano to approve a 2-lot subdivision at 7 Hemlock Street, Map 209 Lots 22 and 22-1, subject to the conditions as stated in the Planner's memo of February 1, 2007.

SECOND By Mr. Sakurai

VOTE: 7-0-0

MOTION PASSED

7-07SP) Sun Valley Association
Special Permit to Impact Wetlands Conservation District to rebuild
sea wall @ Thornton/Campton Streets
Maps 303-305 Lots 1-17
Owner of Record: Multiple

Steven Oles, AMES MSC, and Craig Lanouette, Sun Valley Association, presented the application. Mr. Oles described the project.

BOARD

Mr. Gillick asked for clarification of the terminus of the wall. He then asked what the Sun Valley Association was. Mr. Lanouette said the neighborhood has been called Sun Valley for years. The Association had been active some years back. It has been dormant but was reactivated last year for this project. It is not a dues paying association.

Mr. Higgins asked whom the land belonged to. It is a gray area between Town and State property. He was told the owners would have to take responsibility for rebuilding the wall if they wanted it rebuilt.

Mr. Higgins asked if stairs over the new riprap would be removable. Mr. Lanouette said no. The deeds say property ownership is to high tide's edge. He referred to a North Beach situation but indicated it was a dissimilar situation with a different description of ownership.

Mr. Higgins said he was not comfortable with permanent staircases on Town property. The stairs should be removable in the winter. He asked if this was a private beach. Mr. Lanouette responded that the Town cleans it and provides a lifeguard. Mr. Higgins then asked if the riprap was going past the opening by the bridge. It is not.

PUBLIC

Ellen Goethel, Conservation Commission, stated the Commission looked at this project. She read a warrant article that was on the ballot for the March 14, 2006 Town election. It specifically states that the sea wall is on Town property. This warrant article passed last year. She said some of the properties on the tax record have boundaries set. Taken as a whole, the boundaries are not exact, but it appears that the sea wall was on Town land when it was first built by the Army Corps of Engineers. She stated that the Conservation Commission feels that the wall should be repaired seaward, since there is well-vegetated

dune grass on the existing wall. They also suggested that the Board require plantings on the new wall.

BOARD

Mr. Higgins asked how many lots were involved in total. There are 19 lots. 13 have set boundaries with staircases on Town land. Mr. Higgins stated that since the stairways are on Town land, this is creating a private beach.

McMahon asked for the elevation at the top of the wall. It is 14-16 feet at this time.

Mr. Sakurai asked why 2 houses at the end were not included. Mr. Lanouette indicated that they didn't want to be involved in the project.

Mr. Lanouette said he would look into the North Beach staircases referenced by Mr. Higgins and discuss this with other owners. He said some of the existing stairs at Sun Valley have been there for 30 or 40 years. This area has been a drop zone for dredging.

Mr. Gillick stated that this wall needs to be repaired. He thinks the Board can approve this conditioning it on the applicant meeting with the Town Attorney to make sure that legalities are met with respect to ownership and staircases.

MOVED By Mr. Gillick to grant a Special Permit to impact Wetlands Conservation District at Thornton/Campton Streets to reconstruct the sea wall only (not to include staircases), subject to the conditions stated in the Conservation Commission letter of January 29, 2007 and the applicant meeting with the Town Attorney regarding any legal questions.

SECOND By Mr. Sakurai

Mr. Higgins said he is in favor of the wall but can't vote for the staircases. He would rather see the wall and staircases as separate issues. It was noted that the application submitted was to reconstruct the seawall only. Mr. Higgins noted that there are staircases in the plans being reviewed. There was a consensus that the approval applied to the wall only. If the applicants wish to construct staircases in the future, they would need to come before the Planning Board for another Special Permit.

VOTE: 7-0-0

MOTION PASSED

7-08SITE) Public Service of New Hampshire
Amended Site Plan Review to reconfigure poles at
70 Timber Swamp Road
Map 102 Lots 1, 2 & 4
Waivers from Site Plan Regulations Section V.E (Detailed Plan)
Owner of Record: PSNH

7-09SP) Public Service of New Hampshire

Special Permit to Impact Wetlands Conservation District
to reconfigure poles at
70 Timber Swamp Road
Map 102 Lots 1, 2 & 4
Owner of Record: PSNH

David Manugian, Ambient Engineering, and David Still, PSNH, presented this application. Mr. Manugian addressed the Site Plan. There was approval last year for work to the substation and poles in the existing corridor. At that time the corridor was going to remain in place. They now have a final plan as to precisely where the poles will be located. Of the existing poles some will be removed while others will remain at a reduced height of 30 feet to carry fiber-optic cable. There will be one additional pole for fiber-optic cable.

Mr. Stills spoke to the Special Permit. He stated that the original plans anticipated one route. They have run into delays with non-owned property. They are working on easement agreements. But in the meantime, they need to meet in-service deadline dates. They have designed another direction to go with poles to meet service deadlines. There was an outstanding question of the amount of temporary impact on the wetland buffer. It has been determined that the impact will be 12,500 square feet.

BOARD

Mr. Sakurai asked the existing height of the poles. They are now 75-85 feet.

Mr. Gillick asked if this would have an effect on the easement. It will not.

Mr. Higgins asked for clarification of original plan (Option A) and the original intent to clear cut trees. These have not yet been cut. There will be some clearing done but if they go with Option C those trees will stay.

Mr. McMahon asked for clarification that PSNH will go with either Option A or Option C, but not both. Option A is the shorter distance and the preferred plan. Option C is the alternative if the first option cannot be accomplished in the required time frame. This permit request is for Option C. Last year's request was for Option A.

PUBLIC

Duke Lovetere, 372 Exeter Road, asked what power lines were involved. These are the metal ones. Mr. Stills clarified the location of the lines for both options. Mr. Lovetere asked if there would be another meeting if they had to go to the Route 27 option.

BOARD

Mr. Sakurai asked if all easements were in place for Option C. They are.

MOVED By Mr. Gillick to grant a waiver from Site Plan Regulations Section V.E (Detailed Plan) for the amended site plan at 70 Timber Swamp Road, Map 102 Lots 1, 2 and 4.

SECOND By Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

MOVED By Mr. Gillick to approve the amended site plan at 70 Timber Swamp Road, Map 102, Lots 1, 2 and 4, with the conditions as stated in the Planners memo of February 6, 2007.

SECOND By Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

MOVED By Mr. Viviano to grant a special permit to impact the Wetlands Conservation District to reconfigure poles at 70 Timber Swamp Road, Map 102, Lots 1, 2 and 4, with conditions as stated in the Conservation Commission's original memo of January 26, 2006.

SECOND By Mr. Gillick

VOTE: 7-0-0

MOTION PASSED

7-10SUB) Pondside LLC c/o Malcolm Smith
Amended 3-lot Subdivision at
195-201 Woodland Road
Maps 95/96 Lots 2/3
Owner of Record: Pondside LLC c/o Malcolm Smith

Jeff Clifford, Altus Engineering, presented this application. This amended plan reconfigures the lots because of negotiations with the Town regarding the sale of lot 3 to the Conservation Commission. The Conservation Commission has asked to reconfigure the lots so that the wetland will be in lot 3. This involves pulling back the boundary lines of lots 1 and 2 out of the wetland. He described the end result.

BOARD

Mr. Gillick asked when we last we dealt with this. It was January 18th 2006. This is an amended plan, which was received prior to the expiration of the previous approval.

PUBLIC

Ellen Goethel, Conservation Commission, stated they have been working diligently with the owner on this negotiation. This change was done at the request of the Conservation Commission because they felt it would be in the Town's best interest. The Purchase and Sale Agreement will be signed February 15th and this needs to be done first.

BOARD

Mr. Sakurai asked if there was access to this land. Yes, there is a trail. They are looking to get conservation easements to have a trail out to Mill and Woodland Roads.

MOVED By Mr. Gillick to approve the amended 3-lot subdivision application at 195-201 Woodland Road, Maps 95 Lot 2 and Map 96 Lot 3, subject to the conditions stated in the Planner's memo of February 2, 2007.

SECOND By Mr. McMahon

VOTE: 6-0-1

MOTION PASSED

7-11CC) Timothy Mulcahy
2-Unit Condominium Conversion at
13 Riverview Terrace
Map 292 Lot 38
Waiver from Subdivision Regulations Section V.E (Detailed Plan)
Owner of Record: Timothy Mulcahy

Mr. Higgins reported that he rents property for the applicant and therefore may be viewed as having a pecuniary interest. He asked if there was objection to his sitting on this application. There was none.

Joe Coronati, Jones & Beach Engineers and Peter Saari, Casassa and Ryan, presented this application. Mr. Coronati said this is now a 3-unit property and the conversion will make it 2 units. There is insufficient parking for 3 units on the site. The back building will be renovated into one unit. There are no other proposed changes to the site.

BOARD

Mr. Higgins asked about a line going over the lot line on the plans. It is pavement or grass.

PUBLIC

No comments

BOARD

MOVED By Mr. Gillick to grant the waiver from Subdivision Regulations Section V.E (Detailed Plan) for Condominium Conversion at 13 Riverview Terrace, Map 292 Lot 38

SECOND By Mr. Sakurai

VOTE: 7-0-0

MOTION PASSED

MOVED By Mr. Gillick to grant the condominium conversion at 13 Riverview Terrace, Map 292 Lot 38, subject to the conditions stated in the Planner's memo of February 2, 2007.

SECOND By Mr. Sakurai

VOTE: 7-0-0

MOTION PASSED

- 7-12CC) Timothy Mulcahy
2-Unit Condominium Conversion at
21 – 23 L Street
Map 293 Lot 54
Waiver from Subdivision Regulations Section V.E (Detailed Plan)
Owner of Record: Timothy Mulcahy

Joe Coronati, Jones & Beach, and Peter Saari, Casassa & Ryan, presented this application. This is an existing 2-unit property. Mr. Coronati described the parking.

BOARD

No questions

PUBLIC

No comments

BOARD

MOVED By Mr. Sakurai to grant the waiver from Subdivision Regulations Section V.E (Detailed Plan) for condominium conversion at 21-23 L Street, Map 293 Lot 54.

SECOND By Mr. Gillick

VOTE: 7-0-0

MOTION PASSED

MOVED By Mr. Sakurai to approve the condominium conversion at 21-23 L Street, Map 293 Lot 54, subject to the conditions stated in the Planner's memo of February 2, 2007.

SECOND By Mr. Gillick

VOTE: 7-0-0

MOTION PASSED

III. CONTINUED PUBLIC HEARINGS

- 7-02) Shawn & Shawna Pelletier
Special Permit to Impact Wetlands Conservation District at
7 Pearl Street
Map 223 Lot 50
Owner of Record: Shawn & Shawna Pelletier

Craig Salomon, Attorney, and Shawn Pelletier, Applicant, presented this application. Sherrie Davis and Steve Ricker, New Hampshire Soils Consultants, also made presentations. Shawna Pelletier, co-applicant was also present.

Mr. Salomon described the property and the course of events leading up to the current after-the-fact application. The deck had been constructed without a Building Permit, and

the hot tub on it was wired without an Electrical Permit. The Pelletiers were before the Conservation Commission in the fall to add a shed and a fence. The Commission noted the deck and felt it was in violation of a previous Special Permit. The applicants are seeking an after-the-fact permit for the deck.

Mr. Salomon described the history of the property since the Pelletiers purchased it. It was surveyed and delineated in 2003. In November of 2003, the Pelletiers went to the Zoning Board of Adjustment and got relief from the setback requirement. The sketch presented to the Zoning Board of Adjustment included a deck. In November of 2003, the Pelletiers were also before the Conservation Commission. In December 2003, the Conservation Commission advised the Planning Board they did not oppose the addition. A month later there was a letter saying the addition had to be 4-feet above ground. Two years later they added the deck.

He stated the wetland science indicates there is no impact from the deck. The applicant asked the wetland scientists to investigate the situation.

BOARD

Mr. Higgins asked for clarification of communication regarding the buffer.

Mr. Gillick asked if there was anything on the ground that was outside the grand-fathered footprint. There are four pilings only. Mr. Gillick asked about the status of the fence and the shed. Those requests have been withdrawn and will be taken up subsequently.

Mr. Viviano asked if it was clear, when this was approved previously, what was allowed and not allowed. These were provided. Mr. Viviano read the February 6, 2004 letter from the Planning Board stating the approval given.

There was discussion of the two documents involved. Mr. Salomon then read a December 2003 letter.

Mr. Higgins stated since the documentation was provided tonight, the application should be continued to allow time for review.

Ms. Davis provided documentation packages to the Board members. She provided the following information:

Question 1 – Delineation: The property was delineated in November 2003. It is a freshwater wetland. She supported that finding with specific data.

Question 2 – Value of the wetland: It is a limited functioning wetland.

Question 3 – Impact from the deck: No significant impact from deck on the functioning of wetland.

Her recommendation is to plant natural vegetation in the yard. The hot tub should be drained into the sewer line.

Mr. Salomon said the Pelletiers are agreeable to planting vegetation as recommended.

Mr. Gillick said, for the record, the cross street is Gill Street and his two houses are on that street.

Mr. Salomon said they had no problem with Mr. Gillick sitting for this application. Mr. Salomon said he still recognized they have to deal with the Building Department on after-the-fact permits. He said he believes these were honest mistakes. He then added that the hot tub serves a medical purpose to applicants.

Mr. Higgins asked what the railroad ties and buckets were. Those are supports for the shed. They are stacked for future use.

Mr. Sakurai asked for clarification of the original the plan.

PUBLIC

Ellen Goethel, Conservation Commission, stated that the Conservation Commission had asked for a wetland soil survey and was not provided with one. She asked where the 100-foot tidal buffer was in relation to the property. She also asked again about a soil survey. That is a requirement of the Conservation Commission. There are no plans for a deck in the Building Department file. She relayed some history of this property. The applicants had come to the Planning Board with one plan, and then they changed the plan. The Planning Board sent them back to the Conservation Commission. She said that they have cleaned up the buffer. The wood for the proposed shed should be removed also. She advised that the Planning Board had reviewed the property several times. She reviewed activities that have taken place with the Building Department.

She stated that the applicants would be coming back again for a shed, when a previous condition was that the shed be removed from the buffer.

Mr. Higgins asked why the hot tub was an issue. It is not.

Mr. Riker responded to Mrs. Goethel's questions. They determined that the property consisted of "poorly drained soils". Mrs. Goethel said they have not seen this report and soils can change. She is concerned that the property is wetter than indicated in 2003.

In NH Soil Consultant's opinion, the tidal buffer is roughly 200 feet off the property. Mrs. Goethel said the line is vague. She feels the State should make a determination as to whether the 250-foot buffer is impacted per the Shoreland Protection Act. She also feels the soils in the yard may not have been tested.

Peter Tilton, Conservation Commission, asked if the wetland scientist had looked at the effect of the tide on the fresh water. There was discussion of determination of high tide line. Mr. Tilton then commented that generally when the Conservation Commission

approves something they ask for something in return. He said they probably wouldn't want to keep adding more and more.

BOARD

Mr. Gillick asked Ms. Goethel how the Board could respond to her concerns. She said she would recommend removal of the deck on the ground.

Mr. Sakurai asked for clarification of what portion needed to be above the ground. This was discussed.

Mr. Higgins stated that the Board needed to see what it had approved previously.

Mr. Sakurai asked why the house was not raised when built. Mr. Pelletier explained that there was a height restriction with the modular.

Chairman Emerick said it appeared that this should go before the Conservation Commission before coming back here.

MOVED By Mr. Higgins to continue this application to the March 21st Planning Board meeting.

SECOND By Mr. McMahon

VOTE: 6-0-1 (Gillick)

MOTION PASSED

Mr. Salomon said he would put together a package of his documents and provide them to the Planner. He also discussed wetland information. Copies will be provided to the Conservation Commission.

- 6-90) Kevin O'Donnell
6-Lot Residential Subdivision at
89 Woodland Road
Map 130 Lot 8
Owner of Record: Fred C. & Carol J. Sherburne
JURISDICTION ACCEPTED: November 1, 2006
CONTINUATION ACCEPTED: January 3, 2007

- 6-91) Kevin O'Donnell
Wetlands Impact Special Permit for a temporary work zone and
grading at
89 Woodland Road
Map 130 Lot 8
Owner of Record: Fred C. & Carol J. Sherburne

Joe Coronati, Jones & Beach Engineers, and Peter Saari, Casassa & Ryan, presented this application. Mr. O'Donnell was also present.

Mr. Coronati said the plans were revised based on department review comments. He believes they have addressed all comments.

BOARD

Mr. Steffen went through the package he provided. Department review comments were included in that package.

Mr. Higgins asked for an explanation of the Unitil response to the plans. Mr. Coronati explained.

Mr. Steffen said that Ambit Engineering's second round of responses has not as yet been received. He is not comfortable with the Board acting on this application tonight.

PUBLIC

No comment

BOARD

MOVED By Mr. Gillick to continue these applications to the February 21st meeting of the Planning Board.

SECOND By Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

IV. CONSIDERATION OF MINUTES of January 17, 2007

MOVED by Mr. Workman to accept the minutes as written.

SECOND by Mr. McMahon

VOTE: 6-0-1

MOTION PASSED

V. CORRESPONDENCE

VII. OTHER BUSINESS

➤ Fee Changes

Mr. Steffen reported that the Board of Selectmen requested that the Board take this up. Mr. Gillick asked if the Planner could determine what this increased revenue amount would have been based on 2006 activity. The purpose of increased revenue is to cover the cost of the Conservation Coordinator part-time position. Mr. Steffen indicated he also researched the fees of other similar sized towns and the proposed changes are in line with those communities.

MOVED by Mr. Gillick to schedule a Public Hearing for March 21, 2007 on the Planning Board Fee Schedule changes and the other miscellaneous site plan and subdivision regulation items already accepted by the Board.

SECOND by Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

➤ **Summerwood Subdivision – Final Completion**

Mr. Steffen stated that we have all signoffs and a certification of completion from the engineer for the road. The Board will need to recommend to the Board of Selectmen that Summerwood Drive be accepted as a Town street.

MOVED by Mr. Gillick to include acceptance of Summerwood Drive in the Public Hearing on March 21st if needed.

SECOND by Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

➤ **Rockingham Planning Commission**

Mr. Steffen said that the terms of our appointments to the Rockingham Planning Commission have expired. The Board needs to re-nominate these individuals (or nominate different individuals) to the Board of Selectmen. The Board of Selectmen will then appoint the representatives to the Commission. The Chair suggested that the Board vote to re-nominate the incumbents.

MOVED by Mr. Viviano to re-nominate Warren Bambury, Peter Olney and Fran McMahon as the Town's representatives to the Rocking Planning Commission.

SECOND by Mr. Sakurai

VOTE: 5-0-2

MOTION PASSED

MOVED by Mr. Workman to adjourn.

SECOND by Mr. McMahon

VOTE: 7-0-0

MOTION PASSED

Meeting adjourned at 9:25 PM.

Respectfully Submitted,
Barbara Renaud
Planning Board Secretary