

HAMPTON PLANNING BOARD – MINUTES  
May 16, 2007– 7:00 PM

**PRESENT:** Tracy Emerick, Chair  
Robert Viviano, Vice-Chair  
Fran McMahon, Clerk  
Jim Workman, Selectman Member  
Tom Higgins  
Bill Faulkner, Alternate  
Donna Mercer, Alternate  
James Steffen, Town Planner

**ABSENT:** Tom Gillick  
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. He then offered the Board's best wishes for speedy recoveries to Mr. Gillick and Mrs. Lessard.

**III. WITHDRAWALS AND POSTPONEMENTS**

7-44) Barbara and George McGregor  
Special Permit to Impact Wetlands Conservation District to repair  
seawall at  
1054 Ocean Boulevard  
Map 98 Lot 44  
Owner of Record: George E McGregor Trust and Barbara C. McGregor  
Trust

**MOVED** By Mr. Viviano to continue this application to the June 6, 2007 meeting of the Planning Board at the applicant's request.

**SECOND** By Mr. Mercer

**VOTE:** 6-0-0

**MOTION PASSED**

7-24) Tom Morganstern  
2-unit Condominium Conversion at  
18-20 Cutler Avenue  
Map 265 Lot 44  
Waiver from Subdivision Regulations Section V.E (Detailed Plan)  
Owner of Record: Thomas Morganstern

**MOVED** By Mr. Viviano to continue this application to the June 20, 2007 meeting of the Planning Board at the applicant's request.

**SECOND** By Mr. Mercer

**VOTE:** 6-0-0

**MOTION PASSED**

## II. ATTENDING TO BE HEARD

Hampton River Marina LLC (Phase III) – 55 Harbor Road – Definition of “active and substantial development or building” and extension of vesting.

Ernie Thibeault presented this request. He provided history of this issue. He described the requirements of “active and substantial” and indicated that it was not reasonable to meet all of the conditions in this definition. This is a \$25 million project and he does not feel it is feasible to get Certificates of Occupancy for a 28-unit building in the required time frame.

Chairman Emerick said the Board recognized the problem with the “active and substantial” definition and has since revised it to reference infrastructure only.

Mr. Thibeault said he took ownership last summer. He is trying to get emergency permits from DES because of washouts and other damage. They are asking for a one-year extension on vesting to allow them to do what they need to do to keep the marina operating for the summer. This has to be done before the units can be built. This extension request is to January 5, 2009. He said the marina is full and needs to be maintained.

Chairman Emerick summarized that the applicant was making two requests:  
-A one-year extension on vesting to January 5, 2009, and  
- Restatement of the definition of “active and substantial” to refer to infrastructure only and not to Certificates of Occupancy.

**MOVED** By Mr. Higgins to grant the requests for

- A modification of the definition of “active and substantial” to include basic infrastructure only, and
- A one-year extension of the vesting period from January 5, 2008 to January 5, 2009.

**SECOND** By Mr. Viviano

**VOTE:** 7-0-0

**MOTION PASSED**

## III. CONTINUED PUBLIC HEARINGS – PLANNING BOARD APPLICATIONS

- 7-15) North Beach Investments Inc  
Site Plan Review for construction of 6-condominium tourist cabins with pool at  
76 Kings Highway  
Map 196 Lot 25  
Owner of Record: Raymond & Marie Gordon  
JURISDICTION ACCEPTED: March 7, 2007  
CONTINUATION GRANTED: May 2, 2007

- 7-16) North Beach Investments Inc  
Special Permit to Impact Wetlands Conservation District to construct  
6 tourist cabins with pool at  
76 Kings Highway  
Map 196 Lot 25  
Owner of Record: Raymond & Marie Gordon

Chairman Emerick explained that the reason for continuance of the vote for these applications from the May 2<sup>nd</sup> Planning Board meeting was because of a 6-member Board at last meeting. There is a seven member Board this evening.

**MOVED** By Mr. Higgins to grant a waiver from site plan regulations to use pervious material (pavers) for the parking area.

**SECOND** By Mr. Faulkner

**VOTE:** 6-1-0 (McMahon)

**MOTION PASSED**

Mr. Steffen read the Conservation Commission letter and its conditions.

**MOVED** By Mr. Higgins to grant a Special Permit to impact the Wetlands Conservation District to construct 6 tourist cabins with pool at 76 Kings Highway, Map 196, Lot 25, subject to the conditions in the Conservation Commission letter of March 5, 2007

**SECOND** By Mr. Faulkner

**VOTE:** 6-1-0 (McMahon)

**MOTION PASSED**

Chairman Emerick said the letter from the Police Department indicated that the Department had no issues with the application, except that construction vehicles need to be parked on the property rather than on the street.

Ms Mercer said she has serious reservations about the traffic situation on Kings Highway, having spent time there observing the traffic flow and speaking to residents. Yet, if the Police Department feels that the traffic impact is within acceptable limits, she will defer to their opinion.

**MOVED** By Ms. Mercer to approve the Site Plan at 76 Kings Highway, Map 196, Lot 25, to construct 6 tourist cabins and pool, with reservations regarding traffic safety, subject to the following conditions:

- Parking will be assigned and marked on-site and on the plans;
- Snow storage location will be designated on the plans;
- ADA compliance requirements will be met and this will be noted on the plans;
- There will be no expansion of the pool or cabins;
- Conditions in the Planner's memo of May 15, 2007.

**SECOND** By Mr. Higgins

**VOTE:** 5-2-0 (McMahon, Workman)

**MOTION PASSED**

- 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. Sherri Davis from New Hampshire Soil Consultants was also present.

Mr. Salomon reviewed the history of this application. He indicated that the applicant was willing, as a matter of good faith, to reduce the size of the deck. He said they met with the Conservation Commission on April 30<sup>th</sup> and the Commission asked the applicants to do five things. The revised plan of April 12<sup>th</sup> shows the deck as it was constructed. The plan from the architect shows a 10'x10' section of deck to be removed. This plan also has a planting plan that is agreeable to everyone. Mr. Salomon said he also met with Mr. Schultz (Building Inspector). On the plans submitted to his office there was a 4' x 8' deck. He couldn't remember if the 4' x 20' deck was there when the Certificate of Occupancy was issued. Mr. Christopher, the builder who is present this evening, said the 4' x 20' deck was built in August prior to issuance of the Certificate of Occupancy. Mr. Schultz told Mr. Salomon that on the plan submitted to the Building Department there was a set of steps that have not been built. In the Conservation Commission letter they note this is not part of application. The Building Inspector suggested that the applicant make the stairs part of the application in case they want to build them in the future. Mr. Salomon then said they agreed with the Conservation Commission's Items #1- #6 and have no problem with Item #9. With respect to Item #7, the Pelletier's believe they have the right to apply for Special Permits to add structures and impervious surface in the future.

## **BOARD**

Chairman Emerick queried the Board as to whether they wanted to hear a full presentation on the planting plan. The consensus was that it was not necessary.

Mr. Viviano asked if the upper deck was going to stay. It is. He asked if anything was said to the Conservation Commission about the shed. Mr. Salomon said they never agreed there would be no other structures. Mr. Salomon said they agree that if they want to build the stairs, they will need to come back for a Special Permit.

Mr. Higgins said he recalled the Board's stipulation previously was that there would be no shed. This was in 2004. He wants the record clear. Ms. Goethel referenced a 12/30/03 memo from the Conservation Commission, which states "This project will be on pilings allowing grass to grow below and also decrease the previously impacted footage by removing an existing shed within the buffer." She also read the Planning Board's 2/4/04 letter which conditions approval on the stipulations in the 1/31/04 Conservation Commission letter.

## **PUBLIC**

No comment

## BOARD

Mr. Steffen said he couldn't find reference to a shed in the 2004 approval. There was discussion of this issue.

Mr. McMahon asked if we were clear that the stairs are to come off the plan. These were proposed to be in the buffer, and a Special Permit would be required if the applicant wished to build them in the future. He asked what the 3 piers (pilings) are for. These support the upper levels.

Chairman Emerick summarized that the applicant requests that Item #7 of the Conservation Commission recommendation be removed. The language will be changed to state, "Without prior permits and approvals, there will be no other structures or impervious surfaces on the property within the Wetlands Conservation District."

Ms. Goethel said the Conservation Commission's intent was that there would be no additional structures on this property that would increase the sealed surface. If the applicant disagrees, it is his right. There was discussion of this issue.

Mr. Salomon reviewed the applicant's position with respect to the opportunity to apply for Special Permits for future structures.

There was additional discussion of this issue. There was further discussion of the stairs.

**MOVED** By Mr. Workmen to grant a Special Permit to impact the Wetlands Conservation District at 7 Pearl Street, Map 223, Lot 50, subject to the terms of the Conservation Commission letter of April 30, 2007, with amendment of Item #7 as follows:

*7. Without prior permits and approvals, there will be no other structures or impervious surfaces on the property within the Wetlands Conservation District.*

**SECOND** By Mr. Higgins

**VOTE:** 7-0-0

**MOTION PASSED**

7-23) Michael & Karyn Green  
2-lot Subdivision with Lot Line Adjustment at  
16 Alexander Drive  
Map 194 Lots 10-4, 1-14, + 10-1  
Waiver from Subdivision Regulations Section VII.C (Storm Drainage)  
Owner of Record: Blocker Strategies LLC

Stephen Ells, Attorney, and Michael Green, Applicant, presented this application. Mr. Green distributed copies of the Public Works memo to the Board members. Mr. Ells presented a summary of the current status of this application. The applicant was to meet with the Department of Public Works, which he did. The applicant agrees with the Department of Public Works' requirements.

**BOARD**

No questions

**PUBLIC**

No comments

**BOARD**

Mr. Steffen referred to his memo and stated the conditions of approval.

**MOVED** By Ms. Mercer to approve the 2-lot subdivision with lot line adjustment at 16 Alexander Drive, Map 194, Lots 10-4, 1-14, + 10-1, subject to the conditions stated in the Planner's memo of May 16, 2007 and including the conditions stated in the Department of Public Works memos of April 23, 2007 and May 16, 2007.

**SECOND** By Mr. Faulkner

**VOTE:** 7-0-0

**MOTION PASSED**

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

- 7-40) Thomas J Bassett  
Amended Special Permit to Impact Wetlands Conservation District to  
Change design from foundation to pilings and allow for access stairs at  
12 Gentian Road  
Map 168 Lot 39  
Owner of Record: Thomas J Bassett Self-Declaration Trust

Bernie Christopher, Great Woods Post & Beam, reviewed the status of this issue. The entrance was not approved on the previous application, resulting in the need for this amended application.

**BOARD**

No questions

**PUBLIC**

Ellen Goethel, Conservation Commission, stated that there should be a stairway and utility box but no closet or bench.

Mr. Christopher indicated the structure is 11' x12' and is enough for the stairs and utilities. There was a rush in changing the plans because of various circumstances.

**BOARD**

**MOVED** By Mr. Higgins to approve the Amended Special Permit to Impact Wetlands Conservation District to change design from foundation to pilings and allow for access stairs at 12 Gentian Road, Map 168 Lot 39, subject to the conditions stated in the Conservation Commission memo of May 1, 2007 and removing the mudroom and bench from the plans.

**SECOND** By Ms. Mercer

**VOTE:** 7-0-0

**MOTION PASSED**

**V. CONSIDERATION OF MINUTES of May 2, 2007**

Page 7 – Paragraph 6 – Add: “Mr. Higgins said the application is to rebuild the existing sea wall. He would not approve a sea wall if stairs appeared on the plan on Town land. There was discussion of this issue for clarification of the procedure with respect to approval of stairs.”

Chairman Emerick said he met with Ms. Goethel, Mr. Gearreald, Mr. Steffen and Mr. Welch to figure out a process for approvals. Applicants should go to the Selectmen first. That should alleviate the problem for the Planning Board when approving the plans.

Page 8 - First motion – reword sentence on staircases  
- Second Board – add, “They will be eliminated”

Page 15 - Paragraph 3 – add “with respect to hours/noise to appease neighbors’ complaints”

Page 16 – Paragraph 6 – add, “said he” represented.

**MOVED** by Mr. Faulkner to accept the minutes as amended.

**SECOND** by Mr. Workman

**VOTE:** 0-0-1 (Viviano)

**MOTION PASSED**

**VI. CORRESPONDENCE**

None

**VII. OTHER BUSINESS**

Mr. Steffen announced that next Tuesday, May 22<sup>nd</sup> from 7:00-9:00PM at the Portsmouth Library that will be a public meeting on a proposed multi-use trail that from Key West to Calais, Maine. This is referred to as an urban Appalachian trail and is sponsored by East Coast Greenway. There is a notice upstairs if anyone is interested.

Ms. Goethel announced that, with respect to sea wall applications, the Building Inspector is going to be putting together a checklist sheet. She says people fail to realize they don’t have dimensions of impact to wetlands and buffers She asked that a line be added to the

Special Permit application regarding square footage before and after construction and also the temporary impact on wetlands and buffers.

The consensus was that this is a good idea. Ms. Goethel will work with Planning Office

**MOVED** by Mr. Faulkner to adjourn.

**SECOND** by Mr. McMahon

**VOTE:** 7-0-0

**MOTION PASSED**

Meeting adjourned at 8:12 PM.

Respectfully Submitted,  
Barbara Renaud  
Planning Board Secretary