

HAMPTON PLANNING BOARD – MINUTES  
June 6, 2007 7:00 PM

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

**ABSENT:** Tom Gillick

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**

Mill Road Water Storage Tank  
Aqurion Water Company – Tata & Howard Consulting Engineers  
Map 145 Lot 18

The Chairman announced that this Preliminary Conceptual Consultation has been withdrawn.

7-46) Frank Sestito  
Special Permit to Impact Wetlands Conservation District to install retaining wall and raise elevation of yard at  
11 Fieldstone Circle  
Map 42 Lots 41-43  
Owner of Record: Frank Sestito

This applicant has requested a continuation to the August 15<sup>th</sup> meeting of the Planning Board.

**MOVED** By Mr. Viviano to continue the Special Permit application for 11 Fieldstone Circle to the August 15<sup>th</sup> meeting of the Planning Board at the applicant's request.

**SECOND** By Mr. Bilodeau.

**VOTE:** 7-0-0

**MOTION PASSED**

7-31) James K Zavez  
Special Permit to Impact Wetlands Conservation District to replace garage at  
60 North Shore Road  
Map 132 Lot 23  
Owner of Record: James K Zavez

This application has been withdrawn.

## II. NEW PUBLIC HEARINGS – PLANNING BOARD APPLICATIONS

The Chairman indicated that all sea wall Special Permit applicants must have already been to the Board of Selectmen and the Conservation Commission to be heard at this meeting. All of these applicants indicated that they had done so.

The Board discussed considering all of the Dumas Avenue applications together. It was determined that the same contractor was performing the work for all applicants and they should be heard together.

7-45) Boars Head Condo Association  
Special Permit to Impact Wetlands Conservation District to repair seawall at  
19 Dumas Avenue  
Map 256 Lot 13  
Owner of Record: Multiple (6)

7-48) Joyce E Kearn  
Special Permit to Impact Wetlands Conservation District to repair sea wall at  
23 Dumas Avenue  
Map 256 Lot 17  
Owner of Record: Joyce E Kearn

7-49) Barbara W Russell  
Special Permit to Impact Wetlands Conservation District to repair sea wall at  
31 Dumas Avenue  
Map 267 Lot 24  
Owner of Record: Barbara W Sadlier Russell

7-50) Judith B Straw  
Special Permit to Impact Wetlands Conservation District to repair sea wall at  
27 Dumas Avenue  
Map 267 Lot 3  
Owner of Record: Judith B Straw Trust

Tom Quinlan of 19 Dumas Avenue represented all of the owners for the four Special Permit applications. He indicated that they have been to the State Department of Environmental Services and the Conservation Commission. Their purpose is to repair storm damage done to the wall in front of all of their properties. Entrance and egress for equipment will be over the 19 Dumas Avenue property and also between 23 and 27 Dumas Avenue. No equipment will go over Town land. The work will begin immediately and be completed by June 20<sup>th</sup>.

**BOARD**

No questions

**PUBLIC**

No comments

**BOARD**

**MOVED** By Mr. Lessard to grant Special Permit to Impact Wetlands Conservation District at 19 Dumas Avenue, Map 256, Lot 13, in accordance with the conditions as stated in the Conservation Commission letter of May 30, 2007.

**SECOND** By Mr. Bilodeau

**VOTE:** 7-0-0

**MOTION PASSED**

**MOVED** By Mr. Lessard to grant Special Permit to Impact Wetlands Conservation District at 23 Dumas Avenue, Map 256, Lot 17, in accordance with the conditions as stated in the Conservation Commission letter of May 30, 2007.

**SECOND** By Mr. Viviano

**VOTE:** 7-0-0

**MOTION PASSED**

**MOVED** By Mr. Lessard to grant Special Permit to Impact Wetlands Conservation District at 31 Dumas Avenue, Map 267, Lot 24, in accordance with the conditions as stated in the Conservation Commission letter of May 30, 2007.

**SECOND** By Mr. Viviano

**VOTE:** 7-0-0

**MOTION PASSED**

**MOVED** By Mr. Lessard to grant Special Permit to Impact Wetlands Conservation District at 27 Dumas Avenue, Map 267, Lot 3 in accordance with the conditions as stated in the Conservation Commission letter of May 30, 2007.

**SECOND** By Mr. Bilodeau

**VOTE:** 7-0-0

**MOTION PASSED**

- 7-47) Richard A and Ruth E Bley  
2-unit Condominium Conversion at  
121 Timber Swamp Road  
Map 119 Lot 1-1  
Waiver requested from Subdivision Regulations Section V.E (Detailed Plan)  
Owner of Record: Richard A & Ruth E Bley

Peter Saari, Casassa and Ryan, represented the applicants. This is the 8 or 9<sup>th</sup> of the condominium conversions for the Summerwood subdivision. This property is at the entry of Summerwood Drive. Sufficient Parking is available. The property has private water and sewer. One of the units is built and the other is not yet built. There are two parking spaces in the driveway and two in the garage.

**BOARD**

No questions.

**PUBLIC**

No comments

**BOARD**

**MOVED** By Mr. Viviano to grant the waiver from Subdivision Regulations Section V.E (Detailed Plan)

**SECOND** By Mr. Bilodeau

**VOTE:** 7-0-0

**MOTION PASSED**

**MOVED** By Mr. Viviano to grant the condominium conversion at 121 Timber Swamp Road, Map 119 Lot 1-1, in accordance with Plan # 320L1 and subject to the conditions as stated in the Planner's memo of June 4, 2007.

**SECOND** By Mr. Lessard

**VOTE:** 7-0-0

**MOTION PASSED**

7-51) Arthur Brown  
Lot Line Adjustment at  
87 + 93 Barbour Road  
Map 91 Lots 4-1 and 7  
Owner of Record: Arthur Brown

Henry Boyd, Millenium Engineering, presented this application. The Messrs Brown were also present. Mr. Boyd described the lot line adjustment requested. Nothing is proposed to be constructed on the second lot.

**BOARD**

Mr. Viviano asked why this adjustment was being done. Mr. Boyd said they are in the process of subdividing one of the lots and the adjustment will eliminate the need to place the second lot within the subdivision in order to meet requirements for building lots.

**PUBLIC**

No comments

**BOARD**

**MOVED** By Mr. Viviano to approve the lot line adjustment at 87 and 93 Barbour Road, Map 91 Lots 4-1 and 7, based on Plan #PO7924, dated 5/17/07, and the conditions in the Planner's memo of June 4, 2007.

**SECOND** By Mr. Bilodeau

**VOTE:** 7-0-0

**MOTION PASSED**

- 7-52) Francesca J Springer  
Special Permit to Impact Wetlands Conservation District to repair sea wall and replace stairs at  
1058 Ocean Boulevard  
Map 98 Lot 40  
Owner of Record: Francesca J Springer
- 7-53) Anne Pierce, Helen Dehn, etal  
Special Permit to Impact Wetlands Conservation District to repair sea wall and replace patio and stairs at  
1056 Ocean Boulevard  
Map 98 Lot 43  
Owner of Record: Anne Pierce, Helen Dehn, etal

Tim McGrail and Kevin Pierce presented these applications. Mr. McGrail is representing the Springers.

## **BOARD**

It was clarified that the Board of Selectmen has already granted permission for this project. The previous two sets of stairs are to be replaced with one shared, removable set of stairs.

## **PUBLIC**

No comments

## **BOARD**

**MOVED** By Mr. Lessard to grant the Special Permit to Impact Wetlands Conservation District to repair sea wall and replace removable stairs at 1058 Ocean Boulevard, Map 98 Lot 40, subject to the stipulations in the Conservation Commission letter of May 30, 2007.

**SECOND** By Mr. Bilodeau

**VOTE:** 7-0-0

**MOTION PASSED**

**MOVED** By Mr. Lessard to grant the Special Permit to Impact Wetlands Conservation District to repair sea wall at 1056 Ocean Boulevard, Map 98 Lot 40, subject to the stipulations in the Conservation Commission letter of May 30, 2007.

**SECOND** By Mr. Bilodeau

**VOTE:** 7-0-0

**MOTION PASSED**

- 7-54) William Nyhan  
Special Permit to Impact Wetlands Conservation District to construct  
single family home at  
3 Gale Road  
Map 23 Lot 4-1  
Owner of Record: William Nyhan

Joe Coronati, Jones & Beach Engineers, presented this application.

**BOARD**

Chairman asked if this had been to the Conservation Commission. Mr. Coronati gave history of property when previously addressed for a different owner. This had been to the Conservation Commission before for the other owner. Variances were needed because they don't meet the 75' requirement for a septic system and because the amount of upland is not enough for a building envelope.

Mr. McMahon asked if the plan currently before the Board is the same plan that was presented to the Conservation Commission previously. Mr. Coronati indicated that the only thing changed was the owner's name.

Mr. Coronati said the lot was subdivided in 1997. It was originally a 7-acre parcel. After the owner bought this lot, the wetlands changed. The wetlands have increased on the property since it was originally subdivided.

The Board asked where the septic system would be. Mr. Coronati described the plan. This is a small building envelope on a 5-acre lot.

The Board asked for clarification of the status of the previous application. It wasn't heard by the Planning Board because it was determined that variances were needed.

**PUBLIC**

No comments

**BOARD**

**MOVED** By Mr. Lessard to take jurisdiction and continue this application to the July 18<sup>th</sup> Planning Board meeting for hearing before the Conservation Commission.

**SECOND** By Mr. Bilodeau

**VOTE:** 7-0-0

**MOTION PASSED**

- 7-55) Square One Craftsmen

After-the-Fact Special Permit to Impact Wetlands Conservation  
District to remove trees at  
52 Tide Mill Road  
Map 231 Lot 6-1  
Owner of Record: Square One Craftsmen

Mr. Viviano recused himself for this application. Mr. Faulkner sat for Mr. Viviano.

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

Mr. Steffen indicated that this application had missed the Conservation Commission's deadline to be heard at their May meeting.

Mr. Coronati stated that he got involved in this project only recently. Silt fence is currently at the 50-foot buffer line, although it had been incorrectly placed originally. 4 trees were cut in the wetland buffer. He didn't believe a special permit is needed because forestry is allowed and the stumps were not removed from the ground. In his opinion, a special permit is not needed if the ground is not disturbed.

## **BOARD**

Mr. Higgins asked why the Conservation Commission had done a site walk.

Mr. Steffen cited regulation regarding cutting of trees in the Wetland Conservation District. This was discussed.

Mr. Lessard asked if the granite markers were in. No granite markers were installed.

Mr. Higgins indicated that the house construction is not related to the prior tree cutting. Mr. Lessard asked if any more trees would be cut. They will not.

## **PUBLIC**

Neal Carnaby, 60 Tide Mill Road, said there was no silt fence when the digging began. The excavator was in the wetland buffer without regard for the wetland.

David Egonis, 48 Tide Mill, stated that around the week of April 9th he talked to the contractor on site. There was no silt fence at that time. He said the contractor told him he could cut 50% of the trees in the buffer. He said he doesn't have a problem with the trees being cut, but he would have a problem if they started to build in the buffer.

Sharon Raymond, The Conservation Commission, said The Conservation Commission looked at the site. Initially, there were questions as to where the silt fence was. She requested that this application be continued and go to The Conservation Commission

before a vote is taken. She stated that the Conservation Commission was disturbed when they looked at the site.

David Johnson, Square One Craftsmen, said they started cutting trees, and the neighbors were concerned about a pocket in front of the buffer where construction was occurring. He said they cut trees in the buffer that would overhang the house. Construction was stopped by the Building Department because of the concerns of the neighbors. The Building Inspector asked that he get a soil scientist out there to re-delineate the Wetland Conservation District.

## **BOARD**

The Board discussed the purpose of the special permit. It was determined that the violation was disturbance within the buffer rather than a question of whether or not the trees should have been cut.

Mr. Steffen stated this is clearly construction and not tree cutting (forestry). The construction has been stopped until this is clarified.

Mr. Coronati said there was a letter from NH Soil Consultants saying there was no problem with the site.

The Board discussed procedure and alternative courses of action.

In response to the Board's questions, Mr. Coronati described relocation of the silt fence from inside the buffer to the correct location at the buffer line. There was additional discussion of the protection of the Wetlands Conservation District during construction.

Mr. McMahon asked why silt fence was put in the wrong location to start with. Mr. Coronati guessed that they didn't know where the wetland was.

**MOVED** By Mr. Higgins to accept the after-the fact Special Permit for the previous tree removal, and applicant is required to go to the Conservation Commission for appropriate mitigation measures, as required by the Conservation Commission. Work may proceed outside of the Wetland Conservation District. There shall be no further disturbance of the Wetlands Conservation District.

**.SECOND** By Mr. Bilodeau

Ms. Raymond asked if construction would continue before the Conservation Commission meeting. There was additional discussion of the history of the project, and how events occurred. The applicant may work in the upland. But there is to be no further work and/or disturbance in the Wetland Conservation District.

**VOTE:** 5-2-0

**MOTION PASSED**

7-56) Demetrios Galanis

3-unit Condominium Conversion at  
3 Concord Avenue  
Map 296 Lot 90  
Waiver from Subdivision Regulations Section V.E (Detailed Plan)  
Owner of Record: Demetrios Galanis

Mr. Higgins recused himself for this application.

Peter Saari, Casassa and Ryan, and Ernie Cote, Surveyor, presented this application.  
There is the required one parking space per unit.

**BOARD**

Mr. Lessard asked whether Limited Common Area indicated on the plan was for all units or designated to Unit 1. It is for all units.

**PUBLIC**

No comments

**BOARD**

**MOVED** by Mr. Lessard to grant a waiver from Subdivision Regulations Section V.E (Detailed Plan)

**SECOND** by Mr. Viviano

**VOTE:** 7-0-0

**MOTION PASSED**

**MOVED** by Mr. Lessard to grant a 3-unit condominium conversion at 3 Concord Avenue, Map 296, Lot 90, subject to the conditions stated in the Planner's memo of June 4, 2007. plus the condition that each unit secure a separate Certificate of Occupancy from the Building Inspector prior to the unit being sold.

**SECOND** by Mr. Viviano

**VOTE:** 7-0-0

**MOTION PASSED**

7-57) Fatima Realty Trust  
Site Plan Review for 103-unit Condominium Hotel at  
377 Ocean Boulevard  
Map 265 Lot 20  
Owner of Record: Fatima Realty Trust

Stephen Ells, Holmes and Ells, and Jean Boudreau, Principal for the Applicant, presented this application. Dennis Moulton, Ames Engineering, and Kenneth Feyl, Cube 3 Studio, were also present. Mr. Ells said there had previously been an approval for a condominium on this site. Because of market changes at the beach, they would like to have a 103-unit condominium hotel rather than 52 condominium dwelling units. Everything at ground level is unchanged from the previously approved plan. The

building, instead of being 81 feet high, will be within the 50-foot height maximum. The front section of the building will be 50 feet in height and the rear section will be 40 feet high. He asked that this be considered an amendment to the originally approved application and focus only on the changes from that plan. He indicated that a 4-foot setback is all that is required with a hotel. They don't intend to change any of the previous setbacks, drainage, etc. No variances are required for this proposal.

Mr. Feyl, the architect for the project, described the plan for the hotel. It will be 3 ½ floors. There will be one level of below grade parking and one ground level parking floor. Amenity spaces will be at ground level. Upper level floors will house standardized units. All bedrooms within the units will be less than 330 square feet. The units will consist of bedroom, kitchen, living room and balcony. Mechanicals will be housed on the roof. They are looking at a hydraulic elevator. The swimming pool in the previous plan is gone.

## **BOARD**

The Board asked if the refrigerators would be less than 5 square feet in size. Mr. Ells said they intended to pay the impact fees, since the units will have actual kitchens. There was discussion of whether these would be hotel suites or dwelling units and which parking requirements apply. There was a sense that a legal opinion is required as to whether these would be hotel rooms or dwelling units.

## **PUBLIC**

Charles O'Malley, Fuller Acres, is concerned that there will be parking on his street. He also asked about sewerage. Chairman Emerick explained that this will be reviewed by the Department of Public Works.

## **BOARD**

The layout/floor plans are needed for the front units in the building. These units will be larger than the others, but the bedrooms will remain at 330 square feet. Mr. Ells stated that since this is essentially a change of use, two weeks for review should be enough. All major infrastructure was reviewed previously. He would prefer that this not be repeated. The site plan is identical to the previous application. There are interior changes only. Mr. Lessard stated that we should include everyone in Departmental Review as a courtesy. Also, we need to get a legal opinion on whether these are dwelling units.

There was Board discussion of whether this was an amended plan/change of use and the extent of departmental review required.

Mr. Moulton said that they took the new building and over-laid it on the previous building and everything remained the same. It is the same site plan as previously.

**MOVED** by Mr. Viviano to accept jurisdiction of the application; to send it to the Town Attorney for a legal opinion as to whether these would be hotel units or dwelling units for purposes of parking requirements; to send the plans, including floor plans for Units B and C, for Departmental Review; and to continue the application to the July 18<sup>th</sup> meeting of the Planning Board.

**SECOND** by Mr. Lessard

Mr. Workman commented that since the property has been sitting dormant for two years, enough time should be allowed for adequate departmental review.

**VOTE:** 7-0-0

**MOTION PASSED**

7-28) Thelma VanWalbeck  
Special Permit to Impact Wetlands Conservation District to construct a deck at  
8 Sapphire Avenue  
Map 223 Lot 63  
Owner of Record: Thelma VanWalbeck

Stephen Blyth and Thelma VanWalbeck presented this application. They propose to remove an existing shed on the edge of Eel Creek and a set of stairs and to build a deck. They plan to take away 194 square feet of impervious surface and replace it with 168 square feet.

## **BOARD**

The Board asked what would replace the bulkhead to be removed. It will be abandoned.

## **PUBLIC**

Sharon Raymond, The Conservation Commission, said they worked with this applicant and are very happy with the proposal and the fact that they are reducing Wetlands Conservation District impact.

**MOVED** to grant Special Permit to Impact Wetlands Conservation District to construct a deck at 8 Sapphire Avenue, Map 223 Lot 63, subject to the conditions stated in the Conservation Commission's letter of May 30<sup>th</sup>.

**SECOND** by Mr. McMahon

**VOTE:** 7-0-0

**MOTION PASSED**

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

Barbara McGregor and Ann McGregor presented their application. Mrs. McGregor indicated that they lost their sea wall during a spring storm. They have been to the Board of Selectmen, to the Conservation Commission, and to the State Department of Environmental Services and have received approvals.

**BOARD**

No questions

**PUBLIC**

Sharon Raymond, the Conservation Commission, indicated they have worked with this applicant and are happy with this proposal.

**BOARD**

There was discussion of the stairs, which will be removable.

**MOVED** by Mr. Lessard to grant a Special Permit to Impact Wetlands Conservation District to repair seawall at 1054 Ocean Boulevard, Map 98 Lot 44, subject to the stipulations in the Conservation Commission letter of May 30<sup>th</sup>.

**SECOND** by Mr. Bilodeau

**VOTE: 7-0-0**

**MOTION PASSED**

**III. CONSIDERATION OF MINUTES of May 16, 2007**

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

**SECOND** by Mr. Viviano

**VOTE: 7-0-0**

**MOTION PASSED**

**IV. CORRESPONDENCE**

- Atlantic Breeze Suites – 429 Ocean Boulevard –  
Request for extension of demolition period to after Memorial Day.

Mr. Viviano recused himself for this request.

Peter Saari and Joe Coronati presented this request. Mike Fournier was also present on behalf of the developer. Mr. Saari said the developer was delayed in the demolition work by the asbestos abatement that was needed. They will need another week and a half to finish the demolition. A Demolition Permit has not as yet been issued. Signatures are needed for Aquarion Water Company and asbestos abatement. There will be no pile driving when construction begins.

The applicant was asked if there was a cease and desist order in place. He indicated there is.

The application was approved in February with the conditions that there would be no pile driving or demolition work between Memorial Day and the Seafood Festival. Mr. Coronati stated that the owner would stop construction once he got the foundation done. Mr. Lessard suggested that the demolition could be completed and that the foundation could be done in the fall.

It was noted that the water is still on because they need it for the asbestos abatement work. The asbestos is half done now.

There was discussion of the precedent being set by granting this request.

Mr. Fournier confirmed that the end date for demolition would be June 20<sup>th</sup>. Mr. Lessard asked Mr. Fournier, the Project Manager, if he is on-site all day. Mr. Higgins asked if they would limit the hours of foundation work in consideration of the neighbors.

Chairman Emerick indicated he did not wish to become involved in a negotiation on this issue. It is a straightforward request for an extension of the time limited stipulated in the original Conditions of Approval.

**MOVED** by Mr. Workman to deny this extension request

**SECOND** by Mr. Higgins

**VOTE:** 4-2-1

**MOTION PASSED**

MaryRae Preston stated that to have a vacant building for the summer is an attractive nuisance. Reservations are down for the season. So the season won't really start until June 30th. She feels the request should have been granted.

- DeNiro Development  
691 Exeter Road  
Requested for additional one-year extension

Mr. Steffen described the background of this request.

**MOVED** by Mr. Lessard to grant the additional one-year extension to May 25, 2008.

**SECOND** by Mr. Bilodeau

**VOTE:** 7-7-0

**MOTION PASSED**

### **VIII. OTHER BUSINESS**

Mr. Steffen announced that on June 25th there is a training seminar in Exeter being held by the Rockingham Planning Commission. Glenn Greenwood will be doing the training. There is a sign up sheet in the Planning Office for any Board members interested in attending.

Chairman Emerick announced that the Capital Improvement Program Committee will begin its work next Monday, June 11<sup>th</sup> at 4:00 PM, with the Department of Public Works. The Committee will meet weekly thereafter until they have reviewed capital requests from all Department Heads, the schools and the library.

**MOVED** by Mr. Bilodeau to adjourn.

**SECOND** by Mr. Viviano

**VOTE:** 7-0-0

**MOTION PASSED**

Meeting adjourned at 8:59 PM.

Respectfully Submitted,  
Barbara Renaud  
Planning Board Secretary