

HAMPTON PLANNING BOARD

Minutes

September 1, 2010 – 7:00 p.m.

PRESENT: Mark Loopley, Chair
Fran McMahon, Vice Chair
Tracy Emerick
Keith Lessard
Robert Viviano
Mark Olson, Clerk
Rick Griffin, Selectman Member
James Steffen, Town Planner

ABSENT:

CALL TO ORDER

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

I. ATTENDING TO BE HEARD

II. NEW PUBLIC HEARINGS

Mr. Olson noted that a continuance was asked for in the Great Boars Head matter as it was incorrectly noticed, and it will need to be continued to October 6, 2010.

MOTION by Mr. Emerick to continue to the matter to October 6, 2010.

SECOND by Mr. McMahon.

VOTE: 7-0-0

MOTION PASSED.

Mr. Olson noted that 124 Landing Road has requested to be continued to September 15, 2010 as the engineering firm contact was on vacation so the information was not received.

MOTION by Mr. Emerick to continue 124 Landing Road to September 15, 2010.

SECOND by Mr. Lessard.

VOTE: 7-0-0

MOTION PASSED.

10-034 40 Tide Mill Road

Map: 231 Lot: 2

Applicant: Michael & Jennifer Zuba

Owner of Record: Same

Special Permit to Impact Wetlands: Replace existing three-season room to new year-round room

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Applicant Mike Zuba appeared. He wants to take a 12' x 14' room. He agrees with points made in the letter of the Conservation Commission and will adhere to them.

Public: No comment

MOTION by Mr. McMahon to grant the special permit in accordance with Conservation Commission letter dated July 30th 2010.

SECOND by Mr. Emerick.

VOTE: 7-0-0

MOTION PASSED.

10-037 17 Vanderpool Drive

Map: 110 Lot: 4F

Applicant: Robert Chatigny

Owner of Record: Same

Special Permit to Impact Wetlands: Install locking-block retaining wall & widen driveway

Applicant Robert Chatigny appeared with his wife Ginny. They have lived there for 6 years. They have an issue with frequent flooding. They want a permit to do minor construction within the driveway area to reduce flooding in that area. They moved in 2005. They had no idea there was an issue with flooding. The neighbors told them that everyone who has resided there has had flooding. He's the only house affected in the area. Their intention is to restrict the water coming from the ponded area into the house.

He explained the way the area is constructed; it's a bowl effect. Water comes in, collects and there is no place for it to go except into the garage. There are only inches between the basement floor, pavement and driveway and water level. The water is up against their door. Sometimes he cannot open his door. They are the 4th owner to experience problems.

They want to reduce the problem by putting in a retaining wall. The area needs to be elevated.

Mr. McMahon gave the applicants the letter from the Conservation Commission.

Mr. Chatigny commented on the Conservation Commission letter. He stated he was absent because he did not know he needed to go. He did not receive a letter or any notification.

MOTION by Mr. McMahon to refer the matter to the Conservation Commission and continue to the October 6th meeting.

SECOND by Mr. Viviano.

Mr. Olson discussed letters that were received in the past. Mr. Chatigny said water collects in driveway. Mr. Chatigny discussed three aluminum pipes on town property. Town has not maintained pipes per Mr. Chatigny. He has asked the Town to clean the swale in the past. Mr. McMahon said it's a much larger drainage system. There's piping going across Vanderpool. Mr. McMahon discussed the letters from 2008 and 2009. Mr. Steffen said the BETA Group is

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looking at drainage issues in the area. Mr. Emerick asked what the real pond is. It was explained that the Town made drainage changes to the brook that made the ponded area much larger then when the subdivision was built. Setbacks being moved were discussed. Applicant shouldn't be punished because of Town issues.

Mr. Loopley stated it should go through the correct channels. It was asked if the Town was responsible. The bog was discussed before Norton was born was discussed by Mr. Lessard. Mr. Viviano asked why it has to go back to Conservation Commission. The applicant talked to Ms. Dionne and she blamed herself for this. Mr. Loopley said the applicants were not aware of the dates. They weren't told to attend the meeting. They knew about it being a two-step process, but didn't know about the Conservation Commission meeting.

Mr. McMahon said this is an after the fact permit. The applicants stated, yes, they started the work before getting permitted.

Mr. Viviano asked if the process was already started. Applicant stated they have dug up pavement. It was initiated because of their level of frustration. The applicant provided pictures from a couple of days ago when it rained.

Mr. Steffen said the Department of Public Works should be involved more than the Conservation Commission. Mr. Loopley said it's an after the fact and it should go through the Conservation Commission. Mr. McMahon said they are not looking at the big picture of solving the problem.

Mr. Olson said the Board needs to be aware of the process and Town should be involved before the applicants bring in work. The applicant said the DPW was out there and they said there is nothing they can do as it is too much of an expense to the Town. BETA is looking at drainage issues. Mr. Steffen will try to get an answer on this.

Mr. Lessard said an engineer should be involved to solve the problem.

Mr. Griffin asked where water goes in the yard. The applicant stated it goes to his backyard. Elevations were discussed. Neighbors shouldn't be affected.

MOTION by Mr. McMahon to continue the matter to the October 6th meeting and have the applicants attend the Conservation Commission meeting on September 28, 2010.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 1 (Mr. Griffin abstained)

MOTION PASSED.

10-038 21 Vrylenas Way

Map: 209 Lot: 112-11

Applicant: Dan & Eliza Sciacca

Owner of Record: Same

Special Permit to Impact Wetlands: Construct deck

Applicant Dan Sciacca and Lewis Clipper, the contractor, appeared. Mr. Sciacca said he wants to construct an L-shaped deck on the back of his house. It will be raised 5 to 7 feet off the ground. They have been to the Conservation Commission. Mr. Lessard gave the letter from the Conservation Commission to the applicant. They provided pictures of the back of the house.

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PUBLIC:

No comments.

BOARD:

Mr. Lessard asked if they are in agreement with Conservation Commission letter and they stated yes.

MOTION by Mr. Viviano to grant the special permit to impact wetlands in accordance with the Conservation Commission letter of August 27, 2010.

SECOND by Mr. McMahon.

VOTE: 7-0-0

MOTION PASSED.

10-039 285 Ocean Boulevard

Map: 282 Lot: 86

Applicant: Mrs. Mitchell's Country Shoppe

Owner of Record: Same

Site Plan Review: Reconstruct gift shop with two residential units

Mr. Lessard recused himself.

Attorney Steve Ells appeared on behalf of Mrs. Mitchell's. Mr. Bob Mitchell, President appeared with Attorney Ells. The builder was in the audience and a principal of Mrs. Mitchells was also there. The building burned in the February fire along with other property on A Street block. They are hopeful they can open for business in the spring of 2011.

This is a reconstruction of a pre-existing building, no new connections. Attorney Ells asked if the Board requires a landscape plan. They are filing a site plan and not scheduling an appearance to be heard. The landscape plan and drainage plan is all that the applicant wishes to discuss for waivers. Attorney Ells wants plans to go to Department Review at this point.

The Hampton Beach Area Commission is happy with the building architecture. The structure is retail on the first floor, and the second floor will be half retail/storage and one residential unit. The third floor will be another residential unit. They want to put back what was there and it will be less than 50' in height.

The applicant wants input on the drainage issue. The building will be about the same footprint as before.

BOARD

Mr. Viviano noted it's a nice looking building. The issue for him is drainage. He has to be consistent with what has been done in the past so he feels we need the drainage information.

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The sewer permit was asked about by Mr. Viviano. Mr. Griffin said that Mrs. Mitchell's should not be a problem. It's all still being discussed, but may not be a problem. Mr. Viviano mentioned more people will be coming in about this. Mr. Griffin said there is a special meeting on Friday morning with the Town Manager and the State. Mr. Steffen said any approval will be conditioned on all State permits.

Mr. Griffin said the situation will be better than it is today. Waterless tanks were discussed for the beach redevelopment project. Some changes are being made. Mr. Viviano discussed how the Town didn't know we were at 80 percent at the wastewater treatment plant.

Mr. Steffen also said we need to be consistent with the drainage analysis requirement. Mr. Steffen also stated the applicant doesn't have complete information on the utilities. Electric, gas, sewer and water is not noted adequately on the plan. Mr. Steffen stated it can go for Department Review once that information is added to the plan. Mr. Steffen does not mind that it goes, but we need revised plans. Mr. Viviano agreed. Mr. Loopey wants the variances listed on the plan.

Mr. Steffen said he needs more zoning information added to the plan as well. The height requirement and sealed surface requirements need to be noted as well. Attorney Ells said all will be added to the plans.

Mr. Steffen will forward the memo to Attorney Ells. Mr. Steffen will review the plans and make sure nothing else is missing.

Mr. McMahon stated two parking spaces are shown. Mr. Steffen said that was one of the variances. Attorney Ells reiterated that they received a variance for parking requirements. Attorney Ells discussed title issues and what the Board would like with respect to the sidewalk. It was noted there may be an 8 foot gap south of the sidewalk. It's a title issue resolved with the Town. That's why landscape plan isn't in place yet. Mr. McMahon said the Board may want to do a site visit on this project.

The engineer discussed the sidewalk configuration and widening was noted. Traffic was discussed also. The residential use is going from 3 to 2 units.

Drainage was discussed by the engineer also. Sealed surfaces and runoff was discussed. Granting a drainage waiver was discussed by the engineer.

Roof overhangs were discussed by Mr. Loopey.

Center roof drains were discussed. No water is proposed to run off the building. Mr. Loopey wants to see drainage calculations. Attorney Ells wants engineers to do what they can. It needs to be on the plan.

It was moved to continue the matter to allow the applicants to come in with the proper information to supply Mr. Steffen what he needs to get the plans out to departments for review. Attorney Ells will provide drainage information. Mr. Olson is not ready yet to accept jurisdiction. He admires that they went to the levels they have to do this improvement. Landscaping and adding trees was discussed as to space and location.

MOTION by Mr. Viviano to send the revised plans out for review and to continue the matter to the Board's October 6th meeting.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 1 (Mr. Lessard abstained) **MOTION PASSED.**

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10-040 27-29 Ocean Boulevard

Map: 296 Lot: 49-1

Applicant: Darlene Gray

Owner of Record: Owen G. Carter

Site Plan Review: Pedi-cab/bicycle delivery business

Waiver Request: Section V.E. Detailed Plan

Attorney Peter Saari appeared. Another owner of a Pedi cab business was in the audience. He thought it was odd that the applicant had to do a site plan review. This is only a change of signage. It's going from an arcade to a Pedi cab business. The applicant also supplied a use change application. The Pedi cab business was discussed.

Mr. Emerick does not want to know about the business. He said the Planning Board should not be involved in the Pedi cab business. He stated it is not a Planning Board problem. He doesn't want it in the minutes.

Mr. Loopley asked about the rest of the Planning Board. It's a change of use of the property. Mr. Lessard asked if it's a legal business. It's not the Planning Board's business Mr. Emerick stated again. He asked what the Planning Board is doing authorizing the business. Mr. Loopley said it's not specifically addressed in use regulations and neither is the Octo-bike business that was discussed at an earlier meeting. Mr. Loopley asked where the cabs will be kept. It was stated that they will be kept on the triangle piece on River Avenue. There is a site plan with the application. It was noted that the triangle isn't shown on the plan. This lot being tied into units across the street was discussed by the Board. Tenants and employees use the parking spots. The size of the parking spots was discussed. Where the bikes will be parked was discussed. They use two legal parking spaces to store bikes when they are not in service. Mr. Viviano asked if it's an adequate site plan. He stated this is more of a change of use.

The arcade will be removed. The bathroom exists in the arcade. Mr. Griffin stated the Pedi cabs can be stored inside. The applicant said he would need a roll up door. Mr. Griffin stated the Octo-bike needed space. Mr. Lessard asked in what way is this business any different than the Octo-bike business. The applicant has not spoken with the police department yet.

PUBLIC

June White, one of the Beach Precinct Commissioners, appeared. She wrote a letter in favor of the applicant running the Pedi cab business. She lives across the street. There is no problem with him parking his bikes there. All of the neighbors have used him already. They would love for him to stay down there.

Lenny Paul also supports this. He stated two bikes fit in one parking space. The bicycle delivery service is not a problem. It does not interfere with his business. It provides a great service. He felt it was too bad the applicant couldn't start when he wanted to. People are all

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for it. It's non-motorized. No fee is charged. The 'cabs' take up the same space as two motorcycles.

Mr. Griffin said the Octo-bike had to have a site plan. Then it was a police issue. The bikes are twice the size of the Pedi cabs.

Doug Parker appeared. He owns a Pedi cab business in Salem, Massachusetts. Pedi cabs can be tipped on their backs and stored that way.

MOTION by Mr. Griffin to have this matter decided upon by the Planning Board.

Further Discussion:

Mr. Lessard asked about the number of Pedi cabs. The applicant stated he would like to have four eventually. The applicants want four Pedi cabs and five bicycle food delivery cycles and it will be operated as a free service. All of the cabs will be stored in two parking spots. Parking was discussed. There is no employee parking. Employees walk to work. The applicant lives at 23 Ocean Boulevard. Mr. Griffin discussed that all businesses need a place where they start and finish. Hours of operation are 9 a.m. to 1:00 a.m. - until bar closing. The applicant stated the delivery will go as long as possible.

MOVED by Mr. Griffin to grant the waiver for the Detailed Plan.

SECOND by Mr. Emerick. **VOTE: 7 – 0 – 0** **MOTION PASSED.**

Mr. Lessard stated he wants a floor plan of the office. Attorney Peter Saari stated that they will provide that.

MOVED by Mr. Griffin to grant the change of use for the Pedi cab office as shown on the site plan and to approve the site plan for the free Pedi cab service with a total of 9 vehicles; 4 Pedi cabs and 5 bicycles to be stored on lot 49-1.

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0 **MOTION PASSED.**

The applicant will need to receive approval from the police department as well.

10-041 15 Munsey Drive

Map: 76 Lot: 14

Applicant: Albert Fleury

Owner of Record: Same

Special Permit to Impact Wetlands: Lawn restoration

Applicant Albert Fleury appeared. The Conservation Commission letter was given to the applicant. This past spring he cleaned out debris on the property. He wants to repair his back yard. Debris and trash in the back yard was discussed. The disturbed area is in the buffer

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area. After he was informed he did that, he got in touch with Conservation Commission. He wants to finish the project.

The applicant agrees with the criteria in the letter. Mr. McMahon stated the Conservation Commission did a site walk and the applicant has to put everything back the way it was.

Mr. Emerick asked about spot elevations. Proposed grades were discussed. Mr. Lessard discussed the elevation of soil. Mr. Emerick asked if the Conservation Commission is qualified to check elevations and to be site supervisors. Mr. McMahon agrees with Mr. Emerick, but said it's more an "eyeball" job. It's all re-grading. The markers will be installed to mark the edge of the buffer.

PUBLIC

Mr. Jay Diener, Chair of the Conservation Commission appeared. He stated they are not engineers. They don't want to monitor projects. Soil disturbances were discussed. They want to see spot elevations to have a record for the files. This being an after the fact application was discussed.

MOTION from Mr. Griffin to grant the special permit in accordance with the Conservation Commission letter dated August 27, 2010.

SECOND by Mr. Emerick.

VOTE: 7-0-0 MOTION GRANTED.

6-11 111 Exeter Road

Applicant: Sandy Brook Corporation

Proposed amendments to subdivision approval of Delvin Arnold

12-lot Subdivision at 111 Exeter Road

Map 107 Lot 24

Attorney Anne Crotty appeared. She is seeking minor modifications to the subdivision plans. The first change is the elimination of the retaining wall. The letter from engineer was discussed. The second change is the inclusion of gas and utility lines on the as-built plans for the subdivision.

Mr. Viviano said it appears a lot of detention pond is lost. It looks greatly reduced from the original plan. He asked Mr. Steffen about it. He asked where the steep driveway was put in relation to the drainage area. Mr. Steffen stated they can't make any physical changes to the drainage system without coming back to the Planning Board. Mr. Lessard said the detention pond is much smaller than when it was developed.

Mr. Viviano stated that another home is being put in there and asked what is going to happen to that side. Mr. Steffen stated it got a full sign-off from Ambit and DPW. Mr. Steffen doesn't know if there have been changes since these sign-offs.

Mr. Steffen showed the subdivision plan. Mr. Olson asked what was approved and stated we need the drainage plan. Mr. Lessard discussed the drainage swale. Mr. Lessard asked Mr.

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Steffen what date the plan was recorded. Mr. Vivano wants to know what the changes are from what was approved from the Board. The retaining wall on Lot 11 was discussed.

Attorney Crotty discussed the as-built plan. She stated when the as-built plan was presented, the removal of the retaining wall on Lot 11 had been approved; it was done with Ambit Engineering's prior approval. It was a minor field modification– it did not need to go before the Planning Board.

The second issue is under NH utility law for utilities to be licensed they have to be shown on approved subdivision plans. She stated it was approved by the Planning Board without the gas, electric and telephone line showing. Attorney Crotty said she wants to correct two minor things with this proposal. If there are other problems, the Board should bring issues up at another time.

Mr. Viviano said you can't take plan approved by the Planning Board and interpret it the way she wants to. Attorney Crotty stated she is not doing that.

Mr. Lessard stated when lots were built the drainage and utility structures were there. Attorney Crotty's company sold the lots. It's an as-built for utilities and road acceptance, but it's not amending the subdivision. Mr. Steffen, Mr. Welch and Attorney Gearreald approved the plan for utilities.

Mr. Loopley asked about the utilities not being shown on plan.

Responsibility for utilities was discussed. Attorney Crotty stated Unitil and Verizon are responsible. Mr. Welch wants these shown. If the Town has to move lines, Unitil and Verizon will pay for it.

Mr. Steffen stated this is to accept changes to the approved plan to show the utility lines-- gas, electric, cable and telephone. They were not shown on originally-approved plans.

Mr. Viviano wants a plan to come before the Planning Board as an "as-built". Then Mr. Viviano will approve the as-built plan. Mr. Olson agrees with this. Mr. Loopley discussed the turn out. It not being a detailed plan was discussed by Mr. Steffen.

Mr. Viviano wants to see what we have as a plan and what we approved. Mr. Steffen again mentioned utilities.

Mr. Griffin thinks the turn off is not owned by the Town. Mr. Lessard asked about liability for the sidewalk.

Mr. Steffen said the Planning Board does not sign off on as-built plans. The Planning Board stated that is not true.

Mr. Lessard said we never see as-built plans. Nathaniel Court was mentioned by Mr. Steffen as one they really saw.

Mr. Olson asked why the wall was removed. Mr. Lessard asked if it was a safety issue. Mr. Olson was concerned about the elevation drop. Lot 11 was further discussed. Attorney Crotty read a letter from Ambit Engineering approving the change. Mr. Olson asked why the lot isn't detailed on the plan sheet. Ambit gave the field change its blessing. The Town Planner gave it his blessing. Mr. Lessard asked where our engineer's blessing was.

PUBLIC

Maureen Mazurkiewitz of 95 Exeter Road appeared. She asked who the builder is. We don't have that information at hand.

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FURTHER DISCUSSION

Mr. Lessard stated there is supposed to be a 10-foot no cut zone along Lot 10.

The Town's engineer did respond in a letter dated July 22, 2009. Letter from Ambit was read by Mr. Steffen. The retaining wall was discussed by Mr. Steffen. Both he and Ambit Engineering signed off on that field change.

Mr. Viviano asked if the one we approved of is the same as what is being brought up now.

Mr. Steffen discussed Ambit's report of 12/1/2009 where Ambit inspected site. Mr. Steffen said we got final sign offs on all road and drainage work from Ambit and DPW, but what didn't get shown on the plan were utilities.

Mr. Olson said he still thinks it's deceiving and Mr. Lessard agreed. If it said "road only" as is, it would be okay.

MOTION by Mr. Lessard to continue the matter to get a cleaner plan.

SECOND by Mr. McMahan. He also stated one of the revisions that should be included on the as-built is elimination of the retaining wall on Lot 11. The Planning Board wants all this now.

FURTHER DISCUSSION

Ms. Crotty said it's a tricky situation. She discussed the statute.

Mr. Lessard wants cleaner plan. Mr. Olson agreed he wants a cleaner plan and noted we're approving a lot more than omission of retaining wall and adding of utilities.

Mr. Lessard wants words/verbage in plans to be more explicit. He also asked where the letter from the Department of Public Works is. Conditional approval of the markings on road and the elimination of guardrail were discussed.

MOTION by Mr. Lessard that the Planning Board accept the 111 Exeter Road plans titled last Amendment E 5/4 /2010 with the condition that the Planning Board receive a new plan that states the Planning Board is only approving the omission of the retaining wall and accepting the change to a rip rap slope which needs to be depicted on the final plan. In addition, the Planning Board accepts the location of the utilities within the right of way as shown on the as-built plan.

SECOND by Mr. Emerick.

VOTE: 7-0-0

MOTION PASSED.

FURTHER DISCUSSION

Mr. Lessard wants the treatment swale at Lot 2, Baron Road investigated. It's getting smaller and smaller. Number #8 Bourne Avenue was discussed and pine trees falling on the lot from properties within the development. Mr. Loopley asked them to come in and see Mr. Steffen so it can be discussed later.

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It's getting smaller and smaller. Mr. Viviano and Mr. Lessard said there will be problems with it.

III. CONTINUED PUBLIC HEARINGS

IV. CONSIDERATION OF MINUTES

MOTION by Mr. Emerick to approve the August 18, 2010 Minutes.

SECOND by Mr. Olson.

VOTE: 7 – 0 - 0

MOTION PASSED.

V. CORRESPONDENCE

VI. OTHER BUSINESS

- Rockingham Planning Commission – Sustainable Communities Initiative Grant Applicant

Mr. Steffen said the RPC is applying for this national grant to assist with sustainable regional planning. They would like a letter of support from the Town.

MOVED by Mr. Emerick to support it all.

SECOND by Mr. Olson.

VOTE: 7 – 0 - 0

MOTION PASSED.

Mr. Steffen noted there is a hearing on the merits for the 23 Falcone Circle case. It is scheduled for September 7th at 9:00 a.m. at the Rockingham County Superior Court if anyone is interested in attending.

The status of the new traffic light at the intersection was asked by Mr. Loopley. Mr. Steffen said the decision on the CMAQ application for the funding is delayed until December. Mr. Griffin said it's still in the works.

Mr. McMahon asked about the sewer moratorium. Mr. Steffen said the meeting with the State and Town Manager is scheduled for Friday. Mr. Griffin said Smuttynose is approved. More questions will be asked.

Mr. Viviano mentioned consistency.

VII. ADJOURNMENT

MOTION by Mr. Emerick to adjourn.

SECOND by Mr. Viviano.

VOTE: 7 – 0 - 0

MOTION PASSED

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MEETING ADJOURNED: 9:15 p.m.

Respectfully submitted,

Laurie Olivier

Administrative Assistant