

HAMPTON PLANNING BOARD

Minutes

January 5, 2011 – 7:00 p.m.

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

ABSENT: Bob Viviano

I. CALL TO ORDER

Mr. Loopley noted that the applicant for 15 Church Street has requested to be continued to the February 2, 2011 meeting.

MOTION by Mr. Emerick to continue the matter to February 2, 2011.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

Mr. Loopley noted that the applicant for 497 Winnacunnet Road has requested to be continued to the February 2, 2011 meeting.

MOTION by Mr. Emerick to continue the matter to February 2, 2011.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

II. ATTENDING TO BE HEARD

- Change of Use - **38 Depot Square**

Debbie Turbide is one of the owners of Hampton Depot, LLC and David Curtis is the tenant who wants to occupy the space appeared. Ms. Turbide addressed the Board. She discussed the proposed use. There are three businesses in the property. The unit is commercial unit #1. She stated that Mr. Marsden from the Building Department has inspected the location and he said it was fine. Curbing was installed per Jon True. It will be used for an office and meetings will take place on Wednesday nights and Sundays. Parking requirements she believes have been met. Applicant will probably only need one space. Adhesive letters for inside window for signage will be used if granted.

BOARD

Mr. Lessard asked if this is a church to which it was stated “yes”. It was noted that Wednesday nights are bible study and on Sundays the members will meet. It is a small group of approximately 12 members. Mr. Lessard asked about the office and sales of church items. There are no sales and it was stated that it is strictly an office.

Mr. Olson asked about the 1.1 and 1.2 unit designations on Diagram 3. Ms. Turbide stated one room is for meetings and one room will be used for office space.

Mr. Emerick stated that he felt this did not need to come before the Board.

MOTION by Mr. Lessard to grant the change of use.

SECOND by Mr. Emerick.

VOTE: 7 - 0 - 0

MOTION PASSED.

III. PUBLIC HEARING FOR ZONING ORDINANCE AMENDMENTS

Mr. Olson read the legal notice. The first Amendment read was use regulations change to allow the establishment for games of chance as currently defined in the Regulations in the Business-Seasonal Zones as a special exception.

Mr. Steffen discussed the wording that he and the Town Attorney worked on. Mr. Steffen discussed limiting the gaming to the current scope of the RSA. Mr. Steffen read the statute aloud.

PUBLIC

Mr. Victor Lessard appeared. He discussed when it came to the ZBA, he and others did some homework. He spoke with the Gaming Commission in Concord. Many people discussed at the Zoning Board meeting how it is uncontrolled currently and their concerns with that. He discussed the second floor for gaming and discussed that there will be no gambling on the first and third floors; just only the second floor. He discussed then sending it to the Planning Board so that games of chance won't pop everywhere at the beach. He discussed not allowing this business in the Business Zone. Keeping gambling to one area was discussed. He discussed how that the Boards are looking out for best interests of the Town.

Mr. Tilbury appeared. He feels that four people (ZBA) in town are trying to dictate things, but he knows how hard the Board members work as he has been on a Board in the past. Four of five members of Hampton's Boards gamble in Town now. Bringing more people to the area was discussed. He mentioned the Hampton Union discussing making Hampton beautiful. He believes updating the Beach area will bring more people to the area--not gambling. He viewed the laws on minor gambling and he saw nothing on charitable gambling. He discussed “extended gambling”. He wants this to go to ballot, which it will not. The Planning Board noted it can only vote on restrictions. He then passed around a Gambler's Anonymous sheet.

Mr. Charlie Preston appeared. He asked if it has to go forward as proposed. The Business and Business-Seasonal zones were discussed. He asked how charities get chosen. He asked if the charities can go through legislation. He discussed what will be done about parking in the winter. He asked in 2003 that the Town and State get together to discuss parking at the Beach. He believes the Town needs to sit down with the State (DRED). He discussed blinking lights in Newburyport for snow emergencies and no one parking in Town when lights are blinking.

He discussed Police, Fire and DPW being needed. He asked if there are nuisance laws. Mr. Emerick discussed the non-approval of liquor licenses is the only thing he can think of. Mr. Griffin discussed the Police taking taking good care of the Beach issues.

Function fees were discussed. Mr. Lessard is against function fees because it is taken out of the charity take. Mr. Preston said it should be looked at.

Mr. Preston said it should be permitted in the Business zone as well. Mr. Lessard discussed starting out small to see where it goes first. The only way to have regulation is to have a regulation.

Mr. Arthur Moody appeared. He discussed the 2nd floor restriction for gambling. He discussed case law involving Hampton in the 1970s stating if you allow use in a building or on a lot, you can't restrict where that use is exercised. He discussed the old Fairview Hotel matter. He believes the gambling won't be restricted to one floor.

Bruce Montville appeared. He has run a non-profit in Hampton for 18 years, Life Wise Community Projects. He is a satisfied customer and in favor of charitable gaming. His company earned \$28,000.00 through the gaming. He discussed his program. Income for his non-profit has been meaningful to people in communities and he endorses the use. Strong background checks were discussed. He feels the operation is clean, calm and pleasant.

Mr. Griffin answered Mr. Tilsbury's question. He stated 35 percent of profits go to groups that are primarily based in Hampton. People in Hampton are given first consideration. Any extra police will be paid for by the gaming institution or charity. He stated this is a good way to keep money in the community.

MOTION by Mr. Emerick to move the proposed Amendment as written to the ballot and recommended by the Planning Board.

SECOND by Mr. McMahan

VOTE: 7 – 0 – 0

MOTION PASSED.

Mr. Olson read the Zoning Ordinance amendment, Petitioned Article regarding the sale of mixed martial arts weapons.

Mr. McMahan noted that this article cannot be amended by the Planning Board. It will need to go on the ballot as written. The Board can approve or disapprove.

PUBLIC

Ms. June White appeared. The Precinct Commissioners asked for this to be put forward on behalf of the Beach Precinct. She stated they do not wish to restrict the business at the Beach; they just do not want any more businesses allowed at the Beach to contain martial arts weapons. Senator Stiles put this bill forward in Concord. Mr. Loopley reiterated that this will not restrict the current businesses, just prevent future businesses from coming in.

Mr. Arthur Moody appeared. He stated that martial arts weapon prohibition means “nowhere” because that's almost ½ mile total. He asked for the definition of “mixed martial arts” and what it constitutes. Mr. Lessard stated at the State level there is a specific definition. Mr. Emerick stated this is coming to the Planning Board for approval or disapproval of it, but it is not our Article. Mr. Moody stated he saw an advertisement for a 3-inch jack knife and asked if that would be prohibited.

Ms. White stated that a 3-inch Presidential Commemorative jack knife is not a mixed martial arts weapon. She stated that weapon would be okay at the Beach. The Board discussed the deliberative session. Mr. Lessard asked why this is a zoning article. It was stated that this is all the Planning Board can put forward. Mr. Lessard asked if it went to the Selectmen first. Mr. Lessard thinks this system is flawed.

BOARD

After question from Mr. Griffin, Mr. Steffen stated he isn't sure where this would be added in our Zoning Ordinance or how it would be enforced. Mr. Lessard thinks this is a land use board. Mr. Emerick stated this is Land Use – we have zoning for categories. It comes to us as a petitioned article. Mr. Lessard asked if this will be a law if it passes. Mr. Emerick stated not necessarily and that this could happen with any Ordinance. Mr. Lessard is confused why it is before us. Mr. Griffin said it's here because it is a petitioned article from the citizens down at the Beach. Mr. Lessard is speaking for residents of Hampton. Mr. Lessard is sharing his frustration aloud. Mr. Griffin believes Senator Stiles knows this is a narrow field to deal with. Mr. Griffin stated it's a limited area. Mr. Griffin stated that Senator Stiles is doing what she can, but many people were not in favor of it.

VOTE by Mr. Lessard to recommend passage of this Article.

SECOND by Mr. Griffin.

VOTE: 6 – 1 - 0 (Mr. Emerick opposed)

MOTION PASSED.

Mr. Olson read the second Petitioned Article Zoning Ordinance Amendment to change the current height limit in the BS Zone on Ocean Boulevard from N Street South to the bridge from the current 50-foot height to 35-foot height limit.

It was discussed that there is no descriptive location. Mr. Griffin stated it is not written correctly. Mr. Olson read what the residents petitioned.

Mr. Griffin asked if this is just for Ocean Boulevard. Mr. McMahon asked if it is both sides of Ocean Boulevard. Mr. Griffin stated the large taxpayers won't be in favor of this. Mr. Griffin thought it was for everything south of N Street.

PUBLIC

Ms. June White appeared and stated it is just with regard to Ocean Boulevard. She explained that this came about because of a developer who is building a large structure in this area. She explained that the Patriots Corner area is primarily two stories. She discussed this being for both sides of Ocean Boulevard. Mr. Griffin noted that the large buildings could appear further on up the Boulevard as well.

Mr. Chattell, owner of Buc's Lagoon, appeared. He read the proposal in the paper. He does not

like the way the petition is written. He stated from N Street South to the bridge is too vague. He owns property on N Street and Ocean Boulevard. He wants it clearly delineated. He asked if there is another zone on beach with height restrictions. Mr. Griffin discussed it is all Business- Seasonal. Mr. Griffin does not agree with bringing this article forward Mr. Griffin said more variances will be going forward if this passes. Mr. Lessard feels it is spot zoning. Mr. Chattell noted that 17 of people who signed the petition are not from the Beach area. Mr. Loopley stated that no one on the Planning Board can interpret what is meant by the amendment.

The Board discussed that this is going to ballot no matter what. The Planning Board's approval or disapproval of it gets put the ballot. The voting date is March 8th.

Mr. Vic Lessard discussed the articles. The last two articles are going to cost the Town too much money if they are fought in court.

Mr. Arthur Moody appeared. He wants the three articles as written on the warrant. He believes hard copies should be kept on file as written. The petitioned articles being in correct form to the Board of Selectmen was discussed. Mr. Griffin stated the Town Attorney does not help people write their articles. Mr. Moody stated this article is improperly written. Mr. Loopley stated the Planning Board cannot change it. Mr. Moody wants a map to be provided at the Town Meeting.

MOTION by Mr. Griffin to not recommend the passage of this petitioned article.

SECOND by Mr. Olson.

VOTED: 7 – 0 – 0

MOTION PASSED.

IV. NEW PUBLIC HEARINGS

72 Island Path

Map: 281 Lot: 30

Applicant: Bob Holder

Owner of Record: Holder Family Revocable Trust

Special Permit to Impact Wetlands: Removal of one-story dwelling and construction of new building addition with deck. Construction of new pervious walk and driveway

Corey Colwell of MSC Civil Engineers appeared. He made reference to the black and white plan given along with a new colored drawing. The Holders own the property. It's about .433 acres. The one-story rental unit is dilapidated and in disrepair. It encroaches onto an abutting property to the west. The Holders want to remove the dilapidated structure and replace it with a new two-story building. It would be within the 100 foot tidal buffer and a special permit is required. He discussed zoning improvements. The new building will be 30' from the salt marsh. A new pervious driveway was discussed. On December 18, 2010, they walked the property with the Conservation Commission. The Commission had concerns and these are addressed with the new plans. Note 9 has been added to the drawing. Stone trenches were placed where roof run-off will occur. They also had a concern regarding the field stone and that has now been moved now closer to the house to give it more buffer to the tidal marsh. They also did a stonewall detail per the Conservation Commission. The sump pump discharge problem was also discussed. The sump pump will now come out to the front corner under the trellis. The planting plan as the Conservation Commission requested is now shown on sheet 2 of 2 of the plans. The two stipulations of their letter were addressed.

BOARD

Mr. Lessard asked about architectural drawings of the building. Mr. Lessard asked about two driveways being allowed on this property. Mr. Colwell discussed this with the Department of Public Works and the DPW said if two driveways are grandfathered, it is okay. He stated they will need to apply for a new driveway permit in the same location. It is grass right now per Mr. Lessard. He does not see a driveway. Mr. Olson said to look at Photo #2. Mr. Lessard asked about the landscaping plan. Mr. Lessard asked about a maintenance plan for deep stone trenches. Mr. Colwell said there is not a maintenance plan currently for that. He thinks it should go back to the Conservation Commission.

Mr. Griffin asked about parking. Not having two driveways was discussed. Mr. Griffin asked what the frontage is of the lot. Mr. Colwell said the driveway exists. Mr. Griffin asked if there is a permit. Mr. Colwell said it existed before zoning.

Mr. Steffen said no more than one driveway is allowed unless otherwise approved by the Planning Board. No curbing and curb cuts were discussed. Mr. McMahon asked if the proposed building will be on a slab or foundation. Mr. Colwell said it would be a crawl space. Mr. Colwell said DPW did go to the site a month ago. Mr. Griffin stated more information is needed.

Mr. Steffen asked if the two driveways were pre-existing. It is packed gravel now and it is impervious per Mr. Colwell. He is proposing to change it from impervious to pervious. Mr. Colwell said it's an environmental improvement.

Mr. Emerick said this is turning into a site plan review. Mr. Griffin stated the Town has lawsuits over two driveway issues and it shouldn't be compounded. Mr. Steffen asked if this is a pre-existing driveway.

Mr. Olson discussed the separation of the rental properties and he stated it is already a shared area. He stated there's room to expand the parking. Mr. Griffin discussed this is a much larger impact than what is there now. There's already a house in the 50' buffer. Mr. Colwell said in terms of square footage, it is a reduction.

Mr. Steffen said they can go up to 24 feet in terms of width of the driveway. Mr. Lessard asked where the deck will go. It is to the side; in front of the two-story dwelling. Mr. Lessard asked about the loft studio. Mr. Colwell said it's the 2nd floor. One unit in each building was discussed. Mr. Colwell said he met with building and connecting it makes it legal.

PUBLIC

Mr. Jay Diener appeared. He stated the Conservation Commission approved it because it is an overall reduction in the impervious coverage on property. He agrees there should be a management plan for drainage trenches. Some of the proposed plants were not known to the Conservation Commission so that's why they were referred to the State.

Mr. Colwell discussed constructing a defined driveway.

Mr. Emerick discussed calling this a parking space rather than a driveway. Two cars for each dwelling unit were discussed. Mr. Emerick discussed there should be four parking spaces. Four can fit on the existing driveway. Parking tandemly was discussed. Mr. Emerick asked for the pervious driveway measurements. It is about 12 feet wide per Mr. Colwell. Mr. Emerick asked if he made it 18 feet can be a driveway.

Mr. Lessard asked if he would make the modifications. Maximum width is supposed to be 24 feet.

The permit went to the DES also so the State will need to be re-noticed also. Mr. Steffen said the applicant can amend the State permit application.

MOTION by Mr. Emerick to continue this matter to the February 2, 2011 meeting. This will go back to Conservation Commission for a recommendation on the driveway/parking expansion.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

101 Drakeside Road

Map: 187 Lot: 1

Applicant: TH Seacoast Properties, LLC

Owner of Record: Same

Special Permit to Impact Wetlands: Install concrete retaining wall to replace block retaining wall for purpose of reducing erosion

Mr. Timothy Hosmer appeared. He explained that the block retaining wall was hit when snow was being removed. The wall was broken and snow is entering the buffer area. He replaced the block wall with a cement wall. The size of the wall is the same as it was, which is 21 square feet. This is an after-the fact permit. The wall previously was made of block, but not cemented laterally so some water was permitted to go through the block; this one is cemented. He wants to prevent anything being pushed into buffer zone. He mentioned the stipulations of Conservation Commission.

BOARD

MOTION by Mr. Emerick to approve after fact special permit with the stipulations contained in the Conservation Commission letter dated December 27, 2010.

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0

MOTION PASSED.

444 Winnacunnet Road

Map: 221 Lot: 7-1

Applicant: Dell-Steve Realty Trust

Owner of Record: Same

Condominium Conversion

Waiver Request: Section V(E)-Detailed Plan

Attorney Peter Saari appeared. The buildings will remain as is.

MOTION by Mr. Lessard to grant the waiver request, Section V(E)-Detailed Plan.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

MOTION by Mr. Lessard to grant the 444 condominium conversion of 444 Winnacunnet Road with the conditions stated in the Town Planner's Memorandum of January 3, 2011.

SECOND by Mr. Emerick.

VOTE: 7 – 0 - 0

MOTION PASSED.

595 Lafayette Road

Map: 144 Lot: 3

Applicant: Sean Kelley, Monah Realty, LLC

Owner of Record: Same

Site Plan Review: Convert portion of existing building into automatic car wash

Waiver Request: Section VII.D. Stormwater Management

Attorney Peter Saari and Joe Coronati of Jones and Beach appeared. Mr. Coronati described where the property is located. It is currently a car wash and laundromat. There is a coin-op laundromat in the northern section and a commercial Laundromat in the southern portion, and a coin-op car washing stalls and two outdoor vacuums in the rear. Access for the property was discussed. The proposal is to construct a two-lane car wash where the commercial Laundromat is. Demolition of a small portion of the back building was discussed. Vehicles enter the Blue Bay Terrace driveway. One will be a soft touch carwash; the other will be touchless carwash. Curbcuts were discussed. Vacuum locations were discussed. A new sign will be installed out front. Parking spaces were discussed. The rear car wash will stay the same and utilities will stay the same. The commercial laundromat will be removed. Electricity and water use will remain the same. He discussed the sewer moratorium and that there are three different water bills. The water usage for the commercial laundromat for 2010 and 2009 is approximately 240,000 gallons of water. A water consultant was in the audience at the meeting. There would be a reduction of water at the site. Water gets reclaimed for the business. The final rinse is the only fresh water. All biodegradable soaps are used. No grades will be changed on the property. Catch basin locations will be the same.

BOARD

Mr. Loopley asked how many cars roughly a day frequent the Laundromat parking lot. Mr. Coronati said he did not know. Mr. Loopley is worried about increased traffic. He stated car washes are always packed with vehicles. He wants to know what the traffic impact will be on Route 1.

Mr. Coronati stated he does not feel that new trips due to this use would impact traffic on Rote 1. The car wash takes four minutes before getting through whole system. Two cars can be stacked before hitting Route 1.

The owner appeared. The car wash is an in-bay automatic. It's not on a conveyor. It's similar to the Mobil station across from the Catholic church.

Mr. Lessard asked about the drying procedure. The applicant stated you pull up and there will be countdown time for dryer. Mr. Lessard asked about noise. The applicant stated it is less noise than the passing traffic. He stated the pressure air doors will muffle noise.

The capacity of the car washes are 99 cars over the month—roughly 22 days. It's 40-45 for both stalls. Mr. Emerick wants to know what is projected for traffic/washes.

Mr. Emerick asked about parking spaces inside access lanes. Mr. Coronati stated those are for employees and there will be an employee on staff every day.

Mr. Kelly explained how the operation works. One will be a high pressure wash and the other is low friction wash. Traffic was further discussed. Mr. Emerick's concern is the second vacuum station. Mr. Bilodeau asked about removing the vacuum out front and just have the ones out back. Mr. McMahon discussed access/ingress and egress further. Mr. McMahon asked about a right turn only sign being placed on the property. It was asked if this is in the Aquifer district. Mr. Steffen said it is not in the Aquifer district.

Mr. McMahon asked about the waiver for drainage. Hannaford had drainage issues and he does not want to grant the drainage waiver. Mr. Lessard asked about snow removal. Mr. Coronati can add it to the plan. Catch basins were discussed.

Mr. Loopley asked where the wastewater will go. Mr. Coronati stated it will go into the sewer system with 80 percent reclaimed.

Mr. Steffen asked about requiring a drainage study.

PUBLIC

Ms. Brigham appeared. Her concern is noise. The vacuums are very loud and there are people at 11:00 at night with boom boxes going. It comes over the wall and they are right there. Traffic is her other concern. Getting onto Route 1 is tough. She is happy the lot is being developed.

Mr. Richard G. from Blue Bay Terrace appeared. They have safety and traffic issues. He didn't get to see the plans. He explained it is not a driveway; it is a right of way. Using the right of way as part of their commercial building is not right. He also discussed snow removal. They have been putting a huge pile of snow at the end of Route 1 and it blocks the view to the right so you have to pull right onto Route 1 which is a hazard.

Lisa Hamm, a resident of Stratham, appeared. Her Mom lives in the condominiums behind the laundromat. She discussed the traffic problems as well. She discussed the curblin radius at the entrance and asked if it is the Town's right of way. Mr. Griffin said the right of way is small. The car wash was there before the condominiums were put there. Mr. Emerick said there is a utility pole there so he doesn't think the turn cannot be softened.

Ms. Hamm asked how dumpster is serviced. The applicant stated they come early in the morning and that will stay the same. Ms. Hamm asked about striping for parking. She asked about the hours. It was stated the car wash will be opened from 6:00 a.m. until 10:00 p.m.

Mr. Loopley asked Mr. Olson to read the letter from the property owners of Blue Bay Terrace.

BOARD

Mr. Emerick discussed the access between the buildings and the sharing of the adjacent parking lots. Mr. McMahon stated there are numerous accesses to the businesses. There will be an attendant and security cameras on site.

The applicant spoke again. He runs this business with his wife and he wants to do things right and keep it running well. He stated everybody should have reasonable use of the right of way. He maintains the right of way himself; residents behind the business don't take care of it.

Mr. Emerick suggested the applicant meet with the Association and the other neighbors.

The applicant stated he doesn't mind taking care of the road, but he wants to be fair for everyone. Mr. Lessard asked about a traffic study. Mr. Emerick asked what the traffic study would do.

Mr. Olson asked about the rear gate that brings them out to Rice Terrace. He asked if it was a safety issue.

MOTION by Mr. Emerick to continue with the waiver request and see what the Town engineer states.

MOTION by Mr. McMahon to deny the waiver

SECOND by Mr. Lessard.

VOTE: 3 – 4 – 0

WAIVER DENIED.

MOTION by Mr. Emerick to send the plans out for department, utilities, and engineering review and continue the application to the February 16, 2011 meeting.

SECOND by Mr. Bilodeau.

VOTE: 6 – 0 – 1 (Mr. Griffin abstained)

MOTION GRANTED.

V. CONTINUED PUBLIC HEARINGS

15 Church Street (continued to February 2, 2011)

Map: 275 Lots: 45 & 49

Applicant: Gabriello Gabrielli

Amended Special Permit to Impact Wetlands: Replace existing pavers with permeable pavers

497 Winnacunnet Road (continued to February 2, 2011)

Map: 222 Lot: 115

Applicant: Douglas E. Bennett

Owner of Record: Same

Special Permit: Construction of a 4-foot retaining wall to support two-story deck system

VI. CONSIDERATION OF MINUTES of December 15, 2010

Mr. Steffen noted a change to be made on Page 6 under “Other Business”.

MOVED by Mr. Emerick to approve the Minutes of December 15, 2010, with the revision made by Mr. Steffen.

SECOND by Mr. Olson.

VOTED: 6 – 0 – 1 (Mr. Loopley abstained).

MOTION PASSED.

Mr. Steffen brought up impact fees. Mr. Emerick asked if Mr. Larry Stuker appears, what will we discuss. We cannot make up impact fees. The Capital Improvement Plan was discussed. Mr. Lessard stated that maybe Mr. Stuker should explain to the Budget Committee the purpose of impact fees and that they won't solve our budget problems. The Board suggested that if the Budget Committee needs to be more educated, they can view the DVD on the Planning Board meeting where Bruce Mayberry, our Impact Fees consultant, spoke.

Mr. Emerick discussed there is not enough construction and we don't need another tax. Mr. Lessard asked if we are moving forward with public safety fees. Mr. Emerick does not think it's the right direction.

VII. CORRESPONDENCE

VIII. OTHER BUSINESS

IX. ADJOURNMENT

MOVED by Mr. Bilodeau to adjourn.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 10:20 P.M.

Respectfully submitted,
Laurie Olivier, Administrative Assistant