

HAMPTON PLANNING BOARD

MINUTES

August 3, 2011 – 7:00 p.m.

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

ABSENT:

CALL TO ORDER

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

*Mr. McMahon stated that the temporary parking lot in order to offer beach parking for 8 & 10 Riverview Terrace has been withdrawn. Mr. McMahon read Mr. Fleury's letter into the record and for the public.

ATTENDING TO BE HEARD

- **One year approval extension request for 431-435 Ocean Boulevard – Proposed 23-Unit Condominium Project**

Dave Keir appeared. He is seeking an approval to extend the approval for another year.

MOTION by Mr. Griffin to grant the one-year extension to September 17, 2012.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

- **Nick Riccio – Temporary Parking Lot - 15 M Street (13 spaces)**

Mr. Riccio appeared. He distributed pictures and a letter from abutters. He is proposing 13 parking spaces; two which will be for year-round use and the rest for seasonal use for the summer.

BOARD

Mr. Lessard asked what the hours will be. It was stated 9:00 a.m. to 11:00 p.m. After that time security guards will keep the property clean. He then changed his mind and stated

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the lot would be open 24 hours a day. Mr. Lessard asked if he will come back next year to which Mr. Riccio stated he's not sure at this time. Mr. Lessard stated the requirements for the parking spaces are not being followed. Mr. Lessard wants to see the spaces shown in the pictures drawn out. Mr. McMahan stated we are talking about the aisle width and the space for people to enter and exit the property. The property is 50' x 100'. Mr. Riccio stated there are two driveways.

Mr. Loopley discussed the existing curb cut. Mr. McNamara stated he may need to go back and measure the distance from where the 9' x 18' spots end to determine if he get the 22' aisle width. Mr. Steffen stated he may need to eliminate a few spaces. Mr. McMahan stated he should meet with Mr. Steffen. He asked if it is a parking lot for hire to which it was replied "yes". Mr. Lessard stated it does not appear that he has the 22' aisle width. Mr. McNamara stated he needs a different parking lot permit than what he is seeking.

Mr. Riccio explained the he was cited by the Building Inspector but was told that he could still operate the parking lot while it was undergoing the approval process.

MOTION by Mr. McNamara to continue the matter to the September 7, 2011 meeting of the Board.

SECOND by Mr. Griffin.

VOTE: 7 – 0 – 0

MOTION PASSED.

- **Zoo Property Management – Temporary Parking Lot – 8 & 10 Riverview Terrace (14 spaces) – WITHDRAWN (*see above)**
- **Change of Use - 853 Lafayette Road - Business Bank to Restaurant**

Mr. Emerick stated that he is an abutter to this and asked if he should recluse himself. No one had a problem with letting Mr. Emerick remain. Michael Keane appeared with Mr. Blouin who is the operator of Ron Jillian's restaurant. He is seeking approval to convert the former Ocean Bank to the restaurant. The outside of the building will change. The 2nd drive-thru lane will become a loading area, and the 3rd drive-thru lane will be the exit lane. The 1st lane will be converted into the refrigeration area. They also wish to put an awning over an outside seating area, and to construct a vestibule entrance.

Mr. McMahan asked the whether the sidewalk area is public or private. It will be private. Signage would stay the same. The message board will be removed and the sign would read "Ron Jillians". The interior would have dramatic changes. A sprinkler system will be added. There are currently two handicap spaces, and transition curb would be added.

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It will seat 110 people with an additional 20 seats outside in the summer. Mr. McMahon asked about hours. It was stated that it would be open until 11:00 at night, and it is believed the patio would have the same hours. Mr. McNamara asked about live entertainment. It was stated there would be no live entertainment on the patio. Mr. Loopley asked about space for the dumpster truck. There is room per Mr. Keane. Mr. Lessard asked about grease barrels. They will be in the northeastern corner per Mr. Blouin. Mr. McMahon discussed a letter received from Keach Nordstrom Associates which he read aloud. The letter writer feels that site plan review is required. It makes reference to the Brothers North development. Traffic impact and the possible need for an analysis are discussed in this letter as well.

Mr. Lessard asked if there is enough parking for the change of use. It was confirmed that there is. Mr. Steffen explained that he met with Mr. Keane to talk about the requirements and whether it would require site plan review. Mr. Steffen stated he felt it was border line on needing a site plan review so he made the call to bring it forward as a use change. Mr. Griffin thinks it is an improvement to the property.

Mr. Keane stated the exiting traffic would be coming out of north driveway which should alleviate congestion.

PUBLIC

Mr. Patrick Colburn of Keach Nordstrom appeared. He told the Board he represents Nottingham Square Corporation. He explained that they are not opposed to the change of use, but they want the site plan review process to take place. Mr. McMahon stated that the Town Planner did not think site plan review was required so that is what the Board is working under. Mr. Colburn read “conversion and enlargement” wording in the regulations and stated that he feels the criteria is not being met. He discussed the abutters being affected, and feels that they should have been notified. He discussed the entrance and the existing curb cuts. He had concerns about ADA accessibility and noted that with no site plan review it would not be seen or checked. He also had a concern about the one-way circulation and people driving by the entrance and trying to then circle back.

Mr. McMahon stated his points are meaningless to the Board as the matter is not heard as a site plan approval.

MOTION by Mr. McNamara to grant the requested change of use.

SECOND by Mr. Griffin.

VOTE: 7 – 0 – 0

MOTION PASSED.

NEW PUBLIC HEARINGS

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34 Barbour & 39 Milbern

Maps: 110 Lots: 14 & 17

Applicants: Patricia Blyth & Barbara Buttrick

Owners of Record: Same

Minor Lot Line Adjustment: 3000 s.f. from 39 Milbern Avenue to 34 Barbour Road

Applicants were not present at this time, so this matter was placed to the end of the agenda. .

MOTION by Mr. McNamara to move the matter to the end of the agenda.

SECOND by Mr. Griffin.

VOTE: 7 – 0 - 0

MOTION PASSED.

461 Ocean Boulevard

Map: 266 Lot: 1

Applicant: Seabreeze Condominiums

Owner of Record: Seabreeze Condominium Assoc.

Special Permit: Rehabilitation of existing parking lot to include fill, grading and leveling

Mr. Henry Boyd of Millenium Engineering appeared along with John Gregrerick, President of the Association. Mr. Gregrerick stated that the condominium is 36 units made up of 2 buildings. The driveway in the back opens up to parking. The parking area abuts the marsh. At high tide, there is flooding and they wish to correct the situation. It was explained that parking spaces are being lost at high tide. Mr. Boyd discussed the tides and elevation changes. He stated the Conservation Commission was very helpful in working with them to alleviate the problem. The grade of the marsh was discussed. The proposed work is considered a minor expedited permit with NHDES.

BOARD

Mr. Griffin stated that everyone along that area has the same problem. Mr. Loopley asked about the 10” from above the pavement that the Conservation Commission discussed. Mr. Boyd stated it's below the grade of the marsh. The highest change in grade was discussed.

PUBLIC

Jacob Councilman (sp) appeared. He is in favor of this project. He noted that trash currently runs over onto his property due to the problems at this property.

Mr. McMahan read a letter from abutters.

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MOTION by Mr. Loopley to approve the special permit with the stipulations contained in the Conservation Commission's letter dated July 27, 2011.

SECOND by Mr. Emerick.

VOTED: 7 – 0 – 0

MOTION PASSED.

2 Concord Avenue

Map: 296 Lot: 109

Applicant: 2 Concord Avenue LLC

Owner of Record: Same

Condominium Conversion: Three-unit, three story residential building into condominium units containing 2 interior parking stalls and 4 exterior stalls

Attorney Stephen Ells appeared along with Brian Dumont, the Principal of 2 Concord Avenue LLC. He discussed receiving prior Planning Board approval on the site plan. Now they are asking for approval to convert to condominiums. There will be no physical changes to what was already approved.

Mr. McNamara asked about snow removal. Mr. Dumont stated that the snow can be pushed aside with the rest being removed from the site. Mr. Lessard asked if that would be in the condominium documents. Attorney Ells stated it was a condition of the approval at the site plan review, but he thinks he can work it into the condominium documents. Mr. Lessard sees it as "note 9" on the plan. Attorney Ells will make reference to Note 9 on the plan to be recorded at registry and added to the condominium documents.

MOTION by Mr. Emerick to approve the condominium conversion with stipulations contained in Planner's Memorandum dated July 29, 2011.

SECOND by Mr. Lessard. Mr. Lessard asked if the Board could get a copy of the Town Attorney's memos on condominium document review to discuss at a future meeting. He explained that applicants want to know what the Town Attorney looks at in these reviews. Attorney Ells stated that Mr. Gearreald asks for the documents to be forwarded to him in Word so that he can make edits - red-line changes. There are a series of email exchanges until there is a final version. Mr. Steffen states he does a memorandum to Attorney Gearreald along with a copy of the minutes, decision letter and site plan.

VOTE: 7 – 0 - 0

MOTION PASSED.

1019 Ocean Boulevard

Map: 116 Lot: 47

Applicant: Richard & Mary Hyslip

Owner of Record: Same

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Special Permit (ATF): Replace existing footprint of permeable stone driveway with permeable paver pavement system

Martha (not Mary) Hyslip appeared. She explained that they are seeking approval for the stone driveway to be changed to a permeable driveway and the addition of lamp posts. Mr. McMahon asked how long they have owned the home. It was stated three years. Mr. Loopley noted he was on the site walk with the Conservation Commission and stated everything was done right. He did note that this is an after-the-fact permit request.

MOTION by Mr. Loopley to grant the after-the-fact Special Permit in accordance the stipulation in the Conservation Commission's letter dated July 27, 2011.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

43 Hobson Ave & 24 Manchester St

Map: 290 Lots: 32 & 43

Applicants: Barbara Kenny & Mary Dray

Owners of Record: Same

Special Permit: Replace Existing Retaining Wall

Carl Campbell appeared. He stated he is representing both applicants. The applicants are seeking approval to replace the retaining wall along the property line on the back side of Mary Dray's property. He discussed the footprint. They will also seek approval from the Board of Selectmen as it also work on Town property.

BOARD

Mr. Loopley stated that the wall has crumbled. The Kenny's have a call into Rayann Dionne the Conservation Coordinator but she is on vacation this week.

MOTION by Mr. Loopley to grant the special permit for 43 Hobson Avenue in accordance with stipulations in the Conservation Commission's letter dated July 27, 2011.

SECOND by Mr. Emerick.

VOTE: 7 – 0 - 0

MOTION PASSED.

MOTION by Mr. Loopley to grant the special permit for 23 Manchester Street in accordance with stipulations in the Conservation Commission's letter dated July 27, 2011.

SECOND by Mr. Emerick.

Mr. Lessard noted that this is dependent on Town approval.

VOTE: 7 – 0 - 0

MOTION PASSED.

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180 Drakeside Road

Map: 172 Lot: 12

Applicant: Drakeside Rockingham LLC

Owner of Record: Same

(Amended) Site Plan Review: Delete Sidewalk

Gary Chicone and Roland Bozeen, excavator, appeared. Mr. Chicone discussed the sidewalk along the front of the property. He explained that the guide wires of two utility poles prevent the sidewalk from being located where it is shown on the plans. Mr. Chicone also believes it is a sidewalk running to nowhere. He asked about posting a bond of some kind until the neighboring condominium development is completed when they can then tie the sidewalks in together. Or he discussed moving the sidewalk to another location in front. He is seeking guidance from the Planning Board.

BOARD

Mr. Lessard said he is not in favor of deleting the proposed sidewalk because it offers pedestrians a reprieve from the street traffic. He is also not sure about holding bond money. He disputes Mr. Chicone comment about the sidewalk down the street already crumbling. He hasn't seen any evidence of that. Mr. Chicone stated he never sees anyone walking on the road. He doesn't feel it is serving a use. Mr. Chicone stated he can't put the sidewalk in where it's proposed. Mr. Lessard asked about the landscaping plan to which Mr. Chicone stated that is not what this meeting is about. Trash was discussed and Mr. Chicone explained that they are not doing a dumpster on site but instead people will be provided with trash cans for their garages which will be picked up. Mr. Lessard stated that this is a change to the plans it needs to be put on the final plans. Mr. Lessard also indicated that the landscaping plan may not be complied with. Shrubs have been moved and a maple tree was added. The fir trees were also revised. Mr. Chicone disputed that landscaping plan hadn't been followed, they have put in the exact number of trees and shrubs. He did indicate that there have been changes to the types and the locations of trees and plants. Mr. Lessard thought the building would go according to plans. Mr. Chicone said they can't do an as-built plan until it is done. Mr. McMahon brought the sidewalk issue back to the topic of conversation.

Mr. Bozeen explained a telephone pole guide wire needs to be moved to put the sidewalk in as shown on the approved plans. There was discussion by the Board and the developer about working with the Department of Public Works (DPW) and Unitil to come up with a solution.

MOTION by Mr. Lessard that the sidewalk remain and that the applicant work with the DPW on the location of sidewalk in relation to the telephone pole and guide wires.

SECOND by Mr. Griffin.

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Mr. Griffin stated he knows from dealing with this on the Board of Selectmen that getting telephone utilities moved has been a problem in the past.

Mr. Chicone said he will put a sidewalk in, but he doesn't know where to put it.

VOTE: 7 – 0 – 0

MOTION PASSED.

Mr. Steffen discussed the minor field modifications process. He stated that the applicants can do minor changes to the landscaping without having to come back before the Board if the integrity of the plan does not change. Mr. Lessard wants them to be more conscientious, and would like clarification of how the refuse is being dealt with.

Mr. Bozeen asked about contacting Jones & Beach Engineers on the plan changes. Mr. Steffen stated he will work with them to get things set.

8 River Avenue (Public Hearing Not Required)

Map: 296 Lot: 70

Applicant: June M. White

Minor Lot Line Adjustment: Discontinued highway property transfer from the Town to the applicant that was approved by the voters on Article 42 at the 2011 Town Meeting.

Town Attorney Mark Gearreald appeared. He explained what is being proposed is the implementation of warrant article #42 that is the discontinuance of a portion of Town roadway and the sale to an abutting property owner. This procedure is required because the registry of deeds will not accept a plan until it has a Planning Board signature on it. This is a minor lot line adjustment. It's done pursuant to a court-approved decree. He is asking, as was done with the Galley Hatch transfer, that the filing fee be waived. Abutters were notified.

MOTION by Mr. Lessard to waive the application fee.

SECOND by Mr. Emerick.

VOTE: 7 – 0 - 0

MOTION PASSED.

MOTION by Mr. Emerick to approve the minor lot line adjustment.

SECOND by Mr. Lessard.

VOTE: 7 – 0 - 0

MOTION PASSED.

An abutter, Pam English Kenney, appeared. She stated that her concern is getting in and out of her driveway. She wants to know if the adjustment will interfere with her driveway. Attorney Gearreald stated that is a question for the Board of Selectmen. She asked about traffic flow on Boston Avenue. Mr. Loopley stated Ms. White was granted this property by Town Meeting vote. Mr. Lessard stated there should not be any difference in the traffic flow. Mr. McMahon also stated she should not notice anything difference.

Mr. Olson asked about the land area out into the road. The area that will be deeded is now brick pavers. Mr. Olson asked about the dotted line – “edge of pavement - typical”

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notation. There was brief discussion by the Board on the changes that were done to the 8 River Avenue property in relation to the road.

Went back to Barbour/Milbern matter. (Applicants appeared)

34 Barbour & 39 Milbern

Maps: 110 Lots: 14 & 17

Applicants: Patricia Blyth & Barbara Buttrick

Owners of Record: Same

Minor Lot Line Adjustment: 3000 s.f. from 39 Milbern Avenue to 34 Barbour Road

Barbara Buttrick is in an assisted living facility and did not appear. The Blyths stated that they wish to extend their lot lines in the rear and have an agreement with Ms. Buttrick to acquire that 3000 square feet. It is primarily woods now.

BOARD

MOTION by Mr. Lessard to approve the minor lot line adjustment with the conditions contained in the Town Planner's Memorandum dated July 29, 2011.

SECOND by Mr. Emerick.

VOTE: 7 – 0 - 0

MOTION PASSED.

CONTINUED PUBLIC HEARINGS

- Amendments to SECTION III. Procedures of the Town's Site Plan and Subdivision Regulations regarding establishment of a Technical Review Committee (TRC). The new wording describes the composition and function of the TRC and the submission requirements for consideration of site plan and development proposals by the committee

Town Attorney Mark Gearreald appeared. He discussed the State statutes raised at the last meeting about adopting a Technical Review Committee. RSA 674:43 III was discussed, specifically the wording relative to the local legislative body delegating approval powers to a site review technical committee. The wording that its members may be residents of the Town was discussed. He explained that this is not what we are trying to create in establishing the committee. The TRC would be strictly advisory. RSA 673:16 was discussed by Attorney Gearreald. He explained that this is a more formalized way of department review that would occur at an earlier stage, before the Board accepts jurisdiction of a plan. This would allow various expertises to be brought into projects.

Design review as outlined in RSA 676:4 II (b) was discussed. Attorney Gearreald explained that a revised set of regulations are being worked on. People on the committee should be enlightened more on the process. He also feels that members of the Planning Board should attend TRC meetings at another Town to view how the process works. RSA 676:4 was

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discussed, and “yes”, abutters would be notified. Minutes would need to be kept. The committee would not be approving or disapproving anything.

Mr. McMahon asked about the meeting notice. Attorney Gearreald explained that RSA 676:4 II(b) mentions there should be notification to abutters just as are required for proceedings. Abutters would have to be notified twice for applications with this process. Mr. Griffin did not like that idea. Mr. McMahon asked about the time of day of the meetings - not being convenient for people to attend. Attorney Gearreald stated it's up to the Board. Mr. Griffin expressed his disapproval of a meeting held during the day. Mr. Emerick stated he's not in favor of this process - he does not like the formality of it. Two sets of deadlines were discussed. Mr. Loopley expressed his disfavor with constantly continuing applications because of plans not being ready for approval.

Mr. McMahon expressed his concern about getting information on applications very late in the process. Mr. Emerick stated that the plans can be sent out to the department heads for input prior to the meeting. Having the TRC a week after the public meeting was discussed. Timelines were discussed.

Preliminary reviews were discussed. It was stated that the design review phase is “preliminary”. Mr. Lessard wants to sit through an actual meeting of a TRC.

Mr. McMahon stated that this matter should be continued to address these issues. Mr. Griffin asked if this is creating more problems than its trying to solve. He commented on lawyers reviewing condominium plans and documents that other towns don't do.

MOTION by Mr. Emerick to continue the matter to the September 7, 2011 meeting of the Board.

SECOND by Mr. Lessard.

VOTE: 7 – 0 - 0

MOTION PASSED.

CONSIDERATION OF MINUTES of July 6, 2011.

MOTION by Mr. Lessard to accept the meeting minutes of July 6, 2011.

SECOND by Mr. Emerick.

VOTE: 5 – 0 – 2 (Mr. Loopley and Mr. Olson abstained) MOTION PASSED.

CORRESPONDENCE

OTHER BUSINESS

- 8 Bragg Ave – Driveway Regulation Waiver

Mr. Steffen explained the situation with the re-paving of the driveway. The apron installed does not conform to the driveway regulations, but it is acceptable o Frank Swift of DPW as stated in his memo to Director Noyes. Director Noyes has also signed off on the

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application as long as the applicant does not hold the Town responsible for any damage done to the driveway opening during plowing.

Mr. Lessard asked that it not be approved until we experience a snowstorm. Mr. Loopley wants to see something in writing from the property owner.

Mr. Olson said DPW gave its blessing, but we don't know if the homeowner knows that. Mr. McMahon stated we need to notify them by certified letter stating the issue so the homeowner is informed. Mr. McMahon stated that this should be continued until the next meeting.

I. ADJOURNMENT

MOTION by Mr. McNamara to adjourn.

SECOND by Mr. Lessard .

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 8:55 P.M.

Respectfully submitted,

Laurie Olivier, Administrative Assistant

****PLEASE NOTE****

ITEMS NOT CALLED OR IN PROGRESS BY 10:00 P.M.

MAY BE CONTINUED TO THE NEXT SCHEDULED MEETING