

HAMPTON PLANNING BOARD

MINUTES

September 7, 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
James Steffen, Town Planner

ABSENT:

I. CALL TO ORDER

Public Meeting – Town Manager’s Conference Room, Upstairs Town Offices
Nonpublic session – RSA 91-A:3, II (a), roll call vote required.

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

II. ATTENDING TO BE HEARD

- Nick Riccio – Temporary Parking Lot - 15 M Street (13 spaces) - continued from August 3, 2011

Mr. Riccio appeared. He discussed changing the number of spaces from 13 spaces to 8.

BOARD

Mr. Steffen stated that two of the spaces need to be dedicated to the duplex. It's a pre-existing residential use so it doesn't need to comply with the zoning requirement of 2 spaces per unit. Spaces one through six on the plan will be for public use and numbers seven and eight will be designated for the duplex.

MOTION by Mr. Lessard to approve the temporary parking lot.

SECOND by Mr. Emerick.

VOTE: 7 – 0 - 0

MOTION PASSED

Mr. McNamara added that the approval will be good until October 15, 2012.

- One year approval extension request for 105 Towle Farm Road - Proposed Smuttynose Brewery

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Peter Egelston, President of Sustainable Ales, LLC and Eric Weinrieb from Altus Engineering appeared. They for another extension to the site plan approval. He gave an update on the Smuttynose Brewery project. The main part of the construction will begin in the spring. The current site plan approval expires in October of 2011, and for security sake, they wish to have it extended. Mr. Emerick asked if this extension is for Plan Number 1 or 2 and it was stated the extension is for Plan #2. It is an extension of the approval of the amended site plan.

MOTION by Mr. Emerick to grant the extension for one year to expire on October 6, 2012.

SECOND by Mr. Loopley

VOTE: 7 – 0 – 0

MOTION PASSED.

- Page's Meadow, LLC – Drakeside Road – extension of the site plan approval

Attorney Luker appeared along with a representative from People's United Bank. They are the first holder on the mortgage. The project was approved in 2005 and then in 2006 (October). Since 2006, the market has gone south and the borrower has run out of money. They are seeking a one-year extension. They wish to advise prospective purchasers of the site plan.

BOARD

Mr. Lessard asked the date when it was first approved. It was confirmed as October 19, 2005. Mr. Steffen stated they did not need to get an extension. He researched the history of the project and determined that on October 11, 2006, the final plan was signed by Chairman Emerick and recorded. Construction was to begin within one year of that date. Steffen explained though that the statute was amended in June of 2009, which extended their active and substantial condition approval for six years. So they are good, he indicated, until October 11, 2012. Mr. McMahon asked if they were appearing this evening for an extension on the active and substantial. Mr. Steffen stated the sewer connection stub, the sidewalk and the conservation area improvements are in place so he believes they have begun active and substantial and have met the condition of approval. The applicant stated they are looking for security by getting more time.

Mr. Lessard asked about the Senate bill taking care of the sewer permits. Mr. Steffen said he believes they have complied with that aspect of it. Mr. Luker stated that the wetlands permit was issued. Mr. Lessard stated that they should look into that to be sure. Mr. Luker asked for confirmation that it's one year.

MOTION by Mr. Lessard to grant the one-year extension beginning on September 7, 2011.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

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- Preliminary Conceptual Consultation – McKeon Family Realty Trust – proposed new building and parking at 275 Ocean Boulevard

Mr. Henry Boyd, from Millenium, appeared along with Mr. Mike Whitcher and the applicants. The location is next to the Mrs. Mitchells property, where the fire occurred last year. Mr. Boyd showed picture of the previous condition of the site. It was all pavement and rooftop area. Mr. McKeon would like Whitcher Builders to build five, one-story commercial units. The setback variances received and leaving it as a commercial parking lot in the back were discussed. The parking as it would exist was showed to the Board members. Mr. Boyd discussed drainage, infiltration, and creative grading to address those aspects. They will be substantially higher than the water table. Test pits have been performed. Stone infiltration and leaching basins in the parking lot were discussed. Mr. McMahan wants to hear more about the use proposal.

Mr. Boyd stated they will be single-floor retail spaces. Mr. Whitcher wishes to match the beach feeling in the construction. It will have shingle siding. The store fronts will be similar to Mrs. Mitchells. There will be a facade high enough to make it look like a larger building. Mr. McMahan stated this is a preliminary consultation with the board so they understand that there would be no action taken tonight.

BOARD

Mr. Lessard asked if this will be a permanent structure. He also asked if apartments will be on the top eventually. Mr. Whitcher stated they are looking at all options available. Mr. Whitcher stated they will be built to be able to be added onto. It will be a permanent structure. Mr. Lessard asked if there will be access to building from the parking area. Mr. Whitcher stated he is not ready to talk about the details of construction at this point. He really wants focus on the parking and drainage issues with the redevelopment.

Mr. McMahan stated that he isn't thrilled with the parking on the site, as a general comment. He thinks there is a better use of that prime piece of real estate than the parking lot. Mr. Whitcher stated this would be a phased project. Mr. McMahan discussed surface lots and stated that he doesn't want the whole beach front to be a surface parking lot. Ms. McKeon stated the goal is to increase business for Hampton Beach.

Mr. Olson stated he has a concern about the one-story buildings and the zero lot line walls with Mrs. Mitchells. He asked what will happen with the facades. Mr. Whitcher stated later on that the rest would need additional building treatment. Mr. Olson asked Mr. Boyd if this project is subject to the Shoreland Protection Act. Mr. Boyd stated no. Mr. Olson asked about a gravel lot not being interpreted as permeable under the State regulation. He is not sure that would be the ideal surface. Mr. Boyd confirmed that the State does not consider gravel surface permeable. Having a maintenance program was confirmed. Mr. Boyd stated the goal is to infiltrate water into the ground and having a proper maintenance plan in place. Mr. Lessard asked about treatment in front of the building - it will not be gravel.

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Mr. Lessard asked about recycling and waste disposal. It will need to be considered in the design. Mr. Emerick thinks it's a smart move.

III. NEW PUBLIC HEARINGS

11-026 546 High Street

Map: 151 Lot: 008/007

Applicant: Douglas H. Reed, Jr.

Owner of Record: Same

Special Permit: Construction of low platform deck beneath the existing 3-season deck.

Mr. Douglas Reed and Ms. Linda Meissner appeared. They met with the Conservation Commission. The decking is underneath the sunroom. He discussed the Conservation Commission's requests. The new plan was handed to the Planning Board and discussed. He discussed the permeable pavers they would like to install.

BOARD

Mr. Olson stated that he went on this site walk. He stated that he thought it was ridiculous to put the applicant through the special permit approval process for this project. It's a little patio with a room above it.

PUBLIC

Ms. Dionne, Conservation Coordinator appeared. She stated the previous owner received a permit to enclose the upper deck and it would have remained open. It was a existing deck that was enclosed. She stated there is a substantial amount of stone in there. Mr. Olson confirmed with applicants that they received the Conservation Commission letter.

MOTION by Mr. Lessard to approve the special permit with the Conservation Commission's stipulations contained in their letter dated August 26, 2011.

SECOND by Mr. Olson.

VOTE: 7 – 0 - 0

MOTION PASSED.

11-027 8 Battcock Avenue

Map: 281 Lot: 54

Applicants: Thomas & Joni Babaletos

Owner of Record: Same

Special Permit: Construction of 8.7 x 24.9 foot pervious grating deck in buffer zone with grass underneath to preserve pervious area.

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Mr. Babaletos appeared with Mrs. Babaletos and Tom Huot from S&H Land Services. Mr. Huot stated that they were hired by the Babaletos family to construct a deck without a permit in 2010. They were notified that they needed a permit. This spring, they met with Ms. Dionne, Conservation Coordinator and the Building Inspector. It's a single-story residential house. It's within the 50-foot buffer. The Zoning Board of Adjustment and Building Department had them reduce the deck to what the Planning Board sees now. The banking along the marsh is paved; a portion is along Town land. The applicants will remove pavement on the bank (on Town land and on their land) and replace it with salt marsh grass. They will plant shade trees and grass. They are utilizing a permeable decking material - he indicated that NHDES is pushing this. This will allow enough light to go through so the grass will be treated. They have received variances from the ZBA.

BOARD

Mr. McMahon stated that they need to work with Selectmen regarding work on Town property.

PUBLIC

Ms. Dionne appeared. The Conservation Commission does appreciate the work they have proposed.

Mr. Loopley asked about the ZBA's position on the shed. Initially, the northwest corner of the property had a 5 x 8 shed. They wish to move it onto the driveway. The ZBA had some concerns about moving it closer to the house. The shed will not be moved as shown on original plan.

MOTION by Mr. Lessard to approve the special permit with the conditions contained in the Conservation Commission letter dated August 26, 2011.

SECOND by Mr. Emerick.

VOTE 7 – 0 – 0

MOTION PASSED.

11-028 47 Winnacunnet Road (Public Hearing Not Required)

Map: 176 Lot: 16.

Applicant: 47 Winnacunnet Road Realty Trust.

Minor Lot Line Adjustment: Portion of existing right of way to be combined with land at 47 Winnacunnet Road, approved by the voters on Article 40 of the 2011 Town Meeting.

Attorney Stephen Ells appeared. Mr. Lessard asked if he should step down as he works for the schools which are an abutter. Attorney Ells had no objection to him staying on. Attorney Ells is Trustee of the Trust. This involves a small strip of land his law firm has used as parking for 30

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years. Voters approved the transfer of the land for a price to his office. The use will continue as it has for 30 years. They will own it and pay taxes on it as well.

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

SECOND by Mr. Loopley.

VOTE: 7 – 0 – 0

MOTION PASSED.

11-029 1 Liberty Lane

Map: 104 Lot: 1

Applicant: RMMC Liberty Lane, LLC

Owner of Record: Same

Site Plan (Amended): Construction of Parking Lot with 51 Spaces

Joe Coronati of Jones & Beach appeared with Jamie Pennington, one of the owners of the property. Mr. Coronati stated that they were before the Board a couple of years ago for a parking lot application in a different location. The new area is closer to the building wings where they have leased space. Not as many paved parking spaces are needed. It's a net gain of 47 parking spaces, as 4 existing paved spaces will need to be removed. Stormwater management regulations were discussed. It will be a porous pavement parking lot. Natural (dug) ponds were discussed. The site has some ledge. No expansion to the building is proposed. The previous tenant did not need as many parking spaces.

BOARD

Mr. Lessard asked about the porous pavement. Mr. Coronati discussed the section of ledge as being minor. Some rock will be used for fill. Mr. Lessard asked if the whole parking area is porous. Mr. Coronati stated all 51 spaces will be porous. Mr. Coronati indicated that there will be no changes to sewer, water or electrical. Mr. Olson asked how people will access the building. Mr. Coronati mentioned possibly adding a walkway to the building.

Mr. Coronati stated he will need a special permit for this as there is a wetland area from the roadway that accesses maintenance to the building. He explained with curbing, all of the runoff goes down to the culvert. They have not been before the Conservation Commission yet, but will at the end of this month. Mr. McMahan asked how the blasting operation is permitted. Mr. Coronati stated there are State and federal requirements. In this case, there are no abutters to be concerned about. He indicated that the blasters have to be licensed.

Mr. McMahan asked about excavation already occurring at the site; a graveled area. Mr. Coronati stated it's an over-flow parking lot. They removed stumps, added gravel and loam and it will be reseeded. They did talk to the Building Department before doing that work. It

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will be grass. Mr. Lessard asked further questions about the temporary parking lot - what the parameters are and the overflow. The applicant stated it's a clearing for overflow parking for functions and special events. It is the same area where the previous application was proposed. Mr. Lessard stated it's a very slippery slope - he discussed that temporary parking is frowned upon, and this is at the same site where a previous parking lot proposal was withdrawn. Mr. McNamara echoed the same concerns. The applicant stated they don't anticipate regular use of the parking area - it's for an overflow situation. Mr. McNamara stated there are regulations and stipulations that need to be followed for these parking lots. Mr. Coronati stated this proposal is not for an overflow lot. Mr. Emerick went to a function at the property recently. One function was starting where another had not ended – which lead to more cars than spaces so the overflow lot was used. Mr. Olson asked if the Building Department gave their approval in writing. It was stated that it was not for the Building Department to give. The applicant stated that their head of construction was dealing with the Building Department on building issues and the overflow lot was discussed at that time.

Mr. McMahan stated the Board will accept jurisdiction on the application and will send the application out for review. The board will review the whole parking situation, including the over-flow lot when we consider the application again. Mr. McNamara wants to receive documentation on the timber cutting and the overflow parking for 80 cars. Mr. Griffin stated he thought the timber cut request came before the Selectmen. Mr. Steffen stated he wants a detailed plan of the overflow parking spaces that can be presented to the Board. Mr. Coronati explained that he did not do any work on this project. Mr. Lessard stated everyone needs to be fair and honest. Mr. Steffen read his planner memo comments.

MOTION by Mr. Emerick accept jurisdiction of the plan and the send it out for department and engineering review and to continue the matter to the October 19, 2011 meeting.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

11-030 135 Little River Road

Map: 147 Lot: 18

Applicant: Mike Wesson

Owner of Record: Ruth A. and Roland Rich

Subdivision: Two Lot Subdivision

Waiver Request: Section V.E.-Detailed Plan

Attorney Peter Saari appeared. He explained that this proposal is to create a back lot. Variances were obtained for that. It's for single-family home construction. No wetlands are on the lot. It is essentially a flat field with just a few trees located on the property. A request was made by the abutters to preserve the large pine trees on the lot. It will be in the deed. Another abutter asked for plantings along the same side and they agree to that as well. It is a so-called “pork chop” lot. They are seeking a waiver from the Detailed Plan requirement.

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Mr. McNamara asked if the trees will be planted all the way back. Mr. McMahan asked about the pine tree to save. He stated it is for the whole row. Mr. Lessard asked to have photo documentation for the trees. Mr. Olson asked about the 12 trees on the plan and if they are existing or proposed. Attorney Saari explained that the neighbor requested that the trees remain and she wants trees to continue on as well. Mr. Olson asked if the applicant is willing to do what they want. It was indicated that there is a note on the plan to that effect.

Mr. Steffen read the conditions of the ZBA approval. There was discussion among the Board about the condition of approval regarding the buffer of trees. Mr. McMahan questioned whether the variance would be still valid if one of the conditions was amended through the actions of the Planning Board. There was further discussion by the Board about what the variances allowed the applicant to do relative to the subdivision approval. It was discovered that Attorney Saari has a different plan than what the Board has. Attorney Saari's plan shows new arborvitaes. Mr. McMahan stated he does not want to vote on different plans.

BOARD

PUBLIC

Kathleen Kelly appeared. She is the direct abutter at 133 River Road. She stated the ZBA granted Mr. Wesson's request without notifying her of the meeting where it occurred on July 21st. She received a certified letter for a rehearing on the case. She explained at the ZBA meeting the agenda item pertaining to her property was the last to be heard – 3 hours after meeting began. She explained that the Board was tired, everyone was tired, and wanted it over with because they already made a decision at the meeting before-- already been granted to Petitioner by the ZBA. Her concerns weren't initially heard or considered as she was not there and this impacts her life/property the most. She wants a more favorable atmosphere. She was denied a continuance. She's been there for 27 years. It's been family property for 70 years. She discussed her history and the subdivision property to reside on her family's estate. She wants this to be tabled until ZBA entertains her appeal. She submitted the appeal in a timely fashion. She believes her property will be devalued with new housing invading the neighborhood. It may not be owner occupied. She is requesting help as an average citizen trying to protect her rights.

Mr. McMahan stated that the ZBA granted relief from the zoning requirements on frontage. He explained that it is the Planning Board that grants the subdivision approval. Mr. Lessard asked if the appeal does not go her way, what she would like for plantings.

Mr. Van Dyke appeared. He wants the trees to remain. He wants them to become part of the deed. He thought the Wesson's would occupy the land in the back. He noted that they have moved to Florida and have rented out the front house. He too is worried about what is going to go in the back. He is not comfortable with the original proposal. He does want the trees and that has to remain a part of this proposal.

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Mr. Saari said she did the same thing with her property that she is asking the Board not allow now. Attorney Saari was not aware of the appeal. She wants a re-hearing and they have to act within 30 days to grant or deny. Mr. Stefffen stated that we can't consider the plan as incomplete because the variance approval is in limbo. He explained that we can accept jurisdiction and send it out for review or we could deny the application until they get the variances again.

Kathleen Kelly stated she did her project for a hardship. .

MOTION by Mr. McNamara to accept jurisdiction of the plan and to send it out for review by the Department of Public Works on the new driveway location and to continue the matter to the Planning Board's October 19, 2011 meeting.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

It was noted that the Planning Board needs to all have the same plan. Mr. Saari asked if the Planning Board wanted to see the arborvitae plan as well.

IV. 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 subdivision development proposals by the committee.

Mr. McMahon stated it's time to move on from this proposal. His preference is to have the applicant to come to the Planning Board first and then have it go to the TRC for review. Mr. Lessard is still waiting to be notified of a neighboring TRC meeting. He needs to see it in operation. Mr. McMahon stated the Exeter town planner may be able to come to speak to us about the process. Seabrook changed its procedure after adopting it to have it go to their Planning Board first and then to the TRC. Mr. Emerick stated this proposal has turned into a mess. Mr. McMahon stated it seemed like a staff meeting. Mr. Griffin stated people are just not getting heard. No regulations will need to be changed if we go with a review after the Planning Board public hearing. The Town Manager proposed this. Mark Olson stated the engineers for town don't challenge what we send out. He asked if the TRC would give us a better review process. Mr. Loopley wants to see things streamlined. Keith Noyes, the Town's Public Works Director indicated to Mr. Steffen that the Exeter Town Planner would willing to come to a meeting to explain how the process works in Exeter. Mr. McMahon asked Mr. Steffen to try to get her in for the next meeting, and see if we can get someone from Seabrook in as well.

MOTION Mr. Emerick to continue the matter to the September 21, 2011 meeting.

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It was noted that Mr. Steffen can stop working on the proposed amendments at this time.

SECOND by Mr. McNamara.

VOTE: 7 – 0 – 0

MOTION PASSED.

V. CONSIDERATION OF MINUTES of August 3, 2011.

MOTION by Mr. Lessard to accept the August 3, 2011 Minutes.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

VI. CORRESPONDENCE

Mr. Steffen discussed a letter the Board received from the Town Treasurer dated August 3, 2011 inquiring about money still held bank accounts that are inactive. He asked the Board if it wants him to research what the accounts are for. Mr. Lessard stated he can't make a decision without knowing the project that coincides with the amounts in question. Specifically, the reasons for the retainers are what we need to find out.

Mr. McMahan asked for Mr. Steffen to find out more information regarding these accounts and projects.

VII. OTHER BUSINESS

- 446 High Street-Expired Special Town Permit

Mr. Steffen discussed the 2008 Town special permit approval. It expired on May 7, 2010. The applicants are not responding to the Conservation Commission expired permit letter. Mr. McMahan asked if the matter should go to the Building Inspector for enforcement. Mr. Emerick stated to give this to the Code Enforcement Officer to do a notice of violation.

- Notice of State's intention to install wireless communication equipment on the existing water tank located off of Exeter Road.

Mr. Steffen discussed NHDOT letter. The State proposes to install antennas and a microwave dishes on the water tower to deploy an Advanced Traffic Management System on the I-95 corridor. They are asking is this proposal warrants a meeting with NHDOT to review the installation. The Board felt that this wasn't necessary and will send letter to that effect.

Mr. Griffin asked about condominium documents review. He asked who requests the \$500 retainer. It was stated that the Town Attorney does. Mr. McNamara noted that it never goes over \$500. Mr. Griffin stated that Hampton is the only town in the State that has a legal department with two lawyers. Hampton is the only town in NH with lawyers who review

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condominium documents. It was noted that the process was started because some documents didn't match approval conditions and the documents were getting recorded like that. The review is in the public interest.

Mr. Loopley asked when plans are reviewed is there any way to see where utilities will be actually located. He explained that telephone poles are being approved by the Selectmen that were shown on the plans that were approved by the Planning Board. Mr. Lessard also discussed the transformer vaults. Mr. Griffin stated if people don't complain, work by the utility companies goes on. Unitil does not approve a layout plan until the project is under construction. It was noted that Unitil is a monopoly and they can do what they want. Mr. Griffin will carry this concern to the Town Manager.

Mr. Steffen is working with the DPW on the conceptual designs for intersection improvements to the 5 corners intersection and the Winnacunnet and Landing Road intersection. He will be participating next Thursday in the interview process to select a firm to do the design work.

It was noted that September 21st is next Planning Board meeting.

I. ADJOURNMENT

MOTION by Mr. Emerick to adjourn.

SECOND by Mr. McNamara.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 9:24 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