

HAMPTON PLANNING BOARD

MINUTES

March 6, 2013 – 7:00 p.m.

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

ABSENT:

I. 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.

II. ATTENDING TO BE HEARD

- Temporary Parking Lot: 275 Ocean Boulevard
68 Spaces

Mr. McKeon and his daughter, Melissa McKeon appeared. They are seeking a one-year extension with no changes proposed.

BOARD

Mr. Loopley asked about the status of the building project and the applicants responded that the project is on hold. There is intent to develop it the future.

MOVED by Mr. Lessard to grant the one-year extension on the temporary parking lot approval.

SECOND by Mr. Griffin.

VOTE: 7 – 0 – 0

MOTION PASSED.

IV. NEW PUBLIC HEARINGS

13-007 21 & 29 Hickory Lane

Maps: 170 & 184 Lots: 11 & 1/1

Applicant: Whiteside Family Trust & Richard & Helen Whiteside

Owners of Record: Same

Special Permit to Impact Wetlands: #21-proposed drainage mitigation for paved driveway violation & #29- proposed dwelling/septic rehabilitation.

HAMPTON PLANNING BOARD

MINUTES

March 6, 2013 – 7:00 p.m.

Mr. McNamara stated that the applicant has requested a continuance to the April 3, 2013 meeting.

MOTION by Mr. McNamara to continue the matter to the April 3, 2013 meeting.

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0

MOTION PASSED.

13-010 227 Mill Road

Map: 91 Lot: 3

Applicant: Scott & Christine Bean, Trustees

Owners of Record: Same

Subdivision: Two-Lot Subdivision

Waiver Request: Section V.E.7 of the Subdivision Regulations, Stormwater Management Plan.

Mr. Lessard stated he bought all his insurance through Bean Insurance and asked if anyone had a problem with their being a conflict. The Board responded “no”.

Attorney Justin Pasay of Donahue, Tucker and Ciandella appeared with Mr. Scott Bean and Mr. Ernie Cote. Mr. Bean is the owner and applicant. Mr. Cote prepared the plan for the ZBA hearing and this hearing. Attorney Pasay stated it is a subdivision to create two equal-sized lots. He discussed Lot #2 and the existing structure. This proposal is to establish a new single-family house lot. There are no wetlands present. Access to the lots will be provided by an access easement. The Declaration of Easement is for the benefit of Lot #1 to have a driveway access over Lot #2. It will be a shared driveway and the maintenance will be shared by both owners. He discussed a concern by an abutter regarding privacy. Mr. Bean has agreed to preserve a 25' existing buffer (pines and low lying bushes).

Attorney Pasay discussed the waiver request. He stated that the soils, topography, etc. will be addressed on site and there is no new roadway proposed.

BOARD

It would be a shared access per Mr. Steffen.

Mr. McMahan asked about the buffer. There are pines and low lying shrubs / bushes. Mr. McMahan states he is worried that the trees will eventually disappear.

Mr. Lessard asked Mr. Cote about White's Lane and gates and bars. There is an old stone wall that demarks the edge of the lane.

Mr. Loopeley asked about it being in the Aquifer Protection District. It was noted that this is a permitted use and that the requirements are being met.

PUBLIC

HAMPTON PLANNING BOARD

MINUTES

March 6, 2013 – 7:00 p.m.

BOARD

Mr. Olson stated that he is normally not in favor of “porkchop” lots. He is familiar with the area and he feels it fits the context of the area. He asked about the existing gravel driveway and if the proposed driveway will go over the sewer service. It was noted that access to the rear lot will traverse the applicant’s property.

MOTION by Mr. Emerick to grant the waiver of Section V.E.7 of the Subdivision Regulations, Stormwater Management Plan.

SECOND by Mr. McNamara.

VOTE: 7 – 0 – 0

MOTION PASSED.

MOTION by Mr. Emerick to approve the two-lot subdivision.

SECOND by Mr. McNamara.

VOTE: 7 – 0 – 0

MOTION PASSED.

13-011 17 Downer Drive

Maps: 97 & 96 Lots: 2D-6 & 2E

Applicant: Conrado & Rhoda DeJesus

Owners of Record: Huckleberry Woodlands, Inc.

Lot Line Adjustment

Waiver Request: Section V. Submission Requirements, E. Detailed Plans of the Subdivision Regulations.

Mr. Joseph Coronati of Jones & Beach Engineers appeared. He stated that the proposal is in regard to the Juniper Lane subdivision recently approved. The developer Mr. Sanderson has agreed to a transfer of a 10’ x 111’ strip of land to the abutter, the DeJesus family. A pet dog was buried in this area. It will come out of Lot 5 in the subdivision. There will be adequate area left to build on the lot. The size of the strip is approximately 1,000 square feet. The planting of trees along property line was discussed. Mr. Coronati explained that it’s a simple transfer of land. The subdivision plan will be recorded first and then the lot line adjustment plan.

BOARD

Mr. Olson asked if it's cleaner to also do this for Lot 4. Mr. Coronati responded that there wasn't much of a reason to carry it further back. He noted that Lot 5 has a lot of extra land. Mr. Coronati further noted that they picked the location because of the proposed drainage easement for the subdivision.

HAMPTON PLANNING BOARD

MINUTES

March 6, 2013 – 7:00 p.m.

MOTION by Mr. Emerick to grant the waiver of Section V. Submission Requirements, E., Detailed Plans of the Subdivision Regulations.

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0

MOTION PASSED.

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

SECOND by Mr. Griffin.

VOTE: 7 – 0 – 0

MOTION PASSED.0

13-012 436 Winnacunnet Road & Esker Road

Map: 208 Lots: 49 & 50-A

Applicant: Ronald A. Remick, Individ. & as Trustee

Owners of Record: Same

Lot Line Adjustment

Waiver Request: Section V.E-Detailed Plan of Subdivision Regulations.

Attorney Craig Salomon, representing Ron Remick appeared. He explained the background of the property including the agricultural preservation easement. The property is subject to an agricultural preservation easement and it would become a separate lot. Atty. Salomon addressed the correspondence in the file from Mr. Welch and Mr. Steffen.

Atty. Salomon is requesting the waiver from the detailed plan requirement because the site is level and there's no change to the topography. They will not be impacting the drainage swale.

Atty. Salomon stated he concurs with the concerns raised by the Town Manager. Mr. Remick is not the owner of Lot 208-49 because the deed was defective - it is owned by the trust.

Atty. Salomon further stated he concurs with the Town Manager that this proposal would expanding a non-conforming use. There is a required 10' setback in this zone and with this proposal it would make it 6.2'. He also believes that it is a lot line adjustment because the proposed plan submitted a year ago would have created two lots with sufficient area to be legal in the zone without changing the non-conformities of the existing lot width. In this case, the proposed T-shaped lot does not have sufficient square footage to be buildable. Atty. Salomon stated the intent of the proposal is to create an area for family gardening.

He discussed the proper identification of the lots.

Atty. Salomon stated he understood that it has been requested that the Planning Board not take jurisdiction of the application. He further stated that they need to look at the rear setback issue. He would like the Planning Board's input on this.

BOARD

HAMPTON PLANNING BOARD

MINUTES

March 6, 2013 – 7:00 p.m.

Mr. Loopley asked if the proposed use is to be only a garden. Attorney Salomon stated he could not speak for the future, but that is what has been told to him as of now.

PUBLIC

Ms. Mary Anne Hadeka, 36 Esker Road appeared. She spoke on behalf of the Brunettes who live on 40 Esker Road as well. She stated that Mr. Remick has tried three times now with lot line adjustments and they have all been rejected. Mr. Remick stated in the past that his hardship is a garage issue. She asked if this plan would create a hardship. She stated that his lot line adjustment application last year was rejected and he took the Planning Board to court. She heard it was dismissed and asked why. Mr. Steffen answered it was dismissed on procedural matters. Mr. McMahon explained the applicant should have gone to the ZBA before coming to this Board. She stated that Mr. Remick was granted a driveway permit by the DPW but that it was rescinded. She further stated there's been confusion surrounding this property from the beginning.

Ms. Rayann Dionne, Conservation Coordinator, appeared. She reiterated that the Conservation Commission is the holder of the agricultural preservation easement. This stated that this application makes the Conservation Commission uneasy. The drainage swale is much more substantial than where the wetlands are. It takes up a large portion off of Esker Road.

BOARD

Mr. Emerick discussed the setbacks. He stated it was a “goofy lot” last time and is “goofy” now. It doesn't have the typical characteristics of a lot – it has no frontage, and no width. He explained that we can't create a lot that doesn't conform to the regulations.

Mr. McNamara stated that if Mr. Remick wants to plant a garden in that area of land he could do so right now. He doesn't see how that makes it a garden area. Mr. Salomon responded it would alleviate any tenants from gardening in that area. Mr. McNamara responded that no one knows what will happen in the future - no one can assure the Planning Board. His objection is that the Board cannot create a non-conforming lot.

MOTION by Mr. McNamara to deny the waiver of Section V.E - Detailed Plan of Subdivision Regulations.

Mr. Lessard stated that the applicant could withdraw at this time. Attorney Salomon responded that he cannot withdraw for his client as he was unable to contact him to discuss these issues.

SECOND by Mr. Loopley.

VOTE: 7 – 0 – 0

MOTION PASSED.

MOTION by Mr. McNamara to deny the lot line adjustment because the newly created lot is too narrow and the other lot will become more non-conforming.

SECOND by Mr. Emerick.

HAMPTON PLANNING BOARD

MINUTES

March 6, 2013 – 7:00 p.m.

VOTE: 7 – 0 – 0

MOTION PASSED.

IV. CONTINUED PUBLIC HEARINGS

V. CONSIDERATION OF MINUTES of February 20, 2013

MOTION by Mr. Lessard to approve the February 20, 2013 Minutes.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

Mr. McNamara asked about Keefe Avenue project in reference to the Planning Board not being able to act on anything until the Board of Selectmen and Town Manager approve the proposed agreement. Mr. McNamara asked why the project is coming back to the Planning Board next week. Mr. Steffen responded that the plan is to get it on the Board of Selectmen's agenda for their March 18th meeting to discuss the agreement and the private road issues. He explained that the Planning Board can't approve trash collection plan for Keefe Avenue only the Selectmen can do that. If the Selectmen don't act on it on the March 18th meeting, the Planning Board may not be able to approve anything at its March 20th meeting

Mr. Loopley asked Mr. Emerick about the CIP list of projects. Mr. Emerick responded that the different stakeholders can adjust their part of the CIP list themselves, but the Planning Board report would remain as is. He said if SAU 21 wants to keep their report current, that would be fine with him.

VI. CORRESPONDENCE

VII. OTHER BUSINESS

Mr. Emerick discussed materials he has picked up recently at legislative meetings in Concord. One is a CD entitled *Water Is Worth It*. He described it as regional in nature. He indicated he hadn't viewed it yet but he believes it discussed issues with drinking water, waste water and storm water. He asked if the Board is interested in viewing the video as part of our meeting or to put it on the Town website. He picked up another CD on *Agenda 21* that's about 20 minutes long. After question from Mr. Lessard he explained what *Agenda 21* is. It's an agenda for 21st Century that all inclusive, i.e. sustainability and air / water quality. It's a global program. It includes promotion of rail and reducing air pollution. Mr. Emerick indicated that he went to Channel 22 to see if the video could be shown and he was told the Selectmen have to approve it. It's an educational video. He said he would be glad to drop off the videos and the Planning Board can decide if they want to see them.

Mr. Emerick discussed the relationship between the Planning and Building Departments regarding changes of use. He explained the current process - if someone goes to the Planner for a particular space and the Planner says you don't need a change of use that should be that. Then, if someone goes to the Building Department they are told they need a use change. He wants the Planning Board to take a stand – that is to follow our zoning. He asked if we wanted the Building Department to decide what the criteria is (that are unstated as of this date) for when a

HAMPTON PLANNING BOARD

MINUTES

March 6, 2013 – 7:00 p.m.

use change is needed. He expressed a concern that this can build an extra month into occupancy for a new business. Mr. Emerick stated he would like it in the minutes that the Board decides that unless it is a substantial change of area, floor plan, etc., it should not need to go through a change of use approval. Mr. Lessard commented that it hinges on changes to seating capacity, parking, zoning, etc. Mr. Emerick further stated that the Building Department can read this and note that the Planning Board does not want to see similar uses having to be required to get a change of use approval. Mr. Loopley discussed the need for the Board to see the floor plans and noting ADA requirements, etc.

Mr. Lessard commented that business changes that are blatantly similar should not have a change of use. Mr. Emerick discussed a space that was retail and is now proposed for a hair salon. He feels that the same rules should apply - it was in compliance before. He feels it's a burden on the business to put them through the change of use process.

Mr. Steffen explained that usually one goes to the Building Department first, and then they are directed to Planning. If Mr. Steffen feels it does not warrant a change of use, he'll say so in memorandum to the Building Department. Mr. Emerick stated he would like Mr. Steffen to re-define change of use. Mr. Olson commented that it's the opportunity the Planning Board has to regulate what we are made to do. Mr. Emerick responded that they still have to get a CO. Mr. McMahan commented that sometimes Mr. Steffen will contact him to bounce request off of him to determine if a change of use is required.

Mr. Steffen discussed the downtown Hampton Village / Corridor study. He wanted to inform the public and the Board of the planned design workshop / charrette that will take place all day on Saturday, April 13th in the cafeteria of the Hampton Academy. The purpose of the event is to receive public input on developing plans and changes to our zoning and land use regulations for this area of town. The general public is encouraged to participate. There will be press releases and power point presentation on the Town website. Mr. McMahan noted that Mr. McNamara has been heading up the advisory committee and is doing a good job.

VIII. ADJOURNMENT

MOTION by Mr. Emerick to adjourn.

SECOND by Mr. Loopley .

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 8:06 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