

**HAMPTON PLANNING BOARD**

**MINUTES**

**May 1, 2013 – 7:00 p.m.**

**PRESENT:** Mark Olson, Chair  
Brendan McNamara, Vice Chair  
Mark Loopley  
Fran McMahan, Clerk  
Tracy Emerick  
Mary-Louise Woolsey, Selectman Member  
Keith Lessard  
Jamie Steffen, Town Planner

**ABSENT:**

**I. CALL TO ORDER**

Chairman Olson 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**

- Keith Noyes – DPW – Driveway Regulations Discussion

Mr. Olson stated that the Board had an applicant that came in to discuss 'pavement' for the driveway apron in the street right-of-way. He asked about pavement in the driveway regulations meaning bituminous asphalt. He wanted to use permeable pavers. Mr. Loopley stated a neighbor was prevented from utilizing concrete pavement for her driveway apron. It was asked what is allowed within the right-of-way. Mr. Lessard stated that there is inconsistency in the denials.

Mr. Noyes stated he has discussed this issue with the Town Manager and Frank Swift, the highway general foreman. He explained that in the regulations on page 3 or 4 – it says driveways that abut paved highways shall be constructed with a paved apron. He believes pavement means asphalt. He discussed the differences among materials and moisture problems. He explained that pavement blocks can come up over time, affecting plowing and can be damaging to the plows. He also explained that homeowners could seek claims against the Town for damage to their blocks. He also stated that the hold harmless agreements don't necessarily run with the deed. He stated that DPW and the Town Manager do not want to see anything but asphalt pavement - DPW is now trying to be consistent.

Mr. Olson questioned the word pavement meaning all sorts pavement. The Planning Board is asking people to use porous pavement wherever possible and this conflicts with what Mr. Noyes is stating. He asked if the Town Manager is aware of the different kinds of pavement available. Mr. Noyes responded that one can utilize porous asphalt pavement; just no blocks.

Mr. McMahan asked if it's necessary to have the full depth of the right of way as asphalt – is 2 to 3 feet. Mr. Noyes responded that if a hold harmless agreement would run with the property, he would advocate that to the Town Manager but he doesn't have the final say.

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Mr. McNamara stated that the Board would prefer a pervious surface to asphalt. Again, Mr. Noyes indicated that pervious pavement would be fine, just not blocks. After question from the Board, Mr. Noyes responded that the change to asphalt would have to be right at the property line.

Ms. Woolsey stated she has discussed this issue with the Town Manager. She stated she feels that no one has a right to put anything on Town property. She noted that mailboxes are worked out with the postal service. She explained that highways are normally paved with 'hot top'. She stated that we cannot put the Town at risk with pavers in the right-of-way.

Mr. Lessard stated he put down crushed gravel at the edge of the roadway. He further stated that the Board is getting into a tricky area with this. He discussed bituminous work needing trucks, and specialized equipment, etc. Some driveways can be done by homeowners. Mr. Noyes discussed granite blocks can also come into play. Mr. Noyes discussed injuries from people riding bikes, obstructions, etc. and these problems are why the driveways regulations were put in place.

Mr. Emerick gave Mr. Noyes a copy of the plan for 1042 Ocean Boulevard that was being reviewed by the Board at this meeting. He commented that when the Conservation Commission looks at these plans, it is with an eye to minimize the "hot top". This conflicts with what the Town Manager is asking for - 30 feet of asphalt.

Ms. Woolsey read aloud the wording in the Driveway Regulations on paved aprons. Mr. Olson responded that it does not say bituminous and he feels we are setting a precedent for future problems. Mr. McNamara responded by saying there is a precedent already with the Conservation Commission's issues. Ms. Woolsey responded by saying that the Town has the right to dictate what goes on Town property.

Mr. Lessard discussed that the bond requirement is low for people working in right of way and that we are not addressing the re-pavement issues. He further discussed that people are repaving driveways and it's not getting caught by DPW. He feels that the bond needs to be higher. Mr. Olson indicated that the Board may need to re-visit the permit requirements if one is only changing the materials of the driveway.

Mr. Loopley asked how regulations get changed. Mr. Steffen responded by the Planning Board and it requires a public hearing.

- Vision Sub-committee – Master Plan Update – Vision Chapter

Ms. Barbara Kravitz appeared along Mr. Tom McGuirk. Mr. Steffen gave an introduction to the Vision chapter update. It's a master plan update that started two years ago. Three members are present – also, Tracy Emerick and Mark Olson who was on the sub-committee for a time. He indicated that Maury Friedman and Vic Fugere could not attend this meeting for personal reasons. The chapter includes a goals and objectives subsection and a community profile subsection. It was last updated in 1996, with an limited update in 2005 to the community profile which is basically statistical information on population, housing, income, and employment characteristics for the town. There have been monthly meetings and the outline that the Board has is the result of the sub-committees' work to date.

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Ms. Kravitz discussed that the sub-committee wanted to get ideas from residents about what they like and dislike about Hampton. Approximately twenty-five people responded to a letter looking for ideas. They have also met with many people who have a stake in the future development of Hampton. Some attended the recent Downtown Village Charrette. The work done so far on the Vision chapter update is available at the Town Offices. She noted that more information sharing will take place at the May 15<sup>th</sup> Planning Board meeting. She also indicated that this Vision work can go on the Town website. She noted that the survey responses are interesting.

Mr. Steffen is asking to place this on the May 15<sup>th</sup> meeting agenda for further review and discussion. He said this would allow the Board some time to digest the information so that we can talk more in depth about it on the 15<sup>th</sup>.

#### IV. NEW PUBLIC HEARINGS

##### **13-014 1042 Ocean Blvd. (continued from 4/3/2013)**

Map: 116 Lot: 12-1

Applicant: Mark & Janet Gacek

Owners of Record: Same

Special Permit: Re-development of lot, including existing structure, decking, patio and driveway. 1,075 square feet of permanent impact for revetment of existing seawall to protect proposed re-development.

Mr. Steven Riker appeared from Sandpiper Environmental Services. He stated that he has been hired by applicant, Mark Gacek, who also appeared. The permit request has gone to the Conservation Commission at their April 23, 2013 meeting for their review and comment. The proposal is to demolish the existing home and build a new one in its place. It replaces a non-conforming structure with a conforming structure. No variances were needed from the ZBA. He discussed the impervious areas. He indicated that all applications have been filed with the State (NHDES).

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Mr. Olson noted that he went on the Conservation Commission site walk for this application. He indicated that there were concerns expressed about the State regulations regarding the elevation of the building. Mr. Riker responded that are new FEMA regulations to need to be met and they have addressed them.

Mr. Emerick noted that the 10-foot paved driveway apron is insufficient as there are permeable pavers proposed in the right-of-way. He stated that the bituminous asphalt will need to go all the way to the property line. Mr. Olson responded that the Board can look beyond that tonight. It will become an issue when it is time for the driveway permit approval. Mr. Gacek stated that it is not an issue for him and Mr. Riker can revise the plan accordingly.

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Mr. Lessard commented that they already have a driveway permit and a driveway there. Mr. Gacek may be “grandfathered” with the driveway.

Ms. Woolsey stated that it is what protrudes beyond property line. She asked who owns the rip rap - the majority of it is on Town property. She asked about the highest observable tide line. She discussed insurance and property damage concerns. She asked where the Town is going with building in coastal areas.

Mr. Riker referred to Sheet C2 and discussed the stormwater management plan. The grading is engineered to detain and maintain water that falls on the site. He noted the FEMA regulations are strict for these flood zones.

Mr. Steffen noted that they need to comply with the coastal high hazard area flood zone. It's Zone VE and there are a set of construction requirements.

Mr. Lessard asked about the seawall and prior applications. He noted that prior applicants have been getting permission to work on beach with their equipment during low tide to fix sea wall.

Mr. Steffen discussed a letter from Karin Theodoros, an abutter from the Dory In. She is concerned about ocean flooding and the new structure. It was discussed that the air conditioning units may go under staircase.

**MOTION** by Mr. Emerick to approve the special permit with the stipulations contained in the Conservation Commission’s letter dated April 29, 2013.

**SECOND** by Mr. McMahan.

**VOTE: 6 – 1 (Woolsey) – 0**

**MOTION GRANTED.**

**12-024 52 Tide Mill Road (Continued from June 20, 2012 & December 5, 2012 & April 3, 2013 – New Amended SP filed)**

Map: 231 Lots: 6-1

Applicants: Brian & Lisa Arakelian

Owners of Record: Same

Special Permit: Plantings in buffer.

Mr. and Mrs. Arakelian appeared along with Attorney Ted Morris. Mr. Lessard noted that he had some plumbing work done by Mr. Arakelian and asked if the Board thought there was a conflict. The Board indicated that there was not. Atty. Morris explained that the plantings fall within the 50' buffer. The Arakelian’s bought the house in 2007 and they have been mowing the area since then. The Conservation Commission has visited the site. They recommend that the Arakelian’s be able to continue to mow the lawn but with new planting stipulations. He explained about the deed restriction on the property and that has now been lifted. It has been recorded at the Registry. He discussed the planting of Arborvitaes as requested by the Conservation Commission.

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Mr. McNamara said the gate is about six feet. The gate needs to be shown on the plan. It is outside the buffer zone. Mr. Lessard said deer will be attracted to arborvitae.

Ms. Rayann Dionne, Conservation Coordinator, appeared. The Commission didn't know there was a gate there. She asked that the shrubs go end to end.

**MOTION** by Mr. Emerick approve the special permit with the stipulations contained in the Conservation Commission's letter dated April 29, 2013 with the gated area excluded.

**SECOND** by Mr. McNamara.

It was agreed if the applicants have deer trouble with the arborvitae, they can plant something similar that is deer resistant as long as it has the blessing of the Conservation Commission.

**VOTE: 6 – 0 – 1 (Lessard)**

**MOTION PASSED.**

**13-015 11 Ina Avenue**

Map: 280 Lot: 14

Applicant: Karl and Holly Jacobson

Owners of Record: Same

Special Permit: Demolish existing structure and reconstruct two-store house, decks, porches and shed. Removal of trees.

Mr. Karl Jacobson appeared. He stated that they wish to demolish the existing building and move the new building 25 feet out of the 50' buffer. Mr. Emerick stated that this will be a big improvement to the property. It was noted that a demolition permit needs to be obtained as well.

**MOTION** by Mr. Emerick to approve the special permit with the stipulations contained in the Conservation Commission's letter dated April 29, 2013.

**SECOND** by Mr. Lessard.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

**13-016 190 King's Highway**

Map: 168 Lot: 2

Applicant: Ocean Crest Condominium Association

Owners of Record: Same

Special Permit: Maintenance and repair of existing parking area. No new impervious area proposed. Erosion control proposed.

Mr. Brian Murray and Mr. Jack McAnally appeared. They stated that they have met with the Conservation Commission and presented the paving plan to them. All the work will take place within current footprint. They discussed the proposed grade changes. The parking lot elevation will remain the same. A small portion of it falls within the buffer. They discussed the visitor parking that is occurring off of the pavement. The Conservation

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Commission does not want to see parking out there so a berm will be constructed. They also discussed signage and the spot elevations shown on the plan. They explained that they will not be increasing the height of the paved area. The Condominium Association has made been made aware of the project.

Mr. Emerick commented that he was on the site walk. He noted that filling in the depressions and having a gradual slope were discussed during the site walk. It was noted that there will be signage indicating no parking and no snow storage within the buffer. The removal of the railroad ties was discussed. Mr. McAnally would like to get an easement to remove the Phragmites. The State was involved many years ago. Mr. Murray wants to move forward with what they have presented at this time. He discussed creating a two-foot cut through on the berm for people to walk through.

Mr. Lessard stated the screening for the dumpster is good but he asked about the new generator and why it wasn't fenced in like the other one. The applicant responded that it will be and that it will be added to the plan.

Ms. Rayann Dionne appeared. She discussed the two-foot wide break in the berm. She commented that having it stop shorter at the end would be better. She noted that they could tuck it over near the dumpster as well. Ms. Dionne stated she is fine with it at the north or south ends, just not in the middle.

Mr. Paul Chagnon, 186 Kings Highway appeared. He asked about grinding the existing pavement and whether they would be adding a four-inch layer of asphalt. The applicant responded that is correct. He is concerned about the height and runoff potentially flowing onto his property. He discussed having the runoff flow to the rear of the property. He feels that if they raise the elevation by four inches the berm will be buried. It was noted that the excess fill will be over by the door. Mr. Chagnon stated he would like a 6" high curb to take water to the rear of the property. Mr. Murray responded that he could add a dribble berm. It was noted that the telephone poles don't really help with the flow plus he doesn't like the creosote so close to his property. He noted when it is hot out he can smell the creosote in the poles. He would like those taken out when the parking lot is redone.

The applicant responded saying that they are sensitive to the asphalt curb and they do not have a problem putting that in. It was stated that the contractor will also remove the telephone poles.

**MOTION** by Mr. Emerick to approve the special permit with the stipulations contained in the Conservation Commission's letter dated April 29, 2013. In addition, there will be a two-foot wide pedestrian access way on the northern end of the berm. There is also agreement that an asphalt curb will be placed along southern edge of the parking lot and the telephone poles in the ground will be removed. The fence around the new generator will also be added to the plan.

**SECOND** by Ms. Woolsey.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

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**2 Pine Road – Driveway Permit Appeal**

Mr. Jim Westfall appeared. He stated that he has lived there for seven years. He explained that the driveway was not properly constructed and several people have twisted their ankles on it so it needs to be reconstructed. The driveway is currently 18-feet wide. He was told he can go out 24 feet. He is requesting a waiver to come out 27 feet instead. It will all be impervious surface. Mr. Loopley asked if he could instead construct a hammerhead type arrangement on his property.

Ms. Woolsey discussed the gravel surface. She asked what percentage of the lot could be impervious. It was stated 85 percent. Mr. Westfall asked if he can go out 24 feet wide and then have a pervious material put down.

Mr. Olson responded that we'd accept a maximum of 24 feet. Mr. Loopley showed another idea from the plan. Mr. Lessard noted that the survey is incorrect. Mr. Emerick asked about exceptions under the regulations. Mr. Olson responded that the Board agreed it would be 24 feet. Mr. Lessard likes the 24 feet as long as this is on his own property.

Mr. McMahon stated we should stay with the 24 feet. Waivers can be requested.

**MOTION** by Mr. McMahon to deny the driveway permit appeal.

**SECOND** by Mr. Lessard. He stated that the pavement edge needs to stay at 24 feet, but he is fine with additional gravel surface and xeriscaping within the right-of-way.

**VOTE: 6 – 1 (Olson) - 0**

**MOTION PASSED.**

**IV. CONTINUED PUBLIC HEARINGS**

**V. CONSIDERATION OF MINUTES of April 3, 2013**

**MOTION** by Ms. Woolsey to approve the Minutes.

**SECOND** by Mr. Lessard.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

**VI. CORRESPONDENCE**

- Letter from Edward J. Smith – 7 & 9 Boston Avenue

Mr. Steffen stated that this correspondence is asking the Board to look at a concern about use of eco pavers for a new driveway. The drafter of the letter is concerned about a zero setback from the lot line for the proposed pavers. The other properties he references had site plan approval or needed Town approval because it involved Town property. This is not within Town property. And Mr. Steffen questioned whether there is site plan approval required on this. The letter is addressed to the Planning Board, but a complaint went to the Building Department. Ms. Woolsey and Mr. McMahon asked for more information. The Planning Board would like a drawing / sketch or a plan.

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Mr. Smith needs to submit a photograph. Mr. Steffen indicated that he would check with the property owners about the proposal.

**VII. OTHER BUSINESS**

- 120 Glade Path – Special Permit extension request

**MOTION** by Mr. McNamara to grant the extension for another two years.

**SECOND** by Mr. Lessard. They can get a maximum of two extensions.

It was noted that State permits are good for five years.

**VOTE: 6 – 0 – 1 (Woolsey)**

**MOTION PASSED.**

- Impact Fees Study Update – letter to the Board of Selectmen

Ms. Woolsey stated we need to get the study updated. She feels it will not be a huge undertaking. She stated that the Board of Selectmen needs a letter from the Planning Board supporting that since it's under the Planning Board's authority to assess the fees and it would be for the Planning Board convenience to have updated information.

Mr. McNamara asked if the entire Board of Selectmen wanted an update of the Mayberry report. Ms. Woolsey stated yes - all five want this. They will grant the request for the funding an updated study.

Mr. McMahan stated he is opposed to this. He noted that the Mayberry report only supports additional fees for public safety.

Mr. Steffen discussed the Mayberry report. The report says that there is basis more additional fees for public safety but not for recreation.

Ms. Woolsey stated she hasn't read the entire Mayberry report. Wastewater facility costs were discussed. She feels these are included, but Mr. Steffen stated that they were not included. It's was only for police, fire and recreation facilities. She would like the Planning Board to request that the Board of Selectmen commit to funding update the range of \$2,500 to \$3,000. She commented that the issue is not going away – the Town needs to pursue more revenue.

Mr. McNamara discussed the large mixed use project proposed down the beach. He explained that this will increase revenue to the Town and wondered why the Board of Selectmen would oppose it. Ms. Woolsey responded that it's being requested to be reheard by the ZBA. Ms. Woolsey reiterated she just wants to get the report updated. Mr. Lessard asked how much the Town could bring with more impact fees. He stated if it is revisited maybe Ms. Woolsey will see how the Planning Board feels. Mr. Emerick stated he would like her to read only the public safety piece in the current Mayberry report.

Mr. Olson noted that the Board of Selectmen is seeking this and they would like our vote before they move forward to funding and update. He would like the Planning Board to vote on this again. He feels that the Planning Board's position was compromised by the way it was presented. He stated that last October, the Planning Board decided to revisit this again in

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October of this year. Ms. Woolsey asked if the Planning Board could be removed from dealing with the impact fees.

Mr. Lessard stated that he would like the Board of Selectmen to send the Planning Board a letter to this effect. He feels that it should not come out of the Planning Board's funds. Ms. Woolsey responded that she will re-visit this with the Board of Selectmen at their next meeting.

**VIII. ADJOURNMENT**

**MOTION** by Mr. Lessard to adjourn.

**SECOND** by Mr. Emerick.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

MEETING ADJOURNED: 9:15 p.m.

Respectfully submitted,

Laurie Olivier, Administrative Assistant