

HAMPTON PLANNING BOARD

MINUTES

June 19, 2013 – 7:00 p.m.

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

ABSENT: Mark Loopley

I. CALL TO ORDER

Chairman Olson began the meeting at 7:10 p.m. by introducing the Board members and leading the Pledge of Allegiance to the flag.

II. ATTENDING TO BE HEARD

- Change of Use – 830 Lafayette Road – Hair Salon to Wholesale Bakery

The applicant, Barbara Freedman, a/k/a Barbara Brownie LLC appeared. She stated that they are in the baking business. They have a homestead license and are starting a gluten-free bakery at the above location. Mr. Steffen stated it is a permitted use. They are proposing to utilize 600 square feet in the building in the front of the property. It will be a strictly wholesale business.

MOTION by Mr. Emerick to approve the change of use.

SECOND by Ms. Woolsey.

VOTE: 6 – 0 – 0

MOTION PASSED.

III. CONTINUED PUBLIC HEARINGS

13-017 339 & 345 Ocean Blvd. (continued from 6/5/13)

Map: 275 Lots: 61 & 67

Applicant: Richard Green, Green & Co. Real Estate

Owners of Record: Bertram & Darlene White (275, 61) & Ann Marie Clemence, Trstee of Rev. Trust (275, 67)

Site Plan: Construct building with 5,840 s.f. of retail space & 24 multi-family residential units. Project includes parking areas & will be serviced municipally.

Mr. Richard Green appeared with Joe Coronati of Jones & Beach Enginners , Attorney Peter Saari and Mike Witcher of Witcher Builders.

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Mr. Coronati discussed the DPW and the Board's consulting engineer's reviews. They noted that they have received the State shore land permit. He indicated that the plans have not been changed since the last meeting.

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Mr. McNamara asked about stipulations with the Board of Selectmen. It was responded that nothing had changed on the site plan due to the agreement. Mr. Steffen stated that Chief Silver's response was confidential. Mr. Lessard asked about Fire Prevention Officer Scott Steele responses. Mr. Steffen responded that the Fire Chief wasn't providing his comments until he reviews the building plan as part of the agreement with the Board of Selectmen which was provided earlier that day. It was noted that the Fire Chief has been provided a copy of the agreement and plan. Mr. Steffen stated he has not received any follow-up responses from the Fire Department. Mr. Lessard discussed the problem with the turning radius.

Mr. Steffen noted that the Fire Department did not have a representative at the May 22nd PRC meeting. He further noted that the plans have been revised twice, but has still not received follow-up comments from the Fire Department.

Mr. McMahon asked to have the Board of Selectmen's agreement addressed for the public. Attorney Saari explained the changes in height on the building plans. He stated that the original plan showed a height of 70 feet which has been reduced to 62 feet. Mr. Steffen then read the agreement. It was noted that it could be reviewed at the Planning Office.

PUBLIC

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Ms. Woolsey asked about floors between various buildings and whether they were concrete. It was responded "yes". It will meet codes. Mr. Olson asked about the elevator override. Mr. Witcher responded that they drafted the plan quickly; 62' is the maximum height; stair towers are still at 65'; in the middle of the building where the elevator override was is now proposed to be at a height of 62 feet.

MOTION by Mr. McMahon to approve the site plan with the stipulations contained in Mr. Steffen's June 14, 2013 Memorandum, and with the Stipulation agreement between the Board of Selectmen and Green and Company Real Estate, dated June 13, 2013. He stated that his only question is what to do about the Fire Department's review. He further stated that the motion is contingent on a resolution with the Fire Department and any other outstanding issues.

SECOND by Mr. Emerick.

Mr. Coronati noted that the Fire Department's only issue was the fire truck maneuvering. He stated it is tight, but it is the legal size. The rough opening hasn't changed.

VOTE: 6 – 0 – 0

MOTION PASSED.

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Ms. Woolsey thanked the applicants and others for their work and cooperation on getting this approval done.

IV. NEW PUBLIC HEARINGS

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. Olson informed the public that the Board wished to outline what has occurred with the project after the initial approval on May 1, 2013. He noted that this is a rehearing due to the lack of notice for one of the direct abutters. He discussed the parking lot reconstruction and the earthen berm along the marsh. He noted the concerns have been brought to the Board's attention relative to the snow storage location and potential for flooding. He discussed the Board revisiting the project and reviewing the minutes. He discussed the proposal for the earthen berm and how all were in agreement about it. He noted that the Board is fine with the project as it was approved.

BOARD

Mr. Emerick stated that he wanted a representative from the Conservation Commission to speak on the issues. Mr. George Dovas of the condominium association responded. He discussed the mandates from the Planning Board on the berm - the installation of 4" PVC piping in it to allow water to go through and to not allow any snow storage in there. He stated that they have paid an additional \$3,000 to build a berm--to be good neighbors.

Mr. Emerick asked about increased flooding caused by the berm. He feels the berm won't make a difference because it is a tidal marsh. Mr. Diener, Chairman of the Conservation Commission appeared. He noted that the berm was on the original plan, but never built. They also wanted the berm built to discourage people from parking in the unpaved area. He explained the breaks in the berm and four (4) pipes installed in it will keep water from backing up behind it.

Mr. Diener asked about the decision letter from the Planning Board dated May 8, 2013 and the acknowledgment about installing curbing along the southern edge of the property for run-off control. He questioned whether it should e along the entire southern edge of the parking lot. Mr. Olson responded that it was asked for to satisfy concerns of the direct abutter. The abutter did not want the buried telephone poles that are there now.

Mr. Diener's explained that the curbing that was installed only goes halfway down. The applicants stated that they did all they were asked to do and more.

June Black, 23 Meadow Pond Road appeared. She was not the abutter that didn't get notice. There was a discussion about the renote and the appeal period for any new decision

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by the Planning Board. Ms. Black asked about curbing people on the west side of the parking lot past her near Gentian Road. She stated it should help but she was wondering why it stopped where it did. She discussed her concern with water backing up on Gentian Road because of the berm. Mr. Lessard explained how the berm will function in its design and with the piping installed. She noted that she could not pave her driveway and wondered how all this new pavement got accepted. It was responded that when it was first built this was acceptable. What was there is “grandfathered”.

Attorney Mark Gearreald appeared. He discussed an abutter not being notified so the matter was noticed as a new public hearing. He recommended that the Board make a motion to vacate their May 1, 2013 approval, and then approve a new motion on the same basis, if that's the Board's inclination. Attorney Gearreald also asked the Board to discuss snow storage.

Mr. Olson asked if the plan for snow storage is any different than in the past – toward High Street. The applicants stated that they are doing the same as they've always done.

MOTION by Mr. McNamara to vacate the May 1, 2013 approval.

SECOND by Mr. Emerick.

VOTE: 6 – 0 – 0

MOTION PASSED.

MOTION by Mr. McNamara to approve the special permit with the stipulations that were attached to the May 1, 2013 approval.

SECOND by Mr. Emerick.

VOTE: 6 – 0 – 0

MOTION PASSED.

V. CONSIDERATION OF MINUTES of June 5, 2013

Mr. Lessard asked about the number of votes on 510 High Street; page 5 of 12. 510 High Street. It should state 6 – 0 – 1 (Mr. Lessard abstained).

MOTION by Ms. Woolsey to accept the June 5, 2013 with the above noted change.

SECOND by Mr. Lessard.

VOTE: 6 – 0 – 0

MOTION PASSED.

VI. CORRESPONDENCE

VII. OTHER BUSINESS

Attorney Peter Saari and Mr. Green and Mr. Whitcher reappeared. Attorney Saari stated that they had a concern about what the confidential memorandum from the Fire Department had in it. Mr. Green asked if the Fire Department has a problem the agreement plan what would then occur. Mr. Green explained that they have gone along with the request to lower the elevator tower as long as they can get that approved but he indicated that Attorney Upton has stated if they can't get it approved they could go back to the original plan. Mr. Whitcher stated the code

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should be satisfied with the proposed LU/LA lift. He noted that Fire Department has jurisdiction over any code requirement or book due to life safety matters and they could deny it. Mr. Lessard asked if their fire protection engineer has looked at the proposal. It was responded no they have not. There was more discussion about what would occur if the Fire Department didn't approve this plan. It was asked if an applicant could appeal its own case. Ms. Woolsey asked if she could call Fire Chief to try to get an answer.

Attorney Mark Gearreald appeared. He stated he is not involved in the negotiations because he represents the Board of Selectmen and the ZBA. The agreement is signed by Board of Selectmen and the applicants and it states that the height will be lowered and the variances granted will be relinquished where inconsistent. He recommended that the hearing on the application be continued to see what Fire has to say. He explained that it got approved based on the Stipulation and if the Fire Department does not like the new lift idea then the applicants want it to back to what they got the variances for. The stipulation is being filed with the Zoning Board of Adjustment. It was asked if Fire does not like the lift where does that leave the applicant. Attorney Gearreald suggests that they find out.

It was commented that Fire hasn't responded for two months. Mr. Olson commented that what the Planning Board approves will not affect the decision making by the Fire Department. Attorney Gearreald stated that if it is not approved by Fire and the notion that the applicants can go back to what they had would not necessarily be the case.

Mr. Green stated he would like to wait and see what happens with the Fire Department review. Mr. Olson asked if they would be agreeable to continuing this application for the Fire Department's answer. The applicants stated "no".

- Audit of Existing Zoning Ordinance and Site Plan Review Regulations and Hampton Downtown Village Corridor Zoning Options - Discussion with Jack Mettee, Consultant

Mr. Mettee addressed the Board. The Town of Hampton accepted a planning grant to get ideas on downtown issues and to come up with plans and regulations. Creating a more village type environment in the downtown was discussed. He discussed the Charrette held in April of this year. He stated he has heard conversations regarding the downtown and noted there is public support for zoning Changes to bring about improvement to the downtown.

Mr. Mettee discussed the work of the Advisory Committee. He noted there are business folks on the committee, as well as Mr. McNamara from the Planning Board. Mr. Mettee discussed the results of the Charrette with regard to zoning and site plan regulations and wanted to have a conversation with the Planning Board about this. He mentioned the discussions he has had already with Advisory Committee about the land use regulations audit and the zoning options for the downtown village center / corridor.

He discussed the Zoning Ordinance audit and highlighted some of the areas that he feels should be changed, which includes the sections on zoning districts, parking and signs. He also mentioned possible changes to the change of use procedures.

He discussed some of the parking issues in the downtown and noted that he would discuss later ways to minimize the need for variances on parking for future developments.

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He discussed possible changes for sign regulations that would distinguish the downtown area from other commercial zones and create a distinct character for the area. He also mentioned that they will be looking at the Transportation Corridor Overlay District – the rail corridor and the Professional Office / Residential District.

He then discussed the site plan review regulations and developing specific standards for changes of use in the downtown village area as well as for building and construction. He would like the Board to address what type of regulation we want in the downtown area.

Mr. Mettee then discussed the four (4) zoning options outlined on the sheet that was provided to the Board and is available for review in the Planning Office.

He briefly outlined the options of doing nothing; creating a new zoning district or overlay district and then he explained the form based codes option. He stated form based codes are building design and mass oriented - it is the form of a building itself not the use. He explained that uses change, but form of the building is for the form of the building alone. He then discussed creating the code by getting public input and deciding what the area of interest is and trying to replicate what we like in the area into a future code.

He then outlined creating a new zoning district for the area which could be called a Village District with new permitted uses and design standards and dimensional requirements specific to that area.

He commented that rezoning and creating new zoning lines can be a problem to landowners. He suggested that the zoning districts could be left as is and the Town could create an overlay district. He explained that this would allow the current owner the option to do what they do in an underlying zone, but if they want to do something more consistent with village environment they utilize the overlay district requirements. He explained with this approach the Town would have to provide the incentives for landowners / developers to utilize the overlay district standards.

He asked for the members input on what they preferred for the zoning option. He indicated that we could start out going in one direction but he wants to avoid getting too far along in the process and then changing course.

BOARD

Mr. Emerick stated he likes the form based code; he does not like our use change requirements. He feels it's an impediment to free enterprise. He does not like the idea of re-zoning. He indicated the overlay district would be his second choice.

Mr. Steffen stated it would have to be called a different name such as the Village Center District. Mr. Mettee commented that changes of use are always annoying in many towns. He asked the Planning Board to look at its change of use provisions.

Mr. Emerick discussed development standards. The beach area has a casual set of standards that are not enforceable. He stated he doesn't know how to do that downtown. He asked who is in charge and noted that we need help with that.

Mr. McMahan stated he likes the new zoning district approach but he sees difficulties with it. He noted that automobile uses in the current district in downtown get brought up often. Mr. McMahan also stated that he likes parking in the rear with the stores/businesses up front.

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Mr. Mettee discussed some of the problems with establishing form based codes in communities and noted that some are scrapping their codes because they are working. He discussed developing a hybrid code as an alternative. He encouraged the Board to think about the issues we have in downtown and think about ways we can minimize those through zoning and development regulation changes.

Mr. McNamara stated that he prefers the Village Overlay District. Mr. Mettee responded that incentives would need to be thought up for this approach.

Mr. Lessard wanted “Downtown” to be defined. He doesn't know what this plan will do. Mr. Lessard noted he asked about moving CVS pharmacy building forward at the onset, and no one was interested. He discussed having stores downtown with an entrance from Town parking lot as well. Mr. Lessard asked Mr. Mettee about downtowns that he knows of that work. He asked where parking will come from.

Mr. McNamara discussed business owners in the downtown that are interested in sharing parking.

Ms. Woolsey stated she thinks this is a waste of time. She commented that 90 percent of the Town doesn't really care; she does not hear screaming from the public to do something. She mentioned a concern about liability of shared parking. She stated that people may get angry if the zoning changes.

Mr. Olson stated he brought up form based codes previously with the Planning Board. He thinks it is intriguing and appropriate. He stated he welcomes Mr. Mettee bringing his ideas to the forefront.

Mr. Emerick commented that he has no problem with the overlay district proposal.

Mr. Mettee discussed the issues with doing a form based code in Hampton and noted that form based codes are about consistency and may not work in places where you have a “hodgepodge” of development like downtown Hampton. He discussed the character of development in downtown Hampton. He thinks it's more traditional 19th Century and not the mini-mart but others may not agree.

Mr. Mettee summarized what he heard for input from the Board and noted the general consensus that he had gotten. He discussed doing an overlay district with a form based code component that would emphasize design over use.

Mr. Mettee mentioned that Barnstable village on Cape Cod is an example of a great strip village and is worth checking out. He discussed the geography of downtown Hampton as being from Rt. 27 to the Winnacunnet Road / Lafayette Road intersection. He asked if it should be extended further south to Drakeside Road and north to around the Hannaford grocery store.

VIII. ADJOURNMENT

Mr. Lessard asked that the Planner visit with the Town Attorney on the 609-611 Ocean Blvd site plan issue to see that it is done properly. He should check into the use of easement for traffic flow.

MOTION by Mr. Emerick to adjourn.

SECOND by Ms Woolsey.

VOTE: 7 – 0 – 0

MOTION PASSED.

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MEETING ADJOURNED: 8:45 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**