

HAMPTON PLANNING BOARD

MINUTES

September 4, 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
Mark Loopley
Jamie Steffen, Town Planner

ABSENT: None

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.

Mr. Olson noted that the Board had a continuance request for the 609 and 611 Ocean Boulevard application. It was requested to be continued to the November meeting.*

MOVED by Mr. Emerick to continue the matter to the November 6, 2013 meeting.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

II. ATTENDING TO BE HEARD

- 431-435 Ocean Boulevard/Proposed 23 Unit condominium project - request for extension of Planning Board approval

Mr. David Keir appeared. He requested an one year extension on this approval. This is for the site plan and the special permit applications. Mr. Steffen stated the Board could grant a one-year extension for both. They are tied together. Mr. Lessard questioned that.

Mr. Jay Diener Chairman of the Conservation Commission appeared. He stated that he felt that they should not be tied together. Mr. Steffen noted that the last extension was to expire on September 17, 2013. There was discussion about the State permit expiration. Mr. Lessard noted that the State permit should expire in December of 2014. Ms. Dionne, Conservation Coordinator, noted that the special permit can only be extended twice. Each extension is for two years; for a total of six years. She stated she wasn't sure what number extension they were on. It was noted that he has one year left on his special permit. The State permit was issued in 2009. The Planning Board discussed extending both approvals one year

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from this date. The expiration for both the site plan and special permit will be December 12, 2014.

MOTION by Mr. McNamara to grant the extension for one year with both the site plan and special permit approvals to expire on December 12, 2014.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

III. NEW PUBLIC HEARINGS

Mr. Olson recused himself and Mr. McNamara stepped in as Chairman.

• 4 North Shore Road
Driveway Permit Appeal

Ms. Joan Kelly appeared. She is requesting approval to have 11 feet over the allowed 24 feet of width for a driveway. The property is located at the corner of North Shore Road and Woodland Road. She discussed speeds and stated that backing out of her current driveway is dangerous. She explained that they added a separate area of gravel driveway. She stated she has contacted Police Department for a stop sign at the intersection as well. She mentioned that a speed study was also conducted. She stated that they would like two ways to enter and exit their property.

Mr. McMahan asked if this is an after the fact request. She stated yes. They had a driveway permit - someone from DPW stopped by and stated they need approval for their gravel pathway as they went over the width allowed.

Mr. Lessard asked if the new driveway would be used for parking or for access. She stated it would allow company to be able to exit without backing out onto a busy road. It is not adjacent to the existing driveway. After question from Ms. Woolsey Ms. Kelly stated that there are granite stones, but no wall or steps at the end of the driveway.

Mr. Emerick stated that he has the same situation at his house and has a lot of empathy for her.

Mr. Lessard asked if it would be paved egress as the Town requires a three-foot wide paved area from the edge of the pavement. He stated that the Planning Board would like her to know there needs to be a paved apron of bituminous asphalt between the end of the driveway and the edge of the road. There cannot be pavers where her driveway ends to the road.

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MOTION by Mr. Lessard to approve the after-the fact driveway permit noting that the applicant will have the driveway location surveyed, i.e. have the distance from the edge of the driveway to the nearest neighboring driveways. He reiterated the need for a paved driveway apron of bituminous asphalt at the street edge in compliance with the Driveway Regulations. The applicants will re-submit the driveway permit to the DPW with their check in the amount of \$50.

SECOND by Mr. Emerick.

VOTE: 6 – 0 – 0

MOTION PASSED

13-039 32 Nor'East Lane

Map: 99 Lot: 2 & 3

Applicants: Town of Hampton & Michel & Charlotte Lapierre

Owner of Record: Michel & Charlotte Lapierre

Special Permit: To buttress 325 l.f. of sea wall with armor boulders & to add 40 l.f. of armor boulder sea wall to provide protection to structure.

Mr. Dennis Moulton, engineer with MSC Civil Engineers, appeared. Michel LaPierre, the owner, was in the audience. The project is a reconstruction of a storm boulder wall that runs between 16 and 32 Nor'East Lane. There are currently storm boulders in front there as well. They would like to build a new stone wall in front of the concrete wall to provide additional protection for the homes.

It would begin #12 Nor'East Lane to the beach. Most of it is on Town property. The new stone wall would be 15" to 18" above the current stone wall.

He showed where the trucks would enter to bring in the material. It will be brought in by Ancient Highway. The site will be restored to its current condition after the project is completed. He noted that the proposed stairs were discussed by Conservation Commission and the steps will not project out too far per their request.

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Mr. Emerick asked about the application being one applicant but with five addresses. It was noted that they put in one application since it is being done on Town of Hampton property. This was discussed with the Planning Department. The other property owners are on board, but Planning needs need letters of authorization from the other owners. Mr. Moulton will get a letter from all five property owners. Mr. Steffen all owners were noticed. Mr. Lessard asked why some are getting stone stairways and others wood.

Ms. Woolsey asked who would be paying for this. Mr. Moulton indicated the five property owners would be. She asked if anyone thinks this will stave off the ocean.

Ms. Woolsey asked about the step wall and requirement for railings. Ms. Woolsey asked what is at the top of the steps. There is a 12" to 18" drop.

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Ms. Woolsey asked about liability insurance for the Town. The Town Manager stated that the Board of Selectmen will require insurance - it's usually \$2 million per annum. He discussed several issues related to this work. There should be an article for this year's Town Meeting. The steps are on Town property and the Town is responsible for them. This is going to cause a problem. This would be for individuals to get their own insurance. People can walk up the stairs, but not go onto private property. Equipment is allowed from September 15th through April 15. They cannot bring the equipment in through Ancient Highway.

Mr. McMahon asked about the existing concrete wall being on Town property. Mr. Moulton responded that he thinks it is not, but he is not sure. There will be four stairways; one for each of the four properties.

Mr. Moulton thinks the wall will help with the high tides because the concrete wall is not as strong.

Mr. Lessard discussed Sheet C-3 of the plans and construction of stone stairwells - east/west. Mr. Moulton responded that he did not have time to make the change so the plan is incorrect. It will be revised. One property will not have steps.

Mr. McMahon asked who is responsible for maintenance. Mr. Moulton stated he believes the property owners will be responsible for maintenance. Mr. McMahon asked about stairwells at North Beach (Winnacunnet Road) – if Mr. Moulton has seen how the water travels. He asked if that could happen here as well.

Ms. Woolsey discussed insurance and railings. She stated that 19” or higher needs a railing. Mr. Moulton would be amenable to having railings on the seaboard side of stairs. On one side is fine.

Mr. Lessard wants cleaner pictures for each property and letters. Ms. Woolsey agrees with Mr. Lessard. Mr. McNamara stated a letter from each person should be fine. They have to agree with the Town and stipulations regarding insurance, etc.

MOTION by Mr. Emerick to approve the special permit with the following conditions: 1) letters of concurrence the four property owners involved; 2) a handrail shall be added to each stair unit to seaward side of stairs; 3) clearer drawings/plans shall be filed with the Planning Office depicting more detail in the drawings (noting where stairs are being removed as well), and 4) in accordance with the stipulations contained in the Conservation Commission's letter dated August 30, 2013. It was noted that any additional requirements requested by the Board of Selectmen would be need to be met as well.

SECOND by Mr. Lessard.

VOTE: 7 -0 – 0

MOTION PASSED.

IV. CONTINUED PUBLIC HEARINGS

13-025 609 & 611 Ocean Blvd. (continued from 6/5/13)— Map: 235 Lots: 13 & 14
Applicant: 611 Ocean Blvd, James Broderick, III, Sandra Puzzo & Francis & Mary
Broderick
Owners of Record: Same

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Special Permit: Remove existing pavement, reconstruct subgrade & regrade drive area & repave lot within same footprint & to the same grade.

***NOTED ABOVE -- TO BE HEARD NOVEMBER 6, 2013.**

13-034 North Shore Road (incorrectly noted on agenda as “133”) (continued from August 7, 2013)

Map: 133 Lot: 17

Applicants: Nicholas & Cornelia Bolton

Owners of Record: Same

Special Permit: Construct new dwelling with attached garage, rain garden and associated grading.

Mr. Henry Boyd of Millenium Engineering appeared. He stated that he appeared a month ago but this matter was continued because he had not appeared first before the Conservation Commission. He has gone to the Conservation Commission and as a result made some changes to the plan. Mr. Boyd went through the changes. The location of the garage was discussed. The builder does not like where the Conservation Commission wanted the garage to be located. The no-build easement has become a no-build/conservation easement. As part of that easement there would be a 5' wide pedestrian access way given to the Town.

The rain garden was discussed. He discussed keeping people out of the buffer zone. A 5' high metal post will be added. He noted that they are offering an easement over a piece of land that is nearly the same size as the lot in the zone – it is nearly 14,000 square feet in size. The plan will memorialize that easement. The builder has stated that the deck has to stay in the rear - the Conservation Commission would like it on the east side of the house. Mr. Boyd noted that only 5.4% of the lot is sealed surface.

Mr. McNamara asked about stairs off of deck. There will be no stairs off of the deck.

Mr. Lessard asked about the elevation of architectural drawings for the back of the house. Mr. Boyd can get that for the Board. The elevations under the deck and the surface of the deck were discussed. Mr. Boyd stated that it would be about four feet. Mr. Lessard stated that he thinks they should allow them the steps off the deck for their safety. It would be 7 or 8 steps.

Mr. Loopley asked if the stone wall would be moving. Mr. Boyd stated “yes”. Mr. Lessard asked about steps in the front of the house. There will be a breezeway. There will be no front door.

Ms. Woolsey stated that the whole area is a rain garden; it is very wet. She hates that Hampton is building on every wetland we can find. Mr. Loopley said the Conservation Commission does not want to go to this plan. Ms. Woolsey was concerned about the impact on the Town as far as drainage costs.

Mr. Steffen stated that the proposed Conservation Easement may require acceptance by the Board of Selectmen and noted that this could add up to six weeks of time on the approval

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end. Mr. Boyd stated his clients have given a lot. Mr. Emerick stated that he doesn't think this is contingent on the RSA 41:14-a process.

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Mr. Jay Diener of the Conservation Commission appeared. He stated that the Conservation Commission has had a problem from the outset with this project. Buffers all serve a purpose. He noted that in the past, they have permitted some work to be done within the 50' buffer, but never a home within the 50' buffer. He did vote in favor for this project because of the Conservation Easement. He felt that this offsets some of the damage done in the wetlands. It will be a naturally-vegetated habitat. It sets a precedent for anyone who wants to do work within the 50' buffer; that they can't do it for free. Mitigation is a requirement. He would not have supported this application without the mitigation.

Mr. Boyd responded that it doesn't necessarily have to be deeded to the Town. They can restrict the use of the property. It can be somebody else's easement. It could be restricted on the deed. He doesn't want this approval held up for six weeks.

Ms. Rayann Dionne appeared. She discussed the location of the deck. She explained that the Conservation Commission wanted the garage and the position of the house flipped. The reason being that is that it wouldn't encourage a future homeowner to encroach into the buffer area later with something. She stated that she was disappointed with the builder because she thinks the deck could be moved. She sees a future violation with their plan. Ms. Dionne noted that other Conservation Commission members are also upset about the deck and the fact there are no stairs. She stated that the deck is like a second story with no egress.

Ms. Dionne stated that with regard to the easement it does require detail with the drafting of them. The conservation easement should be drafted and recorded before the property changes ownership so they won't have to chase down a new owner. The deed for the property should be reviewed a.s.a.p. so that reference to the conservation easement is noted on the new deed. Ms. Dionne stated that she did not see a note about the 25' buffer staying in a natural-vegetated state. Mr. Boyd responded that he will add that to the plan. This note needs to be on recorded plan – 25' buffer will remain in naturally vegetated state.

Mr. Boyd discussed the easement being recorded. His clients are selling the lot to a builder. He suggested that the Certificate of Occupancy (CO) cannot be issued on the house until the easement is in place. There is a timing issue with the CO and the deeding.

Fred Welch, Town Manager appeared. He discussed the 41:14-a process. He noted that Town counsel would be back in the office on Monday and could be consulted on this. He discussed that the Board of Selectmen must accept certain easements. Mr. Welch stated that he cannot change the law. He noted that some other organization could hold the easement, but we wouldn't know the answer until the Town Attorney returns. If it's given to someone else then the applicants don't have to go through the RSA 41:14-a process. There may be a hold up on going through that process. The easement will have to be enacted before it can be transferred from the current owner.

The no build easement was discussed. It changed to no build conservation easement.

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Mr. Emerick believes the Board should make it a no-build easement and not a conservation easement. Mr. Boyd again stated he would like to couple it with the CO. He stated if the current owner wants to do a conservation easement there will be a process. He discussed the building permit process and the CO depending on conditions. There can be conditions on the plan. He stated if the “no build” is not recorded it's not worth anything. Mr. Boyd further stated that it will be on the plan and the deed before the property is transferred.

Mr. Olson asked Mr. Boyd will he would mind waiting to hear what the Town Attorney says.

Mr. McMahon asked about granting it to another entity, such as the Society for the Protection of NH Forests. Mr. Olson stated that the conservation easement will be granted for the parcel that is shown.

Mr. Olson asked about the foot path and why the Town needs that piece of land.

Mr. Diener stated he has no issue with anyone else holding the easement. He discussed a no build easement. His concern with a ‘no build easement’ is that one can still do a garden, take down trees, etc. The Conservation Commission wants it preserved as it is. The footpath is for monitoring purposes only. Mr. Boyd noted that some conservation groups won't take certain properties.

Mr. Lessard asked if there is a no build easement with a letter of intent from the current owners to the future owners – a promise – that they will then pursue the RSA 41:14-a process would that work.

Mr. Welch discussed the applicants executing the easement to the Conservation Commission. They could possibly hold it until such time as they bring it to Selectmen for acceptance and then it could be filed with the Registry. It would be like a contingent deed on the property. The applicant would need to give notice to the future buyers.

Mr. McNamara asked about the deck being on the easterly side.

MOTION by Mr. Lessard to approve the special permit with the revisions noted on Plan dated 8/28/13, Lot 17 and the following conditions: The legal process will not be an impediment to the transfer of the property. The special permit is contingent on the no build conservation easement. The Planning Board would like the applicants to be able to transfer the property but the legalities with the RSA 41:14-a process need to be followed. The easement will go to the Conservation Commission, who will hold it until the Town goes through the RSA 41:14-a process. There will be something in writing. It will be between the seller and the Conservation Commission. It will not be tied to the Certificate of Occupancy (CO).

It shall also include the other stipulations from the Conservation Commission’s letter except for the deck. The Planning Board agreed to the deck remaining where it is proposed and the 25' buffer is to remain in its naturally-vegetated state.

SECOND by Mr. Emerick.

VOTE: 5 – 2 (McNamara & Woolsey) – 0

MOTION PASSED.

V. CONSIDERATION OF MINUTES of August 21, 2013

MOTION by Ms. Woolsey to accept the August 21, 2013 Minutes.

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SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

VI. CORRESPONDENCE

Mr. Steffen read the notice for the GACIT hearings on the NHDOT Ten-Year Transportation Plan FY 2015-2024. The plan has not been released. It will be available for viewing on the NHDOT website prior to the first public hearing, which is September 9th in Charlestown. There will be a hearing in Epping on October 9th at 7:00 PM at the Town Hall and October 16th at 7:00 PM in Portsmouth at the Pease Transit Center. Mr. Steffen will email this document to the Board.

Mr. Steffen discussed the Regional Master Plan Update correspondence from the RPC and the schedule for public input sessions. Mr. Steffen will email the Board this information as well and it is also available at the Town Hall.

Mr. Lessard mentioned sending a team to report on the meeting of the legislative commission examining the projected sea level rise and coastal hazards issue so that our residents are informed. There was a brief discussion about the intent of the first meeting and other similar efforts going on simultaneously.

VII. OTHER BUSINESS

Mr. Steffen discussed zoning ordinance amendments. He noted the proposal from the Town Manager on behalf of the Selectmen for the personal wireless services ordinance. Counsel can come in again to meet with the Planning Board on this one. He could put this one on for the next meeting.

Mr. McMahon discussed other warrant articles, such as height at the beach, driveway issues; and impervious surface change from the Conservation Commission. He noted that the Planning Board will need time to work on these. Mr. Steffen will get a list together a.s.a.p. and start working on them. Mr. Steffen handed out excerpts from the 2008 proposal dealing with addressing building height issue and dimensional requirements, as well as parking requirements. He asked the Planning Board if it would like to revisit these. He noted that he will email them out for the next meeting. Mr. Olson asked him to focus on the following items: personal wireless services ordinance, height of buildings, conservation commission impervious lot coverage, driveway permit issue (not a warrant item) and rezoning of downtown.

Mr. Lessard asked about the parking issue for condominium conversions. This would also be zoning.

It was asked if the height restrictions should be made Town wide.

VIII. ADJOURNMENT

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MOTION by Mr. Emerick to adjourn.

SECOND by Ms. Woolsey.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 9:15 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