

HAMPTON PLANNING BOARD

MINUTES

January 15, 2014 – 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:

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

- **Change of Use – 395 Ocean Blvd. (Vacant: Prior Donut Shop to Real Estate Office)**

Mr. Tom Higgins appeared. He stated that he would like to change a vacant commercial unit to a real estate office.

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

SECOND by Mr. McMahan.

VOTE: 7 – 0 – 0

MOTION PASSED.

- **Carl McMorran, Aquarion Water Company – Customer Advisory Council**

Mr. Carl McMorran appeared. He discussed the council's purpose. Aquarion would like to hear from customers regarding water and environmental issues in the community. He mentioned the issue with tall buildings. He noted that the council meets three times a year. The next meeting will be in late March or early April. He closed by saying that people may contact him directly and the town planner has his contact information.

Ms. Woolsey stated that it was good to have a say in what's going on around town. Mr. McMorran noted that there is no limit on how many people can attend. He also noted that it is not a requirement of the Public Utilities Commission (PUC).

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MOTION by Mr. Lessard to hear the Planning Board applications before the Zoning Ordinance amendments public hearings.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

III. NEW PUBLIC HEARINGS

(Order changed per Planning Board)

13-047 62 Little River Road

Map: 129, Lot: 7 and Map: 128, Lot: 19

Applicant: Jack Goodwin

Owner of Record: Jack Goodwin (both lots)

Lot Line Adjustment: Eliminate 97.43 feet between 62 Little River Road & 54 Little River Road. 62 Little River Road will increase by 17,165 square feet.

Mr. Jack Goodwin appeared along with his wife. He stated that they would like a portion of the lot they purchased to be attached to their current property. The other land would be available to possibly create a house lot in the future if they so wish. The property already has a garage built on it.

BOARD

Ms. Woolsey stated that she thought the subdivision is a good idea.

PUBLIC

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

SECOND by Ms. Woolsey.

VOTE: 7 – 0 – 0

MOTION PASSED.

13-049 1036 Ocean Blvd.

Map: 116, Lot: 18

Applicant: Howard Elias

Owner of Record: Same

Special Permit: Repair of existing revetment. Existing revetment will be torn down & rebuilt in the same location.

Applicants were not present.

MOTION by Mr. Lessard to continue 1036 Ocean Boulevard to the end of the meeting

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

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IV. OTHER BUSINESS (Order changed per Planning Board)

- JASAND Subdivision, Juniper Lane & Huckleberry Lane – Recommendation on acceptance of the drainage easements under RSA 41:14-a.

Attorney Gearreald appeared. He discussed the RSA 41-14-a process. He noted that the Planning Board approval of the subdivision goes back to May 16, 2012. It was granted a one year extension in May of 2013. He noted that there were a number of easements involved.

Mr. Jay Diener, Chairman of the Conservation Commission appeared. He discussed the location of the subdivision and the proposed easements. He noted that it backs up to Great Meadow swamp.

Atty. Gearreald discussed the Planning Board's decision letter. He discussed the proposed infrastructure, the vegetated drainage swales and the gravel wetland drainage structure. He commented that the Town doesn't have a way to take care of the maintenance of the gravel wetland should it need to step to handle it. The maintenance is proposed to be handled by the homeowners association. He suggested that the Board's consulting engineer in the future provide an idea of the useful life of these types of systems once they are built and the likely costs of maintenance. He stated that he felt that these projects should be bonded to ensure that the maintenance can be performed in the future. He noted that he and Attorney Peter Saari had agreed upon the language for the easement with the help of the DPW. It was noted that the easement lines are tight around the infrastructure and that the as-built structure should be within easement lines. He stated that this should be checked by the Board's inspector and should be included in the bond.

Mr. Diener stated that the Conservation Commission's concern was that the Town didn't have assurance that the drainage structures would be installed where they were supposed to be installed.

Attorney Gearreald again said the Town should receive expert input on how long the system will last and what the maintenance requirements may be. Mr. Olson discussed inheriting problems. Mr. Gearreald also stated that they must be built the way they were proposed.

Mr. Steffen noted that the bond was for completion of the road and utilities. This would be a bond for maintenance of the drainage structures. Mr. Emerick commented that we received bonding for completion, not for how long something would last.

Mr. Lessard commented that he wants to know what DPW wants for these systems. He discussed the Sherburne Drive development and other similar projects and what was required for those. He asked how long the bond would be in place, i.e. infinitely. He asked where we were more concerned--narrower drainage swales or systems between buildings or gravel wetlands. Attorney Gearreald advised the Board to be cognizant of projects the Town does not have the manpower to maintain. Mr. Lessard asked if the Town just didn't have the manpower. Atty. Gearreald replied it was manpower and expertise.

Mr. Emerick commented that individuals or homeowners cannot get bonds.

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Ms. Woolsey commented that she was concerned about allowing drainage systems that may have problems in the future that the Town can't take care of. Building in marginal areas was discussed.

Mr. Lessard commented that the Town never wanted to own the easements and discussed the history of easements and bonding of them.

Mr. Diener commented that the only issue for Conservation Commission is that these drainage features are becoming more sophisticated so the maintenance becomes more demanding. They are worried that property owners may not be able to maintain the drainage systems.

Attorney Gearreald again stated that he and Attorney Saari (after the fact) have come to an agreement with input from DPW on the proposed wording for the drainage easements. He commented that he was not sure what the Selectmen will do with it. He advised that the Planning Board be more specific in the future on the responsibilities for these systems and what role the Town will have in them. He noted that it was important to get the message to DPW that the Planning Board needs their input on these systems during the PRC process. He advised that these matters be brought to the Selectmen for their input before the Planning Board it gets to this stage. He commented that he thought the EPA may force the Town to do this and stated that the DPW was comfortable with the new language.

Mr. Lessard commented that it had been almost two years now since the Board had heard this project. Atty. Gearreald responded that he didn't get the easement documents until the fall of 2013. There was discussion about the drainage structures being built where they were approved and inspections performed. Mr. Diener asked if the as-built plan is correct. Mr. Steffen replied that the construction of the drainage structures have been inspected and built according to the approved plans.

MOTION by Mr. McNamara to recommend acceptance by the Town of the drainage easements with the Conservation Commission's concerns noted in their letter of January 14, 2014. A letter stating this shall be forwarded to the Board of Selectmen.

SECOND by Mr. Emerick.

VOTE: 6 – 1 (Woolsey) – 0

MOTION PASSED.

- Capital Improvements Plan (CIP) 2014-2019 Report.

Mr. Emerick discussed the CIP report. He noted that two projects were added to the Town submittal - the sea wall reconstruction at the end of High Street (Bicentennial Park) and the Grist Mill Dam reconstruction project. This will be put on the Town website; Laurie will put on line with all documentation. Spreadsheets will go to the Selectmen.

MOTION by Mr. Lessard to forward the 2014-2019 CIP to the Board of Selectmen.

SECOND by Mr. Loopley.

Ms. Woolsey commented that she thought the threshold was way too low. She stated that she thought taking a look at bonded projects was more realistic. Bonded indebtedness was

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discussed. She felt that the bigger projects should be looked at. Mr. Emerick noted that the CIP Committee wanted to stick with the \$75,000 amount.

VOTE: 6 – 0 – 1 (Woolsey)

MOTION PASSED.

- **RPC Alternate position**

Mr. Steffen stated that now that Barbara Kravitz has been appointed to the regular position there is an alternate position open. Mr. Steffen further stated that he could do another position opening announcement. The Board agreed and decided to vote on the candidates at the next meeting on February 5th.

III. NEW PUBLIC HEARINGS

PUBLIC HEARING FOR ZONING ORDINANCE AMENDMENTS

1. Amend Article III, Use Regulations by deleting use number 3.46 in its entirety; Article IV Dimensional Requirements by deleting footnote 29 in its entirety and to substitute in their place “Martial Arts Weapons” as use number 3.46. Use number 3.46 would describe “Martial Arts Weapons” and set forth zoning restrictions for the use.

Mr. Steffen read the proposed Martial Arts weapon wording and noted it was available at the Town Offices.

Attorney Gearreald stated that the existing wording in the Zoning Ordinance does not articulate by zone where they are allowed and now it does. It also adds the display aspect to the Zoning Ordinance which is currently in the Town Ordinance. He commented that the Zoning Ordinance provisions could be enforced by an injunction; the Town Ordinance would be by a fine.

PUBLIC

Mr. Arthur Moody appeared. He stated that he would like to protest the fact that the minimum requirements were not met for posting of the zoning articles. He noted that Town Counsel stated that the deadline was Friday January 3rd. He stated that he attempted to get the full text at 4:15 p.m. and it was not ready and the library was closed all day. He commented that he felt that this was a Selectmen's article, not a Planning Board article. Mr. Moody discussed the Business-Seasonal District where these sales cannot occur within 2,000 feet – about half a mile- of a State Beach or Town Beach. Mr. McNamara stated that it was duly noted.

Mr. Steffen noted that the legal notice was posted Friday – at the Town Offices and the Post Office. It was also posted on Saturday at the Library with the full amendment wording. Mr. Steffen stated the proposed language was available in his office on Friday, January 3rd.

Mr. Steffen explained that the proposed article was sent to the Planning Board by the Town Manager on December 4th and Planning Board at the December 18th meeting decided to

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hold the public hearing on it at this meeting. He further explained that this was the first hearing on this article.

Mr. Moody stated that for previous public hearings the full texts were posted on the board at the Library, but as yet, the full text of these amendments were in a binder at the back of the Library.

MOTION by Mr. Emerick to move the proposed amendment as written to the ballot.

SECOND by Mr. McNamara.

VOTE: 7 – 0 – 0

MOTION PASSED.

2. Amend Article II – Districts in the following manner:

- Change a portion of the Business-Seasonal (BS) zoning district to the Business-Seasonal 1 zoning district (BS1);

- Revise the Zoning Map to incorporate the Business-Seasonal 1 (BS1) zoning district. Amend Article III - Use Regulations to add a new use regulation (Section 3.44.1) for properties within the proposed Business-Seasonal 1 zoning district that limits the use of the first twenty-five (25) feet of depth of the ground floor of any building measured from the front of a structure to professional-commercial-retail uses permitted in the Business Seasonal (BS) zoning district.

Amend Article IV – Dimensional Requirements Table to add the proposed Business-Seasonal 1 zoning district requirements which includes a building height allowance of seventy (70) feet with the exception of unoccupied architectural appurtenances which may extend to a point no greater than eighty (80) feet in height. Structures would be prohibited from casting shadows on the sand on the easterly side of Ocean Boulevard prior to 6 pm from May 15th through September 1st.

Mr. Steffen stated that this was the second public hearing for the amendment since the Board made substantial alterations to it at the first hearing. He noted it is now proposed Business-Seasonal 1 (BS1) District. He noted that there was different language for the use regulation as far as first 25' of depth of the ground floors - it's proposed to be worded professional-commercial-retail uses. He further noted that the Board amended the footnotes on building heights to take out the detailed wording on appurtenances.

BOARD

Mr. Emerick stated that he thought that the letter submitted by Atty. Ells was quite significant. Mr. Steffen displayed the proposed BS1 Zoning District map.

PUBLIC

Attorney Stephen Ells, 13 Homestead Circle, appeared. He stated that he was supportive of the Board's efforts to fix building heights. He noted that the proposed amendments to

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Article VIII – Multi-family Dwellings were a positive change as well. He noted that both proposals would result in more certainty for landowners and reduce the workload for the ZBA.

He stated that he thought the wording would though create a new issue and require variance for virtually all new projects along Ocean Boulevard. He discussed shadowing and stated that most buildings would become non-conforming with this change. He discussed the shadow effect for the B, C and D blocks. He discussed the width of the A, B and C blocks the boulevard being at its widest point there.

He discussed modifications of non-conforming uses and suggested that the Planning Board consider dropping from the proposed article the final sentence that deals with shadows on the beach. He felt with future studies perhaps the Planning Board could re-visit it. He stated that he saw unintended consequences. He noted that an in-house architect from Whitcher Builders assisted on the on shadowing survey.

Mr. Fred Rice appeared. He stated that he thought that visitors leave the beach by 4, 4:30 or 5:00 to eat. He could see that shadowing might be a problem earlier in the day and stated he thought 6:00 p.m. was an unreasonable time. He discussed the Seashell Complex casting a large shadow now. He suggested that the Board take out that language for now and re-visit it at another time.

Mr. Arthur Moody appeared. He stated that he spoke against this proposal at a prior meeting. He discussed congestion in the streets and the concentration of population. He discussed widening the Hampton River Bridge. He discussed nuclear evacuation. He read the existing wording in Section 2.1.3 and discussed that all amendments to the Zoning Map also have written descriptions. He stated that we need to follow the Zoning Ordinance with proposed changes.

BOARD

Mr. Loopley is concerned that if we strike that sentence on shadowing it would be a substantial change which couldn't be done at that point. Mr. Emerick stated that he would prefer to leave it in and have individuals go for a variance. Mr. McMahon agrees with Mr. Loopley and Mr. Emerick. Mr. McMahon stated if we needed to we could relook at the shadow issues and make changes then. He stated he does not want to lose the heart of the amendment. They may have to get variances on shadows. He wants to see the Ordinance get adopted. There was discussion about changing the applicable dates but it was decided that even that would be a substantial change. The Board felt that it was up to the public to see if they will support it or not.

Mr. Olson read the letter from John Nyhan speaking on behalf of the Hampton Beach Area Commission (HBAC). He noted that most of the HBAC were in favor of the proposed amendment. The letter is available at the Planning Office.

Mr. Olson stated that this proposal was debated at length. He stated he felt that the Planning Board had come up with a proposal that was fair and reasonable. Mr. Olson questioned that accuracy of the shadowing map.

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Mr. McNamara noted that if the Board were to change it would require another public hearing. Atty. Gearreald discussed the requirements of RSA 675:3.

MOTION by Mr. McMahan to move the proposed amendment as written to the ballot.
SECOND by Mr. McNamara.

Ms. Woolsey stated that she had two areas of concern. She agreed with Mr. Moody's comments on Section 2.1.3 on the description of the proposed zone. Attorney Gearreald stated that he discussed this issue with Attorney Peter Loughlin.

Ms. Woolsey discussed her concern about height and water pressure and the need possibly for pressure tanks on the roofs.

VOTE: 6 – 1 (Woolsey) - 0

MOTION PASSED.

3. Amend Article VIII – Multi-Family Dwellings by adding wording that exempts proposed developments within the Business-Seasonal zoning district and the proposed Business-Seasonal 1 zoning district from conforming with the standards contained in Sections 8.2.1 (recreation area per dwelling unit), 8.2.2 (frontage), 8.2.3 (40 foot building setback), 8.2.4 (25 foot driveways and parking areas setback) and 8.2.6 (open space buffer).

Mr. Steffen noted that the amendment was receiving a second hearing because it was substantially altered at the first meeting. It is no longer proposed as a sub-district. He also noted that the Planning Board added Section 8.2.6 to the exemptions. He noted that Section 8.2.5 would be the only one that would apply.

BOARD

PUBLIC

Mr. Arthur Moody appeared. He discussed rules of law. He stated he thought that Attorney Loughlin made an error on land use and commented that he wrote a book on land use. He stated that he believed that this proposal was regressive zoning and he objected to it.

MOTION by Mr. Emerick to move the proposed amendment as written to the ballot.

SECOND by Mr. McNamara.

VOTE: 6 – 1 (Woolsey) – 0

MOTION PASSED.

4. Amend Article II - Districts, Section 2.1 Zoning Map to change portions of the Business (B), Industrial (I), Professional Office/Residential (POR) and Residence A (RA) zoning districts to Town Center zoning districts (TC-H, TC-N & TC-S). The Town Center districts would be created as Section 2.8 under Article II as separate districts with distinct zoning regulations for permitted uses, conditional uses, and dimensional requirements, parking, building and sign standards.

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Mr. Loopley discussed the parking issues and stated he did not want to move the article forward because of them. Mr. Emerick stated that he felt that the article has gotten bigger than expected.

Ms. Woolsey stated that the Board of Selectmen requested that due to many deficiencies that it would not be in the best interest of the Town for the article to go forward on the Town Warrant. She stated that there was not a formal vote by the Board of Selectmen though. She explained that the Board of Selectmen had a meeting that was posted and the concerns with the article were presented just prior to the deadline for the submission of warrant articles. The meeting of the Board of Selectmen was on the January 14th. It was a public meeting. There was no motion by the Selectmen. The meeting was not televised. Mr. Olson asked why Ms. Woolsey had asked that the Planning Board's January 2nd meeting be televised. Mr. Olson stated that there are some unclear bounds with that request. Mr. Olson expressed concern about the Selectmen being asked to weigh in about moving a Planning Board article forward and trying to tell Planning Board how to go about doing its business. Attorney Gearreald responded that he was present at the Board of Selectmen meeting. He said reservations were suggested. Ms. Woolsey was expressing what the consensus was by Selectmen. Mr. Lessard commented that maybe the Planning Board needs a member on the Board of Selectmen. Ms. Woolsey stated it is she who is that representative.

Mr. Lessard commented that Selectman Michael Pierce was on board with the proposed amendment. Ms. Woolsey replied that Selectmen Pierce agreed with the consensus of the Board of Selectmen.

Mr. McNamara stated that he agreed that this proposal needed to be re-worked. He felt that the Planning Board could work on it further in the next six months to re-do it for the next year.

Mr. Steffen discussed the grant agreement and commented that it may be required to go the ballot as part the contract. Attorney Gearreald responded that he hadn't seen the grant agreement so he couldn't answer that at this time.

PUBLIC

Ms. Candy Stellmach appeared. She stated that she has discovered that when applying for grants there is requirement that there be a historical district in town. She further stated that she hoped that there would be a historical district in place if that did occur. She noted it was not a LCHIP grant.

MOTION by Mr. Emerick to not move the proposed amendment to the ballot.

SECOND by Ms. Woolsey.

Mr. Olson stated that it was too bad that with all the work that went into this that we would go forward with it. He commented on the committee work and asked for support rather than adversity. He further commented the Planning Board needed a place to begin and felt that was what the Board was trying to do with this article. Mr. Emerick responded that the work is not done. Mr. Lessard commented that maybe the Board should put it on the ballot and have the public tell us if it was worth pursuing.

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Ms. Woolsey commented that the Board's position carried a great deal of weight and the public does not always understand what's going on. She stated she felt it would be a breach of faith to put an article that is flawed on the ballot.

Mr. Olson commented that Ms. Woolsey was trying to filter.

VOTE: 3 – 3 – 1 (Mr. Emerick recused himself) MOTION FAILED.

Attorney Gearreald discussed problems with the proposed wording for Section H.2. He asked what a "village-type use" was. He noted that the wording reading "exemptions" being "waived" was incorrect. It should state "granted". It should be "waived" changed to "granted". Mr. Gearreald also asked about public parking within 500 feet.

Ms. Woolsey noted that the Town parking lot was open from 9:00 a.m. to 10:00 p.m. but during snowstorms it is emptied. It was asked what the parking hours were at night.

Atty. Gearreald discussed subsection D - Conditional Uses and proposed multi-family dwellings. He noted that there must be two parking spaces per unit and stated that he standard #2 would give an out to standard #1.

Mr. Olson responded that this language was put in to address the tiny lots downtown and the lack of on-site parking. Ms. Woolsey stated that she felt that this lead to properties becoming non-conforming. Ms. Woolsey commented that she didn't think the public was knowledgeable about this provision.

Mr. Olson stated that we could change word "waived" to "granted".

MOTION by Mr. McNamara to make the editorial changes to the proposed amendment.

SECOND by Mr. Lessard.

VOTE: 4 – 2 – 1 (Mr. Emerick recused himself) MOTION PASSED.

Mr. Tom Fortin appeared. He stated that he thought the article was not going to be entered. He discussed the proposed boundaries in the downtown area - north of Winnacunnet Road to Rice Terrace. He stated that his properties would be north of Rice Terrace but are proposed to be included in the historic zone. He was concerned about the proposal restricting future use of his properties. Mr. Olson responded that the proposed line was jogged there to include the group of similar sized properties in the center piece. He stated that he didn't believe it would affect Mr. Fortin current uses – he would be grandfathered. Mr. Fortin responded that he was concerned his property would be diminished if he sold it.

Mr. Fortin discussed his second point about the new zone being called a historic district. It was noted that this was more of a wording issue - it was going to be the Village Center originally but that sounded too much like the Village District or the Precinct. Mr. Fortin asked that the word historic be changed.

Mr. Fortin discussed his third point about restricting uses of property. He asked if the Town would compensate property owners if their properties become diminished. He asked if taxes be reduced. Mr. Olson responded that he did not know that answer.

Mr. Arthur Moody appeared. He discussed the mission statement of the proposed district. He noted that buildings in the town center have been the same size, etc. for 110 years. He discussed Article XIII, Section 7 and noted that there is a flaw in the ordinance. He discussed

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incorporating properties in the RA district. He discussed “historic”. He stated that houses are being made non-conforming. He discussed the zoning map. He discussed the strip malls and single-family residences being prohibited. Mr. Steffen responded that the Board with this proposal was trying to encourage mixed use. Mr. Moody stated he was disappointed that auto dealers were allowed in the South district.

BOARD

Mr. Olson stated that the Board is trying to remedy issues with the downtown. Mr. McNamara stated that he concurred. Ms. Woolsey commented that sometimes if the pot is stirred, it can get worse. Mr. Olson asked Attorney Gearreald if the wording concern had been addressed. Atty. Gearreald responded that the changing of the three words in Section H.2, were editorial changes and not substantive changes. He asked if the Board wanted to go forward with this. Mr. McNamara stated that he thinks we should give this to the voters. Ms. Woolsey stated that she thinks that the public will be confused.

Mr. Lessard commented that he believes the businesses will know what is going on. He felt we would be able to deal with parking. Mr. Lessard stated that he votes to put it on ballot because it is complete enough.

MOTION by Mr. McNamara to move the proposed amendment as now worded to the ballot.

SECOND by Mr. Lessard.

Vote: 5 – 1 (Woolsey) – 1 (Mr. Emerick recused himself)

MOTION PASSED.

5. Amend Article 1 General, Section 1.6 Definitions to add a definition of Impervious Surface.

MOTION by Mr. Emerick to move the proposed amendment as written to the ballot.

SECOND by Ms. Woolsey.

VOTE: 7 – 0 – 0

MOTION PASSED.

6. Amend Article IV Dimensional Requirements, Section 4.8 to reduce the maximum permitted amount of impervious (sealed) surface (indicated as a percentage) for all zoning districts and to set forth new standards for impervious surface coverage for redevelopment. The new percentages and standards will be outlined in footnotes to the dimensional requirements table.

Mr. Emerick commented that many properties could become non-conforming with this change. He thinks it is out of balance. He commented that he didn't realize it when the Planning Board was considering it previously but now he thinks it is too aggressive. He stated that he understood the intent but he doesn't think its right to do.

Mr. Diener explained that every single property would be grandfathered unless an applicant wants to make a 50 percent or greater improvement. Mr. Diener further explained that even if an applicant wants to do improvements to the property, they could not exceed the existing

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impervious surface percentage. He discussed proposed footnote 31 and storm water management on-site. He stated that this is an attempt to strike a balance to help to solve flooding and water problems in Town without creating a punitive ordinance.

PUBLIC

Attorney Peter Saari appeared. He stated that he has read the January 2nd minutes and Mr. Diener's comments about the article. He used his property downtown as an example. He discussed small lots with little available parking and how they are either all paved or graveled. He commented that the proposal now states there will be a problem with the gravel at his office. He commented that the article says that one can improve their property, but up to \$100,000. He further commented that it appears to read that businesses / individual property owners will now have to capture all the storm water run-off - so if someone has 80 percent coverage that person would have to capture every bit of rainwater on-site.

Mr. Arthur Moody appeared. He asked if there was a public hearing on this article already. It was noted "yes" there was. He discussed the public notice for it. He discussed property valuations and if they would be made by the Assessors.

Mr. Olson stated that this article was a start pointing and he thought that DPW would be happy with it. He felt that we were trying to avoid problems in the future with development. Mr. Emerick commented that we want the character of the downtown, but now we will be changing the character of downtown per Attorney Saari's example. Mr. Lessard stated he would like to have less sealed surface but had concerns about reducing the sealed surface requirement from 85 percent to 60 percent in some of the residential areas. Variances may need to be sought. He stated that he had trouble supporting it as it is written.

Mr. Olson commented that 85 percent is almost unheard of anywhere else. He stated that we have flooding issues because of 85 percent impervious cover. Mr. Diener noted that they chose the 60 percent figure as that is what is permitted in the Aquifer Protection District. He admitted that it isn't perfect for every property in Town but they felt it was a reasonable standard. He commented that we are seeing more proposals with chambering systems and they are becoming more common. He said there is more capability to maintain those systems. He stated that for homeowners it doesn't have to be a major change - it may be changing a permeable surface or a patio or deck or changing a parking area or deck.

MOTION by Mr. Loopley to move the proposed amendment as written to the ballot.

SECOND by Mr. McNamara.

VOTE: 5 – 2 (Emerick and Lessard) – 0

MOTION PASSED.

The Planning Board was asked to reopen the article providing a definition of "Impervious Surface" and vote on moving it to the ballot.

Mr. Arthur Moody appeared. He stated that he does not believe that this amendment was noticed correctly.

He stated he was not in favor of the amendment. Mr. Steffen explained that the first public hearing was on November 20th. Suggested changes by the Building Inspector and the

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Town Attorney were made and presented to the Planning Board at their December 18th meeting. The Planning Board voted to schedule on second public hearing on the substantially altered article for a January 15, 2014 public hearing at that meeting.

MOTION by Mr. Emerick to move the proposed amendment as written to the ballot.

SECOND by Mr. McMahon.

VOTE: 7 – 0 – 0

MOTION PASSED.

Applicant appeared on 1036 Ocean Blvd.

13-049 1036 Ocean Blvd.

Map: 116 Lot: 18

Applicant: Howard Elias

Owner of Record: Same

Special Permit: Repair of existing revetment. Existing revetment will be torn down & rebuilt in the same location.

Mr. John Chagnon of Ambit Engineering appeared. He noted that the plans that were originally submitted have one adjustment - sheet E-1 had additional information provided regarding the note about the inter-locking of the stones.

Ms. Woolsey asked about the stairs and noted that it looked like a lot of stairs. She asked about a railing.

Mr. Lessard asked why it's called a revetment. He stated that the Town refers to sea walls as such as North Beach one as concrete walls.

Attorney Gearreald stated this is a special permit request and noted that there was no grandfathered right to occupy Town property. He stated that adverse possession would not come into play. They would need to go before the Selectmen. The Selectmen have implemented a program where anyone who occupies the Town property would be taxed for the use and there would be some regulation of stairs. There would be a lease on these properties. He referred that the Selectmen's adopted regulations.

PUBLIC

Mr. Diener of the Conservation Commission appeared. He stated that the Conservation Commission had no problem with the project. He noted that it was not the Conservation Commission's jurisdiction but the top of the wall and some of the lawn behind it is on Town land. It was noted that the top of the wall drops off four or five feet; a pretty substantial drop off. He asked if it is a liability. Mr. Chagnon relied that it was over 20" and noted that the concern was brought up at the Commission's site walk. There was mention made of a need for a railing and stated he was fine with whatever the Selectmen's process brings.

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MOTION by Mr. Emerick to approve special permit in accordance with the Conservation Commission's letter dated January 13, 2014. It was also stated that the application would need to go before the Selectmen for permission to utilize Town land.

SECOND by Mr. McMahon

VOTE: 6 – 0 – 1 (Woolsey)

MOTION PASSED.

IV. CONTINUED PUBLIC HEARINGS

12-033 48 Hobson Avenue (after the fact) – continued from October 2, 2013 & November 6, 2013 & December 4, 2013

Map: 289, Lot: 8

Applicant: Kelly Ford

Owner of Record: Same

Special Permit: Replace rear deck from 8 feet x 6 feet to 10 feet x 8 feet.

Mr. Steffen stated this case is with the Legal Department and would need to be further continued.

MOTION by Mr. Emerick to continue the application to the April 2, 2014 meeting.

SECOND by Ms. Woolsey.

VOTE: 7 – 0 – 0

MOTION PASSED.

V. CONSIDERATION OF MINUTES of December 18, 2013 and January 2, 2014.

MOTION by Mr. Emerick to postpone the December 18th, 2013 and January 2, 2014 Minutes to the February 5, 2014 meeting.

SECOND by Mr. McMahon.

VOTE: 7 – 0 – 0

MOTION PASSED.

VI. CORRESPONDENCE

Mr. Steffen discussed emails from Bryan Belanger, Jr. regarding an appeal of the Planning Board's decision to extend the time frame for the remediation work at the property on 165 Island Path. He noted that Attorney Gearreald had prepared a confidential memorandum for the Planning Board for what to do in response. Mr. Olson asked about the window of time. It was 30 days. Atty. Gearreald stated that when the Planning Board makes a decision it is not appealable to the Planning Board - it is either appealed to the ZBA or the court. It was stated that Mr. Steffen does not have the authority to make the decision to respond. Attorney Gearreald thinks the Planning Board should vote to inform Mr. Belanger that his emails will not be considered an appeal because the Planning Board does not have the authority by statute to act as an appellate board for its own decisions.

HAMPTON PLANNING BOARD

MINUTES

January 15, 2014 – 7:00 p.m.

MOTION by Ms. Woolsey to have Mr. Steffen respond to Mr. Belanger by letter informing him that his emails to the Planner will not be considered because the Planning Board has no authority by statute to act as an appellate board for its own decisions and that Mr. Belanger would need to adhere to the applicable New Hampshire statutes (RSA 677:15 and RSA 676:5, III) if he wants to appeal.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

Attorney Gearreald stated that reconsideration is not the same as an appeal. Mr. Emerick stated that if the Board honored Mr. Belanger's email about the Planning Board reconsidering its decision, then the Board should stick with its original decision. It was noted that a person could ask for reconsideration by the Planning Board but they could not appeal the Planning Board's decision to the Planning Board.

Mr. Emerick asked what the Board should do at that point. There was discussion about rehearing it.

MOTION by Mr. Emerick to not re-consider the decision on the extension for the remediation work.

SECOND by Mr. Loopley.

VOTE: 3 – 0 – 4 (Woolsey, McNamara, Olson, Lessard)

MOTION FAILED.

There was continued discussion by the Board and Attorney Gearreald on how it should proceed in this matter. Atty. Gearreald's opinion was that the Board needed to act within thirty days of their decision to consider any request for reconsideration. Since the first meeting of the Board after receiving the request fell on a holiday it could not meet within the legal time frame.

- **Community Application for Resilient New Hampshire Coasts (discussed after 1036 Ocean Blvd)**

Mr. Loopley noted that the Town is eligible. Mr. Steffen read the brochure which is available at the Town Offices. The application is due February 14th and he program would start in late spring of this year. The Planning Board encouraged Mr. Steffen to go forward with the application. Atty. Gearreald advised that he should go before the Selectmen first. Mr. Steffen stated no money is involved. Atty. Gearreald said it is the value for the grant they are applying for. He would need authorization from the Selectmen to apply per Attorney Gearreald. He said it may also need a public hearing. It was asked if Rayann Dionne and the Conservatin Commission should also be involved. Mr. Steffen responded that he thought they were looking for a local working group (ZBA, Planning, Conservation Commission, etc.) to be involved.

VIII. ADJOURNMENT

MOTION by Mr. McNamara to adjourn.

HAMPTON PLANNING BOARD

MINUTES

January 15, 2014 – 7:00 p.m.

SECOND by Ms. Woolsey.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 10:15 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**