

**HAMPTON PLANNING BOARD**

**MINUTES**

**July 16, 2014 – 7:00 p.m.**

**PRESENT:** Mark Olson, Chair  
Brendan McNamara, Vice Chair  
Fran McMahan, Clerk  
Tracy Emerick  
Rick Griffin, Selectmen Member  
Keith Lessard  
Frederick Welch, Town Manager  
Mark Gearreald, Town Attorney

**ABSENT:** Mark Loopley

**I. CALL TO ORDER**

**\*Mr. Griffin not present at this time\***

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**

**III. CONTINUED PUBLIC HEARINGS**

**IV. NEW PUBLIC HEARINGS**

- Amendment-Site Plan Regulations and Subdivision Regulations, Section V.B., Abutters and All Parties to Be Notified.

Mr. Welch said the intent of the change is to list those people who must be notified, have them on a separate piece of paper and the owners of record, engineers, etc. That all stays the same as in the Regulations are written currently. This information is available at the Hampton Town Hall, Planning Department. Mr. Welch read the changes aloud with regard to mailing labels to be provided, in triplicate of all abutters, owners, engineers, etc, as provided in the Regulations.

**PUBLIC**

**MOTION** by Mr. Lessard to adopt the Amendments to the Site Plan Regulations and Subdivision Regulations, Section V.B. as noted.

**SECOND** by Mr. Emerick.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

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#### **14-029 Stowcroft Drive/Dalton Woods**

Map: 41 Lot: 1

Applicant: Richard Green/Green & Company Real Estate

Owner of Record: Lloyd T. Graves Revocable Trust

Design Review (Converted from Subdivision Application 14-004)

Attorney Ells appeared for Messrs. Michael and Richard Green. Both Green brothers had meetings tonight and Mr. Coronati is on vacation and could not attend. At the last meeting the Board granted permission to convert the subdivision application to a Design Review application. They have re-noticed all of the abutters. The owner of Lot B was noticed as well and Attorney Ells discussed his research in detail. All notice requirements have been met. Attorney Ells took a copy of the Notice and he sent it to anyone who has an interest in the property. He published it in the newspaper in addition to what the Town had already done at his clients' request.

There has been a review of the wetland soils since the last meeting. It was reviewed by the RCCD. Jones & Beach added to the newest site plan a wetland area in the northeast corner of the property. A non-functioning vernal pool has been added. These changes required a few relocations of lot lines.

Lot lines are relocated. There are still 13 lots. There are no changes in roadway, drainage and utilities. The Conservation Commission meeting is the 22<sup>nd</sup> of July. Their wetland scientist will appear. Most or all wetland issues should be resolved by then. They will come back then again to this Board. They may re-file for a subdivision. They need to get wetland issues resolved. He feels some progress has been made.

### **BOARD**

Mr. McMahon asked about Lot B; he referred to the owner. Attorney Ells said his Memorandum says the research has been done. He discussed its history. Corporations administratively dissolve after fees are not paid. Assets held by corporations (prior to '93) were returned to the shareholders. It was called an "indefinite winding down". Fraina Corp. acquired the property it in '83 and changed its name. Title to Parcel B (and roadway) remains vested in Fraina Corporation. According to the Secretary of State records, Attorney Peter J. Saari is the Registered Agent. Attorney Ells discussed transfers and discussed how he looked at the probate records as well. He believes title to the road and Parcel B continue to be vested in a dissolved Corporation.

Attorney Ells said public dedication and public servitude remains. As far as who is the record owner, he believes it is the Corporation.

Attorney Ells said the Town owns it on the tax records, but Town's records are known to be inaccurate.

Mr. Welch said that Mr. R. Green stated on May 7, 2014 that Green Corporation is going to bring suit over the Town and asked Attorney Ells if that was correct. Attorney Ells said it is

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an option. If the wetland issue does not get resolved, then they may walk away, but if the wetland issue is resolved, they will go from there. The wetland issue and access issue are what need to be dealt with.

### PUBLIC

Mr. Frank Chiaramitaro appeared, 320 Locke Road, Rye, NH. He did research on Parcel B with his attorney. He asked what the proper venue is to resolve Parcel B. He does not believe Parcel B ownership should be decided by the Planning Board. His attorney summarized his thoughts. He read his Attorney's letter aloud and it is available in the Planning Office.

\*Mr. Griffin appeared\*

Mr. Chiaramitaro said he disagrees with the claims stated tonight and believes that the Planning Board meeting is not the venue to be discussing this; he believes the Superior Court needs to handle this. He asked that no further discussion continue.

Mr. Emerick said he agrees with Mr. Chiaramitaro.

Ms. Louise Drolette appeared. She asked the Board put a hold on this application. The answer will not come overnight.

### BOARD

Mr. Olson said in light of reviewing the RCCD review that we need to continue.

**MOTION** by Mr. McNamara to continue the Design Review to the August 6, 2014 meeting. Mr. McMahan noted the Conservation Commission meets next Tuesday night.

Mr. Welch said there are seven applications pending on August 6<sup>th</sup>. Attorney Ells said August 20, 2014 would be fine. Mr. Lessard hates to have people/residents come to meetings without having much to discuss. He asked for two weeks after that. Attorney Ells said that would be fine as well.

It was asked to meet on September 3<sup>rd</sup>. Attorney Gearreald noted that he will be away at that time. Attorney Gearreald said it's not merely a discussion of who owns the parcel, but what obligation the Town has for a subdivision to be built over the road. It's another legal question that needs to be resolved. It could be addressed by Town meeting or by Court decision. Mr. McNamara said if he moves this matter to the September 3<sup>rd</sup> meeting, would Attorney Gearreald have time to do his work. He is in agreement with Mr. Chiaramitaro that the Court will give the final answer. Mr. Lessard asked how access is decided. First, the wetlands issue needs to be worked out, then the access issue. Mr. Ells said if the wetland issue does not resolve itself, then road issue would still be here.

Mr. McMahan said after the Design Review it will be Subdivision. Attorney Gearreald said the wetlands issue will come out on the August 6<sup>th</sup> date. It will go to Superior Court if the wetland issue is not taken care of. The wetlands issue gets fixed first. Then access issue. Attorney Ells said he can come back periodically to get feedback. It's non-binding. Mr. Ells is fine going to the first meeting in September.

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**MOTION** by Mr. McNamara to continue this application to the September 3, 2014 meeting date.

**SECOND** by Mr. Emerick.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

**V. CONSIDERATION OF MINUTES of July 2, 2014.**

**MOTION** by Mr. Lessard to approve the July 2, 2014 Minutes.

**SECOND** by Mr. McNamara.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

**VI. CORRESPONDENCE**

Mr. Welch stated we received A request from Green & Co. regarding 339 and 345 Ocean Boulevard requesting to be put on the August 6<sup>th</sup> Agenda. Mr. Olson said August 6<sup>th</sup> is a heavy Agenda. Often the process isn't well served to take something on at 10:00 p.m.

Mr. Emerick said to put it on for the 20<sup>th</sup> of August. Mr. Olson said we are running on a skeleton crew. We didn't know they needed to go to the PRC. Ms. Olivier explained that they filed “in time”, but did not know it would need to go to the PRC, but some complications have been noted warranting the application(s) to go to the PRC.

**MOTION** by Mr. Lessard to hear 339-345 Ocean Blvd on August 20<sup>th</sup>.

**SECOND** by Mr. Emerick.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

Mr. Welch discussed Mr. Gacek, 1042 Ocean Blvd. Mr. Gacek received an approval (with conditions) from the Planning Board in December of last year. It was approved on December 4, 2013, with conditions. It ties his seawall to his house and to everything else that needs to be built. Mr. Gacek needs a CO. Mr. Gacek talked to Building Inspector, Kevin Schultz. Mr. Schultz is ready to issue an occupancy permit. Mr. Gacek wants to be allowed to do that so he can obtain his Occupancy Permit; on everything, but the seawall. He will finish the seawall later on.

Mr. McNamara does not like changing the conditions of approval. This is changing an approval. This would be the Board modifying an approval.

The wall isn't completed. He went to Selectmen (twice). Mr. Olson said if he did it right the first time, there would not be an issue. Mr. Welch said the Gaceks built the wall incorrectly. Mr. McNamara said he does not want to set a precedence. The wall was so far away from the original design. Mr. Gacek never checked construction of it. Mr. Olson said Mr. Gacek is always taking the difficult route.

Mr. McMahan asked if it creates a liability to the Town. Fred said “yes”; the Selectmen can make him lose his wall.

Mr. Griffin said if he were Mr. Gacek, he would just move into the house. Mr. Welch said a sheriff will go down with a Writ. Mr. Welch wants Mr. Gacek to fix the wall.

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Mr. Emerick thinks it is overstating government. It was noted on September 15<sup>th</sup>, Mr. Gacek can go back and fix his wall. Mr. Emerick wants to issue the CO for the house. Mr. Griffin thinks they should issue the CO. The rest of the Board wants advice from the Selectmen. Mr. Lessard thinks we should bounce it back to Selectmen. Laurie can draft a letter to the Selectmen. It's our (PB) approval that isn't being adhered to.

**MOTION** by Mr. Emerick to issue the CO.

**SECOND** by Mr. Griffin

**VOTE: 2 (Griffin and Emerick) – 5 – 0**

**MOTION DENIED.**

**MOTION** by Mr. Lessard to have the Planning Office send a letter to the Town manager and Board of Selectmen to advise us (Planning Board) on how to pursue this.

**SECOND** by Mr. McNamara.

**VOTE: 5 -0- 2 (Mr. Emerick & Mr. Griffin)**

**MOTION PASSED.**

The Budget for Planning was discussed. Mr. Lessard thinks there are unknowns on the sheet. Mr. Lessard stated we do not know how our Planning Department is structured. Ms. Olivier's position may change. **It was noted that the Budget should add a caveat that the Planning Board needs a work session on some of the numbers.** Keith wants to have some organization that works with planning on what department should look like.

Mr. Lessard wants to see applicants with experience.

Mr. McNamara asked if there is protocol to adhere to with so much up in the air right now. Mr. Welch **said the Planning Board technically has until October to get the Budget in order.** Mr. Olson discussed municipal resources. He reached out to Meredith. Mr. Olson wants them to write a proposal. He wants to have something to bring to Mr. Welch..

It was noted that the budget did not compensate the previous planner for quite some time. There were no merit increases. Mr. Lessard said Planners find more gainful employment in the private industry, but believes that (merit) increase(s) should be added to the Budget for years in the past.

Mr. Olson discussed having a consultant come in for about 16 hours/week.

Mr. Olson discussed the Resumes we have received. Many have good academic qualities, but need a lot of training.

Mr. Olson said last night, Jack Mettee sent Mark Olson a Resume. Mr. Olson said maybe we should get some of the people to come in. Mr. Emerick thinks some people are worth talking to, i.e both applicants who went to Vermont. Mr. Olson has the ball rolling on getting someone in to look at the office.

It was asked to Fred by Mr. McMahan if there is a procurement issue. Mr. Welch said there are funds in the account, we are fine. Consulting work was discussed. Mark Olson discussed a circuit rider at the RPC. They are short staffed. It would give us 16/hours a week. Mr. Olson could reach out to guy at a part-time.

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Mr. Lessard asked about hiring a temp to help Laurie in Planning. Laurie and Fred can approach Laurie Nickerson and Ann, who is helping the Legal Department, who are part-time administrative people, for assistance and charge it to Planning. We have funds available right now.

The Planning Board discussed setting up a meeting (non public) to do interviews. Set it up at 5:00. Shoot for a Wednesday where there is a meeting; August 6<sup>th</sup>. It's okay a long meeting will follow. It was asked to set up a meeting for the last two Resumes that were submitted; both attended Vermont law schools. Ms. Olivier will do that.

Mr. Lessard said we should get the (new) salary into the Budget Committee. Mr. Welch said the PB needs to go to the Board of Selectmen to see if funds can be taken from the undesignated fund balance. Then it goes to Budget Committee. If they approve it, then it goes to the State--if the Planning Board needs a higher amount of money. Once funds are earmarked, they will follow the default budget. Mr. Emerick said to go up to \$75,000, depending on experience. Laurie Olivier would be Assistant Planner and Administrative Assistant. Mr. Welch noted that for every past administrative assistant to Planning, they were hired away. Th Planning Board may change Laurie Olivier's job description.

**VII. OTHER BUSINESS**

Fran McMahon discussed Ocean Boulevard and P Street; the former Harris Real estate. It's functioning as a temporary parking lot. M Street was discussed. Mr. McMahon said we need to take a look at it.

Mr. Olson said people are renting space that doesn't belong to them.

Mr. Emerick stated the 28<sup>th</sup> of July is first CIP meeting. SAU 90 will have a new Rep. Laurie Olivier should attend.

**VIII. ADJOURNMENT**

**MOTION** by Mr. Emerick. to adjourn.

**SECOND** by Mr. McNamara.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

MEETING ADJOURNED: 8:19 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**