

HAMPTON PLANNING BOARD

DRAFT MINUTES

July 6, 2022 – 7:00 p.m.

PRESENT: Tracy Emerick, Chair
Ann Carnaby, Vice Chair
Sharon Mullen, Clerk
Keith Lessard
Brendan McNamara
Alex Loiseau
Richard Sawyer, Selectman Member
Jason Bachand, Town Planner

ABSENT: Laurie Olivier, Office Manager/Planning

I. CALL TO ORDER

Mr. Emerick commenced the meeting by leading the Pledge of Allegiance and introducing the Planning Board members. Mr. Emerick stated that the applicant for the Wetland Permit at 88 Glade Path has requested to continue to August 3, 2022.

MOVED by Mr. Lessard.

SECOND by Ms. Carnaby.

VOTE: 7 – 0 – 0

MOTION PASSED.

II. ATTENDING TO BE HEARD

III. NEW PUBLIC HEARINGS

22-028 17 Seaview Avenue

Map: 133 Lot: 80

Applicant: Ivona & Anthony Musacchio

Owner of Record: Same

Wetlands Permit (after the fact): Reconstruction and expansion of existing home. Alteration of terrain and storage of materials within the buffer.

Nick Loring from Benchmark LLC appeared. They want to redevelop the property. It is a half-acre property. It was previously developed as a single-family home. There is a section about 75' wide adjacent to Seaview Avenue. That contains the existing house. There is a second section in the back – southerly end of the lot. This is where there are a couple of existing sheds and a well house. This is the portion that contains the wetlands. Two-thirds (2/3) of the land is wet. It has a 50' WCD – 50' wetland setback.

Mr. Loring said the owner's contractor applied for a permit in November of 2021. They were granted approval. They tore down the existing structure and left the garage. They put in a foundation. When the Town came out to inspect, they asked them to stop work and they requested that they needed variance relief for the proposed work and also needed to go before the Conservation Commission and obtain Planning Board approval for the WCD disturbance.

They want construction of the new home. The majority falls over the existing improvements. The old house did have a deck and steps off the back. There are stairs off the existing garage.

The owners want to maintain use of the existing yard area that they have. This property is (the front portion), in Residence B; the rear portion is in the BS Zone. They went to the ZBA on June 16th and obtained variances for all setback relief. On June 28th, they went before the Conservation Commission. They have the letter dated June 29,

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2022. The Conservation Commission recommends granting the Wetlands Permit. There are a few stipulations. Mr. Loring does not see any problem. The Planning Board does not have plans right now, but he feels they can take care of everything with notes.

He concurs with Conservation Commission stipulations contained in its letter (with 9 stipulations).

**BOARD
PUBLIC
BOARD**

Mr. Bachand said this is an after-the-fact because the Building Permit was issued prior to coming before the Conservation Commission or the Planning Board. He discussed variances obtained. Mr. Bachand recommends with the conditions contained in the Conservation Commission letter dated June 29, 2022.

Ms. Carnaby was on the site walk. She was expecting to see a house there.

MOTION by Mr. Loiseau to approve the Wetlands Permit (after the fact) along with the stipulations in the Conservation Commission's letter dated June 29, 2022.

SECOND by Mr. Lessard noting that an updated Wetlands Plan needs to be submitted.

VOTE: 6 – 0 – 1 (McNamara) MOTION PASSED.

22-029 44 North Shore Road & North Shore Road (vacant land)

Map: 131 Lots: 10, 11 & 12

Applicant: Anne C. Barkley Trust (Anne C. Barkley, Trustee)

Owner of Record: Same

Lot Line Adjustment: Transfer approximately 9.55 acres from Lot 12 to Lot 11. Existing Lot 10 and adjusted Lot 11 to become conservation easement. Adjusted Lot 12 to remain in residential use.

Waiver Request: Subdivision Regulations Section V.F. (2 & 3) soil and wetland mapping, and Section VII.F(2) new lot monumentation at lot corners.

Mr. Eric Mitchell appeared. The proposal is to do a lot line adjustment. It is zoned RA. Some of it is in the Aquifer Protection District. He noted 9.55 acres is involved. The plan will go from Lot 12 to Lot 11. It is on municipal sewer. Acreage was discussed. Lots 10 and 11 will be put into conservation. The Town voted to purchase those two lots once the adjustment is done, as well as land across the street. The Southeast Land Trust will manage this.

Two waivers are being requested. The waiver for monuments is on the high ground. Some fall in the wetlands marshland that they can't get to.

**BOARD
PUBLIC
BOARD**

Mr. Bachand discussed his Memorandum. He recommends approving the LLA with one condition noted in his Memorandum dated July 6, 2022 and the waiver request needs to be voted on as well.

MOTION by Mr. McNamara to approve both waiver requests.

SECOND by Mr. Lessard

VOTE: 7 – 0 – 0 MOTION PASSED.

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MOTION by Mr. McNamara to approve the Lot Line Adjustment along with the conditions in the Town Planner's Memorandum dated July 6, 2022.

SECOND by Ms. Mullen

VOTE: 7 – 0 – 0

MOTION PASSED.

22-030 204 Ashworth Ave, Unit #5

Map: 295 Lot: 49

Applicant: Avenue Real Estate, LLC (Charles Hughes)

Owner of Record: Same

Site Plan (Amended): Demolish and reconstruct Unit #5 in the same approximate location. This will allow said unit to be year round and will allow unit to have two parking spaces along with a visitor space.

Waiver Request: Section V.E. Detailed Plan

Attorney Justin Pasay appeared with Chuck Hughes. Henry Boyd from Millennium Engineering is present also. They received and agreed with Mr. Bachand's Memorandum. Unit 5 was approved in the past. In November of 2019, they got approval for an amended site plan. The condominium documents and by-laws needed updating. That coordination never got finalized. The Building Department in the meantime gave them a building permit. New Unit 5 is there. Chuck Hughes was told to stop doing work because his site plan approval expired. They are asking for the same relief with same conditions that the Board imposed in 2019.

They are working with the condo association. They will work with the Town Attorney. There are very subtle changes that the President of the Association made. Two record owners have changed.

BOARD

Mr. McNamara asked about the draft. He did not see the date. The amended date says September of 2021. It was updated two weeks ago to show two specific changes. Parking Space #15 and two record owners changed. It says draft because Mr. Hughes is not 100 percent complete with this. This will have to be signed here and then go on with new changes to the Declaration. This is in process right now per Mr. Boyd.

**PUBLIC
BOARD**

Mr. Bachand stated this is a re-approval. The building permit was issued without the plan being recorded nor recorded condominium documents. He recommends approval with conditions in his Memo dated July 6, 2022 and there is a waiver request as well. An as-built gets prepared and the Planning Office will make sure that is done correctly.

MOTION by Mr. Lessard to approve the waiver request.

SECOND by Mr. Loiseau

VOTE: 7 – 0 – 0

MOTION PASSED.

Mr. Lessard said it does not have a date it's drafted. Should we make a motion was asked. Mr. Boyd said it does have a date on it, it only does not have the final date, so he did not want to stamp a plan that is still in process. Once he's complete with utilities, then Mr. Boyd will re-do the plan. Mr. Boyd said we can reference this date and then the final one will be dated in the future. Mr. Bachand said the DPW and he will look at this before it gets submitted. Mr. Emerick will sign it after the plan is fixed. It will be further revised to reflect everything once it's complete. Mr. Hughes said everything should be done in 4-6 months. Attorney Pasay said they will meet with the Association.

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Mr. McNamara said he doesn't like approving things that we don't see a final date on. Mr. Bachand said when you see a plan and it is subject to final review and sign off. This happens many times, he would say that doing it this way should be fine.

MOTION by Mr. Lessard to approve the Amended Site Plan with the conditions in the Town Planner's Memorandum dated July 6, 2022.

SECOND by Ms. Carnaby

VOTE: 7 – 0 – 0

MOTION PASSED.

IV. CONTINUED PUBLIC HEARINGS

22-016 88 Glade Path (continued from May 4, 2022) CONTINUED TO AUGUST 3, 2022

Map: 272 Lot: 1

Applicant: Nicholas Kafejelis

Owner of Record: Same & Lisa Kazakis

Wetlands Permit: Construction of 16' x 8' deck (4' off the ground) utilizing permeable decking.

22-013 67 Mooring Drive (continued from June 1, 2022)

Map: 289 Lot: 40

Applicant: Edward Milville & Deborah Davis

Owners of Record: Same

Wetlands Permit & Driveway Permit Appeal: Construction to raise the existing residential dwelling structure above flood elevation & reconstruct the foundation with a lower level garage to support the structure. Additional improvements include a deck addition. Remove impermeable driveway and replace with pervious paver driveway (appeal).

Mr. Corey Colwell, TFMoran appeared and Edward Milville appeared. They are seeking a wetlands permit to raise their home to comply with FEMA. It is in the 50' buffer and setback. Local and State Wetlands Permits are required. Raising it by 8.6 feet was discussed. The applicant wants to construct a new foundation with living space on the first floor and covered parking spots. A new first floor deck and stairs are proposed. The lot contains 3,325 feet with 75' of frontage on Mooring Drive. The applicant wants to appeal the driveway permit denial by the DPW. Two feet of separation from driveway to the lot line is required. It is 6" short of the requirement.

Both existing driveways are paved right up to property line. No setbacks. Consolidating two driveways would reduce two non-conformities. It would have a 24' driveway. The apron is only 1.5 feet off property line.

They are reducing impervious coverage by 9 percent. The distance between the home and front property line is only 14 feet. The driveway serves as access to the two-car garage.

They are proposing an impervious walkway.

The back of the property is failing; the plywood seawall protecting the property from the adjacent wall. It will be for protection. The details of the seawall were reviewed by DES. It is within the 50' wetland buffer.

June 16th of last month they went to the ZBA for zoning relief for expansion of a non-conforming structure. The pervious apron is one foot from the property line. The project was discussed. All relief from the ZBA was approved.

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The intent of the proposal is to raise the structure, provide parking for two parking spaces to comply with FEMA; eliminate the failing seawall and replace with a masonry wall; consolidate two paved driveways into one. Construct a new deck and stairs and reduce the impervious coverage by 9 percent.

BOARD

Mr. Lessard discussed the two-foot high wall to the East. That is 6" off the lot line. What is the finished elevation was asked. Less than 2 feet. Finish elevation would be just under 2' of finished ground. The lowest point is almost flush with the existing road.

Mr. Lessard asked how far they will dig down. It will be excavated. Mr. Lessard asked if that is a lot of pressure for cars to drive on impervious surface. Mr. Colwell said it is to give a barrier between the driveway and property line. More of a curb-like appearance.

Mr. Lessard said it's hard to see what the elevations are on the map. Mr. Colwell said there will be some fill. They are raising the house 8.6'. Mr. Colwell said they can't mound the site. The site is not being filled except in case of the driveway. It's mostly at grade per Mr. Colwell.

Mr. Lessard noted there were quite a few vehicles there. He asked if the house is not coming forward; houses and motorcycle parking was discussed by Mr. Lessard. Two driveways exist on site per Mr. Colwell. One driveway goes beyond the front. Mr. Lessard said parking spaces are 18' x 9'. Mr. Colwell said two spaces will be shown on site.

Mr. Lessard said they do not have two legal spaces right now. The applicant concurred.

Mr. McNamara asked about sheet C2-two shaded areas. One to the north does not show how many feet that is. There is a 4' setback and another 5' the other way. How long is it along side of the building was asked. Mr. Colwell said 9.6' in width. Stacked parking does not count per Mr. McNamara. Mr. Colwell said that is one reason they want a garage. By adding the garage, they can get two conforming parking spaces on the property per Mr. Colwell.

PUBLIC

Brianna O'Brien, Conservation Coordinator, appeared. There was no mention of the repair of the seawall. The Conservation Commission was not presented with this. It is part of the State permit application per Mr. Colwell. She can't speak on behalf of the Commission. She needs expansion on details on the repairs. Mr. Colwell agrees it was in the plan and not at the meeting nor explained at the meeting. He expects the State application will be soon. Ms. O'Brien asked for details. Mr. Colwell said they wanted Zoning relief first and then Planning. It is stated in the application, but it was not in the summary of the application and was not reviewed on the site walk. Mr. McNamara asked if this negates the notification rules we have. Mr. Colwell said decks are not in the notice, steps, driveway, seawall. We know that from the past. That doesn't negate as we move forward. We are trying to fix the things we missed in the past per Mr. McNamara. Mr. McNamara said it is more important for us to think of things now. Mr. Lessard said this has to occur in general; for all applications. Mr. Colwell agrees. He said technically in this application anything in the wetlands permit includes everything. It is not all listed on the application. This is a wetlands permit for this property. Mr. McNamara said when the Conservation Commission came out to visit, they were not looking at the revetment of the seawall. Mr. Bachand said the application does not state anything about the seawall and it is not in the description. It's in the cover letter per Ms. O'Brien. Mr. Bachand said it should be re-noticed. Mr. McNamara said we need it done right from now on.

Mr. Bachand said to re-notice. It will have the same description, but make notice of the seawall and continue this application to August 3rd. Ms. O'Brien said the Commission already reviewed this application. It's prudent that the Conservation Commission and Planning Board members are out there so we know what we are talking about.

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Mr. Bachand asked Ms. O'Brien if she can put it on the July Agenda for the Conservation Commission. It will be re-noticed for the seawall. Mr. Bachand asked Mr. Colwell to update his application by the end of the week. Mr. Lessard asked if there are cut sheets on the seawall. Mr. Bachand said we will need re-notification fees.

BOARD

MOTION by Mr. Lessard to continue the applications to the August 3, 2022 meeting.

SECOND by Ms. Carnaby.

VOTE: 7 – 0 – 0

MOTION PASSED.

Mr. Lessard apologized that it was 64 Mooring that had the motorcycle; not 67 Mooring.

22-012 64 Mooring Drive (continued from April 6, 2022 and June 1, 2022)

Map: 289 Lot: 33

Applicant: Mary T. Mulligan, Trustee

Owner of Record: Mary T. Mulligan, Trustee, Mary T. Mulligan Living Trust

Wetlands Permit & Driveway Permit Appeal: Construction to raise the existing residential dwelling structure above flood elevation and reconstruct the foundation to support the structure. Additional improvements include a deck addition. Remove impermeable driveway and replace with permeable paver driveway.

Mr. Corey Colwell from TFMoran and Mary Mulligan appeared. Mr. Colwell presented a colored drawing. Mooring Drive floods frequently. The Town requires another foot of freeboard. Most houses on this street need to be raised. It needs 1.65 feet to be raised to comply with FEMA and Town requirement. It is in the 50' wetland buffer, which is why they need a wetlands permit. This was reviewed by the Conservation Commission. They received favorable recommendations. This is one story on a concrete block foundation. Storm surge and rising tidal waters were discussed. They want to raise 1.65' to 10.25. The AE9 with one foot of freeboard was discussed. The existing foundation will stay as is, but blocks will be added to get it level. A pervious deck is proposed. Steps to the new driveway will be added. The home is being elevated; the paved driveway and walkway is being removed and being replaced with a pervious walkway. Steps to the house will be in the front driveway.

Mr. Colwell discussed removing the driveway. They will reduce impervious coverage on the lot. Post construction will be similar to what you see today. The house will be 1.46' higher and a new deck will exist. On March 23rd, the Conservation Commission reviewed this and voted favorable recommendations with stipulations.

Last month on June 16th, they received relief from the ZBA. Variances were discussed. AE9 standards will be met.

A wetlands permit also requires Planning Board approval for appeal to denial of driveway permit. The existing driveway is paved and encroaches over the lot line. Over a foot. The new driveway will be pervious and it will stop at the property line. If the driveway appeal is granted, they will have a 9' x 18' driveway and conform to Town regulations.

This is bringing into compliance with FEMA. Once complete, the house will be less vulnerable to flooding. It will reduce stormwater run-off.

BOARD

Ms. Mullen asked if the driveway was denied because of the lack of the 2' setback. It was stated 'yes'. The driveway permit appeal was part of the notice per Mr. Bachand.

Mr. McNamara asked about a variance for the driveway. It was not needed.

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Mr. Bachand feels on the driveway permit appeal, he feels it makes sense. It's hard to get that 2' in there. The wetlands permit was recommended by Conservation Commission by letter dated March 23, 2022. He recommends granting both motions.

MOTION by Mr. McNamara to grant the driveway permit appeal.

SECOND by Mr. Loiseau

VOTE: 7 – 0 – 0

MOTION PASSED.

MOTION by Mr. McNamara to approve the wetlands permit along with the stipulations in the Conservation Commission's letter dated March 23, 2022.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

22-014 28 Nor'East Lane (continued from May 4, 2022 and June 1, 2022)

Map: 99 Lot: 4

Applicant: Sweet Nectar, LLC

Owner of Record: Same (Michael Kettenbach, Member)

Wetlands Permit: Rehabilitation of existing single-family dwelling, including numerous components for environmental mitigation.

Mr. Henry Boyd, Millennium Engineering appeared with Mike Kettenbach, and Sergio Bonilla. They went to the ZBA and the Conservation Commission. They have received variances. The variance was granted for the 62' setback. Mr. Boyd said they moved the structure. The house is in violation of the setback. He described the project. This plan now complies with the setbacks. There is a pervious driveway.

Mr. Boyd said the lot is odd. It's one lot, but it is dissected. The other parcel is occupied by a garage that is failing. They want a detached ADU in that structure. They want to do an ADU and the current regulations state the ADU can be detached as long as it is an existing structure.

Two parking spaces will be underneath. There is a reduction in impervious area. They met with the Conservation Commission. He feels the Commission was in favor of the project. Mr. Boyd did not receive anything to the contrary from Mr. Bachand.

Mr. Boyd discussed FEMA regulations. This will be built on piles. The structure should be protected since it will be on piles. The other structure will be flood compliant. The DES has State permit information. The DES issued its permit. The new structure will not increase in size. Setback from street will be improved.

BOARD

Mr. Lessard asked about the ADU. They will still have to come to the Planning Board for this. They went to the ZBA because it is in a detached structure that will be built post 2017. Mr. Lessard noted the garage is probably 50 years old; or 100 years old.

PUBLIC BOARD

This motion is just for the wetlands permit. This reduces sealed surface. There are existing goldenrods. There are many plantings, i.e. 1,300 s.f. of plantings. The main structure is out of the 50'. Mr. Boyd said a portion is within it.

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MOTION by Mr. Lessard to approve the wetlands permit along with the stipulations in the Conservation Commission’s letter dated April 27, 2022.

SECOND by Mr. Loiseau.

VOTE: 6 – 0 – 1 (McNamara)

MOTION PASSED.

22-025 124 Kings Highway (continued from June 1, 2022)

Map: 183 Lot: 43

Applicant: Patrick Carey

Owner of Record: Hunterlogan Realty Trust

Wetlands Permit: Install 6’ vinyl fence on north and south property borders. Existing trees to remain undisturbed.

Mr. Henry Boyd, Millennium Engineering, appeared. The Conservation Commission wanted them to update the plan. It is updated to show where the fence is going. Mr. Boyd inadvertently put “proposed new dwelling”; it should be “fencing” as it is just for fencing.

The plan is about the same, but he reprinted and dated it. He added note about the retaining wall that holds the landscaping item. That will be removed. A vinyl fence will be placed. There is an existing tree line that will be left. The fence will be inside the property lines. Nothing across the rear.

**BOARD
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MOTION by Mr. Lessard to approve the wetlands permit along with the stipulations in the Conservation Commission’s letter dated June 29, 2022.

SECOND by Mr. Loiseau.

VOTE: 6 – 0 – 1 (McNamara)

MOTION PASSED.

IV. CONSIDERATION OF MINUTES of June 1, 2022

MOVED by Mr. McNamara to accept and approve the June 1, 2022 Minutes.

SECOND by Ms. Mullen.

VOTE: 7 – 0 – 0

MOTION PASSED.

VI. CORRESPONDENCE

VII. OTHER BUSINESS

RSA 41:14-a Process - Town owned Deed Restriction on formerly Leased Land

Tax Map 183, Lot 25 – 141 King’s Highway. Relief from Deed Restriction #4 – “The only structures permitted to be erected or placed upon said lot shall be one single-family dwelling...with no more than a two-car garage. The Grantee will not erect any buildings upon the premises within seven (7) feet of any boundary line....” The petitioner seeks the deletion of Deed Restriction #4 to allow the construction of an 8’ x 12’ storage shed, and the replacement of the detached one-car garage with a new 18’ x 20’ two-story detached garage with a playroom and 4th bedroom on second floor.

Mr. Bachand said this request was amended. The Petitioner requested only to modify Deed Restriction #4 to deal with the 8’ x 12’ storage shed. He recommends that to the Board of Selectmen.

The Planning Board recommends this to the Board of Selectmen specific to the 8’ x 12’ shed.

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MOTION by Mr. Lessard to recommend this request to the Board of Selectmen, to allow for the 8’ x 12’ storage shed.

SECOND by Mr. Loiseau.

VOTE: 7 – 0 – 0

MOTION PASSED.

RSA 41:14-a Process - Town owned Deed Restriction on formerly Leased Land

Tax Map 98, Lot 34 - 1062 Ocean Boulevard. Relief from Deed Restriction #4 – “The only structures permitted to be erected or placed upon said lot shall be one single-family dwelling...with no more than a two-car garage. The Grantee will not erect any buildings upon the premises within seven (7) feet of any boundary line....” The petitioner seeks the modification of Deed Restriction #4 to allow the existing two dwelling units with associated garages.

Attorney Bob Casassa appeared with Andrea Checovich and her husband Sam. They are seeking recommendation to the Board of Selectmen for the Deed Restriction #4 in the Deed that is in Andrea Checovich’s Trust. They went to the ZBA on June 16th and obtained variances. They want two structures on this property. There have been two structures; the first one built in 1927 and the second one built in 1940. They want recommendation for relief for Deed Restriction #4, no more than 4 bedrooms. The intention is to continue to be allowed to have more than 4 bedrooms. The garages are under the two structures. This was approved by the ZBA. Letters from neighbors in support were provide to the ZBA. Mr. Boyd will be back August 3rd for another application on this project.

BOARD

Mr. Bachand said this will come before Board as a wetlands permit.

MOTION by Ms. Carnaby to recommend this request to the Board of Selectmen.

SECOND by Mr. McNamara.

VOTE: 7 – 0 – 0

MOTION PASSED.

Mr. Bachand sent an email to the Board. Jennifer Rowden (Rockingham Planning Commission) drafted new amendments to the Aquifer Protection Ordinance. We are going to have a public comment session. It will be July 20th; after the Master Plan Steering Committee portion. We will do aggressive publicity including getting amendments on the website; something for Channel 22, and on Facebook.

Mr. Bachand discussed a flyer for an age-friendly community survey. The Town is working on this with the RPC and Meals on Wheels. They want to hear from everyone in the community. Now and into the future. They got 165 responses. We’ll do another push here – anyone from home, Mr. Bachand asked for residents to please fill this out. The RPC will do a public information session. More to follow. Hamptonnh.gov is the website; the information is on the front page. People can fill this out or call the Planning Office.

VIII. ADJOURNMENT

MOTION by Mr. Loiseau to adjourn.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 8:12 p.m.

Respectfully submitted,
Laurie Olivier, Office Manager/Administrative Assistant

****PLEASE NOTE****
ITEMS NOT CALLED OR IN PROGRESS BY 10:00 P.M.
MAY BE CONTINUED TO THE NEXT SCHEDULED MEETING