

**HAMPTON PLANNING BOARD**

**MINUTES**

**January 4, 2023 – 7:00 p.m.**

**PRESENT:** Tracy Emerick, Chair  
Ann Carnaby, Vice Chair  
Sharon Mullen, Clerk  
Brendan McNamara  
Richard Sawyer, Selectman Member  
Steve Chase, Alternate  
Mark Olson, Alternate  
Jason Bachand, Town Planner  
Laurie Olivier, Office Manager/Planning

**ABSENT:** Alex Loiseau  
Keith Lessard

**I. CALL TO ORDER**

Mr. Emerick commenced the meeting by leading the Pledge of Allegiance and introducing the Planning Board members. Mr. Emerick asked to hear “Other Business” – 144 Ashworth Avenue first. The Board concurred.

- **144 Ashworth Avenue; 6, 8 & 10 Riverview Terrace & 6 Johnson Avenue** – Request for one-year extension of the January 19, 2022 conditional site plan approval.

**MOVED** by Mr. Olson.

**SECOND** by Ms. Carnaby.

**VOTE: 7 – 0 - 0**

**MOTION PASSED.**

Mr. Bachand noted that this extension will expire on January 19, 2024.

**II. ATTENDING TO BE HEARD**

**III. NEW PUBLIC HEARINGS**

**23-001 66 & 68 Island Path**

Map: 282 Lot: 1

Applicant: Alison & Catherine Glavin

Owner of Record: Same

Wetlands Permit: Construction of a toe stone protection with biostabilization system to prevent erosion and to re-vegetate lawn area previously eroded by rising tides.

The applicant did not appear. The Planning Board opted to move onto the next application and see if the applicants appear later on in the meeting.

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#### **23-002 449 Ocean Boulevard**

Map: 266 Lot: 29

Applicant: MAM Realty Investments 1, LLC

Owner of Record: Same

Impact Fee (School) Partial Waiver Request: Section 5.5e of the Impact Fee Ordinance. Request applies to 37 one-bedroom units seeking to provide impact fee of \$200 per unit as opposed to \$1898 per unit as required

Attorney Justin Pasay appeared with Chuck Bellemore, the applicant. Attorney Pasay noted Mr. Bachand's memorandum summarizes this well. Mr. Bellemore's project was the former Sea Spiral. This was a conversion into condominiums. The applicant is ready for its CO's. It is for 37, one-bedroom condominiums. After the project was permitted, they filed a waiver request for the school impact fee. The Board has authority to issue a full or a partial waiver. It was noted \$1,898 is the normal impact fee for the individual units. Because of the size of these units, these are not occupied throughout the year, and they will be utilized during the warm months only. They want it to be reduced to \$200 per unit. It was noted \$7,400 in impact fees are being requested. The Town Assessor looked over this and concurs.

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Mr. McNamara asked if it was Bruce Mayberry who conducted the study. It was stated "yes". Ms. Mullen asked how we know they won't be rented out to families. Attorney Pasay noted the condominium documents restrict the length of rentals. The units are 500 square feet. There probably will not be children.

#### **PUBLIC BOARD**

Mr. Bachand recommends approval along with the stipulations contained in his Memorandum dated January 4, 2023.

**MOTION** by Mr. McNamara to grant the Impact Fee Partial Waiver Request.

**SECOND** by Ms. Carnaby.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

#### **PUBLIC HEARING FOR ZONING ORDINANCE AMENDMENTS**

1. Amend the Zoning Ordinance to add new Article XIX-B, the "Liberty Lane Overlay District", which includes the following sections: 19-B.1 stating the purpose of facilitating development of real property primarily accessed from Liberty Lane. 19-B.2 citing the boundary as consisting of any and all real property bounded between the New Hampshire Turnpike (Interstate 95) to the West, New Hampshire Route 101 to the East and North, and Towle Farm Road to the South. 19-B.3 stating that the dimensional requirements for the Liberty Lane Overlay District shall be the same as those provided for the underlying Industrial Zoning District but with respect to any residential use, the maximum number of units per structure shall not exceed 120. 19-B.4 citing the permitted uses to include

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Residential Dwelling Units: Single Family, Two-Family, and/or Multi-Family; Condominium; Outdoor recreation areas for picnicking and pet exercise; Retail Sales and Services; Restaurants; Business and Professional Offices; Personal Services Establishments; Hotels; Health Care Facilities; Health/Athletic Clubs; Private Schools; Light Manufacturing, including Research and Development; Electric Vehicle Charging Stations; and Accessory Uses. 19-B.5 requiring Site Plan Review. 19-B.6 requiring all uses to comply with the parking standards provided in Article VI of the Zoning Ordinance, requiring a minimum of one electric vehicle charging station for every 100 residential units, and requiring a minimum of one electric vehicle charging station for every 50,000 square feet of non-residential floor area. 19-B.7 requiring any development or redevelopment to be consistent with the purposes set forth in Section 19-B.1 and to be subject to the Architectural and Site Design Guidelines and other related requirements in the Town of Hampton Site Plan Review Regulations. 19-B.8 stating that signs shall be governed by the provisions of Article V of the Zoning Ordinance, shall adhere to the requirements for the Industrial District in Tables 1 and II of said Article V, and shall be subject to the Architectural and Site Design Guidelines and other related requirements in the Town of Hampton Site Plan Review Regulations.

Also, Amend Article III – Use Regulations to add a note cross referencing Section 19-B.4 for the Permitted Uses and Facilities in the Liberty Lane Overlay District.

Attorney Bosen appeared. He represents the applicants. He introduced the members of the team; John Kane, Patrick Crimmins of Tighe and Bond. He said this is a chance to support zoning. It would be a mixed-use development. It will stimulate economic development consistent with the Master Plan. This area is 104 acres. It is currently zoned for industrial and adult uses. Section 19-B-4 – contains uses to be allowed in the district. Developing residential housing was discussed. They want to attract businesses to Hampton. (Paperwork on this zoning amendment is available in the Planning Office). The owners are seeking to propose high-quality housing, restaurants, etc. Drive-thru restrictions were removed from the prior draft per the Board; electric charging stations have been added. This property is isolated from other neighborhoods. They will need to go to the Planning Board eventually and a traffic analysis will be needed. They will address Zoning. They want support from the Planning Board for the overlay district.

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Mr. McNamara asked about parking. He thinks electrical vehicles are addressed. They would have to come to us for a site plan. Why are we talking about detailed uses was asked. Attorney Bosen said all uses shall comply with parking standards. It was noted two, 9' x 18' parking spaces per unit are being required in the ordinance. Attorney Bosen said this ordinance opens up the ability to move forward.

Ms. Carnaby said the red line (on the map) is what is outlining the area of the overlay district Attorney Bosen is referring to. It encompasses more than his clients' property. It was noted uses 1 through 14 are the only ones included. Attorney Bosen said industrial and adult uses will still be included with the other uses.

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Patty Visconte appeared. She has been in Hampton for 28 years. She lives at 17 St. Cyr Drive. She is a commercial broker also. She is speaking against it. She wants the Board to consider traffic. The current infrastructure – Route 27, Towle Farm Road, getting to Lafayette Road; it's crazy now. She can't imagine it being changed. The school system was mentioned. Four hundred residential apartments and town houses are being considered. The sewer system – she is hearing we are so over the edge in Hampton. It will cost us millions to rectify. Was it rectified was asked? Mr. Sawyer said they are in the middle of an upgrade. It's been for years. Re-zoning was discussed. What will it look like - she can't imagine the impact on schools.

She wants the Board to consider the land over there on Liberty Lane. It is beautiful. It would be a beautiful industrial park. So many manufacturers want to come here. There is no land or buildings for businesses to relocate to. It was noted industrial property is hot now.

It would be great for one developer; but not for Hampton. You can't have heavy industrial in Hampton.

This is adding zoning per Mr. Emerick. It is not re-zoning. Adding to it is what Ms. Visconte is against. How is it good for the community was asked. How can this be good for the school system was asked; the sewer system. Mr. Sawyer said the water needs to meet the proper testing. Adding residential per Ms. Visconte – she asked if the applicants will pay the impact fee.

Mr. Al Fleury appeared, 15 Munsey Drive. He noted people need to live in Hampton. We have shortages everywhere per Mr. Fleury. He is not sure about septic/sewer.

Tom Moulton appeared, 137 Landing Road. He has watched Hampton grow. Shortages were discussed. We need housing. He is a fan of the mixed use. Taxes will be paid on real estate. He is not opposed to the mixed use. He is working on housing downtown. He noted that Mr. Fleury and he talked with the Governor.

John Kane, Kane Company, appeared. He addressed Ms. Visconte's concerns. They do build industrial. They have built at Pease. Everything, but housing. They noted the tenants they talked to wanted large buildings.

#### BOARD

Mr. Bachand discussed the sewer. Back when projects for this area first came in, including Cornerstone, there was a sewer association put in place. They may have to be part of that Association.

If an application for a development comes forward, it will have an extensive review. Let the voters take it up (the zoning article) per Mr. Bachand.

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Mr. McNamara mentioned the impact fees. Impact fees are strictly for schools, but this Board did accept (adopt) exactions and that would come into play. The public needs to know that.

**MOVED** by Ms. Mullen to move this to the ballot.

**SECOND** by Mr. McNamara for discussion.

Mr. Olson discussed stakeholders nearby. It is a difficult situation. He can be swayed either way. The horse is out of the barn on housing. For the people and children. He discussed affordable. He feels it should be built into this. He noted land is expensive. He discussed understanding applicants need a return on their money. The idea of promising housing in that area should have an element that truly makes it affordable. It should be woven into an Amendment or Ordinance. Where we are now is not working.

Ms. Visconte brought up affordability. This is being presented of how great this will be for the community; what about the impact of traffic was asked. Nobody wants to talk about the off-site improvements. Building more and more was discussed. High Street; Exeter Road-Lafayette Road; it's the biggest pinch point a person can imagine. Someone wants to go to the grocery store; the impact on the school system was discussed. Police and ambulance services, etc. Mr. Olson said it is not in the best interest of residents.

It was noted that downtown Hampton area has tumbleweed going through it. They turn their backs on the area. It could be a village (successful). Is this going to cause a problem downtown was asked. Throwing this together is careless at best.

Mr. Sawyer said we are adding possibilities. They are here to make money. The applicants will have to come to the Planning Board for everything they want.

It was noted the overlay does not give carte blanche for the applicant. We are only voting on the overlay.

Ms. Mullen said we are working on ways to deal with affordable housing. There is a desperate need.

Ms. Carnaby said if there was some kind of preliminary traffic study done that would identify how traffic could flow with the increase of population, that may explain more. Mitigating traffic problems as well could be addressed.

**VOTE: 6 – 0 – 1 (Olson)**

**MOTION PASSED.**

2. Amend Article II - Districts, Section 2.5 – Aquifer Protection District Ordinance. This amendment involves a comprehensive update of the existing Aquifer Protection District Ordinance for the following purposes: **To clarify the goal of the District:** The Aquifer Protection District Ordinance would be renamed the Groundwater Protection District Ordinance and the purpose section of the ordinance would also be expanded to convey the goal of the ordinance more clearly. **To improve definitions:** Terms used within the ordinance would be clarified by incorporating new definitions or modifications to existing

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definitions. **To expand the District to better protect drinking water sources:** The Aquifer Protection District would expand to include 1) the full extent of the stratified drift aquifer in Hampton as mapped by the U.S. Geological Survey, and 2) the wellhead protection areas (WHPA) of all public water supply wells that have WHPA's under state and federal rules. Currently, Hampton's Aquifer Protection District only includes part of the WHPA for the Aquarion Water Company wells located in Hampton. **To improve design requirements:** The maximum amount of impervious surface – roads, rooftops, and parking lots – that commercial lots could have within the Aquifer Protection District would be reduced from 60% to 40% to reduce stormwater pollution and improve infiltration. However, the maximum amount may exceed 40% impervious coverage (but in no case can be greater than 75%) if the site meets design standards that help to protect groundwater resources. Similarly, for residential lots less than ½ acre in size, the maximum amount of 25% impervious coverage may be exceeded (but in no case can be greater than 40%) if specified site drainage standards are met, providing a layer of protection that does not currently exist in areas with legally pre-existing residential lots of record. **To clarify allowed uses:** Permitted uses in the District would be clarified so that uses and activities that pose little to no risk to groundwater are clearly allowed. **To reduce risk from some uses and prohibit others:** The list of uses that are allowed and not allowed within the Aquifer Protection District would be modified. Uses that pose a greater potential risk to groundwater would have to meet certain requirements to be allowed. Those uses which pose the greatest potential risk to groundwater are prohibited; additions include petroleum storage facilities, automotive service and repair shops, gasoline stations, and outdoor storage of hazardous chemicals in flood prone areas. All uses that are currently legally existing would be allowed to continue. If the current use seeks to expand, components of the operation may be subject to the new requirements depending on the proposal.

This Article also includes necessary consistency adjustments and cross references between Article II, Section 2.5 and Article II, Section 2.7 (Professional Office/Residential District), Section 2.8 (Town Center District), and Article IV (Dimensional Requirements).

Mr. Bachand presented a PowerPoint. This is available at the Town Hall. This is the second hearing on this amendment. It was also taken up on November 16<sup>th</sup>. We've been talking about this for a long time. He wished Jennifer Rowden (RPC) could appear, but she was unavailable this evening. This is to improve the Aquifer – enhancing protection. The RPC discussed protecting Hampton's drinking water. This aligns with the Town Master Plan. It is also noted in the current Master Plan.

Working drafts were presented in April and May of 2022, but we go back to 2020 and 2021 with the discussions. The Amendment has been improved. There was a public information session on this in July (2022). This was publicly advertised/extensively advertised. We ran the July meeting on Channel 22 also.

The Aquifer was discussed.

This Amendment is to expand and to protect the Town's existing and future water supply; the future availability of unpolluted water supply. It increases the legal justification. The Town Attorney reviewed this.

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Improved definitions were added.

The expanded district was discussed. The USGS mapping study for the region is being utilized. The wellhead protection areas were discussed. The NHDES mapping was utilized. NHDES groundwater model ordinance was referenced in this also.

We added flexibility; the maximum impervious for commercial, lowered to 40 percent where it's mostly 60 percent now. However, the maximum coverage can go above 40 percent but can go to no more than 75 percent if specific actions are included to protect the groundwater. Most of these items can be required in a typical site plan review process also.

Residential – it will remain at 25 percent; but it was noted residential lots of less than ½ acre in size could go to no greater than 40 percent, but site standards need to be met. We talked about this a lot.

A hydrogeological study can be added if needed.

Mr. Bachand noted the Board has been through this Amendment a number of times. He acknowledged that we received letters from the business community. Mr. John Nyhan (Chamber), John Tinios (Galley Hatch) and Joe Higgins (Old Salt). A letter is also provided from Jennifer Rowden (RPC) in response to concerns that may be heard this evening.

Ms. Rowden notes how this would affect projects.

Mr. Bachand said we are out of time to make any substantive changes. He would have to go back to the RPC, then get this re-noticed by this Friday, etc., which would be impossible. He thinks this should be moved to the ballot and that is what he strongly recommends. This way, we are letting the voters have a say on it. The other option would be to table it (not recommended by Mr. Bachand).

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Mr. McNamara discussed when the original Aquifer was established. He thinks this is a lot to take in overnight. Mr. Bachand said we have talked about this many times; had a public information session on this. It is consistent with the new Master Plan and it is in old master plan also. This has been talked about. Mr. McNamara said he likes for businesses to be left alone - little government getting into projects.

Mr. Sawyer said he agrees with Mr. McNamara. There are people here with projects they want. He wants to hear what they have to say.

Mr. Olson said in 1989, the Aquifer was 1,664 acres and now 3,492 is being proposed. These are areas that need protection. There is a study from 2019 discussing contamination. Providing adequate protection of resources was discussed. He wanted to see a letter from Aquarion. Mr. Bachand noted that Aquarion supported this. They provided a letter of support to the Planning Board. This (proposed amendment) was initiated by the Town. The Board recognized the need to address this.

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Mr. Bachand said protecting the drinking water supply is important and should be considered first and foremost. The Board added flexibility (to the proposed amendment). We incorporated flexibility for projects in the Aquifer Protection District.

Mr. Bachand noted one should not wait for something to happen, and then take action. Hampton should be looking at this at a regional level; it's not just a local level issue; it's a regional issue. It does not know Town boundaries. In a 2019 study, there were areas noted of high risk. It was asked if the biggest threat may be salt water. It was stated that is not the only one. There was something in the coastal resilience report about this. Saltwater intrusion was noted.

It is unfortunate that this is last minute. The Board cannot disregard its concerns of people being directly affected. People need to pay attention to what is going on.

Mr. Bachand noted the last date we could hold a hearing is two weeks from now but he would need to coordinate with the RPC and post the notice by Friday. We are out of time.

Mr. Bachand said many things are required (for projects in the District), but those things are minimal. Adding a Conditional Use Permit, meeting findings of fact - many of these requirements are under the site plan process anyway.

Mr. Bachand does not think it adds a burden. Ms. Mullen questioned what the impact would be to developments. Ms. Carnaby said we have looked at these maps many times.

Mr. McNamara said if we put this on the ballot, that this is law immediately. It does not wait until Town Meeting. Mr. Bachand noted that at the first notice of public hearing, it was already in effect. This was noticed back in November.

Mr. Emerick discussed PFAS. Comes from shingles, siding. They are probably everywhere.

### PUBLIC

Patty Doherty, North Shore Road, appeared. She said it looks like if you are a business person or developer, there are exceptions. What if one is a homeowner with less than ½ acre. What about the rest of us. Where are our rights was asked.

Mr. Bachand said for residential lots; Hampton has pre-existing lots of record. Some go back to the 50's and 60's, even earlier. Many of those lots will already exceed the requirements.

It was noted mammoth houses have been built on North Shore. Where is the grandfathering for people who have been there for a while. If you cannot meet zoning requirements, you can seek to obtain a zoning variance was noted by Mr. Bachand.

Mr. Al Fleury discussed the 11<sup>th</sup> hour. He noted he and others were not paying attention – he said he is guilty. Brian Provencal brought it to Mr. Fleury's attention. It adds another hurdle.



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Ms. Rowden addresses many of the concerns in her letter, which was provided to the Planning Board and is available at the Planning Office.

Tom Moulton discussed clean water. He asked if we have bad drinking water now?

Brian Provencal appeared. People panicking was discussed. He noted Aquarion does not want the Zoning Board to grant anything through zoning in the Aquifer.

Shane Pine appeared. He noted the enlargement of the Aquifer has a huge impact. He thinks it should be punted.

Attorney Justin Pasay appeared. It is a worthy cause. He thinks it conflicts with the Master Plan. Conditions were discussed.

Danielle Bruce appeared. She does not believe the residents want housing downtown. She does not know if the application was submitted. She discussed government assistance. The elderly were discussed. She discussed workforce housing. We (Hampton) are 8<sup>th</sup> highest in density. Overpopulation was discussed.

Brianna O'Brien, Conservation Commission Coordinator, appeared. On behalf of the Hampton Conservation Commission, she noted the Commission supports the changes to the Ordinance. Updates are much needed to save our vital drinking water resources. As far as timing – changes should have been made a while ago--over the last few years when information became available on wellhead protection areas. The Commission feels this Amendment is drafted fairly and diligently. She noted our municipality is charged with protecting our water quality. We need to be proactive on this. There are some Hampton water sources that have known or potential issues; we don't have severe problem right now, but we should keep it that way.

Ms. O'Brien noted Hampton has highly developed land; higher for this region. The level of development in the pipeline has a negative impact on water quality. It is complex. This is balancing science, residents, and businesses. Hampton is required by law to protect our drinking water. That is what we are doing with this Ordinance. She noted the Planning Board and Mr. Bachand did their due diligence. Every citizen would expect and hope for the government to do this for them. Spending more time re-visiting this Amendment is dangerous and irresponsible and would rob voters of their opportunity to use their voice. This Board was ready to move this to the ballot in November. She urges the Planning Board to do this.

Mr. Emerick asked how do you get parking lot oil before it goes down the drain. Maybe oil/water separators was mentioned by Mr. Bachand. Ms. O'Brien said the regulation is stating that the developer would have to prove that they are not adding toxic material; for separation to happen on site; there must be proof that it's not going to be directly contaminating the drinking water source.

Mr. Emerick asked if we don't want to vote tonight, what are the options. Mr. Bachand noted the Board could table this. If the Board doesn't want to vote tonight and the Board makes no changes and

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hears it on January 18<sup>th</sup>, it can do that. Mr. Bachand asked what it would gain (by continuing to the 18<sup>th</sup>).

Choices: Not sending to the ballot; continue to the next meeting if anyone wants more due diligence, or send it to the ballot.

Ms. Mullen thought we were all alarmed at the onset. As we worked through it, she felt more comfortable with extra protection without changing much.

Mr. Emerick noted Ms. Rowden's letter. Ms. Rowden's letter can be circulated.

Ms. Carnaby said her preference is to err on the side of caution and take the steps that we have spent time developing based on information that is from good sources to protect the health of the public. We spent time developing this. We received information from good sources.

**MOVED** by Ms. Carnaby to move this to ballot.

**SECOND** by Ms. Mullen.

Discussion -

Mr. McNamara does not want bad water. He said homeowners, such as residential – we are changing their livelihood. Businesses, we are adding more building blocks. He wants protection but not at the cost of a business that wants to invest in something or residents who may want to improve their properties, such as adding a garage.

Ms. Mullen asked if some existing owners are grandfathered. Mr. Bachand asked how Mr. McNamara feels it would preclude a homeowner from putting in a garage on. Mr. Bachand said they can go to 40 percent. Right now it is 25 percent. The area will be much broader. Mr. Emerick said owners can take pro-active steps so they can actually build a garage where they couldn't build one right now as the ordinance stands.

Ms. Carnaby wants the citizens protected as much as possible. We can study this until there is another TV commercial, i.e. reasonable drinking water. It is happening a lot. We have protection issues in place. Mr. Sawyer said that is extreme. What is reasonable was asked. Mr. Sawyer said we have existing protection in place. Ms. Carnaby said we have been looking at this for six months and we have gotten a lot of assistance from the Regional Planning Commission; this is not just Hampton's little idea. This is a regional issue. It was discussed how Portsmouth did not clean up in time. Ms. Carnaby does not want to hear about anything else. It was noted the dump areas are dangerous. The previous dump in the estuary on Island Path was discussed.

Mr. Emerick said there are test sites around. Monitoring wells around our old dump. It is acceptable now. Ms. Mullen said we are trying to be pro-active; not to look at past sins. Mr. Sawyer said the Town is monitoring. What is a reasonable level of protection was asked.

Ms. Olivier noted Ms. O'Brien did a great job. She agrees we should be proactive and not reactive. She noted Portsmouth is an intelligent city, but some daycares were contaminated with PFAS and

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many children currently have issues from the contamination. When her grandson was born, something came out on the Hampton site noting the water was contaminated, i.e. do not drink the town water. People do not see this and are informed necessarily right away. She had to call her son and daughter-in-law and tell them to make her grandson's bottles not from the tap asap, but to get bottled water. She does not want to be an alarmist, but wants to be proactive.

Ms. Mullen discussed working through with what we worked on. What is the concern.

Mr. Sawyer said we should be pro-active.

Ms. Mullen said maybe we can be.

Mr. Nyhan could be a good point person.

Mr. Olson discussed the heavy side. People need to participate in these meetings.

**VOTE: 5 – 0 – 2 (McNamara & Sawyer).                      MOTION PASSED.**

3. Amend Article I – General, Section 1.6 Definitions to add a new definition of “Pervious Surface”. In addition to defining pervious surface, also known as porous surface or permeable surface, the new definition will provide criteria for the proper installation of pervious hardscapes such as asphalt or paver systems. A pervious hardscape system may also be inspected at any time and deemed impervious should it be determined that the system has not been maintained or has been compromised in some way so as to no longer infiltrate water effectively.

Ms. O'Brien discussed impervious surfaces. She was here before the Planning Board in November to discuss this. She noted Ms. DeVries discussed some concerns. Ms. O'Brien made a slight change to it. This is the third time before the Board. Mr. Emerick asked if there were any changes. The change is to hardscape. Impervious was discussed. One would not be in violation, the surface is no longer considered pervious. It would be up to the Building Inspector for enforcement. If the homeowner is not over (maximum coverage) with their hardscape, there is a note made on file. If it is over, one is made to remedy the situation so it is effectively pervious. It could be vacuuming. Was there an educational component for this was asked – how to maintain perviousness of surface was asked by Ms. Mullen. The responsibility is on the applicant. Ms. O'Brien has a form. If it comes to the Town with a wetland application, it could be a form of education.

Mr. Olson said there is equipment to service this if clogged. Sand, rain, and wind were discussed. Ms. O'Brien said the Conservation Commission does review the proposals. Not all hardscapes go before the Conservation Commission.

Mr. Sawyer discussed the Building Inspector. Is that language consistent with other building inspections was asked. Some surfaces are behind pools; behind fences. If this goes to Court, it would

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not go well. Ms. O'Brien said the property owner is notified. Mr. Sawyer said maybe take out "at any time". Mr. Bachand does not believe that is a substantive change.

Ms. Mullen said at any time is any time down the road. Drop "at any time".

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**MOVED** by Mr. McNamara to move this to ballot with the small change.

**SECOND** by Mr. Olson.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

4. Amend Article V - Signs. Modify Section 5.1 to further clarify the purpose of the Sign Ordinance. Amend Section 5.2 to remove all references to specific flag types from the current definition of "Banner". Amend 5.3 to reference location and add new subsection 5.3.3c prohibiting the location of signs where an obstructed view or other pedestrian or vehicular traffic hazard would result. Amend 5.4.2.e to address safety issues and residential character, as these relate to residential banners, by requiring the specific location of banners on any lot in the residential zones to be approved by the Building Inspector and requiring annual renewals of the same. Also, amend Table II to change the maximum banner size requirement from 50 square feet to 32 square feet in the RAA, RA, RB, and RCS zoning districts.

Mr. Bachand noted we heard this in November. We received input from the Town Attorney. Banners were discussed. It is to protect property values and the character of the community.

Mr. Bachand added 5.3.3 – prohibits location of signs where they could obstruct clear and free vision. The DPW and Building Department asked for this. Hazards could result.

Legal counsel said this amendment is not in conflict. The residential banner section was discussed. Removing the frequency and duration was discussed. Annual renewals for banners were discussed.

The size change from 50 square feet to 32 feet was an edit made previously. There are only two changes. A letter from the Town Attorney was provided to the Board.

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Mr. Olson said it makes sense.

Mr. Sawyer asked about residential banners; the Building Inspector inspects. What would he have to deny any permit was asked. What grounds would the Building Inspector have to deny a sign. It is content neutral.

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Obstructions were discussed. It cannot be regulated on profanity. Content is not regulated under this amendment.

Frequency and duration - that was challenged.

Mr. McNamara discussed flags.

### PUBLIC

Ed Brackett, 9 Fellows Avenue, appeared. He dug deeper into the Ordinance. He handed his information to the Board.

Federal Court cases were discussed. He read about political signs and speech. The First Amendment was discussed. He has concerns with constitutionality. Political signs were discussed.

Time limits on elections were discussed.

Political statements were discussed. Paperwork is available at the Planning Office in Town Hall.

Mr. Sawyer shared his concerns. He discussed the size of signs and safety issues. He does not think it deals with private property. This ordinance does not affect that.

Mr. Brackett said on Page 6, 5.5.7 – Political Signs. It does affect private property. Ms. Mullen said Page 9 – it could be expanded. It could be included – changing definition of “incidental”.

It is about elections per Mr. Brackett.

Ms. Mullen asked if the definition can be edited. Mr. Sawyer discussed timelines. There should be no timeline on political signs.

Mr. Olson wants the solution. What language can be changed was asked. Mr. Bachand said we contacted legal counsel and we came up with something that addressed the frequency and duration concerns.

This either gets tabled, but we move forward with this and look at it again in 2024. Mr. Bachand asked if concerns were addressed. Mr. Sawyer asked about BLM -is that a \$25 fee also. Who makes the decision if something is a political sign.

Mr. Sawyer said it could go to voters; it could be a bit defective. He asked if we should reach out to legal before the next meeting. Ask the Town Attorney about the issues Mr. Brackett brings up. BLM-freedom of speech. Someone may say it is a political sign.

Mr. Brackett said the ordinance states everything goes to being a banner.

**HAMPTON PLANNING BOARD**

**MINUTES**

**January 4, 2023 – 7:00 p.m.**

Mr. Emerick wants to know what Mr. Brackett wants as a solution. Mr. Brackett said to read the Holyoke, Massachusetts court case. Mr. Bachand said we have read it. It is also noted in the Town Attorney's letter.

Mr. Olson said political signs don't need to be put up for whatever they want on their home. We don't have a right to limit. Political signs should be limited to a person running for office.

Our definition of political sign needs to be fixed. The Amendment is content neutral. If we need to amend this again, let's do it next year.

Mr. Bachand said the Town Attorney reviewed the court cases. Political signs - Mr. Sawyer noted that maybe it needs to be edited. BLM is social; it is not political per Mr. McNamara.

Mr. Bachand said there is a time challenge. We would need the Town Attorney opinion within two weeks. Mr. Sawyer said the current ordinance is problematic. It still has a problem.

Table it and bring it back in 2024. The Board cannot take action on it.

**MOTION** to table by Mr. Sawyer.

**SECOND** by Mr. Olson.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

**IV. CONTINUED PUBLIC HEARINGS**

**V. CONSIDERATION OF MINUTES of December 21, 2022**

**MOTION** by Ms. Carnaby to approve the Minutes.

**SECOND** by Mr. McNamara.

**VOTE: 5 – 0 – 2 (Chase and Olson).**

**MOTION PASSED.**

**VI. CORRESPONDENCE**

**VII. OTHER BUSINESS**

- **144 Ashworth Avenue; 6, 8 & 10 Riverview Terrace & 6 Johnson Avenue** – Request for one-year extension of the January 19, 2022 conditional site plan approval. (*see above*)

Mr. Bachand noted that the Board will need to continue 66 & 68 Island Path to the next meeting on January 18<sup>th</sup>. The applicant did not show up this evening.

**MOTION** by Mr. Emerick to continue 66 & 68 Island Path to the Planning Board's next meeting.

**SECOND** by Mr. McNamara.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

**HAMPTON PLANNING BOARD**

**MINUTES**

**January 4, 2023 – 7:00 p.m.**

Ms. Carnaby noted next Wednesday night is a regular RPC Commissioners meeting. It is a special meeting for their quarterly municipal officials forum. The event will take place Wednesday, January 11<sup>th</sup> from 6:30 to 8:30 at the Stratham Town Hall. Presentations will be followed by regional round table conversation regarding housing and other regional planning needs.

Round table conversations. There will be Zoom participation available. Contact Ann Carnaby for the link; there are light refreshments.

The RPC is having this meeting quarterly.

**VIII. ADJOURNMENT**

**MOTION** by Mr. McNamara to adjourn.

**SECOND** by Mr. Sawyer.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

**MEETING ADJOURNED: 9:49 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 MEETI**