

HAMPTON PLANNING BOARD

MINUTES

February 5, 2020 – 7:00 p.m.

PRESENT: Tracy Emerick, Chair
Ann Carnaby, Vice Chair
Alex Loiseau, Clerk
Fran McMahon
Mark Olson
Keith Lessard
James Waddell, Selectman Member
Jason Bachand, Town Planner
Laurie Olivier, Office Manager/Planning

ABSENT:

I. CALL TO ORDER

Chairman Emerick commenced the meeting at 7:00 p.m. by leading the Pledge of Allegiance and introducing the Planning Board members. It was noted the applicant for Drakeside Rd. and Lafayette Rd. wishes to withdraw. (No Motion Required)

II. ATTENDING TO BE HEARD

III. NEW PUBLIC HEARINGS

20-006 58 Briar Road

Map: 116 Lot: 25

Applicant: Susan Foster

Owner of Record: Susan Foster Revocable Trust

Wetlands Permit: Existing new house and garage constructed under prior Town permit. This application is for steps and HVAC pad (recently built) & proposed generator pad (proposed) not permitted under original application.

Mr. Henry Boyd, Millennium Engineering, appeared. A couple of things were added. It is within the wetland buffer. There is an existing HVAC pad not granted under the original permit; steps not granted under the original permit. They want to put in a generator pad. A door at the back side of the garage has a frame across the doorway. No steps there. Steps are required by Code. The Conservation Commission asked that be added to the permit request. Not to exceed 20 s.f.

Mr. Boyd discussed the garage that was removed. The Conservation Commission wants debris cleaned up. The planting area was shown. Existing crushed stone was discussed. Two boulders should be placed at the wetland buffer. Markers to be placed on one of the two boulders.

Mr. Boyd discussed shrubs on the easterly line. They agree with everything else on the plan.

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Mr. Lessard asked how many shrubs. Mr. Boyd said he is not sure how many. The area is about 100' long. That should be worked out with Ms. Dionne per Mr. Boyd. It is hedge-like per Ms. Carnaby.

Ms. Rayann Dionne appeared. She noted the Commission did not specify the amount of shrubs. The intent is that when the plants mature, they should touch each other.

Mr. Lessard went to the Conservation Commission meeting. It was difficult because there was no one there to represent the applicant; the applicant was not there. They did not want to design what the applicant should have in place. A planting plan should be approved by Ms. Dionne. Mr. Lessard said it was disappointing no one was there for the process. There was no plan showing what the Planning Board is seeing now. Without having a plan and no discussion, it was tough per Mr. Lessard.

Mr. Boyd said Ms. Dionne will be supplied with a list.

PUBLIC BOARD

MOTION by Mr. Lessard to approve the after-the-fact Wetlands Permit based on conditions in the Conservation Commission's letter dated January 31, 2020.

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0

MOTION PASSED.

IV. CONTINUED PUBLIC HEARINGS

19-047 6 Vrylena's Way *(continued from 9/4/19, 10/2/19, 11/6/19 & 12/4/19)*

Map: 209 Lot: 112

Applicant: Brent 16175 Parking Trust

Owner of Record: Same

Wetlands Permit: Construct new home partially within the wetland buffer.

Mr. Henry Boyd, Millennium Engineering appeared with Attorney James Scully. Attorney Scully is appearing on behalf of the applicant and owner. It was noted this has been going on since last August. They have been before the Planning Board three times; the Zoning Board two times. On July 7, 2014, she came to Hampton, saw a buildable lot, and purchased it. From 2014 to 2019 taxes have been paid for a buildable lot of record. In 2018, the property was taxed at \$153,600.00. In 2019, it increased to \$169,000. Seven months later, she can't build. The NH rights of citizens was read aloud.

A Supreme Court case was read aloud. A taking was discussed per the Constitution by Attorney Scully.

Attorney Scully discussed the 12' setback. Ordinances were discussed.

Attorney Scully showed what they have for relief from the Zoning Board. The applicant wants to raise a family in Hampton.

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He discussed buffer proposed (enhancement program).

A one-house design was discussed. An oddly-shaped house was discussed. Altering the look of the neighborhood was discussed. After seven long months, they want reasonable use of the land. They are mitigating impacts on the buffer; making it better than today. They need relief. They need relief in the 50' buffer to the wetland.

Mr. Boyd, Millennium, appeared. He noted Mr. Bachand does not recommend approving the project, based on the Conservation Commission's letter. November 29th is the date of the Conservation Commission letter. They did not ask Sergio to come back again because he already discussed what he can do.

Rigid rules about the Wetland Conservation District was discussed by Mr. Boyd. He thinks the wetlands need to be looked at separately. He said an enhancement program should count as mitigation.

Mr. Boyd discussed flood storage. It is above flood elevation. Mr. Boyd said they have been back and forth. Mr. Boyd said only a mobile home could fit there.

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Mr. Olson went on the site walk when Sergio was there. He believes all involved are capable at what they do. Mr. Olson said he is worried about our flood storage, our drinking water, etc. It is why the Wetlands Conservation District was created. Maybe our Ordinances aren't perfect.

Mr. Olson said Mr. Olney was here to talk about the project a few months back. It is a creative use of land; it is nice in there. He feels for them that this is questionable. There is due diligence that should be done in purchasing property. If issues were known, then you negotiate or make the sale viable. It is not in the Planning Board's purview. Mr. Olson does not believe it is a buildable lot of record.

Mr. Boyd said they are not harming the wetland. This is an awful wetland per Mr. Boyd.

Mr. Olson said it is not a case by case; it is the greater wetland complex. It has been encroached upon for years. He understands why the Conservation Commission people feel the way they do.

Attorney Scully is empathetic with the Conservation Commission. This is why they employed Sergio. The intent is to come up with a plan not causing detriment to the owner/applicant.

Mr. Waddell said they are improving upon what is there.

Mr. Emerick asked how many square feet the paper is (which Attorney Scully held up at the meeting). 454 s.f.

Mr. Louiseau said the applicant was willing to compromise within reason in his opinion. He thinks the buffer is where the compromise should occur. He feels a compromise could happen here.

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Ms. Carnaby said if they get 300 feet into the buffer, then someone else will come along and say they got 300 feet; why can't we get 75 feet and the buffer will get chipped away at. Attorney Scully agrees with that. Each case should be individually looked at. Precedence is a risk.

Ms. Carnaby said she has yet to see where the Conservation Commission and applicants are unable to find a level of compromise. When the Conservation Commission says 'no', we should listen. She looks at this in a different light.

Mr. Boyd said he does not think it sets a precedence.

Ms. Carnaby said our wetlands are so precious and vulnerable at this point. She sides with the Conservation Commission on this.

Mr. Lessard said the home shows a bulkhead; first floor elevation is 17'; 12' across the back corner of the house. Why does there need to be such a large bulkhead was asked. Mr. Boyd would have to grade down into the wetland buffer to catch it.

There would be internal stairs from the house. Mr. Lessard asked if they would truck across the setbacks to bring things in and out of the basement. Mr. Boyd said 'yes'.

Mr. Lessard discussed the three-season room; sealed surface. Mr. Lessard wants that (bulkhead) moved out of the buffer. He has empathy with the existing building lot of record. It was a 20' setback to the wetlands at the time of the design back in '83 or '79 (or early 80's).

Mr. Lessard said the cellar elevation is at 9'; seasonal highwater – what happens was asked. Mr. Boyd thinks she will probably be above it. She could lift the house up. Mr. Boyd is not sure if there are covenants. Mr. Lessard wants things out of the wetlands buffer. Why can't the bulkhead go behind three-season porch was asked. Get the landing and the deck out of the buffer. Move the bulkhead over per Mr. Lessard. It (the deck) is supposed to be 6' or higher per Ms. Dionne. Mr. Boyd said it could be raised a foot. Attorney Scully said the intent is two stories.

Mr. Emerick agrees with Mr. Lessard. When Peter (Olney) did this, there were different sets of rules. Rules are changed. New rules - yes, it's a lot of record, but not a buildable lot of record. He is inclined to support the project with changes. He does not want to go to Court.

Mr. Boyd said to remove the bulkhead and raise the deck 6'. Ms. Carnaby said the applicant was unwilling to change the design of the house.

Peter's (Olney) delineation was to the north per Mr. Olson (north edge) and we had a 20' buffer.

Ms. Rayann Dionne, Conservation Coordinator, appeared. She pulled the subdivision plan; it was approved in 1995. All houses date from 1998 up to 2013. The 1995 approved subdivision (created 6 Vrylena's Way) and the buffer is noted on the subdivision plan. The buffer did exist when this lot was created. The delineation is 25 years old. It's not drastically different. One change different in the Regs is the 12' primary setback. That 12' is not regulated like the wetland buffer. It is a building setback.

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Ms. Dionne said she sees two independent pieces; the first being a portion of the house encroaching into the buffer; the second is the conversion of vegetated buffer to lawn. There is adequate room to construct a small house. The Commission was not presented with any modified footprint. She did not want to expand for one house design. Ms. Dionne found house designs for narrow lots. She drew two designs on there. She passed them out. It shows what would fit. The second is an actual house design. It is a 26 x 40 footprint – over 1500 square feet.

Ms. Dionne is demonstrating that there is an alternative layout that works on this property. She noted it converts 2/3's of the existing buffer into lawn; the remaining one-third where enhancement is taking place. The amount of buffer being converted to lawn was discussed.

Ms. Dionne said the Commission felt strongly that there should be no structure within the 50'. No problem with buffer enhancement. The Commission did not want to see lawn in the 50'.

Attorney Scully said he drew a similar arrangement to what Ms. Dionne is showing. Everyone wants bigger than what is acceptable. There are things to get it more compliant per Mr. Olson.

BOARD

Ms. Dionne said what Peter (Olney) showed was what he, himself, drew. There is a difference from what Peter was drawing; it was not the same plan the subdivision plan was on.

Attorney Scully said the plans that Peter drew on; he showed his delineation with a large buildable house. That is what was presented to the buyer.

They could reduce the grass.

Ms. Dionne said she wants the Board to consider iterations of the plan. 10/8/19; they moved the buffer enhancement up to the silt sock. Reduced by 218. She stands by the Commission – the buffer enhancement moving to silt sock may work. An existing undeveloped buffer, they did not want a house going into the buffer. The Commission works hard with applicants. Upholding the wetland ordinance voted on by the voters should be considered. She feels the house can be worked out. She found some designs. It is possible. It should remain outside the buffer.

Mr. Loiseau feels the same and with the grass stipulation per Mr. Lessard; he supports what Mr. Lessard proposed.

MOTION by Mr. Waddell to approve the Wetland Permit.

SECOND by Mr. Loiseau.

Mr. Bachand stands by the Conservation Commission. He supported the applicant's variance from the 12-foot dwelling structure setback. He feels the Conservation Commission provided nice examples this evening. There is another way to do this. He cannot recommend it. However, if the Board does choose to approve, he wants to include the standard stipulations that go with the Conservation Commission. (Handout was provided).

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Ms. Dionne said they are centered around best management practices. The buffer not being disturbed, silt fencing, etc. Standard, best management practices.

Mr. Waddell wants to include the best management practices in his Motion.

MOTION by Mr. Waddell to approve the Wetland Permit with the bulkhead being moved; deck being raised up; and going along with the best management practices and grass reduction.

SECOND by Mr. Loiseau.

VOTE: 6 – 1 (Carnaby) – 0

MOTION PASSED.

** Note: Applicant is requesting to continue to February 19, 2020*

** 19-068 Drakeside Rd. & Lafayette Rd. (continued from 12/4/19)*

Map: 189 Lot: 14 & 18

Applicant: D.D. Cook Builders, Inc.

Owner of Record: Tyler Olbres, Trustee of Yankee Faust Trust

Design Review for Site Plan and Minor Lot Line Adjustment: Construct six (6) single-family dwellings with associated grading and utilities as well as adjust the boundary between Tax Map 189, Lots 14 & 18

Note: The above application was withdrawn.

V. CONSIDERATION OF MINUTES of January 15, 2020

MOVED by Mr. Loiseau to accept and approve the Minutes.

SECOND by Mr. Olson.

VOTE: 6 – 0 – 1 (Waddell)

MOTION PASSED.

VI. CORRESPONDENCE

VII. OTHER BUSINESS

• Coastal Hazards Adaptation Team (CHAT) Update

Mr. Bachand discussed CHAT and CHAT's objectives. Ms. Dionne thinks this has been great for team building. Mr. Olson said the DES people are solid and capable folks. Mr. Waddell said it is good to be proactive and not reactive.

• Article 10 – Comprehensive Master Plan Update

Mr. Bachand discussed Article 10. March 10th is the voting date. We need to raise \$125,000 for a Comprehensive Update of the Town of Hampton Master Plan. We received \$45,000 in grant

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funding for the Vision and Coastal Management portions. The last comprehensive update was in 1985. Mr. Bachand would like people to attend our Master Plan meetings. There is a public comment portion. We appreciate feedback. The Planning Office is happy to accept public feedback as well.

Watch the presentation at the February 1st Deliberative Session. It is aired on Channel 22. Keeping the momentum going was discussed.

Ms. Carnaby discussed the survey. She said it is available to all residents and stakeholders. It does not take long to take the survey. As of February 1st, we have had 1,881 looking at the survey; those who participated in answering one or more questions is 481. People are looking at it, but not filling in answers. We would like to see more than that. She noted 95 people have asked to subscribe to periodic updates. She noted 507 had open-ended comments. People can take survey more than once. Responses do not need to be shared with anyone else, or your name can be public.

We have full support from the Friends of the Library. February 18th to 21st if you go to the Library between 10 a.m. and 12:00 p.m., any day that week, there will be help at the computers at the library if you cannot take the survey on your own. Anyone can get help taking the survey. Ms. Carnaby and the Board thanked the Friends of the Library.

VIII. ADJOURNMENT

MOTION by Mr. Emerick to adjourn.

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 8:18 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