

HAMPTON PLANNING BOARD

MINUTES (edited)

April 7, 2021 – 7:00 p.m.

PRESENT: Tracy Emerick, Chair
Fran McMahon, Vice Chair
Anne (Tocky) Bialobrzeski, Clerk
Ann Carnaby
Alex Loiseau
James Waddell, Selectman Member
Jason Bachand, Town Planner
Laurie Olivier, Office Manager/Planning

ABSENT: **Keith Lessard**

I. CALL TO ORDER

*Due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic, and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, in order to properly ensure the safety of the public and that of several of the Board members who are within the CDC guidelines needing to take special precautions, this body is authorized to meet electronically. Please note there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, Chairman Emerick is confirming that the Planning Board are: Utilizing a teleconference service for this electronic Meeting. The Public may join the teleconference by calling **1-857-444-0744** and using the code **156034**. If anyone has a problem, please call **603-929-5805**.*

Mr. Emerick commenced the meeting by introducing the Planning Board members.

Mr. Emerick read the Governor's State of Emergency criteria regarding the meeting being held telephonically. Prior to the meeting, the Planning Office gave information to residents/applicants on how to access the meeting electronically.

Attendance was taken, and it was stated who was in the room. Planning Board members, Ann Carnaby and Tocky Bialobrzeski were home; no one was present with them. All other Board members, Town Planner Jason Bachand, and Office Manager Laurie Olivier, were present in the Selectmen's Meeting Room. It was noted that all votes will be taken by roll call. Alex Loiseau acted as Clerk tonight.

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Mr. Emerick noted that the applicant for 12 & 16 Thayer wishes to be continued to the May 5th, 2021 meeting.

MOVED by Mr. McMahon.

SECOND by Mr. Loiseau.

ROLL CALL VOTE: 6 – 0 – 0

MOTION PASSED.

I. ATTENDING TO BE HEARD

II. NEW PUBLIC HEARINGS

20-060 144 Ashworth Ave; 6, 8 & 10 Riverview Terrace & 6 Johnson Ave.

Map: 293 Lots: 65, 66, 73, 2 & 71

Applicant: Zoo Property Management, LLC & Albert Fleury

Owner of Record: Same

Site Plan: Merging of lots 66 and 73 to expand the existing restaurant (Wally's Pub). New four-season addition to include additional bathrooms, additional dining space & abundance of air flow for patrons.

Waiver Request: Section VE. Detailed Plans.

Attorney James Scully is on the phone along with Henry Boyd, Millennium. Kat Racine, Millennium, is also present with Attorney Scully. Letters should be with the Board from Attorney Scully. They went through two PRC meetings. Letters are provided with more information. Attorney Scully would like to discuss the noise issue also.

Mr. Henry Boyd discussed the 5-page plan set. They went through two PRC meetings. When the project started, they did not think they needed to do as much work on stormwater mitigation. There had been a tent there previously. They want to convert the tent (now removed) into a more formal (pavilion) area. What is depicted on over the sheet is what is being proposed.

There are two picnic areas. Permeable areas were discussed by Mr. Boyd. 22.4 percent reduction in sealed surface will occur. 95.6 percent of the Wally's site and abutting lot (to be merged) is covered with sealed surface.

Existing conditions were discussed. This involves the Wally's Lot and the small lot on Riverview Terrace. They will be merged. The lot line is to be removed.

Mr. Boyd discussed the parking lot. He says it is not part of this approval, but he thinks Attorney Gearreald and Mr. Bachand thought it is a part of this project. Mr. Boyd said he has misgivings about that.

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The Wally's building would have an addition of new modern bathrooms. There are four access points. Stairs below the motorcycle parking lot (pervious pavers) were discussed.

There is pervious area at the bottom of the landing. ADA ramps will access the picnic areas and to the pavilion area and to the new addition. They have railings. Mr. Boyd said he knows Mr. Bachand thinks it should go back to the PRC. They want to address every comment. The applicant wants to move forward. Mr. Boyd thinks the changes are miniscule. He is not minimizing Mr. Bachand's comments.

Mr. Boyd discussed the parking lot. He does not think it is part of the application. It received approval in 2012 or 2013. The differences are slight. The Board pushed them to do vegetation. The applicant pushed back. The vegetation burned. There are mulch and stone areas. The parking lot is built the way it was approved, pretty much. One difference will be that there is a challenge with trash. They moved it onto the parking area.

Trash storage - they are wondering if they should go with a dumpster. He feels Mr. Fleury is fine with that.

Attorney Scully discussed noise, parking and trash. In the BS Zone, parking is not required. It was asked to be incorporated. It's because of a 2012 variance. They complied with the request.

Attorney Scully discussed noise. Statutory history was discussed. RSA 674:44, part of land use RSA's for land use (Section 2). He discussed the word "may" – not "must".

Referring to our Site Plan Review Regulations, Section 4.2. Subsection 6. Appropriate buffers were discussed. He said someone mowing their lawn is violating the regulation. Code of Ordinances, Chapter 149 – Entertainment, Look at Subsection A, the Town voted in an ordinance that 12 noon to another time is allowed. This Board should weigh in on noise. Attorney Scully does not think a person playing a guitar is included in this.

PUBLIC

Susan Donchar called in. She abuts Wally's parking lot. Al (Fleury) has been a good neighbor. She has a problem with the expanding of Wally's. More people outdoors could bother her. It is already very loud. It is a problem. Sometimes the parking lot is a problem. The fence helps, but it is sometimes unbearable.

Ernest Bolduc called in. The proposed picnic area on Riverview is going to be about 15' from his property. It used to be 40' away. To the right, there is going to be a drinking rail; out in the open. He is concerned.

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Trash storage is going to be to the right of the parking lot. Right in front of his home. The wind blows in his direction and he can imagine what the smell will be like and there were rats running along the street.

The noise on one end, smell on the other end, and large motorcycles going back and forth all night long was discussed. He can't speak enough about this.

The Planning Board, Police, and the Board of Selectmen would not allow this near their own home; he would not allow it next to his own house (Al Fleury). Noise travels in the air. Vibration in his home is unbelievable.

The sound system is headed toward Riverview Terrace; not Johnson Avenue. People have had to sell their places. They took a loss. Riverview Terrace people have suffered enough. What hours is the noise allowed was asked. He heard 11:00 p.m. – is that so was asked. He's called the police; he's written letters. He believes the Board of Selectmen gave him until 2:00 a.m. He cannot sleep. Garbage comes between 6 and 6:30 a.m. and music stops at 3:00 – he gets no sleep. He has lost a lot of tenants because of noise. He has 10 weeks to make money. There are a lot of hit and run incidents due to traffic as well. They (cars) hit his building, steps. Mr. Fleury has been asked to police the area; it is not happening. He admires Mr. Fleury's ambition, etc. Mr. Fleury should appreciate his neighbors more than he likes his money. Hampton Beach was voted one of five best beaches in the country in the past; now it does not make the list of 25. Drunks, drugs, sex, rats. He suggests this does not get approved. This will increase disorderly behavior and reduce people's property values even more.

Melissa Olenek called in. She enjoys the music from time to time. She asked about the privacy fence. There used to be one. Can that help with noise was asked. Also, maybe behind Wally's. Mr. Loiseau said a fence is proposed on the plan.

Deb Parlee called in. 27 L Street. Across from Wally's and The Goat. She agrees with most comments. Assembly numbers were asked about. She reached out to the Fire Department. **[edits requested from D Parlee]-From Bernies to Wally's, including the Goat and L Street, because those establishments have assembly numbers of 1,100 but if you add Ocean Gaming and "...on the Pier, they get over potentially 1,600 people out and about on our street at the end of the night. Add employees, residents, renters, there could be close to 2,000 people in this concentrated area of a couple of football fields. No mention of what the updated numbers will be. These are non Covid numbers. What will the numbers be with the addition of the Pavilion and two picnic areas. The picnic areas appear to be in excess of 3000 feet each; larger than the Pavilion.** They are saturated. There are ½ dozen police to quell the area. No bandwidth to handle parking in that area. There is only parking for 100 cars. They listen to the noise all night long. They were short 40 officers last year. Three Sunday nights in a row Wally's had speakers on all night long. The management team is far less than stellar. Nothing before noon and nothing after midnight is what our Ordinance says.

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Staff does not know how to tell time. There is entertainment inside and outside. She has video showing decibels 80 and above.

The conduct is disgusting. Constant profanity. People laying on the sidewalks because they can't walk. They vomit and urinate in their driveways.

Trash - no additional trash barrels are being allowed. She sees a trash area the size of a parking space; one morning there were 31 barrels. They have to listen to 30 barrels being emptied in front of the Goat.

She's called the Board of Selectmen and the Police Department. She asked about food trucks now. Will there be occupants living in the building was asked.

Entertainment licenses were just renewed. She read aloud the Town rules about noise. Voluntary listeners. This is not a guitar player. This is rock bands. There are eight speakers at all volumes for nine tables. She is keeping an eye on entertainment licenses. The Green Room got an entertainment license she understands as well.

Julie O'Brien called in. 15 Johnson Ave. Traffic concerns, after-hours fireworks in the parking lot, congregating after hours. She and her husband are not in favor of this application. Cars have been hit. The parking lots are part of this project. The ZBA in 2012 noted he needed parking. It was for the second addition. With the new proposal, parking will change. Mr. Fleury has tour buses. Mr. Fleury discussed how he needed more parking and now he is losing parking. The picnic area has a stage. During concerts – where will attendees line up was asked. There is noise after 1:00 AM. Beer bottles being tossed until 2 or 3 in the morning.

Sky Gaudette, 10 Johnson called in. Mr. Fleury has been great. She feels he has improved the beach. She is concerned – last year with COVID, the noise level of music was really loud. Vibrations weren't as bad in the past. If the new project has sound taken care of, that would be good. Music at different venues compete with themselves. Seeing a property go up in smoke was scary. No emergency vehicles can get there if needed with the crowding. Sometimes she cannot even get down the street. Come winter, when water comes up, do these plans take this into consideration was asked. They have lost many cars on that street. People who park at Wally's get water. She appreciates Mr. Fleury and what he is doing for community. She does not like the throwing up, parties, noise, sex in the street. Fireworks sometimes spread to her home—safety is a concern.

Linda Scranton called in. She lives at the end of Riverview Terrace. People look for parking down there. Many people use the marsh as a restroom. People fall into the marsh. She once thought a drunk was going to drown in the marsh. People are in their driveway; their fence has been hit; neighbors' decks have been hit. Motorcycles flying out and the traffic is a disaster.

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Mr. Bachand began to discuss the issues. Mr. Emerick said this is a large agenda. This is not going to be approved tonight. He wants to move along. Mr. Bachand went directly to his recommendations.

Based on the PRC meetings and the fact that the waiver of the detailed plan is not supported by the PRC, this warrants a large, full plan set, his recommendation is to deny the waiver request for the detailed plan based on the PRC's findings that a full plan is needed. By denying the waiver request, the application is incomplete and jurisdiction cannot be accepted. He recommends the Board continue the site plan application to May 19, 2021 meeting and ask the applicant to return on April 28th to the PRC to resolve comments that they have. CMA, DPW, and Mr. Bachand do not feel all comments have been addressed.

MOVED by Mr. McMahon to deny the waiver request.

SECOND by Ms. Carnaby.

ROLL CALL VOTE: 5 – 0 – 1 (Loiseau) MOTION PASSED.

Mr. Bachand noted the next recommendation is to continue the application to the May 19, 2021 Planning Board meeting, and also asking the applicant to return to the April 28th PRC meeting and noting the Board is not accepting jurisdiction.

MOVED by Mr. McMahon.

SECOND by Ms. Carnaby.

ROLL CALL VOTE: 6 – 0 - 0 MOTION PASSED.

Mr. McMahon asked about obtaining detailed legal advice about State guidance and Town guidance on noise. We want advice from our Town Attorney on this. We will get his feedback per Mr. Bachand.

21-012 12 Epping Avenue

Map: 299 Lot: 17

Applicant: Kim Minasalli & Jason Leboeof

Owners of Record: Same

Site Plan: Demolish existing building and reconstruct a new 2-unit building. The rear building will remain unchanged.

Waiver Request - Section V.E. Detailed Plans

Attorney Scully is on the line. Kevin Schultz is on the line, as is Henry Boyd, Millennium. Attorney Scully discussed the project; it is to demolish the front structure. It is a 2-family. It will again be a 2-family. Kat Racine (Millennium) is also on the phone. Attorney Scully thinks this is straight forward, although there is a parking concern.

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Ms. Racine discussed this is a replacement. It is a new two-story proposed structure. Six different parking spaces. There is a turning radius diagram. There is a waiver request. The third unit will remain as is.

BOARD

Mr. McMahon asked about the O&M Plan. It is being requested.

Mr. McMahon asked about trash on the plan and snow storage.

Mr. Bachand asked the applicant to explain this. **Henry Boyd said it was left off of there. He can coordinate with the applicant.** Kevin Schultz said as far as trash, there should be no changes to how it is now. Barrels alongside the individual buildings. People bring trash out on trash day. The front building is seasonal only; the rear building is occasionally rented in the winters; it is a year-round dwelling. The brand new building will be seasonal was asked by Mr. Loiseau. Mr. Schultz said yes.

Tocky asked about an as-built plan being required. Mr. Bachand said at the end of the project it is required. Mr. Boyd will have monuments everywhere. The lot will be monumented.

Tocky is concerned about the new location of the pole in front of the lot line between the two lots; they own both lots; underground utilities will cross the lot. She is worried about underground utilities.

Mr. Boyd discussed his conversations with Unutil regarding the pole.

PUBLIC BOARD

Mr. Bachand said many issues were addressed. **Trash and snow storage are points that need to be addressed on the final plan. Trash location needs to be shown on final plan, and snow storage shall be shown and/or a note added that it will be removed from the site.**

Mr. Bachand recommends approval along with his conditions in his Memo dated April 7, 2021, plus the trash and snow storage items. He noted there is also a waiver request to vote on.

MOTION by Mr. Loiseau to approve the waiver.

SECOND by Mr. Waddell.

ROLL CALL VOTE: 6 – 0 – 0

MOTION PASSED.

James Scully said there is waiver for parking as shown. Mr. Bachand clarified that waiver is from the Driveway Regulations, and is addressed within his suggested conditions.

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MOTION by Mr. Loiseau to approve the site plan with along with the Planner's Memo and Mr. Bachand's comments regarding identifying trash and snow storage on the plan.

SECOND by Mr. Waddell.

ROLL CALL VOTE: 6 – 0 – 0

MOTION PASSED.

21-010 12 & 16 Thayer Road (continued to May 5, 2021)

Map: 107 Lots: 15 & 16

Applicant: Steven Haraden

Owner of Record: Same (16) & Eugene and Gabrielle Borden (12)

Lot Line Adjustment: Transfer of approximately 816 square feet of land from Lot 15 (Borden) to Lot 16 (Haraden)

21-013 51 Hobson Avenue

Map: 289 Lot: 15

Applicant: SCM Family Trust of Dec 10, 2010

Owner of Record: SCM Family Trust of Dec 10 2010

Wetlands Permit: Raise existing house & deck. Proposed deck to be at elevation 16.1 to allow a 2-car garage underneath. Use existing foundation and set the house on columns resting on existing foundation. Pavement to west side to be removed and loamed and seeded.

Mr. Norman Carpentier was on the phone. Mr. Kevin Schultz is on the phone also.

They are looking to elevate the existing structure to accommodate two cars underneath. They will use the existing foundation. The new elevation will be at 8.1. No mechanicals in the area. Use the same footprint. Different set of steps for property. Reducing existing impervious. Removing paving to the west side was discussed.

BOARD

Tocky discussed the wetlands permit plan and DES wetlands permit, and noticed they say three different things. Is existing foundation staying, Norman said yes. Pouring a pad – Norman said a new pad for a garage for existing. Concrete floor to be poured in the garage. Tocky said the plan we are approving is using the existing foundation. The Wetlands Permit says you're removing the foundation and putting in helical piles. Mr. Carpentier said they are using existing. The revised plan should go to the DES per Tocky.

Tocky said there is a proposed deck in the setback. Is a variance needed was asked. Mr. Carpentier said they are going to the ZBA. The Planning Board approval should mention that per Tocky.

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Tocky asked about the V Zone construction specs being required here. HOTL was asked about. They are not exceeding 50 percent. Tocky said it doesn't matter. The existing foundation is staying in place. It is a Town requirement. If this is new construction, exceeding 50 percent of value of house, requirements are needed.

PUBLIC BOARD

Mr. Bachand mentioned the deck; it is outside of the 50' buffer. Mr. Bachand does not think it is an issue for this Wetlands Permit application. Mr. Carpentier said it is 16' above the ground. He recommends the Board's approval be subject to the stipulations contained in the Conservation Commission letter dated February 24, 2021.

MOVED by Mr. McMahon.

SECOND by Mr. Waddell.

ROLL CALL VOTE: 5 – 0 – 1 (Carnaby) MOTION PASSED.

Tocky asked about a variance being needed. She said it seems that it is outside of the 50'. Tocky said they will need a variance for the deck. The deck is not there already; not at grade. Mr. Carpentier said there is a deck. Tocky said they are expanding it but it appears outside of the 50' setback.

Mr. Schultz said they started the process. They started the application for ZBA. The Wetlands Permit was ready to go first; they are waiting for elevation drawings and a new garage from the designer to put with the packet for the ZBA. Balconies and deck – even though going vertical, it is an expansion of a non-conforming structure. That is why they need relief.

Per Tocky, we are not approving the deck.

MOTION by Mr. McMahon to modify the prior Motion to require ZBA approval.

SECOND by Mr. Waddell on the amended motion.

ROLL CALL VOTE: 6 – 0 – 0 MOTION PASSED.

Variance plans are in the works per Attorney Scully.

21-014 72 & 74 Island Path

Map: 281 Lot: 30

Applicant: Shannon Builders

Owners of Record: Same (74); Holder Family Revocable Trust (72)

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Condominium Conversion (Amended): Amend original (subdivision) approval from 2018 that created this condominium to show a revised Unit 1 and parking configuration.

Waiver Request: Section V.E. Detailed Plans.

21-015 72 & 74 Island Path

Map: 281 Lot: 30

Applicant: Shannon Builders

Owners of Record: Same (74); Holder Family Revocable Trust (72)

Wetlands Permit (Amended): Amended Wetlands Permit due to different house location and size (reduction). (Previous WP approved 2/19/20).

Henry Boyd, Millennium is on the phone. This was a complicated application. In 2018, this came before the Board. It showed a much larger structure. Permits expired. A building permit was issued for Unit 1. Mr. Carpentier went to the Planning Board but failed to receive the Wetlands Permit. The Wetland Permit and Condo plan needed to be revised.

Mr. Boyd said a smaller structure went to the Conservation Commission; they approved it. They are worried about the plantings. He met with Conservation. There were invasive species that will be removed. All native plants will be planted.

For the condominium plan, there is an issue in Mr. Bachand's comments – only one driveway opening was discussed. The formerly-approved parking configuration was discussed. The new condition is a cottage that has its own driveway. It deviates from the original one driveway scenario; it's better, less impact. This is a better design.

BOARD

Ms. Carnaby discussed Mr. Bachand's recommendation. He made the recommendation. Prior approval was continued for that reason. If the configuration is approved, that's fine. One curb cut may be needed.

Mr. Loiseau noted he was on the site walk and went to the Conservation Commission meeting. He thinks it is an improvement over the single curb cut. He doesn't know how it will not look odd with only one. Getting required parking was discussed.

There is no way to get into the garage was discussed by Mr. Boyd. The way the original approval and structure was, it made more sense to have parking congregated in front of building so they changed it.

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Mr. McMahon remembers this application. The Board had an extensive discussion. He objects to this bait and switch and now coming back to the Planning Board with something that was not approved and is different. We need to go through appropriate processes.

Attorney Scully asked how it got changed. Mr. Bachand said it appears the Building Department issued a permit that was not in compliance with what was previously granted. We first discovered this when the Driveway Permit was being applied for, that something was being constructed different than was on the original plan. It had to go back to the Planning Board. It conflicts with the original recorded plan. They got the Foundation Permit to start the foundation. Work was stopped. It was discovered that what was going on conflicted with what was approved by the Board.

Mr. Boyd was alerted that it needed to go back to the Planning Board. When they got involved with the project, they were told to go to the Planning Board. It went to the Conservation Commission; it obtained a favorable recommendation. Mr. Boyd was unaware that this was done this way. It was not a bait and switch Per Mr. Boyd. COVID was hot and heavy. They were issued a legitimate permit to do the building.

It is different than what was approved.

It is an amended condominium conversion now. The foundation was constructed in a way that it shouldn't have been. The original permit was not reviewed. Mr. Boyd was told to come back to the Planning Board.

PUBLIC

June Kulakowski called in. She is the owner of Unit #1. She is available for any questions.

Greg Smith, 76 Island Path called in. When it was first approved, there was no garage. There would be no solid foundation. He believes it is a flooding issue with the other neighbors. He said that water runs into his property and into neighbor's property.

BOARD

Mr. Waddell asked if they had to come back, what would they change. Is this a revised application with two driveways or does this go back to a single curb cut. Mr. Bachand believes the plan should be re-worked to have a single curb cut. He noted the Board can approve it with two curb cuts, but he does not recommend that. Mr. Loiseau noted the driveway configuration won't change. He does not see how one curb cut could work now.

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It was noted that there is a waiver request.

MOTION by Mr. Loiseau on the waiver.

SECOND by Mr. Waddell.

ROLL CALL VOTE: 3 – 2 (Carnaby and McMahon) – 1 (Tocky) MOTION PASSED.

MOTION by Mr. Loiseau to approve the amended Condominium Conversion with the conditions provided in the Planner’s Memorandum dated April 7th.

SECOND by Mr. Waddell.

ROLL CALL VOTE: 3 – 1 (McMahon) – 2 (Carnaby and Tocky). MOTION PASSED.

MOTION by Mr. Loiseau to approve the amended Wetlands Permit along with the conditions in the Conservation Commission’s letter dated March 24, 2021.

SECOND by Mr. Waddell.

ROLL CALL VOTE: 5 – 0 – 1 (Tocky). MOTION PASSED.

21-016 212 Lafayette Road

Map: 189 Lot: 14

Applicant: Tony Olbres

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

Design Review: Design review for subdivision to contain one duplex on each lot. (to be condominiumized)

Mr. Joe Coronati is on the line (Jones & Beach), and Tony Olbres is on the line (applicant).

Mr. Coronati said the applicant has looked at this for a couple of years. Mr. Olbres wants to develop the property. They went to the ZBA a year ago; it was withdrawn. Duplexes are allowed in the Town Center-South. These lots are conforming. They want feedback and want to figure out the process. The goal is to sell each unit separately. Units will be condominiumized. Access will be by a common drive from Drakeside Road. Only one curb cut. The driveway can be pushed further away.

The units face each other. The area is mostly lawn area. No lot line adjustment is proposed.

Mr. Coronati’s main question is do they apply for subdivision and then look at design during the subdivision process or subdivide the lot and then build two duplexes and come back afterwards for the condo conversion.

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Mr. Emerick said condominium conversions are a form of subdivision. This does not need to be a condo conversion. They don't have to be built as rental units. They don't have to come back for another approval. Would it be a site plan and subdivision was asked. Mr. Emerick said he believes it's one application—the Subdivision application.

This is a single lot, but we see two lots. It is currently a single lot. They want to subdivide into two lots. If you subdivide the land, then you have two lots with a common driveway.

If it's a Condominium Site Plan with a single driveway, Tocky said it would be a 4-unit multi-family on one lot. They would have to comply with Article 8 and go back to the ZBA. Mr. Emerick said yes they would.

The driveway may need easements. It is a mini-condo association. Two duplexes; condominiumization on separate lots may be better.

Ms. Carnaby said there is a deed restriction. The Moulton property has a deed restriction to do with site lines down Route One to the house and back again.

Mr. Olbres said the owners of Moulton House said they are aware of the restrictive covenants. He said the Town of Hampton cannot uphold restrictions between private parties.

Mr. Olbres said the Historic New England people wrote him a letter. They have 'no objection to the building as indicated on the plan shown'... per Mr. Olbres.

Mr. Emerick believes that has nothing to do with the Board. Mr. Olbres worked with the Historic New England on this.

Mr. McMahon asked about the force main. What are the alternatives. Mr. Bachand brought that up. He does not have the answer to that. This is design review. It goes right through the middle of this project.

**PUBLIC
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Ms. Carnaby said this is much better than the previous proposal. As long as there is no deed problem; it's attractive.

Mr. Bachand did receive an email from an abutter; the left hand turn onto Route One was noted; traffic here is a concern. **It will need to be looked at.**

Mr. Bachand said the Board may end the Design Review and recommend the applicant proceed, but as this is non-binding, should also note that such action is not an endorsement of any kind relating to the applicant's proposal.

Mr. Olbres should provide the Planning Office with the Historic New England letter. Mr. Olbres said it is a privilege between he and them.

This project will go through the PRC.

Mr. McMahon asked about the force main. It's from Mr. Olbres house through this parcel. Runs parallel to Drakeside. They would need to relocate the force main where the driveway is per Mr. Coronati.

By consensus of the Planning Board, the Design Review has ended and the applicant may proceed to filing an application for the proposed project. However, it is noted that such action is not an endorsement of any kind relating to the applicant's proposal.

21-017 137 Landing Road

Map: 239 Lot: 6

Applicant: Casemo Realty, LLC

Owner of Record: Same

Wetlands Permit: Demolish existing fish shack & boat storage pole barn and construct a more conforming structure. Abandon well and septic and connect to Town water and sewer on Landing Road.

Mr. Joseph Coronati (Jones & Beach) is on the phone along with Tom Moulton. Mr. Coronati discussed the project. It's a gravel drive off Landing Road. One can't see the house from Landing Road. The applicant wants to improve upon the property. They went to the Conservation Commission. They provided a letter. They offered support.

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The fish shack is on the end of the tidal marsh. It is rotted. Mr. Moulton wants to rebuild the structure. No changes to the size or shape. No running water or sewer. It is at elevation 9 now. They will come up a foot.

There is an old boat storage – pole barn. He wants to rebuild that also. Same footprint and no foundation.

This property has been on well and septic. There are utilities available on Landing Road. Mr. Moulton wants to connect to Town water and sewer. It will require a small pump station.

They go through the wetland buffer. They want to install utility lines through the wetland buffer.

Mr. Moulton asked if the shack has to be raised. Tocky said it is not a dwelling. Mr. Coronati said if it does not have to be raised, that would be better.

BOARD

Tocky discussed the flood information (on the plan); it is not current. It looks like they are attempting to put new flood data on. She asked about the flood hazard boundary. Tocky said the flood elevation is 9. **She does not think the flood boundary is right, and it should be updated. Mr. Coronati said they can do that.**

Tocky asked about the setback. The front setback would apply on back lots. The plans need to be changed; can the applicant move the new garage 10' toward the house to comply with 20' setback was asked.

Tocky discussed building in these front setbacks with Mr. Bachand and Mr. Marchese.

Tocky asked if a DES permit was applied for. Not yet per Mr. Coronati.

PUBLIC BOARD

Mr. Bachand said the Conservation Commission recommended this proposal. Tocky is correct on the required setback. The garage is not part of this application. The flood maps referenced on the plan are from 2005; they were updated in January of 2021. He recommends his

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application with the conditions contained in the March 24th Conservation Commission letter, and with the corrections noted.

MOTION by Mr. McMahon.

SECOND by Mr. Loiseau.

ROLL CALL VOTE: 6 – 0 – 0 (subject to correcting the flood information and noting the garage setback). MOTION PASSED.

21-018 13 Atlantic Avenue

Map: 296 Lot: 26

Applicant: Wayne Douglas

Owner of Record: Wayne Douglas & Michelle Langton

Condominium Conversion: Convert 4 residential units into condominium form of ownership.

Waiver Request: Section V.E. Detailed Plans.

Mr. Henry Boyd, Millennium is on the line. Attorney Saari is on the line. Mr. Boyd said this is an existing four-unit building. The parking configuration is different. He has an error on the plan; parking spaces on the site plan were labeled 1 through 5; there are only 4 units. 1 should be 2, then 3, then 4, and then stacked.

Parking spaces should have a sign posted per Mr. Boyd. Addressing the typographical error will be fine. Trash is where it is going. That is where the trash is currently.

Mr. Boyd said Mr. Bachand feels a variance is needed from Section 6.3.10 for parking. The driveway already existed per Mr. Boyd. They have earlier variances for this. No need for the ZBA. No Building Permit is needed per Mr. Boyd.

Mr. Bachand said he discussed this matter with Attorney Gearreald today, and agrees with Mr. Boyd on the variance item. It is not needed.

**BOARD
PUBLIC
BOARD**

Mr. Bachand said he recommends approval along with his Memorandum dated April 7, 2021, excluding #8. There is a waiver request also.

MOTION by Mr. Waddell approve the waiver.

SECOND by Mr. Loiseau.

Since when are stairwells common areas was asked by Ms. Carnaby. It was explained that such common areas are not usual.

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ROLL CALL VOTE: 6 – 0 – 0

MOTION PASSED.

MOVED by Mr. Loiseau to approve the condominium conversion along with the Planner's Memo dated April 7, 2021, excluding Condition #8 from said memo.

SECOND by Mr. Waddell.

ROLL CALL VOTE: 6 – 0 – 0

MOTION PASSED.

Tocky recused herself for the next application.

21-019 61 High Street

Map: 161 Lot: 17

Applicant: Shane Pine

Owner of Record: GMC Group Limited Partnership

Site Plan (Amended): Propose to make outdoor patio space (previously approved for Covid-19) permanent.

Waiver Request: Section V.E. Detailed Plans.

Mr. Bachand stated Henry Boyd is on the line and Attorney James Scully.

Shane Pine has the project. This was Flatbread Pizza before. There used to be seating out front. Attorney Scully agrees with Mr. Bachand's memo in that it makes more sense to have this seating out back.

COVID-19 struck and making a nice dining area in the rear was proposed. There is a camper out back. It's an aesthetic eating area. Attorney Scully met with Mr. Bachand this morning; they went over to the location. He is in agreement with a lot of Mr. Bachand's memo.

Sealed surface – there needs to be a 2.4 percent reduction. Noise was discussed. Explaining the scope of music can be discussed. Section 11.5 – there are questions or concerns. Attorney Scully can address these. He feels relief is not needed.

The waiver is for relief from the detailed plan requirement.

BOARD

Mr. McMahon asked about this being originally approved for COVID outdoors. Did this go through a vetting process was asked. Did it go through Police and Fire. Mr. Bachand said it is related to the Governor's Emergency Order--to allow outdoor seating temporarily so

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restaurants can continue to operate. That is still in place right now. This request is to make it permanent.

Would this normally go to PRC was asked. Mr. Bachand said not typically because it is an amended site plan. It would not automatically go to the PRC. The Board can request this.

Attorney Scully said Police and Fire have been there.

Ms. Carnaby asked about it (outdoor space) growing. Concerns can be addressed if we denied the waiver and had a detailed set of plans at this point. Mr. Emerick asked what should be on a detailed plan. There is only one passway, a second exit may be through the building. If all eating is out back, there is only one alley way. She does not see any other. Mr. Bachand's other concerns are noted in his memo. She believes it was not looked at with the kind of detail in the beginning.

Attorney Scully does not know how much more they can show. There is an outside walkway; there is egress through building. There is an employee exit door. There are several exits for an emergency. Attorney Scully wants formal approval. They sought relief from the Zoning Board.

PUBLIC

Burke Bennett called in representing the American Legion. The American Legion abuts the property. The property was surveyed last summer; the area facing the eastern and southern boundary was discussed. He is not sure how it affects egress from Mr. Pine's property.

Mallory Leduc called in, she is on Towle Avenue. She was and is in support of small business. She has two small babies and a hard-working husband. Every night of the week loud music is played and intoxicated guests are there. Her husband gets up at 4:00 a.m. every day. No sleep. Sound machines, air conditioners were going off. Mr. Pine never called them back. They said they would turn the volume down, but volume was not turned down. It does not belong in the Town Center-Historic District. The pandemic is lifting; there is no need for this now. There won't be emergency egress. There are negative consequences. She has been here 20 years.

Attorney Scully said Mr. Pine understands the concerns of abutters. He discussed the Town noise ordinance. Weeknights, Mr. Pine will stop the music at 9:00 PM, and weekends he would have music play only until 10:00 PM.

BOARD

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Mr. Bachand noted that there are other letters of opposition. There were three more. Mr. Bachand said this is temporary right now. There is no rush to approve this evening.

We need more time to evaluate. Once it's permanent; it's permanent per Mr. Bachand.

He heard about noise concerns. He discussed arborvitaes near the property line may help with this. We need to know more from the applicant on how noise will be worked with.

Mr. Bachand went out there and said the exterior appearance can use a clean-up in the rear where abutting the American Legion and the medical building. The fencing was discussed. Mr. Bachand discussed variances. They went to the ZBA for relief from 1.3 and 4.5.3. The Building Inspector's opinion is 11.5 is also needed – establishments to be on permanent foundation. His opinion is neither the camper or bar area are on permanent foundations. There is a specific definition of foundation. Mr. Bachand's understanding is that is not the case here.

Mr. Bachand discussed there is a wide sidewalk plus access to the interior. He is concerned about the existing emergency exit. The Legion does have a right to put a fence on their property. Mr. Bachand tried to reach out to Bill Paine (Fire); he did not get back to him yet. Mr. Bachand thinks the application should be continued. The applicant can pursue variances. We will continue to work with the applicant.

MOTION by Ms. Carnaby to continue the application.

Ms. Carnaby noted that she rented at 70 High Street. Trash barrels were on the sidewalk and in the street from the weekend activities. Trash pick-up is not until Thursday; it sits there and is unsightly.

MOTION by Ms. Carnaby to continue this application to the first meeting in June. They can't apply for a variance until the end of April. They would be heard by the ZBA in May and they could come to the Planning Board on June 2nd. The Board is also not accepting jurisdiction.

Attorney Scully will address trash. With regard to the variance; that may possibly continue this. Should, after his conversation with Jim Marchese (Building Inspector), if a variance is not needed can they proceed with the next Planning Board meeting was asked. Mr. Marchese said a variance is needed. Attorney Scully will address everything else. If for some reason they don't need a variance, they can come back on May 5th.

SECOND by Mr. McMahan.

Mr. Waddell asked about a site plan. Are we approving entertainment also. There may be special licensing needed by the Board of Selectmen. There will be another step for the noise.

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Mr. Emerick said we need to tread lightly – once we make an approval; it's an approval. No jurisdiction.

ROLL CALL VOTE: 5 – 0 – 0 (Tocky recused from this application)

Ms. Carnaby asked about further perimeters for noise. Can they ban speakers and have acoustical music was asked. It could be interesting in the historic district.

CONTINUED PUBLIC HEARINGS

V. CONSIDERATION OF MINUTES (done before 61 High Street application)

MOVED by Mr. McMahon to accept and approve the March 17, 2021 Minutes and the March 24, 2021 Minutes.

SECOND by Mr. Waddell.

ROLL CALL VOTE 6 – 0 – 0

MOTION PASSED.

VI. CORRESPONDENCE

VII. OTHER BUSINESS

- **Rockingham Planning Commission – 2021 Membership Dues**

Mr. Bachand discussed the letter for RPC dues; the dues are \$12,618 – the same amount owed in 2020. They (RPC) provide a great range of services.

MOTION by Mr. Waddell to submit for payment.

SECOND by Mr. McMahon.

ROLL CALL VOTE: 6 – 0 – 0

MOTION PASSED.

VIII. ADJOURNMENT

MEETING ADJOURNED: 9:45 p.m.

Respectfully submitted,

Laurie Olivier, Office Manager/Administrative Assistant

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****PLEASE NOTE****

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