

HAMPTON PLANNING BOARD

MINUTES

June 7, 2023 – 7:00 p.m.

PRESENT: Ann Carnaby, Chair
Brendan McNamara, Vice Chair
Ward Galanis, Clerk
Keith Lessard
Tracy Emerick
Sharon Mullen
Rusty Bridle, Selectman Member
Jason Bachand, Town Planner
Laurie Olivier, Office Manager/Planning

ABSENT:

I. CALL TO ORDER

Ms. Carnaby commenced the meeting by leading the Pledge of Allegiance and asking the Board to introduce themselves.

She noted that the applicant for 10-14 Sapphire Avenue wishes to continue to the Planning Board's August 2, 2023 meeting.

MOVED by Mr. Lessard.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

Ms. Carnaby noted big news. Last Friday in Plymouth, NH, the NH Planners Association (NHPA) named their award winner for the best plan of the year in the State and it was awarded to the Town of Hampton.

Mr. Bachand showed the plaque to the audience and the Planning Board; it reads: "2023 NH Planners Association Plan of the Year presented to the Town of Hampton for the 'Our Town, Our Future' Master Plan. He attended on Friday and accepted the award on behalf of the Town. He noted the eligibility requirement for consideration as NHPA Plan of the Year is a written plan that is a significant advancement to the science and art of planning. They felt our Master Plan was forward thinking. The Coastal Resilience component was highlighted. He thanked everyone who was involved, including Rayann Dionne (SHEA) who submitted the nomination for the Town.

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II. ATTENDING TO BE HEARD

- **Change of Use –203 Ocean Boulevard**-Take out restaurant to retail and food.

Eric Stone and Jack (last name inaudible) appeared. They said this will be a take-out food establishment and they wish to add retail. They will do slushies and hot dogs. It was the old Sabos location. The real address is 6 C Street, but the above address is the legal address. They had a restaurant in the back prior; they want to make that retail. The novelty portion is for a vape accessories section, and it will be located in the back.

MOVED by Mr. Emerick to approve the Change of Use.

Mr. McNamara asked for a floor plan. It is in the file.

Mr. Galanis asked about ADA requirements. With the Change of Use, does that come under more scrutiny was asked. Mr. Bachand said it (the building) is staying the same, but they can use the windows for service. A doorbell works well also.

SECOND by Mr. Galanis.

VOTE: 7 – 0 – 0

MOTION PASSED.

The applicants noted the hours are up in the air. They understand they cannot stay open after 1:00 a.m. Maybe their hours will be 10 a.m. to 1:00 a.m.

III. NEW PUBLIC HEARINGS

23-015 14 Atlantic Avenue

Map: 296 Lot: 41

Applicant: 14 Atlantic Avenue, LLC

Owner of Record: Same

Condominium Conversion: Conversion of 8 apartments into condominium form of ownership. Waiver Request: Section V.E. Detailed Plans.

Attorney Robert Dietel, Gallagher Law Firm, appeared with Kevin Philibotte, part owner. This has two parts. It has a waiver request for the detailed plans.

This project is straightforward. It has an apartment building with eight units and 10 parking spots. They are changing the form of ownership. It has the same number of units and same number of parking spots; eight are deeded to the condominiums. No changes to the footprint are being proposed. They reviewed the Planner's recommendations, and it all makes sense from their perspective. They will work on a Waste Management Agreement, as noted.

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Mr. Emerick asked about trash pick-up. Mr. Bachand said it does right now have trash pick-up. He believes there is a requirement to go to the Board of Selectmen as a condominium based on the number of units. They will need permission for trash. The applicants have an alternate plan if they need to go private for trash pick-up. Right now, Attorney Dietel thinks it has trash pick-up. Attorney Dietel said this service has been in place for a long time.

Mr. Lessard asked where the storage is under the building. It was noted Mr. Bachand asked for that to be put in. Parking area - angled parking spots are shown; then common area behind parking spots. Trash and recycling is lined up along the back wall. There are eight parking spots and two additional on other side of the building. Are there any handicapped parking spots was asked by Ms. Carnaby. At the moment, no. It is not noted in the Ordinance.

Mr. Lessard asked how to access spots 9 and 10. Attorney Dietel said they are considered stacked parking. The condominium declaration documents have to include parking. We are not approving the two extra parking spaces per Mr. Lessard. He wanted it noted for the record. Mr. Bachand said the Town Attorney will review the documents. Language on spaces will be included. It has 8 legal parking spaces; the other two are used for visitors that may come along.

Attorney Dietel said it is a grandfathered property.

Attorney Dietel discussed the neighborhood. Mr. Lessard said the Planning Board will be blamed for this later on down the line; he wants it noted that he sees this as 8 legal parking spaces. He agrees that the trash receptacle area needs to be depicted on the documents. There will be arguments about why trash cans are there.

**PUBLIC
BOARD**

Mr. McNamara asked about snow removal. It will be removed per the applicant.

Mr. Bachand said there is a waiver to vote on as well. He recommends approval subject to the conditions in his Memorandum dated June 7, 2023.

MOTION by Mr. McNamara to approve the waiver.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

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MOTION by Mr. McNamara to approve the condominium conversion with conditions noted in the Planner's Memo dated June 7, 2023 and all contingencies.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

23-016 105 Towle Farm Road

Map: 122 Lot: 1-2

Applicant: Jacob Doyon

Owner of Record: Finest Kind Brewing, LLC

Site Plan (Amended): Construction of two seasonal (identical) bathrooms.

Waiver Request Section V.E. Detailed Plans.

The applicant was not present. Mr. Lessard asked to move this to the end of the agenda.

23-017 324 High Street

Map: 179 Lot: 15A

Applicant: Philip & Alison Carey, Trustees

Owner of Record: Philip & Alison Carey Family Rev Trust

Driveway Permit Appeal: Permit denied by DPW due to multiple driveways (curb cuts).

Philip and Alison Carey appeared. They are proposing multiple curb cuts. Their home is on the sidewalk side. They want a circular driveway. Their daughter has special needs and takes private transportation every morning. High Street is very busy. This would be much easier for people to get in and out.

The family requires three cars. The driveway is 14' wide. They are trying to free up space for family. He doesn't know when paving on High Street is starting.

BOARD

Ms. Carnaby said there should be only one driveway curb cut per property. It has been in place for a number of years. Ms. Carey said the drivers for their daughter switch a lot. They just want a seamless entrance. She feels it will be easier getting their daughter safely to school.

Mr. Bachand said we tried to reach out to them (applicants) to give the Memo ahead of the meeting. He handed a copy to them.

Mr. Bachand said the Driveway Regulations allow one curb cut. A 24' maximum width is allowed. That is why the DPW denied the Driveway Permit, which brings them before this Board for consideration on appeal. Mr. Bachand looked at it, including driving up and down

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(High Street). He checked out the driveways of surrounding single-family homes in the area. There are some properties that had wider than 24' single curb cuts that were pre-existing, but no examples of single-family homes with two (curb cuts). Next door had an extra curb cut but it is a gated area this is access to property in the back.

Mr. Bachand could not recommend this, but noted the Board has to decide. It is the Regulations that they are asking to vary from. Mr. Bachand may have a viable alternative for them to consider – he does not say lightly that he could not recommend this. He said the existing curb cut is 16' wide; they have some room to the right to potentially widen. They have a lot of paved area over there. He noted they may be able to widen that curb cut to get in and out and use the stone area in front of the house as a turn-around, rather than cutting for a new curb cut.

Mr. Galanis said there is an opportunity to make it work like Mr. Bachand discussed above. Mr. Bachand suggested discussing that with the DPW. He is also happy to assist.

Ms. Mullen asked if there are cars parked in the driveway. It is a short driveway and they have three cars. They constructed a horseshoe gravel drive already. They are starting to park on the front yard. They put crushed stone there. The applicant juggles cars around.

PUBLIC

Vanessa Croteau, 321 High Street, appeared. They are directly across the street from them. She endorses this. She almost called the police because High Street is treated like a dragway. There is a hardship for this family. They need extra time. They increased the width of their driveway. She wants the Planning Board to understand the needs of the family.

Ms. Carey said they have multiple people maneuvering their driveway for their daughter.

BOARD

Mr. McNamara asked about the bus. It is a standard short bus. It varies. Ms. Carey has stood out in High Street directing traffic to help the bus get out. The driveway is already in place.

Mr. McNamara said he is in favor of helping them.

Mr. Emerick lived on a corner with similar problems. Having a circular driveway was a plus.

Mr. Emerick wants to continue this for a month so they can meet with the DPW and Mr. Bachand to see if there is an alternative. Make it wider up to 24 feet or extend it to the right was discussed. Ms. Carey noted Mr. Bachand's idea, but they already have three cars there.

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PUBLIC

Mr. Henry Boyd, Millennium Engineering, appeared. He would donate some of his service time to help them. If the Board decides to continue this, he will volunteer his time to do some sketches. He is a licensed surveyor. Everyone thanked Mr. Boyd.

Mr. McNamara discussed permits; noted the Board has granted many appeals. Some were dubious and 90 percent Mr. Lessard has denied. Mr. Lessard said it has to do with being consistent. Mr. McNamara agreed with Mr. Lessard. These come up a couple of times a year. Mr. McNamara does not think we are setting a precedent.

MOTION by Mr. Emerick to continue this and have Mr. Boyd work with them.

SECOND by Mr. Lessard on Mr. Emerick's motion.

Mr. Emerick said the Board can continue it to the next meeting, which is on June 21st.

SECOND by Mr. Lessard.

VOTE: 6 – 1 (McNamara) – 0

MOTION PASSED.

23-018 81 Ocean Boulevard

Map: 293 Lot: 23

Applicant: Oceanfront Gaming, Inc.

Owner of Record: T.R.D. Entertainment Co., LLC

Site Plan: Expansion of current use within the building. Dedicate the rest of the first floor of existing building for games of chance with refreshments available for patrons.

Waiver Request: Section V.D (Review Standards) of Site Plan Regulations.

Attorney Bob Casassa appeared with Anthony Fusco. This application deals with adding to their charitable gaming operation. They are seeking to expand it to the area on the first floor. Incorporate that area into the operation of charitable gaming. It was noted 1,300 square feet will be added to the overall charitable gaming business. It is an expansion of an existing use. There is a waiver request.

Charitable gaming was discussed. It was noted 35 percent of net profits go to a specific charity and 10 percent to the State. Last year, \$685,000 went to charities. The Town received first priority of the charities. They want to expand to add more games.

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Mr. Emerick said it sounds successful.

**PUBLIC
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Mr. Bachand recommends approval along with the waiver request.

MOVED by Mr. Emerick on the waiver.

SECOND by Mr. Galanis.

VOTE: 7 – 0 – 0

MOTION PASSED

MOVED by Mr. Emerick to approve the Site Plan.

SECOND by Ms. Mullen noting the Planner’s Memorandum dated June 7, 2023.

VOTE: 7 – 0 - 0

MOTION PASSED

23-019 82 Island Path

Map: 281 Lot: 26

Applicant: Cybele Grier

Owner of Record: Cybele Grier, Trustee and Ed Frank Strenk.

Wetlands Permit: Construct permeable pavers for walkway (176 sq. ft) & patio (220 sq.ft). Additional native plantings along wetland embankment.

Ms. Carnaby discussed the release of escrow for landscaping on this property. We can look at these together.

Cybele Grier appeared. They bought this property from Norm Carpentier. They want to put a permeable paver walkway along the west side of the house. A patio also and additional plantings.

She has the Conservation letter and they agree with the Conservation Commission’s recommendations in the letter. She read it and she is fine with it.

The refund of the escrow goes to Norman Carpentier; not to the applicant.

**BOARD
PUBLIC
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MOTION by Mr. Lessard to approve the Wetlands Permit along with the conditions in the Conservation Commission letter dated May 24, 2023.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

Vote on escrow. Mr. Bachand said the work is complete. \$3,411.60 is to be returned.

MOVED by Mr. Emerick.

SECOND by Mr. Bridle.

VOTE: 7 – 0 – 0

MOTION PASSED.

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23-020 853 Lafayette Road

Map: 71 Lot: 20

Applicant: Big Daddy Brews, LLC

Owner of Record: Same

Amended Site Plan & Conditional Use Permit: Construction of permanent outdoor patio in front of business. Parking to be moved alongside the island to each side of patio.

Waiver Request: Section V.E. Detailed Plans.

Paige Libbey, Jones & Beach Engineers, appeared. She noted Bob Levine and Alex (last name inaudible) are in the audience (applicants). The applicants are here for an Amended Site Plan & Conditional Use Permit for a permanent outdoor patio. Since COVID came along, they have applied for temporary outdoor dining. They want to make it permanent. They want to add an eco-paver patio. It will be 6” higher than the rest of the parking area. They will add catch basins on either side. No other changes are proposed to the site; no added seats. The Conservation Commission signed off on this project with a couple of recommendations. They are fine with Mr. Bachand’s conditions.

BOARD

Ms. Mullen asked if the patio area is covered. They want to have posts on the edge of the patio for a canopy. They want the ability to do this; it will have pervious material so it will infiltrate. Ms. Mullen asked about the gravel parking area, will it happen at the same time was asked. Ms. Libbey said it is existing. The addition will not happen at the same time.

Mr. McNamara asked how many square feet is permeable. It is just over 2,500 SF; it is the width of the building. It will also have grass added back in. Jones & Beach are preparing a maintenance plan.

Ms. Libbey mentioned bollards; planters are also fine. Mr. Bachand discussed options; the idea is that we don’t want cars going over the patio for safety. It was left flexible. Separating planters from the patio was discussed. Outside eating should be taken seriously with protection. Put something large enough to stand out. Mr. Lessard said this needs to be taken seriously. Mr. Emerick likes the expansion. They are making it permanent. Mr. Galanis said there is a reduction in impervious surface. It was noted 85 percent to 78.4 percent (reduction).

PUBLIC

Mr. Robert Levine (owner), appeared. He noted they do not want a bollard—they want 3’ x 12’ planters; pressure treated timber. 100 cubic feet of dirt. It will weigh 8,000 pounds. It will be 3’ high. They will put in several of those.

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Mr. Bachand discussed the DPW comments. Most have been addressed. He recommends approval of the Amended Site Plan and the Conditional Use Permit with the conditions in his Memorandum dated June 7, 2023. There is also a waiver request.

MOVED by Mr. Emerick to approve the waiver.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

Trash was asked about by Mr. McNamara. That (prior) project has not started yet. The issue is being worked through.

MOVED by Mr. Emerick to approve the Amended Site Plan and Conditional Use Permit with conditions in Mr. Bachand’s Memorandum dated June 7, 2023.

SECOND by Ms. Mullen.

VOTE: 7 – 0 – 0

MOTION PASSED.

23-021 77 Brown Avenue

Map: 287 Lot: 3

Applicant: Matthew Murtha & Dawn May

Owner of Record: Same

Wetlands Permit: Amend original approval to allow deck to remain at rear of house; Removal of stone and rip rap & replace with vegetation. Removal of all debris and trash from salt marsh area behind the dwelling from Town parking lot to multi-family parking area to the south.

Mr. Henry Boyd, Millennium Engineering, appeared. This is a nightmare story. They got zoning relief. The building violated the original wetlands permit from the Town and State. They worked with Eben Lewis and the Conservation Commission. They removed some stone.

**BOARD
PUBLIC**

Mr. McNamara asked why the ZBA had heard this. The ZBA has been conditioning zoning relief on appeasing the Conservation Commission also. In this case, it worked out. This site needed to be addressed properly. It will be environmentally friendly.

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Mr. Bachand recommends approval with the Conservation Commission’s letter dated May 24, 2023.

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Mr. Boyd said the applicants offered to do something wonderful. Behind them there is the marsh the Town owns. This goes to the north as a salt marsh to the Town municipal parking lot. The applicants will remove the trash collected in the marsh. Mr. Boyd thinks it's a good opportunity for the Boy Scouts or some organization like that. If anyone wants to help, that would be great.

Mr. McNamara said we don't have the authority to vote on that. They would have to go to the Board of Selectmen. Ms. Carnaby said to maybe contact Blue Ocean.

MOTION by Mr. McNamara to approve (the Wetlands Permit) along with Conservation Commission stipulations in the letter dated May 24, 2023.

SECOND by Ms. Mullen.

VOTE: 7 – 0 – 0

MOTION PASSED.

23-022 696 Lafayette Road

Map: 126 Lot: 4

Applicant: MT55, LLC

Owner of Record: Same

Site Plan (ATF) & Conditional Use Permit: Multi-family (3) residential units, existing and previously approved by the Bldg Dept. No physical changes to the site proposed.

Waiver Request Site Plan Review Regulations Sections V.E. (Detailed Plans), V.F (other items), and App. B (Fee Schedule).

Attorney Justin Pasay appeared with Henry Boyd, Millennium Engineering. Mark Thomas (applicant) is in the audience. Mr. Bachand's Memorandum outlines very well this sordid history. Mr. Thomas pulled permits and it was inspected and he pulled more permits. He was informed he needed a site plan review and a lot of variances. He is not proposing any physical changes. Mr. Thomas will do the landscaping. Attorney Pasay said they filed a request for a waiver of fees, but that may not be needed.

Mr. Boyd discussed the plan. They will need to show the snow storage area. There is a right of way that accesses the property to the back. Trash storage was not shown; it will be added to the plan. Right now, there is no striping in the parking lot. No more interior changes are proposed.

Attorney Pasay discussed the impact fee. These are one-bedroom units. The wastewater development charge was discussed. There was one bedroom; there are now 3. They will deal with that. The empty room is 679 square feet. There will be no stockpiling of any material.

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Ms. Mullen asked about the small garage in the corner. It's just storage. It's too small for a car. It is a non-conforming existing shed. It will remain for now. Trash could be added there or put in the cubby (noted on plan).

**PUBLIC
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Mr. Bachand said it was an unfortunate situation. The applicant has made the effort to make it right. The most important thing is to ensure the site functions safely and orderly. He recommends approval with the conditions in his Memorandum dated June 7, 2023. He noted the waivers need to be voted on. The fees – he (the applicant) can withdraw that one, but Mr. Bachand supports the other two waivers. Mr. Bachand also recommends the Conditional Use Permit.

MOTION by Mr. Emerick to approve the waivers, excluding the fees.

SECOND by Ms. Mullen.

VOTE: 6 – 0 – 1 (Lessard)

MOTION PASSED.

Mr. Bachand noted the after-the-fact Site Plan and Conditional Use Permit are what is being voted on. This location is in the Groundwater Protection District. Mr. Bachand recommends approval along with the conditions in his Memorandum dated June 7th.

Attorney Pasay discussed stacked parking. Mr. Bachand supports excluding the stacked spaces in the recreation area. These spaces will not be striped.

MOTION by Mr. Emerick on the above Site Plan and Conditional Use Permit with Mr. Bachand's memorandum dated June 7, 2023 (as amended).

SECOND by Ms. Mullen.

VOTE: 6 – 0 – 1 (Lessard)

MOTION PASSED.

IV. CONTINUED PUBLIC HEARINGS

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23-013 10 & 14 Sapphire Avenue (continued from May 3, 2023) – **CONTINUED TO AUGUST 2, 2023 (SEE ABOVE)**

Map: 223 Lot: 66 & 74

Applicant: Nancy Keay, Lucille Walker Rev Trust

Owner of Record: Nancy Walker-Keay, Trustee

Wetlands Permit (After-the-Fact): Remove rip rap & install originally-planned stabilization items. The installed bank stabilization varied from what was approved in 2013.

V. CONSIDERATION OF MINUTES of May 19, 2023.

MOVED by Mr. Emerick.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

VI. CORRESPONDENCE

VII. OTHER BUSINESS

- 82 Island Path-Release of Escrow for Landscaping **(ADDRESSED ABOVE)**

Ms. Mullen discussed Supreme Court decisions that may have restricted wetlands impacts. She discussed definitions and how they are being addressed. If and how does that impact what we have been doing with Zoning Regulations and everything else was asked. Mr. Bachand does not have a lot of information, but he will speak with Brianna O'Brien (Conservation Coordinator).

Mr. Bachand noted that the applicants for 105 Towle Farm Road never showed up. He suggested the Board continue this for two weeks (to June 21, 2023).

MOVED by Mr. Lessard.

SECOND by Mr. Galanis.

VOTE: 7 – 0 – 0

MOTION PASSED.

VIII. ADJOURNMENT

MOTION by Mr. Emerick to adjourn.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 8:30 p.m.

Respectfully submitted,

Laurie Olivier, Office Manager/Administrative Assistant

****PLEASE NOTE****

ITEMS NOT CALLED OR IN PROGRESS BY 10:00 P.M.

MAY BE CONTINUED TO THE NEXT SCHEDULED MEETING