

HAMPTON PLANNING BOARD

MINUTES

October 2, 2019 – 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.

Mr. Emerick noted that the applicant for 6 Vrylena's Way wishes to continue to the November 6, 2019 meeting.

MOVED by Mr. Olson.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

II. ATTENDING TO BE HEARD

Appointment - On behalf of Maria and Ralph Dumke, through Gregory A. Ramsey, Esq. of Wynn Law Group, an appointment before the Planning Board relating to 737 & 739 Ocean Boulevard, requesting enforcement of a previously approved condominium plan and/or revocation of said approved condominium plan for failure to comply with parking.

Attorney Ramsey appeared with Mr. Dumke. This has gone before this Board already. This is an issue that has been going on for 18 months or more. Nothing is changed; nothing is resolved. They are seeking to revoke the plan from 2000, or seek enforcement through the Town Manager or the Board of Selectmen.

Attorney Ramsey gave the background of the issue. This project was to have two parking spaces per unit. The concrete wall was to be removed. Neither of the two front parking spaces were constructed. He noted the parking area on 2nd Street has insufficient parking. People are parking in the fire lane. There are four vehicles registered to this property.

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There is a gas meter and air compressor that makes it hard to park there. Violations and failure to comply have been going on for a year and a half. In April of 2018, through the Board of Selectmen, it was asked that the Planning Board look into this. In May of 2018, this Board looked at the letter and evaluated the plan. It was not in compliance. The Board wanted to approve amendments to the plan. Nothing has taken place. This Board (Planning) met in June of 2019 and issued a letter to the owners; nothing has taken place. They are asking this Board to find that the site is not in compliance; revoke the plan or find that the plan is not in compliance and seek Board of Selectmen advice to enforce the original plan.

BOARD

Mr. McMahon asked what would happen if they revoked the approval of 2000. Attorney Ramsey has not investigated this. The owner could come back for more planning or come back with another plan per Attorney Ramsey.

Mr. McMahon asked if it could be a legal, non-conforming use. The ZBA was concerned with insufficient parking. In 2006, it changed from two to one parking space. There is no pre-existing non-conforming use per Attorney Ramsey.

Mr. McMahon asked about the landscaped area – 2 parking spaces per unit. Attorney Ramsey can look that up. There was an amendment in 1998 and amended in future years.

Mr. McMahon said 19 years have elapsed. He asked about injunction by the Board of Selectmen or processing an application for an amended site plan.

Attorney Ramsey said under 676 of the NH RSA's to enforce their own plan through investigation. Attorney Ramsey thinks this Board can enforce this, but could ask the Board of Selectmen to enforce this. Attorney Ramsey wants this resolved at the Town level. They don't want to file a lawsuit.

Attorney Ramsey said there is one space where there is a trailer parked.

Mr. Emerick said the Planning Office did notice this appointment for abutters in case there are any concerns.

PUBLIC

Kyle McManus appeared. He said his Mother-in-Law is one of the owners of the home. They got notified that they will maybe get a plan this week started so they can get an amended site plan filed. There are two legal parking spaces. The two in the front were never legal parking spaces.

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Mr. Olson asked about public spaces. Mr. Dumke stated two spaces are parallel; not stacked.

Mr. Lessard said they would not be crossing the sidewalk. Mr. McManus said that is why they are going for non-conforming.

Mr. Emerick wants to continue this to first meeting in November. We need to get our ducks in alignment.

MOVED by Ms. Carnaby to continue this to November 6, 2019.

SECOND by Mr. McMahon.

VOTE: 7 – 0 – 0

MOTION PASSED.

III. NEW PUBLIC HEARINGS

19-029 Mary Batchelder Rd.,

Liberty Lane West & Timber Swamp Rd.

Map: 102 Lot: 3

Applicant: Chinburg Development, LLC

Owner of Record: Asset Title Holding, Inc.

Site Plan: Multi-family condominium development comprised of 46 single-family dwelling units.

Waiver Request: Section V.C (application fee).

Attorney Pasay, Donahue Tucker, appeared. Chris Rice and Jack McGuire and Steve Pernaw and Paul Kerrigan (member of Chinburg team) were all present.

This has been a two-year process in the making. Attorney Pasay gave a review of the project.

They will be looking for conditional approval tonight. This is in compliance with the Regulations. There are no wetland buffer impacts.

They had three trips to the ZBA and meetings with the PRC.

Attorney Pasay gave the history. The property is split in two different zones. The project at first was too dense. In 2017, it started as 52 units. There was a big discussion about density.

At the PRC process; frontage lots were discussed. Eleven frontage lots were given up and it all turned into condominiums. The applicant adopted most of the requests of the PRC.

Chris Rice, TFMoran appeared. This is about 36 acres in size. The southern portion is in the General Zone. There is existing sewer, water and gas. No impacts to wetlands.

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The cemetery is about 60' x 25'.

There are five model homes to choose from. They will be serviced by municipal services. Recreational areas were shown. A walking path was shown and a dog park. There is a 20' buffer along Mary Batchelder Road. Until will be doing some tree clearing.

The roadway and secondary roadway were discussed. The main road is about 2400 feet; the secondary road is about 1100 feet. **This will need an Alteration and Terrain permit.**

There is one waiver request. Application fees were provided with the first application.

They will repair the fence at the cemetery. The gate will be locked. Fee Simple 25' buffer area was discussed. The area will be raked clean; grass installed. There will be a clean detention basin. A berm is added along Mary Batchelder. Condo docs for legal review will be fine.

The roadway will be 26' wide. A sidewalk has been added along the entire length of the roadway of the property. An Arborist will be hired after tree clearing.

Steve Pernaw discussed the traffic study. It is dated June of 2018. Calculations were discussed. There are two points of access. Three intersections were discussed. Future projections for morning and evening peak hours were discussed. They used highest trip rates for this project. The impact on roadways was discussed. The biggest impact is on Timber Swamp Road. Mr. Pernaw does not see congestion. Turn lanes were discussed – left and right turning. An impact analysis was discussed – 27 cars an hour.

Roadway widths were discussed. Based on speed and volume. Roadway widths are currently sufficient. Fair share contribution was discussed. A calculation sheet was discussed – September of 2018. This information is based on highest trips.

BOARD

Mr. Lessard asked about the line of sight coming out of Timber Swamp Road. Improvements were asked about. There are site lines provided; back of plan set. Pages 67 and 68.

Mr. Emerick asked about the dumpsters. There will be individual pick up. That will be picked up by a private contractor; not by the Town.

Mr. Lessard asked how far it is pulled back by the edge of the road. It's roughly 12' back on Mary Batchelder from the development (Roadway A) then coming on Timber Swamp it's about 10' back. Mr. Lessard wants to see it pulled back at the intersections. At least 100' north and south. Length. When residents are coming out, people need to be seen. Mr. Lessard wants a long clear path; not deep, but for site distance north and south. People on Mary Batchelder will

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see many cars coming in and out of there. People go down Timber Swamp to get onto the highway to get to work. He thinks 35 mph is too fast on this road. This is also a cut through through Hampton Falls.

Mr. McMahon asked about Roadway A. They are not reconstructing Mary Batchelder, but they are taking the knob out.

Ms. Carnaby said this is the first time this Board has seen anything since the conceptual review. She, at that time, asked them to consider a village plan alternative. Housing for people from a variety of backgrounds. We have a lot of single family houses in this Town already. She feels we need a range of housing that she hoped they would address. It never came back to the Board. She said it appears the applicants went through a lot of departments, but she finds this development disappointing. There could have been innovative housing and planning.

Mr. McMahon asked about clearing the site. He asked who they feel they will be marketing. They are all three bedroom. Age restricted was asked about.

Paul Kerrigan, Chinburg, appeared. They are three-bedroom homes. The target market is 55 and older; some potential younger families. It is age targeted. Some may be two-bedroom homes. Ms. Carnaby said an apartment building could be helpful. Live in a nice place with a park, they don't even need two bedrooms. **She wants some studies for what we need for housing in this Town.**

Mr. Lessard asked about age targeted. Who mows the LCA lawn was asked. Who removes the snow. The applicant said that a condominium association is proposed; it will be that Association's responsibility. On Drakeside, people mow their own lawns per Mr. Lessard. Mr. Kerrigan said they are putting those responsibilities in with the Association.

Mr. Olson said he thinks it looks great. The 40' buffer seems good. He is happy to hear about sidewalks. It will be asphalt; the drawings show concrete.

Mr. Olson said the cemetery will be deeded to us; it came out of the PRC. The Town Manager asked for that.

There are active Trustees for our cemeteries. Sidewalks are asphalt with granite curbing. Sidewalks are on one side of the street; both the main road and the shared road.

Mr. Olson asked about storm drains and pipes. It's a relatively flat site.

Mr. Emerick asked about Town ownership of the cemetery. Is there an access easement was asked. **Attorney Pasay said they would grant an easement over the private road.**

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Mr. McMahon asked about the roads. No town trash; no town plowing. They are not proposing to connect to Liberty Lane per Mr. McMahon. Attorney Pasay said they are prevented from doing that.

Mr. Emerick said the property line looks like it encompasses part of Liberty Lane.

Mr. McMahon asked about the sewer agreement. Are they sub-lessees was asked. Attorney Pasay said they will be full members of the Association. Water is from Aquarion. Water line comes from Liberty Lane. Gas comes through Liberty Lane.

Mr. Waddell discussed infrastructure of roadways. Is the road in good enough shape to handle this project was asked. **Mr. Bachand said test borings may need to be done.** The road is not in the best condition right now. Mr. Bachand discussed the roadway being rebuilt with contributions from the development. Ms. Carnaby said there is a lot of work to do on that.

PUBLIC

Shirley and Dan Antonellis, abutters on 70 Timber Swamp Road appeared. They are concerned where the road is going into this development. Wetlands were re-assessed and it was moved from the front of the house. It's moved up Timber Swamp a bit. Is this still on the plan was asked. Attorney Pasay said 'yes'. Ms. Antonellis asked about the traffic pattern going in and out of Mary Batchelder and Timber Swamp. Six to seven percent is significant. There should not be 18-wheelers coming in and out. It happens all the time. They are concerned for public safety on Mary Batchelder and Timber Swamp.

Attorney Mark Gearreald appeared. He sat in on some of the PRCs. Concerns regarding the cemetery were discussed. The Town Manager has concerns about clearing trees. The Cemetery Trustees and Town would have to bear that. Details need to be nailed down.

Attorney Gearreald also discussed contributions to the road improvement fund. The DPW has a proposal on that subject that should be discussed at a continued hearing; the DPW should be here (Planning Board meeting) to discuss what they have in mind.

Attorney Gearreald also said CMA has looked at this from a traffic management study; he thinks this Board should hear from CMA on that. It should be continued to a later meeting.

Shawn Hopkins appeared. He works with Interest-4 Liberty Lane West (sp). Stormwater wetland was discharging onto Liberty Lane West. He has concerns with that. The road freezes. He feels a stormwater analysis should have been prepared. There should be valuation of pre-and post-development flow.

Mr. Hopkins discussed the 2' elevation drop. He discussed adequate capacity. Water from the site will go to the North.

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Mr. Emerick asked for the two parties to resolve this.

David Choate, representing Asset Title Holding, appeared. He thinks this is a good use of the property. The owner gets frustrated that there is always something that gets thrown in at the end. They should have had people attend tonight. He feels there was plenty of time for input to be heard. Asset Title wants this deal consummated. He thinks this is a delay tactic.

A woman abutter appeared. She said the welfare of the public should be of concern. There should be respect and consideration.

Mr. Choate expressed that he appreciates the abutters' concerns.

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Mr. McMahon asked about locations of the homes. Will homes be staggered was asked. Attorney Pasay wants an aesthetically pleasing look. It was stated, in general, they will be close to each other.

Ms. Carnaby asked about driveways. Some look off-alignment from ones across the street. Is it hazardous was asked.

Attorney Pasay discussed density. It is compliant. The ZBA discussed density also.

Cemetery—the applicant is agreeing to remove trees in the buffer. Applicant is reticent to go into the cemetery. They (applicant) feels this is reasonable.

CMA has provided comments to traffic. He is not aware of any new comments from CMA per the Attorney.

Road contribution issue; Chinburg is aware of the Town regulations. A road improvement fund can be set up.

Mr. Bachand stated many topics have been covered. The fair share portion does require some more effort. More information and items have been trickling in up to this meeting. He thinks it requires more discussion from DPW and himself and the Board.

Mr. Bachand said this is not to delay the process. This is the first time this Board has seen this in two years. A couple of opportunities to meet and digest this he feels is fair. Mr. Bachand does not have all of the recommended conditions ready at this time.

The point that the DPW and CMA should be in attendance could be valuable per Attorney Gearreald's recommendation. Providing memos may be fine. Mr. Emerick wants a conclusion at the next meeting. Mr. Bachand concurs. He recommends to have the Board

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continue to an upcoming meeting, November 6th or December 4th. November 6th would be fine in his opinion.

Mr. Olson asked what is in play that the DPW will bring to us that we don't know right now. The DPW said the exaction components with regard to the roadway are outstanding.

Mr. Lessard said there is a lot of traffic on Timber Swamp Road. Lumber trucks, mixers will all be going down that road. Hauling logs out and bringing in lumber will occur. There will be a lot of vehicle use. All of the trucks going over that tough road is going to be tough on the road. He discussed UPS trucks and Fed Ex Trucks; he said the roads are a serious thing.

Ms. Carnaby appreciates the two years worth of work, but is this first time this Board has seen this plan. This Board now has to do its homework. She feels the Board needs time to refine conditions and digest everything.

Mr. Waddell said the road was discussed at the PRC. People should come with conclusions, not information.

MOVED by Mr. McMahon to continue this to November 6th.

SECOND by Ms. Carnaby.

VOTE: 4 – 2 (Waddell & Emerick) – 1 (Olson). MOTION PASSED.

19-040 699 Lafayette Road

Map: 108 Lot: 66

Applicant: Port City Plumbing and Heating, LLC

Owner of Record: Same

Site Plan & Conditional Use Permit: Demolish existing building and construct a one-story commercial building with associated site improvements. Conditional Use Permit for commercial development/use in the Aquifer Protection District. Waiver Request: Site Plan Regulations Section VII. E - Stormwater Management

John Chagnon appeared (Ambit Engineering) and Joseph Lavin (Port City Plumbing). This is for replacement of a structure. The site has an older structure on it. A 40' x 24' modern building is being proposed. The driveway comes up to 4 parking spaces in the back (porous material). There is a waiver request for stormwater management. There should be no impact to Town drainage. The impervious area is reduced. No outside storage of material. A stormwater manual is used by Port City to operate the facility. They agree with the staff memo from the Planner.

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Mr. Lessard likes the project. It was noted there will be no waste on site.

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MOVED by Mr. McMahon to approve the waiver.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

MOTION by Mr. McMahon to approve the Conditional Use Permit.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

MOTION by Mr. McMahon to approve the site plan with Mr. Bachand's Memorandum dated October 2, 2019.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

19-044 67 Hobson Avenue

Map: 289 Lot: 11

Applicant: Kristine Wall & Timothy Bowman

Owner of Record: Kristine Wall

Wetlands Permit: Construction of 8'x10' shed on back, southwest corner of property.

Timothy Bowman appeared with Kristine Wall. The project is located in the wetland buffer. The State wetlands permit is being submitted this week. The shed size changed. They obtained variances. The new location is 1' off the western portion of the property. It will be 7' from the house.

They have the Conservation Commission letter. They are fine with the letter. They are turning the driveway to permeable as a solution.

BOARD

It was asked if they obtained variances. They stated they did get variances.

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MOTION by Mr. Olson to approve the Wetlands Permit with the Conservation Commission stipulations in its letter dated September 25, 2019.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

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19-052 318 High Street

Map: 179 Lot: 5

Applicant: Daniel and Erica O'Connor

Owner of Record: Same

Driveway Permit Appeal: Driveway Permit Appeal (multiple curb cuts)

Mr. and Mrs. Daniel O'Connor appeared. Their driveway permit was denied. It is on the corner of Taylor Street and High Street. They have one driveway on High Street right now. It's a very busy street. They have three boys; two are teenagers and backing onto High Street is tough.

They want to put automatic garage doors on the current garage. In Mr. Bachand's Memorandum, he said it is encroaching on 25 percent impervious surface. They can go to porous asphalt and they don't mind doing that. He also asked that the curb cut width to be maintained so the sum of both driveways does not exceed 24'. However, they hope to have a wider curb cut on Taylor Street.

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Mr. Bachand discussed 25 percent of sealed surface. Condition #1 should read that the new driveway shall be constructed of porous asphalt to the extent that the total sealed surface of the parcel does not exceed 25%. The paved apron shall be traditional asphalt.

Mr. Bachand discussed that 24' is based on past applications. Mr. Lessard wants to be consistent. Ms. Carnaby asked how much they will use the High Street driveway. They stated 'very little'.

MOTION by Mr. Lessard to grant the appeal along with the Planner's memo, as amended (noted above regarding sealed surface). The total should be 24'. Current width on High Street is for one, single car. Cumulative should be 24'. The front driveway width will need to be documented.

Mr. Olson said since they are willing to deal with impervious-ness of it, it is part of the concession.

MOTION by Mr. Olson to grant the appeal, as presented, along with the Planner's memo, as amended. He also wants to amend to allow the applicants to have a 24' curb cut on the new driveway, and that would exclude Condition #2.

SECOND by Mr. Waddell.

VOTE: 6 – 1 (Lessard) – 0.

MOTION PASSED.

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19-053 27 Pearl Street

Map: 223 Lot: 19

Applicant: Marc & Jennifer Marois

Owner of Record: Same

Wetlands Permit: Install walkway to front door with permeable pavers. Install patio off back door w/ permeable pavers. Protect wetland area with native plants.

Ms. Marois appeared. She has the Conservation Commission letter dated September 25th, and is in agreement with it.

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Mr. Bachand said he recommends approval of the Wetlands Permit with the Conservation Commission's stipulations in letter dated September 25th. He said under "Other Business" there is an extension request – there was a Wetlands Permit two years ago that involves the house that is there today. There is just grading left to do there. He recommends a one-year extension of that also.

MOVED by Mr. Lessard approve the Wetlands Permit (with the Conservation Commission's stipulations in letter dated September 25, 2019) and approve the extension listed under "Other Business" (for one year).

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0

MOTION PASSED.

19-054 15 Robin Lane

Map: 133 Lot: 2

Applicant: B&M Walsh Properties, LLC

Owner of Record: Same

Wetlands Permit: Raze existing house and replace with new manufactured house.

Mr. and Mrs. Bill Walsh appeared. They want to rebuild a new house. The current one now is in tough shape. They have letter dated September 25th from the Conservation Commission and are in agreement with the conditions.

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Mr. Olson asked if there is a leach field (there is). They wanted to tie into Huckleberry. Robin Lane is a private road.

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MOVED by Mr. McMahon to approve the Wetlands Permit with the Conservation Commission conditions in letter dated September 25, 2019.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

IV. CONTINUED PUBLIC HEARINGS

19-041 450 High Street (continued from 9/4/19)

Map: 166 Lot: 9

Applicant: Brent Warnke (SK Management)

Owner of Record: Wood Thrush Housing Assoc. Limited Partnership

Wetlands Permit: Remove existing pavement and replace with new; maintaining original footprint.

The applicant is not here again. They received the Board's letter about not attending last time and it noted they need to attend. Mr. Bachand asked if the Board wants to continue this again. Is there any enforcement was asked by Mr. Lessard. **Mr. Bachand will check that out.**

MOVED by Mr. Lessard to continue this to November 6, 2019.

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0

MOTION PASSED.

19-047 6 Vrylena's Way (continued from 9/4/19)—CONTINUED – SEE ABOVE.

Map: 209 Lot: 112

Applicant: Brent 16175 Parking Trust

Owner of Record: Same

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

19-048 56 Island Path (continued from 9/4/19)

Map: 282 Lot: 5

Applicant: Geoff Goss for Regina Faticanti

Owner of Record: Regina Faticanti

Wetlands Permit: Raise home on helical pile foundation to be compliant with FEMA flood maps.

Mr. Goss appeared. The home is below the base flood elevation. They want to raise the home. No concrete. Put home back down on a secure frame. Keep it into compliance.

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MOVED by Mr. Lessard to approve the Wetlands Permit with the stipulations contained in the Conservation Commission letter dated September 25th letter.

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0

MOTION PASSED.

V. CONSIDERATION OF MINUTES of September 18, 2019

MOTION by Mr. Olson to accept and approve the September 18th minutes.

SECOND by Mr. McMahon.

VOTE: 7 – 0 – 0

MOTION PASSED.

VI. CORRESPONDENCE

- **Letter regarding Rockingham Planning Commission Dues for 2020**

Mr. Bachand discussed RPC dues for 2020. There is a slight increase. RPC does a lot for the Town. Many services to community, CRS, Master Plan, Floodplain Ordinance to name a few.

VII. OTHER BUSINESS

- **RSA 41:14-a Process - Town owned Deed Restriction on formerly Leased Land**
 - **Tax Map 223, Lot 53 – 4 Second Street. Release a portion of Deed Restriction #4, which states: “The only structures permitted to be erected or placed upon said lot shall be one single-family dwelling, containing no more than four bedrooms...” The petitioner wishes to tear down two existing dwellings at 4 Second Street and construct a new single-family home upon the property containing five (5) bedrooms.**

It was noted that this lot is very small. Where cars would park was asked. There is a paved driveway with a two-car garage. Mr. Bachand said this is leased land. Mr. Bachand said this is going to require a recommendation (or not) to the Selectmen. Mr. Bachand has concerns about 5 bedrooms; needing more parking. There are significant parking issues here.

It was noted that parking has to be on their property. Mr. Olson asked about enforcement. We can make a recommendation noting that we have concerns about parking. It will be up to the Board of Selectmen. The Selectmen have to approve of this. The Planning Board can say no and the Selectmen can still approve it. The Selectmen hold two public hearings; we don't know their notification process.

MOVED by Mr. McMahon to recommend this to the Board of Selectmen noting concerns about the parking.

SECOND by Mr. Waddell.

VOTE: 6 – 1 (Olson) – 0

MOTION PASSED

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- **Wetlands Permit Extension - 27 Pearl Street** (*if necessary - see 19-053 above*)
- **861 Lafayette Road - Parking Lot**

It was noted that no action is needed at this time. The applicant will be coming in with Lot Line Adjustment and Amended Site Plan applications.

VIII. ADJOURNMENT

MOTION by Mr. Olson to adjourn.

SECOND by Mr. McMahon.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 9:28 p.m.

Respectfully submitted,

Laurie Olivier, Office Manager/Planning

****PLEASE NOTE****

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