

HAMPTON PLANNING BOARD – MINUTES

June 16, 2004

PRESENT: Robert Viviano, Chairman
Tracy Emerick, Vice Chairman
Ken Sakurai, Clerk
Tom Gillick
Jim Workman, Selectman Member
* Fran McMahon, Alternate
Jennifer Kimball, Town Planner

ABSENT: Tom Higgins
Keith Lessard

* Mr. Viviano asked Mr. McMahon to join the Board at this time.

Mr. Viviano called the meeting to order at 7:00 p.m. by introducing the Board members. Mr. Viviano then asked Mr. Emerick to lead the Pledge of Allegiance.

I. CONTINUED PUBLIC HEARINGS:

1. Jack Kopka (Maplecroft Building & Development)
Subdivision Application to consolidate 3 existing lots and subdivide into 8-lot subdivision at
433 Winnacunnet Road
Map 221, Lot 5 & 10, & Map 208, Lot 46
Owners of Record: William T. Graham & Pamela M. Kopka
Jurisdiction Accepted May 5, 2004

Mr. Viviano read an email memo dated June 14, 2004 from Mr. Joe Coronati of Jones & Beach Engineers requesting continuation of this application. Mr. Gillick **MOTIONED** to continue the Jack Kopka (Maplecroft Building & Development) Subdivision Application to consolidate 3 existing lots and subdivide into 8-lot subdivision at 433 Winnacunnet Road, Map 221, Lot 5 & 10, & Map 208, Lot 46, at the applicant's request, to the July 7, 2004 Planning Board meeting.

2. Rademo Realty Trust (Thomas Moulton)
Site Plan Review to construct two story addition consisting of warehouse and office space at
5 Merrill Industrial Drive
Map 142, Lot 2
Owner of Record: Same as above
3. Rademo Realty Trust
Special Permit for temporary impact to the Wetlands Conservation District for
work associated with Site Plan Review at
5 Merrill Drive
Map 142, Lot 2
Owner of Record: Same as above

Mr. Scott Frankiewicz of Beals Associates introduced himself as representing the applicant. Mr. Frankiewicz proceeded to update the Board on changes that were done. Mr. Viviano asked Mrs. Kimball to provide a background to the Board to refresh their memory on some of the previous concerns. Mrs. Kimball stated at last meeting, the Board granted the waiver from submitting elevations and renderings; the applicant was to review ADA compliance issues regarding parking spaces; departmental reviews were requested; there were also some conflicts regarding landscaping and snow storage on the earlier plan. Mrs. Kimball reviewed the 1984 previously approved, non-specific occupancy/warehouse Site Plan, and she stated there was nothing on earlier Site Plans that would interfere or conflict with what is being proposed today. Mrs. Kimball noted reviews from Department of Public Works dated June 9, 2004, Police Department dated May 13, 2004, Highway Safety dated May 24, 2004, Conservation Commission dated May 31, 2004, Fire Department dated June 2, 2004, and Ambit Engineering dated June 8 and June 16, 2004. She noted Beals Associates had responded to the outstanding Ambit Engineering concerns and receipt of that was June 16, 2004 after 5:00 p.m. Mr. Frankiewicz handed out a small version of the updated Site Plan.

He noted his response to Ambit Engineering concerns were: #7=regarding loading zone concerns - to alleviate any future concerns those spaces will be marked 'employee parking'; #15=note to sheet C3 stating to relocate existing door has been added. Mr. Frankiewicz stated the 22ft. aisle width has been complied with by shifting the retaining wall and it is now at 23 ½ ft.; #18=proposed gutters – applicant will now apply a different type of roof and storm water will run off into a 12” X 12” stone drip edge that will eliminate down spouts; the elevation can be seen on general detail sheet D1 and proposed grading plan can be seen on sheet C3. There was Board discussion regarding the minimal details required and there were concerns whether jurisdiction can be taken.

**OPEN PUBLIC HEARING: NO COMMENT
CLOSE PUBLIC HEARING.**

Mr. Viviano asked for additional Board comments. Mr. Gillick **MOTIONED** to approve the Rademo Realty Trust Special Permit Application for temporary impact to the Wetlands Conservation District for work associated with Site Plan Review at 5 Merrill Drive, Map 142, Lot 2 subject to:

- 1) Stipulations noted in the Conservation Commission memo dated May 31, 2004.

Mr. Emerick **SECONDED. VOTE: AIL. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mr. Sakurai asked to clarify what impact will be involved in the Wetlands Conservation District. Mr. Frankiewicz stated an excavator would be utilized for 1-2 ft. foundation holes; the Buffer may show some track marks; there may be some scaffolding used; and on sheet C2, note #10 states notification to the Conservation Commission at start and end of project.

Mrs. Kimball stated the previous decision letter did not state jurisdiction was taken for this Application. Mr. Gillick **MOTIONED** to accept jurisdiction of the Rademo Realty Trust Site Plan Application. Mr. Emerick **SECONDED. VOTE: AIL. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

There was Board discussion regarding the conditions that would apply should approval be granted. Mrs. Kimball was asked to clarify RSA 674:39 (the 4 year vesting rule). She stated: upon final approval (recording of a plan) a project is vested for four (4) years from changes to Regulations, including Impact Fees, if, within the first 12 months of final approval the project achieves active and substantial development or building. Additionally, it is the Planning Boards responsibility to define “active and substantial development” individually, based on each Application’s specifics. It also allows the Planning Board to extend the 12-month period, if necessary, and the applicant would be required to come back before the Board to be granted that approval.

Mr. Gillick **MOTIONED** to approve the Rademo Realty Trust Site Plan Review Application to construct a two story addition consisting of warehouse and office space at 5 Merrill Industrial Drive, Map 142, Lot 2, of plan #NH157, revision dated 6/11/04, subject to:

- 1) Conditions noted in the Fire Department memo dated June 1, 2004,
- 2) Address the outstanding items in Ambit Engineering memo dated June 16, 2004, prior to final approval,
- 3) Conditions noted in the Department of Public Works memo dated June 9, 2004 prior to final approval,
- 4) Submittal of revised plan to reflect correction to typographical error on sheets 1 & 2 (note 5: sewer manhole),
- 5) Submittal of revised plan to reflect correction to typographical error on note 9 (“...requested by special *permit* shall...”),
- 6) Submittal of Certificate of monumentation prior to final approval, or shall be included in a Surety,
- 7) Submittal of final stamped plans, mylar(s), and recording fees,
- 8) Submittal of revised plan to reflect monumentation at all corners,
- 9) Signage will require a Building Permit and shall conform to Zoning Ordinance, and,
- 10) Active and substantial development/building for purposes of RSA 674:39 defined for this application: receipt of Certificate of Occupancy (within 12 months of final approval).

Mr. Emerick **SECONDED. VOTE: AIL. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

4. John V. Poissant
2-Lot Subdivision Application at
3A Purington Lane
Map 120, Lot 5
Waiver Requested: Subdivision Regs. Section V.E.7 (Stormwater Control Plan & Calculations)
Owner of Record: Same as Above
Jurisdiction Accepted May 5, 2004

Mr. John Poissant introduced himself. Mr. Viviano asked Mrs. Kimball to provide a background to the Board to refresh their memory on some of the previous concerns. Mrs. Kimball stated at last meeting, the Board did not act on the waiver request and asked for additional information delineating the Wetlands; the plans now reflect where the Wetlands are located (in the South West corner of the property) and will not be affected by the proposed development; departmental reviews were requested and Mrs. Kimball noted for the record: Fire department dated June 1, 2004, Conservation Commission dated May 31, 2004, Department of Public Works dated May 26, 2004, Highway Safety dated May 24, 2004, and Police Department dated May 13, 2004. There was Board discussion regarding issues of the storm water control and Mrs. Kimball clarified Board consensus was that a detailed plan would not be necessary based on the verification of the Wetlands delineation, which was just reviewed.

OPEN PUBLIC HEARING: NO COMMENT
CLOSE PUBLIC HEARING.

Mr. Viviano asked for additional Board comments. Hearing none, Mr. Gillick **MOTIONED** to grant the Waiver Requested: Subdivision Regs. Section V.E.7 (Stormwater Control Plan & Calculations). Mr. Workman **SECONDED. VOTE: AIL. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mr. Gillick **MOTIONED** to approve the John V. Poissant 2-Lot Subdivision Application at 3A Purington Lane, Map 120, Lot 5 Application of plan #P03433, dated 5/17/04, subject to:

- 1) Submittal of revised plans to reflect placement of two (2) granite bounds at edge of wetlands,
- 2) Driveway permit required prior to issuance of Building Permit,
- 3) Certificate of monumentation prior to final approval,
- 4) Submittal of \$4,970.00 Impact Fees paid upon application of Building Permit,
- 5) Active and substantial development/building for purposes of RSA 674:39 defined for this application: receipt of Building Permit on new lot (within 12 months of final approval),
- 6) Submittal of revised plan to reflect correction to note on existing coverage for Lot 1A (“...total existing lot = 3.6%...”), and,
- 7) Submittal of final stamped plans, mylar(s), and recording fees.

There was additional Board and applicant discussion to clarify ‘active and substantial development’ as well as the Impact Fees and the reasons the Town requires these statutes. Once this was established, Mr. Emerick **SECONDED. VOTE: AIL. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

5. Jean Boudreau
Site Plan Review to demolish existing structures and
construct four (4) Residential Condominium units with parking at
35 Ashworth Avenue
Map 282, Lot 206
Owner of Record: Janet Reynolds
Jurisdiction accepted April 7, 2004, extended by applicant

II. NEW PUBLIC HEARINGS:

1. Jean Boudreau
Site Plan Review to construct 4 Residential Condominium units at
35 Ashworth Avenue
Map 282, Lot 206
Waiver Requested: Site Plan Regulations Section VII.B.3 (parking lot design)
Owner of Record: Janet Reynolds

Attorney Peter Saari of Casassa & Ryan introduced himself as representing the applicant. Mr. Dave Gleason, Architect for this project, and Ms. Jean Boudreau were introduced as well. Mr. Viviano asked Mrs. Kimball to provide a background to the Board to refresh their memory on some of the previous concerns. Mrs. Kimball stated at last meeting there was lengthy discussion on parking, aisle width and maneuverability; the applicant submitted diagrams showing vehicles could move in and out of parking on site, however, it was noted this did not meet the aisle width requirements as interpreted by the Board, thus the waiver from aisle width was required and a public hearing for that waiver would be necessary; all departmental reviews have been completed and discussed; the plans have not changed.

OPEN PUBLIC HEARING REGARDING WAIVER: NO COMMENT CLOSE PUBLIC HEARING.

Mr. Viviano asked for additional Board comments. There was Board discussion regarding commendation to the applicant for making all efforts to provide a complete plan. Mr. Sakurai **MOTIONED** to grant the Waiver Requested: Site Plan Regulations Section VII.B.3 (parking lot design). Mr. Gillick **SECONDED. VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

OPEN PUBLIC HEARING: NO COMMENT CLOSE PUBLIC HEARING.

Mr. Gillick **MOTIONED** to approve the Jean Boudreau Site Plan Review Application to construct 4 Residential Condominium units at 35 Ashworth Avenue, Map 282, Lot 206 of plan #4-46-5862, revision #3 dated 4/1/04, subject to:

- 1) Conditions noted in the Department of Public Works memo dated May 5, 2004 , with sign off from Department of Public Works on items #1, 2, & 3, prior to final approval,
- 2) Conditions noted in the Fire Department memo dated March 23, 2004,
- 3) Submittal of revised plan to reflect correction to note #6 (both sheets) regarding pervious surfaces,
- 4) Snow shall be removed from site (no snow storage on site),
- 5) Trash shall be kept in individual units and only placed at curbside on collection day,
- 6) Condominium Documents shall address snow removal and trash collection and copy will be submitted to Planning Office for review,
- 7) Submittal of final stamped plans, mylar(s), recording fees, and architectural drawings,
- 8) Submittal of Certificate of monumentation prior to final approval, or shall be included in a Surety,
- 9) Submittal of \$1,898.00 (per dwelling unit) Impact Fees paid upon application of Building Permit,
- 10) Establish sufficient escrow to cover independent Engineering Inspection (amount determined via recommendation by Department of Public Works) prior to final approval, and,
- 11) Active and substantial development/building for purposes of RSA 674:39 defined for this application: Certificate of Occupancy (within 12 months of final approval).

Mr. Emerick **SECONDED. VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

III. CONSIDERATION OF MINUTES – JUNE 2, 2004:

Mr. Sakurai noted on page 5, middle of the paragraph should read: “Mrs. Kimball stated the concerns regarding the changes as: *Wetlands Conservation Commission has not reviewed the detention pond, which is now shown in the Wetland Buffer,...*”

Mr. Workman **MOTIONED** to accept the minutes as amended. Mr. Emerick **SECONDED**. **VOTE: 5 = Yes / 1 = Abstain** (Mr. McMahon). **MOTION PASSES IN THE AFFIRMATIVE.**

IV. CORRESPONDENCE:

Caddy Shack, LLC – Surety:

Mrs. Kimball read a memo from John Hangen, Director of Department of Public Works dated June 8, 2004 stating Jones and Beach Engineers setting a Surety of \$5,000.00 for the work involving the crosswalk. Mr. Gillick **MOTIONED** in favor of establishing a \$5,000.00 Surety for the Caddy Shack, LLC, 369 Lafayette Road, Map 175/160, Lot 2/35 project. Also, a site inspection by Department of Public Works is required prior to the owner performing this work to determine exact location specifications. Mr. Emerick **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

V. OTHER BUSINESS:

Mr. Gillick asked if the procedure to have the Hampton Beach Commission reviews has been implemented. Mrs. Kimball stated the Applications that require comments from the Commission have been sent. Mr. Workman stated the Commission will meet tomorrow, June 17, 2004 and any requests will have a written response back to the Board.

White’s Lane & Barbour Road – Conservation Land:

Mrs. Kimball read a memo from Ms. Ellen Goethel, Chair of Hampton Conservation Commission dated May 31, 2004 requesting Planning Board recommendation to purchase the parcel owned by Shirley B. McRae. Mrs. Kimball handed out a tax map for the Board to review and there was brief discussion of the crossroads (Bear Path, Little River Road, etc...) and the parcel in question showed distinction by a shaded area. Mr. Emerick **MOTIONED** in favor of the purchase of the Shirley B. McRae Conservation Land, White’s Lane & Barbour Road, Map 110, Lot 3C parcel fronting Barbour Road for the price of \$150,000.00. Mr. Sakurai stated concerns for delineating the Wetlands and Uplands for the Town’s future investment purposes. There was Board discussion and consensus was the purchase price is fair for the piece of land to become Conservation Land and additional expenses to delineate would not be Planning Board responsibility. Mr. McMahon **SECONDED**. **VOTE: 5 = YES / 1 = ABSTAIN** (Mr. Workman). **MOTION PASSES IN THE AFFIRMATIVE.**

Senate Bill 414:

Mrs. Kimball reviewed the changes in law to Impact Fees and Vesting of her memo dated June 14, 2004, which the Board was provided a copy. Attached to that memo was the State of New Hampshire Senate Bill 414 FN which has now passed. Mrs. Kimball stated if there were further questions regarding any of this information to please contact her at the Planning Office.

Mr. Viviano suggest to the Board, to set one gage for ‘active & substantial development’ to be defined and be consistent at least with any small applications, on a case by case basis.

WCV, Inc.:

Mrs. Kimball read from email correspondence between Scott Frankiewicz of Beals Associates and John Hangen, Director of Department of Public Works (DPW) dated June 14, 2004. Mrs. Kimball stated the condition #4 of the WCV, Inc. conditionally approved Site Plan (dated November 22, 2002) states: “Review and comment by DPW as to striping for a setback “no parking” area at driveway.” According to DPW Director, John Hangen, the Town does not wish to have a “no parking” area along K Street in front of the subject site.

Mr. Hangen has agreed, along with the Planning Board that the new driveway will be taken into consideration when the Beach Infrastructure Improvement Engineers, Fay, Spofford & Thorndike) redesign K Street. Mr. Emerick **MOTIONED** in favor of removing the “no parking” reference from the site Plan. Additionally, Board consensus was that this action would satisfy condition #4. Mr. Sakurai **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

All Hazard Mitigation Plan:

Mrs. Kimball stated for the past three years she has been working with the Project Impact grant and Jane Hubbard, Consultant (who used to be an employee of the State Office of Emergency Management). The All Hazard Mitigation Plan, which is now required by Federal Law, is now in place and ready for Planning Board Adoption as part of the Master Plan to replace the existing Flood Plan (the Flood Plan has been incorporated into the All Hazard Mitigation Plan). Mr. Emerick **MOTIONED** to hold a Public Hearing on adoption of the All Mitigation Plan as part of our Master Plan on July 21, 2004. Mr. Workman **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Winnacunnet High School:

Mrs. Kimball reviewed RSA 674:54 that reads Governmental Land is not required to go through the traditional Permitting process. They are, however, required to give written notice to the Planning Board.

Mrs. Kimball noted a memo from Scott Heavisides, Senior Project Manager with Meridian Land Services, Inc. dated June 16, 2004 who has been selected by the Winnacunnet School District, along with Architect Frank P. Marinace, to provide site civil engineering services for the proposed improvements to the high school.

Additionally, Pro Con Construction, Inc. has been selected as the General Contractor. Mrs. Kimball noted the basis of the memo was to inform construction will be starting, they are requesting to attend the July 7, 2004 Planning Board meeting to discuss their construction process, and they would like to discuss the RSA as it pertains to a public hearing relative to the proposed Governmental use. The Board consensus was to show Meridian Land Services on the July 7, 2004 agenda as ‘attending to be heard’ agenda.

Tower Venture:

Mrs. Kimball noted a memo from Kenneth Spigle, Counsel for Tower Ventures II, LLC dated June 16, 2004. He is requesting Board clarification of condition #1 of the Tower Venture conditionally approved Site Plan (dated March 17, 2004). There was Board discussion, about the term: “Final approval of all necessary permits and Zoning Board of Adjustment decision upheld”. There was additional Board discussion regarding the appeal against the ZBA and each Board member gave pros and cons to the scenarios of what actually was intended. Mr. Sakurai suggested there may not be enough Board members to process a vote. Mr. Workman clarified we would need a majority of the quorum. Mrs. Kimball found we would need 3 votes in favor of.

Mr. Gillick **MOTIONED** to postpone further action on this until all Board members were present. Mr. Sakurai **SECONDED**. There was additional Board discussion as to the reasons to proceed with the clarification for the applicant and consensus was to finalize a definitive answer. Mr. Gillick rescinded his **MOTION**.

Mr. McMahon **MOTIONED** to further clarify its intent of condition #1 as follows: “Zoning Board of Adjustment decision(s) are upheld” means the decision is upheld until or unless a Court of Law overturns the Zoning Board of Adjustment decision(s). Furthermore, the Board noted that the applicant can proceed with the approved project plans, at their own risk, provided all other conditions precedent are met. Mr. Gillick **SECONDED**. **VOTE: 3 = YES / 1 = OPPOSED (Mr. Sakurai) / 2 = ABSTAIN (Mr. Emerick & Mr. Workman).** **MOTION PASSES IN THE AFFIRMATIVE.**

Mr. Gillick **MOTIONED** to adjourn. Mr. McMahon **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Meeting adjourned at 8:36 p.m.

Respectfully Submitted,
Janine L. Fortini
Planning Board Secretary