

HAMPTON PLANNING BOARD – MINUTES

-AMENDED 12/15/2004

December 1, 2004

PRESENT: Robert Viviano, Chairman
Tracy Emerick, Vice Chairman
Ken Sakurai, Clerk
Tom Gillick
Tom Higgins
Keith Lessard
* Fran McMahon, Alternate
* Bill Bilodeau, Alternate
Jennifer Kimball, Town Planner
John Harwood, Incoming Town Planner

ABSENT: Jim Workman, Selectman Member

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

Mr. Viviano stated he consulted with Town Attorney Gearreald regarding a legal matter concerning Mr. Ken Sakurai, Clerk for the Planning Board. In an effort to maintain the confidence of the public, Mr. Viviano has requested Mr. Sakurai step down from his position on the Planning Board until the legal charges against him are resolved. Mr. Sakurai was allowed to make a statement from the podium at this time, addressing the legal issue between the Victoria Inn and himself being a false accusation. He expressed his innocence, asked that his integrity remains intact, intends not to speak of this issue in public, and thanked all those supporting him. Mr. Sakurai stated he was in agreement that future Planning processes may be compromised by his attendance on the Board and announced he would step down from his Clerk position until this issue is resolved.

* Mr. McMahon joins the Board at this time. Mr. Viviano stated that Mr. McMahon assumes the Clerks position while seated on the Board.

II. NEW PUBLIC HEARINGS:

1. Sean Marshall
Special Permit to construct a 2-story dwelling unit with garage, both attached to the existing structure within the Wetlands Conservation District at
31 Harbor Road
Map 295, Lot 62
Owner of record: Jane Gallagher

Mr. Viviano read an email dated November 30, 2004 from Mr. Marshall requesting to withdraw the application due to design challenges with reference to the 50ft. buffer requirements. The Board acknowledged the email, understanding the applicant has modified the proposal and requests to withdraw the application.

I. CONTINUED PUBLIC HEARINGS:

1. Fatima Realty Trust
Site Plan Review to construct a 52 Unit/5-story residential Condominium building with
2 parking levels, drainage, grading, necessary paving & utility connections at
377 Ocean Boulevard
Map 265, Lot 20
Owner of record: Fatima Realty Trust, Janet Reynolds-Trustee
Jurisdiction accepted October 6, 2004

2. Fatima Realty Trust
Special Permit to work within the Wetlands Conservation District for work associated
with Site Plan Review at
377 Ocean Boulevard
Map 265, Lot 20
Owner of record: Fatima Realty Trust, Janet Reynolds-Trustee

Attorney Steven Ells introduced himself as representing the applicant. Also introduced were Jean Boudreau, Principal of the development, Mr. Corey Colwell of Millette, Sprague, & Colwell, Engineer, and Mr. David Lopatich, Architect. Attorney Ells proceeded to explain responses were prepared to previous Board inquires, and Mr. Colwell is prepared to make a presentation.

Mrs. Kimball proceeded to update the Board on previous concerns and departmental review status. She referenced a memo dated November 15, 2004 from Department of Public Works requesting information on the sidewalk, a maintenance plan, and being in favor of the Rainstore system, although it should be reviewed by Ambit Engineering; the Conservation Commission memo dated October 31, 2004 stated they were in favor of the Rainstore system; the Fire Department memo dated November 9, 2004 asked for additional information on the fire access; Highway Safety responded on October 26, 2004 and had no comments; Police Department memo dated November 29, 2004 stated no issues; Hampton Beach Commission memo dated November 27, 2004 with reasons why this project was not in the spirit of the Master Plan.

Mr. Colwell offered a presentation using a colored copy of the site plan and addressed comments regarding Ambit Engineering's memo dated November 12, 2004. He showed site plan revisions highlighted in yellow and explained the details that Ambit requested. Mr. Colwell noted he responded to Ambit's concerns in a memo to the Board dated November 24, 2004 and proceeded to review his responses. There was Board discussion regarding the fire lane access and Mr. Colwell described the emergency equipment would have ample turning and access on the property with an additional cut through on Ocean Boulevard as well. Mr. Gillick expressed concerns about the emergency vehicle access, ***for emergency vehicles southbound on Ocean Boulevard***. He then went on to ask who determined that a variance from the Shoreland Protection Act was not needed. Mr. Colwell stated it was he that reviewed the Act in length and determined a variance was not needed. ~~Mr. Colwell answered Mr. Gillick's question stating all the building materials would be made of non-flammable material.~~

Mrs. Kimball addressed the dumpster location and asked for any additional Board concerns. Mr. Colwell stated dumpster emptying service has not been determined as yet; the dumpster will be camouflaged with a 6ft. screen; the units will be equipped with trash compactors to minimize the trash bag size and brought to a common area yet to be determined; ground maintenance will empty the common area to the dumpster. There was Board concern with regard to the actual common area where trash will be kept and whether neglect of the dumpster, and/or its gate would cause hazardous conditions. Attorney Ells assured the Board that concerns raised regarding trash and recycling would be addressed in the future.

Mr. Colwell continued to address his memo responses. Mr. Lessard expressed concern regarding the redesign of the sidewalk and crosswalk, which has the sidewalk between the two curb cuts at grade (no curb). There was Board discussion regarding vehicles cutting over the sidewalk, parking on the side of the road and hazard conditions for pedestrians. Mrs. Kimball noted the information submitted to the Planning Office late this afternoon, regarding the retaining wall details, was not available in time for Board copies. Mr. Colwell addressed the Rainstore system being their second installation of this type in New Hampshire and there are more sites available to view in Massachusetts (BioLab in Southboro, MA).

Mr. Colwell noted that the Rainstore system was designed based on a perk rate of 30 minutes per inch - the actual perk rate is 6 2/3 - 7 minutes per inch, so the actual Rainstore system is significantly oversized. Mr. Colwell pointed out where the two proposed Rainstore systems are to be located.

Mrs. Kimball clarified that Mr. Colwell provided the revised site plans to the Town Departments and she will provide the revised architectural renderings for additional reviews. The Board reiterated previous concerns regarding: the obstructed view from the lower level garage; potential headlight disturbances; tow truck/emergency access in the garage; snow removal would require a backhoe and appropriate access by the overhang; U.S. Mail access; concerns of solid rail at Port Side; dumpster location.

Mr. Lopatich proposes the overhang starts at 22 ft. and the floors above consist of a flat facade. He continued to clarify: the clearance height in the proposed garage is 7'2"; there was a study conducted of vicinity garages and the measures were anywhere from 6'8" to 7'2" as a typical clearance in a parking garage. Mr. Emerick stated he visited Harbor Place where the measure is written on a pipe stating 6'6" and he measure height ranges anywhere from 7'5" to under 7' by a light fixture. Mr. Higgins stated concerns for vehicle removal. *He requested a letter of proof that a tow company would be able to remove vehicles from the garage. Additionally, Mr. Higgins stated concerns for access with regards to larger vans, sport utility vehicles, etc...* Mr. Viviano stated concerns for emergency access vehicles as well. Mr. Lessard stated issues with visitor parking and towing concerns.

Mr. Lopatich demonstrated where the turning radiuses were sufficient. Mrs. Kimball requested a copy of the plans that were being displayed. Mr. Lopatich furthered that there is proposed textured glass is to be used to deter the assumed headlight disturbances in the garage.

Attorney Ells addressed the letter from the Hampton Beach Commission dated November 27, 2004. He stated there were a number of changes made to the plans and materials to satisfy those concerns, and the changes to the site are far more than design elements where the intention is to enhance and improve the area. Mr. Ells stated that there is much more the Beach Area Master Plan than the architectural aspects, in addition it is premature to enforce design criteria when there are no guidelines adopted at this time.

Mrs. Kimball stated that the Special Permit Application should continue to be heard together with the Site Plan Review based on the Conservation Commission letter of October 31, 2004 stating no objections. Attorney Ells assured the Board that the State permits have been re-applied for.

Mr. Higgins stated concerns regarding when the trash truck wanted to leave the site, it would have to back out onto Ocean Boulevard before the driver would have a view. The applicant stated it would be a two man job to back out the trash truck; the maintenance man would have to walk out and stop traffic for this to occur.

OPEN PUBLIC HEARING: NO COMMENT – CONTINUE PUBLIC HEARING.

Mr. Viviano asked for additional Board comments. There was Board discussion regarding minor details that will be handled with the Engineers versus Board members that are in favor the project and those that need further information to make an informed decision. Mr. Gillick read the *Zoning Regulations, Article 7.7* to clarify it is within the Planning Board's regulations to discuss the architectural exterior of a proposed project.

Mr. Lessard **MOTIONED** to continue the public hearings on the Fatima Realty Trust Site Plan and Special Permit Applications to its January 19, 2005 meeting subject to continued departmental

reviews. In addition, the Board outlined several concerns about the project and asked that the applicant address those items in a clear and concise manner. Mrs. Kimball agreed to supply a summary of those concerns. Additionally, it is the Board's understanding that the applicant has agreed to extend the jurisdictional period as necessary. Mr. Higgins **SECONDED. VOTE: MOTION PASSES UNANIMOUSLY.**

Mr. Viviano reminded the applicant that the Board requires all new information and plans be submitted to the Planning Office no later than the Friday prior to their next hearing.

3. Hampton River Marina, LLC (Phase III)
Site Plan Review to construct 44 Townhouse Condominiums in 2 buildings with associated road & utility work (existing Marina to stay in operation) at
55 Harbor Road
Map 295, Lot 1
Waiver Request: Site Plan Regulations Section VII.D.2 & 5 (increase in stormwater)
Owner of Record: Same as above
Jurisdiction accepted October 20, 2004
4. Hampton River Marina, LLC (Phase III)
Special Permit to work within the Wetlands Conservation District for work associated with Site Plan Review at
55 Harbor Road
Map 295, Lot 1
Owner of Record: Same as above

Mr. Viviano advised the public that due to time constraints some agenda items might not be heard this evening.

Attorney Peter Saari introduced himself as representing the applicant. Also Mr. Joe Coronati of Jones & Beach Engineers, and Mr. Mark Maynard, Managing Partner of the development introduced themselves. Mr. Coronati pointed out that Mr. Steve Pernaw of Pernaw & Associates was present. Mrs. Kimball briefed the Board by referencing her memo dated October 25, 2004 and stated Jones & Beach submitted a response memo dated November 19, 2004. She highlighted a concern of the proposed, co-ed (one) shower and the revision is now showing two each (women/men) showers; the boat rack information has not been submitted; relocation of the dumpsters have been revised; the site clean up information has not been submitted; Highway Safety has no comments; Conservation Commission memos dated October 31, 2004 and a follow-up letter dated November 30, 2004 were reviewed; DPW memo dated November 16, 2004 listed outstanding items; Fire Dept. memo dated November 12, 2004 noted all their previous comments were addressed; Aquarion Water memo dated November 5, 2004 noted there was water available; Vanasse & Assoc. memo dated November 15, 2004 requested additional information; Police Dept. memo dated November 29, 2004 was reviewed; Ambit Engineering submitted comments, this day which have not been reviewed as yet.

Mr. Coronati proceeded to provide details of the plan revisions that were submitted: a limited common area was pointed out and discussed. Mrs. Kimball clarified the limited common area would be accessible by the Condominium Development and under control of the Marina. Mr. Viviano requested all the details between the two management companies be clearly distinguished in the Condominium Documents. Mr. Maynard clarified that Phase III slip owners and condominium owners would be able to join the Yacht Club of Phase II. Mr. Maynard agreed with Mr. Viviano that the unit owners in Phase II can lease a dock in Phase III, use the limited common area for their docks only, and the Club House of Phase II could potentially be used by unit owners of Phase III (not general public). Mr. Maynard clarified the unit owners of Phase III have first

option to lease a slip and no dock is included in a unit purchase. There was extensive Board discussion regarding recreation area and Mr. Coronati stated, and pointed out, it is clarified on Sheet 2 of the revised plans, Mrs. Kimball read note #28 out loud. Mr. Maynard stated the public would be allowed to walk and fish from the dock and not just restricted to the residents. Mr. Saari stated the location of the unit owner to the slip would depend on the size of the boat.

Mr. Coronati showed the existing lighting has been shown on the revised plan; the dumpster reallocations were pointed out and abutter concerns were addressed; there was Board consensus that the new dumpster location was sufficient; the landscaping was changed from grass pave to eco paver due to the fork lift and snow removal use; the travel lift area is distinguished by no parking signs; there was Board discussion regarding the erosion of eco pavers versus concrete pouring; Mr. Maynard stated consideration of the concrete is an option, however, concern is that the Conservation Commission may not agree with that type of change; Mr. Coronati pointed out a temporary dock is proposed for public safety in order to prevent any boat lifting with people on them.

OPEN PUBLIC HEARING: NO COMMENT – CONTINUE PUBLIC HEARING.

Mr. Viviano asked for additional Board comments. Mrs. Kimball gave a brief synopsis for the Board of what would be required to move this application forward. There was Board discussion regarding review options and procedures. Mr. Lessard **MOTIONED** to continue the public hearing on Hampton River Marina, LLC (Phase III) Site Plan Review and Special Permit Applications to its January 5, 2005 meeting subject to continued departmental reviews. Additionally, the applicant agreed to extend the jurisdictional period as necessary. Mrs. Kimball agreed to supply a summary of the items and concerns discussed at this meeting for the applicant's convenience. Mr. Emerick **SECONDED. VOTE: MOTION PASSES UNANIMOUSLY.**

Mr. Viviano reminded the applicant that the Board requires all new information and plans be submitted to the Planning Office no later than the Friday prior to the next hearing of January 5, 2005. Additionally, Mr. Viviano suggested that the applicant submit revised plans to the Planning Office prior to continued departmental review and to coordinate with the Planning Office to ensure the Board's deadlines are met.

5. James R. Valentino
Condominium Conversion at
747 Ocean Boulevard
Map 223, Lot 38
Waiver Requested: Subdivision Regulations: Section V.E.-(detailed plan) & VII.C
(storm drainage)
Owner of record: Same as above

Attorney Peter Saari of Casassa & Ryan introduced himself as representing the applicant. Ms. Jackie Valentino, applicant, and Mr. Ernie Cote, Surveyor were introduced as well. Mrs. Kimball gave an overview of previous Board concerns of parking issues and deed restriction on subdivision of land. Mrs. Kimball referenced Town Attorney Gearreald's memo dated November 30, 2004 regarding the deed restriction preventing a condominium conversion, although the deed restriction does not apply to the property in question and does not prohibit the Board to take action. There was Board discussion regarding lot line and privileges. Attorney Saari stated that both owners own everything, however, each owner has rights to only use one part of property consecutively.

OPEN PUBLIC HEARING: NO COMMENT – CLOSE PUBLIC HEARING.

Mr. Viviano asked for Board comments. Hearing none, Mr. Gillick **MOTIONED** to grant the James R. Valentino Waiver Requested: Subdivision Regulations: Section V.E.-(detailed plan) & VII.C (storm drainage). Mr. Lessard **SECONDED. VOTE: MOTION PASSES UNANIMOUSLY.** Mr. Emerick **MOTIONED** to accept jurisdiction of and approve the James R. Valentino Condominium Conversion application at 747 Ocean Boulevard, Map 223, Lot 38, plan #3-70-5257, dated 11/24/2004 subject to:

- 1) Receipt of a certificate of monumentation, a recordable mylar, and appropriate recording fees.

Mr. Lessard **SECONDED. VOTE: MOTION PASSES UNANIMOUSLY.**

II. NEW PUBLIC HEARINGS:

2. Cheryl Williams
Special Permit to remove 1-story cottage & construct a new 2-story home within the Wetlands Conservation District at
36 Kings Highway
Map 223, Lot 68
Owner of record: Same as above

Ms. Cheryl Williams introduced herself. She proceeded to explain the application to demolish the existing, year round cottage and construct a 2-story home; the lot is 50ft X 100ft and the new construction would infringe on the 50 ft. buffer; the existing home has 13ft. front set back and a variance was granted. Mrs. Kimball confirmed that Ms. Williams has completed the necessary steps and approvals thus far. Mr. Viviano referred to a memo dated September 30, 2004 from the Conservation Commission who does not oppose the project and stated their stipulations.

OPEN PUBLIC HEARING:

Mr. Viviano read a letter dated September 29, 2004 from Mr. Tony Sousa of 38 Kings Highway who could not attend the public hearing. The letter stated no objection to the proposal, and did state a suggestion to expand the right side measurement to achieve more privacy for both parties.

CLOSE PUBLIC HEARING.

Mr. Viviano asked for additional Board comments. Hearing none, Mr. Gillick **MOTIONED** to approve the Cheryl Williams Special Permit application at 36 Kings Highway, Map 223, Lot 68, plan # 2-66-2428, subject to:

1. The Shoreland protection act is followed with proper erosion control, silt fence and hay bails and
2. The Conservation Commission is notified at the start and completion of the construction.

Mr. Lessard **SECONDED. VOTE: MOTION PASSES UNANIMOUSLY.**

3. Edward L. Keohane
Impact Fee Waiver Request for Single Family Structure (fees total \$3,641.00) at
26A Seaview Avenue
Map 133, Lot 33
Owner of record: Same as above

Mrs. Marie Keohane introduced herself. She proceeded to explain the details of the Impact Fee Waiver request: a building permit was applied for in 1993 (before the Impact Fee Ordinance was in effect); the Keohane's were granted the right to a building permit through a court settlement agreement in 2000; specific steps and permitting procedures were outlined in the court settlement in order to obtain the originally requested building permit of 1993; the infrastructure was laid out; the bonds were established and posted.

Mrs. Keohane expressed concerns for the special circumstances surrounding this request and would like the Board to consider the four year exemption because of the vesting and qualification rights set forth in RSA 674:39. Mrs. Keohane stated the taxes have been paid on this lot since 1993 and would like the Board to consider the project exempt from the fees.

Mrs. Kimball clarified the delay in the Board hearing this request: the original request had abutter notification errors and had to be re-notified; because the Keohane's were going to be out of town on the rescheduled hearing, the Board agreed to send the request to Town Attorney Gearreald for review. Mrs. Kimball referred to Attorney Gearreald's memo dated November 2, 2004 where he states his reasons the request should not be granted: the settlement agreement finalized in November 16, 2000 and the impact fees implemented in May of 2004 offered ample time to obtain a building permit; the request does not meet any other ordinance criteria; additionally, the lot was deeded to Mr. Keohane with a reference to a 1947 plan that was recorded without Planning Board approval.

OPEN PUBLIC HEARING: NO COMMENT – CLOSE PUBLIC HEARING.

Mr. Viviano asked for additional Board comments. There was Board discussion regarding the Town Attorney's recommendations. Mr. Gillick **MOTIONED** to deny the Edward L. Keohane Impact Fee Waiver Request for Single Family Structure (fees total \$3,641.00) at 26A Seaview Avenue, Map 133, Lot 33, *citing* the reasons listed in Attorney Mark Gearreald's November 2, 2004 memorandum. Mr. Higgins **SECONDED. VOTE: 5 = YES / 1 = ABSTAIN** (Mr. Lessard) **MOTION PASSES.**

4. David, Marilyn and Richard Pearson
Two lot subdivision at
54 Ann's Lane
Map 127, Lot 7
Waivers Requested: Subdivision Regulations: Section V.E. (detailed plan) &
VII.C (storm drainage)
Owner of Record: Same as Above

Mr. McMahon stated his son is an abutter to this property and requested from the applicant if there was a need to step down from this hearing. Attorney Saari stated there would be no conflicts.

Attorney Peter Saari of Casassa & Ryan introduced himself as representing the applicant. Mr. Ernie Cote, Surveyor was introduced as well. Mrs. Kimball gave an overview of the application where there is an existing, non-conforming lot of record; just over 1 ½ acres; two separate frontage along Ann's Lane; one with 119ft. frontage and the other 35ft. frontage; the applicant would like to subdivide to two separate parcels. Mrs. Kimball referred to her memo dated November 29, 2004, which outlines stipulations and possible recommendations for Board action. There was Board discussion regarding buildable lot details. Mrs. Kimball confirmed that a non-conforming lot would regard the frontage and lot width, for which the applicant has received variances.

OPEN PUBLIC HEARING: NO COMMENT – CLOSE PUBLIC HEARING.

Mr. Viviano asked for additional Board comments. Hearing none, Mr. Gillick **MOTIONED** to grant the David, Marilyn and Richard Pearson Waivers Requested: Subdivision Regulations: Section V.E. (detailed plan) & VII.C (storm drainage). Mr. Emerick **SECONDED. VOTE: MOTION PASSES UNANIMOUSLY.** Mr. Gillick **MOTIONED** to accept jurisdiction of and approve the David, Marilyn and Richard Pearson 2-lot subdivision at 54 Ann's Lane, Map 127, Lot 7, plan #4-74-2628, dated 11/10/2004 subject to:

1) Items 3-7 of Mrs. Kimball's November 29, 2004 memorandum.

Mr. Emerick **SECONDED. VOTE: MOTION PASSES UNANIMOUSLY.**

5. Brian Hayes
Special Permit to construct a 2-unit residential condominium within the Wetlands Conservation District at
0 Post Road
Map 43, Lot 9
Owner of Record: George J. Foster Company, Inc.

Mr. Viviano asked for Board consensus to hear the last two agenda items. Board consensus was to continue with agenda items #5 and #6.

Attorney Steven Ells introduced himself as representing the applicant and stated Mr. Brian Hayes is an agreement holder for this property. Attorney Ells proceeded to explain this application proposal is on a very long, narrow lot and will require interference within the 50ft. buffer; the septic system is completely outside the 75ft. buffer; driveway access is proposed to enter the site on the West Side; parking will be underneath. Attorney Ells gave a brief synopsis that the Foster Company (newspaper) was originally going to build a newspaper office on this site. Mrs. Kimball referred to a memo dated November 30, 2004 from the Conservation Commission opposing the granting of the Special Permit. She identified the lot is zoned industrial; the applicant did receive a use variance to allow a duplex use in the industrial zone; additionally, a variance was received on the front set back of 10ft. from the property line. Attorney Ells answered Mrs. Kimball that the variance on the frontage was not requested because the road was straightened out when the bridge and railroad was put in; creating a wider right of way which is greater than the paved portion; the State has given permission, in writing, to access and maintain this wider portion.

Mr. Gillick offered clarification that the paved portion of Route 151 is on the northerly edge of this State right of way; all the property is on the South side of the paved right of way; all the drainage that comes down from the North comes underneath Post Road and joins the wetlands at the railroad bed. Mr. Higgins pointed out the driveway entering the 50ft. wetland buffer, suggesting it could ***be relocated to lessen the*** impact to the wetland. Mr. Hayes explained that the septic system had to go all the way to the front and the house itself had to be on a slab under the building. Attorney Ells stated the stipulations from the DOT letter that the driveway be constructed away from Route 1. There was extensive Board discussion regarding different alternatives to the driveway options and decreasing the buffer impacts. Mr. Hayes agreed to provide a copy of the State permission letter for the Planning file. Mr. Harwood questioned the proposed use of gravel on the drive. Mr. Hayes stated easier maintenance was the main factor for the gravel. Mr. Lessard requested wetland delineation on the revised plans.

OPEN PUBLIC HEARING: NO COMMENT – SUSPEND PUBLIC HEARING.

Mr. Viviano asked for additional Board comments. Hearing none, Mr. Emerick **MOTIONED** to continue the Brian Hayes Special Permit to construct a 2-unit residential condominium within the

Wetlands Conservation District at 0 Post Road, Map 43, Lot 9, public hearing to its December 15, 2004 meeting subject to:

1. Submittal of a revised plan showing less impact to the Wetland Conservation District (by altering the driveway configuration);
2. Submittal of a letter from NH Department of Transportation stating it is satisfied with the plan as presented; and
3. Provide the total area of proposed impact to the Wetland Conservation District.

Mr. Gillick **SECONDED. VOTE: MOTION PASSES UNANIMOUSLY.**

6. Kevin Blayne
Special Permit to construct a single-family residence within the Wetlands Conservation District at
10 Patricia Street
Map 262, Lot 2
Owner of Record: Bruce Montville

Ms. Amanda Barker of NH Soil Consultants introduced herself as representing the applicant. Mr. Kevin Blayne, applicant, was introduced as well. Ms. Barker proceeded to explain the application where the proposal is to construct a single-family residence that would partly impact the 50ft. buffer; temporary vehicle/construction access has been considered for construction; the impact is 185 sq.ft. of permanent impact, and 567 sq.ft. of temporary impact to the buffer; re-grade, re-seed, and tree line preservation has been proposed; compliance with the Shoreland Protection Act has been complied with; a permeable driveway is proposed. Mrs. Kimball gave a brief outline that this property in question had an application before the Board for the last several months, by a different applicant, and that application was withdrawn at the last meeting.

OPEN PUBLIC HEARING: NO COMMENT – CLOSE PUBLIC HEARING.

Mr. Viviano asked for additional Board comments. Hearing none, Mr. Emerick **MOTIONED** to approve the referenced Special Permit subject to:

- 1) Stipulations noted in the Conservation Commission memo dated November 30, 2004.

Mr. Lessard **SECONDED. VOTE: MOTION PASSES UNANIMOUSLY.**

III. CONSIDERATION OF MINUTES – November 17, 2004:

Mr. Viviano addressed an amendment to the date on Page 1 (noted by Mr. Higgins) to read: **November 17, 2004**

Mr. Gillick asked for an amendment on Page 1, first paragraph to read: Mr. Gillick informed the Board that the only **major** expenditure recommended this year is the \$6 million cost for the fire department space needs.

Mr. Lessard **MOTIONED** to approve the minutes as amended. Mr. Emerick **SECONDED. VOTE: 5 = YES / 1 = ABSTAIN** (Mr. Higgins) **MOTION PASSES.**

Mr. Gillick recommended the Board members all keep a copy of Item #4 because these minutes make clear, the Board's position with respect to the Yacht Club project. Mrs. Kimball stated there is a copy on file in the Planning Office.

IV. CORRESPONDENCE:

Mrs. Kimball referenced a letter she wrote to Town Manager, Mr. Barrington that Ms. Janine Fortini, Secretary to the Planning Board has resigned effective December 31, 2004. She noted Ms. Fortini will continue to type the minutes for the December 1 & 15, 2004 Planning Board meetings.

Mrs. Kimball noted a letter from the Conservation Commission was received and referenced a site walk done at the Winnacunnet High School addition, and noting State Wetland violations. The Conservation Commission will keep the Board informed of the progress regarding adherence to correct any State Violations.

V. OTHER BUSINESS:

Mrs. Kimball referred to a memo dated November 23, 2004 from Town Manager, Mr. Barrington regarding RSA 41:14 stating the Board of Selectman have the authority to sell, and/or purchase land, or interests in land, to accept deeds and easements. She continued to state: where the end of Leavitt Road right of way used to continue, is now private property; there is a sidewalk and sewer line in that area; the owners of that property have proposed an easement to the Town of Hampton over the sidewalk and the park bench that exists; the Selectman would like to hold a hearing to accept that easement and need a letter of recommendation from the Planning Board (and the Conservation Commission). Mr. Emerick **MOTIONED** to recommend that the Town accept the proposed utility easement, sidewalk easement, and park bench easement from Elmwood Corners Hampton, LLC. Mr. Lessard **SECONDED**. **VOTE: MOTION PASSES UNANIMOUSLY.**

Mr. Gillick presented Mr. Viviano a newly revised copy of the Shoreland Protection Act. A copy of this revision will be available for public review at the Planning Office.

Mr. Lessard **MOTIONED** to adjourn. Mr. Emerick **SECONDED**. **VOTE: MOTION PASSES.**

Meeting adjourned at 10:35 p.m.

Respectfully Submitted,
Janine L. Fortini
Planning Board Secretary

Minutes as amended on December 15, 2004