

HAMPTON PLANNING BOARD

DRAFT MINUTES

April 4, 2012 – 7:00 p.m.

6:30 p.m. - Non-meeting with in-house counsel-RSA 91-A:2, I (b)

PRESENT: Fran McMahon, Chair
Mark Olson, Vice Chair
Tracy Emerick
Dick Nichols, Alternate Selectman Member
Ann Carnaby, Alternate
Mark Loopley
Brendan McNamara, Clerk
Jamie Steffen, Town Planner

ABSENT: Keith Lessard
Rick Griffin, Selectman Member

I. CALL TO ORDER

Chairman McMahon began the meeting at 7:00 p.m. by introducing the Board members and leading the Pledge of Allegiance to the flag.

Mr. McMahon stated that the change of use request from ice cream shop to moped business for 367 Ocean Boulevard has been withdrawn.

Mr. McNamara stated that 61 High Street has requested a continuance to do an amended site plan. The public hearing will be scheduled for the April 18, 2012 meeting.

MOTION by Mr. Emerick to continue the application to the April 18, 2012 meeting.

SECOND by Mr. Olson.

VOTE: 7 – 0 - 0

MOTION PASSED.

II. ATTENDING TO BE HEARD

- **Change of Use: 367 Ocean Blvd. (continued from 3/21/12)**
(WITHDRAWN)

Ice cream shop to electric moped sales & rentals

- **Change of Use: 143 Ashworth Avenue**
Laudromat to self-serve frozen yogurt sales

Bobby Xavapy appeared for this application. He stated he wishes to open a self-serve yogurt shop at the location.

MOTION by Mr. Emerick to approve the change of use.

SECOND by Ms. Carnaby.

VOTE: 7 – 0 - 0

MOTION PASSED.

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- **Temporary Parking Lot: 275 Ocean Boulevard - 68 spaces.**

Mr. McKeon appeared with his daughter. He noted that the Planning Board has discussed this matter in the past. Mr. Steffen explained that he applicants cannot start construction of the new development building until September, so this is a stop gap use until the building starts. Mr. Steffen stated prior approval ended in March of this year. Mr. Loopley asked if the new building will begin after the Seafood Fest and it was stated “yes”.

MOTION by Mr. Emerick to approve the temporary parking lot for another year.

SECOND by Mr. McNamara.

VOTE: 7 – 0 – 0

MOTION PASSED.

- **Temporary Parking Lot: 83-91 Ocean Boulevard**

Parking Lot: 88 Spaces

Mr. Joseph Coronati appeared with Mr. McClure. Mr. Coronati stated that they wish to amend the existing approval for the parcel. He noted it is good until October of this year but since last summer DOT has requested that they no longer use the entrance on Ocean Boulevard. They now wish to use the existing curb cuts on J & K Streets for their access points. The reconfiguring the parking was discussed. It was noted that workers will collect money at both entrances. Mr. McNamara recalled that the handicap spaces were condensed as the year went on last year. There are six handicap spots designated. Mr. McClure responded that kids rip off the handicap signs. He stated that he will make sure the handicap spots stay in place. He asked if the handicap spots would need to be used at all times as he would like to keep two slots open for any use. It was decided that keeping the six spots available for handicap use is the best idea. Mr. Loopley had a concern about parking in the middle area. He asked how the spots will be defined since it is gravel. Mr. McClure responded that posts and rope will be used. Mr. Loopley asked that the edge of the lot where it meets the sidewalk on Ocean Boulevard be better defined. Mr. McClure responded that one solid rope will be utilized. Mr. McMahan stated that cars are going beyond the rope and sticking out into sidewalk. The applicant will work on that by possible putting in curb stops.

MOTION by Mr. Loopley to approve the temporary parking lot with the stipulation that the applicant will contact the Town Planner to have him verify that the signage, markings and fencing have been installed in conformance with the Planning Board’s approval before opening of the lot.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

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III. NEW PUBLIC HEARINGS

12-012 1019 Ocean Boulevard

Map: 116 Lot: 047

Applicants: Richard & Martha Hyslip

Owners of Record: Same

Special Permit: Addition of 4' x 42' deck; two footings & posts in wetland buffer for support.

Mr. and Mrs. Hyslip appeared. They stated that they have an existing deck that is 3' x 42'. They wish to extend it out an additional four feet. Mr. Emerick stated he is an abutter. The Board stated they have no objection to him voting on the matter. It was noted that the variance they received was for the 20-foot front setback. They have the letter from the Conservation Commission.

MOTION by Mr. McNamara to approve the special permit with the conditions outlined in the Conservation Commission's letter dated March 28, 2012.

SECOND by Mr. Loopley.

VOTE: 7 – 0 – 0

MOTION PASSED.

12-014 Ina Avenue

Map: 280 Lots: 9

Applicant: David Maher

Owner of Record: Pamela Rush, Trustee,
JE&PK Realty Trust

Special Permit: Construct new driveway, rain garden & grading within 50' buffer.

Mr. Boyd from Millenium Engineering appeared with the applicant. He noted that the lot does not have a street number at this time. He explained that it is a vacant lot owned by the Rush family. They have worked closely with the Conservation Commission on placement of the rain garden. They have taken measurements of the water table depth. Filtering of the site run-off was discussed. It was stated that the Conservation Commission's main concern was to keep the existing pine tree. Mark West, a wetlands scientist, was consulted on that, and stated that he believes there is no way to save the tree. Mr. Boyd noted that no variances or wetlands were needed for this project. He discussed artificial grading along with rain barrels. He noted that pervious pavers will be utilized in the travel strips. He explained that grass would in between the pavers. He stated that the Conservation Commission would like the walkway to access the back steps and deck so there will be no wash off. Mr. Boyd handed out a new plan with proposed landscape plantings. He noted that the plants were at the request of the Conservation Commission. There are a total of eight plants and one or two trees. Mr. Boyd discussed ground elevation was discussed, and flood and saltwater inundation of the rain garden.

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Mr. Loopley discussed the applicant's responsibility of maintenance of the rain garden and how the Town will know it is taking place. Mr. Boyd said any time a wetland permit like this is issued, NHDES is involved. He cannot deviate from the plan or he will be in violation with the State. Mr. Loopley stated he wouldn't think the State would get involved with small projects. Mr. Loopley asked about the pavers in the travel lanes. The pavers extend into Ina Lane--past the applicant's property line. Mr. Boyd responded that he could cut them short and it's not his property to put them on. Parking spaces were discussed. Mr. Nichols asked if Ina Avenue is a classified road or right of way. It's Town right of way per Mr. Boyd. He stated that the Town maintains it. He also indicated that there is a sewer structure that exists there. It was noted that a Class V road doesn't need pavement. There was discussion about whether it is a private or public way. Mr. McNamara asked who is constructing the building on the property. Mr. Boyd answered that it is being sold to the applicant. The applicant wants to get all of the approvals before he purchases the property. Mr. McMahon asked about parking and whether they are stacked spaces. It was answered "No" one of the spaces will be in the garage. It was noted that rain gardens need to be rehabilitated periodically. Mr. Boyd stated once every ten years at a maximum.

Mr. Jay Diener of the Conservation Commission appeared. He stated that the Conservation Commission has concerns with storm surge and the rain garden being inundated with sea water. He explained as mitigation in the wetlands, the Conservation Commission likes to see that the plantings be maintained for at least two growing seasons. He mentioned the storm situations noted that they are commenting on the State permit as well. He agrees with Mr. Loopley about the concern about maintaining rain gardens. The Conservation Commission wants people to undertake the minimum responsibility at least. He stated that maintenance for all gardens should be a given. He discussed utilizing native plants for this project.

Mr. Steffen stated that we should get DPW's input on the pavers in the road. It was asked if the Town plows Ina Ave. Mr. Loopley thinks we should get DPW's input. This could be done as part of the driveway permit.

MOTION by Mr. Emerick to approve the special permit.

SECOND by Mr. McNamara whom added that it comply with the stipulations contained in the Conservation Commission letter dated March 28, 2012 ; conform to the plans, as revised, which includes the elimination of mulch; receipt a driveway permit from DPW with the stipulation that DPW be made aware of the pavers in the right-of-way. Mr. McMahon stated that DPW needs to be copied on the decision.

VOTE: 7 - 0 - 0

MOTION PASSED.

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12-016 436 Winnacunnet Road

Map: 208 Lots: 49, 50-A-1

Applicant: Ronald Remick, Individually & as Trustee of the Ronald Remick Revocable Trust

Owner of Record: Same

Lot Line Adjustment: Relocation of Existing Lot Lines Waiver Request: Section V.E. of the Subdivision Regulations - Detailed Plan.

Attorney Peter Saari appeared. He stated that the application is for a lot line adjustment. He described the two parcels involved. He stated that he doesn't know how the undersized lot was created but it was shown on a previous plan approved by the Planning Board. He explained that once the lot line is adjusted, both lots will then be conforming as to size, but doesn't comply as far as lot frontage, lot size and "Peter's Square". He stated that he knows there are issues with drainage and soils and those they may need to be confronted later on down the road.

BOARD

Mr. Emerick stated that he thinks it looks like a subdivision. Mr. Loopley concurred. Mr. Steffen explained that its taking two existing non-conforming lots and moving the lot line to create a new buildable lot. That triggers a need for a variance because the newly-configured lot does not meet lot frontage, lot width and "Peter's Square" requirements. He stated that he discussed the proposal with the Building Inspector who is the Towns' zoning interpreter and that is his opinion as well. He further stated that lot line adjustments are considered a subdivision under our regulations. Mr. Emerick stated we can't create non-conforming lots without variances.

PUBLIC

Mr. Jay Diener of the Conservation Commission appeared. He stated that there are many concerns with the application. He explained that if this goes through, the applicant will want road access via Esker Road. He noted that they have come before the Conservation Commission twice to secure a special permit to build a driveway on that strip of land. He noted that in June of 2011, a special permit was applied for that purpose and when it became clear the vote would not go through, they withdrew their application. He further noted that they came back in January of this year for a State permit only. The Conservation Commission recommended to the DES that it not be granted. He stated that the applicant has asked for a no ruling from the State until April 10th which is following this meeting. This means that the Planning Board does not know the DES' feelings on this. He explained that the driveway application shows construction of a wall on the side of the lot that would be within 1' of wetlands. He stated it would be within the buffer, and his other concern is its impact on the functioning of the drainage swale. He stated that the drainage swale should remain intact. There is also an agricultural restriction on the property and he read the

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stipulations aloud. He believes no wall would be allowed to be constructed there under the agricultural restriction. He also noted that no special permit has been applied for.

Ms. Terry Brunelle of Esker Road appeared. She stated she is an abutter with the deed restriction on the other side of the strip of land. She discussed the hatched areas subject to the agricultural restrictions and the no building restriction shown on the plan. She asked with the expansion of the line what will happen to those restrictions – will they be eliminated. She also asked if by enlarging the lot would it allow him to have more dwelling units. She discussed the water situation and her concern that once the lot is made larger more units will be put in eventually that will make it more of an issue. She is concerned that by doing this adjustment he is creating his own hardship relative to the driveway access. She is also concerned about what will happen to her property value and that everything he does with this property will affect the drainage swale.

Attorney Saari responded that he would like to get back to the lot line adjustment issue. He showed the plan that was accepted by the Planning Board. Encroachments were discussed and the purpose of lot line adjustments.

Mr. Peter Olney appeared representing Meadow Pond Farm. He stated that he was involved in the original creation of the agricultural easement and the non-conforming lot in question. He further stated that the lot was created knowing it was totally unbuildable. He stated it was done so that the neighbors would have the opportunity to acquire it to take care of it when the farm was no longer able to keep sheep on the property. He stated that re-adjusting the line now makes it buildable. He discussed the zoning issues. He stated that he understands that the larger lot is a two-unit property. The entire lot is about the same as size of its neighbors. He doesn't see how the area can be reduced without creating non-conformity. He Stated he hopes that the Board will bear in mind the interests of the neighborhood in considering this proposal. He stated the agricultural easement will continue to be in effect.

Attorney Saari discussed the non-conformities. He noted that the smaller lot has them now and will continue to have them with the lot line adjustment but there will be no increase in that non-conformity. He further noted that the size requirements will be met for both lots. Mr. Steffen noted that Attorney Saari was correct about meeting the lot size requirement currently and with the proposed lot line adjustment.

MOTION by Mr. Loopley to deny the proposed lot line adjustment and treat this as a subdivision. He feels they are proposing to create another lot that is buildable. Mr. McMahon stated the matter is regarding the lot line adjustment. If the applicant wants a subdivision he will need to apply for that.

MOTION by Mr. Loopley to deny the proposed lot line adjustment.

SECOND by Mr. McNamara.

Mr. Steffen stated the Board needs to give its reasons for denial. He asked if the Board agreed with him on it not conforming to the lot frontage, lot width and “Peter’s Square” requirements. Mr. Loopley stated he agrees with those reasons. Mr. Olson stated it is creating “pork chop” lots - lots with not enough frontage. He is in favor of the motion. Mr. McMahon stated the

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Planning Board feels it's creating a buildable lot by this adjustment so getting variances on frontage would be needed, etc. Mr. Loopley stated that the applicant has been before others on driveway access for the property so it appears that he is looking to develop it. Mr. Emerick stated that if it was approved, the newly created non-conforming lot would have additional rights with access so then he would have hardship argument.

VOTE: 7 – 0 – 0

MOTION PASSED.

12-017 61 High Street

Map: 161 Lot: 17

Applicant: Flatbread, Inc.

Owner of Record: GMC Group Limited Partnership

Site Plan Review: Pizza Restaurant-Redesign & renovate existing bldg with addition & seasonal outdoor seating.

Waiver Request: Section V.E. of the Site Plan Review Regulations - Detailed Plan.

(CONTINUED TO APRIL 18, 2012)

IV. CONTINUED PUBLIC HEARINGS

V. CONSIDERATION OF MINUTES of March 21, 2012.

Mr. Nichols noted his last name on Page #2 contained to "1's".

MOTION by Mr. Emerick to approve the March 21, 2012 Minutes with the noted correction.

SECOND by Mr. Olson.

VOTE: 6 – 0 – 1 (Ms. Carnaby abstained).

MOTION PASSED.

VI. CORRESPONDENCE

Mr. McMahon has received a letter from Mr. Bilodeau asking that his term as an alternate on the Planning Board be extended for another 3 years.

MOTION by Mr. Emerick to extend Mr. Bilodeau's term for an additional three years.

SECOND by Mr. Loopley.

VOTE: 7 – 0 – 0

MOTION PASSED.

VII. OTHER BUSINESS

- Legal Fees – Plan Review/Professional Discounts - Grist Mill Condominium (POSTPONED)

VIII. ADJOURNMENT

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MOTION by Mr. Emerick to adjourn.

SECOND by Mr. McNamara.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 8:10 p.m.

Respectfully submitted,
Laurie Olivier
Administrative Assistant