

HAMPTON PLANNING BOARD

MINUTES

March 2, 2016 – 7:00 p.m.

PRESENT: Brendan McNamara, Chair
Fran McMahon, Vice Chair
Ann Carnaby, Clerk
Tracy Emerick
Mark Olson
James Waddell, Selectman Member
Keith Lessard
Jason Bachand, Town Planner
Laurie Olivier, Office Manager/Planning

ABSENT:

I. CALL TO ORDER

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

II. ATTENDING TO BE HEARD

III. NEW PUBLIC HEARINGS

16-006 28 King's Highway

Map: 223 Lot: 100

Applicant: K.L.N. Construction Co., Inc.

Owner of Record: Same

Condominium Conversion: Convert five existing residential units to condominium form of ownership.

Waiver Request: Section V.E. – Detailed Plans

Mr. Kurt Meisner (Meisner Brem Corporation) and Don Nicolls of KLN Construction (Applicant) appeared. There are two existing structures currently. The rear structure has 2 units; the front structure has 3 units. The pavement exists now. Everything shown on the plan right now does exist. They want to make the 5 rental units into 5 condominium units. The parking lot pavement is not striped now, they are going to delineate the 5 parking spaces. Mr. Meisner concurs with the Town Planner's memorandum.

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Mr. Lessard asked about the letter from the neighbor regarding snow removal. They did not receive that letter but heard it existed. Mr. Lessard provided the letter to the applicant. Most of the units are under agreement right now (pending approval).

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Mr. Meisner said they will indicate on the plan areas where they intend to have snow storage. They will indicate on the plan when snow storage becomes full, there will be a requirement to remove the snow from the site. Mr. Lessard asked where the snow (on-site) will be moved to. Mr. Meisner said they will have to use the area immediately north of the existing parking spaces. The applicants have only owned this since September/October of last year. Mr. Meisner said they can have snow removed from site; they can put it on the plan as well. The snow storage can be added to the condominium documents. Mr. Meisner said the condominium documents are prepared; they will be sent to the Town tomorrow. Mr. Lessard asked about the Wetland Conservation District. Mr. Bachand said that according to the Town GIS, it roughly follows the line (contour) 6. Unit #5's parking space may be in the buffer. Mr. Bachand said that showing the Wetland Conservation District is a condition of the plan. Mr. Lessard asked about the rear building being lifted to be out of flood plain and the applicant said no. It's on a concrete foundation. They are not doing any structural changes.

Parking spaces will be designated and there will be markers for parking spaces per Mr. Meisner.

Mr. Emerick asked how you get into the site since they are 8' off the property line. The applicant said it is no problem.

Ms. Carnaby said she is all set.

Mr. McMahan said there is an elevation of 5'9" on the back building and then a different elevation on the front building. He thinks they are in the flood plain. They did elevation certificates. FEMA was using elevation 9 per Mr. McMahan. Someone could be on the hook – Mr. McMahan wanted to make all aware of this. Mr. Meisner has an elevation certificate, and they are aware of that. Property owners when they purchase the property will be required to have flood insurance unless they have no mortgage.

Mr. Lessard asked about the insurance process. He asked if the Master Policy has to cover the flood plain. The Master Policy covers the flood plain per the applicant. Studs out is condominium association's responsibility; studs in is owner's responsibility per Mr. Emerick.

The applicant said the Town was picking up trash from day 1. It gets put out on King's Highway. Mr. Bachand said they have to go before the Board of Selectmen for Town trash pick-up since it will be a condominium. This is in the conditions of approval. Mr. Emerick said he does not think anything is specified that a property that is on a Town street has to go to anyone. Mr. Lessard said he thinks this started with Royal Sands a few weeks earlier - it was about recycling. Mr. Emerick said the Town does not have authority to do this. Barrels should not go on private property and this is not private property. Mr. Emerick is objecting to any approvals by the Board of Selectmen as far as trash pick-up goes. It is a Town right-of-way and if the barrels are out there, they should be picked up. Barrels are outside the building, and there will be an area designated in the right-of-way per Mr. Meisner. The owners need to store and bring out the barrels. Mr. Meisner said intended storage would be to the right of the building where the jog is to the building. The storage location needs to be shown on the plan per Mr. Bachand.

Mr. Olson asked about the percentage of permeability. Is the lot within the 85 percent coverage was asked. This is just a change of ownership. Mr. Olson asked about the units; He asked if you have to go through the bathroom to get to the kitchen (Unit 1). There is no door to the living area or master bedroom. The Building Department would want circulation.

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Mr. Olson asked about Unit 4 - a mechanical room that is a limited common area with access through bedroom. Is there access to the mechanical room from the outside was asked. The applicant stated no, access is just from the bedroom. Usually common areas are accessible from the outside per Mr. Olson. The applicant did not change anything. It is odd that the limited common area is through someone's bedroom per Mr. Olson.

The applicant said there are not separate meters, etc. Mr. Olson said as long as it meets our Ordinance.

PUBLIC BOARD

Mr. Bachand said there is a letter from an abutter regarding snow being pushed against the chain link fence. He suggests an additional condition to the memo which reads as follows: "A snow storage area shall be identified on the final plan, along with a note indicating excess snow shall be removed from the site. Snow storage shall not be within the Wetland Conservation District." It will be included in the decision letter. There is also a condition to delineate the 50 foot buffer on the plan.

Mr. Bachand said there is an error on the plan with Map and Lot number, and this is reflected in the suggested conditions. Condition #5 (post-and-rail fence in the right of way) – the fence is gone per the applicant.

Mr. Bachand discussed trash and recycling (Condition #4) and asked how the Board wants to deal with this. Mr. Emerick wants this to be excluded. Condition #4 should be revised to say "A designated location for trash and recyclable containers shall be shown on the final plan for recording." Mr. Waddell is fine with this. Mr. McMahon said to take out the other language. Mr. Emerick said you have to get carts to the right-of-way, and the applicants do not need approval. Nothing says this is the new law per Mr. Emerick. If ownership changes does that change rules was asked by Ms. Carnaby. Mr. Emerick said "no".

Mr. Olson does not know why they need to go to the Selectmen. He is okay with striking the condition - except for the last sentence. Mr. Olson said if there is a problem, then it needs to be looked at more closely. He doesn't think this applicant has an issue.

Mr. Lessard said they already have trash cans, it should be shown where trash is going to be stored on the plans. Mr. McMahon said if it gets to the street, it gets picked up. Mr. McMahon thinks some condos have changed. Mr. Waddell said some documents say they will do it themselves.

Mr. Bachand said he discussed mailbox location with the applicant, which was brought to his attention by DPW. Mr. Meisner said he wants to affix the mailboxes to the building.

Mr. Bachand said approval should be subject to the conditions including the modified #4 (keep last sentence only) and the additional condition regarding snow storage as he read it into the record. Mr. Lessard also wants the percentage of sealed surface to be documented. This is a condominium and he can see someone getting stuck in the mud when repaving happens. Right now it is non-conforming and this is just a change of ownership. Mr. Bachand said this (percentage of sealed surface) should be noted on the plan.

Mr. Emerick reminded the Board to vote on the waiver.

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MOTION by Mr. Lessard to grant the waiver request of the detailed plans

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

MOTION by Mr. Lessard to approve the Condominium Conversion at 28 King’s Highway with the Planner’s Memorandum dated March 2, 2016, as amended.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

IV. CONTINUED PUBLIC HEARINGS

V. CONSIDERATION OF MINUTES of February 17, 2016

MOTION by Mr. Emerick.

SECOND by Mr. Waddell.

VOTE: 6 – 0 – 1 (Olson)

MOTION PASSED.

VI. CORRESPONDENCE

VII. OTHER BUSINESS

- SB146 – Accessory Dwelling Units

Mr. Bachand sent a copy of Senate Bill 146 to everyone. His understanding is that this Bill has cleared the House and Senate, and that the Governor is expected to sign it. Mr. Bachand discussed the Bill. All zoning districts that permit single-family dwellings must allow accessory dwelling units by right, by a Conditional Use Permit, or by Special Exception - which is through the ZBA. This only applies to accessory dwelling units within or attached to single family dwellings. Mr. Lessard noted the requirement of no less than 750 square feet.

Mr. Bachand said detached units do not need to be permitted, although we would have had to allow them under an earlier version of this Bill.

Mr. Bachand said it can be limited to one accessory dwelling unit per single family dwelling. Adequate parking can be required. Owner occupancy is required for one of the units, but we cannot specify which one. We cannot require a familial relationship between occupants, so if somebody wants to rent out their unit to a stranger they can under the legislation.

Mr. Lessard asked if there is a purpose - if this is about assisting aging in place. Mr. Emerick said it started there but this is where it ended up. Mr. McMahan said this is for affordable housing. Mr. Lessard asked if every house in Hampton is a duplex. Mr. Waddell asked about nightly rentals. Mr. Bachand said many things are not covered and this was his

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concern. Mr. Bachand said we have RA and RAA zones that are single family that would effectively become two-family zoning districts.

Ms. Carnaby referenced 674:72 (first page), line 24 “A municipally that adopts a zoning ordinance...” - she asked if the Town doesn’t ‘have’ to adopt this. Mr. Bachand said the Town has to adopt this. We have a Zoning Ordinance so we have to do it. Mr. Emerick said it is not enabling.

Mr. Bachand said you cannot limit an accessory dwelling unit to only one bedroom.

He also discussed aesthetic standards. You can do more than one accessory dwelling per Mr. McMahon.

Mr. Bachand said we must update our Zoning Ordinance in 2017 for this. The Bill will take effect June 1, 2017. There is also time to kill the Bill per Mr. Emerick. Mr. Olson asked if that is in play, and Mr. Emerick said he could file a Bill that would go into 2017. Mr. Emerick said they don’t even know where this came from.

Mr. Bachand cited the reason it is so important to adopt zoning for this if it is signed into law (Item II on Page 2 of the Bill). One accessory dwelling unit would be deemed a permitted accessory use as a matter of right - the Board would never see it.

Mr. McMahon asked about wetlands and “no additional municipal permits”. He asked if the wetlands ordinance is included. Mr. Lessard asked if someone could condo the units.

Mr. Bachand said this is within or attached to the structure, so he is unsure how often wetlands would come into play. We could probably craft something to cover this. Mr. Lessard noted that we can’t keep it under 750 square feet – he does not know how many people already have expandable space above 750 square feet.

Mr. Olson asked how many more people this would impact in terms of traffic, etc.

Mr. Bachand said this places a burden on Town facilities.

Ms. Carnaby asked about more rural communities. She heard this was designed for them. The Board agreed. Mr. Bachand agreed and said more dense communities like Hampton are impacted the worst - we can’t support this. Hampton does not have affordable (workforce) housing per Mr. Lessard.

Mr. Bachand said there is a workshop on March 17th in Concord that discusses this legislation and he may attend. It’s just 2 hours in the morning. Plan NH is sponsoring the workshop.

Mr. Waddell asked about the length of time it needs to be rented for - overnight or by the hour or by the month? Mr. Bachand said this should be considered. Rooms and meals tax was discussed.

Mr. Olson said this devalues property. People move to single family dwellings for a reason per Mr. Lessard.

Mr. McMahon asked how this gets policed.

Mr. Bachand said maybe this could be handled similarly to a condo conversion (require site plans and floor plans). We can have a Conditional Use Permit attached to this per Mr. Bachand.

Mr. Lessard asked if our Board could send a letter to Concord. Mr. Emerick said NH Real Estate Association is all for this Bill. Mr. Lessard wants a letter or something similar sent to the Governor. Write to them letting them know that Town is against this until more thought is

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put into it. Mr. Emerick is happy to sign this. It overwhelms our wastewater treatment. Mr. Lessard thinks we need to take action. Mr. Waddell said it's a good idea but thinks they might say "where were you" during the hearings. This is a House Bill, we shouldn't have Senate Bills yet per Mr. Emerick. He voted against it. Mr. Lessard wants the letter sent certified or federal express. Mr. McNamara can sign it. The Board endorses this. Mr. Emerick said this could create an unmanageable overnight rental problem. Ms. Carnaby said we can recognize the appropriateness of this for certain communities, but it would wreak havoc with Hampton. Mr. Lessard feels it is incomplete legislation. Mr. Bachand will send a letter to the Board for comments and we'll send it off once Mr. McNamara signs it. Mr. Bachand also requested the Board take a vote on this.

MOTION by Mr. Emerick.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

Mr. Lessard noted he wants some way of knowing they received the letter (certified mail).

- **RPC Meeting Update (Ann Carnaby)**

Ms. Carnaby discussed the new Commissioners orientation last week that she attended. She found it very informative. The RPC welcomed all Towns to take advantage of what the RPC offers and their resources. Bring your Planner to lunch at the RPC was mentioned. RPC wants an exchange of resources and ideas. Ms. Carnaby discussed New England architecture; projects to be compatible with our area. Ms. Carnaby got a lot of information from North Hampton on this. RPC was very helpful to North Hampton for drafting guidelines, ordinances, etc. to define the architecture they were looking for. We did this for the Town Center per Mr. Emerick.

Ms. Carnaby said we have two pivotal areas of entering Hampton - Route 1/101 and Exit 13. She understands the hotel is on for the PRC with unspecified office space in the back. They should be two separate applications per Mr. Olson. Ms. Carnaby thinks the RPC may be able to assist the Board in specifying the look of Hampton. Ms. Carnaby hopes we can pursue this with the RPC. Barbara Kravitz came in today to speak with Mr. Bachand about this. Next Monday at 9:00 a.m. may work for many to attend a meeting at RPC. Anyone from the Board who wants to attend is welcome.

Mr. Bachand said this would be about architectural standards 'in general' – not just limited to one project. Ms. Carnaby said keeping in with the Town Center, etc. Mr. McMahon asked if this would include the beach. Mr. Bachand said it's just informal at this point. Ultimately, the Board needs to decide whether to buy in to pursuing this.

Mr. Olson noted the building over the bridge from Kittery to Portsmouth – they kept the character. There is a rhythm and pattern. He said Hampton needs to care. Applicants should not come in with their own brand. Mr. Waddell agrees.

Ms. Carnaby said the North Hampton people were so positive about the RPC's help. Mr. Bachand said we will meet with the RPC and report back to the Board.

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Mr. Bachand discussed the letter from Mr. McNamara that follows up on the site plan application that was withdrawn for 325 Lafayette Road, 321 Lafayette Road, and 35 Winnacunnet Road. It was withdrawn at the February 17, 2016 meeting. He asked if the Board wishes to endorse the letter prior to sending it to the applicant. Mr. Emerick asked if a motion is needed and Mr. Bachand said he would like one.

MOTION by Mr. Emerick to endorse the letter from the Chairman.

SECOND by Mr. Waddell.

VOTE: 6 – 1 (Lessard) – 0

MOTION PASSED.

Mr. Lessard is opposed because he does not think we should keep having votes on these letters. He thinks a consensus is good enough. Mr. McNamara said that for tonight we did take a vote to clear it up and from here on we will do a consensus.

Ms. Carnaby asked if we can do that by email. Mr. Lessard thinks not. It is a meeting. The Right-to-Know law comes into play. Mr. Bachand said that was the purpose (of the Board voting tonight).

Keith discussed the HBAC meeting from last evening. Asking for legislation to have the right to adopt the Master Plan, design it on their own, and not have it come from Planning Board was discussed. HBAC is an Advisory Board per Mr. Lessard; he is not in favor of it.

Mr. McNamara said it has to come from the Planning Board.

Mr. McMahan said it went over his head. Mr. Bachand was at the meeting and he didn't get that sense either. Mr. Lessard is correct per Mr. McMahan. Mr. Bachand can bring this up at the next HBAC meeting and let them know of the Board's reservations about this. Ms. Carnaby asked for them to check the Minutes. Mr. Olson said they should at least come to the Planning Board to discuss this first.

Mr. McNamara said we should clear up their intentions before we assume. Mr. McMahan will talk with John Nyhan (HBAC Chairman) about this.

VIII. ADJOURNMENT

MOTION by Mr. Emerick to adjourn.

SECOND by Mr. Waddell.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 8:01 p.m.

Respectfully submitted,

Laurie Olivier, Administrative Assistant

****PLEASE NOTE****

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

MAY BE CONTINUED TO THE NEXT SCHEDULED MEETING