

HAMPTON PLANNING BOARD

MINUTES

April 6, 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

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

II. ELECTION OF OFFICERS

MOTION by Mr. McMahon to nominate Brendan McNamara as Chairman.

SECOND by Mr. Olson.

Mr. McNamara accepted.

No other nominations were presented.

VOTE: 6 – 0 – 1 (McNamara)

MOTION PASSED.

MOTION by Mr. Emerick to nominate Fran McMahon as Vice Chairman.

SECOND by Mr. Lessard.

Mr. McMahon accepted.

No other nominations were presented.

VOTE: 6 – 0 – 1 (McMahon)

MOTION PASSED.

MOTION by Mr. Emerick to nominate Ann Carnaby as Clerk.

SECOND by Mr. Lessard.

Ms. Carnaby accepted.

No other nominations were presented.

VOTE: 6 – 0 – 1 (Carnaby)

MOTION PASSED.

III. ATTENDING TO BE HEARD

- **Temporary Parking Lot:** 11 I Street, 28 I Street, and 101 Ocean Boulevard; One – O – One Ocean Boulevard, LLC (Chuck Bellemore). 40 total spaces.

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Mr. Joseph Coronati, Jones & Beach Engineers appeared with Chuck Bellemore for temporary parking lot approval. Mr. Bellemore owns the Beach View Inn on Ocean Boulevard which had a fire recently. The building needs to be removed. Mr. Bellemore also owns four lots on I Street. Mr. Coronati showed on the plan where the parking lots and parking spaces would be located. There are three lots proposed for parking. For the summer months, they want a temporary parking permit to allow parking on all three lots. They understand the permit is for one year. The Beach View Inn will be demolished – the building will be down before the summer season.

BOARD

Mr. Lessard said he wants something along Ocean Boulevard so there is not a crossing (like SeaScape). He doesn't want ropes getting out onto the sidewalk. There is no barricade shown on the plan.

Mr. Bellemore is not proposing a permanent fence along Ocean Boulevard, but will put a rope or chain fence there to show where the property line is located. The spots will be rented out on daily basis. The hours will probably be 9:00 a.m. to 9:00 p.m. or 10:00 p.m.; maybe later on fireworks night. All three will be manned from one station; Mr. Coronati said the hours noted on the plan are 8:00 a.m. to midnight. People will be able to remove their vehicles later than midnight.

Mr. McMahon asked if all three lots will be temporary. The only new parking lot is on the south corner at Ocean Boulevard and I Street. The parking spaces will be 9' x 18' per Mr. Coronati.

MOTION by Mr. Lessard to grant the temporary parking lot (for all three locations) for one year with fence, rope or chain depicting parking areas.

SECOND by Mr. Olson.

VOTE: 7 – 0 - 0

MOTION PASSED.

IV. NEW PUBLIC HEARINGS

16-004 71 & 73 Ocean Blvd

Map: 293 Lot: 68 & 61

Applicant: Big Bernie Property Management, LLC

Owner of Record: Same

Site Plan: Expansion of existing business (Bernie's Beach Bar); Merge two lots and add decking & structures over the existing foundation located at 71 Ocean Blvd. Waiver Request: Section V.E. Detailed Plans.

Attorney Steve Ells appeared with Al Fleury (Big Bernie Property Management, LLC) and Henry Boyd of Millenium Engineering. Attorney Ells said they want to deck over the old foundation that has been in place for the past 30 years. On top of the decking there is proposed to be a new structure that will house the addition for Bernie's and some restrooms and an area

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for live music. Mr. Fleury met with the HBAC and explained his proposal. The HBAC is in support of the expansion. The existing Bernie's is well done and well managed per Attorney Ells. There is a refurbishing of store fronts underway as well; there will be two new properties on the corner when complete. The PRC issues will be addressed by Mr. Boyd.

Mr. Boyd discussed the improvements. He said there is an 8' high foundation. Sand is underneath the foundation. Run-off was discussed, i.e. rubber roof. etc. All beach sand is below which infiltrates. Mr. Boyd discussed the sealed surface. A deck was considered an example of sealed surface per the Town. Mr. Boyd successfully argued that the deck was not sealed surface because the water runs to the edge of the deck boards then drops through. Mr. Boyd discussed the 8' height and discussed the infiltration. The foundation will be cut in two places. There will be no kitchen in the new structure. The new deck will be an extension of the current deck. Mr. Fleury wants to start cleaning the area, so they got permission to cut the wall by the Building Department. The flat area will be made from permeable pavers.

Mr. Boyd said a machine can get down below (per pictures handed out/now in the project file).

Mr. Boyd discussed fire safety and how to get people out because the deck is very large. They met with the Fire Safety Officer and Fire Engineers. There is a second wall (was previously a retaining wall) so they decided to remove the wall and people can escape at grade level to the westerly end of the building. They can exit up through the ramp directly through to Ocean Blvd. The steps leading below are for employees only during normal business hours, but they would also provide for emergency access. The new deck will be at the same grade as the existing deck.

CMA's concerns should be addressed per Mr. Boyd. They will take care of all loose ends with CMA.

Mr. Lessard asked if there is an elevator and they stated 'no'. Mr. Fleury said wheelchair guests cannot go to the upper deck, but they can use all of the amenities at the lower level. There is no ramp as well. Mr. Boyd said the grade change would be substantial.

Mr. Waddell asked about individual lifts (chairlift) that many restaurants have. Mr. Fleury said in nine years, the ballroom used their chairlift twice. Mr. Fleury brought the music downstairs and a bar downstairs. Everything but the height and view is offered downstairs per Mr. Fleury.

Mr. Lessard asked about noise and how acoustics will be handled. He also asked about lighting. Mr. Fleury said the lighting is moderate. Mr. Fleury has a plan worked out with Police Chief Rich Sawyer. There will be mostly bistro lighting and security lights on the outside. Mr. Fleury said they will have reggae and beach music, which is different than the other restaurants. There will be a full stage. All of the can lighting is LED and computer controlled. Everything will be contained.

Mr. Boyd said the music area will be behind the walls. Mr. Fleury said he met with sound engineers and Chief Sawyer to discuss the Ordinances.

Mr. McMahon asked about noise; he remembers complaints in the past. He asked what the Planning Board's recourse would be if there are problems. Mr. Fleury said they have one violation; 16 noise complaints. All complaints came from the same person. He is moving

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complaints 100 feet away (from the source of the complaints. They will be open until about 1:00 a.m.

Ms. Carnaby asked about all musicians using the house system, and Mr. Fleury said that all will need to use the same system.

Mr. Olson asked about stairs proposed. He asked what is downstairs, i.e. do employees walk on the sand? Mr. Boyd said they will walk along a paver area. Mr. Boyd said there is a pervious paver ramp. The only purpose for the ramp is for the infiltration system (potentially needing work). Mr. Olson asked if the stairway gets enclosed and Mr. Boyd said 'no'. Mr. Olson said the back corner is tricky. It's an easy place to go and get dirty in a hurry per Mr. Olson. People (guests) cannot get underneath. Mr. Olson said from a liability standpoint it's not good. Mr. Boyd said there will be a gate.

Mr. Waddell discussed the disabled community. He thinks they are discriminating against people getting the great beach view. He advocates for some kind of access to the upstairs even though they are in ADA compliance, if the cost is not prohibitive. Mr. Fleury said he will look into it. Mr. Lessard added that he thinks a service elevator would also be great from an operational point of view.

Mr. Fleury noted that Bernie's currently holds 400 people. They will be able to double that. Mr. Fleury said there will be a dance floor; roughly 25' x 25'.

Mr. McNamara asked if there is a way to get from the existing Bernie's to the new area. Mr. Fleury said 'yes'. Downstairs will be for food service and emergency. At the top of the stairs, one can take either a left or a right depending on where they want to sit.

Mr. McNamara asked about the stairway and considering putting in a chain link to protect the area and Mr. Fleury said 'yes'.

Mr. McMahan asked about bouncers and required police detail. Mr. Fleury has floor members monitoring.

Mr. Fleury said he has three hostesses directing people where to go as well. Mr. Fleury can talk to Chief Sawyer about lighting.

Mr. Lessard asked about exhaust fans or air exchanges underneath the deck.

Mr. Fleury said it will all be crushed stone underneath. Mr. Boyd said that Mr. Fleury knows he needs to keep the area clean per the requirements in the O&M.

Mr. McNamara said the DPW needs to get underneath if something gets broken; the Town needs access.

PUBLIC

Mr. Bill Murphy, 1 M Street, appeared. He manages the Catalana Ocean View at 2 M Street, which is next to the project. He is in favor of the project. The back yard was cleaned up tremendously. His only concern is at 2 M Street, he has families coming back year after year. There is a 2 bedroom, a 3 bedroom, and a 4 bedroom. Soundproofing was discussed. He wants to make sure the soundproofing comes from the front and that people are not disturbed. They are 9 ½ feet from the back bedrooms to the wall. Mr. Fleury told Mr. Murphy that they won't have any issues. He just wants to make sure for the record that it's soundproofed.

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Mr. Fleury said the 2nd floor (L-shape)-back wall will be glass board. It prevents burning; making it fireproof. They will spray foam and it helps with sound. Heavy grade drywall will be used. There is a sound engineer working on it all. Mr. Murphy is in favor, but he wants the sound under control.

BOARD

Mr. Bachand discussed initial concerns about permeable surface. Mr. Schultz made the determination that it is not considered sealed surface in this case, based on information provided by the applicant. The proposed drainage system supports his determination. Mr. Bachand noted that this project requires a lot merger. The CMA and DPW issues need to be dealt with as Mr. Boyd noted. The latest revised plans were provided on March 31st. The DPW has not had time to look at the revised plans yet, CMA just provided new comments on these yesterday. Mr. Bachand went over the recommended conditions in his memo. He recommends a meeting between the applicant, CMA, and DPW prior to recording the site plan. Having a noise study in our Planning Department file would be good. Mr. Bachand noted there should be a condition added about Mr. Fleury working with the abutter on M Street. The comments from CMA's letter dated April 5, 2016 should be added to the conditions as well. ADA accessibility to the second floor is a great idea per Mr. Bachand and he encourages it; he believes it would be great for Mr. Fleury's business.

Mr. Bachand noted to the Board that there is also a waiver request. He reiterated the additional conditions that should be included: add the latest CMA letter to Condition #9; add a condition providing a noise study to the Planning Office; and also working with the abutter at 2 M Street.

There was discussion about the title of the study. It could be called an acoustical study.

Mr. McMahon asked about the issues with CMA and the DPW. Mr. Bachand said the issues mostly relate to the stormwater system (access for construction, maintenance, etc). Mr. Boyd is working on opening the area. Mr. Boyd said a Bobcat can get through and in there; there is proof (from the pictures provided) that there is access. Mr. Bachand added there was a comment about the elevations; there should be more detailed elevations stamped by a licensed professional.

Mr. Boyd said the DPW has been available to him very easily for this project. Mr. Boyd discussed sewer issues; pipes are hard to find and Toby Spainhower (DPW) is working on that. The old pipe will be abandoned. Mr. Fleury will trace the sewer back.

Mr. McMahon asked if Fire Department is good on everything and Mr. Bachand confirmed this.

MOTION by Mr. Emerick to grant the waiver of Site Plan Review Regulations Section V.E. Detailed Plans.

SECOND by Mr. Waddell.

VOTE: 7 – 0 – 0

MOTION PASSED.

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MOTION by Mr. Emerick to approve the Site Plan with the conditions in the Planner's Memo and adding the April 5, 2016 CMA letter/comments to Condition #9, and to also incorporate the audio report to the Planning Department. The Board would also like to have the applicant perform due diligence with the abutter on M Street about noise control. This shall involve an extension of the sound wall – south wall heading east (this shall be included on the as-built plan).

SECOND by Mr. Lessard.

VOTE: 7 – 0 - 0

MOTION PASSED.

16-009 59 Campton Street

Map: 304 Lot: 17. Applicant: Robert E. Gallahue, Jr.

Owners of Record: Robert and Karen Gallahue.

Wetlands Permit: Construct seawall stairs and wood fence using pressure-treated wood; stairs to lead from top of rip rap wall to beach (sand).

Mr. Robert Gallahue appeared. They have a small seawall in front of them and then a riprap wall on their land. They want to construct a seawall to go down toward the sand. Pictures are provided. It's the northwest corner of property. There will be an aluminum staircase. The staircase will rest on the sand. They will build it with pressure treated wood.

BOARD

Mr. Lessard asked about a 2 x 4 railing; he asked if the Building Department saw this. Someone can put their heads through the larger openings. Mr. Gallahue said his builder has built stairs before. Mr. Lessard hopes it works. Mr. Gallahue knows his builder will follow the Codes. He knows about maintaining riprap.

Ms. Carnaby said all seems to be as represented as she went on the walk with the Conservation Commission.

Mr. Gallahue discussed the fence. The poles are being dug by hand and are pressure treated as well.

**PUBLIC
BOARD**

Mr. Bachand discussed the recommendations. He noted that the applicant also needs to go to the Board of Selectmen. Mr. Bachand recommends approval with along with the stipulations contained in the Conservation Commission's letter dated March 28, 2016.

MOTION by Mr. Lessard to grant the wetlands permit along with the stipulations contained in the Conservation Commission's letter dated March 28, 2016.

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SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

16-010 102 Kings Highway

Map: 196 Lot: 4

Applicant: Dan Ethier

Owners of Record: John Rabias and Diane Simone

Wetlands Permit: Raze existing dwelling & remove patio and shed; replace with new 3-story dwelling with garage, farmers porch and deck.

Mr. Christian Smith, Beals Associates appeared with Brendan Quigley (wetlands) and Dan Ethier.

Mr. Smith discussed the project. Mr. Ethier wants to build a larger building. Impervious area was discussed. Modest plantings will be placed. Mr. Ethier will install a drip edge. He has been working with the Building Inspector. Mr. Smith stated they agree with the Conservation Commission stipulations.

BOARD

Ms. Carnaby did the site walk on this project and the Conservation Commission thought it looked like a nice use of the land and consideration for the wetlands behind it.

PUBLIC

Ms. Krista McCarthy, 98 Kings Highway, appeared. She asked the Board if they are building closer to the wetlands or further away. It was noted that they are pulling impervious away from the wetlands. Mr. Smith showed Ms. McCarthy the changes. Ms. McCarthy worries about water flowing into her yard.

Mr. Smith said it will be loamed and/or seeded down (designed for wetland buffers). Water flow will not change at all. Mr. Ethier is going to place an infiltration trench. The plantings are ones recommended by the Conservation Commission. There will be no disturbance to the wetland buffer.

Ms. McCarthy asked if they are building the lot up. She stated they finally got rid of the puddle in her yard, and they don't want it back. There will be a drive-under garage.

Mr. Bachand does not have concerns; he recommends approval subject to Conservation Commission stipulations dated March 28th.

MOTION by Mr. Emerick to grant the wetlands permit along with the stipulations contained in the Conservation Commission's letter dated March 28, 2016.

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0

MOTION PASSED.

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V. CONTINUED PUBLIC HEARINGS

V. CONSIDERATION OF MINUTES of March 2, 2016

Mr. McNamara noted that the Planning Board did not have a second meeting in March.

MOTION by Mr. Lessard to approve the March 2, 2016 Minutes.

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0

MOTION PASSED.

VI. CORRESPONDENCE

VII. OTHER BUSINESS

- Draft Amendments to the Site Plan Review Regulations

Mr. Bachand discussed Amendments (these are available at the Planning Office) to the Site Plan Regulations, starting with Architectural Design. Site design was discussed. The RPC reviewed this amendment as well. Mr. Lessard asked about a time period for New England character; it may be vague. Ms. Carnaby said this is a prelude to a further flushing out and developing more specific statements. Other Towns have pictures that define the look they are looking to achieve. Mr. McNamara does not want a book for people to have to look at for charm. Mr. Olson said it is to lead by examples. Ms. Carnaby hopes we flush this out more. Mr. McNamara thinks the Planning Board may try to push applicants into designs. Mr. McMahon said this may apply in certain zones and noted it is an ongoing activity.

Mr. Emerick does not mind broad guidelines. #4C of the proposed amendment (regarding windows) was discussed. – Mr. Emerick said that is not good. Mr. McNamara is worried about what happens say in 20 years; telling people they can't renovate a building because windows are not where they should be, etc. Mr. McNamara does not want a Town like this; he does not want too much control.

Mr. Olson doesn't want to govern every project.

Mr. Waddell said a general statement should be used. Mr. Emerick wants to see the books they are talking about.

Ms. Carnaby said they are not books; they are varying packages of guidelines from other communities and they are in the Planning Office. Mr. Emerick wants to know where this idea is going.

Mr. Bachand said the documents provide examples for what works in specific communities. He went over the proposed amendment in general (Note: all information is provided in the Planning Office).

Mr. Bachand discussed adding to #5 language regarding an optional preliminary consultation and/or design review. It would help applicants in the long run. This would be

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for commercial projects only. Ms. Carnaby asked about adding “multi” and non-residential buildings. A hotel is a non-residential use.

It was noted that the statute says 89 days; then one can come back and start over again.

Mr. Bachand will send out the examples from other communities to the Board **and suggests this amendment be revisited on the 20th**. He thinks a public hearing could be held at the 2nd meeting in May if the Board is interested in pursuing this amendment.

Ms. Carnaby said without having anything in writing in the regulations, it is left open.

USE CHANGE

Mr. Bachand discussed the Amendment on Use Changes. Mr. Bachand added a definition to the Site Plan Regulations consistent with the Town meeting vote.

There are other changes as well (available at Planning Department). Mr. Bachand said that **the words ‘or the Town Planner’ under #2 of the amendment should be removed** as the Building Inspector makes the determination. A single-family residential unit turning into a duplex, for example, needs a Change of Use under the adopted definition in zoning. This was on the ballot. Mr. Lessard stated that he thinks residential to residential is not a change of use. Mr. Bachand explained that it is a change of use because it is enumerated differently in Article III. It gives the Board the opportunity to review a change that would not otherwise come before it. We are not asking for engineered site plans, etc.

Mr. McNamara said ‘in conformance with use regulations’ in Zoning Ordinance. They just have to come before the Board. There may be questions that arise. Mr. Olson would like to know if a project is coming. He discussed a duplex being built among single-family homes; he would want to know and thinks this is an interesting way to catch it. Mr. Emerick said that we can’t say “no” to a Change of Use if it’s an allowed use.

Mr. Bachand said this has been adopted and the Site Plan Regulations should be consistent with our definition. This can be looked at again next year if the Board finds it doesn’t work.

Mr. McMahon asked if we can put in stipulations that exceed ADA recommendations (through our Regulations). **Mr. Bachand can talk to Mr. Schultz about that. Mr. Bachand will look into that.**

Mr. Bachand agrees to remove “e.” with reference to color changes and lighting. **“Color changes” should be removed.**

The Planning Board took a consensus vote (5-2) and agreed to strike “color changes”. Ms. Carnaby wants colors for New England type architecture. Lighting will remain.

CORRECTIONS AND CONSISTENCY CHANGES

Corrections and consistency changes were discussed to clean things up (housekeeping). To clear up typo’s, etc. Mr. Bachand said that notice to Aquarion is also included to be consistent with the adopted zoning changes to the Aquifer Protection District. Ms. Carnaby asked if “private roads” should be added to the list. Mr. Bachand thinks it’s just a general definition.

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The Planning Board’s Engineering Consultants will be added on page 2.

Temporary Parking Lots were discussed with changes. Temporary Parking Lots are in the Site Plan Regulations and Mr. Bachand will check that out whether the zoning classification reference is needed.

Ms. Carnaby discussed the language under Section X.B Waivers - “When applicant desires the waiver of any provisions of the foregoing regulations, he shall include.....” - Ms. Carnaby wants it to be changed to say “the applicant”; not ‘he’.

- **Update on SB146 – Accessory Dwelling Units**

Mr. Bachand discussed SB146. The Planning Board’s letter went to the Governor. Mr. Bachand received a call back and spoke with one of the Governor’s assistants. She was kind and willing to listen, but it was clear to him from the conversation that the Bill was going to be signed. Mr. Bachand expressed the Town’s concerns during that conversation. The bill was signed on the 16th of March. It is law. Mr. Bachand went over some of the requirements. Any municipality with a zoning ordinance will be required to allow accessory dwelling units in all districts where single family dwellings are permitted.

Mr. Bachand said we may need a very substantial zoning amendment. A solid amendment for 2017 for voters to vote on will be necessary. This information is available at the Town Planning Department. Mr. Bachand attended a workshop on this topic and spoke with Ben Frost of New Hampshire Housing. We can use RPC for assistance on this. Mr. Emerick noted the Municipal Association can be used as well.

- **New Hampshire Coastal Risk and Hazards Commission Draft Report**

Mr. Bachand said the report was forwarded to everyone. It’s available on the website – nhcrhc.stormsmart.org. The report is available there and there is a public comment period. It goes through June 30th. There are public meetings; May 26th in Greenland and June 1st in Rye on this topic.

- **Rockingham Planning Commission – 2016 Membership Dues**

The invoice is \$12,130.00. Mr. Bachand noted the RPC is an important resource for us and the Town. Their services include work on CRS, Tides-to-Storms, and the NH Seacoast Greenway to name a few.

MOTION by Mr. Lessard to pay the invoice.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0 .

MOTION PASSED.

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It was noted that there is a Board of Selectmen meeting on April 11th which includes a hearing on the Intermodal Study. Mr. Waddell said the public or anyone interested should look over the study and attend. People need to voice their opinions. They can also comment online by going to the Town website.

Mr. Bachand said on the same night, there is a free Rain Garden Workshop (Soak Up The Rain). The meeting is from 7:00 p.m. to 8:30 p.m. at the Masonic Lodge on Tide Mill Road.

Ms. Carnaby noted that the Board of Selectmen meeting next Monday night starts at 7:00 p.m. There will be a brief presentation by the RPC to clarify the notion that what they put forth is the results of their study. They are going to talk about recommendations. People of this Town have to want to go forward with this and be vocal in expressing their thoughts. She hopes many Planning Board members can attend.

Mr. Olson asked why this is going to the Board of Selectmen and not the Planning Board. Mr. Waddell believes it is because the Board of Selectmen wants to show that the Town is behind the project, i.e. to give a vote of confidence on the project from the Board of Selectmen.

Ms. Carnaby said there is road study, location of intermodal location (facility), parking area and services to beach to the town, etc. that will all be discussed.

VIII. ADJOURNMENT

MOTION by Mr. Emerick to adjourn.

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 9:33 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