

HAMPTON PLANNING BOARD

MINUTES

May 4, 2016 – 7:00 p.m.

PRESENT: Brendan McNamara, Chair
Fran McMahan, Vice Chair
Tracy Emerick
Mark Olson
Ann Carnaby, Clerk
Rusty Bridle, Selectman Member (Alternate)
Keith Lessard
Jason Bachand, Town Planner
Laurie Olivier, Office Manager/Planning

ABSENT: James Waddell, Selectman Member

I. CALL TO ORDER

Mr. McNamara began the meeting at 7:00 p.m. by introducing the members of the Planning Board and leading the Pledge of Allegiance. He noted that the applicant for 4 Ocean Drive wishes to be continued to the Planning Board's June 1st meeting.

MOVED by Mr. Emerick to continue 4 Ocean Boulevard to the Planning Board's June 1, 2016 meeting.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

II. ATTENDING TO BE HEARD

III. NEW PUBLIC HEARINGS

16-012 707 Ocean Boulevard, Unit #1

Map: 235 Lot: 6

Applicant: John Nelson

Owners of Record: John and Patricia Nelson

Driveway Permit Appeal.

Mr. John Nelson appeared. There is a 2-unit condo at this location. He represents both units. Sharon Osborne owns the other unit. The back of condo is on King's Highway.

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Mr. McMahan asked if this is for the King's Highway side. The applicant stated "yes". The driveway is gravel now. He wants to put in pavers. The garages go all the way through from King's Highway to Ocean Boulevard. Mr. McMahan said Mr. Swift did a letter and the applicant had seen it. Mr. Swift states in the letter that there is no existing record of a driveway

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permit. He is talking about the King's Highway side. Mr. Nelson bought this 2 ½ years ago as it is. He assumed the driveway was approved back then. If there's a CO, how did the driveway get in was asked by Mr. Nelson. Mr. McMahon asked about material. Mr. Nelson said pavers. Mr. Bachand believes the DPW would want it bituminous in the Town right-of-way.

Mr. Nelson's contractor came to the table; John Welch. JW Landscape. Mr. McNamara asked if Mr. Nelson understands that the DPW does not want permeable pavers in the right-of-way. Mr. Welch said he usually uses asphalt. He wants to do this now. Mr. Lessard asked what kind of pavers; just pavers per Mr. Welch. The percentage of impervious surface was asked about. Mr. Welch said probably 60 percent.

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Mr. Lessard said he wants two driveways; only one is allowed by law per the Regulations. Mr. Nelson said it's a condo with a drive-thru driveway. There's one on Ocean Boulevard (strip of pavement); on King's Highway there is another driveway. There are two garage doors on each side.

Mr. McMahon said it shows the existing lawn on Ocean Blvd. That is now paved in the front on the Ocean Boulevard side.

Ms. Carnaby said it looks like Mr. Swift is referring to the Ocean Blvd side. It doesn't seem like he's talking about the back of the building. Mr. Welch said it's the back that they are applying for – the King's Highway side. Mr. Bachand said he drove by the site and it is all crushed stone (on the King's Highway side). Mr. Bachand said no increase in driveway width should occur. Not increasing the sealed surface was discussed also. It was asked if they thought about permeable pavers. Mr. Welch said they can give consideration to that. Mr. Lessard asked if he wants his driveway, would he be willing to use permeable material. Mr. Nelson said he bought it this way. Mr. Nelson said he would be willing to go pervious. Mr. Lessard does not want water to go to flow into any neighbor's driveway. **Mr. Lessard asked Mr. Bachand to see what is allowed and what is not.** Mr. Bachand said it was built on an existing foundation. It was built as a duplex/not a condo, but there was a subsequent condo conversion. **Mr. Lessard asked what happened at the time of the condo conversion. It was discussed that there was not enough room for them to have a driveway on which to park cars. Mr. Lessard said we need more facts.**

Mr. Emerick said he did not look at this project location. He can't figure out the intentions. **Mr. McMahon wants to know about the permit on the Ocean Blvd side.** The sketch shows there is lawn there; **he wants to see the original approval as well** (like Mr. Lessard said). Mr. Olson agrees. Mr. Lessard wants more information. He wants to know what was promised by the previous owners. Ms. Carnaby did a drive by, but only drove by the Ocean Blvd side. She didn't know there was another side to the issue. There is a lack of clarity in the letter and the application. Mr. Bridle agrees. **Mr. McNamara said the Planning Office will perform additional due diligence and we will continue this application for two weeks. The sketch should be revised by the applicant (that shows lawn).**

MOTION Mr. Emerick to continue this application to May 18, 2016.

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SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

16-013 67 Plymouth Street

Map: 305 Lot: 6

Applicant: Thomas Grandmaison

Owners of Record: Grandmaison Nominee Trust

Driveway Permit Appeal.

Kyle Stevens appeared for Mr. Grandmaison. Mr. Stevens works with Coastal. Mr. Grandmaison wants to replace the current driveway with a new asphalt driveway.

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Mr. Olson said it is ‘in-kind’. Mr. Lessard asked why it was denied. The driveway is 48’ wide. Mr. Swift had to deny it. It was in very bad shape before. Mr. Olson discussed resurfacing driveways. He asked if people become subject to the new Regulations. Mr. Emerick said the issue is calling it a driveway. It’s more a parking space than it is a driveway. Mr. Emerick said if you call them parking spaces, it doesn’t count as a driveway. Mr. Emerick said this is re-doing what exists for parking spaces.

Mr. Bridle discussed cobblestone. Mr. Stevens said he is not doing anything in the right of way.

Mr. Bridle referenced the map. The end of where the garage door is was asked about. It was asked if there is a 26’ right of way down there.

PUBLIC

BOARD

Mr. Bachand said he sees this as a replacement in-kind. Mr. Emerick said he’s inclined to say fine since it was already there. Mr. Olson asked about 24’. Mr. Lessard asked if someone (owner) paves, owners make it their own.

Mr. Emerick is fine with this; Mr. McMahon is ambivalent. Mr. Olson said because it’s existing, he could agree. But he really agrees with Mr. Lessard. Mr. Olson is ambivalent. Mr. Bridle noted that parking is tough at the beach. When areas are all paved, owners make it look like it’s theirs and they can park anything there. Mr. Bridle said it’s resurfacing, but if we keep letting people do it because it’s what they are used to, it won’t get straightened out. Ms. Carnaby is confused. She asked what happens if the Board denies. It will stay the same if it’s not fixed. Mr. Lessard won’t condone it because it exists. Mr. Lessard is frustrated with voluntary land taking.

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MOTION by Mr. Olson to allow repaving the 24' width (at the garage end of the building). Mr. Stevens asked if the rest of the driveway needs to be removed and Mr. Olson said 'no'. It will just look old.

SECOND by Mr. Emerick.

VOTE: 6 – 0 – 1 (McNamara).

MOTION PASSED.

16-014 18 Johnson Ave.

Map: 292 Lot: 23

Applicant: Edward Miville

Owners of Record: Deborah Davis & Edward Miville

Wetlands Permit: Installation of 6' solid PVC fence and two, 5-foot gates (chainlink) fencing.

Mr. Miville and Ms. Davis appeared. The applicants concur with the Conservation Commission's letter. Mr. Emerick did the site walk on this and he is happy with it. Ms. Carnaby is fine as is Mr. McMahon, Mr. Bridle, and Mr. Olson.

PUBLIC

Julie and Wally O'Brien, 16 Johnson Avenue appeared. They asked about a survey – it shows different lines. It's by a few inches. They want clarification of the type of fence. It was called a boundary fence at the Conservation Commission meeting. Mr. Miville said it will be a safety or privacy fence. It has to be 6" off the ground. Ms. O'Brien asked about the height of the fence. The total would be 6'. She wants to make sure they are not responsible for any of the work. It is just inside the line per Mr. Miville. That is a line that the O'Brien's are having a problem with. Ms. Johnson said the driveway went right on the line. Mr. Miville said he wants to install a gate. The fence is where the marker is per Mr. O'Brien. Mr. Cote installed a pipe; it was surveyed a few months ago. Two pins were found; two were set. The O'Briens found their markers.

BOARD

Mr. Bachand recommends approval of the wetlands permit along with the conditions on the Conservation Commission's letter dated April 29, 2016.

MOVED by Mr. Lessard to approve the Wetlands Permit along with the recommendations contained in the Conservation Commission's letter dated April 29, 2016.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

16-016 19 & 25 Park Avenue

Maps: 190 Lots: 9 & 11

Applicant: Timothy M. O'Connor

Owner of Record: O'Connor Family Rev Trust

Lot Line Adjustment: Transferring 3,456 s.f. from 25 Park Avenue to 19 Park Avenue.

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Mr. Henry Boyd, Millenium Engineering, appeared with Mr. Tim O'Connor. There was a warrant article this past election that helps to identify where Old Park Avenue was. Mr. O'Connor purchased Lot 11, Map 190. Frontage was discussed. Mr. Boyd will do what Mr. Bachand states in his Memo. Parcel A will not stand alone as a building lot. Mr. Bachand said that previous lot line adjustments have included this condition. It has been a condition to ensure that it will not somehow be used as an independent building lot. Mr. Olson is fine with this; Ms. Carnaby is as well. Mr. Emerick asked about the garage; he asked if it is going to stay. The existing garage will be removed. Mr. Lessard asked where the new driveway will go. Mr. Boyd said the new driveway would come off the remaining portion of Old Park Avenue. They'll have to go to the DPW and State. Mr. Lessard would like to see where the driveway will be. The driveway would come off of the Town right of way. Mr. Boyd said there is no need to eliminate it now. Mr. Boyd said there's no intention to have a driveway now. Mr. Bachand said #2 is for lot line adjustments only. **Mr. Boyd can add that to the plan as well; that condition.** Mr. Olson said the existing driveway won't work for 25. There needs to be some kind of new alignment. Mr. Boyd said it's not needed on a lot line adjustment. He could drive over the lawn if he wants to per Mr. Boyd.

**PUBLIC
BOARD**

Mr. Bachand noted that his memo has been provided and the comments/conditions have been discussed this evening.

MOTION by Mr. Lessard to grant the lot line adjustment and to add conditions #1, #2 and #3 to the mylar to be recorded.

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0

MOTION PASSED.

**16-017 1064, 1066, 1068, 1070
& 1072 Ocean Blvd**

Maps: 98 Lots: 30, 24, 19, 16 & 10

Applicant: Susan and Ed Moran

Owners of Record: Same (1066) 1064 Ocean Blvd Realty Trust (1064); L&W Investment Trust (1068); Kenneth Linsman (1070) & Robert Saltmarsh (1072)

Wetlands Permit: Construct concrete stairs from the seawall to the beach to provide safe, year-round access to the beach. Concrete stairs will strengthen seawall during large wave storms.

Mr. McNamara said the applicant is not here and this application should therefore be continued.

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MOTION by Mr. Emerick to continue this application to the May 18, 2016 meeting.

SECOND by Mr. Lessard.

It was noted that this application is for each individual lot. It's not one set of stairs; it's four sets of stairs.

VOTE: 7 – 0 - 0

MOTION PASSED.

IV. CONTINUED PUBLIC HEARINGS

V. CONSIDERATION OF MINUTES of April 20, 2016

MOTION by Mr. Olson to accept the April 20, 2016 Minutes.

SECOND by Mr. Lessard.

VOTE: 6 – 0 – 1 (Bridle)

MOTION PASSED.

VI. CORRESPONDENCE

VII. OTHER BUSINESS

- 102 King's Highway (Mark Gearreald)

Attorney Gearreald appeared to discuss correspondence received by an Attorney regarding a buyer wanting to purchase property by Rabius. A title search was done. The plan dealt with a back portion of the property. The problem relates to a separate lot; Map 196, Lot 5A owned by Charlotte Bauer. Charlotte's mother, he believes, had gotten a subdivision approval back in 1986 and 1987 to divide some back land and then to convey lots to abutting property owners. The two lots were to be combined with land of Rabius. D-16897 indicates that Lots 4 and 5 were to be combined into one lot. This did not happen. Three Planning Board meetings took place. The first one was on May 7, 1986. Attorney Gearreald said the 1986 plan was never recorded at the Registry. Lot 5 was conveyed out to Rabius in 1985. In 1987, Wygant came before the Planning Board with some differences from the 1986 plan and that is the plan that has the notes; that was approved and recorded. The title search recently performed found that that ultimate result does not conform with the plan. Lots 4 and 5 were conveyed separately; not with any approval by this Board. Mr. Gearreald said penalties should or could be imposed. The buyer for the Rabius property wants to close. They want a letter of "No Action". The bodies responsible for enforcement are the Selectmen and the Building Inspector. Attorney Gearreald wants this Board to weigh in on whether it thinks no action is appropriate or if an enforcement action should be taken since what should have occurred did not occur. Mr. Gearreald recommends an enforcement action. The Planning Board went through great pains at the last approval to say the back lots needed to be combined. It was not done. Anyone who buys the Rabius property, when they are conveyed separately and one is landlocked; there could be an easement by necessity. Conditions were not adhered to. Attorney Gearreald said the remedy would be for the two

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lots to be combined; two lot owners as they exist (Rabius and Bauer). The back land is appraised at \$2,300.

Mr. Emerick said if the recommendation is enforcement, he thinks Attorney Gearreald is sitting before the wrong Board. Mr. Gearreald wants the Planning Board's thoughts. This is going to the Board of Selectmen next Monday.

Mr. Lessard said it's too bad people didn't follow through. Mr. McMahon said 4 & 5 are under separate ownership now. Attorney Gearreald said the solution is for new buyer to buy the Rabius and Bauer parcels. The second owner may not know they are at risk. Mr. Emerick said if the Planning Board takes no action, it will be stay problematic.

Mr. Olson asked if 5A is a buildable lot. Attorney Gearreald said it lacks access on its own. If it's conveyed with 4, it was expected for the back parcels to not be built upon.

Mr. Emerick wants this to get resolved. Ms. Carnaby agrees it should be cleaned up. Mr. Bachand agrees that 'no action' is not a proper solution. This is an opportunity to resolve it. Attorney Gearreald asked that the Board then recommend to the Selectmen against 'no action' and that action be taken to bring the property in compliance with what the Planning Board approved, or that an amended plan be brought to the Board.

MOVED by Mr. Emerick to do what Attorney Gearreald stated (above); i.e. *that the Board recommend to the Selectmen against 'no action' and that action be taken to bring the property into compliance with what the Planning Board approved, or that an amended plan be presented to the Board.*

SECOND by Mr. McMahon.

VOTE: 7 – 0 – 0

MOTION PASSED.

- Hampton Beach Area Commission Update

Mr. Bachand noted the Board's discussion with John Nyhan at its last meeting regarding the HBAC transportation grant and beach master plan. He spoke with Mr. Nyhan at the HBAC's April 21st meeting. Mr. Bachand will be updating the Planning Board at its meetings on what occurs at HBAC meetings. He believes the Planning Board was not as in the loop as they should have been. Mr. Nyhan thought the meeting with the Planning Board was productive. The next meeting of the HBAC is scheduled for the 19th of May. They don't meet during the summer, unless a special session is needed.

Mr. Bachand stated that he has been attending a FEMA CRS (Community Rating System) training course this week, which continues through tomorrow. He and Rayann Dionne (Conservation Coordinator) have been attending. It runs from 8:00 am – 5:00 pm each day and has been very informative. They are getting great ideas. He noted that it has been encouraging to learn about where the Town could end up within the point classification system. The Town may be able to get more points by updating Regulations, etc. CRS provides for a reduction in flood insurance premiums with the actual percentage dependent

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on where the Town places in the classification system (500 points = Class 9 with a 5% reduction, 1,000 points = Class 8 with a 10% reduction, etc.)

Mr. Emerick mentioned the land for the courthouse; the bond has been issued so the land has been purchased. This is out by where the Park-and-Ride is now.

Mr. Lessard brought up the Drift Motel and parking. It's all striped up again. The head-in parking against the building is back. The sign is not up yet. **We need to follow up to make sure people do not do this type of thing. Mr. Bachand said he checked this last year when it came up and everything looked fine. He will look into this again.** Mr. Lessard said they should look at enforcement or a fine.

Mr. Bachand will discuss with Mr. Schultz.

Mr. McNamara asked about the sidewalk on 31-33 Ocean Blvd. There is a bond from the contractor.

Mr. Olson discussed the park and ride. He discussed head butting with the RPC, Selectmen, etc. He discussed bus traffic. He is bothered that it is in a bubble. We are randomly looking at chiseling in a parking lot in the gateway to the Hampton area. It will look like a car dealership. He wants to look at what's left over. He thinks the fire station should be there. He asked who will monitor behavior at that location. He wants to talk to the RPC to learn what happens around the location. More retail, a police substation, etc.

Ms. Carnaby said she agrees with a lot of what Mr. Olson says, but she does not think the RPC is trying to push anything but the options that are out there. Ms. Carnaby thinks the RPC wants to push our activity to sort things out with the choices given. It's going to start with the Selectmen. She thinks the RPC wants to see where the community heads. More interest in rearranging the roads was a higher priority as far as she knows. She wants the Planning Board to read the whole report to get ideas.

Mr. Lessard discussed charging fees, which bus company to use, airport transportation, etc. Mr. Lessard wants the interchange to be safer. He doesn't think the focus should be around the bus station.

Mr. McMahon discussed shuttling back and forth to the beach will be helpful. Parking is scarce at the beach. He discussed local bus service. Adding other activities makes sense to him.

Mr. Bridle said the rail trail cuts through the middle of that. He asked if we need bridges. Ms. Carnaby said the vote was taken that it should be on the 10-year plan for the State. That may happen Monday night per Mr. Bridle. Mr. McMahon said it will be multi-phased. Safety also was discussed. Mr. Bridle wants to deal with this first.

Ms. Carnaby discussed driveway issues. She asked about past projects and current projects. She asked if we need to re-visit the driveway Regulations.

Mr. Emerick said the Town property is a different discussion. Mr. McMahon said the Board should look at each scenario case by case.

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VIII. ADJOURNMENT

MOTION by Mr. Emerick to adjourn.

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 8:40 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