

HAMPTON PLANNING BOARD

MINUTES

November 16, 2016 – 7:00 p.m.

PRESENT: Brendan McNamara, Chair
Fran McMahan, Vice Chair
Ann Carnaby, Clerk
Tracy Emerick
Mark Olson
Keith Lessard
James Waddell, Selectman Member
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 introducing the Planning Board members and leading the Pledge of Allegiance. Mr. McNamara noted that 287 & 299 Exeter Road wishes to be continued to January 4, 2017.

MOVED by Mr. Emerick to continue 287 & 299 Exeter Road to January 4, 2017.

SECOND by Mr. Olson.

It was noted this includes continuing both the Site Plan and Wetlands Permit applications.

VOTE: 6 – 0 – 1 (Lessard - tardy)

MOTION PASSED.

II. ATTENDING TO BE HEARD

- **Discussion with Warren Kelly, Kelly Properties LLC – Trash and Recycling Pickup for Condominiums**

Mr. Kelly appeared and said all Departments have been great to work with in the Town. He went before the Selectmen this past Monday. He discussed permit conditions regarding trash. Tonight he is asking the Planning Board to vote to modify the conditions with regard to trash pickup at 377 Ocean Boulevard condominiums to state that owners of condominiums located at 377 Ocean Boulevard may use public trash removal in lieu of private trash removal under the following condition: no public vehicle is required to go onto private property in order to pick up trash. Mr. Kelly questions the Town of Hampton policy which he says denies condominium owners the same public services provided to homeowners, businesses, apartment complexes, and condominiums projects of 5 or less units when all of these buildings pay the same tax rate. He knows his condominium documents state private trash collection, but says this was included because he believed it was a Town requirement. He didn't do his homework on this. He now feels the rule is discriminatory.

HAMPTON PLANNING BOARD

MINUTES

November 16, 2016 – 7:00 p.m.

His taxes before development were approximately \$22,000; now the Town receives \$260,000 in tax revenue. He said owners all also paid an impact fee for future development in the Town due to increased population. He noted that 90 percent of the owners are seasonal. It is 100 percent residential. There is no increase in liability to the Town because no Town trucks need to enter onto private property. He is asking why they are denied trash pickup if they pay the same tax rate. In the winter, four barrels may be all that is needed at the property. In the summer, they may elect to have private pickup. He wants his permit amended by the Board. No public vehicle would be required to go onto private property. Mr. McNamara clarified that impact fees are designated to go right to the schools.

BOARD

Mr. McMahon said we have gone around on this often. The Selectmen have the position that they don't want to pick up certain trash. The Planning Board asked for the policy on this. Selectmen came back with the five-unit rule.

The Board noted that it went through something like this with street lights as well. Selectmen set the policy. Mr. McMahon was frustrated when Mr. Welch asked Mr. Kelly to come to the Planning Board. It is on their table. If the Board told him initially he could put trash on the street, they (the Selectmen) would have said no.

Mr. Emerick shares the same frustrations. We can't tell people they can't put barrels out.

Mr. Olson said Mr. Kelly is not being singled out. He said many businesses have dumpsters on site. The five-unit rule was established for a reason. If it's 50 apartments, would trash be picked up was asked.

Mr. McMahon asked about Fuller Acres. That gets picked up by the Town.

Ms. Carnaby asked why Mr. Kelly is asking now. She also asks why this is getting kicked back to us. Mr. Emerick said the condominium owners should be able to put 5 barrels out. They should be able to put out 5; 5 blues and 5 greens according to Selectmen's rules.

Mr. Kelly said his application was approved; then it was rescinded by the Fire Department. He had to design a new project before financing was lost. A lot of details were overlooked.

Mr. McNamara said he feels if it's being paid for, trash should be picked up. Mr. McNamara likes the five and five.

Mr. Waddell voted against the Selectmen. The Town Attorney said the condominium documents would have to be changed. An amendment would have to come to this Board. Mr. Waddell said he would caution that if the condominium documents are changed, the Town still probably will not pick up the trash. It would be a legal fee and a lot of work and it may not turn out how Mr. Kelly wants it to turn out.

One reason is more density in a smaller area. It's up to this Board to change condominium documents. Mr. Emerick said we don't approve condominium documents. Mr. Bachand said it would be an amended site plan application - the site plan and condominium documents would need to be revised as part of that application. Conditions of approval would have to change. Mr. Bachand concurs with Mr. Waddell on how this may turn out for Mr. Kelly if he proceeds.

HAMPTON PLANNING BOARD

MINUTES

November 16, 2016 – 7:00 p.m.

Mr. Emerick said we can't go on private property. Five and five barrels (blue/green) makes sense to Mr. Emerick.

Mr. Bachand said that dating back to 2006 – there is only one condominium complex with more than 5 units that has Town trash pickup, and that one has 12 units and was from 2006. Everything after that is private pick up. If Mr. Kelly is granted this request, it sets a precedent. While the formal policy may be relatively new, this is past practice.

Mr. McNamara noted that a citizen's petitioned warrant article would require 25 signatures; and believes this has to be submitted by December 13th for a citizen to submit. This is not a zoning change/amendment. Mr. Kelly asked where this rule was written.

It was noted that this application would have to be re-heard as a public hearing. Mr. Bachand said if the Planning Board allowed Mr. Kelly to do this and the Selectmen said no, he went through the exercise to not have Town pick-up anyway. Mr. Bachand suggested that he try to clear this up with the Selectmen first. Mr. Kelly restated that he already tried that.

Mr. Waddell said he does not believe this will go anywhere.

Mr. McNamara said he can get a consensus. Mr. McMahon said the Selectmen are going to look at this Town wide.

Mr. Lessard said the PRC normally handles this.

Mr. Kelly wanted a Motion. The Board cannot do this outside of a public hearing. Ms. Olivier noted that maybe a letter to the Board of Selectmen from the Planning Board with its recommendations is better.

Mr. Emerick supports Mr. Kelly. Mr. McMahon is generally in support. Mr. Olson agrees that these residents deserve the same benefits as everyone else. Mr. Lessard wishes Mr. Kelly the best of luck. He agrees with Mr. Olson about consistency. Ms. Carnaby said it is a dilemma and she feels the solution may be tricky. Ms. Carnaby noted that Mr. Kelly is looking for clear policy statement. Mr. Waddell said there is a clear policy statement.

Mr. Waddell supports the concept. He does not guarantee 100 percent how he will vote when it comes up.

This still goes back to Selectmen per Mr. McNamara.

Mr. Kelly may bring an amended site plan, then the Board votes, after that he goes to the Selectmen. It may also go to Town Meeting.

If it is approved, it goes back to the Selectmen. Mr. Bachand said if Mr. Kelly wishes to do this, the Town Attorney will have to review the amended condominium documents as well.

Mr. McMahon said he should think about how many barrels he is looking at; different months, etc. Where will the barrels be located should be addressed. Trash rooms for the barrels was noted by Mr. Kelly. Mr. Emerick asked him to see how many barrels can fit at this location. If he can't handle 52 barrels, don't ask for 52. Mr. Emerick said to consider seasonality as well.

HAMPTON PLANNING BOARD

MINUTES

November 16, 2016 – 7:00 p.m.

Mr. McNamara noted that the Planning Board would hear the bond reduction request next – Hilliard Drive.

- **Bond Reduction Request – Hilliard Drive**

Mr. Bachand said this request was received from Mr. Michael Green (in the audience). It is a bond reduction that needs to be acted upon. The original Letter of Credit was \$528,000. Since then the Board approved two subsequent reductions and the current amount held is \$163,890. The Subdivision Regulations provide for a 90% reduction from original surety amount with 10% to be held for one year. He recommends a reduction of \$111,090 from the \$163,890 currently being held. The Town maintains \$52,800 for one year – 10% of the original surety amount. Public Works and CMA are all set. All items have been completed per the Subdivision Regulations.

MOTION by Mr. Lessard to approve the bond reduction.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

III. CONTINUED PUBLIC HEARINGS

16-011 287 & 299 Exeter Road (Continued from 09/07/16 & 10/5/16)

Maps: 52 & 52 Lots: 1 & 2

Applicant: AG Hampton Hospitality, LLC.

Owners of Record: Same (299 Exeter Road) & Charles F. Rolecek RT (287 Exeter Road).

Site Plan & Wetlands Permit: Construction of Hotel and Office Bldg.; SpringHill Suites by

Marriott: 104 rooms, 4-story, 152 parking spaces with an internal driveway connection to CR's

Restaurant and associated modifications. Office: 40,000 sq. ft. unspecified space, 3-story, 204

parking spaces. Wetlands Permit applies to 299 Exeter Road.

The Board voted at the beginning of the meeting to continue this application to January 4, 2017.

IV. NEW PUBLIC HEARINGS

PUBLIC HEARING FOR ZONING ORDINANCE AMENDMENTS

1. Amend Article I – General, Section 1.6 to add definitions of “Lot Area” and “Percentage of Impervious Coverage”.

Amend Article IV – Dimensional Requirements, Sections 4.8, 4.8a, and 4.8b to replace references to “sealed surface” with “Percentage of Impervious Coverage” for consistency purposes.

HAMPTON PLANNING BOARD

MINUTES

November 16, 2016 – 7:00 p.m.

Mr. Bachand and Ms. Rayann Dionne, Conservation Coordinator, appeared. These Amendments are available on the Town website - hamptonnh.gov. One can click on the Amendment they wish to read. The ballot format will be in accordance with the RSA and will be kept as simple as possible for the voters. The full text is available at the Town Hall - Planning Department.

Ms. Dionne discussed two new definitions proposed - "Lot Area" and "Percentage of Impervious Coverage" and also some housekeeping changes. Impervious coverage was discussed. Calculating percentage of impervious coverage on a given lot is simplified. This Amendment is available at the Planning Office. The buffer is used in the calculations. Ms. Dionne updated her example presented at last month's discussion to reflect comments that came up. She explained the methodology for calculating impervious coverage using her example. The changes to the wording under Dimensional Requirements were noted.

BOARD

Mr. Lessard asked if there is a square of land segregated by wetlands that transverses the center of the land, and you have uplands near the road; some poorly drained soils; then uplands in the square on the other side. Two parcels of uplands – are they both counted was asked. Yes, they are included per Ms. Dionne. Anything that is not in the wetlands is considered uplands per the calculation.

PUBLIC

MOTION by Mr. Lessard to move these Amendments to public ballot.

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0.

MOTION PASSED.

2. Amend Article I – General, Section 1.6 to replace the current definitions of "Parking Area" and "Parking Lot" with one consolidated definition titled "Parking Lot", to include legally designated areas of a public street within the definition of "Parking Space", and to make minor changes to the definition of "Stacked Parking" for consistency purposes.

Amend Article III – Use Regulations, Section 3.26a to remove "and/or Parking Areas" for consistency purposes.

Amend Article VI – Parking, Section 6.4 (Parking Lots and/or Parking Areas) to remove "and/or Parking Area(s)" for consistency purposes, and to clarify the parking lot requirement under 6.4.6.

Mr. Bachand discussed the proposed changes. He said the purpose is to consolidate the definitions of "Parking Lot" and "Parking Area", and to make associated clarification / consistency changes. The current definitions of "Parking Lot" and "Parking Area" are proposed

HAMPTON PLANNING BOARD

MINUTES

November 16, 2016 – 7:00 p.m.

to be replaced with one revised definition of “Parking Lot”. The reference to legally designated areas of a public street is proposed to be moved to the “Parking Space” definition. Consistency changes to the “Stacked Parking” definition are included. References to Parking Areas have been removed from the Zoning Ordinance for consistency purposes. As noted by the Board during a prior discussion, the outdated language in Section 6.4.6 has been clarified.

The full text is available at the Town Hall - Planning Department.

**BOARD
PUBLIC**

MOTION by Mr. Lessard to move these Amendments to public ballot.

SECOND by Ms. Carnaby.

VOTE: 7 – 0 – 0.

MOTION PASSED.

3. Amend Article II – Districts, Section 2.5.6 B (Administration) of the Aquifer Protection District Ordinance to state that all variance requests shall be considered by the Zoning Board of Adjustment in accordance with Section 1.4 of the Hampton Zoning Ordinance, to require the Zoning Board of Adjustment to notify the Aquarion Water Company of New Hampshire, or its successor of any application in the Aquifer Protection District requiring a public hearing in the same manner as it notifies abutters, and to specify that the applicant provides the required notification fee.

Mr. Bachand discussed the proposed changes. The Zoning Board of Adjustment would be required to notify the Aquarion Water Company of New Hampshire, or its successor of any application in the Aquifer Protection District requiring a public hearing in the same manner as it notifies abutters. The applicant is to provide the required notification fee for this purpose. Also, this amendment clarifies that all variance requests are considered in accordance with Section 1.4 of the Zoning Ordinance.

The full text is available at the Town Hall - Planning Department.

**BOARD
PUBLIC**

MOTION by Mr. McMahon to move this Amendment to public ballot.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0.

MOTION PASSED.

4. Amend Article IV – Dimensional Requirements, Table II – Footnote 2 to replace the existing language regarding vegetation on corners with revised language for corner lots. The revised language establishes a triangular area that is to remain free from obstruction, specifies that no structure other than a building constructed in accordance

HAMPTON PLANNING BOARD

MINUTES

November 16, 2016 – 7:00 p.m.

with the minimum setback requirements or a legal pre-existing building shall be located on the private property within the triangular area, and also specifies that vegetation within the triangular area shall be maintained at a height not to exceed three (3) feet so as to afford adequate sight distance at the corner.

Mr. Bachand discussed this Amendment. The purpose is to replace the confusing existing language for vegetation on corners with revised, easier to follow language for corner lots. The revised language establishes a triangular area that is to remain free from obstruction. It specifies that no structure other than a building constructed in accordance with the minimum setback requirements or a legal pre-existing building shall be located on the private property within the triangular area. It also specifies that vegetation within the triangular area shall be maintained at a height not to exceed 3 feet so as to afford adequate sight distance at the corner. The amendment also includes a reference diagram to be included in Article IV, which Mr. Bachand explained.

The full text is available at the Town Hall - Planning Department.

BOARD

Mr. Olson said he thinks the vertical is longer than the horizontal in the diagram. Mr. Bachand indicated the drawing is not to scale and is intended to provide a visual example of what is intended.

Ms. Carnaby asked about vegetation within the triangular area. She asked if this only applies to new areas being formed, or can it apply retroactive. This would be Town-wide per Mr. Emerick.

Mr. Lessard asked about the edge of pavement. Is the height measured from the soil or from the edge of road was asked. It would be from the land level per Mr. Bachand. Ms. Carnaby said it should be from the road. Mr. Bachand agrees this makes sense and will clarify. Ms. Carnaby thinks an elevation/cross-section could be added to the diagram. Mr. Emerick wants Mr. Bachand to add (not to scale) to the drawing. This will be added. Not to exceed 3' from the edge of roadway is the revised language per the Board. **The highway rules need to be checked with regard to the proper height (i.e. the 3 feet). There is a calculation.**

PUBLIC

MOTION by Mr. Lessard to hear this at the December 7th meeting for a second public hearing.

SECOND by Mr. Emerick.

VOTE: 7 - 0 - 0

MOTION PASSED.

V. CONSIDERATION OF MINUTES of November 2, 2016.

MOTION by Mr. Lessard to accept and approve the November 2, 2016 Minutes.

SECOND by Mr. Olson.

VOTE: 7 - 0 - 0.

MOTION PASSED.

HAMPTON PLANNING BOARD

MINUTES

November 16, 2016 – 7:00 p.m.

VI. CORRESPONDENCE

VII. OTHER BUSINESS

- **Bond Reduction Request – Hilliard Drive** (heard above)
- **Proposed Warrant Article: Floodplain Ordinance**

Mr. Bachand said changes were made since the November 2nd meeting where this was last discussed. The proposed Floodplain Ordinance is now in our format. Mr. Schultz (Building Inspector) reviewed this extensively and provided comments. Ms. Dionne also provided comments. Mr. Lessard asked if the Fire Department looked at this also; Mr. Bachand did not contact the Fire Department on this, **but he will send it to them.** Attorney Gearreald received this also. Mr. Bachand reviewed the noted changes and this document is provided at the Planning Office. Mr. Bachand thinks this can be set for public hearing for the 7th of December.

MOTION by Mr. Lessard to move this to public hearing on December 7, 2016.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

- **Proposed Warrant Article: Accessory Dwelling Units**

Mr. Bachand discussed some minor changes since the last review, based on his discussion with Mr. Schultz. This Article is available at the Planning Office. Mr. McMahon thinks 3-A.2 is confusing. Say to present a site plan and it should be general per Mr. McMahon; not stamped drawing. Mr. McMahon wants to see parking. Mr. Lessard said maybe it should be a “plan”. Take out the word “site”. Parking spaces should be added. Mr. Lessard said we are not looking for topography. Mr. McMahon thinks the language is confusing – “site plan” has a specific definition.

Mr. Olson doesn't think it needs to be an engineered stamped. The Board wants an accurate drawing. It was noted to revise to say “**...plan drawn to scale showing the proposed accessory dwelling unit, distances from the property lines, and required parking spaces**”. Mr. Lessard asked if this can show the zones this applies to. **Mr. Waddell said there should be something put in the paper and a slide on Channel 22 to inform voters.**

MOTION by Mr. Lessard to move this to public hearing on December 7, 2016.

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0.

MOTION PASSED.

Mr. Lessard asked what residents should do if they already have in-law units (maybe illegal) in place already. It was noted they will need to go through the permitting process.

HAMPTON PLANNING BOARD

MINUTES

November 16, 2016 – 7:00 p.m.

- **Proposed Warrant Article: Building Department Fee Schedule**

Mr. Bachand stated the fee schedule in the Zoning Ordinance is out of date and the Building Department maintains this. The outdated table should be removed. Fee changes are a fluid thing and should not be in the Zoning Ordinance.

MOTION by Mr. Lessard to move this to public hearing on December 7, 2016.

SECOND by Ms. Carnaby.

VOTE: 7 – 0 – 0

MOTION PASSED.

Mr. Bachand noted the Architectural and Site Design Guidelines grant was approved by the Board of Selectmen Monday night. Mr. Welch has to sign the contract. That project will move forward shortly.

Last Thursday, Mr. Bachand went before Budget Committee and it went well.

It was noted that tomorrow night, at the Ashworth, there is a holiday auction taking place. Proceeds go to food charities. It starts at 6:00 p.m.; bidding at 7:00 p.m.

VIII. ADJOURNMENT

MOTION by Mr. Emerick to adjourn.

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 8:39 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