

**HAMPTON ZONING BOARD OF ADJUSTMENT**  
**MINUTES – Draft**  
**November 16, 2017**

**Members Present**

Bill O'Brien, Chairman  
Norma Collins, Clerk  
Bryan Provencal  
Ed St. Pierre  
Greg Grady, Alternate

Chairman O'Brien called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was said.

Chairman O'Brien introduced the members of the Board.

**PETITION SESSION**

Chairman O'Brien said that the applicants for Petition 34-17, 15 Epping Avenue, have requested to withdraw without prejudice.

**Moved** by Mr. Provencal, seconded by Mr. St. Pierre, to allow the applicants for Petition 34-17, 15 Epping Avenue to withdraw without prejudice.

**Vote:** 5 yes, 0 no. Motion passed unanimously.

**39-17...**The petition of Ocean Front Gaming Inc. for property located at 81 Ocean Blvd. seeking a special exception as required by Article 3.45 to allow games of chance within a small corner of the second floor of the property which, except for that corner space, is dedicated entirely to games of chance and refreshments. This property is located on Map 293, Lot 23 1&2 and in the RB Zone.

Anthony Fuscl, Ocean Gaming, and Attorney Peter Saari, Casassa & Ryan, came forward. Attorney Saari said this is a request for a special exception for the purpose of allowing gaming on a very small portion of the second floor. The noise level will be less than it is now. This is a highly regulated business. Twenty-five local charities benefit. The area is also far enough back that it will not be seen from below, This will be a boon to the Town, the State and of course the charities.

*Questions from the Board*

Mr. Provencal noted that the previous request from 2010 had five stipulations. Attorney Saari said this would supersede the previous variance. Chairman O'Brien asked about the previous stipulations. Attorney Saari said they would stay in place.

Mr. St. Pierre asked if this area would be enclosed. Mr. Fuscl said it would have a railing around it. Ms. Collins asked if the area would be enclosed or open. Mr. Fusco said it would be open.

Mr. Grady asked if this meant changing out the bar to a game of chance area. Mr. Fuscl said that was correct. Mr. Grady asked how much money has gone to Hampton charities. Mr. Fuscl said approximately \$2 million. Mr. Fuscl noted that they were awarded the Best Non-Profit in the State of NH award this year. He also said this requested area would always be under constant supervision.

Chairman O'Brien brought up the issue that this is a family beach and this activity might not be appropriate. Attorney Saari said there has never been any trouble associated with this establishment. Also people on the street cannot see any gaming activities.

*Comments from the Audience*

Chris Nevins, 36 Ashbrook Drive, said he has been working with Ocean Gaming as a rep for two of the charities for two years. Mr. Nevins said that as a State Representative he worked on the beach staying family friendly. He said in the time he has been associated with Ocean Gaming he has never seen any problems. Ocean Gaming has provided the Town of Hampton with much income and many jobs. They received the Chamber of Commerce President's Award last year. Mr. Nevins urged granting of this petition.

*Back to the Board*

Chairman O'Brien asked if they would be amenable to a partition around the area. Mr. Fuscl said if it was necessary they would, but it would make the space very tight.

Mr. St. Pierre and Ms. Collins expressed some concern about this area being outside. Mr. Provencal said this is on the second floor and he was okay with it. It is legal. If it was on the first floor it would be different.

**Moved** by Mr. Provencal, seconded by Ms. Collins, to grant Petition 39-17 with the following stipulations: That there be only one gaming table, that there be a stanchion railing along the 20-foot side. All other conditions from the November 18, 2010 ruling remain in force.

Chairman O'Brien asked the Board if they agreed with the Special Exception criteria. All members said they did.

**Vote:** 5 yes, 0 no. Motion passed unanimously.

**40-17...**The petition of 230 Exeter Road, LLC for property located at 230 Exeter Road seeking relief from Article 4.2 and 4.3 to subdivide a 13.66 (plus or minus) acre parcel of land into two single family lots each with 108d feet of frontage and lot width and each with more than 35,000 square feet of area, the balance of the land to be donated to the town for open space. This property is located on Map 68, Lot 7-2 and in the RA/G Zone.

Peter Ross, Applicant, and Attorney Peter Saari came forward. Attorney Saari said they had asked for relief several months ago and their petition was granted by the Board. Everything the Board asked for at that time has been done. Mr. Ross still wants to donate 12 acres to the Town for open space. Attorney Saari said their problem now is that the word "conservation" instead of "open space" was used in several places. No restrictions are being requested. This is just open space. All conditions from the previous approval are applicable now.

Mr. Ross said the word "conservation" could cause him problems in the future and said that Town Counsel Mark Gearreald said it should be changed.

Attorney Saari went through the five criteria and said he felt they had been met.

#### *Questions from the Board*

Chairman O'Brien said when he made the motion previously, he specifically said "conservation". This came from Mr. Ross' lawyers and engineer and was submitted to all abutters. Chairman O'Brien read that motion.

Chairman O'Brien said if this was approved at this meeting the conditions now go with the land. If he were the owner that does not prevent him from putting the two housing lots up for sale tomorrow. The site plan also does not show the common driveway or the change in the houses.

Rayann Dionne, Conservation Coordinator, said the language "open space" needs to be written in the deed so that it carries forward.

Mr. St. Pierre said he felt the language issue should be cleared up as this is a good deal for the Town and the neighborhood.

*Comments from the Audience*

Seth McNally, 226 Exeter Road, said the abutters are looking for 12 acres of permanent open space.

John McLaughlin, 242 Exeter Road, said he was concerned about drainage. Mr. Provencal said this is a Planning Board issue.

Jeanne Mohan, 271 Langdale Drive, said she was worried about something being built on the donated land. Mr. Provencal said this will be open space. Nothing else can be built because it will be in the deed restriction.

*Back to the Board*

**Moved** by Mr. Provencal, seconded by Mr. St. Pierre, to grant Petition 40-17 with the following stipulations: Site Plan dated 10-12-17 which is supplemented with Sheet 4 of 8, C2 Project 12149.1 dated 7-29-16 referencing squared off lots, house locations and shared driveway is the approved site plan. The land is being donated to the Town as permanent open space recreational area in perpetuity. No structures to be created. This should all be specified in the deed.

Chairman O'Brien asked the Board if they felt the five criteria had been met. All members agreed that they had.

**Vote:** 5 yes, 0 no. Motion passed unanimously.

**BUSINESS SESSION**

Attorney Saari said the applicant for 30 Cliff Avenue has requested a one-year extension. Chairman O'Brien said she does not need this as she is okay for two years.

**Moved** by Mr. Provencal, seconded by Mr. Grady, to allow the applicant for 30 Cliff Ave. to withdraw without prejudice their request for a one-year extension.

**Vote:** 5 yes, 0 no. Motion passed unanimously.

**Approval of Minutes**

**Moved** by Mr. St. Pierre, seconded by Mr. Provencal, to approve the Minutes of October 19, 2017 as amended.

**Vote:** 4 yes, 0 no, 1 abstention (Grady). Motion passed.

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Chairman O'Brien thanked Channel 22.

**Adjournment**

**Moved** by Mr. St. Grady, seconded by Mr. St. Pierre, to adjourn the meeting at 9:00 p.m.

Respectfully submitted,

Joan Rice  
Secretary