

Town of Hampton



PLAN REVIEW COMMITTEE

DRAFT MINUTES

January 22, 2020 - 2:00 PM
Selectmen's Meeting Room

PRESENT: Jason Bachand, Town Planner
Jodie Strickland, CMA Engineer
Jennifer Hale, Assistant DPW Director
Rayann Dionne, Conservation Coordinator
William Paine, Fire Prevention Officer
Mark Gearreald, Town Attorney
Cathy Gilman, Unutil (audience)
Mike Bernier, Aquarion (audience)
Richard Sawyer, Police Chief
Tobey Spainhower, DPW
Laurie Olivier, Office Manager, Planning

Absent:

19-066 95 & 97 OCEAN BOULEVARD & 25 J STREET

Map: 290 Lots: 117, 118 & 137

Applicant: McGuirk's Ocean View, Inc.

Owner of Record: Same

Site Plan (Amended): Show newly-constructed beach bar which was not addressed at initial Site Plan application/approval (see 19-009).

Waiver Request: Section V.E. Detailed Plan.

Joe Coronati, Jones & Beach and Attorney James Scully appeared with Tom McGuirk. This is about the cabana. Shanon (sp) Arthur from TMS Architecture is in the audience. Mr. Bachand said this is an after-the fact. It is with the PRC because the Planning Board sent it back here. Mr. Coronati said the cabana is next to McGuirk's Restaurant. Mr. McGuirk bought the lot next door to him. He constructed a small cabana; temporary deck area around the cabana. It is a one-story. Seating is around the bar in the front up to the front of the property. It is serviced from the kitchen. The back area is gravel. This is Phase I. He was approved from the ZBA for the first phase.

Mr. Arthur appeared. There is a phased approach to this. Mr. McGuirk did not want to build during a summer season. The intent is to have the same footprint of an open cabana. In 2019, they removed the buildings; put in a temporary cabana component. In 2020, they are looking to do updates to the cabana.

In 2021, they will begin a larger phasing of this. The north building component.

Mr. McGuirk said the elements in the first plan are similar to what they have now. He noted the cabana was built with a building permit. We had an empty lot to generate revenue. He thought it was the proper procedure. This is a temporary structure. He said they had a cabana; it was open concept.

Aquarion: They are all set.

Kathy Gilman said in 2021, they will then deal with it.

Jennifer Hale asked if this is an approved project. Mr. Bachand said this is now different even from what we talked about before. We received an Amended Site Plan application per Mr. Bachand. The cabana was constructed requiring the after-the-fact application. Mr. Bachand said the cabana should have been incorporated at the onset.

Mr. McGuirk said there will be adjustments to the final plan. They will go back to the Zoning Board with a different set of revised plans, and then come back here, and then will go to the Planning Board with those changes.

Mr. Bachand said we need to know the order of things. This project has shifted so much that Mr. Bachand is confused. Attorney Scully said the initial plan is now completely different than what is going to be considered Phase III. This temporary structure is the only reason they are here now. They will come back for the final Phase.

Ms. Hale discussed approvals for a different project; they still hold because they get two years to build a project. Active and substantial is two years. Ms. Hale discussed every comment related to that plan. Looking at this, she will only comment on the deck itself. Nothing to do with future phases. When she heard there are bathrooms, that can't be done because that can't happen until it is approved. Ms. Hale said they will come back to the PRC after that.

Chief Sawyer said the entryway was clear. He said to maintain the area (staff member) to make sure people are not walking out with drinks. The deck is a lot closer to the walkways than other properties. If someone is handing something over – other than that, there weren't issues when he responded there.

Ms. Dionne asked if the bathroom is also coming on for the next season. She asked how does that work? Mr. McGuirk said he does not want to put the cart before the horse.

Attorney Gearreald said he has not been involved in this since giving a memorandum in February of 2019. At the December 4th Planning Board meeting, his recommendation was that this was to go to the PRC so certain issues raised by new plans can be evaluated. He did a review and has comments (he handed them out).

Attorney Gearreald said when the structures we now see were built – he thinks this first needed site plan approval right there and then. The Building Department receives a lot and has a busy schedule and they don't always pick up on things. One thing is the need for that, and also they didn't pick up on that the application said it was formerly leased land - there was no deed to see what the restrictions were. There are questions about deed restrictions for the structures built.

Attorney Gearreald asked what is the relationship to the plan approved back in May. In his view, the structures on the amended plan; they were built before that plan was implemented. The earlier plan has not been recorded. We are really starting afresh. When this plan hits the Planning Board it should be "Site Plan". It's the first thing that is out there. The original approval will not be the same. The May 1st approval did not have a cabana on it; this one said there will be a cabana on it in some form. 97 Ocean Blvd shows the building. This amended (so called) has structures that are not the same as what was going to be under the May 1st plan. He wants this to be called a Site Plan.

Each time you go to change the Site Plan, file an amended site plan. There was no mention in the May 1, 2019 approval of there being any construction on an interim basis. It did have a set of existing conditions and a demolition plan. That larger plan will have a different demolition plan.

Attorney Gearreald said when it hits the Planning Board next, what is the plan for phasing was asked.

Attorney Gearreald said the variances obtained were for the structures shown on the May 1st approval. The structures are now different. He asked if any different variances are needed from what is there. The plan is different. The plan that the ZBA was shown when it granted them is different than the plan that went before the Planning Board. It was asked if the variances for the ZBA plan also apply to the second plan. It was said that the variances granted by the ZBA apply to this plan, but he does not think the Minutes from July 18th give that kind of comfort. Attorney Gearreald thinks it should be run by the Zoning Board. He doesn't want to get into the same problem. He said the ZBA should clarify the variances prior to being granted.

Signs regarding variances was discussed.

Attorney Gearreald said in February of last year he noted there are deed restrictions violated by the then plan. One is the...’no fences...ornamental fences of not more than a 3’ height...” Attorney Gearreald sees a fence and he does not know what the height of the wall is. **The Board of Selectmen should be approached for a modification.** Deed restrictions –there have been problems, when banks go to finance or if there is a sale, if a deed restriction is shown, banks are picking up on it; closings are delayed.

Attorney Gearreald discussed the second one “...all outbuildings other than a private garage...attached to the house”. Attorney Gearreald said if it is connected at all to the main structure it is a deck that occupies (occupies entire perimeter of cabana), so if they connect physically, it may be violated. The spirit of that restriction should be adhered to. **It should be modified through the Board of Selectmen.**

Solid waste pick up—the amended site plan notes that certain number of containers were going to be involved. **Selectmen said 10 containers allowed. The Note is wrong.**

Attorney Gearreald said a repeat (note 14) sidewalk....will be repaired. The Town does not own that sidewalk. If there is damage, State approval will be needed.

Attorney Gearreald said under “Notices” there are condominiums that are abutters. Some times every owner is listed. On this list, only one person each was noticed. I know it is a hard subject. Joe Coronati said he cut it down to three. Town records never reflect who current officers are. Mr. Coronati asked if a mailing can be sent to the Association.

With an incorporated association there could be help. Maybe in the condo documents. Maybe we should require them to have a registered agent for service.

Mr. Bachand noted Attorney Gearreald’s comment that we need the application to be a straight site plan application. Abutters have to be re-noticed again and re-hear it. Attorney Scully asked if the first site plan would be vacated. Some stipulations will remain. Attorney Gearreald said where first one is not implemented, this is the first site plan. Site plan one will still be in place per Attorney Scully. If this is the first site plan, we lose the first site plan. He wants it to be an amended site plan (per Attorney Scully). Attorney Gearreald said because of what was done here, what was represented on the first application is not what happened. It is what will happen. Attorney Gearreald said not necessarily. The May 1st approval is occupying much of this site without the cabana.

Mr. McGuirk said the final product will be more in line with the first site plan. It’s not in the same location. There will be new set of drawings.

Attorney Scully said there is a temporary structure in place, albeit with changes. He wants to preserve what was approved in May.

Attorney Gearreald said what was built is inconsistent with the May approval; it's different in terms of variances. Variances for setbacks were given for a building in different locations; now they are being given for, they are needed for a wall.

Ms. Hale said – does the wall need any variances, with the way it is built right now. One variance in total for the structure of the deck that was pulled back by 4 feet was discussed. They went back for clarification for the deck's location, the variance originally would work on that. Attorney Gearreald said the Minutes don't satisfy that. Different plans that were given to the Planning Board than were with the ZBA was discussed. Can a plan be amended before you finalize the first one was asked. You can. Ms. Hale asked what is temporary. Attorney Scully said temporary can be defined. Ms. Hale said for the applicant to figure out what he's doing. What your doing has to come back here as a site plan. You can't change where the door is and egress. They all get looked at as part of the review. What he should have built is what was approved. When we have a preconstruction meeting, it is for what is to be built.

Ms. Hale said from a PRC perspective, the comments today are on the deck that is built. We commented to death on the first plan in May.

The May 1st approval has a certain life span; there was no sequence back in May that matches what was done. Per Attorney Gearreald, you can't build that approval without going to amend it.

Ms. Dionne asked how long the site plan good for. Mr. Bachand said they have one year from the date of the approval to meet the conditions – get it signed by the Chairman. They can request an extension prior to May 1st deadline Two years is active and substantial; after the plans are recorded.

Ms. Hale asked if the voluntary lot merger is completed. No, per Tom McGuirk. Ms. Hale said the variances are not relevant to this plan. Clarification occurred on a certain date. **A note about the bar being temporary should be on the plan. A Phasing Plan should be clearly described on the plan.** Ms. Hale said there is not a third Phase. Lot Merger is the first note – C1. This plan gets recorded per Ms. Hale.

Ms. Hale discussed the sink; water goes somewhere; she discussed the sewer disconnect. Mr. Spainhower did not do any sewer connections. Ms. Hale asked if they excavated and went down the wall. Mr. Spainhower said the sink on the lot for 97 is tied into 95. Has it always been tied into 95 was asked. No per Mr. McGuirk. It was for this project. Mr. Spainhower said it's above ground. **Ms. Hale said it will need to be documented.** There are two sewer services per Ms. Hale. She said they would not cross two properties together; even if yes, they are both owned by Mr. McGuirk. It still needs to be cleared up. Mr. Spainhower said that is not something we will allow.

Ms. Strickland asked if a bathroom can be shared with a lot that is not part of the property. **Lot 95 needs an easement to allow access. If Lot Merger is recorded, problem solved.**

The wastewater development charge was discussed by Ms. Hale. Mr. Coronati needs to see what is approved; what was existing. This phase has additional flow. Ms. Hale asked how 25 J Street comes into this; it is part of the prior approval.

Ms. Strickland asked also if lots are merged; it needs to reflect what is there. **A narrative of the project will be helpful.** She said a waiver for the detailed site plan is being asked for; she does not like that. What is happening with stormwater was asked.

Ms. Strickland asked about the stormwater plan; now we are in an interim plan for the first phase. Ms. Hale asked how the back lot is left; it is just gravel.

Bill Paine (Fire) - he is all set.

Mr. Coronati asked if first application should be finalized and have that plan be recorded to meet the conditions, etc.

Mr. Bachand said he and Attorney Scully and Attorney Gearreald can all figure that out.

Ms. Hale asked this to be a site plan approval what it is, she said, is a phased site plan. It was noted they could maybe put this sheet (cabana – Phase I) in with the other full plan set – call that Phase II. It’s need to be seen what will be approved and that’s the set that gets signed and recorded. If it’s phased, put it in (that it is a phased project).

Attorney Gearreald agreed and said to re-open what they got approval for.

Mr. McGuirk said the cabana was so successful that it gave pause to think the future project needed adjustment.

Ms. Dionne said to follow through on the Lot Merger. There will be another variance triggered. Make sure that is complete when the plans are amended.

It was noted to reopen the May 1st approval and do that showing all the Phases. He can file the application by February deadline, with phasing shown – temporary cabana = Phase I and larger project = Phase II. Go back to the Board with that in March, if ready.

Ms. Dionne asked how the bathroom works. They are putting in a bathroom in the spring. Ms. Dionne doesn’t want him to get tripped up timing wise. One that has bathrooms with one that does not have bathrooms. Anything other than cabana, they come back.

19-067 55 HARBOR ROAD

Map: 295 Lot: 1

Applicant: Hampton River Marina, LLC

Owner of Record: Hampton River Marina, LLC

Site Plan & Wetlands Permit: Amend condominium development to provide 26 condo units in two buildings & maintain marina use on the property. Proposed units to receive marina slips. Slips to be rented to the public.as well.

Mr. Joseph Coronati, Jones & Beach, appeared. There were many questions about how the operation would continue. It is a year-round operation. He added detail to the plans. They outlined where boat storage is going; condominium lines. They added a condo site plan. They added one additional parking place. All parking is around the building.

Ms. Strickland said she did not get that from the plans. It will be outlined in the condo documents. The rest of parking spaces are for marina use.

They modified Fellows/Harris information. Mr. Coronati asked if Harris includes parking. It is 32' wide on Harris. Mr. Coronati asked how much striping they want.

Chief Sawyer asked if the back gate would be opened up. No. It' is emergency access only. Ms. Hale can see what parking is there.

Attorney Gearreald asked how wide the pavement is – it's about 32'. Chief Sawyer (Police) said signs are up that residents are hanging up. Neighbors put signs up which violates the Town Ordinance.

Aquarion. All set.

Unitil: All set.

Ms. Dionne asked if there is any way to not have them outlet into the ocean. Pull it back and have a vegetated area. Provide a dry well. Mr. Coronati said he does not want to be below the high tide line. Ms. Dionne is looking for treatment. The Commission may want that. 18' parking spots were discussed.

Attorney Gearreald discussed alignment of Harris and Fellows; is it satisfactory. Ms. Hale stated "yes".

Problems with the deed are being dealt with; the applicant sent them to Attorney Peter Saari. The applicant is getting drafts of condo documents. **Everything will be ready before going to the Planning Board.**

Attorney Gearreald discussed the intersection. The applicant said once they are with the Planning Board they want to build that first so the traffic pattern is established. **Attorney Gearreald said this should be a condition of the approval.**

It has to be bonded before getting final approval.

Mr. Coronati wanted to know if the pavement should go to the property line. **Ms. Hale will take a look.**

Mr. Bachand said we are receiving many letters from Harbor Road residents. There are concerns of construction vehicles, traffic and safety. He asked for a bore test of Harbor Road. Harbor Road is a private road per Ms. Hale. Ms. Hale understands concerns and we should see it from a safety standpoint. The applicant said the road will stay intact. The applicant said it could be part of an off site bond.

Mr. Bachand discussed the architecture of the building. Boxy style. The Planning Board will likely comment on it because of Architectural and Site Designs guidelines.

Ms. Hale discussed clarifying Notes 19 and 21 on G1. The duplex may be moved or revised due to the transformer. It is close to the transformer. It needs to be shown on the plan. It needs to be shown prior to the final approvals. Ms. Hale wants to see what is going to be built. If the duplex is moved; get it on the plan.

The 17' parking easement was asked about. What is it to and what is it for was asked. Mr. Earl; abutting land owner. He received an easement in 2005. **This needs to be finalized prior to approvals per Ms. Hale.**

Ms. Hale asked about the dumpster location. It appears a resident may have one in her back yard. That would not be good. Mr. Coronati does not know where to put it. The dumpster is for the condo users. The concrete pad being in the building setback was asked about by Ms. Hale. She does not like the dumpster location. **Mr. Bachand said we'll take a look at that.**

ADA allows 8' spaces.

Ms. Hale said they need more construction noting. Where the driveways will be needs to be shown.

Ms. Hale asked about sewer on Fellows. Did they do it originally was asked. The applicant said they ran the sewer line in; one will be abandoned. Adding 24 condos to an old clay pipe was discussed. Ms. Hale said it never gets better. She asked the applicant to work with Mr. Spainhower and get cameras in there.

Mr. Spainhower asked which was being abandoned. Mr. Coronati said both manholes will be kept. Mr. Spainhower asked why the manhole has to be kept. Manhole 20-92 (most westerly). Getting rid of the manhole was discussed.

Traffic control gate needs to be updated per Ms. Hale.

Note 23 needs to be revised. Do up 'flow' stuff and put it on the plan.

"Their expense" was mentioned in a few letters. If something is damaged in the building, there must be some coverage per Ms. Hale. An off-site improvements bond will cover any potential damage to the road per the applicant. A Hold Harmless will also be drawn up. This is a shared access road.

Ms. Strickland discussed the sewer manhole; she wants to see them on Sheet C5. The size of the existing utilities was discussed. The legend on the cover should be updated. Test pit information should be on the plans. Infiltration test being done was asked.

Ms. Strickland said note 7 – not for construction purposes, take it out or edit it. Hatching for snow storage and gravel and eco rasters are the same; they should be differentiated. Construction sequence does not apply.

Bill Paine (Fire) – road has to be a minimum of 20' – access road. Mr. Coronati said they are not narrowing that road.

Mr. Bachand stated the resubmittal deadline is February 5th: The Planning Board meeting would be March 4th, pending receipt of information and further comments.

They also have to go through the Conservation Commission first. That is February 25th. Mr. Coronati said wetlands and shoreland information will both be distributed.

46 ASHWORTH AVENUE

Map: 287 Lot: 4

Applicant: AF Hospitality, LLC

Owner of Record: Same

Site Plan: Demolish front section of building and erect new building. Demolish second dilapidated building and construct new building. Waiver Request: Section V.E. Detailed Plans.

Mr. Henry Boyd, Millennium Engineering, appeared with Al Fleury and Attorney James Scully. This used to be the Colony Hotel. Ken Woods, Architect is in the audience. Henry Boyd said he did not print the existing conditions sheet for this meeting. The current L-shaped building is within the building setbacks. The building to the south will be pulled back. They will meet the setbacks. It was noted 92 percent of the site is sealed surface. They are in the floodplain. The current site has 49 units; 32 spaces will comply with 9' x 18'. Nothing is currently striped. Two spaces will be ADA compliant. The dumpster was shown. Mr. Fleury said it can be trucked off site, but there needs to be a space to store trash in the meantime.

Mr. Boyd discussed the pass through (under the building). Site distance issues were discussed. Will the new building give an issue was asked. Ashworth Avenue is southbound only; then the road radiates to the east. The grass area could be stone.

The architect discussed the portion through the pass through. There might be steel and glass. They are multi-units. Attorney Scully said he, the Fire Chief and Bill Paine – after discussion, came to an agreement that citizen safety is #1. Above the archway will be non-combustible material. It will be a steel crosswalk. Fire drive from west to east was discussed; fear would be a fire truck underneath (pass through) would not be able to egress. There will be no living space above the archway. Mr. Fleury said the footprint won't change.

Mr. Paine said this just happened yesterday afternoon. What we are requesting is this is only an access point. Wind from the west will overtake the building. Mr. Paine said Mr. Fleury wants to keep the continuance of having the two buildings connected. ADA spaces can enter that section of the building. Non-combustible material again, was discussed.

Ms. Dionne asked about no living space over the archway. A garage under was asked about (different application). Bill said they were accessing a parking lot. In this situation, they are accessing a building with people in it.

Attorney Scully said all fire suppression systems will be put in place.

Kathy Gilman – Unitil. There is a hole in the property. Stub pole that holds C Street. Line going down C Street was discussed. How will it be serviced with the building coming out to the street was discussed. She asked where will it go.

Aquarion – they are in the same boat. They need a site meeting.

Existing building will be sprinklered.

Mr. Spainhower asked about utilities. On the proposed plan – utilities. It was noted by Ms. Strickland there are no proposed utilities. There is no proposed sewer being shown. Mr. Boyd said they are showing existing. Mr. Boyd has to work with Ken (architect). There are two sewer stubs. Mr. Spainhower said he's missing one because there are

three. Which laterals will be used was asked. Show unused lateral to remain capped. Shouldn't need 3. Show clean outs at property line. Have lateral detail. Mr. Spainhower asked if this warrants a utility plan. Mr. Spainhower said to show existing and proposed water and proposed and existing gas. SWL is in two spots; it is a fog line per Mr. Boyd.

Mr. Boyd shows 3 water shut offs. We need to talk to Mike Collins about those things.

Mr. Spainhower said to show where the proposed fire services and gas is going in. Notes for sewer connection permits; inspection process. A lot is proposed, but for utilities we have nothing to review.

Ms. Dionne asked about the Town wetland permit; there is a tidal wetland out there. Show where the 50' buffer may extend on the property. She wants to see deck encroachment at the rear. She wants it corrected – it extends onto Town property.

Ms. Dionne said it's in the flood plan – substantial improvements. NFIP said it appears because they are in an AE Zone that if significant improvements are made, both it and the addition need to be elevated. She has email into Jennifer Gilbert. Ms. Dionne gave Mr. Boyd a copy of the paperwork. Mr. Boyd said he was concerned about this early on. He noted elevation 9. And 10.1 was the range. Sometimes there is a slab elevation. It is on a slab. Mr. Boyd thought the floor had to be elevated to 10. Mr. Boyd said it meets FEMA. Ms. Dionne said we had something happen at end of September – it includes one foot of freeboard. 9.7 feet does not meet Hampton requirements per Mr. Boyd. Ms. Dionne said they will have a building code issue.

Mr. Fleury said he spoke with Ms. Dionne and Mr. Schultz. That was the plan and that's why they kept the structure the way it is. Ms. Dionne discussed the dorsal elevation could be changed.

Ms. Dionne said if they find that part of the structure is in the 50' and it is a substantial improvement, but wetland regulations discuss elevations on pilings. Mr. Boyd said it would be impossible. Ms. Dionne said find out where they are.

Mr. Boyd said the 50' comes in on this. He knows a lot needs to go on this plan. Ms. Dionne said he may want to meet with Conservation Commission. Mr. Boyd is meeting with Eban Lewis on Friday as well.

Ms. Dionne discussed substantial improvement – he needs to look at impervious coverage – it needs to be down to 75 percent. Maybe rear spots can be permeable.

Attorney Gearreald gave out information. Looking at deeds, the first deed from the Furden Estate to ZJBV Properties. Three lots are conveyed. Now there is a warranty deed to AF Hospitality LLC (current owner). This not only conveys three parcels, but it purports to convey all adjacent streets alleys, rights of way...gores of land. Attorney Gearreald doesn't see anything that corresponds to that statement.

Mr. Boyd said he hadn't had an opportunity to get the deed to Mr. Fleury. He thinks there could be something wrong with the deed.

Attorney Gearreald likes that the encroachment is pulled off of Ashworth Avenue.

Attorney Gearreald discussed the encroachment on the west side of the building. Seven (7) feet on Town property. There's an encroachment on the Dolphin Hotel also. They pay rent. Attorney Gearreald said the Dolphin pays like \$300/year. He said the Board of Selectmen may want to do something.

Mr. Bachand said they requested a waiver request of the detailed plan. **It is a very large project and we should have a full detailed plan set. Mr. Bachand does not support the waiver request.**

There should be an O&M Plan and Stormwater Plan.

Mr. Bachand said elevations show east and west profile; we want to see north and south also.

Height of the proposed building was asked. It is 68'1". This is in BS1; 70' is allowed. The Zoning table should show what is required and what is proposed.

The surveyor stamp is needed.

Parking – 1 space for first 330 s.f sleeping area—what are the sizes of the units and how is parking affected. We want that in chart form. Ms. Hale said we need it for sewer also. Currently it's 49 units; they are dropping it to 41.

Attorney Sculley said parking has worked. Mr. Fleury is reducing the amount of rooms. They want ADA requirements to be met.

A variance may be needed for parking.

There's utility space; just office and hotels.

Ms. Hale asked where the home port is – where is lobby was asked. Left front.

Existing lot is open; one curb cut. Sidewalk needs to be rebuilt to be continuous.

Detectable warning plate.

Ms. Hale said she needs plan details and notes.

Proposed pervious pavers were discussed. Mostly underneath. Make sure it is clear. Grass probably won't work; sea grass could or stones.

Where the pool is, there is a fence – whose fence is it was asked. Mr. Boyd said there is Japanese Knotweed. They will replace new fence along the northerly boundary.

It was noted the opening under the archway has to be at least 20' wide (per Bill Paine/Fire). Ms. Hale wants it larger because of cars and pedestrians. If the lobby doors are not on Ashworth Avenue, they will come down the sidewalk and they'll be in a contained driveway. The narrowest point is 22.1 per Mr. Boyd.

Ms. Hale asked about the bar area, laundry room, etc.

Change “Minimum” to “Maximum” sealed surface on the plan.

The bar will not be open to the public, just for guests.

Ms. Strickland wants to see the sheet and legend; sheet needs to be stamped by engineer.

Pools need to have fences.

We need another PRC on this one. February 5th is the next resubmittal deadline. It would get them on for the February 26th PRC. Otherwise, the next deadline is March 11th for the March 25th PRC meeting.

Adjourned 4:40 p.m.

Laurie Olivier
Office Manager/Planning