

**HAMPTON PLANNING BOARD**

**MINUTES**

**May 4, 2022 – 7:00 p.m.**

**PRESENT:** Tracy Emerick, Chair  
Ann Carnaby, Vice Chair  
Sharon Mullen, Clerk  
Keith Lessard  
Alex Loiseau  
Brendan McNamara  
Richard Sawyer, Selectman Member  
Jason Bachand, Town Planner  
Laurie Olivier, Office Manager/Planning

**ABSENT:**

**I. CALL TO ORDER**

Mr. Emerick commenced the meeting by leading the Pledge of Allegiance and introducing the Planning Board members. Mr. Emerick noted that the applicant for 15, 9 Island Path/24 Ashworth Avenue has withdrawn.

Mr. Emerick noted that the applicant for 28 Nor'East Lane wishes to be continued to June 1, 2022.

**MOVED** by Mr. Lessard.

**SECOND** by Ms. Carnaby.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

Mr. Emerick noted the applicant for 141 Island Path wishes to be continued to June 1, 2022.

**MOVED** by Mr. Lessard.

**SECOND** by Ms. Carnaby.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

Mr. Emerick noted the applicant for 88 Glade Path wishes to continue to July 6, 2022.

**MOVED** by Mr. Lessard.

**SECOND** by Ms. Carnaby.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

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#### II. ATTENDING TO BE HEARD

- **Jennifer Rowden, Rockingham Planning Commission – Discussion of Draft Amendments to the Aquifer Protection District Ordinance**

Ms. Jennifer Rowden (RPC) made some amendments to the original proposal based on feedback from the April 6<sup>th</sup> meeting and a conversation with the Planning Office. She had asked how the Board may be dealing with other authorities in current regulations. She reverted them back to the way they were. Conditional Use Permits will remain the same. The Zoning Board will deal with variances.

Ms. Rowden discussed district boundaries. Item 3 was regarding amending maximum lot coverage. There may be consideration for non-residential lot surfaces.

Modifying the list of permitted and prohibited uses was discussed.

Increasing performance standards was discussed.

Ms. Rowden discussed the maps. Active public water supply wells were discussed. Wellhead protection areas were discussed. Some public water supplies do not have wellhead protection areas were discussed. Serving a large population continually is how it is established. Carl McMorran's strongest comment was to have the Board do the stratified drift if nothing else. It would apply to the entire Aquifer Protection District.

Amending the boundaries will give added protection.

Mr. Emerick asked if we are undoing the Hampton pink part (the existing Aquifer Protection District as shown on the map). Our Aquifer Protection District covers Aquarion's wells and wellhead protection areas only. That is our district. If we expand it to include the entire stratified drift aquifer, it would also cover what is shown in blue on the map.

Where is the North Hampton overlay was asked. Ms. Rowden noted North Hampton updated their Ordinance last year. They included the entire wellhead protection area on Mill Road and west area. All Aquarion wells in North Hampton are protected. Ms. Rowden can help us through the amendment process. She will help us through the end of May/June for the grant portion.

On-site private wells do not have protection. Increasing the area helps protect wells, but not every well. Testing can occur upon real estate transfers (one idea). Most egregious uses are not in Hampton.

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Potential contamination sources were discussed. Automotive, dry cleaners, gas stations, photo processing.

Mr. Lessard asked about “P”. Campgrounds are open for more than 60 consecutive days, i.e. like Tidewater. Why that amount of people living on that site with on-site waste disposal was asked about. Mr. Lessard struggles with that amount of population not having a protective radius. Ms. Rowden said they are defined by the State. It is a non-community transient public water supply. It does not have a wellhead protection area.

Car washes can be a contamination source. It can be added on to a Conditional Use Permit list or under prohibited uses. Most go with a Conditional Use Permit.

Rising sea level was asked about by Ms. Mullen. How is the Aquifer impacted by this was asked. Ms. Rowden said the intrusion has not been mapped to a definitive degree at this point. Some basic mapping has been done. Saltwater intrusion is a concern closer to the coast. Treating stormwater is a problem. It can be added in the future when there is more information. The DES is working on groundwater rise levels.

Will freshwater rise and spread was asked by Ms. Mullen. Ms. Rowden does not have this knowledge. Ms. Carnaby asked why we would not want the maximum protection. Ms. Rowden said there are competing interests.

Well protection areas can't go into neighbors' properties per Mr. Emerick. Mr. Lessard said south of Exeter Road and southeast of Timber Swamp -there is no public sewer area nor an aquifer to protect.

Ms. Rowden said stratified drift wells are where we get the bulk of our water.

Expanding the district or not was discussed. It does not have to be decided tonight. **Mr. Lessard asked if we should have public hearings.** Before we go too far down this road, we should make this available to the public. It was noted that as part of the public hearings (for Zoning), we get input. Everyone agreed it is useful for Ms. Rowden to move forward to just structure it.

Ms. Mullen thinks we should be as protected as we can. Ms. Carnaby agrees. Mr. Lessard wants public input before deciding. Mr. Bachand said we could do a public meeting. Mr. Lessard would like Ms. Rowden here to work through the difficult questions. North Hampton did a public information session. It was on the Town website. Ms. Rowden could come back in that timeframe.

Ms. Carnaby asked how precise a decision is needed for guidance for which kind of ordinance structure she (Ms. Rowden) develops.

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Uses would be grandfathered. This does not change the percentage; it just covers more residential properties. Most of this applies to non-residential uses.

Mr. Bachand discussed non-residential uses. If certain higher standards are met, they could go above the maximum permitted in this proposal. Should we consider the same for residential uses was asked. Ms. Rowden said we could consider this.

Ms. Rowden discussed stormwater treatment.

**Mr. McNamara discussed having a 45-minute informative meeting during one of our second meetings of the month.**

Mr. Bachand discussed highest standards. It does not mean this version is what we will end up with. It was agreed to let Ms. Rowden do what she needs to do for her grant.

Ms. Rowden said to go to the maximum protection. Start with everything on the map, but not the entire Town.

Ms. Carnaby wants to start with the maximum protection.

There is a program through DES where BMPs or potential contamination source risks are inspected on an annual basis. It checks on storage of hazardous material. Best management practices. Hampton does not have compliance officers now.

**It was noted this should be addressed with the public at the second meeting in August.** This can be called in as well. Ms. Mullen asked about assistance/assistants. Insurance and lowering rates were discussed – if it is a possibility.

Mr. Bachand said voting board members can call in or a presenter, but the public cannot call in. Ms. Rowden said if there is a public information session, maybe that could change. We can explore this.

- **Shaun Sullivan (Brayton Energy – 65 & 75 Lafayette Road) – Progress Report**

Mr. Sullivan appeared. Part of the approval included stipulations to have site improvements. At the Planning Board's December meeting, it was noted they needed to address site improvements. He discussed the checklist of improvements. The sign has been improved. The construction fence area is more aesthetically pleasing. Planters have been added. Electrical components were discussed. Boxwood bushes are installed. Annuals will be planted in the boxes. Groundskeeping cleaned up the area. They plan to put down yards of gravel. They will paint some of the structures. They will organize the wires. They have had flooding.

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**Mr. Emerick said to check with the Conservation Commission before putting gravel down.** They have previously spoken with the Conservation Commission. Mr. Emerick said it looks much better. Ms. Carnaby agreed.

Ms. Carnaby appreciates the thought and the effort. She discussed boxes and cement barriers and painting them. She would rather they not do that because paint will wear off and it will get dirty from road salt. It was noted it will be easier to maintain if they don't paint it. Other Board members agreed.

Ms. Mullen discussed putting something out to the Town announcing for people driving by what Brayton does (on their windows). Many people do not know what Brayton Energy does. Mr. Lessard thanked them for the follow through.

**They need to come back for another progress report in May of 2023.**

**III. NEW PUBLIC HEARINGS**

**22-014 28 Nor'East Lane (CONTINUED TO JUNE 1, 2022)**

Map: 99 Lot: 4

Applicant: Sweet Nectar, LLC

Owner of Record: Same (Michael Kettenbach, Member)

Wetlands Permit: Rehabilitation of existing single-family dwelling, including numerous components for environmental mitigation.

**22-015 141 Island Path (CONTINUED TO JUNE 1, 2022)**

Map: 281 Lot: 44

Applicant: Vincent Kennedy

Owner of Record: Vincent & Elizabeth Kennedy

Wetlands Permit: Construct addition to the house and replace an impervious patio with a pervious patio. New addition is 1,365 s.f.; new patio to be 306 s.f.

**22-016 88 Glade Path (CONTINUED TO JULY 6, 2022)**

Map: 272 Lot: 1

Applicant: Nicholas Kafajelis

Owner of Record: Same & Lisa Kazakis

Wetlands Permit: Construction of 16' x 8' deck (4' off the ground) utilizing permeable decking.

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**22-017 35 Dumas Avenue**

Map: 267 Lot: 11

Applicant: Kevin McDevitt

Owner of Record: Same & Maureen McPadden & KMM Trust of 2017

Driveway Permit Appeal: Permit was denied by DPW due to pavers in the ROW and & addition of a second driveway.

Mr. Mark Olson appeared. He was asked to make changes to their driveway. It was denied by the DPW. There are two cars just off the edge of the road on Dumas Avenue. It is in the right of way. This lets two cars park off the street. They did driveway curb cuts. He wants to add pavement, a cobblestone product. It won't track up and down the roadway like the stone that is there now. They previously asked for a variance (waiver) for concrete pavers in the Town right-of-way (for the constructed paver driveway).

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Mr. Lessard said the applicant does not own the parking spaces. The applicant realizes that. If anyone shows up and parks there, it is public. There is a utility pole there that restricts also. Paving in the right of way to create two illegal parking spots was noted. Mr. Emerick said we can't give approval for parking spaces in the Town right-of-way.

Mr. Lessard wants grass there. We have had issues with 2<sup>nd</sup> Street and it's challenging. Ms. Carnaby said there is a garage with one car. Mr. Olson said they can park about 6 cars; it is about aesthetics. People jog there and walk there. Ms. Mullen said why don't they do landscaping, i.e. shrubbery.

Is that a no parking area on the street was asked by Mr. Sawyer. If we allow this, it's going to show it's okay to park in the Town's right-of-way. Mr. Lessard said maybe the Board of Selectmen should be consulted.

**PUBLIC**

**BOARD**

Mr. Bachand discussed the curb cut and why it was interpreted as such. There would need to be a hold harmless agreement. The Town may also need to be an additional insured on the homeowner's policy. They would have to go to the Board of Selectmen. It is really a parking space.

Mr. Bachand discussed his memo. The driveway regulations were discussed, and the waivers needed. It was noted this is closer than 2' from property lines.

Mr. Lessard said if we sent a precedent, we are going to be seeing this all the time. The front of the property to park was discussed. It could be a police enforcement issue. Mr. Lessard cannot support this. Use something else other than pea stone. He reminded the Board that it had trouble on Campton.

Mr. Emerick said it is defined as a curb cut. Mr. McNamara said we look at them on an individual basis.

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**MOTION** by Mr. McNamara to grant the appeal along with the conditions contained in the Town Planner’s memorandum dated May 4, 2022. They also have to do their diligence with the Board of Selectmen. The Board determines this is not considered a driveway/curb cut. It is defined right now as a driveway in the right-of-way.

**SECOND** by Mr. Loiseau.

**VOTE: 3 – 3 (Lessard, Carnaby, Mullen) – 1 (Sawyer). MOTION FAILED.**

Mr. Sawyer stated since it fails because of a tie, he wants to change his mind.

Mr. Sawyer changed his vote to “in favor”, noting it is not a curb cut and that the Selectmen will need to see it.

**VOTE: 4 – 3 (Lessard, Carnaby, Mullen) MOTION PASSED.**

#### 22-018 603 Lafayette Road

Map: 126 Lot: 56

Applicant: 603 Lafayette Road LLC, Derek Fisher, Member.

Owner of Record: Same

Site Plan (Amended): Construction of a permanent outdoor dining patio consisting of a 160 s.f. structure for food and beverage service, a 544 s.f. wooden beam canopy, and a total of 36 outdoor seats.

Waiver Request: Section V.E. Detailed Plans.

Chris Rice appeared, TFMoran. Derek Fisher is present also. They want permanent outdoor dining. They did have an outdoor dining area during COVID times. He wants to make this permanent now. They don’t intend to keep the container (bar unit) red. They want the colors to match the building. Maybe a lighter beige color, similar to what is there. A stamped concrete area is proposed. ADA parking spaces were shown. There is a canopy as well. There will be 36 outdoor seats. No proposed changes to impervious surfaces. The foundation for the bar will be permanent – a concrete pad. No variance is needed.

They will work with staff on the canopy. There will not be outdoor live music. TV’s will be on during sporting events. No new sound systems. **That will still need an entertainment permit per Mr. Sawyer.** Trash pick-up will remain private. A right turn only sign will be added with arrows.

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Mr. McNamara asked what they will do with the container. Mr. Fisher said he will paint it to match the existing building or wrap it in wood material to make it look more natural. The windows will open up for service.

Mr. Lessard asked if there will be a firepit. “No” was the answer. People being hit (patrons) – having a barrier to prevent cars from making it through into the patio area was discussed. Mr. Fisher said they will make it safe and there will be a fence for the boundary also.

#### PUBLIC

David Dawson from Ocean Glass appeared. He noted the applicant has been a great neighbor. It is taken care of very well. It is maintained very well.

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Mr. Bachand discussed his memo and suggested conditions. He can work with them on the canopy. Mr. Fisher noted the container unit has air conditioning and it has fans. It is fully wired and has water plumbed throughout. Mr. Bachand said if the Board wishes to approve the project, he recommends include the conditions in his Memorandum dated May 4, 2022, with an additional condition to add bollards or planters for safety to protect patrons in the patio area from vehicles.

**MOVED** by Mr. Lessard on the waiver request.

**SECOND** by Mr. McNamara.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

**MOTION** by Mr. Lessard to approve the Amended Site Plan with the conditions contained in Mr. Bachand’s Memorandum dated May 4<sup>th</sup>, and adding bollards or planters for safety.

**SECOND** by Ms. Carnaby.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

**22-019 15 Island Path, 9 Island Path &  
24 Ashworth Ave (WITHDRAWN)**

Maps: 282 (for all) Lots: 80, 81 & 122

Applicant: Raymond Blondeau.

Owners of Record: Same (15 Island Path #1 - #6) & Chat Chew & Play LLC (9 Island Path and 24 Ashworth Avenue) & Ronald & Joan Trafford (15 Island Path #7).

Lot Line Adjustment: Transfer of approximately 3,576 s.f. of land in total from Maps 282, Lots 122 & 81 to Map 282, Lot 80.

Waiver Request-Section VE Detailed Plan.

**22-020 36 Beach Plum Way**

Map: 134 Lot: 58

Applicant: Paul and Julie Hurrie

Owner of Record: Same

Driveway Permit Appeal: Driveway Permit denied due to greater than 24-foot width.

Mr. Olson appeared. These applicants purchased the property and did a significant renovation. Landscaping is all that needs to be done. It is one 50’ opening. They want to repeat that. Beach Plum Way is a narrow, dead end. It is 9’ wide. Having room to access the property is good. This was an asphalt paved area and now has stone on top. They will use permeable pavement. The Driveway Permit was denied by DPW because it is too wide.

Mr. Lessard asked how blowing sand off the coast will affect the porous pavement. On the back side there is native vegetation. Mr. Olson can’t speak specifically on this. Mr. Lessard asked about vacuuming annually. We don’t have a maintenance program for all residential applications. **We could work on this. Mr. McNamara said we should.** We have O&M plans on larger projects/commercial.

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Mr. Bachand said the Conservation Commission are talking about this. It is on their radar. Mr. Lessard said they are bringing up that there is a decrease in impervious surface; that is why he is noting this.

Mr. Olson said we are discussing the width of the opening.

Ms. Carnaby asked why there can't there be some narrowing of the minimal opening at a point along the property. Mr. Sawyer said there could be. Mr. Sawyer does not want to punish someone who bought it (the house) this way. These people are asking for permission, doing it right.

Ms. Mullen was down there recently. It would be difficult to maneuver because the street is very narrow. It was noted to make sure the pavers are on the applicant's property, and not the abutter's. There needs to be 2' on either side, but the Board can waive this per Mr. Bachand. In the Driveway Regulations it says you have to be 2' from the neighbor(s) property line.

**PUBLIC BOARD**

Mr. Bachand thinks this request makes sense. It is an improvement over the existing conditions.

**MOTION** by Mr. Sawyer to grant the appeal and have the driveway go from property line to property line, and along with conditions in Mr. Bachand's Memorandum dated May 4, 2022.

**SECOND** by Mr. Loiseau.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

**IV. CONTINUED PUBLIC HEARINGS**

**V. CONSIDERATION OF MINUTES**

**MOVED** by Mr. Loiseau to accept and approve the April 20, 2022 Minutes.

**SECOND** by Mr. Lessard.

**VOTE: 5 – 0 – 2 (Mullen & Sawyer) MOTION PASSED.**

**VI. CORRESPONDENCE**

- **Presentation to the Planning Board (May 18, 2022 @ 7:00 PM): Seacoast Transportation Corridor Vulnerability Assessment and Plan**

Mr. Bachand discussed the above. At the April 20<sup>th</sup> Master Plan Steering Committee, the presentation by Dave Walker to SHEA regarding the vulnerability assessment was brought up. **Mr. Bachand reached out to Mr. Walker and he can present at the Planning Board's May 18<sup>th</sup> meeting. Mr. Bachand is inviting Town Staff, the Master Plan Steering Committee, the Zoning Board, and others to attend.**

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**VII. OTHER BUSINESS**

Ms. Carnaby discussed working with the HBAC. A press release was sent out. By RSA the HBAC is responsible for developing and maintaining a Master Plan for the beach area. It is a revision of a portion of the existing Master Plan. Transportation was done a couple of years ago. Construction should begin on Route 1A next year. This work will be on the coastal resilience and environment portion of the Master Plan. GEI Consultants have been hired. They are working with them at the firm's Portland office. They have 44 offices nationwide. She discussed their credentials. They are highly qualified. GEI is very excited to work with Hampton Beach. They have done work with Portsmouth. May 26<sup>th</sup> is the next HBAC meeting and their Project Manager, Travis Pryor, will be attending that meeting. All are welcome.

Mr. Emerick discussed that a \$150,000 study is going on for a Pier in Hampton. It could coordinate with the above project. It's a plan. It's a study for the plan. It's not final yet per Mr. Emerick.

Mr. McNamara discussed discouraging remarks about Hampton's Planning Board by a former Selectboard member. He noted her comments were just not right. Mr. Sawyer said to take it from the source.

**VIII. ADJOURNMENT**

**MOTION** by Mr. Lessard to adjourn.

**SECOND** by Mr. McNamara.

**VOTE: 7 – 0 – 0**

**MOTION PASSED.**

**MEETING ADJOURNED: 9:01 p.m.**

Respectfully submitted,  
Laurie Olivier, Office Manager/Administrative Assistant

**\*\*PLEASE NOTE\*\***

**ITEMS NOT CALLED OR IN PROGRESS BY 10:00 P.M.**

**MAY BE CONTINUED TO THE NEXT SCHEDULED MEETING**