

HAMPTON PLANNING BOARD

DRAFT MINUTES

June 1, 2022 – 7:00 p.m.

PRESENT: Tracy Emerick, Chair
Ann Carnaby, Vice Chair
Keith Lessard
Sharon Mullen, Clerk
Brendan McNamara
Alex Loiseau
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.

It was noted that the applicant for 67 Mooring Drive wishes to continue to the Planning Board's July 6, 2022 meeting.

MOVED by Mr. Lessard.

SECOND by Mr. McNamara.

VOTE: 7 – 0 – 0

MOTION PASSED.

It was noted that the applicant for 124 Kings Highway wishes to be continued to the Planning Board's July 6, 2022 meeting.

MOVED by Mr. Lessard.

SECOND by Ms. Carnaby.

VOTE: 7 – 0 – 0

MOTION PASSED.

It was noted that the applicant for 64 Mooring Drive wishes to continue to the Planning Board's July 6, 2022 meeting.

MOVED by Mr. Lessard.

SECOND by Ms. Carnaby.

VOTE: 7 – 0 – 0

MOTION PASSED.

It was noted that the applicant for 28 Nor'East Lane wishes to continue to the Planning Board's July 6, 2022 meeting.

MOVED by Mr. Lessard

SECOND by Ms. Carnaby.

VOTE: 7 -0 – 0

MOTION PASSED.

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II. ATTENDING TO BE HEARD

III. NEW PUBLIC HEARINGS

22-013 67 Mooring Drive (CONTINUED – SEE ABOVE)

Map: 289 Lot: 40

Applicant: Edward Miville & Deborah Davis

Owners of Record: Same

Wetlands Permit & Driveway Permit Appeal: Construction to raise the existing residential dwelling structure above flood elevation & reconstruct the foundation with a lower level garage to support the structure. Additional improvements include a deck addition. Remove impermeable driveway and replace with pervious paver driveway (appeal).

22-021 809 Ocean Blvd & 1 Ninth Street

Map: 197 Lot: 37

Applicant: Mary V. Smith

Owner of Record: Same

Condominium Conversion: Abandon one of three existing dwelling units in 2 existing structures & convert the two existing structures to condominium form of ownership.

Waiver Request: Section V.E.-Detailed Plans.

Ms. Tocky Bialobrzkeski, land surveyor, appeared with Jennie Smith, owner of the property. Tocky said she believes everything is on the plan and taken care of in Mr. Bachand's Memorandum. The property has not changed except for the addition off the deck on the back of the larger building. Parking space #1 was approved and built so each unit could have its own space. There are three units. Ms. Smith wants to eliminate one of the units in the smaller building. There will be two units; each in its own building.

BOARD

Ms. Carnaby asked if anything is being done to either building. It was stated 'no'. Ms. Mullen asked if each will have two kitchens. Tocky said one may be removed; however, it's not illegal to have two kitchens in one unit.

PUBLIC

Ms. Constance Kuzmier, 5th Street, appeared. She asked if a stairway to a deck is considered a permanent structure because it has been removed. Tocky said the stairs are considered part of the structure. There were stairs removed to allow parking space #1. Ms. Kuzmier said she was told there were not going to be any changes to the structure. Tocky said they made the change to create parking space #1. Ms. Constance was told by Mr. Bachand that there would not be any changes to the existing structure (as part of this condominium conversion application). Ms.

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Kuzmier just wanted clarification. Ms. Kuzmier asked about the brick wall. You can't park there because there is a brick portion of a wall. Tocky said you can park there.

BOARD

Mr. Lessard is concerned about two kitchens. How do we have insurance/assurance it won't be rented out as 4 units and not have 4 parking spaces. There is a basement unit with the kitchen and two kitchens in the front and in the back there is a kitchen. Tocky said she is dealing with an honest property owner and the Building Department will know if there are two units. Ms. Smith wants to sell the big building so she can live in the little house. Tocky is happy to assure them. Mr. Lesasrd asked that only one kitchen have only one stove/range. Mr. Lessard trusts the applicant, but noted that the next owners could abuse this. We want to make sure it is a single-family dwelling. Mr. Lessard asked how we can include that.

Tocky discussed the long-range plan. She may raze the current building. She asked if this should be in the deed restriction. There could be something put in the condominium documents as well. Mr. McNamara said they can un-condo them later. Mr. Lessard concurred.

Mr. Bachand said the stove is what dictates a kitchen. It could be added that each unit can only have one stove. Alternatively, the applicant has applied to abandon one of the units to have two single unit structures. If they have anything different, they would be in violation of the Planning Board's approval. That would be another way of looking at it. Mr. Lessard said parking is a premium. Tocky said we need to complete the conversion so Ms. Smith can sell the big house. Anything that needs to be done is probably fine.

One (1) Ninth Street (Unit 2) has two apartments that she rents. It's now going to be one. It will be a single-family house. It was noted 809 Ocean Boulevard is a single-family home. Ms. Smith said the stove was used at Christmas Eve in the past.

Mr. Bachand said they went through the 41:14-a deed process. The conditions he has suggested are standard conditions. He agrees with comments about ensuring this will only be two units. He believes this is accomplished by virtue of how the application was described, so when the plan is recorded it will be memorialized. If the Board wishes to add a condition about the stove, he is okay with that. Mr. Lessard said to add the removal of the stove. One oven is for the front building and one oven for the building on Ninth Street; one in each building. Ms. Smith is happy to comply. One cooking range per building/unit.

MOTION by Mr. Lessard to approve the waiver request.

SECOND by Mr. Loiseau.

VOTE: 7 – 0 – 0

MOTION PASSED.

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MOTION by Mr. Lessard to approve the condominium conversion along with the conditions in the Planner's Memorandum dated June 1st with the addition of only one cooking range per building/unit.

SECOND by Mr. Loiseau.

VOTE: 7 – 0 – 0

MOTION PASSED.

22-022 80 Kings Highway

Map: 196 Lot: 23

Applicant: Christina Langone-Eberhart

Owners of Record: Christina Langone-Eberhart & Ross Eberhart

Wetlands Permit (after-the-fact): Remove old and rotted wood picket fence and replace with 4' black chain-link fence to enclose yard for pets' safety.

Ms. Eberhart appeared. She had to knock the house down and rebuild because they first needed a variance and it was not approved. She asked the Building Inspector, Jim Marchese, about the fence. They thought they were going to repair it. Then they realized it was not repairable. Time went by, they just did the fence and then they asked the fence guy if they needed a permit and they were told no. Then they had to go to Conservation. That was last week. They did the site visit and they have no issues with the fence. They want them to add placards on the back corners indicating wetlands are beyond the fence. They will do that.

**BOARD
PUBLIC
BOARD**

Ms. Mullen asked about the remnants of the old fence. Ms. Eberhart said the abutters were not up much. She did not have the opportunity to ask about the rotted fence. She is not sure if the neighbors want them to take it down. She wants to talk to the neighbors. The back abutter – she has not seen. She found a phone number, but it is not a valid phone number. Once that person is around, they can remove what is existing or he can replace it with wood if he preferred or a white fence other than the chain-link fence. They can leave the post.

Mr. Bachand asked if she received the Conservation Commission's letter. Ms. Eberhart stated no (a copy was then provided at the meeting). Clippings are all set. They have dead trees. The applicant was told to leave the stumps if they remove the tree.

MOTION by Mr. Lessard to approve the after-the-fact Wetlands Permit with the Conservation Commission stipulations noted in its letter dated May 25, 2022.

SECOND by Ms. Mullen.

VOTE: 6 – 0 – 1 (McNamara)

MOTION PASSED.

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22-023 2 Downer Drive

Map: 96 Lot: 2

Applicant: Patricia Wheeler

Owner of Record: Same

Subdivision (2-lot). Creation of new lot for residential use.

Waiver Request: Section V.E.7 - Stormwater management plan; Section V.E.9 - Landscaping plan & Section V.E.14 - Soil and sedimentation control plan.

Brenda Kolbow, TFMoran, along with Patricia Wheeler appeared. This is an application for subdivision. This is in the RA Zone. It is a corner lot. It is 0.93 acres and it has one residential unit on it. She wants a new lot for residential use. Square footage is adequate. In January, Ms. Wheeler went to the Zoning Board and received a variance.

Both lots are outside the Wetlands Conservation District. No buffer impacts. There are a few waivers being requested. There are no building plans currently. They received the Town Planner's Memo. Sealed surface – Lot 2 would be 21 percent; well under the 60 percent maximum. They can use a wetlands scientist if needed.

DPW comments – water service. There is no problem. No problem with sewer service. They want an easement to be located for new lines. There could be ledge to get through.

Mr. Lessard discussed the square footage for the system to be allowed. Before the subdivision can be registered, it should be hooked to public sewer or at least get the easement. If they sell that lot, the DPW would have to confirm it can be connected to sewer.

BOARD

Mr. McNamara asked about the existing lot. The shed is not quite 4 feet away. Did that not need a variance was asked. At the right-hand corner, there is a shed. They went to the Building Department and it had to be within 10' of the line; it can be within 4 feet.

Ms. Mullen said Lot 1 would have 21 percent sealed surface. Is there a design was asked. It is actually Lot 2, with the existing house.

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BOARD**

Mr. McNamara asked if they would need a stormwater management plan if a second lot is built on. The applicant's engineer said they want to see if the subdivision gets approved. They will then go to the Building Department and they decide from there.

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Mr. Bachand said it is a standard waiver request for a two-lot subdivision. The Building Department then looks at those issues. Mr. Bachand said in his Memo, the DPW comments were highlighted. The new Lot 1 said it would have to face Great Gate Drive.

Mr. Bachand recommends approval along with his Memo dated June 1, 2022.

Mr. Lessard said the back piece of land could be for an easement. Sewer easement. He thinks they don't want it stuck in stone; the applicants do not. They are approving a plan with it there. The engineer said the easement could be added and located on an as-built for the sewer line. Where will the new house be sited was asked. Ms. Kolbow said it could be closer to Downer Drive. Ms. Wheeler said her plan was to live there and retire there. It would be up toward the higher end of the property. They want it to be appropriate for everyone around. They want flexibility with the easement because of the ledge. Ms. Wheeler will get surveying done. She is looking for flexibility. Mr. Lessard said it seems like a long run. When the dream home is built, some Boards may not be as flexible. It's better to take care of this now.

Ms. Kolbow said they need to do ledge probing. They will provide the sewer easement. You can't grant an easement to yourself per Mr. Emerick.

Mr. Sawyer said the new owners would maybe have to come before us. If the owner is the owner of both. You can't grant an easement to yourself. When you transfer the property that's when easements are done.

Ms. Olivier discussed stormwater management that Mr. McNamara brought up and she thought it was a good question. Mr. Bachand said the regulations spell it out. He said not every subdivision splitting into two lots requires this. Mr. Bachand said one on Mill Road was granted, but with one on Huckleberry, we had major impacts.

MOTION by Mr. Loiseau to move all three waivers.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

MOTION by Mr. Loiseau to approve the two lot subdivision along with the conditions in the Planner's Memo dated June 1, 2022.

SECOND by Mr. Lessard (noting plan number 47428-00).

VOTE: 7 – 0 – 0

MOTION PASSED.

Ms. Kolbow asked about the easement. They don't want to nail it down. Mr. Bachand said it may require an amended subdivision application in the future to move the easement if the new lot were sold to another party.

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22-024 501 Ocean Blvd

Map: 266 Lot: 51

Applicant: Donald Bibeau

Owner of Record: Donald Bibeau and Diane Bibeau, Trustees of the Bibeau Revocable Trust

Condominium Conversion: Convert the existing two-family building to condominium form of ownership.

Waiver Request: Section V.E. Detailed Plans.

Mr. Bibeau appeared. He handed out a revision to the plan. He wants to convert the existing 2 family to condominium form of ownership. It was converted to a two family in 2001. He discussed the changes. Parking spaces were discussed. He tried to cover the suggestions by Mr. Bachand and the DPW. Dedicated parking spaces are indicated. Trash and recycling is also on the new plan. No driveway alterations. They will get a permit. Changes will be noted in the condominium documents. Sealed surface is at 75 percent. They will delegate parking spaces. Trash and recycling will be taken care of by the Town.

BOARD

It was noted that it is nice having two parking spaces per unit. They stack parking if they have visitors.

Mr. McNamara said he has plenty of parking. Mr. Bibeau said snow storage is not a problem.

**PUBLIC
BOARD**

Mr. Bachand discussed his Memo. Conditions and 5 and 6 have been addressed in this revised plan, so they can be excluded now. Condition #3 should stay in but strike “from the Department of Public Works” since it is from the State. His Memo is dated June 1, 2022.

MOTION by Mr. Lessard to approve the waiver for detailed plans.

SECOND by Mr. McNamara.

VOTE: 7 – 0 – 0

MOTION PASSED.

MOTION by Mr. Lessard to recommend the condominium conversion along with Mr. Bachand’s Memo dated June 1, 2022, with Plan set dated 5/26/22 (Plan Number 220243), along with the Planner’s Memo, as amended.

SECOND by Ms. Mullen.

VOTE: 7 – 0 – 0

MOTION PASSED.

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22-025 124 Kings Highway (CONTINUED – SEE ABOVE)

Map: 183 Lot: 43

Applicant: Patrick Carey

Owner of Record: Hunterlogan Realty Trust

Wetlands Permit: Install 6' vinyl fence on north and south property borders. Existing trees to remain undisturbed.

IV. CONTINUED PUBLIC HEARINGS

22-012 64 Mooring Drive (continued from April 6, 2022) (CONTINUED – SEE ABOVE)

Map: 289 Lot: 33

Applicant: Mary T. Mulligan, Trustee

Owner of Record: Mary T. Mulligan, Trustee, Mary T. Mulligan Living Trust

Wetlands Permit & Driveway Permit Appeal: Construction to raise the existing residential dwelling structure above flood elevation and reconstruct the foundation to support the structure. Additional improvements include a deck addition. Remove impermeable driveway and replace with permeable paver driveway.

22-014 28 Nor'East Lane (continued from May 4, 2022) (CONTINUED – SEE ABOVE)

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 from May 4, 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.

Mr. Henry Boyd, Millennium Engineering, appeared. There is a revision from the Conservation Commission. He handed out a new plan. The Kennedy's are in the audience. They had to go to the Conservation Commission a couple of times. They obtained a variance because of the 12' structural setback. The salt marsh hits them from both sides. They are adding a small addition. It is in the wetland buffer. The roof will be 28' from the salt marsh. Steps will be eliminated. The Conservation Commission challenged them to do test pits. They will be able to infiltrate run-off. Mitigating stormwater was discussed. Rooftop water should infiltrate. They received the Conservation Commission letter dated May 25th. Mr. Emerick was on the site walk. Mr. Boyd said they are not adding sealed surface.

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Mr. Lessard asked about the generator – is it above flood elevation. Mr. Boyd did not remember where it was. Mr. Lessard said if you want to raise it, ask now. It is outside the flood zone per Mr. Boyd.

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Mr. Bachand said some of the existing building is in the special flood hazard area, and to be cognizant of the substantial improvement threshold. Mr. Boyd said it is a tiny portion. Mr. Bachand wanted to cite this for the record. Approval is recommended per the Conservation Commission’s letter dated May 25, 2022.

MOVED by Mr. Loiseau.

SECOND by Mr. Lessard (noting project number E202677).

VOTE: 6 – 0 – 1 (McNamara). MOTION PASSED.

IV. CONSIDERATION OF MINUTES OF May 18, 2022

MOVED by Mr. McNamara.

SECOND by Mr. Loiseau.

VOTE: 6 – 0 – 1 (Lessard) MOTION PASSED.

VI. CORRESPONDENCE

- **Flood Smart Roundtable – June 9, 2022 @ 7:00 PM (Free Webinar)**

Mr. Bachand discussed the upcoming Flood Smart Round Table. It will be held on June 9th, 7:00 p.m. This is a two-part webinar on the FEMA NFIP risk rating methodology and the Town’s recent exploratory work into higher regulatory standards for flood prone areas. The first part will be a presentation by Jennifer Gilbert and Katie Nelson with the State; the second part will be presented by Resilience Planning & Design (Zak Brohinsky) and Jason Bachand. This will conclude the PREPA grant portion of the Town’s work. Local land use regulations are the focus. Registration is free. Please register in advance.

VII. OTHER BUSINESS

- **74 Island Path – Release of bond for remaining on-site improvements**

On March 2nd of this year, this Board accepted an \$18,000 bond for landscaping and driveway work at 74 Island Path so their C.O. could be issued. Winter conditions were still in place at that time. The work has been completed and was inspected.

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MOTION by Mr. Lessard to grant the release of the Bond. He noted as long as Brianna O'Brien (Conservation Coordinator) is happy. Mr. Bachand confirmed 'yes', and that she has inspected it.

SECOND by Ms. Carnaby.

VOTE: 7 – 0 – 0

MOTION PASSED

• **Update: Exactions for Off-Site Improvements involving New Developments**

Exactions were discussed. An item discussed at a prior meeting was having Mr. Bachand speak with Bruce Mayberry. Mr. Bachand called him. He (Bruce Mayberry) is retired now, but was happy to have a conversation. Mr. Bachand discussed the Vermont firm that worked with Seabrook on exactions - it wasn't Mr. Mayberry. Exactions can only be taken for certain things. An ordinance is not required to take an exaction. It can be added to conditions of approval. He thought we should add basic language to our Site Plan and/or Subdivision Regulations. Mr. Bachand asked if the Board wants us to draft basic language for the Board to take a look at.

Water, sewer, road, and drainage purposes are what exactions are used for. Mr. Lessard asked about public safety. Mr. Mayberry mentioned probably not taking an exaction for a state or federal roadway – he advised us to be careful.

Ms. Carnaby asked if it's prudent to get an informal second opinion from a firm actively involved in this. Ms. Carnaby said it should be designed. It was noted to move forward and once we have a basic draft, we can go to a consultant and get feedback. Mr. Bachand said he can draft something up to look at in the short-term. Then, we can reach out to the RPC for suggestions. We pay dues so they could give general feedback. We can also eventually involve Town Counsel. The Planning Board agreed with that approach.

VIII. ADJOURNMENT

MOTION by Mr. McNamara to adjourn.

SECOND by Ms. Carnaby.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 8:17 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