

HAMPTON PLANNING BOARD

MINUTES

November 18, 2020 – 7:00 p.m.

PRESENT: Tracy Emerick, Chair
Ann Carnaby, Vice Chair (Telephonically)
Alex Loiseau, Clerk (Telephonically)
Fran McMahon
Mark Olson
Keith Lessard
James Waddell, Selectman Member
Jason Bachand, Town Planner
Laurie Olivier, Office Manager/Planning (Telephonically)

ABSENT:

I. CALL TO ORDER

The Pledge of Allegiance was said. A moment of silence was offered to recognize the recent passing of Michelle Kingsley, Welfare Department, Town of Hampton.

Due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic, and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, in order to properly ensure the safety of the public and that of several of the Board members who are within the CDC guidelines needing to take special precautions, this body is authorized to meet electronically. Please note there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, Chairman Emerick is confirming that the Planning Board are: Utilizing a teleconference service for this electronic Meeting. The Public may join the teleconference by calling 1-857-444-0744 and using the code 156034. If anyone has a problem, please call 603-929-5805.

Mr. Emerick read the Governor's State of Emergency criteria regarding the meeting being held telephonically. Prior to the meeting, the Planning Office gave information to residents/applicants on how to access the meeting electronically.

Mr. Emerick commenced the meeting by introducing the Planning Board members.

Attendance was taken, and it was stated who was in the room. Planning Board members, Ann Carnaby, Alex Loiseau and Office Manager, Laurie Olivier, were home; no one was present with them. All other Board members and Town Planner, Jason Bachand were present in the Selectmen's Meeting Room. It was noted that all votes will be taken by roll call.

HAMPTON PLANNING BOARD

MINUTES

November 18, 2020 – 7:00 p.m.

II. ATTENDING TO BE HEARD

Master Plan Steering Committee

1. Public Comment (relating to Master Plan)
2. Milone & MacBroom – Consultant for Vision and Coastal Management Content
 - a. Focus Group Plan and Progress
 - b. Next Steps for Project (Phase I)
 - c. Steering Committee Action Items
3. Phase II Comprehensive Master Plan Update – Proposal Review Plan and Progress
4. Next Steps

Mr. Brian Warburton and Ms. Barbara Kravitz are on the line. Mr. Warburton is home and alone; Ms. Kravitz is at home with her husband. Ms. Nathalie Morrison (NHDES Coastal Program) and Mr. Noah Slovin (Milone & MacBroom) are also on the line.

Mr. Bachand asked for any public comment relating to the Master Plan, and there was none.

Mr. Slovin addressed the Steering Committee and Planning Board. He provided an update on the focus groups. How to move forward and schedule more of them was discussed. The first focus group was last night with CHAT. The outline was shared. Three different categories of vulnerabilities were discussed. Recommendations and ideas for moving forward were discussed.

Mr. Slovin discussed how it (CHAT) went and if anything should be changed.

Moving forward: Focus groups – Mr. Bachand will continue his work on coordinating with the HBVD; other groups need scheduling.

HBAC, Chamber and local businesses, youth and students, under-represented groups (seniors and low-income), the fishing community, and the general public. Hampton residents (open to public) need to be attended to.

Mr. Slovin sent the Steering Committee a Google tracking document and the same as a regular Word document. Collaborating together was discussed; reaching out to others. The project team members were addressed.

It was noted that Steering Committee volunteers are needed. They need at least one Steering Committee member for each proposed focus group to do outreach and attend.

Mr. Tom McGuirk joined the teleconference.

Ms. Kravitz asked how many people they want to see in a focus group and how many are public. Mr. Emerick said around 12 total.

HAMPTON PLANNING BOARD

MINUTES

November 18, 2020 – 7:00 p.m.

Mr. Slovin said too many is not a bad thing. **Mr. Emerick will work with Ms. Morison on Hampton Walkers.**

Ms. Carnaby discussed the last 3 proposed focus groups (in the list). Seniors and Hobbs House; how to do virtually was asked. If they don't have computer access, they can call in.

Zoom meetings may work per Mr. Emerick.

Ms. Carnaby has two groups out of the last three; low and under income and beach residents with seasonal property owners; the fishing, walking community. They may have common threads of concerns.

Mr. Warburton agrees with Ms. Carnaby; general Hampton residents; surfing; seniors – a general Hampton resident group could encompass more residents. Neighborhoods – people who have access. **Mr. Warburton noted if Mr. Lessard needs help with students that would be great. He could help Mr. Loiseau also.**

Mr. McGuirk has no problem with helping with the Hampton Beach Area Commission and seasonal cottage owners. He is happy to help.

Mr. Slovin asked about the Google document - if anyone had trouble. No one had trouble. Mr. Slovin said we all need to be able to edit the document. Let Mr. Slovin know what we will be doing and keep track.

Mr. Slovin also put together an email for people who want to help. Give information to him as well. That is helpful.

Ms. Kravitz participated in the CHAT focus group. She will look at the list. The Beach Commission will be included as well. Let them know what is missing. Time frames would be helpful.

Ms. Carnaby asked if we will initiate what they want us to do with the groups on our own – starting any time like tomorrow? **Mr. Slovin would like emails to start as soon as tomorrow – if initial emails are out before Thanksgiving that would be great.** Get conversations going so when we come back, we can move on to scheduling things. Groups that already having regular meetings will be easier to conduct. Mr. Slovin will send another email out to the Steering Committee summarizing key missing holes, and who and where people can help out.

Ms. Morison said, for the focus groups, she would be happy to take a coordinating role and help out with particular groups.

HAMPTON PLANNING BOARD

MINUTES

November 18, 2020 – 7:00 p.m.

She said if we don't think a specific focus group with residents will be very valuable we can think about having a meeting with the Planning Board and the Master Plan Steering Committee and get input on the resilience component of the Master Plan.

Ms. Carnaby said this may be a good way to get into this process. This would be in-lieu-of one of the other listed focus groups.

Monday night (November 23rd) works for Mr. Warburton. Monday at 7:00 PM. Mr. Slovin will send this out to the Steering Committee; we'll participate. Via Zoom. Mr. Slovin will send a link. It will be a Zoom meeting; either call in or online to participate.

The Milone & MacBroom portion of the agenda concluded.

Mr. Bachand gave an update on the review of proposals in progress. Everyone should have received all proposals, and should let the Planning Office know right away if they have trouble.

Mr. Bachand will send the scoring matrix to the Steering Committee tomorrow with the RFP. The Steering Committee should use the matrix to review and score the proposals. The completed matrix should be submitted to Mr. Bachand by November 30th, if possible.

Interviews will be scheduled at a date to be determined, likely in December through Zoom.

We will be compiling interview questions to ask people. **Mr. Bachand asked the Steering Committee members to send him any suggested questions that they may have.** The final decision for consultant selection should happen by January 20th. We will see how the review and interview process goes.

It was noted this is a good approach. The Planning Board will be involved, as will the Steering Committee.

III. CONTINUED PUBLIC HEARINGS

IV. NEW PUBLIC HEARINGS

V. CONSIDERATION OF MINUTES of November 4, 2020

MOVED by Mr. McMahon to accept and approve the November 4, 2020 Minutes.

SECOND by Mr. Olson.

ROLL CALL VOTE 7 – 0 – 0

MOTION PASSED.

VI. CORRESPONDENCE

VII. OTHER BUSINESS

HAMPTON PLANNING BOARD

MINUTES

November 18, 2020 – 7:00 p.m.

- **Proposed Amendments to Driveway Regulations and Application**

Mr. Bachand discussed the proposed amendments to the Driveway Regulations and Application. He noted that Town Attorney Mark Gearreald and Jennifer Hale (DPW) are on the line. Laurie Olivier, Rayann Dionne and Jason Bachand worked on these with Ms. Hale.

Ms. Hale discussed the Regulations. Pavers and cobblestones were discussed. The Regulations read did not read smoothly the last time they were discussed with the Board. Using that feedback, they did an overhaul of these Regulations. It starts with the new Driveway Permit application. Very important issues were missed; wetlands, etc. Other Town Regulations were discussed. Fees and after-the-fact and penalties were discussed. Bond fees. The Wetlands Conservation District is also addressed. Ms. Dionne was super helpful and this information was added to the application.

Ms. Hale discussed new and existing driveways. Emailing information is fine. Frontage is addressed. Over 500' – two driveways. Materials (proposed and existing is addressed).

Pervious lot coverage; existing and proposed was discussed. Pavers in the right-of-way were discussed.

The RSA's were discussed; existing roadway patterns; drainage, etc. It is the homeowner's responsibility to maintain. A Performance Bond was discussed. We can receive this electronically. All information is put onto the permit sheet.

BOARD

Mr. Lessard asked about landowner/applicant ...”hereby agreeing to the following” and “holding harmless”, etc. It is for something other than asphalt in the right-of-way. In front “under notes”, minimum of (?) feet. What does that mean? 15' bituminous and 12' of whatever else (i.e. other material)? Ms. Hale said they don't want it in the right-of-way, but it's okay if they give a 3' paved apron and that apron allows the DPW to pave the road; spray beyond the white line; give buffer, the applicant will hold the Town harmless and go ahead and put pavers in (after the 3' apron). That is what the DPW is saying.

Mr. Lessard asked about the bond. If it's a bonded contractor, does the contractor get bonded over the owner? Ms. Hale said some pavers (companies) out there throw the application and responsibility for the bond to the homeowner. They (DPW) will take it from the contractor or the homeowner.

Mr. Lessard asked about the definition of gravel – impervious and pervious. Ms. Hale said it is whatever Ms. Dionne's definition is—that is what they go by. That is what they check for.

Mr. Bachand said gravel compacts and is not porous; crushed stone is considered porous.

Mr. Olson said it is based on the Shoreland Protection Act. Ms. Dionne leaned on that. Gravel is impervious; that is a true statement.

HAMPTON PLANNING BOARD

MINUTES

November 18, 2020 – 7:00 p.m.

Mr. McMahon asked about pre-existing and non-conformity. Ms. Hale discussed the existing driveways. If they have a 40' driveway prior to this being voted in; they would be allowed to resurface it; they just cannot expand the non-conformity. Mr. Olson said we can reel in problems; asked if it's the time to be able to do that. Get a variance or whatever.

Mr. Olson asked what if something is non-conforming. Who is the enforcer was asked by Ms. Hale. The neighbors did it is not the fight they want to have. Houses are being built behind houses. 47 houses on ½ acre lot. Ms. Hale wants to move forward with what is consistent. Unless grandfathered, this is how you are doing it. She believes there are bigger things in here than what is non-conforming vs. conforming.

Mr. Lessard asked about other methods to do a brief history of longitude and latitude of address. They use the aerial per Ms. Hale. They inspect every single one before approving.

Mr. Olson asked about Park Ave - 60' paved; they got denied. These diminish the value of the community. Some people are trying to bring their driveways into conformity today.

Ms. Hale said the DPW will enforce. If the public feels it is important, the DPW will stand behind it. More permits can be denied.

ADA (requirements) say "to the extent possible" per Mr. Emerick. Ms. Hale said she can work with Attorney Gearreald on that language - "to the extent possible".

Attorney Gearreald said on Page 5 of the Regulations, the Planning Board could waive any application requirements on a hardship basis.

Ms. Carnaby asked about enforcement. It was noted the Board of Selectmen and the Planning Board enforce these Regulations.

Ms. Hale and Attorney Gearreald will review that. Attorney Gearreald said they would have the ability to revoke the requirement with terms; important to the Board of Selectmen to see whether to proceed with an injunction to get things changed.

Ms. Hale and Mr. Bachand discussed this evening is a presentation to the Board for discussion. The next step is a public hearing. The Board is ready to move this forward. **It was noted that the Dig Safe phone number should be next to the Dig Safe comment.**

HAMPTON PLANNING BOARD

MINUTES

November 18, 2020 – 7:00 p.m.

- **Update on Proposed 2021 Zoning Articles**

Mr. Bachand discussed the Zoning Articles for December 2nd public hearings. There are two left to further discuss this evening. One is the drainage easement and the other is the survey requirements with ADU's. Attorney Gearreald is on the line.

Mr. Bachand discussed the drainage easement amendment first. He considered the Board's comments from the last meeting. This Amendment was originally for drainage easements as well as other utility easements such as water and sewer. It has been modified to apply only to drainage easements. No other utilities. Based on the feedback and to provide clarity, Mr. Bachand presented a diagram showing an actual existing lot in Hampton and how the same lot would be configured under the proposed amendment. It explains what would happen with lot area, etc.

Underground drainage was asked about by Mr. McMahon. Mr. Bachand looked at the rain garden as an example. Non-useable land was discussed. Pipe underground (area) he believes you can still use but Mr. Bachand can clarify that). Mr. Bachand discussed his example. It gives the homeowner more useable yard. More open space; not confining. Other communities have done this in their Ordinances. This would only apply to new subdivisions that create buildable lots. Lot frontage and lot width were discussed. Mr. Bachand thinks it makes sense to exclude that from the calculations.

Mr. McMahon asked how do we know what we are dealing with as we move forward. Mr. Bachand said it would be addressed during the PRC process. Homeowners associations are responsible for drainage (O&M). How is it based was asked? Soils? Mr. Olson said not all subdivisions come up with these issues. Mr. Bachand said it just excludes these areas from the calculations; not all applications would be subject to this.

Mr. Lessard asked if we are looking to do away with rain gardens. Just use catch basins and ponds. No, we are not moving away from rain gardens per Mr. Bachand. Mr. Lessard said if we are encouraging rain gardens, it could be discouraging rain gardens to be offered. Mr. Lessard sees a conflict of what we are trying to achieve. Mr. Olson discussed less units equals higher price. Mr. Bachand noted the Subdivision Regulations include requirements for Low Impact Development (LID) techniques.

Ms. Carnaby said it is encouraging fairness to the homeowner if a particular zone is "x" number of square feet and then all of the sudden you lose "x" number of square feet; suddenly you don't have the size you are supposed to in the zone. It is a step toward fairness to the homeowner. Mr. Bachand agrees.

Mr. Lessard said if someone is making close to half a million dollar investment, shouldn't they do their homework?

HAMPTON PLANNING BOARD

MINUTES

November 18, 2020 – 7:00 p.m.

Mr. Emerick agrees this makes sense but he does not like it. It is penalizing the developer. Ms. Carnaby said otherwise you are penalizing the homeowner. The homeowner does not get what they have been led to believe they will get. Mr. Lessard said there could be wetlands on people's properties. It was noted from the example that the rain gardens took away 30 percent of the lot.

Attorney Gearreald said there is a community value to be considered. What looks like useable lawns are drastically reduced.

Ms. Olivier brought up property/lot information residents obtain from Assessing. They do not show rain gardens, easements, etc. Attorney Gearreald said there should be an easement plan in the Building Department – that Department would look at it first.

Ms. Carnaby asked about the homeowners. If zoning in that area calls for a minimum lot size of 15 (15,000 SF), all of the sudden they don't have a lot that big because they have rain gardens, that negates the usefulness of the lot.

It was noted that easements are described in the deeds.

Mr. Bachand asked the Board's pleasure on this proposal.

BOARD

MOVED by Ms. Carnaby to move it forward to public hearing.

Mr. Lessard wants to see if more developments come in like this first.

Sherburne had this also. Mr. Lessard discussed that project.

This (example provided) could have had 9 lots instead of 10 was noted.

SECOND by Mr. Olson.

ROLL CALL VOTE: 2 (Carnaby and Olson) - 5 - 0 MOTION FAILED.

It was noted that we can revisit this in the future.

Mr. Bachand discussed ADU's. The impervious coverage of lots was discussed. Expansion upward or outward was discussed. A letter from the Building Inspector to the Board was discussed. One revision was made to add if the Building Inspector finds it questionable that a certified plot plan would then be required.

Requirements for surveys were discussed.

HAMPTON PLANNING BOARD

MINUTES

November 18, 2020 – 7:00 p.m.

Mr. Bachand said they (an applicant) can appeal the decision of the Building Inspector. Attorney Gearreald agreed. As administrator, one's appeal can go to the ZBA. The average applicant would know they have that right. Right of appeal. Mr. Loiseau wants the person to know that if they disagree they have to appeal. It was noted that we have ADU's to reduce the cost of housing in Town. Now a bill will be added for a survey.

Mr. Olson said it's a gift to put on non-conforming property. Doing whatever one wants because of a site survey was discussed.

Mr. Bachand gave an example of an application from earlier this year. He said when he looked at the GIS (an estimating tool), he came up with 24% proposed sealed surface. It was later found to be higher, and the ZBA asked why did the Planning Board approve this? This amendment should take care of that problem. There was another example where the addition above the garage was in the side setback. Mr. Lessard said on Mill Road; this is what they wanted. They had to get a variance. Over a structure that existed. It was complimented by most of the Board. The garage was on the side setback, then it required relief from the Zoning Board. Not every situation will require a survey; just when it is questionable.

Put an addition on first and then converting it was discussed. Building a garage and then putting a unit over it; then it gets plumbing (possible scenario).

The Building Inspector should pick that up anyway with the construction process per Attorney Gearreald. Being within setbacks. Then they require a full-blown certified stamped drawing and a variance.

Mr. Emerick said we have had a few instances, but now we will kill it by hitting everyone. He thinks it is reasonable, but if it is properly managed.

Mr. Olson discussed sewer fees, it (ADU) is not affordable housing.

MOVED by Mr. Lessard to move this forward.

SECOND by Mr. Waddell. Include it can be appealed and mention the appeal process.

ROLL CALL VOTE: 6 – 1 (Loiseau) – 0 MOTION PASSED.

- **New FEMA Flood Maps (effective January 29, 2021)**

Mr. Bachand gave an update and reminder about the new FEMA Flood Maps that will become effective on January 29, 2021. There is information on the Town's website (hamptonnh.gov). The pending map panels are there. There are other useful links as well, including a viewer to overlay the existing and pending maps and see what is changing.

There are many ongoing activities and this is a substantial undertaking for us. Site Plan and Subdivision Amendments were approved; attendance at a series of webinars is

HAMPTON PLANNING BOARD

MINUTES

November 18, 2020 – 7:00 p.m.

ongoing; outreach is happening. The Board of Selectmen will need to approve of a resolution adopting the pending maps and a zoning amendment per the RSA's. There may be a brief presentation as well.

The NH Office of Strategic Initiatives needs to receive all completed items no less than two weeks before the January 29th, which is January 15th.

It was noted that FEMA held an Open House this afternoon for the public. This information was on the Town's website.

If the pending maps are not adopted by January 29th, we will not be in compliance.

Freeboard was asked about by Mr. Lessard. We allow them to go up one foot now; it should be proactive further down the road; it should go up to 2. Mr. Emerick said up to 3' of additional building height above the maximum is allowed now. Mr. Lessard is encouraging higher (freeboard) for new construction.

Mr. Bachand can take a look at this. We have into January to hear amendments. We can discuss it up until then.

Mr. Emerick asked in the past 10/20 years, how much has the ocean risen.

VIII. ADJOURNMENT

MOTION by Mr. McMahon to adjourn.

SECOND by Mr. Olson.

ROLL CALL VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 8:53 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