

PUBLIC HEARING AND BUSINESS MEETING

- A. CALL TO ORDER – 7:00 PM:** Vice Chairman L. Smith called the meeting to order.
- B. ROLL CALL:** L. Smith, Vice Chairman; A. Tonry, C. Gordon, B. Mutrie, Members; M. Garavaglia, R. McDermott, Alternate Members; David West, Circuit Rider Planner; R. Vigneau, Building Inspector; L. Ruest, Secretary
NOT PRESENT: C. Brown, Chairperson; D. Mitchell, Member; S. Volpone, Jr., Selectmen’s Representative

Alternate Members M. Garavaglia and R. McDermott were designated voting members for this meeting.

C. PUBLIC HEARINGS

1. **Case 05-02-01:** Application from **Charles Mutrie** for Final Public Hearing for Site Plan Review of a 12 unit age restricted residential/condominium development of property at 67 Lafayette Road. (M 8, L 92)
Case 05-02-01: Application from **Charles Mutrie** for a Final Public Hearing for a Subdivision regarding a Condominium Conversion for a 12 unit age restricted residential/condominium development of a property at 67 Lafayette Road. (Map 8 Lot 92)

Planning Board Member B. Mutrie stepped down. C. Mutrie, Attorney M. Peckham, D. Lopatich, J. Chagnon of Ambit Engineering and S. Sicard were present.

L. Smith requested that the applicant engineer first address the request for waiver to the 20,000 square foot septic reserve area. Given that relief was granted at a ZBA hearing on April 26, 2002, it is L. Smith’s feeling that the Planning Board is not to act on the waiver request to Subdivision regulations as the matter has already been acted on by the ZBA. L. Smith polled the Board members. Each member concurred and was agreeable to stand by the ZBA decision. L. Smith noted that the wording of the Building Code section is identical to the wording of the Subdivision section.

L. Smith opened discussion to members of the public and acknowledged receipt of a letter regarding this matter from abutter A. McKeon that was received after the agenda close and provided to Board members this evening. L. Smith went on record to state the Board does not usually address written documentation that is presented late.

A. McKeon explained that he received notice on an application for relief to Building Code section 7.1313 (24” to high water table). This relief was granted; however, no relief was applied for, discussed or granted to Section 7.1312 (20,000 square foot septic reserve area). It is A. McKeon’s opinion that if this applicant wants to show less than the required 20,000 area, relief is needed to this requirement. Proper application and notice has not been made on Section 7.1312. He requested the Board review the minutes and decision of the ZBA regarding this matter.

It was noted that the condition of the approval of the ZBA that gave specific relief by including in the motion a bulleted point “20,000 square foot reserve area is reduced to 12,264 that meets

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24" to ESHWT" allows the septic area to be shown as on the plan. Suggestion was made to A. McKeon to seek assistance from the ZBA on this issue.

Lengthy discussion took place. The Board indicated that the ZBA variance is valid and A. McKeon indicated he felt that the issue relates to two sections of the Building Code where relief was granted to one section. D. West asked J. Chagnon if a 20k area could be shown on the plan. J. Chagnon stated there currently are parking spaces in that area. Attorney Peckham noted that the appeal period to this decision has long passed and agreed that the condition of the variance allows for a reduced reserve area. Abutter L. Stan concurred with A. McKeon's position and stated the Board should protect homeowners and investigate this matter further in order to be fair to all given the size of this project.

L. Smith stated it is the opinion of the acting Chairman that this issue is not within the jurisdiction of the Planning Board and that it is not to be addressed further tonight.

Discussion of this application continued. J. Chagnon submitted two options with respect to drainage. Option A addresses the requirements of town regulations, however, requires the need for a detention pond impacting a greater area of the wetland buffer. A second option, Option B, requires a waiver to the peak run-off requirement. Option B is a mechanical storm water treatment system and allows the area to remain undisturbed wetland buffer. J. Chagnon distributed copies of the design manual for this application. This matter, as well as others, was discussed as part of the site walk by the Planning Board and Conservation Commission on April 16. All concurred with Option B. The Rockingham County Conservation District and Jones and Beach Engineers support Option B as well. A. Tonry noted that if Option B doesn't work, the plan can revert to the detention pond. Option B is a better solution with less impact and exposure to the back side of the property as well as across the river. The difference between the options was discussed with abutters. L. Smith inquired as to the maintenance requirements for Option B, especially the oil separators. J. Chagnon reported that they do need to be cleaned out periodically depending on the volume and acknowledged that this maintenance schedule will be included as part of the condominium agreement documents. J. Chagnon will submit a storm water operation maintenance plan. It is currently part of the drainage analysis and will be incorporated into the condo documents. Snow storage areas were identified on Sheet C2 and reviewed. All condo documents will need to be reviewed by Planning Board counsel at the applicant's expense. This is to be added as a condition of approval.

MOTION: To grant the applicant's request for waiver dated March 14, 2005 based upon Option B as contained within plans dated April 6, 2005 entitled Utility Grading and Erosion Control Plan Option B.

MOTION: C. Gordon
SECOND: R. McDermott
5 in Favor, Passes

J. Chagnon continued with his presentation. For the record, letters from the RCCD dated April 19 and Jones and Beach Engineers dated April 20 were acknowledged. Other documents received after the agenda close date include the letter from Abutter McKeon regarding the variance issue, response from the Conservation Commission, response from J. Chagnon to Jones

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and Beach Engineers' second review and a letter from the Department of Environmental Services acknowledging receipt of the applicant's site specific permit application.

A. Tonry questioned whether there is a need for waiver to the 100' buffer requirement. J. Chagnon stated he doesn't feel there is as this drainage swale is an allowed use (reference Section 8.3.6). It has been determined by discussion earlier this evening that the waiver request to Subdivision Regulations Section 7.9.3 as requested by letter of April 8, 2005 is not needed. D. West noted that the variance note on the plan does not fully address the conditions placed by the ZBA. J. Chagnon will revise this note to include the conditions and wording used in the decision letter. The other waiver needed regarding plan scale has been addressed at a previous meeting.

L. Smith asked J. Chagnon to address the three outstanding issues raised at the last meeting as outlined in the follow up letter dated March 28, 2005. J. Chagnon stated that the issues of life safety will be addressed as part of the building permit phase. D. Lopatich reported that fire protection plans are to be submitted to include all that is needed. An emergency generator will be provided for the septic system, emergency lighting, and well pump. C. Gordon requested that all systems powered by the emergency generator be listed on the plan. The elevator is designed to automatically return to the first floor and stop operating. The elevators do have phones. Stairs are to be used as a means of egress in an emergency situation. The sprinkler system will be reviewed at the point of reviewing the building drawings.

In response to L. Smith's question of DOT approvals for driveways, J. Chagnon reported that they are still in negotiation. The DOT is requesting a 12' deeded easement as shown on Sheet C1. Verbal indication of approval has been received. A proposed deed is to be forwarded to the DOT for review. J. Chagnon suggests this matter be a condition of approval. Discussion of the need to relocate utility poles took place. It was determined that indication can be placed on the plan but that ultimately the utility companies in conjunction with the DOT determine which poles are moved and where. The Board requested the applicant keep the Police Chief involved in this process.

J. Chagnon reviewed Jones and Beach Engineers' report at this time. He provided a copy of his response letter to the Board. Item #4 relating to the need for a small community water supply system permit was discussed. J. Chagnon indicated that in checking with different companies, the answer is that there is no definitive answer at this time. If it is determined that a permit is required, one will be obtained. Information on the tank size and location of tanks was provided. A copy of review results has been provided in response to Item #10. J. Chagnon will review this matter with Jones and Beach Engineers. All other items have been addressed and will be reviewed with Jones and Beach Engineers as well.

Hearing no further comments from the Board, discussion was opened to abutters and members of the public. A. McKeon inquired as to the status of the detention pond. L. Smith informed him of the decision to go with Option B. A. McKeon questioned why there was no opportunity for public comment before the vote and questioned whether there is a need for waiver from Subdivision regulations. Attorney Peckham noted that the relief from the Building Code is the same as the waiver from Subdivision regulations. The Planning Board at one time questioned the need for waiver to Subdivision regulations, however, determined earlier this meeting that

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there is no need for a waiver. She noted that the issue of subdivision relates to units and not land in this case. Hearing no further comments, L. Smith closed the public hearing.

MOTION: To approve the application from **Charles Mutrie** for Final Public Hearing for Site Plan Review of a 12 unit age restricted residential/condominium development of property at 67 Lafayette Road (M 8, L 92) subject to the following conditions:

1. That any and all fees due the Town of Hampton Falls and its consultants be paid before the mylar is signed and recorded.
2. That the building height and sightless objects (pipes, stacks, air conditioners, etc) not exceed 35 feet.
3. That the landscaping be installed according to plan, No occupancy permit shall be issued until the landscaping is inspected by the Building Inspector.
4. That the applicant post financial security (bond) to assure all site work, including landscaping, is completed according to the plan. Applicant is to submit a cost estimate to be verified by the town engineer.
5. That no building permit be issued until security is posted and an agreement is signed.
6. That any and all state permits be obtained and made part of the file before the mylar is signed.
7. That the Planning Board approves any change to the State Department of Transportation driveway permit.
8. That no additional use or change of use shall be permitted unless approved by the Planning Board.
9. That new deeds be presented for the file showing appropriate acreage added to or deleted from lots (lot line adjustments); this includes condominium documents.
10. That no changes to the approved plan(s) can be made without appearing before the Planning Board.
11. That blasting must be done in accordance with Article IX, Section 9 of the Hampton Falls Zoning regulations
12. That the waiver for option 8.6.1 be added to the plan.
13. That the DOT letter regarding driveway permit(s) and easement is received by the Town and that the approval number is noted on mylar. A copy of the easement deed is to be provided for the Planning Board file.
14. Drainage issue #10 of Jones & Beach Engineers' letter dated 4/20/05 and response by Ambit Engineering dated 4/25/05 is to be approved by Jones & Beach Engineers. Agreement between engineers is to be reached.
15. That ZBA decision notes regarding the 20k septic reserve conditions be added to site variance notes on the plan.
16. The issue #4 of Jones & Beach Engineers' 4/20/05 letter, community water issue, is resolved with respect to whether a permit is to be obtained, if necessary.
17. That the utility companies be requested to contact and consider the Hampton Falls Police Chief's input with respect to the relocation of utility pole(s).

MOTION: A. Tonry
SECOND: R. McDermott
Unanimous

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The Board requested that final motion with respect to the subdivision approval portion of this application be put off until next month's meeting in order to allow for guidance and time for preparation of appropriate language and conditions. Following discussion, Attorney Peckham requested an additional 30 days to allow time for the Board to research this matter.

MOTION: To approve the applicant's request for an extension to the Board's May 24 meeting.

MOTION: R. MCDERMOTT
SECOND: C. GORDON
UNANIMOUS

B. Mutrie resumed her seat on the Board.

2. **Case 05-04-01:** Application from **Open Meadow Homes, LLC** (Chester Starvish, owner) for a final public hearing for a Lot Line Adjustment between lots located on Drinkwater Road and Starvish Lane. (M 1 Lot 66-1A and M 1 Lot 66-5)

Corey Colwell of Millette, Sprague and Colwell and Cary Johnson of Open Meadow Homes were present. For the record, A. Tonry reported that this engineering firm is currently doing survey work for her and questioned whether anyone had a conflict with her remaining seated on the Board. No concerns were expressed and A. Tonry remained a voting member. Plans were provided to Board members and displayed for the public. C. Colwell identified the location and current acreage of the two lots. He noted that the proposal is to add acreage to Lot 66-1a in order to make it buildable and also to allow Lot 66-5 to remain in current use. Without this added area, Lot 66-1a does not have enough area for a house and septic system. There is not enough room at upland area of the front of the property for a house and septic system. Test pits have been done resulting in three passing pits. Twenty-three thousand square feet of suitable contiguous leaching area is available, however, without the lot line adjustment, there is no room for a house. Wetland buffer areas were identified. Iron rods will be placed at the new points as per regulations. C. Colwell noted that there is a letter of authorization from the owners on file as well as a request for waiver to three sections of the Subdivision regulations (test pit data, soils, and topography).

Concern was raised with creating a lot line adjustment without determining whether the result is a buildable lot. It was noted that the burden of proof rests with the applicant. There is also a need for a wetland crossing permit from the NH Department of Environmental Services to get to the buildable area. Approval of the lot line adjustment is needed in order to apply for DES approval. C. Colwell confirmed that he is aware of the need for Special Use Permit from the Planning Board as well. In response to M. Garavaglia, C. Colwell stated that it has been his experience that the DES does not deny access on lots of record. Hearing no further comments from the Board, discussion was opened to abutters and members of the public. No comments were heard. L. Smith closed the public hearing.

MOTION: To accept the application as complete.

MOTION: A. TONRY
SECOND: R. MCDERMOTT

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MOTION: To approve the applicant's request for waiver to Section 6.2.16, Topography, as it is a common boundary line between lots.

MOTION: A. TONRY
SECOND: C. GORDON
UNANIMOUS

MOTION: To approve the applicant's request for waiver to Section 6.2.21, Soils Data, as it is a common boundary between two lots.

MOTION: A. TONRY
SECOND: C. GORDON
UNANIMOUS

MOTION: To approve the applicant's request for lot line adjustment to Map 1, Lot 66.1A, and adding 1.97 acres to Map 1, Lot 66-1A and decreasing Map 1, Lot 66-5 to 12.57 acres in accordance with the plan by Millette, Sprague and Colwell, dated March 3, 2005, subject to the following **conditions:**

1. That new monumentation be set and a Certificate of Monumentation be provided for the file before the mylar is signed and recorded.
2. That new deeds be provided for the file showing the appropriate acreage added to lots.
3. That any and all fees due the Town of Hampton Falls and its consultants be paid before the mylar is signed.
4. That approved waivers to Section 6.2.16 and 6.2.21 be added to the plan.
5. That test pit data be added to the plans.
6. That a proposed footprint of a home, within the buildable area, be shown on the plan.
7. That the 20,000 square foot septic reserve area be shown on the plan.
8. That the well radius be shown on the plan.

MOTION: A. TONRY
SECOND: R. MCDERMOTT
UNANIMOUS

D. REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES

MOTION: To approve the minutes of the March 22 meeting as written.

MOTION: R. MCDERMOTT
SECOND: C. GORDON
5 IN FAVOR, 1 ABSTENTION, PASSES

E. OTHER BUSINESS

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1. Building Inspector's Report: The Board acknowledged R. Vigneau's report for March.
2. Committee Reports: L. Smith reported that the Road Committee met to address the Avery Ridge Lane plan, letter of credit and security agreement.
3. Appointment to Rockingham Planning Commission (4-year appointment)

MOTION: To nominate Ted Tocci as representative to the Rockingham Planning Commission for a period of four years.

MOTION: R. MCDERMOTT
SECOND: C. GORDON
5 IN FAVOR, 1 ABSTENTION, PASSES

F. COMMUNICATIONS TO BOARD MEMBERS:

- Rockingham Planning Commission dues have been paid.
- The Board welcomed Marietta Garavaglia as Alternate Member to the Board.
- Board members were requested to submit updated contact information if different than that on record.
- RPC News and Notes newsletter was provided to the Board.

MOTION: To go into non-public session at 9:13 p.m. in accordance with RSA 91-A to discuss pending litigation.

MOTION: R. McDermott
SECOND: C. Gordon
ROLL CALL VOTE: Unanimous

G. ADJOURNMENT

MOTION: To go out of non-public session and adjourn the regular meeting at 9:23 p.m.

MOTION: A. TONRY
SECOND: R. MCDERMOTT
ROLL CALL VOTE: UNANIMOUS