

**PUBLIC HEARING AND BUSINESS MEETING**

**A. CALL TO ORDER – 7:00 PM:** Co-Vice Chairman L. Smith called the meeting to order.

**B. ROLL CALL:** L. Smith, Co-Vice Chairman; C. Gordon, D. Mitchell, A. Tonry, Members; J. Caunter, R. McDermott, Alternate Members; F. Ferreira, Jr., Selectmen's Representative; M. Carriel, Rockingham Planning Commission Circuit Rider Planner; R. Vigneau, Building Inspector; L. Ruest, Secretary  
NOT PRESENT: C. Brown, Chairman; R. Duchaney, Member

L. Smith reminded the public of the Board's charge to look at projects for conformance to town regulations and noted that personal feelings are irrelevant and that strict adherence to regulations is given. He added that no new applications will be called after 10:00 p.m. Both alternate members were designated as voting members. L. Smith acknowledged new checklists to be used in forming motions and keeping notes as well as a key to be used for HISS mapping.

**C. PUBLIC HEARINGS**

**1. Case 04-02-01:** Application from **Louis P. Terramagra**, for a Final Public Hearing for a Site Plan Review including a Scenic Road Alteration Permit and a Wetlands Special Use Permit to construct an equestrian arena with outdoor riding rings and fenced paddocks. Nason Road (Map 1, Lot 106)

Louis Terramagra, Attorney John Colliander, Christian Smith of Beals Associates, and Jim Storace were present. C. Gordon stepped down as an abutter leaving six voting members.

C. Smith informed the Board that the plans being reviewed are revised plans incorporating issues raised since the last meeting and site walk (light poles reduced to 14 feet, modifications to the grading around the detention pond, and driveways adjusted so that water drains to the treatment swales). It was also noted that favorable comment has been received from the Rockingham County Conservation District with respect to the nutrient plan (manure removal). C. Smith added that a subdivision/lot line adjustment application has been submitted to add area from Map 4, Lot 2 to Map 1, Lot 106 for the septic system.

Discussion was opened to members of the Board. Comments were made with respect to the site walk in that the lot was drier than anticipated given the recent substantial rain. M. Carriel referred the Board to her memo of April 27 that outlines where the applicant stands in the review process as well as issues to be addressed by the Board. This memo was reviewed at this time.

L. Smith asked the Board whether it considered the paddocks in the wetland buffer area an agricultural use or whether it would require a special use permit. Based on the site walk findings that the paddocks were not wet, that a 15' vegetative border is to be maintained and that it is the applicant's plan to keep grass growing in the paddocks (which will be a condition of approval), the Board determined there is no need for a special use permit. Abutter D. Lizotte asked if there is a state regulation defining this operation as agricultural as he doesn't feel it fits the town definition. A. Tonry stated that the Board has addressed this issue in the past and referred to Zoning Regulation Article III, Section 3.1 Permitted Uses as well as Section 8.3.7, Permitted

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Uses with the Wetland District. M. Carriel also identified the State's definition of agriculture and equine activity in RSA 21-34a, II, (5) which defines Farm, Agriculture and Farming. Subparagraph (5) includes "The breeding, boarding, raising, training, riding instruction and selling of equine."

**MOTION:** To consider the paddocks to be an agricultural use.

**MOTION:** D. Mitchell  
**SECOND:** R. McDermott  
**Unanimous**

Discussion took place with respect to the request for special use permit for the septic system. It was determined that the Board would be unable to act on this request until such time as a Lot Line Adjustment could be addressed and approved. It was noted that the Board is within the 65 day limit and suggested that the applicant request continuance to the Board's next meeting. In the meantime, the Board will continue to address as many issues as possible.

The Board considered waiver requests at this time.

**MOTION:** To grant the applicant's request for waiver to Site Plan Review Regulations Section 6.2.2 to allow the scale other than 1" to 20' to be used on the plan for the purpose of showing the entire plan on one sheet.

**MOTION:** D. Mitchell  
**SECOND:** R. McDermott  
**Unanimous**

**MOTION:** To grant the applicant's request for waiver to Site Plan Review Regulations Section 8.2.1 to allow the parking area(s) to be gravel rather than paved as permeable surfaces are not allowed in the wetland buffer.

**MOTION:** A. Tonry  
**SECOND:** R. McDermott  
**Unanimous**

**MOTION:** To grant the applicant's request for waiver requiring curb sidewalks between the parking lot and building entrance(s). The Board does not require sidewalks.

**MOTION:** F. Ferreira, Jr.  
**SECOND:** R. McDermott  
**Unanimous**

The Board addressed the request for Scenic Road Alteration Permit at this time. C. Smith reported that trees in the area of the entrance for the creation of the driveway need to be removed. There are no trees of significant size. C. Smith will check the area and identify the trees to be removed from the Town right of way for review of the Board. Decision on this request will be addressed at the next meeting.

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Referring to the nutrient management plan (manure removal), L. Smith asked if the applicant has plans to address removal during the frost ban period. C. Smith reported that removal is done by a covered pick-up truck and this will not be affected by the frost ban. No temporary storage area is proposed. Manure is collected and placed directly into the bed of the pick-up truck and hauled off site daily. The nutrient management plan is to be a condition of approval. The Board requested the nutrient plan be revised so that if there is a spill that the spill is reported. In the section "Spill Reporting" the phrase "threatens body of water" is to be deleted.

Jones and Beach Engineers' review letter #2 was acknowledged for the record. The plans viewed this evening have these comments incorporated into them. A response letter from Beals Associates was also distributed this evening.

The Board reviewed the abutters' letter dated March 15, responding to each of the four issues. Number one of the letter requested a site walk of the Board which was completed on April 10. The second item requests an on-site wetlands delineation verification by RCCD. The Board has not required this and is not inclined to have another delineation done as the plan on file has the wetlands delineated and stamped by a licensed professional..

Karen Ayers, Nason Road, reviewed statements made at previous planning board meetings as well as statements made by M. Cuomo. She identified other Board/Committee instances where verification was requested. She added that wetlands are not identified strictly by standing water and that other criteria needs to be considered. She stated her concern of overdevelopment of the site and that she would like to see the project scaled down.

L. Smith polled the Board as to whether members feel the wetlands should be re-flagged or verified. Six members were opposed.

The third item of the abutters' letter requests an environmental impact assessment and the fourth item requests an on- and off-site hydrology assessment. L. Smith polled the Board as to whether members felt there is a need for an environmental impact assessment or an on- and off-site hydrology assessment. Six members were opposed to both. It was noted that the state permitting process addresses the issues an environmental impact assessment would address and the drainage analysis and sediment and erosion control plan on file indicates no increased discharge from the property.

D. Lizotte stated he felt the environmental impact assessment would address issues other than manure collection and removal. He stated that the area is mostly clay and that a good rain storm will cause urine run off to other properties. K. Ayers stated that the state review would not address issues related to the NH National Heritage Inventory. Board members expressed concern with setting precedent and noted that the landowner has taken steps to submit a project sensitive to environmental issues. J. Storace explained that horses prefer to urinate in their stalls which are lined with a rubber membrane and covered in wood shavings.

Review of the nutrient management plan took place in conjunction with the request for additional information from the RCCD. The Board also agreed with the suggestion of the town engineer with respect to the recording of two pages of the plan.

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**MOTION:** On the suggestion of Jones and Beach Engineers, that only Sheets C1 and L1 be recorded at the Rockingham County Registry of Deeds.

**MOTION:** A. Tonry  
**SECOND:** L. Smith  
**Unanimous**

Due to the fact that the remaining issues cannot be approved until the Lot Line Adjustment is approved, the Board suggested the applicant request continuance to the May meeting. Attorney Colliander requested continuance.

**MOTION:** To approve the applicant's request for continuance to the Board's May 25 meeting.

**MOTION:** F. Ferreira, Jr.  
**SECOND:** R. McDermott  
**Unanimous**

Discussion was once again opened to general discussion of abutters and members of the public. D. Lizotte referred to a letter of requests dated March 23, specifically with regard to nuisance provisions, indicating that the Board has not addressed this issue. L. Smith reviewed the letter point by point. Lighting has been lowered to 14' and no loud speakers or external speakers or external voice amplification and no horse shows will be a condition of approval. A 50' buffer with landscaping has been added along the Lizotte property line. The issue of hours and days of operation was discussed at this time. A poll of the Board was taken to change the days of operation. Six were opposed. No further comments or questions were heard. C. Gordon resumed his seat on the Board.

2. **Case 04-02-04:** Application from **Applecrest Farm, Inc** for a Final Public Hearing for Subdivision creating eight lots and a new road. Brown Road and Old Stage Road (Map 5, Lot 51-1)  
**Case 04-02-04** (amended): Application from **Applecrest Farm, Inc.** for a Wetlands Special Use Permit in connection with an eight lot subdivision previously applied for. (Map 5 Lot 51-1)

Peter Wagner and Fred Sprague of Millette, Sprague and Colwell were present. D. Mitchell stepped down due to a conflict with a business relationship. F. Sprague referred the Board to revised plans that address comments from M. Carriel's initial review memo as well as a site walk. Comments provided in M. Carriel's memo of April 22 have not yet been incorporated on the plans. An application for Wetlands Special Use Permit has also been submitted for the drain pipe to be placed in the wetland buffer. F. Sprague stated he feels the application is complete and requested the Board accept jurisdiction of the plan.

Discussion was opened to questions of the Board. In response to A. Tonry, F. Sprague stated that driveways for Lots 11 and 12 were staked for viewing at the site walk. A suggestion was made to require a "blind drive" sign on Old Stage Road warning of the upcoming driveways at the crest of the hill. With respect to fire suppression, F. Sprague stated he has not yet discussed

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this with the Fire Chief and is waiting comments from the Town engineer. No further comments were heard from the Board or the public.

**MOTION:** To accept jurisdiction of the plan as complete and forward it to Jones and Beach Engineers, Department Heads, and M. Cuomo for review with the posting of \$5,000 engineering review fees.

**MOTION:** F. Ferreira, Jr.  
**SECOND:** R. McDermott  
**Unanimous**

The Board agreed to hold off review of the request for Special Use Permit until the review comments have been received.

**MOTION:** To continue this application to the Board's May 25 meeting.

**MOTION:** F. Ferreira, Jr.  
**SECOND:** C. Gordon  
**Unanimous**

D. Mitchell resumed his seat on the Board.

- 3. Case 04-03-04:** Application from **Steven Sicard** for a Final Public Hearing for Site Plan Review for an amendment to an existing Site Plan (cross reference Case # 00-08-05). (Map 8 Lot 56)

No one was present on behalf of this application. Attorney Craig Solomon was present and indicated that he represents a creditor in a bankruptcy case involving Mr. Sicard. He asked what Mr. Sicard's involvement is in this application. It was explained that Mr. Sicard is an applicant, on behalf of the owners of Map 8, Lot 56, for an amendment to an approved site plan.

L. Ruest reported that Mr. Sicard has not posted the engineering review fees necessary to forward information to Jones and Beach Engineers. She further stated that after a number of phone calls Mr. Sicard verbally informed her of his intention to request continuance of the application to the Board's May meeting. L. Ruest requested he submit a letter requesting same and submit it by April 20 in order to have it part of the monthly mailing packets to the Board. Mr. Sicard did not do so and no letter requesting continuance has been received.

Board members indicated that they would not be inclined to grant continuance without a request.

**MOTION:** To deny the application from **Steven Sicard** for a Final Public Hearing for Site Plan Review for an amendment to an existing Site Plan (cross reference Case # 00-08-05). (Map 8 Lot 56) due to the failure to post engineering review funds after several calls from the Administrative Assistant.

**MOTION:** L. Smith  
**SECOND:** R. McDermott

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**Unanimous**

- 4. Case 04-03-05:** Application from **Anderson Marine** for Final Public Hearing for Site Plan Review for the use of marine repairs and sales at property located on Lafayette Road and Kensington Road. (Map 7 Lot 56 and Map 8 Lot 97)

Tom Anderson, Attorney John Colliander and Henry Boyd of Parker Survey were present. Attorney Colliander provided some background with respect to Mr. Anderson's use of the property. It was noted that this matter is before the Board in response to a Cease and Desist order from the Town for intensification of use.

Attorney Colliander informed the Board that it was determined by the Planning Board in June 2000 that Site Plan Review was not required due to the fact that the applicant had not made any site changes. Since that time, no site changes have been made, but that the use has intensified in that boat storage and boat sales is now taking place. He stated that Section 4.2 (Site Plan Not Required) of the Site Plan Review regulations has been removed from the ordinances and that he is looking for direction of the Board as to whether site plan approval is needed now. He added that the only difference in the site plan submitted today from that of June 2000 is hatch marks identifying the location of storage and sales of boats.

L. Smith stated that Section 4.1.2, intensification of use, requires site plan. He informed the applicant that prior file information has been provided to Board members. Numerous concerns were addressed in the past and remain today. Questions regarding the use of the two parcels, the zoning of the two parcels, the matter of merging the parcels, restrictions, environmental concerns and grandfathering were raised. It was suggested to conduct a site walk before acting on this application.

H. Boyd reviewed the plan at this time. He stated that the plan is very similar to the plan submitted in the past other than structures that have been removed. No new structures have been added although a deck was added to one building. He identified the proposed areas for storage of boats and sales of boats and noted that he has not responded to M. Carriel's review comments. Waivers to some requirements will be requested due to there being no new construction. L. Smith expressed concern about leaking fuel from stored boats draining into Whittier Pond. Another question is whether this use is allowed within 1,000 feet of a similar use at Dick's Tire (Article III, Section 5, 5.1.8).

M. Carriel agreed with the Board's determination of intensification of use and noted that it has been reported that activity is taking place that was not represented the last time this matter was before the Planning Board given that there is no recorded plan on file. This is a good opportunity to document what's taking place on this site. The Board can address whether the use is allowed and whether the parcels are in compliance with the zoning ordinance.

C. Gordon inquired as to whether the applicant has stopped activity as a result of the cease and desist. T. Anderson stated he has not. Attorney Colliander indicated that he felt the cease and desist letter would be held in abeyance as long as the owner was going through the application process. The Board acknowledged that this is a Selectmen's issue.

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Recognizing that both parties seek resolution, site plan issues are to be discussed and addressed. Discussion was opened to abutters and members of the public. No comments or questions were heard.

**MOTION:** To accept jurisdiction of the plan as submitted.

**MOTION:** C. Gordon  
**SECOND:** R. McDermott  
**Unanimous**

A site walk was scheduled for Friday, May 7, 7:30 a.m.

- 5. Case 04-04-01:** Application from **Harold and Doris Tanner** for a Final Public Hearing for a Subdivision creating two lots with a Lot Line Adjustment conveying land to Map 4, Lot 39. (Map 4 Lot 40)

Mr. and Mrs. Harold Tanner were present. Henry Boyd of Parker Survey presented the plan. He identified the location of the property and the plan to subdivide to create one new house lot in addition to the existing home and convey the balance of the land to the abutter to the west. He noted that the state driveway permit and state subdivision approval have been received.

He reviewed M. Carriel's review memo and responded as follows to each item at this time.

1. Lot numbers will be obtained from the Town.
2. There are no wetlands on the parcels being created. Stamps will be placed on final plans.
3. A note regarding the impact fee will be added to the plan.
4. It is felt that fire suppression is not needed. The Fire Chief will decide.
5. Setbacks are not shown. H. Boyd is willing to add a note to the plan or submit a waiver request.
6. A waiver is requested to HISS mapping as well.
7. M. Cuomo will review the 20k area as part of his review.
8. As mentioned before, both the state driveway permit and state subdivision have been approved and noted on the plan.

C. Gordon requested that the square foot reference on Parcel A be corrected. H. Boyd stated that he would like to revise the plans before submitting to the Town Engineer. He plans to include a house footprint on the new lot and amend the note for the well to read "well to be discontinued." No further comments were heard from the Board. Discussion was opened to abutters and members of the public. No comments or questions were heard.

M. Carriel stated that due to the limit of this plan in that no drainage improvements or new roads are associated, limited engineering review would be necessary, and that it would be reasonable to reduce the fee for review to \$2,500. The Board agreed.

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**MOTION:** To accept jurisdiction of the plan as complete and forward it to Jones and Beach Engineers, Department Heads and M. Cuomo for review with the posting of \$2,500 engineering review fees.

**MOTION:** D. Mitchell  
**SECOND:** F. Ferreira, Jr.  
**Unanimous**

**6. Case 04-04-02:** Application from **Christopher F. Gordon** for a Final Public Hearing for a Lot Line Adjustment. (Map 4 Lots 61 and 61-2)

C. Gordon stepped down from the Board as member to present this plan. D. Mitchell stepped down as an abutter. C. Gordon asked if the Board had any objection to his presenting this application on his own behalf. No objections were heard.

C. Gordon stated that this lot line adjustment is to adjust acreage to the two parcels previously approved by subdivision (Map 4, Lot 61 and 61-2). The adjustment takes 1.73 acres from Lot 61 (leaving 18.99 acres) and adds it to Lot 61-2 (resulting in 11.50 acres).

C. Gordon submitted a written response to M. Carriel's review memo to the Board at this time and reviewed her comments as follows:

1. Ownership of Lot 61 has been amended.
2. Plan references have been removed.
3. The revised plan will have the proper stamp.
4. Deed language and easement wording is provided as part of the handout given this evening.
5. HISS data was waived at the subdivision level and is requested at this time as well. A written waiver request is part of the handout.

A. Tonry inquired as to why the lot line adjustment is requested. C. Gordon stated he made a mistake in calculating acreage not to be placed in current use. In meeting with the Town Administrator, the miscalculation was identified. C. Gordon identified the amount of upland area on Parcel A to be 9.76 acres and Parcel B to be 7.31 acres. Following discussion, the Board agreed there is no need to send this plan for engineering review.

Discussion was opened to abutters and members of the public. No comments or questions were heard.

**MOTION:** To accept jurisdiction of the plan as complete.

**MOTION:** R. McDermott  
**SECOND:** F. Ferreira, Jr.  
**Unanimous**

**MOTION:** To grant the applicant's request for waiver to the requirement for HISS data as it was determined unnecessary on the previous subdivision application.

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**MOTION:** A. Tonry  
**SECOND:** R. McDermott  
**Unanimous**

**MOTION:** To determine that a waiver request is not required for topographical and septic reserve areas as they have not changed as part of this lot line adjustment and are already part of the file for subdivision approval.

**MOTION:** A. Tonry  
**SECOND:** F. Ferreira, Jr.  
**Unanimous**

**MOTION:** To approve the application from **Christopher F. Gordon** for a Final Public Hearing for a Lot Line Adjustment reducing Map 4 Lot 61-2 by 1.73 acres (18.99 acres) and increasing Map 4, Lot 61 by 1.73 acres (11.50 acres) in accordance with the plan by Parker Survey and Engineering, dated April 9, 2004, 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 changes.
3. That any and all fees due the Town of Hampton Falls and its consultants be paid before the mylar is signed.
4. That the phrase "lot line to be adjusted" be revised to read "lot line to be eliminated."

**MOTION:** A. Tonry  
**SECOND:** R. McDermott  
**Unanimous**

C. Gordon and D. Mitchell resumed their seats on the Board.

Due to the late hour, it was decided not to begin hearings of any new applications. The Board, however, gave consideration to scheduling an additional meeting. Following discussion, a meeting was scheduled for Tuesday, May 4, at 7:00 p.m. The DePeters application and Terramagra subdivision application will be heard at that time. The Board will also address the numerous items of Other Business that did not get discussed this evening.

**MOTION:** To continue this meeting to Tuesday, May 4, 7:00 p.m.

**MOTION:** F. Ferreira, Jr.  
**SECOND:** R. McDermott  
**Unanimous**

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7. **Case 04-04-03:** Application from **Frank DePeters** for a Design Review Public Hearing for a Subdivision creating two lots with a Lot Line Adjustment and Wetlands Special Use Permit. (Map 6 Lot 4)

Continued to Tuesday, May 4, 2004, 7:00 p.m.

8. **Case 04-04-04:** Application from **Louis P. Terramagra** for Final Public Hearing for a Subdivision creating seven lots with a Lot Line Adjustment and a Scenic Road Alteration Permit. (Map 4 Lot 2 and Map 1 Lot 106)

Continued to Tuesday, May 4, 2004, 7:00 p.m.

**D. REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES**

Minutes will be reviewed at the May 4 meeting.

**E. OTHER BUSINESS – To be discussed at the May 4 meeting.**

1. **Building Inspector's Report**
2. **Committee Reports**
3. **Appointment to Rockingham Planning Commission**

**F. COMMUNICATIONS TO BOARD MEMBERS**

L. Smith referred the Board to a letter to Richard K. Babcock, State Conservationist, USDA, Natural Resources Conservation Service supporting the project to protect Applecrest Farm Orchards, as submitted by the Town of Hampton Falls for a Farmland Protection Program funding grant.

**MOTION:** To authorize the Planning Board Chairman (L. Smith) to sign a letter of support of the Town's grant under the Farmland Protection Program to Mr. Babcock on behalf of the Planning Board.

**MOTION:** A. Tonry  
**SECOND:** R. McDermott  
Unanimous

**G. ADJOURNMENT**

**MOTION:** To adjourn the meeting at 10:24 p.m.

**MOTION:** A. Tonry  
**SECOND:** R. McDermott  
Unanimous