

PUBLIC HEARING AND BUSINESS MEETING

A. CALL TO ORDER – 7:00 PM: Chairman Brown called the meeting to order noting that this meeting is a continuance of the April 27 meeting.

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

C. PUBLIC HEARINGS

1. 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)

Mr. and Mrs. Frank DePeters and Real Estate Agent Donna Carter were present. Mr. DePeters thanked the Board for continuing the meeting to this date. He displayed a copy of the entire property showing the two lots to be addressed by the Board. Of issue is that of frontage. The lot to be subdivided currently has split frontage. It is the plan of the owners to adjust the lot lines of the two lots to allow for frontage to create a new road to service two new lots as well as leave 11 acres with the adjacent parcel in order to keep that property in current use.

It was noted that the Conservation Commission has walked the property and their comments have been taken into consideration on the plan. Both of the new lots have been perc tested and meet the 20,000 square foot reserve area requirement. It was identified that the proposed road is in the wetland buffer. The applicant indicated that a Wetlands Special Use Permit is requested to address this. Other waivers are requested as well. Application was made to the Zoning Board of Adjustment for relief to the Private Road regulations, however, the request was denied due to the fact that this lot does not have 250' of contiguous frontage.

Discussion was opened to questions of the Board. C. Brown stated that this application is for Design Review and that any comments by either the Board or the applicant will be non-binding. L. Smith stated that he is opposed to creating a public road that services only two house lots. He added that the costs to maintain a town road are great and suggested that the private road subdivision regulations probably were put in place for this reason. L. Smith added that the recent court case (Cherry) supported the regulations in that impermeable surfaces are not allowed in wetlands or wetland buffers. Due to the results of this case, an exception would not be made. This proposal has the road and cul de sac substantially in the wetland buffer.

D. Carter stated she felt that Mr. Cherry had an alternative but chose not to present it. L. Smith stated that there is an opportunity for an alternate location for this roadway as well. If the roadway were the only way to get to the buildable portion of the lot, the Board would consider a Special Use Permit. The applicant can, however, access the upland in this case. C. Brown concurred with these comments insofar as the use of the land is still available for one lot due to the fact that a driveway accessing the buildable area will not damage the wetland buffer area in

PUBLIC HEARING AND BUSINESS MEETING

as much as the road will. C. Gordon inquired as to the square footage of wetland impact proposed by this plan. D. Carter stated those figures have not been calculated.

C. Brown stated that a public town road that supports two house lots at some point is going to be a financial drain. She stated reasonableness is to be considered as to what is expected by allowing a public road for two house lots. She questioned how many other cases would come forward and if this type of development is reasonable. A. Tonry questioned whether the Town could choose not to accept the road as a Town road.

F. DePeters asked if the Town would allow a driveway for one house lot on a parcel with 75' of frontage. The answer given was "yes" as it would give access for the use of the land. D. Carter identified a T-shaped area of the larger parcel that is planned to be transferred to the adjacent lot. L. Smith cautioned the applicant that the Board cannot approve a lot that is less conforming than today. D. Carter identified the area of the lot of record and the owners' request to leave 11 acres for current use purposes. Two different owners are involved.

Hearing no further comments from the Board, discussion was opened to abutters and members of the public. Don Janik, Exeter Road, identified his property as one that runs along the property line with Route 88. He asked that once this application gets to formal review that consideration is given to allow the trees to remain in place and not be removed. No other comments were heard.

L. Smith restated that he is not in favor of a two lot subdivision with a town road. He added that a lot line adjustment making lots less conforming is not acceptable and that given the recent court case, he would not be agreeable to approve a Wetland Special Use Permit. For the record, it was noted that the strip of land running along the Sanborn Road frontage of the property is in the ownership of the Town of Hampton Falls and has restrictions with respect to development or sale.

Suggestion was made that the applicant try to work out as much as possible with the owners to avoid the request for waivers. F. DePeters explained his reasons for waiver to topographical and his requirements.

2. 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)

C. Gordon and D. Mitchell stepped down as abutters. Attorney John Colliander, Louis Terramagra, Jim Storace and Christian Smith of Beals Associates were present. The applicant was informed of the fact that four voting members remain seated on the Board. This represents a quorum. In response to Chairman Brown, Attorney Colliander stated he wished to proceed.

C. Smith displayed and presented plans that have been revised to address M. Carriel's review comments. These plans were different from those submitted with the application. This subdivision has been discussed as part of the site plan for the adjacent lot (Map 1, Lot 106). The request for Lot Line Adjustment addresses the need to have the land area for the septic system servicing the equestrian center part of Map 1, Lot 106.

PUBLIC HEARING AND BUSINESS MEETING

C. Smith stated the subdivision results in seven building lots with a new road, one lot being the existing home on the property. Six driveways will front the new road and one driveway will front on Drinkwater Road. A Scenic Road Alteration Permit is requested for removal of a portion of stone wall to create road access. The applicant was requested to use the stones to be removed to build up the remaining wall on the lot along Drinkwater Road. C. Smith reviewed drainage plans and proposed a 30,000 gallon fiberglass cistern for fire protection as required by the Fire Chief.

The Board requested C. Smith review M. Carriel's review comments item by item at this time. He identified the changes made in response to M. Carriel's comments as outlined in his letter dated April 26, 2004. He requested input from the Board with respect to the requirement of sidewalks and future access to adjacent lots.

Discussion was opened to comments of the Board. It was noted that the Board is satisfied with the results of the site walk that has taken place and that there is no need for an additional site walk at this point. The Board would be willing to consider another if found necessary. With respect to easements for future road connections, the Board indicated it would not be inclined to require easements as the wetlands appear to make this prohibitive. Regarding sidewalks and roadway lighting, the Board is not inclined to require these at this time. C. Brown reminded the applicant that no signs, entrance facades, trees, et cetera are to be placed within the Town's right of way.

A. Tonry inquired as to the frontage of Parcel A. C. Smith explained that a 125' width has been maintained to allow continued use of the woods road from the cul de sac. Parcel A has adequate frontage on Nason Road. A. Tonry expressed concern regarding the future use of the area. She also suggested signage for the use of farm equipment from the main house to the equestrian center. L. Terramagra stated he would use Drinkwater and Nason and that equipment at the equestrian center is to remain at that site. R. Vigneau inquired as to the details for the cul de sac indicating that the entire area is required to be paved. C. Smith stated he would follow-up with the Road Agent.

Hearing no further questions from the Board, discussion was opened to abutters and members of the public. L. Terramagra inquired as to the need to have a cul de sac that can handle a school bus. No further questions or comments were heard.

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

MOTION: L. Smith
SECOND: A. Tonry
4 in Favor, Passes

A. Tonry suggested that this application be heard prior to the site plan application at the Board's next meeting in order to address the request for lot line adjustment. She also requested that the

PUBLIC HEARING AND BUSINESS MEETING

area for removal of the section of stone wall be flagged as well as the area for the new driveway on Drinkwater Road for view of Board members.

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

MOTION: L. Smith
SECOND: A. Tonry
Unanimous

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

D. REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES

L. Smith made corrections to page seven.

MOTION: To accept the minutes of the March 23 meeting as amended.

MOTION: L. Smith
SECOND: F. Ferreira, Jr.
Unanimous

E. OTHER BUSINESS

- 1. Building Inspector's Report:** The Board acknowledged receipt of R. Vigneau's report for March 2004.
- 2. Committee Reports:**

CIP/Master Plan: C. Brown reported that this committee met in April and has finalized the Community Goals Chapter and Future Land Use Chapter. It is planned to have the Community Goals Chapter available for review at the Board's June meeting. L. Ruest requested wording for the legal notice be provided to R. Vigneau to submit to the Hampton Union.

Road Committee: L. Smith reported that the Road Committee released a portion of the Starvish Lane bond. The court case on the Blythe/Porter matter has been resolved.

Ordinance and Regulations Committee: D. Mitchell stated this committee has not met to date. C. Brown requested that the members of this committee set a date and time for a first meeting as soon as possible. L. Ruest asked D. Mitchell to contact her regarding requirements for posting and submitting minutes to the Town Clerk. C. Brown noted that M. Carriel would like to help write some ordinances if time allows. L. Smith requested this Committee give consideration to the number of house lots to be created for subdivision serviced by a town road versus a private road subdivision in light of tonight's discussion of the DePeters' case. C. Brown referred the Committee members to Subdivision Regulations, Page 1, Section 2, Purpose and Intent. C. Gordon volunteered to fill the open position on this committee. L. Smith stated that he has noticed the mail boxes for some new houses encroaching on the edge of pavement. He suggested that the Road Agent be contacted for input and the regulations be revised if possible.

PUBLIC HEARING AND BUSINESS MEETING

3. Appointment to Rockingham Planning Commission: The Board acknowledged a letter of resignation from Ralph Foster. On behalf of the Board, C. Brown expressed appreciation of R. Foster's service over the years. C. Brown stated that the Planning Board's duty is to recommend a candidate(s) to the Board of Selectmen who appoint. This matter will be added to the May 25 agenda.

F. COMMUNICATIONS TO BOARD MEMBERS: C. Brown reviewed the documents provided as part of the monthly meeting packet to include the results of the Cherry and Blythe/Porter cases. An approval for variance by the ZBA will require site plan approval for property located at 64 Drinkwater Road.

Circuit Rider Planner: C. Brown reported that M. Carriel has informed her of time constraints given the increased activity of the Board. M. Carriel was unable to attend tonight's meeting as she has exceeded the number of contracted hours available to Hampton Falls. Suggestion is being made to charge a fee for application/plan review. This will allow service to Town committee and board needs. This matter will be added to the May 25 agenda.

Impact Fees: A memo dated April 22, 2004, requesting reconsideration of the methodology of assessing the impact fee has been received from the Board of Selectmen. A point paper prepared by R. Vigneau was also received providing information supporting this request.

Lengthy discussion took place that resulted in assignment of this matter to the Ordinance and Regulation Committee. It is requested that this Committee review the State Statute, Town Ordinance and report of Attorney B. Mayberry to determine a new method of assessing impact fees as well as consideration of changing the ordinance to collect the fee at the time the building permit is issued.

Agenda Close Date: The Board changed the agenda close date from the Wednesday before the meeting back two days to the Monday date.

G. ADJOURNMENT

MOTION: To adjourn the meeting at 9:37 p.m.

MOTION: A. Tonry
SECOND: C. Gordon
Unanimous