

PUBLIC HEARING AND BUSINESS MEETING

- A. CALL TO ORDER – 7:00 PM:** Chairman Brown called the meeting to order.
- B. ROLL CALL:** C. Brown, Chairman; L. Smith, A. Tonry, Co-Vice Chairmen; R. Duchaney, C. Gordon, D. Mitchell, Members; R. McDermott, Alternate Member; F. Ferreira, Jr., Selectmen’s Representative; M. Carriel, Rockingham Planning Commission Circuit Rider Planner; R. Vigneau, Building Inspector; L. Ruest, Secretary
NOT PRESENT: J. Caunter, Alternate Member

C. PUBLIC HEARINGS

Attorney John Colliander, Louis Terramagra and Christian Smith of Beals Associates were present for the two applications below. As abutters, C. Gordon stepped down for both applications and D. Mitchell stepped down for the subdivision application (Case #04-04-04). R. McDermott was designated a voting member.

- 1. 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)

It was noted for the record that this application has been taken out of order so that matters pertaining to both cases could be addressed together.

C. Smith updated the Board stating that both M. Cuomo’s and Jones and Beach Engineers’ comments have been incorporated into the revised plans displayed this evening. Some of Jones and Beach Engineers’ comments need to be discussed. C. Smith noted that the road is planned to be revised. Mr. Terramagra has decided to have one barn that was originally deemed to be removed remain. Therefore, the main lot of the original house and barn(s) has been increased in size and the road changed to address this change. C. Smith also reported that Mr. Terramagra would like a new driveway from the existing house to Drinkwater Road. This would allow continued access to his home during construction of the new road. Discussion of driveway access to the lots fronting Drinkwater Road took place. Request was made to have access to these three lots from Drinkwater Road rather than requiring two driveways to come off the new road. C. Smith also inquired as to whether the Scenic Road Alteration Permit would need amendment if the Board agreed to this request.

Lengthy discussion took place regarding available frontage, site distance and other existing driveway locations and road entrance. Past decisions of the Board included restricting access from the main road and moving it to the newly created road. M. Carriel stated that it is good planning to have the newly created driveways front the newly created road or lower traffic roadway. She suggested that the Town Engineer be asked to review the traffic flow with the additional curb cut to Drinkwater Road, a scenic road. It was agreed to wait on any amendment to the Scenic Road Alteration Permit until Jones and Beach Engineers’ could review this question and report to the Board. The Scenic Road Alteration Permit will need to be re-noticed should the need to amend it be determined by Jones and Beach Engineers.

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Discussion of the lot line adjustment took place at this time. There is no change to what has been proposed to date. C. Smith reported that 1.487 acres is to be conveyed to Map 1, Lot 106 leaving 19.7 acres on Map 4, Lot 2 that was originally 21.295 acres. The original acreage of Map 1, Lot 106 was 46.734 acres.

The Board discussed potential ways to handle the request for lot line adjustment. It was suggested to conditionally approve the site plan application with the condition that approval is granted for the Lot Line Adjustment/Subdivision application. Concern was noted regarding approving the site plan application conditionally upon approval of the Lot Line Adjustment/Subdivision application due to the possibility that something could change on the subdivision that would affect the area being conveyed.

Discussion was opened to abutters and members of the public. No comments or questions were heard. This application is continued to the June meeting.

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)

D. Mitchell resumed his seat on the Board at this time.

C. Smith displayed plans and noted that the final approval of the nutrient management plan has been received. He stated that the DES Site Specific Permit is to be reviewed this week and that the Conservation Commission has endorsed the project. Still pending is response to the septic review application and action regarding the Wetland Special Use Permit and Scenic Road Alteration Permit by the Planning Board.

C. Smith reviewed comments received from Jones and Beach Engineers' and noted that some are repeat comments that have been addressed. One comment requests septic plans for review. The Board indicated that M. Cuomo reviews the septic plans. Jones and Beach Engineers' review also suggests the posting of a bond for the paddock areas to ensure there is no change in the topography. Following discussion, the Board requested that the applicant include the costs to ensure there is no change in the topography of the paddock areas in the cost estimate to be provided to the Board of Selectmen.

The Board acknowledged receipt of a letter dated April 30 from Beals Associates identifying the trees to be removed for the construction of the driveway on Nason Road. The reference on the letter indicates the request is for the subdivision. This was corrected to the site plan for Map 1, Lot 106. No further comments were heard from the Board.

MOTION: To approve the applicant's request for Scenic Road Alteration Permit for Case #04-02-01, Map 1, Lot 106, for the removal of four trees as outlined in the letter dated April 30, 2004, as corrected to reference the proposed equestrian center.

MOTION: L. Smith

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**SECOND: R. McDermott
Unanimous**

The Board addressed the request for Wetland Special Use Permit at this time. M. Carriel referred the Board to Section 8.5.2, where it indicates that the applicant agrees to submit a bond before this permit is granted. She suggested that verbal agreement to do so be obtained before continuing. C. Smith stated that an estimate has not been forwarded to the Town Engineer as it is uncertain as to what the estimate is to cover. M. Carriel stated that the estimate should cover the costs to construct in accordance with the plan (to include the sections of the driveway, crossing for the upgrade of the woods road and force main and also maintenance of the riding rings/paddocks). Attorney Colliander stated that applicant agrees to post bond and has no issue in doing so.

MOTION: To approve the applicant's request for Wetland Special Use Permit relating to Map 1, Lot 106, in accordance with the plan by Beals Associates, dated 1/9/04, revised to 5/5/04, subject to posting a bond and agreement of the following:

Section 8.5.1.1	unanimous
Section 8.5.1.2	unanimous
Section 8.5.1.3	unanimous
Section 8.5.1.4	unanimous

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

Discussion was opened to abutters and members of the public. D. Lizotte, Nason Road, inquired as to the location of the walking trail indicating that while on the site walk it appeared to cross wetlands. C. Smith stated the area in question has been relocated, field located by a surveyor, and there is no proposal for a walking trail through wetlands. Members of the site walk concurred that this is not an issue. D. Lizotte also inquired as to whether the nuisance provision of the ordinance has been taken into consideration by the Board. He noted that the proposed use is very close to a residential home and that noise, odor, dust and other nuisances might become issues in the future. Board members indicated they felt that issues such as loud speakers, voice amplifiers, nutrient management plans to address odor, dust and erosion and lighting concerns have been addressed throughout discussion. B. Lizotte, Nason Road, reminded the Board that she submitted a lengthy letter of concerns at the beginning of this review process. She specifically requested answers to her concerns in writing from the Board and stated she has not received a written response. The letter in question was reviewed at this time. B. Lizotte was informed that issues raised in her letter have been addressed as part of the review process and that the Board of Selectmen is the enforcing authority and would be the contact for concerns. It was also noted that the nutrient management plan becomes an enforceable document and the Town could contact the State Department of Environmental Services as well as the USDA for issues relating to this plan. No further comments or questions were heard.

C. Smith requested continuance to the Board's next meeting as the 65-day time period is up.

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MOTION: To approve the applicant's request to continue this application to the Board's June 22 meeting.

MOTION: C. Brown
SECOND: L. Smith
Unanimous

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)

Engineering review funds were posted at such a time that Jones and Beach Engineers did not have adequate time to respond by the Board's agenda close date of May 17. These applications were continued to the Board's June 22 meeting.

3. **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)

Attorney John Colliander, Owner Tom Anderson, and Engineer Henry Boyd of Parker Survey were present. Attorney Colliander reported that a site walk did take place and that he is looking for direction from the Board as to the changes members would like to see on the plan. The plan submitted is an as-built plan showing the existing area and buildings. They only change to this site plan is that of use. Waivers will be requested to some requirements such as topos.

L. Smith indicated that the applicant needs to identify on the plan all businesses now in operation. Lengthy discussion of the lots in question took place. It was stated that the two lots comprise of three tracts per deed language. It was also stated that a lot merger took place so that two tracts became one. The use(s) of the two lots were discussed as well, one being proposed as a combined commercial/residential use. The lot that fronts Lafayette Road provides an easement for access to the lot that fronts Kensington Road. Attorney Colliander indicated that the lot lines could be cleaned up on the plan for better understanding. D. Mitchell requested clarification of the lot lines as well as the uses of the two lots in order to give consideration to the proposal. Attorney Colliander stated he would research the legal descriptions to clear up issues with lot ownership.

Attorney Colliander reported that at a November 28, 2000, meeting, it was determined that site plan review was not needed as Section 4.2, Site Plan Review Not Required, was in place. This section of the Site Plan Review regulations has since been removed. No action was taken on site plan review or the issues related to lot ownership at that time.

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C. Gordon expressed concern with the business still operating given a cease and desist is in place. The applicant needs to continue his efforts with site plan review and clear up boundary issues. The consensus of the Board is to require Site Plan Review. L. Smith asked whether Board members considered this proposed use to fall under Section 5.1.8, Motor Vehicle Sales and Service, as there is a restriction that this use not be located within 1,000 feet in any direction of another. The Board did not feel the proposed use applied to this section.

This site plan is required due to the intensification of use of the site. Storage of boats and sales of boats was not proposed in the past when it was determined site plan review was not required. The applicant is requested to bring a plan to next month's meeting addressing issues related to the site plan review process (hours of operation, parking, lighting, septic, etc.) The applicant needs to make issues clear for the purpose of enforcement. One concern raised on the site walk was that of access for emergency vehicles.

Discussion was opened to abutters and members of the public. No comments were heard. Attorney Colliander requested continuance to the Board's June meeting.

MOTION: To accept the applicant's request to continue this application to the June 22 meeting.

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

4. **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)

Harold and Doris Tanner and Henry Boyd of Parker Survey were present.

H. Boyd reviewed M. Carriel's review memo comments indicating that new map and lot numbers have been obtained, professional stamps will be added to the final plans, a note has been added that the newly created lot is subject to the impact fee (Note 7, Sheet 1) and that the Fire Chief has reported no concerns. A note has been added to the plan indicating that additional wetland delineation for future development is required on the balance of the lot to be conveyed to Map 4, Lot 39. A waiver request has been submitted with respect to HISS requirements. Plans have been forwarded to M. Cuomo for review of the septic area and the 20k septic reserve area has been moved to a location recommended by him. State permits received are noted on the plan (Notes 4 and 5).

H. Boyd reviewed Jones and Beach Engineers' comments at this time. Professional stamps will be placed on the final plans, request for waiver to HISS requirements has yet to be addressed by the Board, and a note has been added to both sheets of the plan with respect to the DOT permit for the driveway and culvert. C. Brown added that the Building Inspector responded that he has no problems with the plan and the Fire Chief indicated the same. The Board addressed the request for waiver at this time.

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MOTION: To approve the applicant's request for waiver to Subdivision Regulation Section 6.2.21 (provision of HISS) due to the nature of this minor subdivision.

MOTION: C. Gordon
SECOND: R. McDermott
Unanimous

M. Carriel indicated that she feels that the wetland setbacks not shown on the plan requires a waiver request, rather than a note on the plan. H. Boyd prepared a written request at this time and submitted it to the Board.

MOTION: To approve the applicant's request for waiver to Section 6.2.9 of the Subdivision Regulations (location of wetlands and setbacks, etc.).

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

Discussion was opened to abutters and members of the public. No abutters were present. C. Brown closed the public hearing.

MOTION: To approve the subdivision of Map 4, Lot 40 into a total of two lots and lot line adjustment conveying 23.44 acres to Map 4, Lot 39 in accordance with the plan by Parker Survey, dated 3/29/04, revised to 5/24/04, 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 draft deeds for the newly created lots be submitted for the Planning Board file.
3. That monumentation be set and certified with a Certificate of Monumentation submitted for the Planning Board file before the mylar is signed.
4. That the mylar includes a note requiring that street numbers for new houses be assigned by the appropriate town official of the Town of Hampton Falls.
5. That no lots are to be advertised or sold before the mylar is signed and recorded.
6. That no building permits be issued until the mylar is signed.
7. That the wetland scientist stamp be added to the final plan.
8. That the two approved waivers be added as notes to the plan.
9. That the applicant provide the final plan in CAD form (Subdivision Regulation 6.1.4).

MOTION: A. Tonry
SECOND: R. McDermott
Unanimous

D. REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES

MOTION: To approve the minutes of the April 27, 2004, meeting as written.

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**MOTION: L. Smith
SECOND: R. McDermott
5 in Favor, 2 Abstentions, Passes**

C. Gordon requested that the discussion held at the May 4, 2004, meeting regarding the change of agenda close date be added to the minutes. A statement reading “The Board changed the agenda close date from the Wednesday before the meeting back two days to the Monday date.”

MOTION: To approve the minutes of the May 4, 2004, as amended.

**MOTION: L. Smith
SECOND: R. McDermott
6 in Favor, 1 Abstention, Passes**

E. OTHER BUSINESS

1. Building Inspector’s Report

R. Vigneau’s report for the month of April was reviewed at this time.

2. Committee Reports

C. Brown reported that the Community Goals Chapter will be forwarded to the Board in July (keeping with the new agenda close date). The Future Land Use Chapter may be ready for forwarding for July as well. The CIP/Master Plan Committee meets next on the third Wednesday in June at 7:30 a.m.

D. Mitchell reported that the Ordinance and Regulations Review Committee met for the first time on May 18. A tentative meeting schedule has been set and issues to be addressed have been prioritized. It is hoped to bring a recommendation with respect to the Impact Fee to the Planning Board’s meeting of June 22.

3. Appointment to Rockingham Planning Commission

C. Brown informed Board members that Rockingham Planning Commission Member Ralph Foster passed away on May 18. She stated that Ralph’s knowledge on planning and zoning issues will be missed by many and acknowledged his lengthy service on the Planning Board, Zoning Board of Adjustment and Rockingham Planning Commission.

It is the Planning Board’s responsibility to recommend a candidate for this open position as well as the open alternate position. C. Brown suggested Roger Venden as Member and Richard McDermott as Alternate Member. Board members agreed with these recommendations and C. Brown asked Selectmen’s Representative Frank Ferreira, Jr. to bring the recommendations to the Board of Selectmen for appointment.

4. Circuit Rider Planner

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Suggestion was made at the May 4 meeting to charge a fee for application/plan review. M. Carriel has provided amended fee schedule sections of site plan review regulations and subdivision regulations for consideration. The Ordinance and Regulations Review Committee will now take this information under advisement and report back to the Board. These regulations can be changed with a public hearing and do not need to be forwarded to the Selectmen for inclusion on the ballot.

F. COMMUNICATIONS TO BOARD MEMBERS

2004 Municipal Board Training Series: C. Brown referred the Board to this year's schedule and stated that anyone wishing to attend should contact Lori Ruest for sign-up.

Rockingham Planning Commission Pamphlet: At a past meeting, it was requested that information be provided as to the services offered by the Rockingham Planning Commission. A copy of this pamphlet was provided to all Board members.

Cherry V. Town of Hampton Falls: A letter from Pierce Atwood, Attorneys at Law, dated May 10, 2004, was reviewed at this time.

“Senior Housing Stirs Debate in Newmarket” News Article: A news article outlining issues affecting a planning board case in Newmarket was provided to the Board.

G. ADJOURNMENT

MOTION: To adjourn the meeting at 9:58 p.m.

MOTION: A. Tonry

SECOND: L. Smith

Unanimous