

PUBLIC HEARING AND BUSINESS MEETING

- A. CALL TO ORDER – 7:00 PM:** Chairman Brown called the meeting to order.
- B. ROLL CALL:** C. Brown, Chairperson; L. Smith, Vice Chairperson; C. Gordon, D. Mitchell, B. Mutrie, A. Tonry, Members; M. Garavaglia, R. McDermott, Alternate Members; S. Volpone, Jr., Selectmen’s Representative; D. West, Circuit Rider Planner; R. Vigneau, Building Inspector; L. Ruest, Secretary
- C. PRELIMINARY CONSULTATION:**

**Changing Places, LLC – Age Restricted Housing;
Property Owners: Kenneth & Ruth Pelton, Map 7, Lot 68
19 Lafayette Road, Hampton Falls, NH**

Mr. and Mrs. Pelton, Christian Smith of Beals Associates, Kim Brown Real Estate Agent and partners John O’Neil and Michael Brigham were present. C. Brown stated that preliminary consultations are non-binding on both parties; in this case, Changing Places, LLC and the Planning Board. This discussion will be an exchange of ideas and information only and will not include consideration or review of plans.

C. Smith displayed a plan showing a two-lot subdivision of the property. The plan is to keep the Pelton home on a conforming two-lot parcel, create a town road to create frontage for the Pelton parcel and the other parcel and build approximately 16 living units, two bedrooms each. The parcel as is today has 360’ of frontage. There is no plan for development of the rear area at this time.

C. Smith noted that in one instance the 50’ building separation requirement cannot be met; 35’ is available. The applicant is looking for input from the Board as to whether the 16 units are to be elderly housing or multi-family housing. The resulting lot will comply with both the elderly and multi family regulations. The initial thought is to create two-bedroom units for empty nesters. It was noted from a marketing standpoint that the limit of two-bedrooms generally attracts young couples or persons 62 and over. The applicant is flexible in this regard. C. Brown stated that the multi-family ordinance is in place to address the need for workforce housing and that the proposed units would support working couples.

Discussion was opened to questions of the Board. R. McDermott asked whether the applicant considered placing buildings on the opposite side of the road in order to provide the required 50’ separation. C. Smith stated there is a 100’ wetland setback on that side; however, it is felt that reworking the plan will allow for the required 50’ separation.

C. Smith added that two wells are proposed and he identified the 20,000 square foot reserve area on the plan. Each unit is planned to be two floors, one single-unit townhouse style dwelling. Test pits have yet to be witnessed by the Rockingham County Conservation District. Discussion of the proposed new 300’ road and its creation took place. C. Smith explained that the ordinance requires 250’ frontage on a town approved road. At this time, the plan does not show a turnaround at the end and the Board requested one for fire apparatus purposes. A. Tonry noted that the Board denied a request for a two lot subdivision in the past as the Town is not amenable to maintaining a small road. The applicant stated that they would be willing to plow the town

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portion of the road and include this in the condo association documents. C. Smith provided the Board with a photo of the proposed building rendition. It was noted that Seabrook does not provide water to this site. No elevators are planned. There is only the one entrance/egress. Discussion of considering a private road subdivision took place to include the possible need for variance(s) from the ZBA in advance of submitting a Planning Board application.

D. PUBLIC HEARINGS

1. **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)

Charles Mutrie, Attorney Michele Peckham, John Chagnon of Ambit Engineering and Steve Sicard were present. B. Mutrie stepped down from the Board and R. McDermott was designated a voting member for this application. The application for site plan was concluded last month with a conditional approval and the subdivision approval is to be discussed and decided tonight.

C. Brown referred the Board to Circuit Rider Planner D. West's memo of May 18. Attorney Peckham stated that she spoke with Planning Board Counsel, Mark Beliveau, today regarding this matter and asked the Board to accept jurisdiction of the Subdivision application at this time.

C. Brown added that she discussed proposed conditions provided by D. West with Attorney Beliveau as well and he agreed with their content and completeness. In addition to the conditions of approval as outlined by D. West, C. Brown stated that the Board needs to address the issue of reference to the 20,000 square foot reserve area as required in the subdivision regulations. The site plan review addressed this issue as well. C. Brown stated the Board needs to understand that the 20k issue is addressed in both sets of regulations and is referenced in the overlay district ordinances. It is not listed as a separate requirement on its own, but through reference relates back to subdivision regulations and site plan review regulations.

C. Brown suggested that whereas the Board approved the waiver from the Building Code 20k requirement to reduce the area to 12,264, that the same be granted for the subdivision application in order to clear this matter off the table.

MOTION: To waive Subdivision Regulation 7.9.2 requiring 20,000 square foot reserve which was supported by the Rockingham County Conservation District Representative M. Cuomo in his review letter of 4/18/05 "because a pretreatment system is being specified."

MOTION: L. SMITH
SECOND: R. MCDERMOTT
UNANIMOUS

C. Brown requested that the Ordinance and Regulations Review Committee review this issue and make recommendation. Hearing no further questions of the Board, discussion was opened to abutters and members of the public.

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L. Smith suggested that a note be placed on the plan indicating that in the event of power outage, the elevator will return to the first floor. C. Gordon reminded the Board that this was previously agreed to be part of the specifications provided to the Building Inspector. It was also agreed to include the location of the emergency generator(s) as part of final plan as well as the as-built plan. Attorney Peckham noted that drainage maintenance plan information is to be part of the condo documents.

Abutter Lyn Stan restated her concern with the pretreatment system not being required to have 20,000 square foot reserve. C. Brown restated that this plan was reviewed and approved by the Town's Soil Scientist, thus resulting in a waiver. R. Vigneau noted that there is a third location in the regulations where the 20k requirement is mentioned (11.4.6). C. Brown explained that she consulted with Attorney Mark Beliveau and learned that it is included here through reference only and is not a requirement in that article/section. Counsel has indicated that the requirement should only appear once rather than appearing in three different places.

Abutter A. McKeon requested clarification. It was noted that the Town of Hampton Falls has more stringent rules than the State; however, in this instance the property owner was granted relief from the 20k requirement. M. Cuomo has reported that the 12k will meet requirements for this plan. R. McDermott noted that discussion as part of the site walk related to this issue.

Hearing no further comments, C. Brown closed the public hearing. Attorney Peckham requested attention to the issue of outstanding fees specifically relating to the application fees for subdivision application. She submitted a written request for waiver from a portion of the fee. It was explained that fees were charged as part of the site plan application for newly created building area. Fees were also charged as part of the subdivision application for new resulting "lots" created. In this instance, subdivision relates to number of units and not number of lots and therefore does not apply.

MOTION: To waive the fees under subdivision which are duplication of fees already assessed as part of site plan.

MOTION: L. SMITH
SECOND: D. MITCHELL
UNANIMOUS

A five minute break was taken to prepare a motion.

MOTION: To accept the application as complete.

MOTION: L. SMITH
SECOND: C. GORDON
UNANIMOUS

MOTION: To approve the 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) with the following conditions:

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1. That any and all fees due to the Town of Hampton Falls and its consultants be paid before the mylar is signed and recorded.
2. All condominium documents are to be reviewed and approved by Planning Board Counsel, at the Applicant's expense.
3. A complete set of as-built site plans and floor plans, as well as a complete set of all condominium documents must be filed with the Planning Board. The plan shall show the location of all utilities on the site, and shall indicate the location of all water connections and the shutoff valve for each unit.
4. That septic system standards of the NH Water Supply and Pollution Control Division existing as of the date of the request for condominium conversion must be met or exceeded by all systems used by the units associated with the condominium conversion, and a certificate to that effect must be filed with the Planning Board based on review of Town records by the Building Inspector and onsite inspection of systems by a professional engineer, and, a soil scientist if the existing system is undersized under current WSPCD standards.
5. That responsibility for maintenance, operation, replacement and protection of the water supply and sewage disposal systems shall be clearly established as that of the Declarant or Association of unit owners or, in default of such obligation by the Declarant or Association, then by the individual owners subject to reimbursement from the Association or the Declarant as the case may be, and a statement to this effect shall appear in the condominium Declaration. The deed to each condominium unit shall be subject to the declaration containing these restrictions. In the case of an Association of land owners, a copy of the Articles of Association shall be submitted to the Board. The Declaration and the Articles of Association shall specify that in no event shall the Town have any obligation for maintenance, operation, replacement or protection of the water supply and sewage disposal systems. If for any reason the Town is required to undertake any such obligation, it shall be held harmless and fully and completely indemnified for all cost and expense, including reasonable attorney's fees incurred. The obligations to hold harmless and indemnify shall be joint and several on the part of each unit owner not the Association. The Town shall be entitled to a lien for its protection which shall attach and may be enforced in the manner of the lien for condominium assessments described in RSA 356-B or its successors.
6. That the application is subject to all conditions approved for site plan (Case #05-02-1) April 26, 2005.
7. That all approved waivers be noted on the plan.
8. That construction security and inspection funds be posted before the mylar is signed and recorded.
9. That the mylar includes a note that street numbers are assigned by the appropriate official of the Town of Hampton Falls.
10. That no units are to be advertised or sold before the mylar is signed and recorded.
11. That utility boxes be placed as far as practical from all asphalt surfaces.

**MOTION: L. SMITH
SECOND: A. TONRY
UNANIMOUS**

B. Mutrie resumed her seat on the Board.

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2. **Case 05-05-01:** Home Occupation Application from **The L M Nelson Group** (CJB Whitehead, owner) for a final public hearing to operate a real estate business in Zone A. (189 Exeter Rd., Map 5, Lot 37)

Lois Nelson was present. She provided information as to the location of the property and noted that she has been operating a real estate office out of the el attached to the barn. She is looking to add two words to an existing sign. The request triggered the need for a Level II Home Occupation review. She provided the Board with a copy of the proposed change to the sign where the two words "Real Estate" are added. She stated that the sign is not to be lighted. She has two agents affiliated with the office. One comes to the office part-time/half days. The other works off site. There is no anticipated increase in traffic as most clients are met on the site for sale. Proper parking per regulations is available. Hours of operation include Monday through Friday 9 a.m. to 5 p.m. The Building Inspector has recommended approval of this request.

C. Brown opened discussion to members of the Board. D. Mitchell asked if the sign conforms to the sign ordinance. L. Nelson stated it does and that it has been in place for a number of years. The request is to add two words to the existing sign. Hearing no further comments from the Board, C. Brown opened discussion to abutters and members of the public. Hearing none, she closed the public hearing.

MOTION: To approve the Home Occupation Application from **The L M Nelson Group** (CJB Whitehead, owner) to operate a real estate business in Zone A. (189 Exeter Rd., Map 5, Lot 37) and authorize the Chairman to sign approval of the permit on behalf of the Board.

MOTION: D. MITCHELL
SECOND: B. MUTRIE
UNANIMOUS

Chairman Brown signed the permit.

E. REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES

MOTION: To approve the minutes of the April 26 meeting as written.

MOTION: R. MCDERMOTT
SECOND: L. SMITH
4 IN FAVOR, 3 ABSTENTIONS, PASSES

F. OTHER BUSINESS

1. Abutters' Requests for Reconsideration – Case 05-02-01 – Mutrie:

C. Brown acknowledged receipt of letters from abutters McKeon and Stan as well as a memo from the Building Inspector. She stated that once an application is approved, it cannot be reconsidered. She commented, however, on the indication of certain aspects of the application

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not being open to discussion prior to the vote. She noted that the public hearing remained open in February, March and April as well as at the site walk on April 16.

2. Rockingham County Conservation District – Soil Scientist:

C. Brown informed the Board that M. Cuomo is no longer with the Rockingham County Conservation District. A Soil Scientist will be assigned to Hampton Falls until a permanent one can be hired. The Board agreed that it would be appropriate to write a letter (signed by the Chairmen of the Planning Board, ZBA, Board of Selectmen and Conservation Commission) acknowledging M. Cuomo's 11 years of dedicated service to the Town as well as his consistency, willingness to work with septic designers and ability to provide confidence to the Board with his recommendations and expertise.

3. Building Inspector's Report:

The Board acknowledged R. Vigneau's report for April. Request was made to address the lack of silt fencing at the construction work taking place at the former Getty Station. R. Vigneau stated that he has contacted a representative of this project and the silt fencing will be put in place.

Inquiry was made with respect to the length of time the large temporary sign at Big Bill's has been in place on Lafayette Road.

4. River Willow Farms Drainage Matter:

Property Owner Phil Jodoin has met with the Road Committee regarding the drainage swale at the front of his house on Towle Farm Road. The drainage plan was to sheet drain to the Taylor River. The way it has been constructed does not allow for sheet draining. The developer's representative, Mike Garrepy, indicated in the fall that he would be willing to address this matter in the spring. The position taken is that if the drainage is in place according to plan, the Planning Board has no jurisdiction. The owner is responsible to do due diligence before purchase.

L. Smith stated that he felt that once the drainage is done according to the plan, the problem should go away.

5. Subdivision Condition of Approval – Monumentation:

Suggestion is made to amend a condition of subdivision approval regarding requirements for monumentation. R. Vigneau suggests adding "monumentation must be in place prior to the issuance of a building permit." He explained reasons for doing so to include the potential new owner's ability to know where boundaries are. C. Gordon stated that he is in favor of amending as suggested but that he did not feel the amendment would address R. Vigneau's concern. R. Vigneau added that the monumentation in place is necessary in order to certify the foundation meets regulations. Lengthy discussion followed. It was agreed to amend this condition of subdivision approval. The condition that monumentation be set and certified for Lot Line Adjustments is to remain required before the mylar is signed and recorded.

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6. Committee Reports:

CIP Committee: A copy of meeting minutes dated April 27 was provided to the Board as well as a copy of the attachment referenced.

Road Committee: A copy of the minutes of the May 17 meeting was provided to the Board. L. Smith stated that once a subdivision road is improved, the School District would like to be notified. It was suggested that once a road is accepted as a town road that all entities be informed.

Ordinance and Regulations Review Committee: Minutes of the December 9, 2004 meeting were provided to the Board. C. Brown reviewed a listing of proposed ordinance issues as prepared by the Building Inspector. She added an additional one to address the 20k issue discussed tonight and prioritized each. Following discussion, the Board agreed to place the 20k reference in the Building Code and reference it in the other sections of the ordinances. C. Gordon stated that the Board of Selectmen provided priorities in the past that may impact this list. D. Mitchell requested M. Garavaglia join this committee. She stated that she would be willing to as long as meetings do not affect her work schedule.

G. COMMUNICATIONS TO BOARD MEMBERS:

The following documents were provided to the Board.

- Notice to volunteer for the Salt Marsh Monitoring Program.
- 2005 Municipal Board Training Series – information on workshops and registration form.
- REDC “Developments” notice of meeting on Wednesday, June 15, 6-8 p.m., Exeter Town Hall relating to comments on the proposed Comprehensive Economic Development Strategy planning process.

H. ADJOURNMENT

MOTION: To adjourn the meeting at 9:07 p.m.

MOTION: A. TONRY
SECOND: S. VOLPONE
UNANIMOUS