

PLANNING BOARD	June 28, 2022, 7:00 PM
TOWN OF HAMPTON FALLS	TOWN HALL

FINAL

PLANNING BOARD MEETING

A. CALL TO ORDER

Todd Santora, Chairman called the meeting to order at 7:00 PM.

B. ROLL CALL – PLANNING BOARD

Present: Todd Santora, Chairman; Eric Cimon, Vice-Chairman; Edward B. Beattie, Selectmen's Representative; Lisa Brown-Kucharski; Abigail Tonry; Andrew Brubaker; Jon Ringel, members.

Non-voting: Will Lojek, Alternate; Mark Sikorski, Building Inspector; Glenn Coppelman, RPC Circuit Rider Planner; Rachel D. Webb, Planning/Zoning/Town Secretary.

Guests: Steve Sabatini and Mike Stan; Depot Rd Subcommittee of Recreation Commission. Linda and Wayne Barker, Brown Road, applicants for 22-06-01

Chairman Santora said that there was a quick presentation, not on the agenda, by Steve Sabatini and Mike Stan regarding the Depot Rd Subcommittee of the Parks and Recreation Commission (DRSPRC). M. Stan presented information regarding the pending action by the NH Seacoast Greenway as was contained in an email sent earlier in June to the Chairs of the Planning Board and other Town boards and committees. There is going to be Rails-to-Trails / Community Connections workgroup for the NH Seacoast Greenway, an update meeting on July 11 at 5:30 pm at Hampton Falls Town Hall. Along with the email invitation there was also an agenda and an attached document titled, "Analysis of Road Crossings & Trailhead Access Potential for the NH Seacoast Greenway, by the Rockingham Planning Commission, January 2021". He stated that the first ten-pages of the document are relevant to consider, with sites "P" and "Q" located in Hampton Falls. He requested that the information be shared with all Planning Board members, so that they can formulate questions for the meeting on July 11th. M. Stan continued that when the Rail Trail comes to town that the State wants to make the Depot Landing area a "Trail Head". With a Trail Head comes a lot of other potential requirements, such as running water, benches, overhead lighting etc., and he said that the DRSPRC wants to make sure that the Town is not blind-sided by the project and that the Town can still retain the look, feel and vibe of Hampton Falls. He said that the proposed Rail Trail could potentially change the look and feel of the area.

T. Santora clarified that the DRSPRC is a subcommittee of the Recreation Commission.

M. Stan said that it would be great to have a representative from the Planning Board present at the July 11th meeting. L. Brown-Kucharski asked who was sponsoring the July 11th meeting, and M. Stan responded the NH Seacoast Greenway is initiating the meeting. S. Sabatini suggested that a question of what is the difference between an "Access Point" and a "Trail Head" may be a good question to ask. Another question is whose responsibility is it to maintain a Trail Head. There was additional discussion around making the public aware of this meeting, although emphasizing that the meeting on July 11th will be a Public Meeting, and not a Public Hearing, so anyone can attend, but there will only be approximately a dozen (invited) participants representative from the Town's boards and committees. A. Brubaker thought that it would be good to post information on the Town website, and E. Cimon agreed that it would be good for

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awareness, but to be clear that it is not a Public Hearing. E. Beattie said that he intends to attend, and L. Brown-Kucharski was also interested in the meeting.

T. Santora said that the Planning Board typically reviews and approves applications that come before the Board and felt that this subject was not typical business for the Planning Board, although he said that he was happy to look at it, and potentially attend the July 11th meeting, but he is not certain of the role of the Planning Board to get involved.

L. Brown-Kucharski asked when this proposal became a Trail Head, because she was not aware that the Depot was being considered as a Trail Head. E. Beattie said that he read the material when it was emailed to him, but that this was the first he was made aware of the discussion of a Trail Head. A. Brubaker said that he was not previously aware of the proposed Trail Head and asked G. Coppelman if Scott Bogle is involved with the project. S. Sabatini responded that S. Bogle is going to be one of the presenters at the July 11th meeting. T. Santora requested to table further discussion to later in the meeting under “Other Business”, as there was an applicant present for a Public Hearing that was scheduled on the agenda.

C. PUBLIC HEARING

Case #22-06-01: Application from **Jeffrey Barker** for Final Public Hearing for a **Conditional Use Permit – Accessory Dwelling Unit / Detached** to transform the interior of the existing barn into a one-bedroom, one-bathroom, small living space & kitchen. Two windows will be put in the front, five windows will go on the back, and an egress door will go on the side, at 3 Marston Way, Hampton Falls.

Linda and Wayne Barker, both of Brown Rd were present on behalf of the applicant (their son), Jeff Barker. The applicant owns the house at 3 Marston, and the proposal is for the building located between them (currently a barn) to be turned into an apartment for the Linda and Wayne Barker to live in for retirement, starting in approximately three years.

T. Santora asked if the septic system was designed with the future apartment in mind, and the response was yes. T. Santora asked what the material of the driveway is, and the response was that it is paved up to a certain point and will be extended with crushed gravel to the barn/apartment, and may eventually be paved, as gravel driveways are difficult to plow in the Winter. A. Tonry asked for further clarification regarding the location of the driveway, and the Barkers responded that the existing paved driveway goes to 3 Marston, and that driveway will be extended to reach the barn/apartment in the back.

T. Santora read the standards to be met by the application for a Conditional Use Permit for a Detached Accessory Dwelling Unit, and commented, and/or asked for input on each, as follows:

1. That any and all fees due the Town of Hampton Falls and its consultants be paid before the case is heard. The applicant’s parents did not receive the bill ahead of the meeting and will mail the remaining payment to the Planning Board Secretary prior to the Town issuing them a Decision Letter and any permits.

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2. *That the owner of the property shall occupy one of the dwelling units as his/her primary dwelling unit and be owner and landlord of the second dwelling unit.* The applicants confirmed that only family members will be located in the new accessory dwelling unit.

3. *That the living area of the accessory dwelling unit shall not exceed 750 square feet. There must be an interior door between an attached accessory dwelling unit and the primary dwelling.* The second sentence does not apply to this application as it is a detached, and not an attached, dwelling unit. Regarding the maximum square footage allowance of 750 feet, T. Santora asked the applicants for clarification of the floorplan either side of the basement door, if that space was proposed to be finished or unfinished living space, areas beside the living room. The applicants clarified that the area will not be finished space as either a deck or porch. T. Santora said that he calculated the square footage from the floorplan provided and stated that the proposal is for 666 square feet of living area, and the applicant agreed.

5. *That onsite parking shall be provided on the lot for both dwelling units.* The proposed plan meets this standard.

6. *That the accessory dwelling unit shall conform to all applicable structural, water and sanitary standards for residential buildings and that detached accessory dwelling units that utilize an accessory use building (e.g., garage or barn) shall match the character of the primary residential use located on the lot.* T. Santora stated that the Barn was built to match the house in front, so he does not have any issue with this standard, and neither did any other Planning Board members comment.

7. *That once any renovation or construction is complete, or the owner is ready to have a unit occupied, a request must be made to the Building Inspector to obtain a Certificate of Occupancy permit. There shall be no occupancy of the accessory dwelling unit (or either unit if the entire dwelling has been newly constructed) until the Building Inspector has issued a Certificate of Occupancy permit.* The applicants acknowledged their understanding of this standard.

8. *Only one accessory dwelling unit is allowed per lot. The property and proposed use must conform to any and all zoning ordinances and regulations of the Town of Hampton Falls.* The applicants acknowledged their understanding of this standard.

9. *Detached accessory dwelling units that utilize an accessory use building (e.g., garage or barn) shall match the character of the primary residential use located on the lot.* T. Santora stated that this was previously discussed.

10. *That no accessory dwelling unit shall be condominiumized or in any way be in a different ownership than the principal dwelling.* The applicants acknowledged their understanding of this standard, and said that it would not happen during their lifetimes.

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4. That any entrance, newly constructed, to the accessory dwelling unit shall be located on the side or rear of the dwelling unit. T. Santora stated that the proposal met this standard.

A. Tonry asked if there is a second floor within the barn/apartment, and the applicant responded that they are going to close off the Loft area on the 2nd floor. T. Santora commented that the photos submitted with the application were helpful and that he thought the additional windows being proposed added character. L. Brown-Kucharski commented that it was a very nice application. A. Tonry followed-up her inquiries about the second floor and asked if the Loft extended throughout the whole building, and the response was no because the Living Room has a cathedral ceiling. A. Tonry expressed her concern with the next owners finishing the Loft area, and wanted to add a condition to the permit to address that “no additional space can be finished in the Loft area, as per current zoning ordinance”. G. Coppelman commented that there is still room to expand from the approximate 660 sqft now, to the 750 allowed by ordinance, but a future owner may need to return to the Planning Board to amend both the approved floorplan and the square-footage request. M. Sikorski said that the owners would still have to get Building Permit for the expansion at that time.

MOTION: To invoke jurisdiction for Case #22-06-01.

MOTION: L. BROWN-KUCHARSKI

SECOND: A. BRUBAKER

UNANIMOUS

E. Cimon asked Chairman Santora if the Planning Board was going to add the additional condition, as discussed by A. Tonry. T. Santora replied that he is comfortable with not adding an additional condition as long as it is clarified, as G. Coppelman pointed out, for current zoning. E. Cimon stated that he felt that the Board is protected with the language as it is, but if A. Tonry wanted to add language to “future proof” the approval, then that could be added. L. Brown-Kucharski said to state the approval “as per plan”.

MOTION: To approve Case #22-06-01: Application from Jeffrey Barker for Final Public Hearing for a Conditional Use Permit – Accessory Dwelling Unit / Detached to transform the interior of the existing barn into a one-bedroom, one-bathroom, small living space & kitchen. Two windows will be put in the front, five windows will go on the back, and an egress door will go on the side, located at 3 Marston Way, Hampton Falls (Map 5, Lot 53-6). Subject to the following conditions:

- 1. That any and all fees due the Town of Hampton Falls and its consultants be paid before the case is heard.**
- 2. That the owner of the property shall occupy one of the dwelling units as his/her primary dwelling unit and be owner and landlord of the second dwelling unit.**
- 3. That the living area of the accessory dwelling unit shall not exceed 750 square feet.**
- 4. That onsite parking shall be provided on the lot for both dwelling units.**

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5. That any entrance, newly constructed, to the accessory dwelling unit shall be located on the side or rear of the dwelling unit.
6. That the accessory dwelling unit shall conform to all applicable structural, water and sanitary standards for residential buildings and that detached accessory dwelling units that utilize an accessory use building (e.g., garage or barn) shall match the character of the primary residential use located on the lot.
7. That once any renovation or construction is complete or the owner is ready to have a unit occupied, a request must be made to the Building Inspector to obtain a Certificate of Occupancy permit. There shall be no occupancy of the accessory dwelling unit (or either unit if the entire dwelling has been newly constructed) until the Building Inspector has issued a Certificate of Occupancy permit.
8. Only one accessory dwelling unit is allowed per lot. The property and proposed use must conform to any and all zoning ordinances and regulations of the Town of Hampton Falls.
9. Detached accessory dwelling units that utilize an accessory use building (e.g., garage or barn) shall match the character of the primary residential use located on the lot.
10. That no accessory dwelling unit shall be condominiumized or in any way be in a different ownership than the principal dwelling.

Discussion of the Motion: A. Tonry asked M. Sikorski if there is a time limit on completion of construction. M. Sikorski responded that the general building code requires a one-year timeframe from permit issuance for construction to start, and towns and specific subdivisions can have separate requirements. The applicants stated that the work will start on the windows before the end of the calendar year.

MOTION: E. CIMON

SECOND: A. TONRY

UNANIMOUS

D. REVIEW AND APPROVAL OF PREVIOUS PLANNING BOARD MEETING

MINUTES: May 24, 2022.

MOTION: To approve the minutes of the Planning Board's Meeting from May 24, 2022, as written.

MOTION: L. BROWN-KUCHARSKI

SECOND: J. RINGEL

1 ABSTAINED, 6-YES; MOTION PASSED

E. OTHER BUSINESS:

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1. Review of Ordinance and Regulations Committee (ORRC) proposals for amendments to the Zoning Ordinance and/or Regulations: T. Santora said that the proposed three (3) zoning definitions have been approved by the ORRC to go to Public Hearing in November. Chairman Santora wanted the three (3) Planning Board members who are not on the ORRC to have the opportunity to weigh-in on the proposed amendments. L. Brown-Kucharski, J. Ringel, and W. Lojek all received the proposed new/amendments to the three zoning definitions prior to the Planning Board meeting. L. Brown-Kucharski said that she did not have any questions, and neither did J. Ringel, nor W. Lojek. A. Brubaker expressed thanks to the group for all of their painstaking work. E. Cimon said special thanks to A. Tonry who did most of the work.

Chairman Santora said that ORRC will meet in July with two items on the agenda for consideration, and hopefully may be able to work on those to complete in time for Public Hearing in November (with the three zoning definition amendments previously approved). The two subjects are (1) Short-Term Rentals and (2) Notice to abutters for removal of trees by Unitil on Scenic Roads.

L. Brown-Kucharski said that Unitil is doing work on her street, that is not a Scenic Road, and Unitil is still going to every house to speak with the owners prior to doing their work (even though the work is not on a Scenic Road). She said that it could have been the tree company Asplundh and not Unitil. G. Coppelman said that if property owners are not home, then they (Unitil or the tree company) leave a Door Hanger behind, requesting the property owner to call them.

2. Land Use Attorney search update: Chairman Santora announced that the Search Committee (comprised of himself, Selectman E. Beattie, A. Tonry, and Town Administrator Karen Anderson) has chosen Attorney Cordell Johnston to be the Town's next Land Use Attorney, following the retirement of Attorney Mark Beliveau. Attorney Johnston was selected from a field of four (4) applicants. He is a sole proprietor, with his office located near Concord, and has over twenty-five (25) years' experience working for the NH Municipal Association. He has written a lot of case law regarding regulations that have been proposed by the State. Hampton Falls is going to be his third client. He specializes in Short-Term Rentals, which is why that subject is back on the radar of the ORRC because he wrote some of the opinion articles and has been involved heavily with the State in getting the subject discussed at the State level. Chairman Santora said that one of the questions asked during the interviews was whether Hampton Falls should try to get ahead of the curve and put a local ordinance in place regarding Short-Term Rentals before the State makes a decision. Chairman Santora said that he is looking forward to working with him and is of the opinion that Attorney Johnston will be an asset to the Town. E. Beattie agreed that Attorney Johnston was a good choice, as he is very professional, and he is only going to take on six clients, so that when we call, we will get his attention. E. Beattie said that A. Tonry had similar conclusions, and she nodded in agreement.

3. Water & Sewer Update: Chairman Santora reported that Town Administrator Karen Anderson is continuing her due diligence and has a grant application filed with the State for

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\$100,000 for the planning phase of the feasibility of the Town installing sewer. K. Anderson also spoke with the Commissioner of the NH Division of Economic Development office, at a conference she recently attended, who subsequently arranged a meeting with a Business Resource Specialist who came to Hampton Falls to discuss economic development along Lafayette Road and the proposed sewer project.

4. Other Business: Depot Landing discussion:

E. Cimon asked Chairman Santora if he wanted to revisit the discussion regarding the Depot, and T. Santora responded that he was not certain of the Planning Board's role in that project because the Recreation Commission has a subcommittee for that purpose. G. Coppelman clarified that the Planning Board has no jurisdictional role, although the Board could provide input, guidance, and advise, but it is not a commercial Site Plan, nor a residential Subdivision. The Planning Board does not have jurisdiction to approve or disapprove something in this particular case, as any approvals will most likely be with the Selectmen.

L. Brown-Kucharski said that she did not understand why the DRSPRC is looking for a representative from each of the boards to attend the July 11th meeting, and G. Coppelman responded that it is probably to control the crowd to keep it manageable. A. Tonry said that she thinks the DRSPRC is looking for advice from each of the different boards to pre-vet potential issues. An example was exterior lighting, that if proposed, she thought that the Planning Board would most likely respond with a requirement for down-shielded lighting.

E. Beattie said that before A. Brubaker was involved with the RPC, that Larry Smith did a lot of work on the trail and periodically gave E. Beattie updates on the project status. From E. Beattie's perspective, what he heard tonight was that the project has jumped forward. He was aware that this project was on the regional list, but had been down the list, and now it seemed as though it had moved closer to the top of the list. A. Brubaker addressed G. Coppelman and said that the portion of the Rails-to-Trails East Coast, NH Seacoast Greenway project in the funding plan through the RPC he thought was proposed for a ten-year timeframe. E. Beattie agreed that it was his understanding as well, that the project was in a ten-year timeframe, and not imminent. *Since the Planning Board meeting, the NH DOT Ten-Year Plan for 2023-2032 page 69 lists Preliminary Engineering in 2027 with Construction in 2032.*

L. Brown-Kucharski said that she had never previously heard the term "Trail Head", and she had attended a prior meeting on the subject in Hampton. E. Beattie said that he thought that something had changed on the financial side that had moved the project up, and G. Coppelman offered that there is quite a bit of money flowing from the Federal government and it could be that had something to do with the change in priority of this project.

J. Ringel asked G. Coppelman who, exactly, owns the Depot area, and the response from many Planning Board members was that that was part of the problem, that there are so many stakeholders at the site, including some parcels with questionable ownership that it will be a challenge to unwind. E. Beattie provided some context regarding prior research that has been done in the area of the Depot Landing in terms of ownership in two instances. Once was a few

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years ago when there was a Warrant Article regarding a proposal for a floating dock at the Depot Landing that was defeated by the voters, and the second was when Dan Dewitt passed, and a commemorative bench was proposed to be located at the Depot and the land ownership was examined for that purpose. G. Coppelman said that all of the ownership will need to be understood prior to construction as part of the project. J. Ringel said that another aspect is that the train trestles and bridge foundations are historic. E. Beattie stated that they (the bridge foundations) are protected. A. Brubaker said that it is going to be a challenge to unravel the ownership.

5. Other Business discussion: Work-Force Housing money from the State:

L. Brown-Kucharski asked the Planning Board members if they were aware of the money the State has, and the State's big push for more housing, and over-riding local zoning to accomplish it? E. Beattie responded that he thought she was referring to "Work-Force Housing" which would have limits in Hampton Falls on rental housing of approximately \$1,800 to \$2,200 per month, that fits the demographics of the community; builders would get money and so would the Town for each of the units that were designated as Work-Force Housing within the project. L. Brown-Kucharski said that she just wants the Town to be aware of this possibility, that if the Town accepts certain types of State monies for "Work-Force Housing" that there may be "strings attached" where the State can over-ride local zoning ordinances.

6. Other Business discussion: 41 Lafayette Rd.:

Chairman Santora brought up the topic of the construction not being completed yet on 41 Lafayette Rd's Site Plan; although the applicant has opened for business with Grand Opening signs, without the Town Engineer having signed-off on the final plans. He asked M. Sikorski what can the Town do to prevent that from happening? M. Sikorski provided an update of the outstanding items needing completion. He said that he went onsite to speak with the person stationed there, and spoke with him about the fact that they really should not be opened yet. M. Sikorski asked how many customers are they getting daily, and the response was about three or four daily. M. Sikorski said the choices are to (a) either shut down all sales until all Site work is complete and Town Engineer approved, or (b) allow continued low-level sales until all landscaping is complete. G. Coppelman said that the Town can shut down the sales completely, in this instance, and M. Sikorski said that he hates to tell someone that they can not sell their products when they already have the products onsite. L. Brown-Kucharski said that M. Sikorski could offer an ultimatum that the site work has to be complete by a date certain or he will be shut down.

W. Lojek said that he stopped by the site recently and saw the split-rail fence being installed. The planned stockade fence in front of the blocks had posts installed but no panels. M. Sikorski clarified that the original fence posts and panels were not high enough to screen the block wall, so the applicant had to reorder taller materials and are awaiting delivery. Additionally, W. Lojek commented on the stone wall under construction, that the current built section is sixty-feet long. He described that there are currently six sections of ten-foot lengths, with each ten-foot section a different type of stone material. He questioned how the applicant was going to get to 140-feet of stone wall, as discussed at the most recent May Planning Board meeting. He said that the applicant has dug out approximately an additional twenty-feet, for two more wall sections that

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would bring the total linear length to eighty-feet. M. Sikorski said that there is the possibility that the applicant may have over-estimated the length of wall.

E. Beattie suggested that the Town start with requesting that the applicant take down the Grand Opening signs out front. His concern is with the observation by the public that the site construction is not complete, and yet the business is open, that sends the wrong message.

T. Santora asked if the Town has the ability to fine applicants as part of the ordinances, and M. Sikorski responded yes, as part of an Enforcement Order. G. Coppelman added that there is also a Cease-and-Desist option. M. Sikorski said that he has no problem telling the applicant to stop all sales until all site work is complete. L. Brown-Kucharski agreed with E. Beattie that the Grand Opening signs should be removed, and E. Cimon agreed saying that it should give the applicant the motivation to finish the incomplete site work. W. Lojek said that it was his opinion that the business should be shut down now, and only open when completely done. A. Brubaker, T. Santora, and E. Beattie all agreed with W. Lojek. M. Sikorski said that he would write a letter tonight to stop all sales in business until all site work is complete, as per the approved Site Plan. A. Tonry read some of the Site Plan approval language that stated that fencing, and landscaping shall be completed prior to issuance of a Certificate of Occupancy.

F. COMMUNICATIONS TO BOARD MEMBERS

1) **Rockingham Planning Commission (RPC), Circuit Rider Planner annual contract renewal for 2022-2023, effective July 01, 2022.** Chairman Santora read to the Planning Board members an excerpt of the Contract for Circuit Rider Services between the Town and the RPC. The contract is signed by the Chairman of the Board of Selectmen, Mark Lane, and is for the period from July 01, 2022, through June 30, 2023. Services are including but not limited to attendance at Planning Board meetings, assistance in the administration of Plan Review, answer questions from applicants, assist the Planning Board during meetings, provide research and literature searches for information requested by the Planning Board, coordinate Planning Board reviews, and act as Liaison on an as needed basis between the Planning Board and legal counsel, other Town boards and officials and any other entity.

Other Core Services to be performed include minor amendments to the zoning ordinance, subdivision, site plan, and excavation regulations, posting and adoptions of these amendments, assisting in legal compliance for public hearings, and providing timely suggestions for new amendments. This task incorporates the usual and customary changes that occur from year-to-year during operation of the Planning Board. Comprehensive amendments or development of new ordinances, regulations or policies, or master plan updates, typically require a separate contract for services where the scope of such work exceeds that which is contemplated within this task.

Core Services shall include attendance and travel time for 12-night meetings per year and general assistance throughout the contract year totaling 230 hours. The hourly rate for services is \$70 per hour. The total annual fee is \$16,100 paid to the RPC, and then G. Coppelman is paid by the RPC as a sub-contractor. G. Coppelman pointed out that the contract is between the RPC and the

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Town, and the contract does not name G. Coppelman in the contract, so theoretically someone else could fill that role from the RPC. L. Brown-Kucharski asked if the RPC ever had to, or wanted to, change the staff providing assistance to Hampton Falls, would the RPC inform the Town of that change, and G. Coppelman replied that he has told the Director of the RPC that especially after the long tenure he has had with the Town, that the RPC would need to talk with the Town before making that decision. G. Coppelman said that he has been assisting Hampton Falls for a period of eight-years (8). E. Cimon said that the Planning Board appreciates G. Coppelman.

MOTION: To approve the contract between the Town of Hampton Falls and the RPC for Circuit Rider Services for the year July 01, 2022, through June 30, 2023, in the amount of \$16,100.

MOTION: L. BROWN-KUCHARSKI

SECOND: A. BRUBAKER

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2) RPC June 2022 Newsletter, Link sent electronically with agenda 06/17/2022. This communication was accepted with no discussion.

3) Scenic Road Letters to tree companies and also to New Residents via Town Clerk. This communication was accepted. E. Cimon said that it looked good, and E. Beattie and A. Brubaker agreed.

G. ADJOURNMENT

MOTION: To adjourn the meeting at 8:25 PM.

MOTION: L. BROWN-KUCHARSKI

SECOND: E. CIMON

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NEXT PLANNING BOARD MEETING SCHEDULED TUESDAY, July 26, 2022, at 7:00 PM.

These minutes prepared by Rachel D. Webb, Planning, Zoning and Town Secretary.