

# HAMPSTEAD PLANNING BOARD

11 Main Street, Hampstead, New Hampshire 03841-2033

## Minutes 5 December 2011

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Chairman R. Clark opened the meeting at 7:30 P. M. Present were Planning Board members Randy Clark, Proctor Wentworth, Derrick Moyer, Dean Howard, Bill Weber, Ex-officio Priscilla Lindquist and Susan Hastings, Secretary attended. Media reporters Penny Williams and Cara Hogan were present.

### **CHAIRMAN'S REMARKS**

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Chairman Clark expressed his condolences on the passing of Vice Chairman Bill Kelly. He praised Bill as a knowledgeable and dedicated public servant who will be greatly missed by the Board, Town and himself personally.

- **Membership:** The Chairman asked D. Moyer if he intended to run when his terms expires in March. Derrick said he was going to run.

Bill Kelly's passing has left a vacancy on the Board. R. Clark said he would like to wait for the election in March to have the position filled by a public vote.

- **Zoning Petition Period:** The public zoning petition period ends December 14, 2011. Chairman Clark reminded everyone one that petition articles cannot be modified in any way so they must be correct.

### **BONDS: 07-046 Irongate Village Letters of Credit Expiration**

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R. Clark, Chairman, asked what the issues were. S. Hastings said two Letters of Credit were still in effect for **Irongate Village** road work. She had called the Bank and they said they would get back to her with information to renew them. The expiration date is February 4, 2012.

### **PUBLIC MATTERS: Zoning "Merger of Lots"**

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Chairman Clark explained the Legislature had changed the law with regard to involuntary merger of lots. A number of Towns had combined lots and now would need to restore them to their former status. The amendment change will be presented later.

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- Proctor Wentworth stepped down from the Board for the next hearing.

### **PUBLIC MATTERS: 19-009 Winchester Heights, K. Camm**

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R. Clark, Chairman said Kevin Camm had been in to ask if anything had been discussed about his subdivision. **Winchester Heights** was approved with conditions which have not been met. K. Camm came back saying he would like to build on the first lot which has frontage on Hunt Road. The road is not bonded. P. Wentworth said the stumping of the road is the only work done. R. Clark said K. Camm could submit a plan and the Board could consider the one lot.

**Winchester Heights** was discussed on November 7, 2011. The three members of the Board present had voted on an extension of time. A quorum was not present and P. Lindquist questioned the vote saying the Board should consider reaffirming it. R. Clark mentioned the law change on the exemption of time to complete a project. Because of the economy the Legislature has extended the completion time from three years to four years. Randy Clark agreed the Board should reaffirm the vote.

### **MOTION**

**Priscilla made a motion to affirm the vote of October 3, 2011 granting Kevin Camm a time extension of 180 days for meeting the conditions of approval for Winchester Heights 19-009. Dean Howard seconded the motion and it was approved. VOTE YES: Priscilla Lindquist, Dean Howard, Bill Weber, and Derrick Moyer; ABSTAIN: R. Clark. APPROVED: 180 day time extension for 19-009.**

- Proctor Wentworth returned to his seat on the Board.

### **PUBLIC MATTERS: Zoning Amendment Proposals**

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The Chairman opened the discussion of the zoning proposals.

**Amendment 1: IN-LAW/ACCESSORY APARTMENTS: IV-14.1 Definition:** "An apartment within a single family residence used as a separate living space consisting of separate sleeping, cooking and bathroom facilities and which is occupied by the parents, in-laws, children, siblings of, or caregiver for, a member of the family unit occupying the primary part of the residence.

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### **PUBLIC MATTERS: Zoning Amendment Proposals**

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R. Clark explained the current regulation does not include brothers and sisters as being allowed to be residents of the home or to return home. D. Moyer asked if this was the intention of the ordinance. It was generally agreed the intention of the ordinance was to include all family members. The caregiver is a newer concept and may be a person outside of the family unit. There may be an apartment, but it would usually be without rent. There will be a Public Hearing on Amendment 1 on 3 January 2012.

**Amendment 2: SEASONAL DWELLING CONVERSION: IV-5: 4 Conversion Requirements:** The conversion of a seasonal dwelling to a home which is, or may be, used as the primary or year-round dwelling shall require a Special Exception from the Zoning Board of Adjustment unless the following conditions are met.

Chairman Clark explained the requirement was being changed from a "Variance" to a "Special Exception". People in the Recreational B Zone are now tearing down the old camps and building a modern year round home. The Board of Adjustment allows the "seasonal home" to be torn down and replaced. To live there permanently the owners must go back to the Board of Adjustment and ask for a conversion to year-round. These are generally given because the dwelling has been updated to meet the new code requirements. The updating must include the septic system. Twenty years ago people bought the cabins for year round because they had no other place to go. Bill Weber asked if the Variance made it easier for persons to get permission for a conversion. Randy said the Special Exception makes it more difficult. B. Weber said he ran a comparison of the ZBA's voting record and found that 90% of the requests were granted. Further Bill thought the Board members should be elected. R. Clark added that lots being converted are generally around the lakes and are much smaller, usually a quarter to half an acre. Randy added the ZBA turned down an applicant who wanted to have a two story home. The Public Hearing on Amendment 2 will be on 3 January 2012.

**Amendment 3: COMMERCIAL ZONE C-2: III-5: 5 Structure / Dwelling Regulations A.** Number of Structures: Building area shall not exceed 15% of buildable lot area. "Buildable lot area" does not include group 5 or group 6 soils. Contiguous business establishments shall meet the above requirements in the aggregate for lot coverage. Adopted 3/8/2005. "Building area may be increased to 20% of building lot area by Special Exception from the Board of Adjustment."

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### **PUBLIC MATTERS: Zoning Amendment Proposals**

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Chairman Clark explained the proposal will affect the C-2 Zone and was initiated by the Code Enforcement Officer, Kris Emerson. Bill Weber asked if the building and the parking were counted as the building lot area. R. Clark said that was correct. Parking is an "impervious" surface generally. The Code Enforcement Officer had viewed Towns around us and they allow larger buildings. It was asked if the 20% increase would apply to all zoning districts. The Chairman said it was written only for the Commercial 2 zone. The 15% is the normal allowance and the increase to 20% is only allowed by Special Exception. The C-2 zone has a Special Exception for "use" also. D. Howard said the number of parking spaces depends on the use P. Wentworth said he had no problem with the ordinance change to 20%. D. Moyer felt the ordinance should remain as it is at 15%. There will be a Public Hearing on Amendment 3 on 3 January 2012.

**Amendment 4: RESIDENTIAL ZONE A: III-2: 2 Permitted Uses:** "6. Two (2) accessory, single story buildings are allowed. The maximum total square footage for the accessory building(s) depends on the lot size. Agricultural uses are not subject to this regulation. For lot size of:

- Up to 43,000 square feet: 950 square feet
- 44,000 square feet to 89,999: 1,200 square feet
- 90,000 square feet to 120,999: 1,500 square feet
- Over 130,000 square feet: 1,800 square feet."

R. Clark, Chairman said Kris Emerson, Code Enforcement Officer, liked the Atkinson NH premises of the square footage of the building being restricted to the size of the lot. Derrick Moyer said the regulations

**Amendment 4: RESIDENTIAL ZONE A: III-2: 2 Permitted Uses:** "6. should stay as they are. Bill Weber said the building size is excessive, especially if you want to maintain the look of the Town. Proctor Wentworth pointed out that the allowance of two 750 square foot structures is even larger than the proposal. Randy Clark said the ordinance may allow square footage less than the 750 square feet. Priscilla Lindquist said when the buildings are attached, the additional building can be any size the applicant wants. The Chairman emphasized the issue is to allow larger lots to have larger buildings. The Public Hearing on Amendment 4 will take place on 3 January 2012.

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**PUBLIC MATTERS: Zoning Amendment Proposals**

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**Amendment 5: GENERAL PROVISIONS 1-2: 4 Lot Consolidation:** "Contiguous lots, under common ownership, can be voluntarily merged by applying to the Planning Board, pursuant to NHRSA 674:39-a."

Chairman Clark explained the current zoning was drafted according to the State RSA in effect at the time. Hampstead enacted the ordinance. However, the Town did not follow through and actually combine any properties under the "involuntary merger" provision. We did use the voluntary merger and a number of lots were consolidated. Randy asked for comment from members of the Board. The State wanted the "involuntary merger" in 2006 and this year the Legislature reversed the law. The Public Hearing on Amendment 3 will be on 3 January 2012.

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**PUBLIC MATTER: 18-044 Change of Use Wendy Henshaw**

Chairman Clark opened the Public Hearing for Wendy Henshaw who is proposing a change of use from mercantile to a yoga studio. **Attachment #1.** Ms. Henshaw was not present. The property is owned by Chris Tsolakos. P. Wentworth said the unit used to be a flower shop. Ms. Henshaw will be the only employee. An earlier site plan showed the septic loading. Bill Weber questioned the septic loading saying the yoga classes would mean more people than a flower shop. Priscilla Lindquist asked about the parking. P. Wentworth said there is also parking along the side of the pizza shop which she could use. He added there used to be a kindergarten in the whole space. Dean Howard said Kris Emerson is pretty thorough and would check the parking capacity and the septic loading for the site.

**MOTION**

**Proctor Wentworth made a motion to approve the change of use to a yoga studio. This will be subject to the approval of the Code Enforcement Officer and the Fire Department. Priscilla Lindquist seconded the motion. VOTE YES: Proctor Wentworth, Dean Howard, and Priscilla Lindquist. NO VOTE: Bill Weber, Derrick Moyer. ABSTAIN: Randy Clark. Bill and Derrick each had concerns with the septic system loading and the applicant not being at this hearing. Randy Clark pointed out these are items Kris would look at. Dean Howard said Kris Emerson is very thorough. APPROVED: The motion for a use change was approved for the property at 215 East Main Street, East Hampstead, NH 18-044.**

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### BOARD BUSINESS

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- **Site Plan Process:** Proctor Wentworth asked why a site plan for a building addition would not come to the Planning Board first. The Board of Adjustment had granted a variance for an additional 5% of building area on a building addition. Randy Clark said the applicant had been turned down by the Code Enforcement Officer when he went for a building permit which gave him reason to appeal. Proctor said they are now allowed to build a larger building without the soils, lot lines or anything being checked. The applicant takes the risk that he may be sent back to the ZBA for other issues after meeting with the Planning Board for a review. Bill Weber said he had read the Board of Adjustment minutes and saw that Ruby Holdings had gone to the Board of Adjustment before coming to the Planning Board. Randy explained a developer can go the ZBA after denial of a permit from the Code Enforcement Officer or the Planning Board. The Board of Adjustment was careful not to approve the plan but only act on the permit issue being the addition exceeded the percent of lot coverage allowed. The Planning Board would look at all the other issues. P. Wentworth said Jim Lavelle (surveyor) knows the rules and was trying to by-pass the Planning Board.
- **Capital Improvement Plan:** Priscilla Lindquist advised Randy Clark the Selectmen are being asked about the Town updating the Capital Improvement Plan. The School Board is trying to project out it needs. She said the Capital Needs Committee was an ad hoc group. Randy said they were not a legal entity. Dean Howard said the Capital Improvement Plan and the Master Plan are linked as planning documents. Priscilla said the CIP needs to be updated. Randy Clark said the Planning Board will be doing that.

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### BOARD BUSINESS

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- **Minutes and Adjourn:** Chairman Clark asked members if there were any corrections to the minutes of 7 November 2011. Page 1; Paragraph 3, Line 1: add "to" after "Town Engineer".

#### MOTION

Proctor Wentworth made a motion to approve the minutes of November 7, 2011 as amended, Priscilla Lindquist seconded the motion. VOTE YES: Proctor Wentworth, Priscilla Lindquist, Derrick Moyer, Bill Weber, and Dean Howard. ABSTAIN: Randy Clark. APPROVED: 7 November 2011 minutes.

The Chairman asked for a motion to adjourn.

#### MOTION

Proctor Wentworth made a motion to adjourn at 8:55 P.M. Priscilla Lindquist seconded the motion and it was approved unanimously. VOTE YES: Proctor Wentworth, Priscilla Lindquist, Derrick Moyer, Bill Weber, and Dean Howard. ABSTAIN: Randy Clark. APPROVED: Meeting adjournment.

Respectfully submitted,

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Susan Hastings, Secretary