

**PUBLIC HEARING AND BUSINESS MEETING  
FINAL**

- A. CALL TO ORDER:** Chairman Brown called the meeting to order at 7 p.m.
- B. ROLL CALL:** C. Brown, Chairman; L. Smith, Vice Chairman; A. Franciosa, B. Mutrie, Members; M. Kasprzak, Selectmen's Representative; R. Spoerry, Alternate Member; L. Ruest, Administrative Assistant; D. Smith, Circuit Rider Planner; K. Kelley, Building Inspector  
**Not Present:** R. Janvrin, A. Tonry, Members

R. Spoerry was designated a voting member in R. Janvrin's vacant seat. Six voting members were present for this meeting.

**C. PUBLIC HEARING**

**Case # 10-09-01:** Application from **Rockingham Community Action** for Final Public Hearing to propose the conversion of the existing multi-use building to a single daycare use. The applicant is applying for Expedited Review on the property located in Zone B at 137 Lafayette Road (Map 8, Lot 57)

Matthew McCormack of MSC Engineering, Pam Duffy of Rockingham Community Action and Dan Desrochers overseer of the project were present. M. McCormack provided an overview of the project at this time. He identified three existing connected buildings with three parking lots noting that Buildings 1 and 3 are owned by Casket Royale and used for retail sales and warehousing. Building 2 is an existing vacant two-story building that the applicant is proposing to convert to day care use. There is no site construction needed and no increase in impervious surfaces. M. McCormack stated that there is a plan to restripe the parking area, crosswalk and handicap parking spaces and add signage. The placement of four pieces of playground equipment with fencing is also planned.

Referring to the plan, M. McCormack identified the three proposed locations for snow storage, the areas where signage has been added, the area on the existing monument sign where the day care business sign will go, lighting for the sign and other existing lighting. He added that due to lighting being existing that he understands this plan is exempt from Article 8, Section 8.5. He also reported that adequate site distances have been identified by the survey crew who found 500' in each direction (Note 18).

M. McCormack answered D. Smith's review comments memo dated September 20 at this time.

1. The daycare plans to provide information packets to family members outlining procedures for safe traffic and pedestrian flow. It is also planned to conduct individual walk-through procedures with family members. L. Smith expressed concern with people coming and going at the same time and whether vehicles will be able to turn and exit safely taking into consideration the pedestrian flow. M. McCormack explained that times are staggered to address this concern and that staff members are present at all times of drop off/pick up. P. Duffy noted that parents are required to walk their child in and sign the child in. B. Mutrie asked if parking along the curb of the sidewalk would be allowed instead of the lot. M. McCormack stated that

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the day care will make it clear that for the safety of all, that parking is to be in the parking lot. Question was raised as to whether there is enough room and it was agreed that “no parking any time” signage would help. It was determined that striping the drive area might help as well as a speed bump. It was also identified that truck delivery traffic to Building 3 may be problematic. M. McCormack stated that the owner of the property has agreed to schedule deliveries outside of day care hours. L. Smith stated this should be noted on the plan and included in the conditions of approval.

2. M. McCormack reported that he spoke with D. Smith regarding calculations for parking (Note 11) which are shown on the plan. He explained that the front parking lot is dedicated for employees of all businesses and the parking area outside the day care if for day care patrons and that signage indicates this. L. Smith suggested that a sign be added to the corner of the Casket Royale building at the front to indicate the parking for its patrons at the front northerly parking lot. He added that there is handicap accessibility to the sidewalk that runs along the three buildings. K. C. Kelley stated he would follow up on this with the applicant.

3. P. Duffy reported that she has spoken with the Hampton Falls First Baptist Church and obtained permission to hold day care functions at its location. No functions will be held on site.

4. M. McCormack reported that he spoke with J. Driver of District Six of the NH Department of Transportation and learned that a 12’ easement has not been addressed for this property and that it is not needed as the future widening of Route 1 is not planned for this area.

5. Note 12 shows the hours of operation. P. Duffy reported that staff arrives at 7:30 a.m. and stays until 4:30 p.m. Following discussion of the Board, M. McCormack indicated he would revise the times to 7 a.m. to 9 p.m. R. Sperry noted that these hours may affect warehouse deliveries. It was determined that the note on the plan should indicate “deliveries are to be conducted outside of day care hours.” Should these hours not work out, the applicant would need to come back to the Planning Board to amend.

6. A dumpster is on site located at the back of the building and will be added to the plan to include shielding with fencing. K. Kelley added that this property abuts residential areas and that dumpster services should pick up during business hours.

7. M. McCormack reported that the existing septic system is adequate to handle the day care use.

8. M. McCormack reported that he met with the Fire Department and has incorporated ideas into the plans. He has not received comment from the Conservation Commission.

9. Both D. Smith and M. McCormack indicated there is no need for waivers and the waiver notes should be removed from the plan. A review of the playground equipment took place at this time.

10. All professional stamps will be included on the final plan.

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M. McCormack requested conditional approval of the plan. C. Brown asked for questions of the Board. Discussion of snow storage locations took place and M. McCormack will add a location at the southerly end of the day care parking area. L. Smith was told the days of operation would be Monday through Friday. At this time, discussion was opened to the public. Hearing none, C. Brown closed the public hearing. With reference to waiver requests, M. McCormack requested that since the site is grandfathered as far as existing buildings that storm water drainage and architectural requirements be waived.

**MOTION:** To approve the applicant's request for waiver of Article VI, Section 6.2.18 – storm water drainage control plan; Section 6.2.26 – architectural renderings and Section 6.2.27 – architectural review.

**MOTION:** L. SMITH  
**SECOND:** R. SPOERRY  
**UNANIMOUS**

**MOTION:** To accept the application as complete.

**MOTION:** L. SMITH  
**SECOND:** B. MUTRIE  
**UNANIMOUS**

**MOTION:** To approve the applicant's request for site plan to convert an existing multi-use building to a single daycare use on property located in Zone B at 137 Lafayette Road (Map 8, Lot 57) 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 the hours of operation be 7 a.m. - 9 p.m., Monday through Friday.
3. That the building height and sightless objects (pipes, stacks, air conditioners, etc) not exceed 35 feet.

*At the Planning Board meeting of 10/26/10, revision was made to strike the following as it has been determined that these conditions do not apply to this project as there is no substantial improvements being done to the site, and therefore, there is no need for a security agreement.*

- ~~4. That the applicant post financial security before the mylar is signed. Applicant is to submit a cost estimate to be verified by the town engineer.~~
- ~~5. That no building permit be issued until security is posted and an agreement is signed. When and if this approved project changes ownership, the new owner is required to appear before the Planning Board to review the approved plan so as to have a complete understanding of it. Also that no changes to the approved plan(s) can be made without appearing before the Planning Board.~~
6. That any and all state permits be obtained and made part of the file before the mylar is signed.

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7. That a note reading “No additional use or change of use shall be permitted unless approved by the Planning Board.” be added to the final plan.
8. That approval is for a single day care use and shall be noted as such on the final plan.
9. That any new exterior lighting be down-shielded and labeled as such on the final plan in accordance with Site Plan Review Regulation Article VIII, Section 8, Illumination.
10. That deliveries to the warehouse area (building 3) be scheduled to be made during non-day care hours and so noted on the plan.
11. That “No Parking” signs be installed along the driveway between the driveway and building.
12. That a note be added that all school functions will be held off site.
13. That location of the shielded dumpster be added to the plan with a requirement that it not be emptied before 6 a.m.
14. That a speed bump be added to the driveway between the parking lots at the straight away.

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

**D. REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES**

Amendment was made to Page 1, last paragraph to read: “Discussion was opened to members of the Board. In response to Board questions, M. McCormack reported that *use of* the other two uses *units* are to remain *unchanged* and that the rear section is a warehouse....”

**MOTION:** To approve the minutes of the August 24 meeting as amended.

**MOTION: L. SMITH  
SECOND: B. MUTRIE  
UNANIMOUS**

**E. OTHER BUSINESS**

Chairman Brown asked that Agenda Item #3 be taken out of order at this time to accommodate members of the public. The Board agreed.

**3. Case # 10-07-01 -- T. P. Realty Trust, 1 Lafayette Road (Map 7, Lot 70):** C. Brown reported that the Planning Board is in receipt of a letter from Attorney John Colliander on behalf of the applicant requesting this matter be removed from the Board’s September agenda as efforts are being made to answer the comments of the Town’s reviewing engineer and that it is anticipated that all will be resolved in time for the Board’s October 26 meeting.

C. Brown added that the applicant is working on several suggestions from reviewing engineers and that there are issues to be addressed. It is anticipated that all will be finalized and brought to the Board’s October meeting. Discussion was opened to members of the public at this time.

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David Ten Eyck, Kensington Road, reported that he brought his discontent on the handling of this project to the Selectmen's meeting on September 15 and is following due process in order to stop the function hall development that he feels is progressing quickly without proper legal notice. C. Brown explained that the application was properly noticed prior to the meeting and that all meetings of the Planning Board and other Town groups are posted in three locations in Town as required. D. Ten Eyck stated his contention is that the notice was not fully descriptive as to the uses of the proposed function hall and that the public was not served in regard to the function hall project.

In response to B. Mutrie, D. Ten Eyck stated he feels the Planning Board can correct this by stopping the development and issuing proper notice to citizens. L. Smith explained that the process for this site plan application is the same as other site plan applications and reviewed the steps taken during the function hall application. He added that the plans are currently before reviewing engineers who report findings to the Planning Board. He further stated that the Planning Board is not a legislative body and it does not make law, however, is empowered to address the regulations of the Town in conjunction with proposals; whether the Board likes the project has nothing to do with it. D. Ten Eyck stated that elected officials are to represent the best interest of the Town and he feels that officials' duties of due diligence were not exercised to full accountability. L. Smith disagreed and offered that citizens can submit petitions for the warrant for consideration of the voters.

D. Ten Eyck requested to go on record that he feels the Planning Board has not treated this matter with the weight or care that it should have been. He acknowledged that residents don't always attend public meetings as they should, however, respectfully feels that the Planning Board had a chance to say something. C. Brown stated that all residents are encouraged to attend meetings; however, for this application there was no one present who stated objection. She added that no Certificate of Occupancy will be granted until all conditions are met.

Tim Samway, Old Stage Road, stated he felt that the process is clear and that the Planning Board followed through. Robert Wiener, Surrey Lane, seconded T. Samway's statement and emphasized the need to attend meetings to learn specifics. Steve Long, introduced himself as an engineer who is friends with Hampton Falls' residents who is looking for information about the project. He asked how much work can be done with only a conditional approval as it appears the site work will be done before next meeting. C. Brown stated that any work done to this point is done at the owner's risk. She emphasized that final reports from reviewing engineers, to include review of the traffic study and septic design, have not been before the Planning Board. She stated that once this information is in, it will be sent to reviewing engineers for approval.

S. Long stated that there is work being done on site that requires filing notice with the Environmental Protection Agency and noted concern with improper silt fencing. He asked if the reviewing engineer has been checking the site. D. Ten Eyck concurred with S. Long's indication of this project being more aggressive than stated. He asked what defines minimal versus major work. It was suggested that he request to review documents on file at the Town Hall. C. Brown stated that September is the third month of this process and that next meeting will be four months; the matter is not fast tracked. K. Kelley stated that there is an attachment letter

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associated with the building permit and that there will be no occupancy unless all requirements are met.

C. Brown identified documentation provided to the Planning Board members relating to this project at this time.

1. Committee Reports: No committee reports were received or reviewed at this time.

2. Proposed Amendments to:

**1) Zoning Ordinance Section 12 Home Occupation:** A copy of a proposed amendment marked “for consideration at the 9/28/10 Planning Board Meeting” was reviewed by the Board. C. Brown explained that a request has been presented to the Town with regard to a home occupation for tennis lessons and the plan to build a tennis court at a residential property. The current ordinance wording requires home occupations to be conducted entirely within enclosed buildings on the property. This amendment would remove that restriction. Following discussion of this proposal, it was determined that there were a number of questions and concerns that could not be addressed at this time. The matter was referred to the Ordinance and Regulations Committee for consideration, however, will not be ready for the 2011 warrant.

**2) Section 8.3 Permitted Uses of Wetlands Conservation District:** C. Brown reported that the Conservation Commission has requested a simple amendment to Section 8.3 Permitted Uses of Wetlands Conservation District. The request is to add an introductory statement that reads: “Uses permitted in the District or within 100 feet of the District include:”

**MOTION:** To bring this amendment to public hearing at the October 26 Planning Board meeting.

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

**3) Building Code:** C. Brown guided the members through the draft copy of the Building Code as amended by the Ordinance and Regulations Review Committee and Building Inspector K. Kelley. K. Kelley reported that changes address other mechanical trades other than electrical and that codes in New Hampshire change every three years making some portions of the Building Code as written redundant or contradictory. L. Ruest will prepare a mark-up copy showing strike-through markings of wording to be deleted, changes to numbering and language added. Wording for the 2011 warrant will also need to be drafted.

**MOTION:** To bring this amendment to public hearing at the October 26 Planning Board meeting.

**MOTION: L. SMITH  
SECOND: B. MUTRIE  
UNANIMOUS**

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K. Kelley reported that applicants T. P. Realty and Rockingham Community Action want to get going as soon as possible on their projects. He stated that he has issued conditional building permits with attachment letters in the past as part of his previous job as Building Inspector in Epping, and also now in Hampton Falls. He added that he has been criticized for exceeding his authority and that he has no right to issue the permit. K. Kelley stated that he issued the function hall building permit only after he consulted with the Planning Board Chair. He reviewed Section 7.18 of the Building Code and stated that he feels he is allowed to make interpretations of the code and that he is allowed to issue a conditional building permit without Planning Board conditional approval.

B. Mutrie stated she had not heard of an attachment to a building permit and D. Smith questioned whether the code allows the Building Inspector to make waivers or exceptions to conditions put forth by the Planning Board. L. Smith stated he would like an explanation from the applicant representatives as to how the Planning Board was misled regarding the proposed septic system in Seabrook in that it was reported to the Planning Board that Seabrook did not require Planning Board approval.

**4) Add Section 4, Historic Review for Demolition to Building Code:** C. Brown referred the Board to the marked up copy of this proposed addition and noted that the wording is the same as prepared and presented last year. The decision last year was not to bring the matter to warrant and now is being proposed to be added to the Building Code.

**MOTION:** To bring this addition to the Building Code, as amended, to public hearing at the October 26, 2010 Planning Board meeting, as renumbered and re-titled.

**MOTION: L. SMITH  
SECOND: B. MUTRIE  
5 IN FAVOR, 1 OPPOSED, PASSES**

**MOTION:** To bring Zoning Ordinance Article XI, Administration, amendment to public hearing at the October 26, 2010 Planning Board meeting as amended.

**MOTION: L. SMITH  
SECOND: B. MUTRIE  
5 IN FAVOR, 1 OPPOSED, PASSES**

**F. COMMUNICATIONS TO BOARD MEMBERS**

- Advance Announcement Annual Fall Planning and Zoning Conference, Saturday, November 13, 2010
- Workshop Notices – NH Rain Garden Training for Professional Landscapers, October 25 & 26, 2010 and Landscaping at the Water's Edge, November 30 and December 1, 2010
- Department of Environmental Services Rules Change effective 9/18/10 (copy to be included in next mailing packet to Planning Board members).

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- Memo from Circuit Rider Planner D. Smith regarding seasonal high water table regulations (Ordinance and Regulations Review Committee decided to maintain the Town's 24" to seasonal high water requirement)

**Question from the Public:** R. Wiener, Surrey Lane, inquired as to whether the Planning Board received a letter from the Conservation Commission with proposed amendments to the Wetlands Conservation District Ordinance. C. Brown stated that the change reviewed earlier this meeting was the only change received and added that if there is something for the Board to review that it be submitted in a marked-up format with written rationale for discussion of the Planning Board.

**Master Plan Energy Chapter:** B. Mutrie inquired as to the status of an Energy Chapter for the Master Plan. C. Brown stated that the goal is to have it in place by the end of the year. A public hearing will need to be held, however, this matter does not need to go to the warrant.

**G. ADJOURNMENT**

**MOTION:** To adjourn the meeting at 10:00 p.m.

**MOTION:** L. SMITH  
**SECOND:** R. SPOERRY  
**UNANIMOUS**