

PUBLIC HEARING AND BUSINESS MEETING  
*FINAL*

- A. **CALL TO ORDER:** C. Brown called the meeting to order at 7:00 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 for this meeting in R. Janvrin's vacant seat.

C. **PUBLIC HEARING - PROPOSED ZONING AND BUILDING CODE AMENDMENTS:**

1. Add language to **Article III**, directly after **Section 8.3**, "Permitted Uses of Wetlands Conservation District" by matching language found directly after Section 8.4, "Prohibited Uses for Wetlands Conservation District" in order to promote language consistency throughout this section of the ordinance;

C. Brown reported that this amendment has been withdrawn and that the Conservation Commission has indicated plans to look into other amendments in this same section for consideration in 2012.

2. Amend **Sections 2, 3, and 7** of the Hampton Falls **Building Code** by eliminating and amending redundancies and conflict with the State of NH and International Building Code (IBC) standards;

C. Brown reported that this proposed amendment is also being pulled this month. She stated that Planning Board Counsel Mark Beliveau is looking at the building code with respect to a conflict in Section 7.18 (proposed Section 7.2) with the intent of eliminating the paragraph in its entirety. This matter will be held until a proposal is received from counsel and then scheduled for public hearing in November or December.

A number of typographical and grammatical issues were identified as needing attention before a new draft is brought forward. These will be corrected.

3. Amend the Hampton Falls **Building Code** by adding **Section 4, "Demolition Delay Review for Historic Buildings"** and;
4. Amend **Article XI – Administration, Section 2, "Permits"** by adding language that refers to the "Demolition Delay Review for Historic Buildings," Section 4 of the Building Code.

**PUBLIC HEARING AND BUSINESS MEETING  
FINAL**

The purpose of adding a new section (Section 4) to the Hampton Falls Building Code is to make provision for the delay of the demolition of historic buildings assumed to be constructed 75 years before the application for a demolition permit. The addition of this section will promote public health, safety and welfare, preserve the rural character of the Town, encourage the appropriate and wise use of land and otherwise contribute to the Town's ability, through its zoning ordinance, to more fully meet the aims and purposes of zoning as set forth in New Hampshire RSA 672:1. The design of this new section to the building code is to delay the immediate demolition of historic buildings in order to raise awareness and promote the preservation of historic structures and traditional New England architecture in Hampton Falls.

C. Brown opened the public hearing to the two proposed amendments as outlined in agenda items 3 and 4 as presented. Hearing none, the following motion was made.

**MOTION:** To approve the addition of Section 4, Demolition Delay Review for Historic Buildings, to the Building Code and forward this matter to the Board of Selectmen for inclusion on the March 2011 warrant.

**MOTION: B. MUTRIE  
SECOND: R. SPOERRY  
5 IN FAVOR, 1 OPPOSED, PASSES**

Referring to Article XI – Administration, Section 2, “Permits,” C. Brown asked for comments or questions. Hearing none, the following motion was made.

**MOTION:** To approve the amendment to Article XI – Administration, Section 2, Permits, of the Zoning Ordinance and forward this matter to the Board of Selectmen for inclusion on the March 2011 warrant.

**MOTION: B. MUTRIE  
SECOND: R. SPOERRY  
WITHDRAWN**

T. Franciosa asked if this amendment would be a separate warrant article from the warrant article for the addition of Section 4 to the Building Code. C. Brown stated that the two motions should be addressed by the Board of Selectmen as one warrant article on the ballot. The motion was amended to read:

**MOTION:** To forward Article XI – Administration, Section 2, Permits, of the Zoning Ordinance to be added to the Building Code, Section 4, addition of Demolition Delay Review for Historic Buildings and forward both to the Board of Selectmen for inclusion as one warrant article on the March 2011 warrant.

**MOTION: B. MUTRIE  
SECOND: R. SPOERRY  
VOTE: 5 IN FAVOR, 1 OPPOSED, PASSES**

**PUBLIC HEARING AND BUSINESS MEETING  
FINAL**

**Case # 10-10-01:** Application from **115 Lafayette Road Real Estate Trust** C/O Maria Elias for Site Plan Final Public Hearing to allow a proposed building with approximately 1,824 SF of a retail space to be used as a Seafood Market Place with a 24 seat restaurant and take out service on property located at 115 Lafayette Road (Map 8, Lot 60-1)

Luis Elias and Wayne Morrill of Jones and Beach Engineers were present. W. Morrill referred the Board and public to an amended site plan. He explained that two changes have been made since conditional approval of Case #08-04-2. The requests before the Board this evening are to relocate the building (2,688 sf now 2,824 sf) and septic system and to allow a portion of the parking area to remain gravel; a waiver request has been submitted for this.

W. Morrill explained that L. Elias opened a fish market in another location and has learned that the original design of the building would not meet the functionality of the proposed seafood marketplace, thus resulting in a change to the building. This resulted in a first floor area of 1,824 square feet with an office on the second floor of 1,000 square feet. He referred to the plan and identified the new location for the building as well as the change in parking configuration and noted that the impervious surface amount has decreased by 943 square feet. W. Morrill reported that he has been working with Seacoast Land Trust with regard to these proposed changes noting that there is no change to drainage whatsoever and provided an overlay sheet to confirm this. He added that there is no change to the easement access or driveway access from the previous application. Parking spaces remain at a total of 32 as conditionally approved. He stated that the style of the building has changed from a basic Colonial style to now have a covered porch at the front and that this architectural change will allow for a better flow within the building for the proposed use. He reported that the Department of Transportation driveway permit has been approved, the septic system currently in place can support the use as there is no change in gallons per day and that a new leach field is part of this submission to the Planning Board. He explained that by moving the building, there is more room to have a single level system.

A review of D. Smith's plan review memo took place at this time.

1. W. Morrill explained that the changes from the past plan include centering the building, repositioning the parking spaces and a more commercial looking building. He stated that this project has yet to have financial security posted and that the reviewing engineer has signed off on the plan and the bond. There are still some fees that will need to be paid.
2. The overlay shows no change from the conditionally approved plan with regard to drainage. W. Morrill stated he didn't feel there is a need for the reviewing engineer to review and added that the drainage will work better with less impervious surface. C. Brown stated that the revised plan will be sent to Altus Engineering for review.
3. W. Morrill reported that the landscaped area in front of the building would allow for a buffer area for patrons entering and existing the building. He identified the area where tractor trailer deliveries could deliver and pick up from the site. D. Smith noted concern with the parking space at the entrance as this space makes turning tight. W. Morrill agreed to remove this space for safer vehicle flow as well as changing the landscaping at the driveway entrance, both

**PUBLIC HEARING AND BUSINESS MEETING  
FINAL**

sides, to allow for better site distance. W. Morrill identified the spaces for handicap accessibility.

4. T. Franciosa stated he would like to see better natural screening around the dumpster. W. Morrill stated he would add arborvitae plantings to three sides of the concrete pad/fenced area as shown on the plan.

5. W. Morrill stated request is made for waiver to drainage calculations as there is no change from the previous application. He stated that the applicant is seeking approval to allow a portion of the parking area to remain gravel. This portion has 13 spaces for employee parking as well as overflow or secondary parking spaces. C. Brown inquired as to how required spaces will be demarked in this area. W. Morrill stated that there is signage as approved with the original application and concrete wheel stops are planned. C. Brown expressed concern with potential elimination of stops over time and no lines for persons to use. W. Morrill suggested fiberglass stops with pins that hold them in the ground. L. Smith inquired as to whether paving with pervious pavement is still part of this plan. W. Morrill reported that the drainage calculations were done with regular pavement in mind. He noted that the gravel portion of the parking lot could be paved over in the future. He noted that a fish market does not get a lot of traffic in the winter and added that the original proposal was for a 40-seat restaurant which is now 24 seats. K. Kelley asked the Board to include a condition of approval to allow a new owner to pave rather than end up with a violation. C. Brown referred him to Condition 3 of the conditional approval where it is required that a new owner appear before the Planning Board in order to have an understanding of the approval. D. Smith stated he views this paving change as a modification and that the applicant has requested a waiver. W. Morrill confirmed that he is looking for a waiver to allow this area to remain gravel and acknowledged that if someone wanted to pave this area in the future, they would need to come to the Planning Board. He added that the drainage calculations include paving of this area.

6. W. Morrill reported that the effluent disposal system was approved for the use of a fish market to include associated tanks. He is now submitting to have a single level system rather than a multi-level system. He noted that the Building Inspector will need this information before a building permit is issued.

7. W. Morrill reported that he has had email correspondence with the Southeast Land Trust this evening asking that nothing be placed in the access area to the conservation easement land.

W. Morrill reported that the existing well located at the front of the old building (Sheet S1) is to be decommissioned and that the well in the upper left corner of the plan is a new well with an easement in place (for the property owner and NH Department of Environmental Services). He reported that the septic has been redesigned with the same flow and lower profile. He noted that the waiver granted by the Department of Environmental Services to use the back of the building as a retaining wall is no longer needed. T. Franciosa asked if an alternate location for the well could be considered. W. Morrill stated he would be willing to look at placing the well closer to the building. T. Franciosa noted that the application doesn't address the proposed 1,000 square foot second level for an office use. M. Morrill stated that the second floor is not to be used for offices other than the office and warehouse space for the fish market.

**PUBLIC HEARING AND BUSINESS MEETING  
FINAL**

C. Brown stated that the Board understands this is an amendment to a conditionally approved plan; that the conditions will be carried forward, along with any additional conditions, to any decision made this meeting. Hearing no further questions of the Board, C. Brown opened discussion to abutters and members of the public. R. McDermott, 26 Coach Lane, inquired as to how the smell from the exhaust fans will be addressed so that neighboring properties will not be affected. W. Morrill and K. Kelley spoke of exhaust fans with special filters that address this concern. R. McDermott also asked how the applicant plans to address noise from servicing of the dumpster. W. Morrill reported that there is a note on the plan limiting the times for emptying of the dumpster. C. Brown reported that this amendment will be sent to Altus Engineering for review and report to the Board to ensure the changes made do not present any problems. She added that the public hearing will be left open to the next meeting. W. Morrill stated that he would provide a copy of the overlay for use by Altus Engineering.

Additional discussion took place with regard to the area of parking that is requested to be left unpaved. L. Smith stated that parking bumpers will be an additional condition of approval. W. Morrill stated that the business owner knows the required number of spaces (27 spaces required/32 shown on plan/18 paved) and feels the business can be operated within the paved parking spaces provided. W. Morrill added that six tables of four are planned and that there is no bar/alcohol; all beverages are to be bottled.

**MOTION:** To approve the request for waiver to Site Plan Review Regulations Section 8.2.1 – Parking Lot Design to not pave a section of the parking area on the condition that parking bumpers are installed to denote parking stalls on that portion of the parking lot.

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

C. Brown asked that information be provided to L. Ruest for forwarding to the reviewing engineer and noted that the agenda close date for November is early due to the holiday (November 9).

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

The following amendments were made:

Page 1, first paragraph under Case #10-09-01, was revised to read: *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.*

**PUBLIC HEARING AND BUSINESS MEETING  
FINAL**

Page 3, first paragraph, fourth line, was revised to read: *At this time, discussion was opened to the public. Hearing none, C. Brown closed the public hearing.*

Page 3, Conditions #4 and #5, were identified to not apply to the Rockingham Community Action daycare project as there is no substantial improvements being done to the site and therefore, there is no need for a security agreement.

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

**MOTION:** L. SMITH  
**SECOND:** M. KASPRZAK  
**UNANIMOUS**

**E. OTHER BUSINESS**

**1. Committee Reports:**

C. Brown acknowledged receipt of the Ordinance and Regulations Review Committee minutes of October 6. B. Mutrie stated that she would provide the September meeting minutes to L. Ruest for inclusion in the next mailing packet to Planning Board members. With the change in meeting day, there is a need to change the posting notice. D. Smith reported that he plans to bring a proposed amendment to the home occupation ordinance to the Committee with the intent of forwarding it to the Planning Board for review at the November 16 meeting and ultimate public hearing at the December 14 meeting.

Referring to the Road Committee minutes of September 30, discussion took place with regard to a suggestion to not accept a road until the two year maintenance phase has concluded. This and other proposed amendments may be forthcoming to the Planning Board for consideration to bring to public hearing.

**2. 2011 Meeting and Deadline Schedule:** The Board approved the draft schedule as presented. Discussion took place with reconsidering the date of the December meeting; however, it was determined to maintain the schedule as has been done in years past.

**MOTION:** To approve the schedule as prepared.

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

**3. Case # 10-07-01 -- T. P. Realty Trust, 1 Lafayette Road (Map 7, Lot 70):**

Attorney J. Colliander, D. Benoit, W. Evans, Lester Nishi, and P. Visconte were present. W. Evans presented revised plans for consideration this meeting. He explained that the septic system has been moved from the abutting Seabrook parcel to on site of the Hampton Falls

**PUBLIC HEARING AND BUSINESS MEETING  
FINAL**

property. It was identified that due to placement of the septic system, the parking area has been relocated. W. Evans reviewed the comments provided by Jones and Beach Engineers in its letter of October 19 at this time.

1. W. Evans will obtain signature of the land surveyor on final plans.
2. The front of the parcel has been monumented. Decision has yet to be made as to whether it will be required to monument the rear of the parcel. W. Evans reported that two bounds used by the surveyors end in the tidal marsh. T. P. Realty is the property owner of the abutting parcel at the rear. D. Smith stated he did not have a concern with this. W. Evans reported that the broken bound at the front has been put on its proper base and pinned.
3. W. Evans reported that he has adjusted parking spaces for handicap accessibility as indicated by Jones and Beach Engineers.
4. The swale has been extended to address the concern of Jones and Beach Engineers (Sheet 5).
5. A detail of the PVC foundation has been added to Sheets 5 and 6.
6. Additional silt fencing has been added to Sheet 5.
7. The invert out of the catch basin has been corrected in accordance with Jones and Beach Engineers indication.
8. Discussion took place with regard to the possible need for a Special Permit. It was reported that E. Lewis of the Department of Environmental Services is to submit a report. Suggestion was made to add a condition of approval that the Planning Board receives this report from the DES and that all compliance is met.
9. W. Evans reported that the construction cost estimate has been modified to include items identified by Jones and Beach Engineers. B. Mutrie inquired as to the purpose of the stockade fence. W. Evans stated that it is for privacy for dwellings along the property. K. Kelley stated that once this is on the site plan, the property owner will need to maintain it. W. Evans noted that the cistern is located on the right side of the building and serves the sprinkler system; there is no hydrant.
10. Traffic review comments will be reviewed separate from this report.
11. With regard to the requirement of no surface runoff beyond the property lines, W. Evans stated that all water generated on site is designed to stay on the property. He referred the Board to the plan to show the flow line at the middle of the lot that travels to the tidal marsh area. K. Kelley asked when the loam pile will be removed. W. Evans reported that it will be removed once a plan is received from E. Lewis/DES. K. Kelley asked that the pile be removed as soon as possible in order to get the drainage structures in.

The Board reviewed the traffic study review report from S. Pernaw and Company, Inc. at this time. Discussion took place with regard to an existing utility pole located within the exclusive right-turn lane on US Route 1 which S. Pernaw indicates must be relocated behind the curb line. C. Brown noted that this matter has been mentioned by the Highway Safety Committee and Fire Department as well. W. Evans reported that this matter is being discussed and addressed with Jim Driver of the Department of Transportation (DOT). He added that the applicant is updating the traffic study and feels this matter will be resolved within a week or two once a decision is received from the DOT. Attorney Colliander asked if the Board would be agreeable to the

**PUBLIC HEARING AND BUSINESS MEETING  
FINAL**

State's resolution. T. Franciosa suggested the Town send a letter regarding the concerns associated with the pole and the project requesting something be done. C. Brown stated she would follow up with the Fire Chief in this regard.

C. Brown concurred with the recommendation of S. Pernaw in that "all weekday tournaments be scheduled to begin at 3:00 p.m. and 7:30 p.m., thus avoiding the street evening peak hour." This is to be added as a condition of approval and to be so noted on the final plan. She also requested that the recommendation to install pavement markings on the driveway approach to US Route 1 to designate separate left-turn and right-turn departure lanes be put in place. W. Evans stated that this is part of the State driveway permit. B. Mutrie inquired as to whether weekend beach traffic has been taken into consideration in the traffic study. C. Brown referred her to the first paragraph on Page 3 which it indicates midday peak hour on Saturday from 1 to 2 p.m. was used.

The Board next addressed waiver requests submitted by J. Colliander.

**MOTION:** To grant a waiver to Site Plan Regulations, Section 6.2.2, to change the required scale of the plans from 1"=2' to 1"-30' in order that the entire development is presented on one sheet.

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

**MOTION:** To grant a waiver to Site Plan Regulations, Section 6.2.3, to change the required left margin spacing from 2" to 1" in order to not result in a major reformat of the plan set. In a bound set, one can still read the plan information to the far left.

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

C. Brown acknowledged receipt of an easement deed for the protective well radius and nitrate easements for the record. This document will be forwarded to Planning Board Counsel M. Beliveau for review.

With reference to septic system review conducted by M. Cuomo of the Rockingham County Conservation District, C. Brown reported that three letters were prepared; one indicating insufficient information, another identifying the need for a third review (10/8/10) and the report of October 14, 2010, that indicates changes made to the plan bring it into compliance with Hampton Falls wastewater disposal requirements. An email forwarded by K. Kelley from J. Gove was provided to the Board and addresses the issue of man induced drainage. It has been determined that the outlet of the foundation drains are not wetlands. C. Brown referred the Board to Sheet 7 of the plan set and provided a copy of the proposed sign for the function hall for review and the file. B. Mutrie inquired as to the previous report of M. Cuomo dated October 8.



**PUBLIC HEARING AND BUSINESS MEETING  
FINAL**

C. Brown stated that a copy was not included in the mailing packets and offered her copy for review. B. Mutrie asked about M. Cuomo's comments regarding the Zoning Board of Adjustment. C. Brown stated that ZBA requirements have been met.

Having left the public hearing open, C. Brown opened discussion to abutters and members of the public. Anne Bialobrzkeski, an abutter to the project when the proposal was to place the septic system on the abutting Seabrook parcel, stated that she is not opposed to the poker room use, however, has concerns relating to the process to include the Planning Board's conditional approval of a site plan before ZBA relief was granted, the issuance of a building permit before conditional approval was granted, inaccuracies in the plans, state agencies approvals, construction taking place before subsurface approval, etc. and requested that the letter she was reading from be made part of the file. J. Colliander questioned A. Bialobrzkeski's interest in the property as she is not an abutter or resident of Hampton Falls. Board members indicated this is a public hearing. A. Bialobrzkeski added that it appears this applicant has been treated differently from other applications before the Hampton Falls Planning Board. C. Brown stated that this site was already in existence and was treated in a manner other properties on Route 1 would be treated with the same procedures regarding state and local requirements; all being set under conditions of approval, conditions that would be verified before occupancy. A. Bialobrzkeski asked if Hampton Falls allows construction to be completed before final conditional approval as she feels this is a violation of state law. Discussion was opened to other comments of the public. P. Visconte, Real Estate Agent for the applicant, stated she felt A. Bialobrzkeski has sour grapes as the poker room was supposed to go to her property and it didn't. B. Mutrie asked why the use didn't go to the other property. P. Visconte stated the reason was logistics.

D. Smith recommended that the Board review its procedures on how plats are taken in the future. He stated he is confused on where this process stands as waivers were granted this meeting to a plan conditionally approved in August. He asked if the action the Board was taking this meeting is to be considered a site plan amendment. C. Brown stated the waivers granted are an amendment to the plan. D. Smith stated he understood that waivers had been granted and recommended that the Board return to the manner in which site plans have been handled, stick to procedures in place and make approvals consistent when dealing with applications for subdivision and site plans when considering future plans. He added that he is not in disagreement with what A. Bialobrzkeski presented and that for the past four years with the Hampton Falls Planning Board, he has not seen a site plan approval handled this way. Hearing no additional comments or questions, C. Brown closed the public hearing.

**MOTION:** To add the following conditions to the conditional approval granted August, 2010, for the function hall project at 1 Lafayette Road:

1. That the edge of the wetland buffer be addressed to comply with the Department of Environmental Services.
2. That the issue of the utility pole be addressed by the State of NH and utility company, or any alternative condition required by the Town's traffic engineer S. Pernaw.

**PUBLIC HEARING AND BUSINESS MEETING  
FINAL**

3. That weekday tournaments begin at 3:00 p.m. and 7:30 p.m. to avoid peak traffic hours and that a note be added to the plan as such.
4. That the driveway be widened to 36' to accommodate one 16' inbound lane and two 10' departure lanes.

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

K. Kelley excused himself from the meeting at 9:41 p.m.

**F. COMMUNICATIONS TO BOARD MEMBERS**

- C. Brown informed the Board that K. Kelley has been relieved of his membership on the Road Committee.
- A zoning amendment calendar prepared by the Rockingham Planning Commission was provided to Board members.
- Decision Letter for Case #10-09-01
- 8/26/10 Letter from NH DES regarding Expanding, Relocating, or Replacing Structures – Update (This change became effective 9/18/10.)

**G. ADJOURNMENT**

**MOTION:** To adjourn the meeting at 10:16 p.m.

**MOTION: L. SMITH  
SECOND: M. KASPRZAK  
UNANIMOUS**