

**PUBLIC HEARING AND BUSINESS MEETING
FINAL**

- A. CALL TO ORDER:** C. Brown called the meeting to order at 7 p.m.
- B. ROLL CALL:** C. Brown, Chairman; A. Franciosa, Vice Chairman; B. Mutrie, G. Parish, A. Tonry, S. Volpone, Members; M. Kasprzak, Selectmen's Representative; L. Ruest, Administrative Assistant; D. Smith, Circuit Rider Planner; K. Kelley, Building Inspector
- C. PUBLIC HEARING**

Case #12-12-01: Application from **Dr. Fred Crane** for Final Public Hearing for Wetland Special Use Permit to dredge and fill 4,800 square feet of wetlands and impact 10,693 square feet of uplands adjacent to a prime wetland to construct a driveway with culverts to access a single family house lot on Drinkwater Road, Map 1, Lot 66-1.

Steve Oles of MSC Engineering and Dr. Crane and his wife were present. A number of Board members indicated they have done business with this engineering firm in the past and inquired as to whether the remaining Board members wished them to step down. Hearing no concerns, all remained as voting members of the Board. C. Brown asked if the applicant had any concerns in this regard. Dr. Crane stated he did not.

S. Oles provided a history of Planning Board actions that took place in 2005 for this parcel. Both an approved lot line adjustment and wetlands special use permit were conditionally approved at that time. He reported that the plan is to construct a 12' crushed stone driveway to access the rear of the property where a house is planned to be built. He identified the boundary lines of this 10 acre parcel in connection with the Starvish Lane subdivision and explained the differences between the 2005 application and this request.

It was reported that Frank Richardson of the NH Department of Environmental Services (DES) walked the parcel in regard to this new configuration. He requested that the existing woods road location be used for the driveway in order to minimize impact to wetlands and trees. DES approval has been conditionally granted. S. Oles reported that Subsurface approval has also been granted for the buildable portion of this parcel that will support a house, septic system and well. He stated that the wetland crossing is needed in order to access the rear portion of the lot that is buildable.

C. Brown stated for the record that a letter dated November 9 has been received from Sheila Starvish Parish, who holds a power of attorney for the owner, her mother, which gives permission for Dr. Crane to represent them at this meeting. She asked if ownership of the parcel has changed since November 9. Dr. Crane reported that the ownership is still with the Starvishes and he has placed money in escrow pending approval of permits.

C. Brown also noted for the record that a copy of the DES wetland non-site specific permit with conditions has been received as well as minutes and two letters resulting from two Conservation

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Commission meetings where this parcel was discussed. Also received for the file is a copy of an Approval for Construction of septic system from the Subsurface Bureau.

S. Oles was provided with a copy of the Circuit Rider Planner's application and plan review comments. S. Oles responded as follows:

1. The woods road is the location the proposed driveway is to follow.
2. Test pit logs are shown on the original subdivision plan. A test pit log was provided to D. Smith for his review at this time. D. Smith inquired as to the possibility of placing the structures at the front corner of the lot rather than at the rear. S. Oles reported that the test pits in this location failed and that there is not enough area to place all structures (building, septic, well).
3. It was noted that this comment was addressed.
4. S. Oles reported that the area is a previous driveway and there is no storm water run-off. Crushed stone will be used and water will run off. S. Oles reported that the driveway is to remain crushed stone. He added that the Town's engineer reviewed these culverts in 2005 and that the same criteria remain. He questioned the need to have the Town Engineer review the matter again. Dr. Crane reported that he spoke with Jones and Beach Engineers and stated that B. Jones stated he agreed nothing has changed. S. Oles stated he has a copy of Jones and Beach Engineers sign-off dated 9/15/05. D. Smith stated his comment was not related to the driveway but rather the house and grading where run-off leaches down the driveway and swale to the culvert area of wetland and prime wetland. He referred the Board to Section 8.1.12, minimize detrimental impact on wetland. D. Smith questioned if bio-retention was addressed in 2005 and whether the Town Engineer could identify any concerns. B. Mutrie expressed concern with use of fertilizer and removal of trees. It was noted that there are strict conditions to be abided by with regard to the State permit.

A. Tonry identified a number of corrections needed to plan wording. She also inquired as to whether a Scenic Road Alteration Permit was granted for this driveway. It was determined that there is no need for Scenic Road Alteration Permit for this driveway as the plan is to use an existing woods road, however, it was noted that Scenic Road Alteration Permit was granted for the subdivision road for Starvish Lane.

Discussion took place with regard to the limited building envelope on this 10 acre parcel. Dr. Crane stated he understood the limited building area.

MOTION: To accept jurisdiction of the application as complete.

**MOTION: A. TONRY
SECOND: G. PARISH
6 IN FAVOR, 1 ABSTENTION, PASSES**

C. Brown opened discussion to abutters and members of the public. No abutters were present and the one member of the public had no comment.

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At the Chairwoman's request, S. Oles provided support for this request with regard to the four requirements outlined in the ordinance. This response was also provided by letter to the Board. Hearing no further comments from the Board, consideration of the requests for waivers was given.

Bridge or Culvert Designs: D. Smith noted that the same design of culverts is planned, however, he questioned if any regulations have changed. S. Oles stated that this proposal is the same drainage analysis with 50 year storm and design as approved by Jones and Beach Engineers in 2005.

MOTION: To grant a waiver to the requirements for bridge and culvert design because this was done in 2005 with that application, reviewed by Jones and Beach Engineers and it appears adequate at this time as there is no change on site.

**MOTION: T. FRANCIOSA
SECOND: S. VOLPONE
UNANIMOUS**

Soil Erosion and Sediment Control Plan, Subdivision Regulation Article 7.7: S. Oles reported that silt fencing will be located along the driveway/existing woods road during construction. It was asked that all make sure things are in place to allow for the least detrimental impact. A. Tonry referred the Board to Note 7 that addresses best management practices. It was determined that there is no need for relief to this section as it relates to Subdivision roads.

High Intensity Soil Mapping (HISS) including the Seal of a Licensed Soil Scientist: It was noted that there is now a wetland stamp on the plan and therefore, there is no need to address this waiver request.

Drainage Analysis: S. Oles reported that the drainage analysis is tied in with the original approval that was signed off by Jones and Beach Engineers.

MOTION: To grant a waiver to the requirement for drainage analysis based on the 2005 report as reviewed by Jones and Beach Engineers.

**MOTION: T. FRANCIOSA
SECOND: S. VOLPONE
UNANIMOUS**

MOTION: 8.5.1.1: To make a finding that the proposed construction is essential to the productive use of land not within the wetlands based on the following support as provided by the applicant engineer:

The proposed construction is essential to the productive use of the land not within the wetlands. Specifically, this use is for a single residential home. The wetlands and the Prime Wetland Buffer encompass approximately 75% of the total lot area. The only buildable lot

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area is in the rear of the lot and can only be accessed by crossing through the wetlands and the Prime Wetland Buffer. Without the proposed construction the lot is unbuildable and unproductive.

**MOTION: C. BROWN
SECOND: G. PARISH
UNANIMOUS**

MOTION: 8.5.1.2: To make a finding that the design and construction methods will be such as to minimize detrimental impact upon the wetland and will include restoration of the site as nearly as possible to its original grade and condition; based on the following support as provided by the applicant engineer:

The design and construction methods will minimize the detrimental impact upon the wetlands. And, every effort will be made to restore the site to its original condition. In fact, NHDES, has agreed that the proposed design, construction sequence, erosion controls, and maintenance program offsets the impact created as well as providing a buffer around designated prime wetlands. NHDES also concluded, after field inspection on October 6, 2011, that the project “involves minor environmental impacts.”

**MOTION: C. BROWN
SECOND: A. TONRY
UNANIMOUS**

MOTION: 8.5.1.3: To make a finding that no alternative route which does not cross a wetland or has less detrimental impact on the wetland is feasible; based on the following support as provided by the applicant engineer:

All alternative routes were examined by both a professional engineering firm and a wetlands scientist company. There is no alternative route which does not cross a wetland. The one proposed has the least detrimental impact and was endorsed by the senior wetlands scientist from NHDES after an extensive site walk and investigation. In issuing the Wetlands Permit, the NHDES stated “the applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department’s jurisdiction.” Furthermore, NHDES determined by field inspection that “using the existing woods road on the property is the least environmentally impacting alternative” (see Wetlands Permit Letter #2011-01930, dated November 2, 2011). The Hampton Falls Conservation Commission was also represented at the field inspection and concurred that using the woods road as the footprint for the new driveway to access the home lot is the best alternative. Without using the existing woods road, a stand of mature hardwoods and conifers would have to be cut down creating greater environmental impact.

**MOTION: C. BROWN
SECOND: B. MUTRIE
UNANIMOUS**

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MOTION: 8.5.1.4: To make a finding that economic advantage alone is not reason for the proposed construction, based on the following support as provided by the applicant engineer:

There is no economic advantage to be gained by the proposed construction. The owner simply wishes to gain access to the buildable area of his 10 acre parcel of land in order to build his single family residential home. There is no future option for subdivision of this parcel of land.

**MOTION: C. BROWN
SECOND: A. TONRY
UNANIMOUS**

MOTION: To approve the applicant's request for Wetland Special Use Permit relating to Map 1, Lot 66-1, in accordance with the plan by MSC Engineering, dated 6/2011, revised to 11/9/11, for property located on Drinkwater Road subject to the following conditions:

1. That the mylar be recorded at the Rockingham County Registry of Deeds.
2. That any and all fees due the Town of Hampton Falls be paid,
3. That the Department of Environmental Services permit number and date of permit be shown on the plan.
4. That the posting of a bond, as approved by the Town Engineer, be filed with the Board of Selectmen.
5. That approval of the findings to Section 8.5 is made.
6. That correction be made to the plan (NH DES Wetland Permit Expires rather than Expired)
7. That a note be placed on the plan that the driveway is to remain crushed stone
8. That waiver approvals be added to the final plan.
9. That Scenic Road Alteration Permit approval be added as a note on the plan.

**MOTION: A. TONRY
SECOND: G. PARISH
UNANIMOUS**

C. Brown reported that the matter of lot line revocation will be addressed later this meeting and closed the public hearing.

D. REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES

MOTION: To approve the minutes of the October meeting as written.

**MOTION: B. MUTRIE
SECOND: T. FRANCIOSA
UNANIMOUS**

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E. OTHER BUSINESS

1. Committee Reports

The Board acknowledged Ordinance and Regulations Review Committee minutes of November 17. It was requested that more information be provided when using names of committee members rather than only initials (either first initial last name or last name in full).

The Board also acknowledged minutes of the Heritage Commission meeting of November 7.

2. Pelton Farms – Bond, Inspections, As-Built Plan

C. Brown referred the Board to Jones and Beach Engineers report letter dated November 30, 2011; specifically, the report on the public portion of the project. She reported that a road deed is still pending and once received will be reviewed by counsel in conjunction with the cistern easement deed already provided to the Board.

T. Franciosa informed of the need to post maintenance security and noted that the insurance bond expires in February. Lengthy discussion took place with regard to obtaining an acceptable form of security. It was determined that a letter is to be forwarded in this regard (certified mail, return receipt requested).

Discussion took place with regard to acceptance of the road, Peltons Way. It was noted that until the road is moved from the construction phase to the maintenance phase, the plowing is not the Town's responsibility. G. Hardee, Peltons Way, stated that the Association is paying for plowing, not the developer, at this time. T. Franciosa asked the Board if the Town would call the bond if a replacement form of security is not submitted. It was suggested that this is a question for counsel. G. Hardee reported that the developer is finished with the project and that he feels the developer will not be coming back for anything. The items remaining for the public road are the deed and the bonding for two years maintenance.

C. Brown will bring this matter to Planning Board counsel. It was also suggested that T. Franciosa, C. Brown and E. Small meet in this regard to draft a certified letter to the developer and forward the bond to Planning Board counsel to request opinion on the enforceability of the insurance bond. The Board will await counsel's response in writing.

3. T. P. Realty, Map 7, Lot 70: C. Brown acknowledged Jones and Beach Engineers letter of December 6 where it is indicated that one item remains to be addressed. The direction arrows have not been painted on the pavement in the area of parking concern. B. Jones indicates that once the arrows are installed that people will follow the proper traffic flow and not park in this area.

T. Franciosa stated concern with parking still taking place within the 10' setback area. He asked for a more permanent barrier to prohibit parking in this area and asked the Board if this could be

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handled as an enforcement issue. C. Brown noted that the mylar has yet to be signed and recorded and that request could be made to address this concern before the mylar is signed. She also suggested that request could be made to move the boulders placed currently on the property line to ten feet from the property line. The Board agreed to request that a permanent barriers be placed at the edge of parking and that no parking is to take place within the 10' setback. D. Smith noted that the parking within the setback is a violation of the approved site plan. C. Brown stated that she would pass this information along to the property owner.

F. COMMUNICATIONS TO BOARD MEMBERS

Lot Line Adjustment Revocation – Map 1, Lot 66-1: C. Brown provided Board members with background information with regard to the indication that this lot consisted of 12 versus 10 acres. She noted that a Lot Line Adjustment was approved in 2005 that resulted in an approved plan being recorded at the Registry and tax maps and assessing records changed at the Town Hall. The deeds for this approval never came through.

She reported that she has received an email from Sheila Starvish Parish (daughter of owner, Deann Starvish, with power of attorney) today that in part requests revocation of the lot line adjustment.

C. Brown referenced RSA 676:4-a, 1a, and read the section that outlines the process to revoke a lot line adjustment approval. This matter will be posted as a public hearing at the Planning Board's January 24, 2012 meeting and abutters and the owners of the two parcels will be notified by certified mail. Once a decision is made, there is a 30 day appeal period.

Discussion took place with regard to the limited building area on this parcel. Dr. Crane stated he was aware that a great portion of the lot is wetland and unbuildable and that additional structures such as a pool or shed could not be built without relief from zoning.

Membership to Workforce Housing Coalition: Following discussion, it was determined that the Planning Board would not become a member of this group at this time.

G. ADJOURNMENT

MOTION: To adjourn the meeting at 8:45 p.m.

MOTION: A. TONRY
SECOND: T. FRANCIOSA
UNANIMOUS