

**PUBLIC HEARING AND BUSINESS MEETING
DRAFT**

A. Call to Order – 7:00 p.m.

B. Roll Call: J. Deleire, Chairman; D. French, Vice Chairman; F. Perry, P. Young, Members; P. Robart, Alternate Member; L. Ruest, Administrative Assistant

Not Present: A. Dittami, Member; T. Parker; K. Kelley, Building Inspector

C. Public Hearings

Case #12-01 Application from **RR Hampton Falls River Trust, Jane F. Jensen, Trustee** for variance to the terms of Article III, Sections 3.8.1 (yard requirements), 8.1 and 8.4.1 (wetlands conservation district) to permit the replacement of septic system within 50' front building setback and 84' from edge of wetland as well as relief from Building Code Section 7 (structural requirements), subsections 7.1.1, 7.1.1.1.b, 7.1.1.1.c and 7.1.2 to permit the installation of a new septic system in Zone A for an existing home and guest house at property located at 51 Depot Road (Map 2, Lot 102).

Henry Boyd of Millenium Engineering, Jane Jensen and Real Estate Agent Diane Wasson were present. No abutters were present.

H. Boyd displayed the plan and referred the Board to specifics regarding this parcel. He explained that the current septic system is not adequate to properly treat the existing septic and that the property owner noticed fixtures working slowly. A replacement system has been designed to provide proper treatment, however, needs relief from Hampton Falls requirements. The new system is raised higher than the current system as it has been determined that the current system is too deep in the ground to function properly.

H. Boyd noted that the property consists of two buildings (main house and carriage house with apartment) surrounded by salt marsh/wetlands on three sides. It is planned to place the replacement system in the same location as the current system. Relief is sought from numerous sections of the Building Code and the yard and wetland setback requirements of the Zoning Ordinance.

The Board acknowledged receipt of the Town's reviewing agent's letter of December 14, 2011. M. Cuomo of the Rockingham County Conservation District (RCCD) outlines in this letter the areas of regulations where relief or variance is needed.

H. Boyd continued with his presentation noting the areas where regulation requirements cannot be met and why. He added that there may be other minor changes identified by RCCD or the State and stated that the proposed replacement location is the only place on the parcel to support a system; some waivers may be necessary from State requirements as well. He stated that in addition to setback requirements relief is sought from the 48" to seasonal high water table requirement to 24", that the new system will require a small retaining wall (approximately three feet) and that a Presby Enviro-Septic system is proposed.

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Discussion took place with regard to the manner in which this type of system works compared to a stone and pipe system. In response to Board members, H. Boyd stated that this system works as well as any other available and that with proper maintenance by the property owner, problems can be avoided. It was noted that cleaning the filter and using the proper sand material is important. P. Robart inquired as to whether the original system was designed properly. H. Boyd stated that he felt the system was built within the regulations at the time, however, it was found to be too deep in the water table. It was reported that there are no neighbor complaints and that there is usually occupancy of three or four family members.

H. Boyd spoke to the five criteria for granting a variance to the zoning ordinance as requested and presented in the application documents.

J. Deleire opened discussion to abutters and members of the public. No abutters were present and no comments were heard. J. Deleire closed the public hearing.

F. Perry identified that certain sections as applied for may not cover the needs of this request. He suggested that decision address Zoning Ordinance Article III, Section 8.4.2 Waste, Seepage and Sludge Removal. He also noted that reference to Building Code Section 7.1.1 should read 7.1.1.1 for relief from the 5,000 square foot requirement. The Board agreed to include these in the decision.

MOTION: To approve the request from **RR Hampton Falls River Trust, Jane F. Jensen, Trustee** for variance to the terms of Article III, Sections 3.8.1 (yard requirements), 8.1 and 8.4.1 (wetlands conservation district) and 8.4.2 to permit the replacement of septic system within 50' front building setback and 84' from edge of wetland in Zone A for an existing home and guest house at property located at 51 Depot Road (Map 2, Lot 102).

- 1. The variance will not be contrary to the public interest;** in that the request will allow for a new and improved process to treat effluent and protect the environment.
- 2. The spirit of the ordinance is observed;** in that a new system placed in the current location, in accordance with this proposal, will protect the environment.
- 3. Substantial justice is done;** in that approval will allow for continued use and reasonable use of the property.
- 4. The values of surrounding properties are not diminished;** as treating septic effluent with a superior system than existing will not negatively affect the value of surrounding properties.
- 5. Literal enforcement of the provision of the ordinance would result in an unnecessary hardship;** in that the setbacks in this case if enforced will eliminate the installation of a septic system. This proposal provides for a superior system that is better for the environment and neighborhood.

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**MOTION: J. DELEIRE
SECOND: D. FRENCH
UNANIMOUS**

MOTION: To grant the request from **RR Hampton Falls River Trust, Jane F. Jensen, Trustee** for relief from Building Code Section 7 (structural requirements), subsections 7.1.1.1, 7.1.1.1.b, 7.1.1.1.c and 7.1.2 to permit the installation of a new septic system in Zone A for an existing home and guest house at property located at 51 Depot Road (Map 2, Lot 102).

- Supporting comments of how enforcement of these regulations would do manifest injustice: Enforcement of the regulations would not allow for a superior and improved septic system.
- Supporting comments of how enforcement of these regulations would be contrary to the spirit and purpose of the building codes: Enforcement of the regulations would not allow for better treatment.
- Supporting comments of how enforcement of these regulations would be contrary to the public interest: Enforcement would not allow superior treatment for septic and the environment.

**MOTION: J. DELEIRE
SECOND: P. YOUNG
UNANIMOUS**

H. Boyd stated that he understood the need and requirement of the Zoning Board of Adjustment to add these approvals to a final plan and provide a copy to the Town of Hampton Falls for its file.

Case #12-02: Application from **Michael J. Fecteau, President, HFOCA** for relief from Building Code Section 7 (structural requirements), Sections 7.1.1.1a, b, c and 7.1.2 to permit the installation of a sanitary wastewater disposal system in Zone B at property located at 153 Lafayette Road (Map 9, Lot 12).

Michael J. Fecteau, President HFOCA and Dennis Quintal of Civil Construction Management, Inc. were present. M. Fecteau provided the Board with background information on this property and identified the numerous buildings and their current uses. He noted that the Association for this property is divided into sub-associations and that he is assisting all in obtaining approvals needed from the Town.

M. Fecteau showed the Board the location of existing septic systems and noted that one system at the rear corner of the property serves the two warehouse buildings and is in working order. The other septic locations were identified as well and noted that it is planned to fill and abandon

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them once the new system is in place. The new proposed system is planned to serve all buildings at the front of the parcel as well as the steel building.

It was reported that the Building Inspector is aware of the problems at this location and the need to provide for an expanded system to address needs of various units and uses. M. Fecteau noted that a preliminary consultation is scheduled for this property at the Planning Board meeting of February 28 to seek direction in amending the site plan for this property.

J. Deleire asked if the proposed system will support the proposed amended uses being brought to the Planning Board. M. Fecteau stated the new system meets the number of gallons required for all existing and proposed uses. D. Quintal explained that a Presby Enviro-Septic system is proposed for this property as well. He reviewed M. Cuomo's letter of December 1 with the Board identifying the sections of the Building Code which cannot be met. He stated that there is no other location on the parcel for the system given the number of buildings, setbacks and wetlands. He stated that he felt the design meets requirements for the intended uses, to include expansion of the use(s) and that it will also meet State requirements. M. Quintal acknowledged the need to include the decision on the final plan for M. Cuomo and forwarding the plan to the State.

D. Quintal reported that test pits are at 40" where 48" is required and 18-20" of seasonal high water table is found where 24" is required. He noted that the seasonal high water table increases in inches in various locations of the septic design area. It was noted that the Presby system does not need the amount of area stone and pipe systems need, and therefore, is seeking relief from the 1.25% size requirement.

D. Quintal presented support for granting relief to the sections of the Building Code as presented in the application. J. Deleire asked whether a stone and pipe system would be more beneficial in this case if the area and setbacks allowed. D. Quintal explained that should there be a problem with the Presby system, there is an opportunity to recharge the system rather than replacing. He provided an explanation of the different needs for failed systems with regard to rejuvenating compared to removal and replacement. D. Quintal answered questions of the Board with regard to system design, grease traps, maintenance, state requirements and filling in the existing tanks.

J. Deleire opened discussion to abutters. Abutter Carl Richardson and his son were present. No other members of the public were present. C. Richardson inquired as to the flagging at the back corner of the property where it meets his property line. M. Fecteau explained that this is the location of the septic system that serves the two warehouse buildings and that no septic system work is planned in this area as the existing system is working properly. M. Fecteau also confirmed that the new proposed system will be a raised system.

Hearing no further questions or comments, J. Deleire closed the public hearing.

MOTION: To approve the request from **Michael J. Fecteau, President, HFOCA** for relief from Building Code Section 7 (structural requirements), Sections 7.1.1.1a, b, c and 7.1.2 to

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permit the installation of a sanitary wastewater disposal system in Zone B at property located at 153 Lafayette Road (Map 9, Lot 12).

- Supporting comments of how enforcement of these regulations would do manifest injustice; that no other existing place on the lot is more beneficial than the one on the plan and that enforcement of the regulations would not allow for best placement.
- Supporting comments of how enforcement of these regulations would be contrary to the spirit and purpose of the building codes; that the spirit of the ordinance is health and welfare. If enforced, the use of the property would not be able to continue in its current conditions and may pose harm to those in the area.
- Supporting comments of how enforcement of these regulations would be contrary to the public interest; that the system as designed must shall meet all Department of Environmental Services rules and regulations; waivers granted will allow continuance of the existing use. By not allowing the upgrade, there is more potential for harm to the groundwater, marsh and surrounding wetlands.

**MOTION: J. DELEIRE
SECOND: P. ROBART
UNANIMOUS**

D. Review of Minutes of the Previous Meeting

MOTION: To approve the minutes of the December 2011 meeting as written.

**MOTION: D. FRENCH
SECOND: P. YOUNG
3 IN FAVOR, 2 ABSTENTIONS, PASSES**

E. Other Business:

No other business was discussed at this time.

F. Comments or Questions from the Floor

No comments or questions were heard from the floor at this time.

G. Adjournment

MOTION: To adjourn the meeting at 8:20 p.m.

**MOTION: J. DELEIRE
SECOND: P. YOUNG
UNANIMOUS**