



Town of Hampden
Planning Board Meeting
Wednesday January 9, 2019
Minutes

In Attendance:

Planning Board

Gene Weldon, Chairman
Kelley Wiltbank
Peter Weatherbee
Jim Davitt
Jennifer Austin
Jake Armstrong

Staff

Karen Cullen, AICP, Town Planner
Myles Block, CEO

Public

Andre Cushing

The meeting was called to order at 7:00 pm.

1. Administrative:

a. Board Reorganization

- i. Member Wiltbank nominated Member Weldon to serve as Chair, second by Member Davitt; so voted 5/0/1 (Member Weldon abstained).
 - ii. Member Wiltbank nominated Member Davitt to serve as Vice-Chair, second by Member Weatherbee; so voted 6/0/0. It was noted that the Vice-Chair also serves as the chair of the workshop meetings (dealing with ordinance amendments or project oriented business).
- b. Minutes of November 14, 2018. **Motion** by Member Weatherbee to approve the minutes as submitted; second by Member Wiltbank; carried 5/0/1 (Member Austin abstained).

2. Old Business: None

3. New Business:

- a. **Major Subdivision Final Plan – Colonial Heights Phase 3.** Request for approval of final subdivision plan for re-recording at the Registry of Deeds to clear up a procedural error in the previous recording of the approved plan. The subdivision was approved by the Planning Board in August 2017 and the infrastructure has been built and accepted by the Town in December 2018. The applicant is also requesting a waiver of the application fee.

Andre Cushing, the applicant, explained that the mylar of the plan approved in 2017 was not recorded within the 90 day time limit imposed by Hampden's Subdivision Ordinance (§322.1.1), an error that was recently caught during the title search for the sale of three lots. This application is to get a new approval and have a new mylar signed and recorded.

Chair Weldon confirmed that the error was not the fault of any municipal staff person or official, Andre Cushing agreed.

Andre Cushing presented his case for waiving the application fee: “We were required to pursue this process as the plot plan was not filed with the registry of deeds within the required 90 days of it being signed as approved by the planning board. A delay in securing the letter of credit to secure the completion of subdivision from our lender held up the release of the signed plan. This resulted in a delay until late November, the plan was picked up by our engineer taken to the registry and filed but, there was no mechanism to identify at the filing that it was in excess of the 90-day window required. It was discovered by an attorney for the buyers of some lots in the new phase when we were getting ready to close in December of 2018 and brought to our attention. The town attorney recommended it be submitted as a major subdivision for reapproval which required a higher fee. Under Hampden's ordinance fee structure a major subdivision fee is higher predicated I believe on there not being a fee paid for preliminary subdivision review, we had paid the fee related for a preliminary plan approval and for final approval in August of 2017. We feel that while the process was assisted by town staff the additional fee is somewhat burdensome due to the minor amount of staff time required to process the re-application. We respectfully request the council to wave this additional filing fee as we have completed the subdivision work, the Town Council has accepted the road and the town also accepted the conservation easement, all of which was covered by prior application fees and or funds we placed in escrow with the town for these purposes.”

Discussion on the request to waive the application fee:

- the fee is \$1,050 and has been submitted
- the purpose of the fee is to cover at least a part of the administrative costs for processing an application, including staff time for review and communications
- the fee could reasonably be reduced, the amount of time spent on this application has been less than for a typical final subdivision plan – the review of the plan consisted of a comparison of the mylar from August 2017 with the new mylar
- Board members are concerned about setting a precedent if the fee is waived
- the Planning Board can make a recommendation to Town Council to modify the fee, but Town Council is the body that will make the final decision
- the Board wants the fee to at minimum cover staff time and the cost of the town attorney time for his input on how to handle this situation.

Motion by Member Weatherbee to approve the final subdivision plan for Colonial Heights Phase 3 as submitted, and to modify the draft Board Order by deleting the section on waivers; second by Member Wiltbank; so voted 6/0/0.

Motion by Member Wiltbank to recommend to Town Council that they consider the request for a waiver to the final subdivision plan application fee of \$1,050, which has been paid, to reduce the fee to at minimum cover all of the administrative costs (including for the town attorney), due to the unique circumstances of this application where the mylar was not recorded at the Penobscot District Registry of Deeds within the required 90 day timeframe, which delay was caused by issues with the applicant obtaining the necessary letter of credit for the surety, with no fault on the part of the Town. Second by Member Weatherbee; so voted 6/0/0.

Motion by Member Davitt to adjourn the regular Planning Board meeting at 7:41 pm, second by Member Wiltbank; so voted 6/0/0. The Board signed the Colonial Heights plans.