

SPECIAL TOWN MEETING
Deliberative Session
August 8, 2006
6:30 p.m.
Library Street School Gymnasium
27 Library Street, Hudson, NH 03051

1. **Call to Order** by the Town Moderator, Michael Keenan, at 6:30 p.m.

2. **Pledge of Allegiance** was led by Selectman Kenneth J. Massey.

3. **Attendance**

Moderator Michael Keenan; Town Clerk/Tax Collector Cecile Nichols; Board of Selectmen: Chairman Richard J. Maddox, Vice-Chairman Shawn N. Jasper, Kenneth J. Massey, Kathleen R. MacLean and Benjamin J. Nadeau; Town Administrator Steve Malizia; Executive Assistant Priscilla Boisvert; Assistant Moderator Esther McGraw; Supervisors of the Checklist Joyce Cloutier and Karen Knox; Jim Michaud, Assistant Assessor; HCTV: Mike O'Keefe; Leo Bernard and Jim McIntosh; HLN: Len Lathrop and Doug Robinson; Ashley Smith, TEL and five residents—Mr. & Mrs. David Howe; Tony and Alicia Lekas; Kathy Leary.

4. **Discussion of Article 1**

Are you in favor of the adoption of Amendment No. 1 as proposed by the Planning Board for the Town Zoning Ordinance as follows?

Amend Article XIII, Housing for Older Persons, by limiting Older Persons Housing Developments to the R-2, TR and G Zoning Districts, and by further providing that Housing for Older Persons shall have town water and town sewer, have a buildable land area of 15,000 square feet per bedroom, and a minimum tract size for any such development of 10 acres. And, further to amend the Table of Permitted Principal Uses to limit Housing for Older Persons to the R-2, TR and G Zoning Districts. (Approved by the Planning Board)

Moderator Keenan asked Selectmen Chairman Maddox to speak to the article, since no one from the Planning Board was in attendance. Chairman Maddox said the Planning Board is trying to constantly correct issues within the zoning, and one of the things the Planning Board saw was that the older persons' housing was becoming problematic inasmuch as they were being scattered throughout Town, where there are no services. They wanted to bring it back towards the core of the Town, put on parcels that are able to sustain a good enough size project to be able to make it viable. Having a four-unit development was unsustainable; you could not provide services that these communities are supposed to be providing—health screening, dietary aids, medical checks—whatever they decided to put into their plan, with a four, five or seven unit development. You just couldn't do that, so the Planning Board tried to adjust some of the other ordinance issues, as far as size. They wanted to bring in more 62 and older, so they gave them a greater density bonus.

Tony Lekas, 30 Barretts Hill Road, asked who would be delivering the services that the former speaker mentioned, if it was the Town and why the Selectmen were concerned about it. Chairman Maddox said Town services, such as police, fire, ambulance. Locating them (housing) at the edge of Town doesn't seem to make a lot of sense.

Mr. Lekas asked about the comment made about health screening. Chairman Maddox said as an older persons' development, they are supposed to provide some of these services, as their charter. Mr. Lekas asked who "they" was and what charter he was referring to. Chairman Maddox said most of the older persons' developments have a condominium type set-up and, as part of the Planning Board process, they have to have a document that states what they will be providing. Their association should be able to support a senior-type of endeavor. They have to have a laundry list of items that the association would provide. Mr. Lekas asked who makes up that list. Chairman Maddox said the developer.

Mr. Lekas said if they agree they are going to provide certain services, he can see where it might not be economically viable for small development, but wondered why that concerned the Town. Chairman Maddox said because as soon as the development is completed, they go away. It's up to the association to maintain those. Mr. Lekas said if the association has problems doing that, like any condo association, there may be issues with condo fees, or whatever the assessments are, but in general, he didn't support putting restrictions on more people. He was trying to understand what the Town's interest was in all of this.

Selectman Jasper said one of the issues they are seeing with things like this is it's really a way to get around the intent. There does need to be a certain amount of units for it to be viable and to provide the services. Developers can come in and meet the letter of the ordinance, but not the spirit of the ordinance. The Town doesn't have the staff to enforce these, nor do they have the staff to make sure the units, when sold, as sold to people 55 years of age or older, within that certain percentage. He believes these are going to end up being just normal, residential dwelling units that are going to have a higher density and not meet the intent. The Town agreed to give certain benefits to developers who provide housing for persons 55 and over, and the Town is not seeing those things happening. A couple of years ago got out the statutes, rules and regulations, and told the Planning Board they needed to make sure those things were happening, but there's no enforcement, even on the State level. The Town feels that they still need to be allowed, but make sure they are on economically viable lots in areas of Town where services can be provided and there's not so much of a benefit that people are going to try to get around the spirit of the ordinance. Tonight's amendment accomplishes that, he thinks.

Mr. Lekas asked if this was a Town ordinance. Selectman Jasper said there is a State law that the Town ordinance is based on, allowing 55 and older housing. Mr. Lekas asked what the RSA number was. Selectman Jasper said it was in the 672's, but he didn't remember the exact reference.

Selectman Massey said federal law prohibits discrimination in housing, but in order to encourage housing for the population they were talking about, the federal government has allowed these to exist and to only allow either 55 and up or 62 and up to live in them and, in return for this ability to "differentiate" or "discriminate" against everyone who isn't 55 or 62, the government required that the development include certain amenities, and those amenities revolved around recreation, social and health, in addition to the normal Town or city services of police, fire and highway. The reason for wanting to make sure there is a critical mass is to allow the condominium association to be able to afford to support the physical, social and health services that are provided to that community, and you just don't have that critical mass at four units. The quid pro quo for being able to provide a greater density than what would normally be allowed in a zoning area was the ability to be able to provide these three services. That's what the Board is trying to do, make sure the services are provided for that community and to have a critical mass, in order to be able to fund it long-term.

Selectman MacLean understood trying to increase the density, but where it says 7,500 sq. ft. per bedroom, it seems like so much. It seems like it would make it more expensive to live there. That's far more sq. ft. than she has in her lot and she has three bedrooms, so she didn't know how affordable it would be. Perhaps affordability is not the goal, but she wondered if it should be part of the goal. Moderator Keenan asked if that was a question or a comment. Selectman MacLean said a comment, unless she could be corrected, but to her, it seemed like it would make the units much more expensive than they need to be, if there was less square footage per bedroom required.

Chairman Maddox said he'd attempt to respond to the comment. This is actually an increase for the bonus density than exists today. At present it sits at 10,000 sq. ft. for either and because they were trying to promote the 62 and older, they reduced it, so it's actually an increase in the bonus for the 62 and older, to try to foster more of those types of communities.

David Howe, 1 Federal Street, asked if the 7,500 sq. ft./10,000 sq. ft. was the total lot area, divided by the amount of units that are going to be built in the development, rather than one house sitting on a 10,000 or 20,000 sq. ft. lot. He asked if they were talking about eight or 10 acres, divided by however many units, to arrive at that. Chairman Maddox said that was correct. Rev. Howe said he's read articles and Letters to the Editor on this proposal and one of the writers seems to say there were only two parcels of land in Town that would be eligible to build on, if this was to be passed. He asked if that was true.

Chairman Maddox said that was in regards to the TR zone, and that could, in fact, be true of that particular zoning area. He has not researched whether those two are the only ones that are of 10 acres or more, but there would be multiple smaller lots that could be combined. He didn't know the answer to the exact size.

Rev. Howe asked how many units it would take for a project to be viable. Chairman Maddox said in the area of 24 – 30.

Moderator Keenan commented that there was a well-written Letter to the Editor last Friday that raised a number of issues and concerns. Without a doubt, the Board was trying to do something good here, but the questions that were raised in that letter were legitimate and if the Board really wants this to pass without a lot of controversy, an effort should be made to try to address those questions. He believed there were some legitimate questions and he's not sure that they've been answered.

Kathleen Leary, 8 Par Lane, said she hasn't followed this extensively, but has read about it in the paper, and would support the ordinance. They are trying to provide some protection for those who are 62 and older, in terms of being able to provide services, sewer, etc., without having to worry about those other things, trying to come up with a balance. Otherwise, it would be easy to circumvent the zoning laws that are to protect all of the citizens. It's in everyone's interest to have a balance—services and housing for Seniors, but also to look out for the interests and needs for all of the citizens. If you have four units, you are going to need services for four units, generating less tax dollars than you might have the same types of services provided for four larger lots. It is going to cost the same amount of tax dollars to provide fire, plowing, whatever, to these developments. The ordinance tries to strike a balance to provide services for Seniors and also provide some zoning protection for all the taxpayers in Hudson.

Selectman Jasper thought that was true. He also wanted to mention that one of the things, from his perspective, that really got him thinking about this was the potential for what the proposed development at Green Meadow. They are talking about millions of sq. ft. of retail, but then one of the things that they looked at was what they could put in there for housing, and how that would affect the Town. Right now, if they were going to do traditional housing in the general zone, outside of the beltway, it's 2-acre zoning, so if you took the whole parcel, which is a little less than 400 acres, there would be less than 200 housing units in there, by the time the roads were put in. Using the current older persons' housing, they'd get the 2-3 million sq. ft. of retail space, and they could get over 400 additional housing units in that one spot. When you start to consider that, you realize that doesn't make sense for the Town of Hudson, in his opinion. From his perspective, and he's not speaking for any other member of the Board or for the Planning Board, that was a wake-up call, to consider if that was something that really makes sense, putting in that much retail and housing units on that one lot. He didn't think that was something the Town wants to see happen. Even though it says 55 or over, there are a certain percentage of the housing units that don't need to be sold to people 55 or older, so then they are getting into potentially people with children, younger people. Can you imagine the Town trying to control those sales? With 400 units or more, there would be a lot of them, on a regular basis. How would they be able to deal with that? They wouldn't. They would have a situation, in a very few years, where literally everyone down in a project like that would have children and that would really impact the services. Then, if they finally woke up and tried to control it, all they could do at that point is control the

future sales. There is no real enforcement except for themselves and the condominium association, and there may or may not be interest on their part to control that. He agreed that the question of services and tax revenue needs to be balanced. They've already got a good mix in Town and he didn't think that they really want to encourage huge numbers in little lots all over the place because they all know those aren't going to be sustainable elderly housing developments, if they are talking four-10 units. It can't happen.

Selectman Massey said, for clarity, the federal and state guidelines say that if you have a development that is for 55 and older, then 80% of the units can be occupied by a units that only has one member 85 [sic] and up. The other 20% of the units can be sold to anyone, so as Mr. Jasper has just indicated, over time, if the condominium association does not want to enforce their own regulations, there is no ability for the Town to enforce them. It's a civil matter. And the question you have to ask yourself is if you were one of the 55 and up selling that unit, and the person that came along to buy it did not meet the 55, would you say no to that person about buying your place? It would be very difficult for the condominium association to enforce it. In terms of the 62 and older person housing, the law is very clear. Both parties, if there are two, have to be 62 or greater, and none of the units can be sold to anyone who doesn't meet that criteria. That one is a little bit easier to manage for the condominium association and that's another reason why there is a bonus given for the 62 and up.

Tony Lekas, 30 Barretts Hill Road, asked a procedural question--what the options were for them at this meeting, as opposed to the one in September. Moderator Keenan said this was a deliberative session. The only difference between this and the one in February is this is just one question, and it's not a monied article. Mr. Lekas asked if, at the conclusion of this meeting, they would vote for or against the question. Mr. Keenan said no, this was a discussion on what this article would accomplish and the vote would take place at the September primary. That's why he suggested why more information should come out, particularly in regards to a letter that was published in the Hudson-Litchfield News last Friday, so folks can understand this isn't a situation where the Seniors are being discriminated against, etc. There being no further discussion, he asked for a motion to adjourn.

5. Adjournment

Motion to adjourn at 6:57 p.m. by Kenneth Massey, seconded by Tony Lekas, carried unanimously.

Recorded and transcribed by Priscilla Boisvert
Executive Assistant

Cecile Nichols, Town Clerk/Tax Collector