



TOWN OF HUDSON

Planning Board



Vincent Russo, Chairman

Rick Maddox, Selectmen Liaison

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HUDSON PLANNING BOARD MEETING MINUTES October 23, 2013

I. CALL TO ORDER

Acting Chairman Hall called this Planning Board meeting to order at 7:04 p.m. on Wednesday, October 23, 2013, in the Paul Buxton meeting room in the Hudson Town Hall basement.

II. PLEDGE OF ALLEGIANCE

Acting Chairman Hall asked Mr. Malley to lead the assembly in pledging allegiance to the Flag of the United States of America.

III. ROLL CALL

Acting Chairman Hall asked Secretary van der Veen to call the roll. Those persons present, along with various applicants, representatives, and interested citizens, were as follows:

Members

Present: James Barnes, George Hall, Tim Malley, Ed van der Veen, Richard Maddox (Selectmen's Representative), and Glenn Della-Monica (arrived at 7:10 p.m.).

Members

Absent: Vincent Russo (excused).

Alternates

Present: Nancy Bruckerman (Selectmen's Representative Alternate) and Jordan Ulery (arrived at 7:10 p.m.).

Alternates

Absent: Irene Merrill (excused) and Marilyn McGrath (excused).

Staff

Present: Town Planner John Cashell.

Recorder: J. Bradford Seabury.

IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS

Acting Chairman Hall noted that he had no alternate to seat in place of the absent member.

V. MINUTES OF PREVIOUS MEETING(S)

Acting Chairman Hall said there were no minutes to review.

VI. CASES REQUESTED FOR DEFERRAL

No cases had requested deferral from this scheduled date.

VII. CORRESPONDENCE

Acting Chairman Hall stated that items of correspondence received in tonight's handouts would be taken up under **Other Business** at the end of the meeting.

VIII. PERFORMANCE SURETIES

A. Allyson's Landing, Release of Two-Year Maintenance Bond

Reference: Memo dated September 26, 2013 from Patrick Colburn, PE, Town Engineer, to John Cashell, Town Planner

Acting Chairman Hall read aloud the published notice, as repeated above.

Town Planner Cashell said he had nothing to add to his staff report.

Selectman Maddox moved to release, in its entirety, the two-year maintenance surety (in the form of a cash bond in the amount of \$46,572.67) for the Allyson's Landing Subdivision, noting that there were favorable recommendations from Town Engineer Patrick Colburn, and Road Agent Kevin Burns in the file. Mr. Barnes seconded the motion.

VOTE: Acting Chairman Hall called for a verbal vote on the motion.
All members voted in favor, and Acting Chairman Hall declared the motion to have carried unanimously (5-0).

IX. ZBA INPUT ONLY

No **ZBA Input Only** items were addressed this evening.

X. DESIGN REVIEW PHASE

No **Design Review Phase** items were addressed this evening.

XI. OLD BUSINESS

No **Old Business** items were addressed this evening.

XII. DESIGN REVIEW PHASE

No **Design Review Phase** items were addressed this evening.

XIII. CONCEPTUAL REVIEW ONLY

No **Old Business** items were addressed this evening.

XIV. NEW BUSINESS/PUBLIC HEARINGS

**A. Retail Center Site Plan
SP# 06-13**

**201 Lowell Road
Map 216/Lot 011**

**Purpose of plan: Site development for 10,465-ft² commercial/retail building.
Application Acceptance & Hearing.**

Acting Chairman Hall read aloud the published notice, as repeated above.

Town Planner Cashell said the application was ready for Application Acceptance, noting that there was a handout pertaining to this case.

Mr. Barnes moved to grant Application Acceptance; Mr. Malley seconded the motion.

VOTE: Acting Chairman Hall called for a verbal vote on the motion.
All members voted in favor, and Acting Chairman Hall
declared the motion to have carried unanimously (5-0).

Mr. George Ferdette, representing the applicant, Danato Realty Trust, stated that he did not have extra copies of the plan; he provided his own copy to Selectman Maddox, who requested it.

Mr. Della-Monica and Mr. Ulery arrived at 7:10 p.m. Acting Chairman Hall seated Mr. Ulery in place of Mr. Russo, noting this hearing had barely got started, so both Mr. Della-Monica and Mr. Ulery would be seated for this hearing.

Mr. Ferdette noted that Advanced Auto Parts had withdrawn, saying that firm was not a likely tenant, but the applicant wished to build in accordance with the same plan, with no tenant identified at this time. He said this site had been approved in July, at the time the lot had been reconfigured, with the Planning Board approving this 2-acre site, separating the Subaru dealership from this lot. He said the lot was occupied today by Advanced Spa & Pool on the right, noting that there was a vacant dwelling on the left side. He said the land was cleared, with a driveway coming onto the lot from the abandoned dwelling. He said they had done test pits to evaluate the soil. He noted that the rear lot line bounded the Industrial zoning district. He said there were no wetlands on the site, hence no wetland impact. He said the existing dwelling would be

removed, saying the second retail building contained 10,465 ft² on a single floor, and adding that it was about 18 feet high, and would be complemented with just over 31,000 ft² of pavement, adding 15 parking spaces to the entire site, with 32 or 34 parking spaces currently. At the back corner, he noted, there was a retaining wall about 15 feet high, but the rest was level. He said water and sewer would be extended into the property, along with cable utilities from an existing pole coming in from Hampshire Drive. He said the total land area would be disturbed for 62,000 ft², ending up with 43,000 ft² of impervious surface. He noted that a pole bisected one of the parking spaces, but the spaces would be shifted so that no parking spaces would be lost. On the south side, he said, there were a few AC units on the ground, which would be moved to provide three more parking spaces. Behind the building there would be two dumpsters, as it was set up for two tenants, noting there was a loading area but no loading dock. He said there were two driveways, one being an entrance-only access off from Lowell Road so that southbound traffic would be able to turn right, while off Hampshire Drive, in accordance with a 2006 plan, there was a curbcut. He said there was also a third access point, a temporary access easement from the Subaru site, saying he needed access today to get to the Advanced Spa & Pool business, but the land had been sold and that temporary access would be extinguished when the new access was available, adding that it would be no later than August of 2016.

He said stormwater was managed on the site, very effectively, and there would be less stormwater coming off the site after development than occurred today. He discussed the drainage arrangements, pointing out details on the plan. He noted that an existing drain running through the site would be reconfigured, with the function of draining water off Lowell Road being continued.

He then discussed the waiver requests, saying the open space of the consolidated lot did not meet requirements, as 35% open space was required and 26% was provided—noting that this was an existing condition, and also noting that advanced Pool & Spa occupied a high percentage of the lot—saying the left-hand side would conform if it did not have Advanced Pool & Spa attached to it, with a lot of green area and a 35-foot setback from Lowell Road. He said a third waiver was requested for the provision prohibiting paved area in the rear yard setback, saying there was a paved section there and rather than narrow the driveway they would widen it out. He said a fourth waiver was for relief of six spaces from the total parking requirements, saying six spaces less than required were being proposed, with about 86 spaces being provided instead of 92, because of the totality of Advanced Spa & Pool, adding that its parking lot was significantly empty and could be used as a buffer. He then identified a fifth waiver request for the interior landscaping, saying it was a small site, so the landscaping was being emphasized on the perimeter of the site, not within the parking lot. He said there were also three other waiver requests.

He said silt sacks would be used during construction to control runoff and siltation, noting that the packet included a copy of the lot line relocation plan approved by the Planning Board this past July—adding that the landscaping plan was consistent with what was seen on the Subaru site and across Lowell Road. He then noted the lighting plan, saying it confirmed with regulations, with the last sheet in the plan set being the building.

Acting Chairman Hall opened the meeting for public input and comment, in favor of the application or opposition or with questions. No one coming forward, Acting Chairman Hall closed the public hearing, declared the matter before the Board, and asked if any members of the Board had any questions.

Mr. Della-Monica asked if Mr. Ferdette had gotten a copy of CLD's comments. Mr. Ferdette said he had received it this afternoon and would comply without question.

Selectman Maddox asked about the three trailers on the back of the land.

Mr. Dan Enxing, the principal, said the three trailers (two of which he owned, with the other being owned by a tenant) would be going. He said he had let the Nashua VFW use them until they found a new home, but they would be gone by spring.

Selectman Maddox referenced the temporary easement that would extinguish at some point, asking if Mr. Enxing would continue to allow people to drive back and forth. Mr. Enxing said he had been in the process of buying the dealership, saying there was a new owner and he wanted to continue developing the property. Selectman Maddox asked why they should not be separate. Mr. Enxing said he could not speak for Subaru, who could put a fence there but did not want a permanent easement. Selectman Maddox said there should be a lot line to clearly delineate the two. He then expressed a belief that too much was being put on the lot.

Mr. Barnes referenced the culvert at the rear, asking what it did and where it went. Mr. Ferdette asked Town Planner Cashell to display the existing plan, Sheet 3, saying the end of the culvert was identified by field survey; he said it took everything coming off from Lowell Road, but they did not know where it went. He said that was a critical point, where the rip-rap was, and drainage then went into the municipal system through an entrance on the other side. He said the same amount would run in off Lowell Road but there would be less runoff from the site, as he had previously represented. Mr. Barnes asked about the neighboring property; Mr. Ferdette said the receiving culvert was on the neighboring property.

Mr. Barnes referenced Note 11, saying he did not understand how the parking calculations got to this. Mr. Ferdette said as he recalled Advanced Auto Parts had needed fewer parking spaces and they had used the lower number; he said there was not a calculation but a demonstration of less need. Mr. Barnes questioned the figures, saying the plan said 84 spaces were needed and 84 spaces were being provided, yet they were asking for a waiver. Mr. Ferdette referred to Sheet 4, saying there were no calculations for Advanced Auto Parts, but there was a reference to six fewer spaces, assuming that the waiver request was granted. Mr. Barnes continued to express confusion, and Acting Chairman Hall said he did not get it either, saying they needed to provide calculations showing why the waiver was needed.

Mr. Barnes referenced Sheet 2, saying there was a line in back of advanced Spa and Tool going to the neighboring property. Mr. Ferdette said it was an existing condition and they had no intention to change it.

Mr. Ulery said he seemed to recall that there had been a similar situation in a preexisting development in Clement Industrial Park, which had been resolved by painting a line, saying the new owner could block off the access but that was up to them. Acting Chairman Hall said that was different. Mr. Ulery said he thought that was

a decision that the abutter would need to make, if they did not want people coming across their lot line.

Mr. Ulery asked Selectman Maddox to elaborate on his objection to the green area, noting that there would be less water flow, and he asked if that were sufficient to allow for a modification from what was required. Selectman Maddox responded in the negative.

Mr. Della-Monica asked, if Prime Auto decided to put up a fence of some kind, would the parking spaces along the north side of the Advanced Spa & Pool building be accessible. Mr. Ferdette said there was an easement, which he pointed to on the plan, to validate retaining use of those parking spaces. He said the easement provided adequate access to those parking spaces.

Acting Chairman Hall said it appeared that there would not be adequate spaces if the temporary easement became extinguished. Mr. Ferdette showed an overlapping easement space on the plan. Acting Chairman Hall said they were asking for a waiver of green space and apparently would ask for a waiver of parking, but it looked as if Prime Auto could eliminate at least one of the spaces—saying Selectman Maddox was exactly right. He said those issues all compounded, along with the fact that the pavement was actually over the property line, which made it a bit harder to digest. He said his only concern was justifying why all that was being done. He then asked if the parking required from Advanced Auto was different from retail. Mr. Ferdette answered in the affirmative, saying they had demonstrated a need for 25 parking spaces, which was six spaces more. Acting Chairman Hall said it would look to him as if Advanced Auto's portion of the building was twice the size of the retail space, but did not have twice the number of parking spaces required, unless that was part of the difference of size for which the waiver was being requested. Mr. Ferdette said he would try to find that. Acting Chairman Hall said by listing them separately it would appear that the calculation was different. Mr. Ferdette said what was provided was less than what was calculated. Acting Chairman Hall said, since it was not Advanced Auto anymore, it should be called just "retail space."

Mr. Della-Monica said a reasoning advanced earlier was that the Advanced Spa & Pool had very low traffic, so all of the spaces combined meant that the only justification for a waiver would be based on the less parking required for the Advanced Spa & Pool business.

Mr. Barnes asked about a loading area for Advanced Spa & Pool. Mr. Ferdette said they had an area at the rear. Mr. Barnes said the loading area space could not be used for parking. Mr. Enxing said things generally were brought in at the front and then brought around on a pallet. Mr. Barnes said he thought some loading space should be identified.

Mr. van der Veen asked if a waiver were needed for a second driveway. Town Planner Cashell said that requirement was for residential purposes. Mr. Cashell referenced CLD's comments, referring to category H as citing the benefit of allowing free flow of traffic across all three properties; he noted that a lot of the traffic would end up utilizing Hampshire Drive. Mr. Barnes said the Board was only talking about two properties. Mr. Della-Monica responded that there were two buildings but three properties. Mr. Hall noted that the temporary easement could be closed off if they

wanted, as there was nothing to preclude the new owners from doing that. Mr. Enxing said he did not see that as an advantage to the new owners, adding that it did not make sense.

Town Planner Cashell said the Board might want to consider a condition that the free-flow of traffic be a condition of approval, since the whole idea was to keep traffic off Lowell road that was not at a controlled intersection. He then pointed out that the parking calculation was a peculiar way to figure out parking needs, saying Mr. Ferdette had interjected into the requirement for parking the actual granting of the waiver. Mr. Enxing said the requirements for Advanced Spa & Pool were less than what the Town required. He then said he did not know how he could make Prime/Subaru agree to free flow.

Selectman Maddox said he felt they should ask for a waiver of using the side setback, as that did not have enough open space to begin with, saying it should be defined why the Board allowed them to go right up to the lot line. Acting Chairman Hall said he thought he would agree.

Mr. Barnes noted the comment about not including the landscaping in front of the retail area, saying it was kind of sparse in that area, which would offset concerns about open space and landscaping in the parking area. Mr. Ferdette said that suggestion would be well received, noting they were asking for a waiver of open space, but they had not compromised in the 35-foot setback in front of Advanced Spa & Pool. He said there was a grassy knoll there, now, and they would be happy to add to the landscaping there now, for consideration of the waiver.

Mr. Della-Monica moved to grant the requested waiver for the requirements of HTC §275-8 (22), *10% of Interior Parking Shall be Landscaped*, citing the reason for granting that waiver as being because this waiver involved an existing encroachment condition, which posed nominal, if any, adverse impact on abutting properties, monetary or otherwise—and, as such, the granting of this waiver would not violate the purposes or general standards of that chapter.

Mr. Barnes seconded the motion.

Acting Chairman Hall said he thought that was one of the things he would wait on; he said the last three waiver requests were the less controversial. Mr. Della-Monica commented that he would tie the additional landscaping on the second waiver request to get this out of the way, and tie anything else into the open space element, as it really was a *quid pro quo* for the open space. Mr. Hall said he guessed he could buy that.

VOTE: Acting Chairman Hall then called for a hand vote on the motion. All members present voted in favor except for Selectman Maddox, who voted in opposition, and Acting Chairman Hall declared the motion to have carried (6–1–0).

Mr. Della-Monica said he would skip the second waiver request; he then moved to grant the requested waiver from the requirements of HTC §275-8 (25), *Travelway Within Rear Yard Setback*, citing the reason for granting that waiver as being because the adjacent property was industrially developed—and, as such, a significant buffer was unnecessary, thus the granting of this waiver would not violate the purposes or general

standards of this chapter and would result in a general benefit to the Town, because the extra width of driveway within this rear yard would provide safe travel for emergency vehicles and customary vehicular traffic.

Mr. Barnes seconded the motion.

VOTE: Acting Chairman Hall called for a verbal vote on the motion. All members voted in favor, and Acting Chairman Hall declared the motion to have carried unanimously (7-0).

Mr. Della-Monica said he would hold off on the fourth waiver request, and he then moved to grant the requested waiver from the requirements of HTC §275-8 (31), *35' Wide Green Area Adjacent to ROW*, citing the reason for granting that waiver as being because landscaping along the perimeter of the site would be more effective to serve purposes of the ordinance enumerated in HTC §334-2, adding that within the proposed parking lot interior landscaping islands would present a nuisance during winter maintenance--and, as such, the granting of this waiver would not violate the purposes or general standards of this chapter.

Mr. Ulery seconded the motion.

Mr. Barnes said he would vote in opposition, as he would want to see improvements in the landscaping first.

Mr. Malley asked why Mr. Della-Monica had said the presence of landscaping islands would present a nuisance to winter maintenance. Mr. Della-Monica said it would be hard to plow around landscaped islands in a parking lot of this size, saying it would be a jigsaw puzzle. Mr. Hall said that on most small sites the requirement did not make sense. Mr. Ulery said the plowing would be from the building to the retention basin, and they could not do that if something were in the way.

VOTE: Acting Chairman Hall then called for a hand vote on the motion. All members present voted in favor except for Selectman Maddox and Mr. Barnes, who both voted in opposition, and Acting Chairman Hall declared the motion to have carried (5-2).

Mr. Della-Monica moved to grant the requested waiver from the requirements of HTC §275-9 (B), *Traffic Study*, citing the reason for granting that waiver as being because the site was located adjacent to, and was designed to take advantage of, the existing controlled intersection, which he identified as follows:

- (a) The location of the primary driveway for this development was selected and constructed as part of the Hampshire Drive/Lowell Road intersection project. This driveway location could be seen on the existing conditions plan.
- (b) Relatively low traffic volumes on Hampshire Road would provide a safe route to and from the site.
- (c) It was reasonable to assume that the existing traffic signal was designed to accommodate the anticipated traffic from this site.

- (d) The proposed right turn ingress would serve to relieve some traffic volume from the Hampshire Drive/Lowell Road intersection by allowing southbound patrons of the businesses on this subject lot the option to enter the site without traveling through the controlled intersection; thus, the granting of this waiver would not violate the purposes or general standards of this chapter.

Mr. Barnes seconded the motion.

VOTE: Acting Chairman Hall called for a verbal vote on the motion.
All members voted in favor, and Acting Chairman Hall
declared the motion to have carried unanimously (7-0).

Mr. Della-Monica moved to grant the requested waiver from the requirements of HTC §275-9 (C), *Noise Study*, citing the reason for granting that waiver as being because the site would be occupied by a relatively small retail use and was located in a highly developed commercial corridor, and, as such, the granting of this waiver would not violate the purposes or general standards of this chapter.

Mr. Barnes seconded the motion.

VOTE: Acting Chairman Hall called for a verbal vote on the motion.
All members voted in favor, and Acting Chairman Hall
declared the motion to have carried unanimously (7-0).

Mr. Della-Monica moved to grant the requested waiver from the requirements of HTC §275-9 (D), *Fiscal and Environmental Impact*, citing the reason for granting that waiver as being because the proposed use was a relatively small retail use; and the storm water management report demonstrated no negative environmental impact on surface water nor groundwater resources—and, as such, the granting of this waiver would not violate the purposes or general standards of this chapter.

Mr. Barnes seconded the motion.

VOTE: Acting Chairman Hall called for a verbal vote on the motion.
All members voted in favor, and Acting Chairman Hall
declared the motion to have carried unanimously (7-0).

Acting Chairman Hall suggested a motion to defer would be in order.

Mr. Malley asked if they would change the plans so that it would no longer say Advanced Auto Parts. Mr. Ferdette answered in the affirmative.

Mr. Della-Monica noted that there were some items in the CLD report that required a decision, and he suggested that the Board should address those. Acting Chairman Hall expressed doubt that everyone had had a chance to read all that, and he suggested that the developer work things out with Town Planner Cashell prior to the next hearing; Mr. Della-Monica expressed agreement. Acting Chairman Hall suggested that there were a number of issues that needed to be addressed, including the increase in landscaping, as well as some thought on access to those parking spaces if there became an issue with the lot line. Mr. Ferdette expressed agreement. Mr. Ferdette noted that they had a sign occupying a 9-foot width of pavement, and they had

shimmed over the parking spaces, which were now whole for Advanced Pool & Spa. Acting Chairman Hall suggested that the light dashed lines be made more readable. Mr. Ferdette expressed agreement.

Mr. Della-Monica noted that Mr. Ulery had referenced a previous case in which the Planning Board had required that a line be drawn between two properties. Acting Chairman Hall said this might be difficult in this case, as an easement was involved.

Mr. Malley asked what would happen to the existing sign for Advanced Spa & Pool. Mr. Ferdette said it stayed there, and he pointed out details of the changes on the displayed plan, saying they would gain parking spaces. He said he would provide dashed lines to show what was being removed.

Selectman Maddox said Mr. Malley had calculated that 81 spaces were required.

Selectman Maddox moved to defer further action on this matter to the meeting of November 13, 2013. Mr. Malley seconded the motion.

VOTE: Acting Chairman Hall called for a verbal vote on the motion.
All members voted in favor, and Acting Chairman Hall
declared the motion to have carried unanimously (7-0).

XV. OTHER BUSINESS

Mr. Hall noted that the Unicorn Park case would be appealed before the Zoning Board of Adjustment on the following evening.

Town Planner Cashell noted that there was some code enforcement documentation in the packet.

XVI. ADJOURNMENT

All scheduled items having been addressed, Mr. Malley moved to adjourn; Mr. Della-Monica seconded the motion.

VOTE: Acting Chairman Hall called for a verbal vote on the motion.
All members voted in favor.

Acting Chairman Hall then declared the meeting to be adjourned at 8:21 p.m.

Date: December 6, 2013

Vincent Russo, Chairman

J. Bradford Seabury, Recorder

Edward van der Veen, Secretary

These minutes were accepted as submitted following
review at the 02-26-14 Planning Board meeting.