



# TOWN OF HUDSON

## Planning Board

Vincent Russo, Chairman

Rick Maddox, Selectmen Liaison



12 School Street • Hudson, New Hampshire 03051 • Tel: 603-886-6000 • Fax: 603-594-1142

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### HUDSON PLANNING BOARD MEETING MINUTES June 12, 2013

#### I. CALL TO ORDER

Chairman Russo called this Planning Board meeting to order at 7:00 p.m. on Wednesday, June 12, 2013, in the Community Development's Paul Buxton meeting room in the Hudson Town Hall basement.

#### II. PLEDGE OF ALLEGIANCE

Chairman Russo asked Mr. Ulery to lead the assembly in pledging allegiance to the Flag of the United States of America.

#### III. ROLL CALL

Chairman Russo 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, Glenn Della-Monica, George Hall, Tim Malley, Vincent Russo, Ed van der Veen, and Richard Maddox (Selectmen's Representative).

**Members**

**Absent:** None. (All present.)

**Alternates**

**Present:** Irene Merrill, Marilyn McGrath, Jordan Ulery, and Nancy Bruckerman (Selectmen's Representative Alternate; arrived at 7:02 p.m.).

**Alternates**

**Absent:** None. (All present.)

**Staff**

**Present:** Town Planner John Cashell.

Recorder: J. Bradford Seabury.

**IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS**

Chairman Russo noted that all regular members were present and no alternates would be seated at this time.

**V. MINUTES OF PREVIOUS MEETING(S)**

Chairman Russo stated that there were no minutes of previous meetings to review at this time.

**VI. CASES REQUESTED FOR DEFERRAL**

No cases had requested deferral from this scheduled date.

**VII. CORRESPONDENCE**

Chairman Russo stated that one item of correspondence had been received in tonight's handout and would be taken up in conjunction with the associated matter.

**VIII. PERFORMANCE SURETIES**

No **Performance Sureties** items were addressed this evening.

**VIX. 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.

Chairman Russo stated that he would take up Item A under **Other Business** out of order at this time.

**XV. OTHER BUSINESS**

**A. Review Cost Estimate to complete CAP Fee Assessment Update for the three major corridors in Hudson (i.e. NH Routes 102 & 111, and Route 3A). CAP Fee Review. Deferred from the 05-22-13 Planning Board Meeting.**

Mr. Marty Kennedy, from the engineering firm of VHB (the Board's traffic consultant firm) discussed details of his earlier submitted scope for a proposed Town-wide cost

allocation procedure, noting that it would be applied to all Town roads rather than just to the three main corridors. He explained that the currently-used system was based on the cost of the proportion of capacity associated with a given corridor, whereas the proposed method used the calculated amount of vehicle miles travelled on the Town's roads and multiplied that figure by the cost of providing that ability to travel on those roads, meaning that the fee assessed against a particular development would be based on the amount of trips calculated for that development. He said it was all based on rational nexus, based on the proportion of impact.

Selectman Maddox asked if Mr. Kennedy had done this with other towns. Mr. Kennedy answered in the affirmative. Selectman Maddox asked if Mr. Kennedy had data as to the results, with respect to the method now being used, showing what those other communities had collected prior to the new system as opposed to what they were collecting after implementing that new system. Mr. Kennedy said data would be available from those towns, saying he would guess it would be about the same but he did not have any before and after figures to present. He noted that his firm had implemented this method in Salem past three or four years ago and in Concord perhaps six or seven years ago.

Mr. Della-Monica asked how easy this method would be to use once implemented. Mr. Kennedy said the end product would be very similar to what the Town had now, with a table listing the roads, perhaps with a few districts, so that some rationale could be shown for fees being paid with respect to the general geography in which the site was located. Mr. Della-Monica asked if a proportionate value could be assigned between two zones. Mr. Kennedy said it was all about being reasonable, saying the final decisions would be made when the overall plan was reviewed. He emphasized that the whole idea was to be fair.

Mr. Hall said the current system had zones with a formula pertaining to that location; he then said he was trying to figure out how this new approach would work, asking if it would build up a little kitty in all zones or just the one in which it was used. Mr. Kennedy said the primary reason would be to build up a fund for the zone in which the site was located, saying in theory there could be only one zone for the town, but it would be difficult to show how that was fair. He suggested that there would be two or three zones, noting that Salem had three. He confirmed that whatever money was collected should be spent in that zone, saying there would be separate accounts for each zone.

Mr. Barnes noted the current CAP fee was used with the corridors; he asked if under the new method the funds could be used for other roads. Mr. Kennedy said the new method would no longer have corridors, confirming that the money could be used for all of the Town's roads, as needed.

Selectman Maddox asked how this would hold up in court, asking if there had been cases to test it. Mr. Kennedy said he was not aware that this process had been taken up in court, but he did not think so. He said the need was to meet a rational nexus, and this was just a different way of getting it. Selectman Maddox noted that Hudson had already been to court with the system now in use, saying he did not want to be a test case for a new procedure. He then suggested that the Board needed to see how this approach had flown in other communities.

Mr. Ulery asked for clarification that there had been no law cases against this plan. Mr. Kennedy said he did not think so. Mr. Ulery asked if Mr. Kennedy would be available to defend the process if it went to court; Mr. Kennedy answered in the affirmative. Mr. Kennedy noted that he thought Hooksett had also adopted this method.

Chairman Russo asked if Mr. Kennedy had talked with Town Planner Cashell about how the zones would be laid out. Mr. Kennedy answered in the negative. Chairman Russo then expressed concern about spending \$18,000 for a process that might not be used, saying he thought that had to be planned out ahead of time. Mr. Kennedy said there were a number of decisions that needed to be made at the Town went through the process, saying he would guide the Board on those decisions.

Chairman Russo asked for the pleasure of the Board. He then suggested asking Town Planner Cashell to contact Salem, Concord, and Hooksett to find out how they had implemented this approach and what their results had been. Selectman Maddox so moved; Mr. Malley seconded the motion.

Mr. Della-Monica said it should not take too long to do, suggesting the matter be taken up again at the June 26th meeting. Town Planner Cashell said that meeting was already fairly active, and he suggested doing it on July 10<sup>th</sup>, instead.

**VOTE:** Chairman Russo called for a verbal vote on Selectman Maddox's motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

Chairman Russo asked for a motion to defer.

Selectman Maddox moved to defer this matter to the next meeting (June 26th), saying he would like to get it resolved during this fiscal year and adding that he would look for financial data. Mr. Malley seconded the motion.

**VOTE:** Chairman Russo called for a verbal vote on the motion to defer to June 26<sup>th</sup>. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

## XI. OLD BUSINESS

### A. 63 Derry Street/Ledge Road Subdivision Map 165/Lot 159 SB# 04-13 63 Derry Street

**Purpose of plan: To subdivide the 2.48 acre subject property into seven single-family residential lots. Application Acceptance & Hearing.**

Chairman Russo read aloud the published notice, as repeated above.

Mr. Malley stepped down; Chairman Russo seated Ms. Merrill in Mr. Malley's place.

Mr. Jeffrey Burd, PE, of RJB Engineering, 15 Pleasant Street, Concord, New Hampshire, appeared before the Board as the applicant's representative, noting that he was accompanied by Mr. Josh Martin, of Greenscape Property & Buildings, the applicant. Ms. McGrath asked about large-size plans. Mr. Burd then informed the

Board that he had full-size plans but they were still at the print shop, and he begged the Board's indulgence to let him proceed. Town Planner Cashell went upstairs to see if he had large-size copies in the Planning office. Mr. Burd hung a large-size plan on the meeting-room wall, confirming that he had also submitted electronic copies.

Chairman Russo asked if this plan were ready for Application Acceptance. Town Planner Cashell said it was, and Mr. Barnes moved to grant Application Acceptance. Mr. Della-Monica seconded the motion.

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

Mr. Burd said he had put up two plans, one showing the project at a larger scale, and the other providing an overview plan. The presentation plan was **Color Plan, Map 165/Lot 159, 63 Derry Street, Hudson, New Hampshire**, and the other plan was entitled **Overview Plan**, both being dated April 5, 2013, with the overview plan revised on May 14, 2013. He described details of the property, noting it was in the TR zoning district, with the property being located across the street from Pizza Hut on Lowell Road. He noted that there was an existing house on the corner lot with a garage and storage shed, saying the back portion was undeveloped and wooded, but fairly flat with moderate slopes, with deep sandy soil and pine and hardwood trees. He said they were proposing to subdivide the property into seven lots, leaving the existing house in place, with a road constructed to the back portion of the property, built to Town standards with granite curb. He noted there was a crest to Ledge Road but a survey had confirmed that they met the sight distance requirements. He discussed the drainage system, noting it would be closed drainage, routed to an infiltration basin, with the drainage infiltrating into underlying soils, with any excess going back into the Ledge Road drainage system. He said the sidewalk would be extended along Ledge Road from Derry Street up to the end of the property. He noted he had met with Town Planner Cashell and had revised plans with respect to staff and CLD comments, having just received a second set of seven comments from CLD yesterday, which he said were minor in nature.

Mr. Burd noted that two waivers were being requested, with one being for the traffic study requirement, because the traffic generated from this development would be fairly minor and would not create enough impact to necessitate any offsite improvements, saying they felt there would be no real impact on local traffic or nearby intersections. He then said the other request was for a waiver from the fiscal study requirement, saying there would only be six new lots and each lot would be contributing the required impact fees and there would be minimal additional impacts on Town services, therefore the spirit and intent of Town regulations would be met.

Chairman Russo asked Mr. Burd to review the comments from CLD.

Referencing Item 5A, new water and sewer connections, Mr. Burd said he had had a couple meetings with the Engineering Department, saying plans were under review with Pennichuck, and he had been told that there was capacity in this area.

Referencing the sewer matter, Mr. Burd said he was meeting with the Sewer Utility Committee in the following week, noting that he had been told that it was on a first-place/first-served basis but that there was capacity available.

Referencing Item 8C, he said the detail for road patch sections was provided on Sheet 9 of the revised plan set.

Referencing Item 1C, locus plan at 1"=1000, he said he had not heard from anyone in the Town that the scale was not adequate but he could provide the plan to a different scale if needed.

Referencing Item 3A the circular island for the cul-de-sac; he said he had discussed this with Town Planner Cashell, saying they would entertain shrinking it down but would provide sufficient space for fire apparatus.

Chairman Russo said all the other items were for Town input, so the Board did not need to hear about them tonight.

Chairman Russo opened the meeting for public input and comment, in favor of the application or in opposition, or who had questions.

Mr. Scott Smith, 4 Lindsay Street, which he described as being across the street, said his concern was traffic flow. He commented on the difficulty in getting out of Ledge Road and turning south on Lowell Road (Route 102), saying a lot of traffic came down Lindsay Streets as a result. He said it would take new people hours to realize they could not get out, and they then would be heading down Lindsay Street. He suggested the traffic pattern should be analyzed, perhaps with a traffic light installed at Ledge Road.

Mr. Fred Burke, 12 Ledge Road, said he was also concerned about traffic coming down Ledge Road. He asked about the zoning. Chairman Russo said it was a TR zone, so the use would be pretty much residential. Mr. Burke said he was happy houses would be going in, but that he continued to be concerned about traffic.

Repr. Bob Haefner, 1 St. John Street, said he was across the road, saying he would like to know what size houses were being proposed, acknowledging that he hated to lose the woods. Mr. Burd noted that Mr. Martin had some renderings of houses that they were thinking of putting up, noting they were different sizes of houses but a lot of starter-type homes, of under 2,000 ft<sup>2</sup>, with and without garages, but most likely with. He then affixed some illustrations to the wall.

Mr. Andrew Cormier, 8 Ledge Road, which he identified as pretty much across the street, noted he had an easement that kind of went behind the other property. He expressed concern about the size of the lots, asking if the property was zoned for special values or if they needed a variance. Chairman Russo explained that the TR zone required 10,000 ft<sup>2</sup>, saying these lots met that requirement.

Ms. Heidi Spaulding, 15 Ledge Road, said they were concerned about how close it would be to their house, adding that she had the same concerns about traffic, as people cut through all the time, and there were a lot of young kids in the neighborhood. She said the basic infrastructure of the water and sewer was 50 years old, saying she could not see straining that any more at this point, and she would be wary of the SUC

saying seven additional homes would not break that system. She expressed concern about having no trees blocking the traffic noise from Derry Road—adding that she could not visualize how seven houses could sit on that 2.5-acre lot.

Ms. Caryn Noonan, 6 Ledge Road, said she was affected the most, as she was directly across the street, and this would be opening literally on her garage, her driveway, and her house, so she would have no privacy left. She said traffic flew up that road, noting that there would be at least two cars per house, and more if kids got older. She asked if the trees would be clear cut, where the electricity would connect from (noting that the neighborhood was out of power for days and even weeks when the transformer blew). She said she wanted to know what a “closed drainage system” literally meant, asking if there would be no open water. She noted the plan notes referred to construction from 7:00 a.m. to 7:00 .m., Monday through Saturday, which she felt was a bit much, and she asked how blasting worked.

Mr. Terry Demarais, 3 Lindsay Street, which he stated was directly in back, asked if they were taking all the trees out and leaving no trees, and asking if they were really working on construction from 7:00 a.m. to 7:00 p.m. six days a week, which did not give the neighbors much peace and quiet. He asked how long this would go on for, and he also expressed concern about blasting with the neighborhoods’ 60-year old foundations.

Mr. Fred Burke, 12 Ledge Road, asked where the sidewalk would be. Chairman Russo said it would be on the side of the subdivision. Mr. Burd said it would just go to the end of the property in question, and he showed its location on the displayed plan.

Mr. Scott Smith, 4 Lindsay Street, expressed concern about the sound coming from Derry Road if the trees came down, commenting about ambulance and police sirens, and saying without those trees that sound would roll through the existing neighborhood. He asked if analysis had been done—and, if so, if there were any plans to curb that.

Ms. Janice Altman, 15 Ledge Road, expressed concern about the trees, noting that her property came directly up to the end of the woods. She said she was concerned about the stability of the tall pine trees that would be left.

Mr. Fred Burke, 12 Ledge Road, said he had not heard an answer as to how long the construction would last. Chairman Russo noted that Mr. Burd had not yet had an opportunity to respond.

No one else coming forward, Chairman Russo declared the matter before the Board, and asked Mr. Burd to address the concerns that had been raised by the neighbors.

Mr. Burd noted that traffic had been mentioned several times; he said this development was in an existing dense zoned area, saying the addition of six more homes would not be a large number. He said this size project would not support or trip the warrant for a traffic signal, saying if a traffic signal were needed it was already needed today. He said this project should not be required to go beyond what it was required to do for offsite improvements. He noted that one driveway was being eliminated from the property, although a road was being added for six homes. He said this was eliminating a safety hazard), which was a concession, as anyone moving into that house would like to keep the U-shaped driveway for safety reasons. Chairman

Russo noted that a CAP fee of approximately \$1200 per lot was being applied, which would go to an account to help work the corridor area.

Mr. Burd said he had not heard that there had been any issue with services to that area from the Town Engineer or Pennichuck, saying he relied on the Town for such feedback.

Referring to the trees, Mr. Burd said there were some large pines on the property, which were a potential hazard, and they should not be left looming over the houses, so all the large pines would be taken, but there were a number of smaller trees that could be left in place, and he suspected that was what they would be doing. He said he did not see them clearing anything beyond the setback line. He said he had done the test pits 12 feet deep and did not hit ledge, so they did not anticipate much blasting. If blasting were needed, he continued, the contractor would have to do a pre-blast survey, adding that they were insured.

Mr. Burd said he did not know how to address sound, saying they would want to keep what trees they could as no one wanted to move onto a bare lot.

Mr. Burd expressed a belief that the construction for the road would last three months at the most, or maybe until snow flew with some finishing up in the spring. He said the houses would take a couple years; Mr. Martin demurred, however, saying it would be no more than a year for these types of homes.

Ms. McGrath suggested changing the construction allocation to five days a week. Mr. Burd said they would entertain that idea, if it would appease the abutters. Chairman Russo suggested he discuss that with the property owner.

Mr. Della-Monica noted that wall-papering and painting would not create noise.

Chairman Russo asked for an explanation of the closed-drainage system. Mr. Burd said it would collect the water in pipes—adding that the property now drained off to an adjoining property but he did not think much got there because of the sandy soils. He said they would install catch basins and run the overflow through closed pipes to an open pond. He said there would be an outlet into the Ledge Road system, saying there would be no increase from what was there today, noting that no increase would be allowed. He confirmed it would be an open basin, located on an easement on the original property owner's property, but it would just be a collection point, with no standing water after it dried up.

Mr. Burd confirmed that utilities would be underground, including electrical.

Chairman Russo asked if there were anything that had not been said.

Ms. Lee Ann Middlemiss, 22 Abbot Street, said she had received a copy of the plan. She said she understood there was a 15-foot setback. She said the pine trees on her side would be hers to keep, but she was concerned that the remaining pines would not have stability once the others on this property were gone. Mr. Burd said he did not think removal of the trees would affect the soil, but it made the tall trees more susceptible to the wind. Ms. Middlemiss said she was keeping the trees as a sound barrier, expressing concern about having all that wooded area removed. Mr. Burd said they would want to take the trees down from the property because of the liability issue,



but it would not have any effect on the soil, which would not be disturbed within 15 feet of her property. Chairman Russo stated that the 15-foot setback was a building setback, but they could remove trees as they saw fit.

Mr. Ulery said he knew there was a tree tax to be paid when trees were cut down, adding that trees in New Hampshire were considered a farm product and the trees could be cut tomorrow. Mr. Della-Monica said homeowners could cut down a certain amount for firewood but beyond that they were taxed.

Ms. Caryn Noonan, 6 Ledge Road, reiterated her concern about backing out of her driveway across from this mammoth street, saying she believed the driveway on the existing house lot was moved previously to avoid backing out. She then expressed concern about having an open water collection pond across the street. Chairman Russo said the applicant had testified that there should not be any standing water once the rain had ceased. Mr. Burd expressed agreement. Ms. Noonan asked why it would be needed then, if it were not needed now, and she then asked what would happen if there were standing water. Chairman Russo said the reason for the pond was that there would be more runoff from developed land, which created a need to collect the water and treat it.

As far as what happened if the drainage system did not work, Town Planner Cashell said, the Town Engineer would make sure that it would work over a long course of time in accordance with State requirements, noting that treatment was required. With the degree of analysis and engineering that would go into it, he said, there was virtually no way it would not work. Ms. Noonan then asked if the pond could be placed further back, where it would not bother anybody. Chairman Russo said there were a lot of things they could do, but this met the requirements of the Town; he noted that the applicant was hearing the abutters' concerns and might respond.

Mr. Della-Monica said the neighborhood residents might wonder what incentive the applicant had to keep the retention pond clean, and the answer was that it would shortly become a wetland, meaning nothing could be done within 50 feet, so the homeowners would have recourse with the builder.

Chairman Russo asked if the drainage system became the Town's responsibility once implemented. Mr. Burd said it would be the Town's responsibility. Mr. Ulery said this was not a water treatment plant but a process that mimicked what already existed; he suggested having a copy of the drainage plan available for the abutters to review.

Ms. Noonan noted that underground utilities had been mentioned, asking where they would come from, how electricity would get to the property, and if there were going to be some of those ugly square things out on the front of the property. Chairman Russo said it would depend on the power company and how they wanted to distribute the power, saying there might be wires from the pole to the front houses but the wires would go underground once they got into the property, adding that there might be a couple transformers, so there might be a big box within the project. Mr. Ulery said the transformer box could be hidden by bushes; Chairman Russo concurred.

Ms. Janice Altman, 15 Ledge Road, said the side of her property went into the back yard, and she was concerned about the majority of the trees destabilizing the area, so that she would end up with the cost of the others. Chairman Russo said he would be

concerned now if there were trees 70 feet tall, but that these people could do what they wanted, limited to best practices. Ms. Altman asked if she could get a closer look to see how her property came close, later; Mr. Burd answered in the affirmative.

Mr. Della-Monica suggested the developer might offer to help abutters get rid of trees in their yards at the same time.

Selectman Maddox said he did not see a zoning designation on the plan. Chairman Russo said it would have to be added to the plan. Town Planner Cashell confirmed that the property was all zoned TR (Town Residential). Mr. Burd said there was a note on Sheet 2.

Ms. Heidi Spaulding, 15 Ledge Road, said she understood there should not be standing water in the pond; she asked if there would be a fence around it and if it would be treated during mosquito season. She then stated that all of the trees were tall, and she recommended that the Planning Board members go view the property, saying there would be nothing left if the tall trees were cut down. Chairman Russo reiterated that the abutters might want to talk to the applicant to get the area forested, saying tall trees were unstable and dangerous. He said tall pines did not do a lot of noise attenuation, adding that the new homes also would provide some attenuation. Ms. Spaulding said it was a mix of pines and hardwoods, predominantly, but was pines right along her property.

Mr. Della-Monica said he had stopped by the neighborhood today, and he confirmed that most of the trees were huge, describing them as really scary huge.

Ms. Denise Demarais, 3 Lindsay Street, said she had just put up a new \$8,000 fence, adding that unlike everyone else she would love to work out something about removing the tall trees, saying she had no problem losing them.

Selectman Maddox said one of the functions of this meeting was to have the developers hear the concerns of the neighbors. He said this Board should hear something being done to address the noise concerns. He then noted the lots were quite contained, saying the owners of one of the sites would have to go the ZBA to get a deck at the rear.

Mr. Barnes asked what size storm the plans were designed for. Mr. Burd said he would have to get back to the Board on that. Town Planner Cashell said the minimum was a 25-year storm. Mr. Burd said they often addressed the 50-year storm as well. Mr. Barnes asked Town Planner Cashell if the Town system could handle overflow beyond the 50-year storm. Mr. Cashell said the Town Engineer had not had a concern about that, saying this was a small subdivision. Mr. Barnes said it was small but tightly constrained.

Mr. Barnes asked about sheet flow along the driveways. Mr. Cashell said it would depend on the final grade. Mr. Barnes said he was a bit concerned, as this plan was adding a lot of impervious area. Mr. Cashell said CLD had really looked at this, as that was really CLD's forte, and they had not seen any difficulty.

Mr. Barnes said he had been concerned about traffic, as it appeared that taking a left turn onto Route 102 from Ledge Street could result in stacking—noting that he had heard from the neighbors that a lot of the traffic was going down Lindsay Street. He

said he agreed with the applicant that adding a few cars should not have much impact, but it looked as if there were already a lot of impact and something should be done.

Mr. Barnes asked who would be responsible for landscaping in the cul-de-sac. Town Planner Cashell said the Road Agent had gone over it, saying no one from the Town would be responsible, but what could be done would be to have one of the new property owners be responsible. He said he had suggested that they plan the landscaping so that it would take care of itself.

Mr. Della-Monica expressed curiosity as to whether the homeowners had thought of turning that portion of Ledge Street one-way, so that people could not leave, which would cut down on the traffic. Several audience members immediately declared this was a bad idea.

Mr. van der Veen said he was familiar with the area, saying he thought this would be the proverbial straw that broke the camel's back, as a lot of cars were being dumped into the system. He said he did not think the traffic study should be waived, saying it could give the Town some direction. He then asked about the height figure for sight distance, noting it was stated as 3.75 feet on the plan, but that he was hard-pressed to see past Lindsay Street when sitting in his minivan at the entrance to Ledge Road, when he was sitting higher than drivers of regular passenger cars. He said he had sat there this evening and could not see two people walking across Lindsay Street until he proceeded up the hill, and he then expressed a belief that the sight distance should be checked.

Ms. McGrath asked if Town Planner Cashell had a plan signed by the owner of the property and the engineer. Mr. Burd said he had that. Ms. McGrath said she agreed with Mr. van der Veen, adding that she was surprised that no one had addressed the fact that this was excessive—saying just because one could do something did not mean they should. She noted that these people moving in would want garages and sheds and swimming pools, but there was no place to put these things except in the setback/ she expressed a belief that this was putting a burden on the Town in the future. She said it was human nature to collect things, and people would need space, so she thought this was overkill, and she felt the Board should address that.

Mr. Ulery noted that he lived on Baker Street and could not make a left turn out of Cummings Street most of the time, saying this was true of several streets in the area. He said people making a right-hand turn from Ledge Street eased things substantially. He said the idea that six more houses might make a huge impact on Ledge Road might not apply, but the Town already had some studies of impact on that area, noting that there might be some forthcoming activity on the old Hogan site (across Rote 102).

Selectman Maddox referenced Note 8 on Page 5, which said sump pumps would be required; he asked if that was included in the calculations. Mr. Burd said that question had come up from CLD, saying the builder's practice was to provide sump pumps if there were any ground water to contend with—but he did not see any problem, as they did not find a high water table when he did the test pits. If foundation drains were needed, he said, it would be for a very short time. Selectman Maddox questioned if this were a concern the Board should look at, noting that Hudson had experienced two 100-year storms in the past couple years., Mr. Burd referred to the test pit logs on that

same sheet, saying no seasonal high water table had been confirmed. He said the foundation drains were just to address CLD's comment.

Chairman Russo said he had already heard there was no seasonal high water table. He said this looked like a boilerplate comment, but this Board had not seen it before. He then suggested that all the roof runoff should be required to go into onsite drywells. Mr. Burd said they were doing that, referring to a note elsewhere on the plans. He said this builder had done work in Nashua and provided that. Chairman Russo said the only additional sheet flow would be from the driveways. Mr. Burd said all this was taken into consideration when designing the drainage. In addition to the test pits, he noted, they were required to put together a maintenance manual for the basin—adding that the Town should be maintaining the basin. He said he had designed the project in accordance with DES requirements. He said the pond was located there so that it would be accessible for the Town to inspect it and maintain it, which could not be done if it were placed behind the houses.

Mr. Della-Monica said all the people in the area should be aware that a traffic study would show that impact would be small, but it would also show that the traffic would be backed up in that cul-de-sac, because the traffic would be backed up on Ledge Road from 7:00 a.m. to 10:00 a.m. Chairman Russo said the neighbors all knew that traffic would be increased slightly out to Route 102 and would be going through their neighborhood. Mr. Della-Monica said he had often observed in the morning that traffic was backed up on Ledge Road beyond where the proposed road would be placed.

Town Planner Cashell said the previously referenced Hogan property would be coming in with a plan in the near future, adding that there was a traffic study going on now pertaining to that, and he had told them to focus on all the traffic going up and down Derry Street, and it would be pretty well versed on this particular intersection with Ledge Road.

Mr. Ulery said he thought the Hudson Police Department had a call-in line for traffic issues, and the police would address problems. He suggested making calls to the police chief to ask for intensive enforcement would get response. Selectman Maddox said he would call the chief the next day. He then stated that the only place he saw a hydrant location was in the landscaping on Page 5; Mr. Ulery referenced Page 11. Mr. Burd said that layer must have got turned off on his drawing.

Town Planner Cashell noted there were four items scheduled for June 26<sup>th</sup>, but there was nothing for July 10<sup>th</sup>. He suggested more time would be required if the Board wanted the applicant to do something about traffic.

Selectman Maddox said he would move to defer to July 10<sup>th</sup>. Mr. Hall suggested it would be fair to vote on the waiver for the traffic study, first. Selectman Maddox said the applicant had heard concerns about traffic, saying he would rather see them spend money on fixing the problem than on confirming it. Mr. Hall asked what Selectman Maddox thought they could do about traffic and noise.

Selectman Brucker said she thought the Hogan site would require a traffic study, saying she thought the two could come together—adding that this impact was as nothing compared to what could happen at the Hogan site. Mr. Hall said a lot of people had concerns about traffic, but it would be useful to know what the level of service at

Ledge Road was right now; he then questioned what the Board would do about it, however. He said what happened at the Hogan site would not be an issue on traffic turning in and out of Ledge street, saying what the Board needed to know or should know was traffic on Ledge Street and Lindsay Street. If there already was an issue, he said, the Board wanted to know that. Mr. van der Veen expressed agreement that these were two separate issues.

Town Planner Cashell said this developer was not getting off scot free, noting that each lot would be assessed \$1,208.59—saying all the money went into a large pot, which went a long way to improving Route 102 and Ledge Road over the years. He said the issue eventually would be addressed.

Mr. Barnes asked if the Town or NRPC had done any recent traffic counts on Ledge Road or Lindsay Street. Town Planner Cashell said there were recent traffic counts and there was one going on right now, saying the information could be made available for the July 10<sup>th</sup> meeting. Mr. van der Veen said the data being collected was on Route 102, so it did not affect this. Mr. Cashell said he had instructed the engineers to look at all the intersections.

Mr. Della-Monica suggested doing a motion and discussing it or else polling the Board. Chairman Russo said there were two waiver requests.

Mr. Della-Monica moved to grant the requested waiver from the requirements of HTC 289-6(D), *Traffic Study*, citing the reason for granting that waiver as being because the traffic volume associated with the addition of six new single-family dwellings would not substantially impact the associated streets of Ledge Road and Derry Street—and, as such, the granting of this waiver would not be contrary to the spirit and intent of the Subdivision Regulations. No second being brought forward, Chairman Russo declared the motion to have failed for lack of a second.

Mr. Della-Monica moved to grant the requested waiver from the requirements of HTC 289-6(D), Fiscal Impact Study, citing the reason for granting that waiver as being because that study (in addition to the submitted plans, CAP fee provisions and other submitted application materials) was not necessary in order to evaluate the fiscal impact of this development—and, as such, the granting of this waiver was not contrary to the spirit and intent of the Subdivision Regulations.

Mr. Hall seconded the motion.

**VOTE:** No discussion being brought forward, Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7–0).

Chairman Russo said the Board now had to tell the applicant what the Board wanted for a traffic study. Mr. Della-Monica said it should be a study to succinctly give the traffic engineers what the proposed development would do for the Ledge Road intersection. Mr. Hall stated that it needed to show what the traffic count were on Ledge Road and Lindsay Street and what the increase in turning percentages would be at the intersections.

Mr. Hall then moved to require a traffic study to analyze the intersection of Ledge Road with Route 102 and the existing traffic count on Lindsay Street. Mr. Barnes seconded the motion.

Mr. Della-Monica suggested modifying that motion, saying the impact was from traffic turning left from the development into exiting traffic on Route 102, and he would be more interested in seeing what the backup on Derry Street was and how this development would affect it, adding that the traffic count itself would not really tell the Board anything about what the congestion was. Mr. Hall said the turning movements on Route 102 and Ledge Street would tell that and part of that should tell how long the backup was, and the study would say what the level of service was at that intersection of Ledge Road with Route 102.

**VOTE:** No further discussion being brought forward, Chairman Russo called for a verbal vote on the motion. All members voted in favor except for Selectman Maddox, who abstained, and Chairman Russo declared the motion to have carried (6–0–1).

Mr. Hall asked if Town Planner Cashell had been suggesting that this be deferred beyond the July 10<sup>th</sup> meeting, suggesting the July 24<sup>th</sup> as the next hearing; Mr. Cashell responded in the affirmative. Mr. Hall asked if the representative were comfortable with that date; Mr. Burd said he would like to have the deferral for July 10<sup>th</sup>, saying the consultant would have to be lined up, but pushing it off to July 24<sup>th</sup> would be a problem.

Mr. Hall moved to defer further action on this item to July 10<sup>th</sup>. Mr. Barnes seconded the motion.

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

Mr. Ulery said that the traffic study should be provided to the Police Department, given the concerns that the neighbors had.

Chairman Russo advised the abutters that the next hearing would be on July 10<sup>th</sup>.

Chairman Russo then declared a break at 9:28 p.m., calling the meeting back to order at 9:52 p.m.

Chairman Russo noted that Mr. Malley had returned to his chair as a regular member, with Ms. Merrill resuming her normal position as a nonvoting alternate

## **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**

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

**XV. OTHER BUSINESS (Continued)**

**B. Review Cost Estimate to Complete an Update of the 2000 School Impact Fee Study. Deferred from the 05-22-13 Planning Board Meeting.**

Chairman Russo read aloud the published notice, as repeated above.

Town Planner Cashell said he had heard from the School Board chairman, and they were working on it and would discuss it at a School Board meeting in June 20.

Mr. Hall moved to defer the discussion of the cost estimate to complete an update of the 2000 School Impact Fee Study to June 26<sup>th</sup>. Mr. Della-Monica seconded the motion.

Mr. Della-Monica referenced a comment on Page 4 of the staff report, saying one of the things learned at the previous fall's law lecture series was that fees could be collected on housing that was expected to increase the need for new schools but could not be collected because of someone having previously moved to the town—or, if the population declines, you cannot use money, because other people did. Mr. Hall clarified that one cannot collect fees unless there was something on the CAP fees that said you were going to spend more money for something. Mr. Della-Monica concurred.

**VOTE:** No further discussion being brought forward, Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7–0).

Ms. McGrath noted that a couple things had come up at the last couple ZBA meetings that she had been asked to bring to the Planning Board. First, as brought up by the Zoning Administrator, was a case of a property owner who had gotten a permit to install a pool but had installed it within the setback, and the Zoning Administrator had found that a shed on that same property was also too close to the lot line. She said that the Zoning Administrator had expressed a belief that the setback for the TR zone was too restrictive. Chairman Russo said his question would be: Did the Town need to increase the setback or should there be restrictions for what could go into it? He then asked if this were an in-ground pool or an above-ground pool. Ms. McGrath said it was an above-ground pool but could not easily be moved. Chairman Russo suggested there might be different feelings about an above-ground pool, which was not a permanent structure, and he asked if the Zoning Administrator were thinking along those lines. Ms. McGrath said the Zoning Administrator felt the setback was too restrictive in the TR zoning district—adding that she herself did not think so. Chairman Russo asked if the Zoning Board of Adjustment as a group supported the Zoning

Administrator's request; Ms. McGrath said she could not say that, but she noted that a majority of the sitting Zoning Board had granted a variance to allow the pool to stay.

Mr. Malley said he lived in the TR zone, stating that there was not a shed in his neighborhood that was not in the setback, saying there was no place to put a shed on those small lots. He said he did not think the Zoning Administrator's request for the Board to look at this was irresponsible.

Selectman Maddox said tonight's meeting had shown that if there were a 7.5-foot setback there would be bigger houses on the lots. He then suggested that having a 15-foot setback at least meant that property-owners could go to the Zoning Board of Adjustment, but having a narrower setback simply meant that was what one would get.

Chairman Russo said he thought it might be appropriate to address open porches, or a deck or a shed, but not an in-ground pool, which was a substantial structure. He then said he would have a discussion with Mr. Oleksak about his concerns, to get more of a feel for what he was thinking.

Mr. Hall asked what the setback had been for the pool, asking if the resulting space was five feet. Ms. McGrath said she did not recall. Mr. Seabury, also a member of the Zoning Board of Adjustment, expressed a belief that it was less than five feet. Mr. Hall noted that at one time there had been a setback of five feet for smaller sheds, saying he had supported that, but other Board members had decided against it. Mr. Hall said he felt some other structures might be allowed to be closer to the lot line, but not a house, which should stay at 15 feet, and he did not know about a pool, because of noise from children, but some things might be okay.

Mr. Della-Monica said he agreed with Mr. Hall.

Mr. Barnes said in this particular case there still would have been a problem, as it was closer than five feet. Ms. McGrath said that this particular case was not that unusual, but she recalled another case a few years ago in which a house was built within the lot size, but the people wanted a garage 1.5 feet from the property line. She said the ZBA saw such cases far too often, because the citizens did not understand why they could not do that.

Ms. McGrath then said another case, presently deferred, pertained to an electronic sign, which had graphics—which she had thought were not allowed, but the chairman had said that had been left out of the ordinance. She said the question was whether the calculations for sign area pertained to both sides or the sign or just one side.

Ms. McGrath then reported that she had been asked about the proliferation of the SALE-type signs. Chairman Russo said they were not allowed; Ms. McGrath responded that they were cropping up all over town.

Ms. McGrath then referenced signs on trucks that were pointing, noting the one at the recent gun-shooting sign on River Road. She questioned if those were allowed and/or if that issue needed to be addressed. Mr. Malley said he would say that a sign affixed on a vehicle could not be allocated as directional. Ms. McGrath said Mr. Malley's vehicle was identifying his business but not being used as a sign pointing to



that business. She said the question was having a vehicle parked specifically to direct people to a business. Mr. Malley said it was different if the sign was affixed to the vehicle, adding that something such as an easel sitting on the back of a pickup truck was different from a lettered vehicle. Ms. McGrath expressed agreement. Mr. Malley said in his opinion an easel sitting in the back of a pickup truck was no different than having it sit on the ground. Chairman Russo concurred, declaring that was offsite signage. Mr. Hall said a pickup parked out on River Road and containing a sign with an arrow pointing at a business was the most blatant situation that he had ever seen. Chairman Russo said it was a solid DOT issue once the sign was in the truck, and he expressed concern about crossing into a jurisdictional issue. Selectman Maddox suggested prohibiting mobile signs. Chairman Russo said a mobile sign was one that was on wheels. Mr. Malley said he felt vehicles that were lettered were exempt—adding, however, that he would not consider a sign sitting in the back of a truck as lettering. Chairman Russo expressed agreement. Mr. Hall noted that the vehicle in question was only there on weekends and there was no code enforcement on weekends. Mr. Della-Monica said a lettered wood sign with an arrow in a pickup truck could be parked anywhere, but it was different if it were a part of the vehicle.

Chairman Russo said this was a good discussion, adding that it might be one that the Board might want to have at the July 10<sup>th</sup> meeting about adding to the Zoning Ordinance.

Mr. Della-Monica referenced the issue about two sided signs, saying it did not make sense, as the sign could only be viewed from one side.

Mr. J. Bradford Seabury, a member of the Zoning Board of Adjustment, stated that something that Ms. McGrath had alluded to but had not really brought up about the sign in question—adding that it had been denied, not deferred—was an electronic message changing sign that had simply been added onto the same pole as an existing sign, with considerable space between them. He stated that the Zoning Board of Adjustment, or a majority of its members, had come to the conclusion that this was not in accordance with the Zoning Ordinance. He noted that all the signs shown to the Board when there had been the discussion about allowing electronic message changing signs had been about a message-changing portion of the sign, but now signs were appearing that were two signs, apart. He noted that there was another such sign newly installed on Lowell Road, where the separation was only about two inches, but at least the size was correct. He noted that the Zoning Board of Adjustment, as clarified at the recent Local Government Center's conference, was supposed to interpret the Zoning Ordinance, and he then expressed his belief that the Zoning Board of Adjustment had interpreted the ordinance as stating that the message changing component had to be a part of the overall sign. He then noted that neither the Zoning Administrator nor the office personnel associated with zoning agreed with that—adding that the Zoning Administrator felt that a "sign" included the pole, so as long as something was on the same pole it was part of the sign. He then expressed a belief that the Zoning Board of Adjustment at its forthcoming meeting would attempt to establish that the message-changing component must be a part of the larger sign.

Ms. McGrath said the way she understood it was that the majority of the Zoning Board members who voted against granting that variance were concerned about the size, with the question being whether allowing the sign on both sides of the sign meant

that the signage far exceeded what was allowed in the Zoning Ordinance. Mr. Seabury agreed that that definitely had been an issue, saying the question was: If a 100-ft<sup>2</sup> sign was allowed but it was a two-sided sign, did that mean the result was 200 ft<sup>2</sup>?. Chairman Russo said he thought that was in the Zoning Ordinance and was allowed. Mr. Seabury said it was vague.

Mr. Della-Monica stated that it had been stated at the last law lecture that, if something was vague, it was found in favor of the applicant.

Mr. Seabury then suggested that the Planning Board consider making a change in the Zoning Ordinance saying that there shall be no graphics on electronic message-changing signs. He contended that that had been the intent, recalling that Chairman Russo had made a statement to that effect, but it did not get into the text of the written ordinance, and Town Planner Cashell subsequently had checked with Legal Counsel, which had said the prohibition was not there. He suggested the Board put it there. Town Planner Cashell said that, when the EMC sign was being deliberated on, it was "four lines of text," with each line of text not exceeding ten inches in height, and illustrations were not allowed. The only way to get rid of illustrations, he added, was to amend the ordinance and eliminate them, and then give it to the voters to decide.

Ms. McGrath noted that she was not in favor of electronic message changing signs, anyway, but she said it needed to be clarified, so that not only would applicants know but also so that the members of the Zoning Board of Adjustment and the Town Hall staff would know. She noted that she had not been on the Planning Board when this addition to the sign ordinance was discussed and she did not know what the discussion or the intent was, and it was hard to address that when sitting on the board and hearing an applicant trying to go beyond what was allowed.

Mr. Malley said he recalled distinctively that the discussion had been about four lines of text and that they were not to be allowed to move, but that it had been brought up as a question of how the Town could discriminate between that and having a picture on any other sign in the town. Chairman Russo said graphics could be placed on the non-electronic portion of the sign. Mr. Malley said the discussion had been: "How can you turn around and discriminate on the electronic portion of the sign when there was actually no difference between those two signs, other than the fact that the graphics could be changed every 15 minutes?" Mr. Malley then stated that he did not think the question had not been included in the discussion and it had not been "slid" into the ordinance. Chairman Russo said he thought it was just an oversight by this Board.

Mr. van der Veen said he thought text might be more distracting than graphics, as drivers would be trying to read the text. He said he had not been involved in the passing of this, but he thought graphics were just fine on any type of sign, electronics or otherwise.

Mr. Della-Monica argued that logos could not be placed on a sign if graphics were banned. He questioned, for example, if this applied to the name of Coca-Cola. He asked when lettering became a graphic. He then said connecting aluminum flashing between two signs on the same pole would make them one, which did not make sense, agreeing that having the components on a pole meant it was part of a sign, whether it was connected or not.

Selectman Brucker said she hoped it was clear about the flag signs, that looked like wind-surfer sails, as they were inexpensive, and she had been in other communities where they were allowed. If the ordinance is not clear that they were allowed, she argued people would come in in force.

Chairman Russo said motion of any type of sign was not allowed.

Mr. Ulery noted that these signs were not cheap, it was probably \$99 for large companies such as Dunkin Donuts, but for an individual trying to put one up they were probably \$250 or \$350.

Mr. Malley said he thought flags were allowed.

Mr. van der Veen said he would re-read the ordinance and comment later.

Town Planner Cashell said curved sail signs were prevalent at Hampton Beach.

Mr. Della-Monica said even in the quaintest village there might be a red and blue sign saying **Open**, and it moved.

Mr. van der Veen noted that the flags Town Planner Cashell had referenced were put up by the City of Hampton Beach.

Town Planner Cashell said there had been a couple representatives from the corporate sector at the last hearing at which the Board had reviewed electronic message-changing signs, noting that all of a sudden the signs contained only lettering, but the statement had been made at that meeting that graphics were allowed and they had started to phase back in.

Ms. McGrath read from the Zoning Ordinance, HTC 334-50, Item k, saying no inflatable balloons or portable signs were allowed in any district, and Item m said no sign in any zoning district shall emit audible sound, odor, smoke, steam, mist, laser, hologram or other visible matter, including any sign that employs any stereopticon or motion picture projection. Chairman Russo said there was nothing about flags. Ms. McGrath noted that there was a specification about the permitted size for national or state flags.

Selectman Maddox suggested this discussion be scheduled for further discussion. Chairman Russo suggested doing it at the July 10<sup>th</sup> meeting. Mr. Della-Monica questioned how anyone could enforce a retired Marine-corps gunny sergeant from displaying the Marine Corps flag at his business and live.

Chairman Russo informed Town Planner Cashell that this discussion would continue at the July 10<sup>th</sup> meeting and that it should be placed on the agenda.

Mr. Ulery noted that there was a flag in front of Town Hall, and he questioned if the Board of Selectmen were aware of State law that required that flying the national emblem on State and local government properties required the POW/MIA flag to be flown directly beneath it.

Ms. McGrath said the Town had passed an ordinance requiring that the flag in front of Town Hall be flown.

**-- FILE COPY --**

**HUDSON PLANNING BOARD Meeting Minutes  
June 12, 2013**

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Mr. Ulery asked how come the State flag was not being displayed in Town offices. Selectman Maddox said it was because the State kept passing costs down to the towns, so the Town had to cut somewhere.

**XVI. ADJOURNMENT**

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

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

Chairman Russo then declared the meeting to be adjourned at 10:37 p.m.

Date: June 23, 2013

\_\_\_\_\_  
Vincent Russo, Chairman

J. Bradford Seabury, Recorder

\_\_\_\_\_  
Edward van der Veen, Secretary

These minutes were accepted as amended following review at the 07-10-13 Planning Board meeting.

**-- FILE COPY --**

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The following changes were made to the draft copy in accordance with review comments at the Planning Board meeting of 07-10-13:

Page 8, 4<sup>th</sup> paragraph, 2nd line — Corrected misspelling of the word “trees.”

Page 11, 2<sup>nd</sup> paragraph, 1<sup>st</sup> line — Changed “landscaping the collection pond” to read “landscaping in the cul-de-sac” to reflect what had actually been said.