



# TOWN OF HUDSON

## Planning Board

Vincent Russo, Chairman

Rick Maddox, Selectmen Liaison



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### HUDSON PLANNING BOARD MEETING MINUTES January 9, 2013

#### I. CALL TO ORDER

Chairman Russo called this Planning Board meeting to order at 7:03 p.m. on Wednesday, January 9, 2013, in the Community Development's Paul Butler meeting room in the Hudson Town Hall basement

#### II. PLEDGE OF ALLEGIANCE

Chairman Russo asked Selectman Brucker 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, George Hall, Tim Malley, Vincent Russo, Ed van der Veen, and Richard Maddox (Selectmen's Representative).

**Members**

**Absent:** Glenn Della-Monica (excused).

**Alternates**

**Present:** Jordan Ulery, Nancy Brucker (Selectmen's Representative Alternate), and Marilyn McGrath (arrived at 7:10 p.m.),

**Alternates**

**Absent:** Irene Merrill (excused).

**Staff**

**Present:** Town Planner John Cashell.

**Recorder:** J. Bradford Seabury.

**IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS**

Chairman Russo seated Mr. Ulery in place of the absent Mr. Della-Monica.

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

**A. 07/22/09 Minutes - 12/12/12 Packet**

Chairman Russo addressed the minutes for the meeting of July 22, 2009, asking if there were any changes or corrections. Mr. Barnes requested the following changes:

- Page 9, 1<sup>st</sup> paragraph after item (7), 3<sup>rd</sup> line should say Ms. Davis.
- Page 12, 2<sup>nd</sup> paragraph after (11) pronoun for Selectman Maddox should be "he" instead of "she."

No further change requests being brought forward, Mr. Barnes moved to approve the 07-22-09 minutes as amended; Mr. Malley seconded the motion.

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

**B. 09/02/09 Minutes - 12/12/12 Packet**

Chairman Russo addressed the minutes for the meeting of September 2, 2009, asking if there were any changes or corrections. Mr. Barnes referenced Page 8, 2<sup>nd</sup> paragraph, 12<sup>th</sup> line, saying he did not understand the first sentence attributed to Ms. Robichaud, and he asked that the Recorder check the audio record.

No further change requests being brought forward, Mr. Barnes moved to approve the 09-02-09 minutes as amended; Mr. Malley seconded the motion.

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

**C. 10/07/09 Minutes - 12/12/12 Packet**

Chairman Russo addressed the minutes for the meeting of October 7, 2009, asking if there were any changes or corrections. Mr. Barnes referenced Page 13, 4<sup>th</sup> paragraph, 7<sup>th</sup> line, saying Selectman Massey's name was misspelled.

No further change requests being brought forward, Mr. Barnes moved to approve/ the 10-07-09 minutes as amended. Mr. Malley seconded the motion.

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

**D. 10/03/12 Minutes - 12/12/12 Packet**

Chairman Russo said he would defer review of the minutes for the meeting of October 3, 2012, to the next meeting.

Ms. McGrath arrived at 7:10 p.m. and took her seat at that time as a nonvoting alternate.

**VI. CASES REQUESTED FOR DEFERRAL**

Chairman Russo noted that the Unicorn Industrial Park case, scheduled for this evening, was not ready and would not be heard this evening but would appear in the near future. Selectman Maddox noted that abutters would be re-notified.

**VII. CORRESPONDENCE**

Chairman Russo stated that there was correspondence from Mr. Fougere, which might be taken up later in the evening.

**VIII. PERFORMANCE SURETIES**

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

**IX. ZBA INPUT ONLY**

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

**X. PUBLIC HEARINGS**

In accordance with NH RSA 675:4, the Town of Hudson, New Hampshire Planning Board had scheduled two public hearings to be held on Wednesday, January 9, 2013, starting at 7:00 p.m. in the Community Development Meeting Room to consider petitioned re-zoning amendments to the Official Zoning Map of the Town of Hudson:

Chairman Russo said he would first take up Item B out of order.

**B. Amend the Official Zoning Map of the Town of Hudson to re-zone from Industrial (I) to Business (B) those parcels of land known as:**

**Tax Map 210, Lot 4, 185 Lowell Road,**

**Tax Map 210, Lot 5, 183 Lowell Road, and**

Chairman Russo read aloud the public notice, as follows: "Amend said Official Zoning Map to rezone from Residential-Two (R-2) to Business (B) that portion of Tax Map 210, Lot 10, 182 Lowell Road as follows: starting at the point where the parcel is

presently zoned Business (B) and extending the Business (B) zoning along the entire frontage of the parcel along Lowell Road to the subject parcel's southern boundary with Tax Map 216, Lot 14, 200 Lowell Road, and extending into said parcel a depth of approximately 250 feet, matching the current depth of the Business (B) zone for this parcel."

Chairman Russo opened the public hearing at 7:13 p.m.

Atty. J. Bradford Westgate, of the Devine, Millimet, & Branch Professional Association, 111 Amherst Street, Manchester, NH, legal representative for the applicant, said he was present to represent PBS Realty LLC, noting that Mr. Tony Basso, of the firm of Keach-Nordstrom Associates, Inc., Bedford, New Hampshire, serving as the engineering representative of the applicant, had affixed a plan to the wall, which he identified as Zoning Plan, Map 210/Lots 4 & 5, Lowell Road, Hudson, New Hampshire, Owner of Record and Applicant PBS Realty LLC, Prepared by Keach-Nordstrom Associates, dated November 14, 2012.

Mr. Barnes noted the location on the displayed GPS aerial view and identified nearby details on the displayed plan, describing the occupants. He said these two lots were the only ones on the westerly side of Lowell Road, from Flagstone Drive up to the top end of Lowell Road, that were not zoned Business, saying he was speaking in favor of the proposed change, as this would make the lots consistent with the others—adding that these lots were too small to be useful for Industrial uses. He said the current uses were more business than industrial in nature. He noted that it would be running counter to logic if the lots were currently zoned Business and they wanted to go Industrial. He requested that the Board place this change on the ballot and provide a positive recommendation for making the change.

No one else coming forward, Chairman Russo closed the public hearing at 7:18 p.m.

Ms. McGrath asked if both lot owners agreed with the change, noting that one had not done so the last time this matter was before the Board. Mr. Barnes said they had reached out to the other lot owner but that he was ambivalent. Mr. Barnes said that was a family business, which had asked its counsel to check on things pertaining to the lease and financing and had sent back to him an E-mail saying their attorney did not express concern, but they had a concern that the Assessor might change the value of the property if there were a zoning change.

Ms. McGrath asked who the E-mail had been from. Mr. Barnes identified the sender as having been Emile Khana, and he then read the contents of that E-mail aloud.

Mr. Barnes asked about lot at 182 Lowell Road, located on the other side of Lowell Road, which had been added to the request. He asked for confirmation that the extension of the Business zone on that side of Lowell Road was an extension of the Business zone already located on that same property; Town Planner Cashell expressed agreement.

Selectman Maddox questioned this statement; Town Planner Cashell then identified the zoning lines for the area on the displayed GPS view, saying it had already been

zoned Business, saying this proposal would simply extend the Business line from the stream to the southern property line.

Ms. McGrath asked if there were anyone present from Presentation of Mary to support the change. No one came forward, and Chairman Russo noted that no one had come forward during the public hearing.

Mr. Ulery said the three parcels had been discussed in some detail at the November discussion meeting. He noted that this brought it down to a natural determination to the new road put in by the Presentation of Mary. Chairman Russo asked if the change would stop at the driveway for the Presentation of Mary facility; Town Planner Cashell said that the zoning change would extend right to the property line.

Ms. McGrath said the Presentation of Mary property had been brought into the discussion just to make the EMC sign on that property acceptable, adding that this was completely ludicrous. She said she had read the documentation a couple times, noting that the Presentation of Mary had not been mentioned in the documentation; she declared that voting for it would be completely wrong.

Mr. Hall said he had said it would be appropriate, but not to change the status of the sign. He said he felt that area should be rezoned for the same reason as the two lots across the street, but not for any reason because of the sign, adding that the sign was irrelevant.

Town Planner Cashell said half of that property was already zoned Business. He said this was one way to make the sign legal, but that was not the purpose of the change, saying it was not ludicrous.

Ms. McGrath pointed out that Presentation of Mary had not requested it and was not present to support it. Mr. Hall responded that zoning should not be determined by what the property owner wanted it to be, saying it was to have consistency in the town.

Mr. Ulery moved to approve for the 2013 Town Warrant, the following amendment to the Official Zoning Map of the Town of Hudson by re-zoning from Industrial (I) to Business (B) the following parcels:

Tax Map 210, Lot 4, 185 Lowell Road,

Tax Map 210, Lot 5, 183 Lowell Road, and

To amend said Official Zoning Map to rezone from Residential-Two (R-2) to Business (B) that portion of Tax Map 210, Lot 10, 182 Lowell Road as follows: starting at the point where the parcel is presently zoned Business (B) and extending the Business (B) zoning along the entire frontage of the parcel along Lowell Road to the subject parcel's southern boundary with Tax Map 216, Lot 14, 200 Lowell Road, and extending into said parcel a depth of approximately 250 feet, matching the current depth of the Business (B) zone for this parcel.

Mr. Ulery noted that all of these parcels were located near the intersection of Lowell Road and Executive Drive.

Mr. Hall seconded the motion.

**VOTE:** Chairman Russo called for a verbal vote on the motion. All members voted in favor except for Mr. Barnes, who abstained, and Chairman Russo declared the motion to have carried (6-0-1).

**A Amend the Official Zoning Map of the Town of Hudson to re-zone from Residential-Two (R-2) to General-One (G-1) those parcels of land known as:**

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

Tax Map 235, Lot 11, 14 Dracut Road,

Tax Map 235, Lot 12, 24 Dracut Road, and

Tax Map 235, Lot 13, 14 Groves Farm Road.

Chairman Russo noted that these parcels were located generally near the intersection of Stuart Street and Dracut Road., and he noted that copies of the above proposed re-zoning petition, in its entirety, could be reviewed/obtained prior to the hearing at the Community Development Department and Town Clerk's Office, Town Hall, 12 School Street, Hudson, and also at the Rodgers Memorial Library, 194 Derry St., Hudson.

Chairman Russo opened the public hearing at 7:30 p.m.

Atty. Gerald Prunier, representing Mr. Thomas Monahan, noted the property was shown on a plan put up on the meeting room wall by Mr. Monahan. He said this property had seen its frontage change, had seen a new church in the area, as well as a new water tower. He said it was 140 acres, saying it was important that they be zoned for the client's interest in developing the property. He said the time was right, saying having it zoned G-1 would give them flexibility, and saying development would be done with good planning. He noted it was next to a good highway system, noting that other considerations would have to be taken up in the future. He identified the plan as ***Topographical Worksheet for the Hamblet Property, Dracut Road, Hudson, New Hampshire***, prepared for [unintelligible] Property, Inc., by Hayner-Swanson, dated March 17, 1999.

Mr. Tom Monahan, Nashua, the principal property owner, noted previous discussions he had had with the Planning Board with respect to this property. He said he had listened to the broadcast of yesterday evening's Board of Selectmen meeting, noting they had not voted to approve the change. He said there was a misconception, in that his company owned 240 acres, with 40 acres being for the Blackberry Run subdivision behind the Wal-Mart property, He noted there was a valuable wetland on that other 90 acres, saying they were not asking for a change there as part of this request. He said he liked the site because of the amount of good land, which he

pointed out on the plan displayed on the wall. He noted the residences on Coach Road, saying there was a wetland separating his property from that area so his development would not affect it. He referenced another development he had recently developed in another New Hampshire town, noting the significant increase in value and taxes for that community. He said he would do something very special with this property, noting that there was huge interest in campus sites. He noted that it had taken him eight years to get the development approved in Merrimack, because of the conditional use permit he had agreed to with that community, adding that he wanted this to be a legacy project. Referring to the Master Plan, he cited instances of text in that document that he felt applied directly to this proposal for this large parcel, and he asked the Board members to consider the Master Plan. He said there was a real opportunity for revenue for the Town.

No one else coming forward, Chairman Russo closed the Public Hearing at 7:45 p.m.

Mr. Barnes asked what the Board of Selectmen had recommended.

Selectman Maddox said that he had asked the other selectmen what their recommendation would be for his vote in this matter, and the vote of the other four was that he should vote in the negative on this proposed amendment. He said the fear of the unknown was probably involved. He said we did not know what was actually going to happen, noting that there were several disagreeable possibilities. If the Selectmen knew more, he said, they might be willing to move forward on the matter.

Mr. Hall said he thought he was in the same place, saying the Planning Board did not have the luxury of conditional use permits, and adding that anything to be put there would have to be in accordance with the Master Plan, adding that he felt a campus would be applicable but the Board would have to see the campus to rezone the property. He said the Town of Hudson had a certain amount of control now, but there were many cases where developers came in for this large a parcel with a master plan that would be the basis of the rezoning. He noted that the Board did not have a plan showing a wetlands buffer for the residences on the south side or showing what was going to happen on the south side, adding that it would be difficult for him to vote on the change as proposed.

Mr. Ulery noted there were steep cliffy areas, with wetlands, pointing out that there was a steep ridge behind the church, with all sorts of odd uses along Dracut Road. He said it seemed to be a relatively isolated section of Hudson, saying this was nothing but grades so far as 2-acre housing would be concerned, and he expressed a belief that putting 2-acre houses in that area would be an unfeasible process. He said he would like to know what kind of campus would be going there—adding that a school would be fine.

Atty. Prunier asked permission to speak, noting that multifamily apartments were “out” in a G-1 zoning district. He said people coming in would want to know they could get something done, saying it would take a year to get approval if someone came in tomorrow, arguing that it was another case of which came first: the chicken or the egg.

Mr. Ulery said Atty. Prunier was suggesting that, if it went before the Town for approval, the property owner would then have options to offer to prospective purchasers, which would raise taxes and benefit the community.

Mr. Hall said the tax change would not occur until the change of use, which was many years down the road.

Mr. Barnes asked for identification of the three lots on the Zoning Map overlay. Town Planner Cashell adjusted the display, noting that the frontage was 14 Dracut Road. Mr. Barnes noted that the other parcel was landlocked and had no frontage at this point.

Mr. Monahan demurred, saying both lots fronted on Dracut Road, explaining that the other lot came all the way around. Mr. Barnes said the map in the meeting packet was incorrect. Town Planner Cashell noted that the GIS data was now 14 years old, and he predicted there would be a move in the near future to upgrade the data.

Selectman Maddox noted that Atty. Prunier had noted that this property was outside the sewer district, saying that would take a year to resolve and he thought this proposal was premature—adding that he hoped the property owner's team would continue to come in and work with the Planning Board.

Ms. McGrath asked about the Brown property, which Mr. Monahan had said he had an option on, asking if that were giving him frontage. Mr. Monahan answered in the affirmative. Ms. McGrath then commented that there were very few signatures on the petition that came from the area being affected, saying she thought this was problematic.

Mr. Ulery asked, if this was rezoned, if anything that was to be built there would not have to come back before the Planning Board for a complete discussion, so the process would be twice vetted. Chairman Russo expressed agreement.

Mr. Ulery questioned why Selectman Maddox felt this would be too early to change the zoning of this property to a General classification, saying whatever came in would have to come back for approval. Selectman Maddox said it could come back to whatever was permitted, which right now was housing. Mr. Ulery declared that housing could not be placed on this property, but Selectman Maddox pointed out that the same thing had previously been said with respect to the properties at the southern end of Bush Hill Road, which was now being developed—adding that he was not opposed but he questioned why the Town would not know what the Town was getting. He then concluded by saying the Town was being asked to buy something without knowing what it was getting.

Mr. Malley said that, if Mr. Monahan came in with a master plan and then changed it after approval, there was no way he could tie it into the rezoning. Chairman Russo expressed agreement. Mr. Hall said the Planning Board would have quite a bit of latitude to deny it in that case, saying everyone would want to know where the wetlands were, etc. He said there would be plenty of opportunities for the Planning Board to “hold their feet to the fire.”



Ms. McGrath pointed out that this proposal would go on the ballot whatever the Planning Board decided, as it was a petitioned request—adding that this Board was only saying whether or not it approved the request.

Town Planner Cashell noted that another stop gap measure was that the property was not in the sewer district, which would have to be extended—which was in the jurisdiction of the Board of Selectmen. He then noted that, besides single-family and duplex housing, an older persons development would be allowed, along with assisted living facilities, as well as agricultural facilities and use of the land for religious purposes—adding that the term “campus” was not exclusive to a school environment. He said it would have to come back to the Planning Board, as Mr. Ulery had said, but it already would have to pass muster with the Sewer District.

Chairman Russo asked if Atty. Pruner was correct in saying multifamily was not allowed. Town Planner Cashell answered in the affirmative, saying multifamily use was only allowed in the Business zoning district.

Chairman Russo said that right now, all that could be there was residential, and he could not imagine that anyone on the Board wanted more residential use at this time, which would lead to more schools, school improvements, etc. He said he was having a problem in that the Board was not giving a property owner a fair opportunity to develop this property into something that would be beneficial to the town. He said right now the owner could put housing in, asking if that were what the Board wanted. He noted that the Board could impose restrictions to ensure true buffering, and he expressed a belief that the Board was guilty of not maintaining the rules the Board had put in place, saying the Board could stick with the buffer rule and require 200 feet of trees, instead of caving in. If the applicant had a prospect such as Harvard University come in tomorrow, he said, they would be put off maybe two years. If this Board was truly pro-business, he said, it had controls, but it had to give property owners opportunities. If the Board wanted to wait to know what was going in there, he pointed out, they might come up with another idea afterward. He said he did not necessarily believe the Board wanted to know what was going in there, but he knew he did *not* want residential development to go in there.

Selectman Maddox said that, if Harvard came in next week, the applicants could come back and this Board would say “Yes,” as would the Board of Selectmen. He said being anti-business was not the point, but the Board should say “Show us what we’re buying.” Chairman Russo responded that the Board was not buying anything, but was giving opportunity.

Town Planner Cashell said a campus would be allowed and the property would not have to be rezoned for that. He then noted that the Blackberry Run subdivision was already laid out, noting the significant wetlands in that area, and saying the wetlands already buffered the Rena/Rita Avenue subdivision. He then displayed a 2-foot-contour overlay of the property, showing how steeply graded the property was. He said there were a lot of physical limitations involved, saying the only thing they could develop in there would be some type of campus use that would have little impact on the land.

Mr. Ulery moved to approve for the 2013 Town Warrant the re-zoning petition to amend the Official Zoning Map of the Town of Hudson by re-zoning from Residential-Two (R-2) to General-One (G-1) the following parcels:

Tax Map 235, Lot 11, 14 Dracut Road

Tax Map 235, Lot 12, 24 Dracut Road, and

Tax Map 235, Lot 13, 14 Groves Farm Road.

Mr. Malley seconded the motion.

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

#### XI. DESIGN REVIEW PHASE

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

#### XI. OLD BUSINESS

##### A. 75 River Road Site Plan SP# 06-12

Map 251/Lot 010  
75 River Road

**Purpose of plan: Raze existing structure and construct four new light industrial buildings with associated parking, drainage and utilities. Hearing. Deferred Date Specific from the 11-14-12 Planning Board Meeting.**

Ms. McGrath stepped down from her nonvoting position and took a seat in the audience section, as she was a resident of the area and her brothers were abutters.

Town Planner Cashell said there was no CAP fee involved, saying that condition should be struck from his draft motion.

Mr. Tony Basso, of the firm of Keach-Nordstrom Associates, Inc., Bedford, New Hampshire, serving as the engineering representative of the applicant, affixed two plans to the meeting room wall, identifying them as follows:

- ***Master Site Plan, 75 River Road, Map 251/Lot 010, Hudson, New Hampshire***, prepared for and owned by 75 River Road Realty Trust, Don Nichols trustee, dated August 15, 2012, revised through 12-21-12.
- ***Grading and Drainage, 75 River Road, Map 251/Lot 010, Hudson, New Hampshire***, prepared for and owned by 75 River Road Realty Trust, Don Nichols trustee, dated August 15, 2012, revised through 12-21-12.

Mr. Basso discussed details of the 1.9-acre property, zoned G-1, and also various other properties in the area, saying they were proposing four commercial buildings, two measuring 4000 ft<sup>2</sup>, one at 3700 ft<sup>2</sup>, and one at 5800 ft<sup>2</sup>. He said the discussion at the last meeting had really been about the buffer, saying he proposed to grade the area and plant evergreens, noting that one building had been chopped off a bit to allow that to occur. He said CLD's comments had been addressed, with the comments resubmitted. He said inappropriate items had been removed from the plan, and the turnaround had been addressed.

Chairman Russo opened the meeting for public input and comment, in favor of the application.

Atty. John Cronin, from Manchester, said the setback issue was in the planning regulations rather than the Zoning Ordinance, noting that he had questioned that. He said he had researched in an attempt to locate the case decided in the Town's favor as mentioned at the last hearing and could not find it, but he had asked Town Planner Cashell for a copy of that case. Assuming the Board did not agree with him, he continued, the purpose of the setback was to provide separation from the abutters. Addressing the plan, he noted there was a tree line on Lot 9, saying the distance between the buildings was well over 100 feet. He acknowledged it would be an issue if the owner of Lot 9 wanted to move the building closer to the lot line but noted that that owners of the abutting property had already consented to a waiver of that same regulation for the use on Lot 8, which was closer to the residential use on Lot 9 than the proposed use on Lot 10 was. He referenced a letter of February 9, 2005, adding that the minutes of the meetings granting the buffer in that case said the property owners said their concerns about preservation of this buffer were not necessary, as they were aware they were surrounded by commercial uses. Chairman Russo asked who had said that. Atty. Cronin said there were letters from the abutter of Lot 9. He said he was just trying to make a presentation, saying the momentum here was to go from residential to commercial.

Mr. John Kresta, noted that he and his wife owned a business directly across the street from the property in question. He said he would like to see the plan go through, saying it protected the area and would have less traffic, adding that the proposed use was somewhat similar to what he did, and he thought it would be a good business to have there.

Chairman Russo asked if anyone wished to speak in opposition or to provide comments or questions concerning the application.

Ms. Marilyn McGrath, 81 River Road, said she had written the letter cited by Atty. Cronin when her brother developed his business on Lot 8/ She then stated that she had had done substantial work on her home since then, and neither she nor her brother had any intention of selling. Noting that they expected the property would get developed, and stating anything would be an improvement over what it was today, she pointed out that her other brother (the owner of Lot 9) would have to deal with and be affected by whatever went in, but these plans were not specific to what was being proposed, simply referencing "commercial/industrial." She said they indicated potential

uses but it was not clear, noting that the prohibition of a restaurant did not show up on the plan. She referenced Note 1, saying it was not specific enough. She said also missing were a note regarding hours of operation and a note concerning trash pickup. She noted that she had taken a photograph from the new addition on her house today, which she submitted to the Board, and she referenced the berm on her brother's property, which the applicant's attorney had said provided sufficient screening, stating that the picture showed what she could see from her kitchen and also showed what her brother Gary would be right up against. She said that whatever they put on the property would have direct impact on her brother's life and his family's life, and she asked the Board members to keep that in mind when voting on the plan—adding that her concern was that there might be something that would be very inappropriate for the area.

Mr. Ken McGrath noted that his building on Lot 8 was close to the property line, as he shared a driveway with his brother and his brother knew what his business would be, which made no noise, as all the testing he did was quiet and did not interfere with any of the neighbors. He said acoustic noise would not interfere with his testing, adding that he knew something would go in there, but he would like to see the size reduced, as they were cramming in as much as they could.

Ms. Kathleen Leary, 8 Par Lane, asked what the proposed use of the four buildings was. Mr. Don Nichols, 40 Empire Road, Pelham, the applicant, said they did not have users at the moment, but he averred that most of them would not be there during the day. He said he had a storage facility in Pelham. Mr. Basso said there were a lot of uses that would be allowed, but these buildings were specifically tailored toward being for storage for a contractor and were not meant to be commercial, noting that there was a note on the plan saying there would be no retail use. He said it was meant to be more of a light-type use, not a traffic generator.

Ms. Leary asked if there would be garages for the tenants, or would they be parking out front. She also asked if it would be storage for vehicles or would there be work being done in the buildings. She asked if it would be individual tenants or just one for all buildings. She then asked about lighting, noting that there were residential uses nearby, and she asked whether it would be attractive or just metal buildings.

Mr. Basso said there would be overhead doors for people to have their vehicles inside, saying no storage of big trucks was planned. He said there would be no spillover lighting on anyone's property, and the building design would be split-phased with block and paneling, typical of this type of buildings. He said they had made an effort, doing what planting they could. He pointed out that there was a noise ordinance and people could not be making noise outside. He said the typical trash removal notes could be added to the plan, reiterating that this area was going that way. He said there was a big loop driveway right now, and they would replace it with something nicely designed, with vehicles and noise contained in the buildings, with the occupants normally away during the day. He said Ken McGrath needed to buy a bigger piece of property if he had to be concerned about people around him—saying he was not sympathetic, and adding that, if someone needed more property they needed to buy it, not ask the Planning Board to limit what would go next to it.

Chairman Russo asked how many spaces would be in the buildings. Mr. Basso said that, for example, the two that were 50' by 80 were 80 feet long, so they could have 20- or 40-foot-wide work spaces, so there could be four or two or one, depending on what people wanted. He said the minimum width would be 25 feet, meaning three spaces in the smaller buildings, and five as a maximum in the longer one. Chairman Russo suggested there would be a maximum potential of 14 tenants. Mr. Basso said there was 137 feet to the building, reiterating that the abutters had written a letter—adding that the uses of the building they had favored at that time could be changed in the future to anything allowed in the G-1 zoning district. He said the applicants were offering landscaping and buffer and were not trying to impact anyone the area.

Atty. Cronin said the applicant would be willing to add a note prohibiting a restaurant.

Mr. Gary McGrath said he had no intention of selling his land and had never said he would. He questioned how they could know who would be going into the buildings or what they would do there, and he expressed concern about signs, lights, etc.

Ms. McGrath said the buildings across the street on Security Drive last summer had generated outrageous noise during the day, but it had ended around 5:00 p.m. She said that was outside activity, although most of the businesses in the area operated inside. She said this was why it was so important that the Planning Board make sure whatever uses were being proposed were specific. She said this lot a few years ago was deemed a preexisting lot by the Zoning Administrator, but by today's standards no one would be allowed to build there because of the undersized configuration. She concluded by saying they were cramming an awful lot onto this small lot.

Mr. Basso addressed Gary McGrath's comments, saying the lighting was intended to be inside, and saying there would be no lighting beyond the parking area. He said no one could guarantee that noise would not occur, saying this was what Code Enforcement was for, but nothing was being proposed for allowing outside activity. He said his client would agree with hours of operation from 7:00 a.m. to 7:00 p.m. He noted that the quoted letter waiving the buffer requirement had been signed by both Gary McGrath and Marilyn McGrath.

Mr. Ken McGrath said his brother had been aware of what he planned when he put in his business, noting it was a corrugated fiberglass building. He said he would hear noise from this site, just as his brother would hear any noise he made. He said his brother had known who was going in, but this was not their property and the owner was not part of the McGrath family. He concluded by saying his business was almost like his house.

No one else coming forward, despite a repeated invitation by Chairman Russo, he closed the public hearing and then declared a break at 9:08 p.m., calling the meeting back to order at 9:26 p.m.

Selectman Maddox asked if Town Planner Cashell could display the Google view of the owner's property in Pelham, New Hampshire. Mr. Cashell did so, and members viewed the display, including both aerial and street view, and commented on the appearance of the property.

Ms. McGrath noted that at the last meeting the address of 70 or 72 Russell had been given but she could not find it on Google Earth. Mr. Nichols said that was another property he owned, adding that the Town had changed the street name, so it was probably now 3 Old Bridge Street. Mr. Cashell displayed that address, so members could view the property. Mr. Nichols noted that the street view showed approximately what was planned for this site. Town Planner Cashell noted that the proposal did not provide space for as much parking. Chairman Russo said the lack of parking at this site was a significant difference, recalling that he had asked for a rendering, which he still had not seen. Mr. Basso displayed a plan showing one of the 80-foot buildings, noting that there was dual parking and access doors, but the parking would be way underutilized, as this would not be a retail thing. He said it would all be paved, but there was a gap to provide pedestrian space, although pedestrian uses were not anticipated.

Selectman Maddox asked if there would be doors at the back. Mr. Basso said there would be emergency doors, architecturally required, but not meant to be used as ingress/egress doors.

Mr. Barnes referenced Sheet 7, saying it looked as though trees had been added there but not on Sheet 8. Mr. Basso said the lighting plan had been provided by a sub-consultant. Mr. Barnes noted the height of the buildings was 16 feet but only 4-foot berms were being provided. Mr. Basso said they were planting evergreen trees, starting at 10 feet tall, which would be a decent buffer—adding that they grew readily.

Mr. Ulery asked the height and width of the garage doors. Mr. Nichols said they would be 12' by 12'.

Mr. Basso provided details on the type and height of the trees.

Chairman Russo said he thought the parking was really going to dictate the uses and would limit who would go in here, saying he could not see any manufacturing happening here with that little parking, and adding this was really storage space. He said he thought it would be a very limited clientele and not very intense. He said the 16-foot height with the back wall not being used would provide shielding of noise. Mr. Basso said it would also shield the lighting.

Selectman Maddox said the discussion had been all over the map this evening, noting that at no time in the past had the 100-foot buffer been put on the abutter's property. He suggested the owner could block the back of the building, so it would be a solid wall. Mr. Basso said the applicant would be willing to do that, as well as providing a jog on the back building, with insulated block for a solid wall. Selectman Maddox said the berm looked like a lot on paper but actually did not do anything when viewed in person. He said what would help the Board and the abutters would be a view showing the property from the abutters' view—adding that he would suggest smaller plantings in front of the trees. Mr. Basso said he would provide a rendering, expressing agreement that the berm by itself did not do anything, but saying the 10-foot trees on it would do something.



Mr. Scott R. Frankiewicz, LLS, from Brown Engineering and Surveying and Engineering, displayed a plan on the meeting room wall, identifying it as **Subdivision Plan, Tax Map 182/Lot 56, Central and Chase Street, Hudson, New Hampshire**, prepared for and owned by RPNT Properties, prepared by Brown Engineering Surveying, dated 01-03-13. Chairman Russo noted that the Board did not have this rendering; Mr. Frankiewicz expressed agreement. He noted that he was accompanied by Atty. Westgate and also by an RPNT representative, Randy Turmel. He said the plan was submitted back in October but had been delayed for different reasons.

Chairman Russo said he was stepping down, as he was hiring Mr. Turmel's daughter, and he then turned the gavel over to Vice-Chairman George Hall.

Mr. Frankiewicz discussed details of the parcel, noting it was serviced by city water and city sewer, with overhead electric connections. He gave the sizes of the resulting lots, saying there were Windsor soils on the site.

Acting Chairman Hall noted the proposal was turned down last time for a major reason. Mr. Frankiewicz said the existing house would be a one-family, not a two-family. He said the rendering he had posted on the board had been done today. Mr. Hall noted that the driveways and other information was not part of the documentation that had been provided.

Acting Chairman Hall seated Ms. McGrath in place of Mr. Russo. He then opened the meeting for public input and comment, in favor of the application.

Atty. J. Bradford Westgate, of the Devine, Millimet, & Branch Professional Association, 111 Amherst Street, Manchester, NH, legal representative for the applicant, said he would want to respond after Mr. Maynard expressed his concerns.

Acting Chairman Hall asked if anyone wished to speak in opposition or to provide comments or questions concerning the application.

Mr. Richard Maynard, Professional Engineer, of Maynard & Paquette Engineering Associates, LLC., appeared before the Board as the representative of abutters Ernest and Constance Dyer at 28 Central Street. Saying he had not seen this drawing before tonight, he asked why all the pavement was needed for a single-family home; he suggested cutting it back and putting some plantings there. He noted the applicants had originally applied for drainage waivers, noting these were now quarter-acre lots with houses and significant impervious surfaces, with significant elevation, so the runoff would be running off to the town's streets. He said this was the densest part of the town, so some minimal drainage and elevation was needed, so as to prevent drainage from going onto his client's property. He then concluded by protesting that no one else had ever been allowed to submit a plan this late in the process.

Town Planner Cashell said the only plan submitted in preparation for this meeting was the 10-23-12 plan in the members' meeting packets, adding that he had not seen this new plan himself until tonight. He noted that there were many problems with the original plan.



Attorney Westgate said there was no drainage calculations or waiver request because Town Planner Cashell had determined it was not necessary under 290-3 of the stormwater regulations. He said a plan had to be submitted only under certain cases, which were met here (less than 20,000 ft<sup>2</sup> of disturbed area, no road being constructed, and the parcel was not being subdivided into more than three lots). He said he thought it would be appropriate for them to come back with a revised plan set to show the accesses and any corrections that needed to be made to the notes and would expect a deferral; for that reason. He pointed out that a variance application had been submitted unrelated to this property but having to do with Dr. Gosselin's intent to permit a chiropractic practice in the house, which would be before the Zoning Board of Adjustment at its January 24<sup>th</sup> meeting, with the variance being for a dual use and a professional use in the residential district. He said a subdivision plan would have to be processed showing this lot—adding that two lots would be consolidated if the variance were approved.

Acting Chairman Hall said he was confused as to why they were in such a rush, questioning why they had not waited until the variance was decided. Attorney Westgate said the plan had been in the process for a while, and decisions had been made about not converting the home into a two-family. If they did not come tonight and try to explain, he added, there would be two meetings with no explanation to the Planning Board as to what was going on. He said it would take some time to get the site plan processed if the variance were granted, as the two lots could be consolidated if the variance were granted—but waiting would cause a delay of some months. He noted that Atty. Prolman, not himself, would be representing Dr. Gosselin. Acting Chairman Hall said he was at a loss as to what they had gained. Attorney Westgate pointed out that they could consolidate with a simple one-page instrument and did not have to come back to the Planning Board for that.

Town Planner Cashell said he had never understood what was being intended, saying he had thought they were coming in with a three-lot subdivision. Attorney Westgate said it had come together at the eleventh hour, saying it had only been signed Monday of this week.

Mr. Maynard asked what would happen if the site plan affected the lot line, saying it would not be a simple instrument. He then declared that this had to be deferred until March.

Attorney Westgate said they could consolidate any two lots by means of a simple instrument—adding that all three lots could be consolidated if necessary. He said there was no legal impediment whatsoever, adding that they would know what the Zoning Board of Adjustment decided on January 24<sup>th</sup>.

Mr. Maynard declared that Attorney Westgate had misstated facts, saying a buffer would be required if this became a business. He said there was not enough parking for a doctor's office. He contended that Attorney Westgate was making a statement that the lot lines were not going to move and they were. Acting Chairman Hall pointed out that Mr. Maynard was making a statement but did not know that the lines would change. Mr. Maynard contended that he had been doing this sort of business for forty

years and he certainly knew what was going to happen; he then demanded to know where a buffer would be placed.

No one else coming forward, Mr. Barnes noted that Mr. Maynard had brought up the fact that there was paving in the side setback, saying he would want to see that removed. He then asked what the depth of the building would be on Lot 2. Mr. Frankiewicz provided copies of a rendering showing elevation and floor plans on the second sheet.

Mr. Barnes said the depth of the building envelope on the original plan was less than 20 feet, and a deck on the back would be in the rear setback, which would require a variance to begin with. He said he was having difficulty in envisioning a house on this lot.

Selectman Maddox said he thought this should be deferred until the real plan was before the Board, adding that there were no notes. Town Planner Cashell said everything had been brought up to them and they had agreed to get everything done. Selectman Maddox said he thought the Board had said it could not be on the agenda if it did not meet the checklist. He said this was wasting the Board's time.

Ms. McGrath expressed agreement, saying what was being proposed was about as clear as mud. She noted that the abutters list had a different address for the abutters represented by Mr. Maynard. Mr. Frankiewicz said the number was in error, saying the correct number was 182. Ms. McGrath said the name was misspelled, also. Ms. McGrath said she did not think the plan was ready for Application Acceptance and would not have voted for it if she had been voting.

Town Planner Cashell displayed a Google Earth view of the property containing the proposed lots, saying everything was gently sloped with a catch basin at the curbing, and he expressed a belief that water might flow back onto the property. He then pointed out that the topo plan showed the average elevation as being 150 feet above sea level, saying there was not enough elevation to warrant a drainage study. He pointed out that State statutes allowed applicants to apply to any land-use board without any required logical sequence, and he then pointed out that the Board was not dealing with anything having to do with use of the property, but he took exception to the way this development was being presented to the Board, saying he was as much in the dark as the Board members.

Mr. Ulery moved to defer this matter to the last meeting in February (02/27/13). Ms. McGrath seconded the motion. Town Planner Cashell suggested changing it to the last meeting in March. Acting Chairman Hall said the applicant had the right to submit any application he wanted, adding that the matter had been accepted in order to get to get the discussion out, saying the Board would have been even more confused if it did not get this explanation.

Selectman Maddox said it should be clear in the record that the Board knew why it was deferring it—which he said was because the plans that the Board had received in the meeting packet was not what was being proposed at this meeting, and the applicants had additional work to do.

Mr. Barnes said he would like to see calculations on the impervious surface area as it stood and what would be there if they went ahead with the additional buildings.

Town Planner Cashell suggested the deferral date should be February 27<sup>th</sup>.

**VOTE:** Acting Chairman Hall called for a verbal vote on the motion to defer to February 27, 2013. All members present voted in favor, and Acting Chairman Hall declared the motion to have carried (7-0).

Mr. Russo returned to the table and resumed the chairmanship, returning Ms. McGrath to her alternate status.

## **XII. DESIGN REVIEW PHASE**

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

## **XIII. CONCEPTUAL REVIEW ONLY**

No **Conceptual Review Only** items were addressed this evening.

## **XIV. NEW BUSINESS/PUBLIC HEARINGS**

### **A. Unicorn Industrial Park SP# 09-12**

**Map 170/Lot 038  
25 Constitution Drive**

**Purpose of plan: To show a proposed 10,000 sq. ft. industrial building on 4.4 acres +/- with the associated site and drainage improvements. Application Acceptance & Hearing.**

Chairman Russo noted that this case was not ready to be heard and would come back at a subsequent meeting, as had been previously noted.

## **XV. OTHER**

Chairman Russo noted that the Board had received a handout regarding the impact fees.

Town Planner Cashell said Mr. Fougere was proposing to submit a thorough study of the listed nearby communities, with the Board to agree to a peer review of his submitted studies. He said this made sense as an alternative to what had been proposed at the last meeting dealing with this subject.

Mr. Hall expressed agreement that it made sense and was most expedient.

Selectman Maddox said Mr. Fougere would be evaluating whether any of those units had children today, but he could not predict the future. Chairman Russo said this was

why the Board would have its own expert review Mr. Fougere's evaluation. Mr. Hall concurred, noting that the Board members also could have their own opinion. Chairman Russo noted that the peer review would also address this. Town Planner Cashell said it was not a zero number but a fractional number based on a huge sampling, which would be the rational number that the Board could charge.

Chairman Russo said he did not see that these developments would ever produce a large number of kids. Selectman Maddox responded that there was also the issue of how often the ambulance went to those communities. Chairman Russo said maybe that should be looked at, too. Mr. Hall said there were a lot of "what if" issues, but what Mr. Fougere was proposing to do was what the Board had been going to ask a consultant to do.

Mr. Ulery said Selectman Maddox had brought up a good point, saying the school impact fee was one fee, and it should be fair, but most of these developments had a codicil on the deed saying the occupants would be 55 or over. He stated he would love to see how many calls the ambulances had to make to those developments, saying it would be interesting to see what that service impact would be.

Selectman Maddox said Hudson only required one person in the household to be 55, but Litchfield required both people to be 55 or over, which would reduce the number of children, and this change should be taken into consideration. Mr. Hall said the Hudson rule was the Federal law, and he questioned whether Litchfield was different.

Town Planner Cashell said a lot of these rules had been challenged, as Chairman Russo had brought up, and there was no rule against someone in the future challenging the elderly housing regulation on the grounds that it was discriminatory, saying it could happen.

Ms. McGrath said the Board had discussed code enforcement at the last meeting, especially with respect to one sign, and she had noticed while coming to this meeting this evening that that sign was on tonight while the business was dark. Selectman Brucker said the Code Enforcer had contacted all the people with signs and all the people who installed the signs, saying they were taking care of the illumination levels. She noted that the Zoning Administrator happened to be in the hospital right now so she could not ask him. Ms. McGrath asked if the Town had code enforcement while the Zoning Administrator was out. Town Planner Cashell said someone from Nashua had been hired last night and would be present on a part-time basis to do inspections, adding that he himself had been asked to pick up the reins with respect to zoning inspections. For that particular sign, he said, there was an issue and Barlo was working on it.

Ms. McGrath referenced a recent newspaper article about the Black Water site on River Road, saying she found a lot of things in the article disturbing, with one being a trailer being used for instruction—adding that she did not recall any discussions about a

trailer. She said she had thought all of the operation was going to be contained in a retrofitted building.

Mr. Ulery said he thought the trailer was not stored there, saying it went from place to place. Ms. McGrath said this was not part of the site plan approval, so she questioned if they were in accordance with the approval. She then noted that a sign, for which there was no permit, had been erected on the corner of the property, even though they had another sign out front.

Town Planner Cashell said the trailer had been for a one-day event, adding that the owner was coming in for an amendment as they were purchasing additional land from the Friels.

Mr. Malley asked if the site plans regulated things coming in for a day, questioning why this should be a site plan issue.

Ms. McGrath said she had heard there had been complaints about the sound of bullets being fired.

Ms. McGrath asked about the decision to only have one workshop a year. Chairman Russo said that was not the case, but that workshop items would-be worked into regular meetings, because the meetings of late had been rather light. Ms. McGrath asked if there could be a workshop if matters came up. Chairman Russo said they certainly could, adding that the Board had said it would look at this matter again in about six months

Town Planner Cashell said the two site plans scheduled for the 23<sup>rd</sup> (New England Solid surfaces and Unicorn) could not be heard that night because of scheduling conflicts. He noted that election of officers would occur, along with a review of the CIP and another workshop-type item, saying an addendum would be coming forward. He said he would like to have a review with Fire and Police and the new Town Engineer, noting that a lot of updating was needed for the data—adding that the Town had not spent serious money on IT in 14 years, and they would be presenting a full package in the near future, asking for special-account moneys. He noted by way of example that none of the buildings had been input into the GIS system for a number of years, adding that advanced software would allow the aerials to be incorporated into the Town's data.

## **XVI. ADJOURNMENT**

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

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

**-- FILE COPY --**

**HUDSON PLANNING BOARD Meeting Minutes  
January 9, 2013**

**Page 22**

Chairman Russo then declared the meeting to be adjourned at 11:02 p.m.

Date: January 23, 2013

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

J. Bradford Seabury, Recorder

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

These minutes were accepted as amended following review at the 02-13-13 Planning Board meeting.

**-- FILE COPY --**

The following changes were made to the draft copy in accordance with review comments at the Planning Board meeting of 02-13-13:

Page 5, 3<sup>rd</sup> paragraph – Corrected two occurrences of “Presentation of Mercy” to read “Presentation of Mary.”

Page 12, 1<sup>st</sup> paragraph, 5<sup>th</sup> line – mistyped “referemced” was corrected to “referenced.”

Page 13, 2<sup>nd</sup> paragraph [now 1<sup>st</sup> paragraph because of reformatting to add IT-required heading on first page], 2<sup>nd</sup> sentence – Clarified text from audio record to change from “Mr. Basso said they were 50’ by 80’, so they could have 20’ by 40’ for four work spaces, or have it be two or one, depending on what people wanted.” to read “Mr. Basso said that, for example, the two that were 50’ by 80 were 80 feet long, so they could have 20- or 40-foot-wide work spaces, so there could be four or two or one, depending on what people wanted.”

Page 13, 2<sup>nd</sup> paragraph [now 1<sup>st</sup> paragraph because of reformatting to add IT-required heading on first page] – Changed “Mr. Basso said there was 12 feet of separation between the abutting home and the buildings” to read “Mr. Basso said there was 137 feet to the building.”

Page 14, 3<sup>rd</sup> line from bottom – added omitted “e” to change “h” to “he.”

Page 17, last paragraph, 3<sup>rd</sup> line from bottom – Added “Hall” after “Acting Chairman.”

Corrected spelling of Selectman Brucker’s name throughout (miscoded Autotext entry).

Corrected miscoded Autotext entry to change references to “Attorney Webster” to read “Attorney Westgate” throughout.

Corrected misspelling of Dr. Gosselin’s name throughout portion pertaining to his application.