



# TOWN OF HUDSON

## Planning Board



Vincent Russo, Chairman

Rick Maddox, Selectmen Liaison

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### HUDSON PLANNING BOARD MEETING MINUTES August 24, 2011

#### **I. CALL TO ORDER**

Chairman Russo called this Planning Board meeting to order at 7:05 p.m. on Wednesday, August 24, 2011, in the Community Development meeting room in the Hudson Town Hall basement.

#### **II. PLEDGE OF ALLEGIANCE**

Chairman Russo led the assembly in pledging allegiance to the Flag of the United States of America.

#### **III. ROLL CALL**

Chairman Russo asked Mr. Della-Monica to serve as Acting Secretary in the absence of Mr. van der Veen and 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, and Richard Maddox (Selectmen's Representative).

##### **Members**

**Absent:** Ed van der Veen (excused).

##### **Alternates**

**Present:** Irene Merrill, Stuart Schneiderman, and Jordan Ulery (arrived at 8:30 p.m.).

##### **Alternates**

**Absent:** Roger Coutu (Selectmen's Representative Alternate).

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**Staff**

**Present:** Town Planner John Cashell.

**Recorder:** J. Bradford Seabury (not present; transcribed from audio record).

**IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS**

Chairman Russo seated Mr. Schneiderman in place of the absent Mr. van der Veen.

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

Chairman Russo noted that he was now having the minutes that had not been reviewed tracked on the agenda. He then asked if any members were prepared to review any of those outstanding minutes at this time.

Mr. Barnes addressed the minutes for the meeting of May 26, 2010, referring to Page 5, 1<sup>st</sup> line, noting that the word "time" in the phrase "taking such a vote at this time" would mean approval would be deferred" had been mistyped.

No further changes or corrections being brought forward, Mr. Barnes moved to accept the minutes as amended; Mr. Hall seconded the motion.

**VOTE:** Chairman Russo called for a verbal vote on the motion to approve the 05-26-10 minutes as amended. All members present voted in favor, and Chairman Russo declared the motion to have carried (7-0).

Chairman Russo then stated that he wished to change the order of the agenda and to proceed directly to the New Business items at this time.

**XIV. NEW BUSINESS/PUBLIC HEARINGS**

- A. SL Chasse Welding & Fabric Subdivision      Map 110/Lots 37, 38, & 39  
(Extension)    8 Christine Drive  
SB# 10-11**

**Purpose of plan: Extension request for previously approved subdivision plan, which contemplates the following: (a) Subdivide Parcel 'A' from Map 110; Lot 37 and consolidate with Map 105; Lot 14. (b) Consolidate remaining Map 110; Lot 3 with Lot 38 & 39 into one new Lot 39. (c) Define a drainage easement to benefit the now Lot 39. Application Acceptance & Hearing.**

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

Mr. Patrick Colburn, of the firm of Keach-Nordstrom Associates, Inc., Bedford, New Hampshire, appearing before the Board as the engineering representative of the property owner, noted that the Board had heard this same case twice in the past two years, as an extension had been granted, with no changes having been made. Members of the Board then expressed a disinclination to hear Mr. Colburn give a complete presentation again, since nothing had been changed.

Mr. Barnes asked about changes that had been made in State law with respect to extensions. Town Planner Cashell said the State did not specify a number of times that extension could be provided, noting that there was confusion as to the actual process to be followed, and adding that this applicant had chosen to follow the traditional formal process of coming back at the end of the year to request another year's extension. He added that State statutes now gave six years for extension, provided the plan has progressed and the project has been initiated. Mr. Cashell then noted that the two draft motions he had prepared (one for the lot-line adjustment plan and one for the site plan) had different dates, and he asked if Mr. Colburn would have any problem with consolidating the dates. Mr. Colburn responded in the negative, saying he would actually prefer that, in order to keep the applications consistent, and expressing a preference for the July dates.

Mr. Hall called for a point of order, suggesting that Application Acceptance was required, as this was an application. Chairman Russo concurred. Mr. Hall suggested that a public hearing should also be conducted.

Chairman Russo asked for a motion for Application Acceptance with respect to the application for a 1-year extension of the lot-line adjustment. Mr. Hall so moved; Selectman Maddox 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).

Chairman Russo opened the meeting for public input and comment, in favor or opposition of the application. No one coming forward to provide input, despite two requests by the chairman for comment for or against, Chairman Russo declared the matter before the Board and asked if any members of the Board had any questions.

Selectman Maddox moved to grant a 1-year extension for the Lot Line Adjustment/Consolidation/Easement Plan, S. L. Chasse Welding & Fabricating, Inc., Map 110/Lots 37, 38 & 39, Map 105/Lot 14, Christine Drive, Hudson, New Hampshire, in accordance with the following conditions:

1. This 1-year extension is approved for the period from June 28, 2011, through July 27, 2012.
2. All terms and conditions of approval cited in the Lot Line Adjustment/Consolidation/Easement Plan-of-Record and the Decision of Approval, as approved by the Planning Board on June 25, 2008, shall remain in effect.

Mr. Della-Monica seconded the motion.

Chairman Russo questioned the July 27<sup>th</sup> date, noting that the extension was for one year and one month. Town Planner Cashell said he had intended to edit the date, changing it to July 28<sup>th</sup>. Selectman Maddox demurred, saying he would leave the date as stated.

Mr. Schneiderman noted there had been an issue about storing junk on the property. Mr. Della-Monica noted that it had been mentioned in the packet.

Mr. Colburn stated that there were trailers and other items, noting that a condition of approval had been that all of that would be cleaned up as part of the site plan development. Chairman Russo said that pertained to the site plan, to be addressed next, not to this lot-line readjustment.

**VOTE:** No further comment 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).

**B. SL Chasse Welding & Fabrication  
Site Plan Extension  
SP# 08-11**

**Map 110/Lot 39  
8 Christine Drive**

**Purpose of plan: Extension request for the previously approved site plan, which contemplates 13,800 ft<sup>2</sup> of building expansion to the existing SL Chasse operation and a new 12,800-ft<sup>2</sup> manufacturing/office building to complement the existing business, along with associated access, parking, drainage, landscaping, and lighting improvements. Application Acceptance & Hearing.**

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

Chairman Russo asked if this site plan application were ready for Application Acceptance. Town Planner Cashell answered in the affirmative.

Selectman Maddox so moved; Mr. Barnes seconded the motion.

**VOTE:** No further comment 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 opened the meeting for public input and comment, in favor.

Mr. William Tate, 371 Nashua Road, Londonderry, NH, stating that he had a hard time hearing, said he understood this was the first item. Chairman Russo demurred, pointing out to Mr. Tate that the lot-line adjustment had just been approved. Mr. Tate then suggested that members of the Board could ask him questions, noting that he was

a co-owner of the property. He reviewed his past history with Mr. Chasse, speaking favorably of Mr. Chasse's business dealings, integrity, and plans, and noting that this would be a complete buildout of Christine Park. He noted that Mr. Chasse had contributed about \$200,000 to extension of the water line in that area, saying financing was difficult, which he identified as the reason for the project having been prolonged.

No one else coming forward to provide input, despite further request by the chairman for comment for or against, Chairman Russo declared the matter before the Board and asked if any members of the Board had any questions.

Chairman Russo asked if the Board wished to hear a short presentation from Mr. Colburn or just move forward with the extension.

Mr. Schneiderman asked if Mr. Colburn would be the engineer for this project. Mr. Colburn said he had done the design work, noting that he had not had his engineering license at that time, so another engineer, Mr. Jeff Merritt, also of the firm of Keach-Nordstrom Associates, Inc., Bedford, New Hampshire, was the engineer of record. He explained that the engineers in his firm worked together.

Selectman Maddox asked for comment about a Zoning Board of Adjustment stipulation concerning cleanup of the property. Mr. Colburn said that purchase of the property by Mr. Chasse was in process, saying the land on which the trailers and junk were situated upon was owned by B&D Development, and clarifying that the plan would merge the existing chasse site with two adjoining B&D sites. He said the trailers and unused equipment on B&D land would be removed upon purchase of the property.

Mr. Barnes moved to grant a 1-year extension for the Site Plan entitled **Map 110, Lot 39 Non-Residential Site Plan SL Chasse Welding & Fabricating, Inc., 8 Christine Drive, Hudson, New Hampshire**, prepared by Keach-Nordstrom Associates, Inc., dated: December 27, 2007, revised through November 13, 2008, consisting of Sheets 1 through 23 and Notes 1 through 30, in accordance with the following conditions:

3. This 1-year extension is approved for the period from July 28, 2011, through July 27, 2012.
4. All terms and conditions of approval cited in the Site Plan-of-Record and the Decision of Approval, as approved by the Planning Board on September 24, 2008, shall remain in effect.

Mr. Della-Monica seconded the motion.

Mr. Schneiderman asked how long it would take to remove the junk cars and other items from the property. Chairman Russo asked Mr. Tate for comment; Mr. Tate responded that he was hard of hearing. Chairman Russo explained that Mr. Schneiderman had asked how long it would take to clean up the B&D properties once Mr. Chasse completed the purchase. Mr. Tate responded that that had been removed, saying the item that was left was a steel pump. He said everything else was gone as far as he knew. He said the remaining material consisted of steel girders, saying it was a storage area for the Chasse business; he said he did not think there were any vehicles still there, adding that they would be removed if they were there. Mr. Colburn

said the entire area would need to be cleared, as the development plan encompassed that area.

Mr. Schneiderman noted that the Zoning Board of Adjustment had stated on July 28<sup>th</sup> of this year that the used cars, debris, and junk should be promptly removed upon purchase of the property. Mr. Tate said that was a stipulation from the previous year's extension, saying the cars and other things were gone at this time.

**VOTE:** No further comment 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 he would now move to **Old Business**, Item A.

## XI. OLD BUSINESS/PUBLIC HEARINGS

### A. Stellar Motors Site Plan SP# 05-11

Map 190/Lot 001  
57 Lowell Road

**Purpose of plan: Convert existing retail sales building into automotive sales office. Construct a 2,640-ft<sup>2</sup> automotive service/storage building, and delineate vehicle display areas. Hearing. Deferred Date Specific from the 07-27-11 Planning Board Meeting.**

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

Mr. Richard Maynard, Professional Engineer, of Maynard & Paquette, Engineering Associates, LLC, appeared before the Board as the engineering representative of the applicant, Mr. Michael Febonio, who also was present. Mr. Maynard gave out full size copies of the plan and identified the copy on the meeting room wall as **Site Plan, Lot 1/Map 190; Stellar Motors, 57 Lowell Road, Hudson, New Hampshire**; owner: The Fourth M.D. Febonio & S.A. Febonio Family Revocable Trust; dated April 27, 2011, with the last revision date of 08-12-11. He noted that a couple things remained from the previous hearing, including the drive aisle (20 feet versus 24); he said the aisle was now 24 feet wide, with no waivers required in that regard. He noted that two parking spaces had been removed from the rear to allow for better access and maneuvering, with additional landscaping also being provided in that area. He said CLD had essentially signed off on just about everything on the plan, and he then suggested they were ready for approval.

Chairman Russo opened the meeting for public input and comment, in favor. No one coming forward, Chairman Russo asked if anyone wished to speak in opposition or with questions.

Ms. Sandra Ziehm, identifying herself as the owner-broker at 53 Lowell Road, the contiguous property (Harmony Real Estate), said she had three main concerns. First,

she said, she had examined the newly planted trees, finding they were planted on a berm, which she said would wash away and then become a bone of contention. She said there was a stockade fence in the rear that had been allowed to deteriorate to nothing. Second, she continued, she was concerned about the waiver of the green space, saying she thought having 50 cars on a half-acre lot was too much. She said she did not have a bias against used-car dealers, adding that she did not think anyone would have a problem being located next to something like Bradley Motors, which she described as beautiful with a nice parking area, but it was quite different to have a half-acre lot with 50 cars and the green space being waived, with two buildings—adding that she thought the proposed building was too big for that lot. She protested that waiving rules sent a message to the community that rules were for some but not for others, and it was questionable as to how those decisions were made. She said this affected property value, as people did not just buy their house lot—they bought the whole town, so indiscriminate variances were not in the best interest of the overall town. She then expressed a belief that there would be vehicles using the secondary road beside the apartment building to get in and out of the used-car lot. She then concluded by expressing a hope that the Board would reconsider and not allow two buildings on that small a lot.

No one coming forward, Chairman Russo declared the matter before the Board.

Mr. Maynard, speaking in rebuttal, said the access drive to the Briand property was on private property, saying his client would have no right to use it and had no intention to do so, adding that there were slight topological differences. He said there had not been a green space waiver granted, saying this project exceeded the green space requirements. He said substantial 12-foot trees had been planted, and it would be in the interest of both the Briands and the Febonios to maintain them. He protested that Ms. Ziehm was judging the property before it was done; he acknowledged that it did not look attractive today but claimed it would be after the work was completed. He concluded by saying no particular favoritism had been granted to this applicant by the Planning Board.

Ms. Ziehm asked to speak in response. Chairman Russo said he wanted to avoid a back-and-forth situation, unless some member of the Board wished to hear from her. Mr. Hall said he would like to hear why Ms. Ziehm considered the Board had granted a waiver for green space. Ms. Ziehm said she should not have said green space, but in her mind, if the Board waived the buffer and the site was going to have 50 cars and two buildings, she questioned how much green space would be left. Mr. Hall pointed out that Mr. Maynard was correct in saying they had more green space than required, explaining that the waiver that had been granted was for the buffer space, because of having a building closer than 100 feet from residential property, adding that this waiver normally was granted if the lack of buffer were mitigated somehow or if the Board felt it was not of significant impact to the abutter. Ms. Ziehm apologized for her misuse of the terms, saying she was not familiar with these planning concepts. She then clarified that she had not meant to imply that Mr. Febonio would intentionally misuse the private road, saying what she meant was that Mr. Febonio could not control truck drivers, who would feel it a natural thing to pull down that road if they could not get into the used-car lot—adding that she herself had been in and out of that “private” road several times,

and she felt people used it as though it were a public road, since it was paved and looked like one.

Chairman Russo asked for comments from members of the Board.

Mr. Schneiderman asked if the Board was reconsidering the waivers. Chairman Russo said he had not heard anything to that effect. Mr. Schneiderman asked if the Board could do so. Mr. Hall said anyone who had been on the prevailing side of the vote could make a motion to reconsider. Mr. Schneiderman asked for clarification that this meant that any member who had voted to grant the previously-granted waivers could move to reconsider that vote but that members who had voted in opposition could not do so. Selectman Maddox confirmed this to be so, pointing out that Mr. Schneiderman could not make such a motion, as he had been one of those in opposition. Mr. Della-Monica added that traditionally the Board had reservations about granting waivers if people with standing—people who were owners of abutting residences and had financial interests—objected, adding that to date the Board had heard no one who objected.

Mr. Schneiderman said Ms. Ziehm apparently did not live on the abutting property that she owned but did have some financial interest. Mr. Della-Monica noted that the waiver pertained to a residence, not a financial interest, and the decision had to be based on who owned residential property adjacent to the site in question, not commercial property.

Mr. Schneiderman asked if Ms. Ziehm would have standing with respect to the waiver allowing for pavement inside the setback. Selectman Maddox noted that the waiver pertained to an area on the opposite side of the property from Ms. Ziehm's property, in the setback from Lowell Road. Mr. Schneiderman asked again if Ms. Ziehm had standing in that matter. Mr. Hall said Ms. Ziehm had a right to raise a concern, but Selectman Maddox had made a proposal that, if the applicant were willing to grant an easement for a sidewalk and road widening, then in his opinion the existing pavement in the setback could be left in place, adding that a number of other members had understood that same thing, which was why he himself had voted to grant that waiver, as he thought that was a significant plus for the town and the pavement was already there. Mr. Hall then stated that Ms. Ziehm's issue was the screening that was lost when some pine trees had been cut down, but he was pretty certain that that type of pine tree had no low-to-the-ground branches, so the real screen was pretty much as it was, a lot of brush—adding that one of his own concerns was how the Board could ensure landscaping in that area. He expressed understanding for Ms. Ziehm's concern about screening the view from her customers, but he said the Board had not gotten to that, as yet, noting that no planting currently was proposed for the front or the back of the property.

Selectman Maddox asked about the CAP fee, noting that the applicant would be adding a building of significant size, tripling the size of the building. Town Planner Cashell said peak-hour evening traffic would be no more than one or two vehicles per day, most of which would have been in the traffic stream anyway, and the repair service being proposed was minimal. He said it was a zero gain for the site, noting that this



site had commercial history and the preceding business had had a lot of dogs being groomed.

Mr. Maynard said CAP fees were traffic contributions and were not related to buildings on the site. He noted that there had also been a dry cleaner and several other businesses on this site in the past, claiming that the proposed use would represent about 75% of previous peak-hour use on the site, so it was a negative impact, traffic-wise. Selectman Maddox asked if the Board had a traffic study to show that; Mr. Maynard responded that the Board had a matrix and an analysis done by himself, that had been reviewed by Town Planner Cashell and others—adding that these were pretty standard figures for these types of uses, and saying that one did not need a traffic study to read the ITE (Institute of Traffic Engineers) manual about trips.

Town Planner Cashell said the applicant had put forward an offer for a 10-foot easement for the sidewalk and road widening, saying there was value in that in lieu of a CAP fee, with that value being recognized by the Board of Selectmen.

Mr. Schneiderman said he would like to see a copy of the matrix of the trip generations. Mr. Maynard said Town Planner Cashell had the ITE manual. Town Planner Cashell explained that there was a formula, originated many years ago, which was updated on a yearly basis. He explained that the Town collected CAP fees on a per-project basis, actually a per-residential-unit basis, based on the number of new evening peak-hour trips impacting the roadway network because of that particular project. He said existing traffic that might turn into this site was not new, which would only occur if someone such as from another community wanted to drive to this site to see a vehicle after seeing advertisements in the newspaper. He expressed a belief that this might amount to no more than one person on a daily basis, adding that the repairs would be no more than one or two more new trips. He said the matrix had specific uses listed, with specific dollar values, but he had to go by evening peak-hour trips when the use was not listed there. Subtracting out the existing evening peak-hour trips from the previous operations, he continued, there were less vehicles associated with this proposed use.

Chairman Russo asked if Mr. Schneiderman were continuing his request. Mr. Schneiderman said he was not sure he needed to see the matrix, but he wondered if this were being treated under Code 841, for car sales, as described in the Eighth Edition of the ITE manual for trip generation—noting that the manual had a formula for trip generation for automobile sales. Mr. Maynard said that formula pertained to a new-car dealership, which included sales, repairs, etc., saying the ITE manual did not have a specific total for a used-car lot that only serviced its vehicles. He suggested that formula pertained to something such as Yankee Motors, which had multiple accessory uses on its site. Mr. Schneiderman asked what ITE code had been used. Mr. Maynard said there was no specific code in the ITE manual for a used-car lot of this nature. Mr. Schneiderman reiterated his question; Mr. Maynard reiterated his response. Mr. Schneiderman asked how Mr. Maynard had calculated his figures; Mr. Maynard said it was made on estimates based on other small used-car sales businesses, saying there were numerous other small used-car businesses around Hudson and the Greater Nashua area from which one could judge trip generation.

Chairman Russo suggested that what Mr. Maynard was saying was that it was a personal observation on a profession level. Mr. Maynard responded that it was a professional observation. Chairman Russo said it was a personal and professional observation, made by Mr. Maynard, from which he had come up with these calculations. Mr. Maynard expressed agreement, emphasizing that it was his professional observation. Mr. Schneiderman noted that this was subjective, as opposed to the objective figures from the ITE codes and matrices.

Mr. Della-Monica noted that, when he had purchased his truck, he had visited about thirty dealerships of various sizes; he then expressed a belief that, if a dealership of the proposed size could generate more trips than a dry cleaner did, he would be a millionaire in six weeks—expressing doubt that would happen. He said he had visited at least fifteen dealerships of this size, finding it rare that anyone else would be there at the same time.

Selectman Maddox asked for confirmation that the CAP fee was based only on the evening peak-hour numbers, without consideration of the morning peak-hour numbers or others. Town Planner Cashell confirmed that to be the case, adding that there would be discussion about a traffic report and a sizeable CAP fee if the Board were talking about a new car dealership, but this was a half-acre site with a limited amount of vehicles—adding that this was a site in the business zone, with past business uses. He pointed out that a sizeable landscape improvement had been done on the site, with a pretty good landscaping plan—adding that he viewed the site as getting a sizeable facelift over what had been there before.

Selectman Maddox said he thought the display areas needed to be clearly delineated, so that code enforcement could take place. He noted that it said simply a 1500-ft<sup>2</sup> display area, asking that width and length figures be provided, so that the Board would know where those areas were, so that code enforcement could tell whether the cars were in or out of the display area. He expressed a belief that there would be consternation.

Mr. Della-Monica referenced a comment that had been made by Mr. Schneiderman, saying he understood that the repair facility would not be open to the public but simply was going to be cars coming in to be sold. Mr. Maynard expressed agreement, saying this would not be a repair shop. Mr. Della-Monica asked if this should be specified in the site plan; Mr. Maynard referenced Note 23, saying this was just for Mr. Febonio to service vehicles for sale—and also in case someone brought a purchased car back because something was wrong with it. Mr. Della-Monica said the note should possibly state that it was not open to the public; Chairman Russo expressed doubt that such a restriction could be enforced, saying a vehicle purchased from the site might come back repeatedly for service and inspections. Mr. Della-Monica said he was looking for something that would prevent Mr. Febonio from advertising the site for inspections and that sort of thing; Chairman Russo reiterated his doubt that that could be enforced. Mr. Maynard said he could add to Note 23 a statement saying this was not a service operation open to the general public. Town Planner Cashell suggested that they could add that automobile service would be restricted to those vehicles sold on the premises, but he acknowledged that enforcement would be problematic.

Mr. Schneiderman asked if this meant that Stellar Motors would not be able to accept payment for any work done on the premises. Chairman Russo demurred, saying he was sure that Mr. Febonio would provide follow-up service to his customers. Mr. Schneiderman asked if this would allow Mr. Febonio to provide service to vehicles he did not sell; Chairman Russo acknowledged that that might happen. Mr. Maynard said repair service might be provided as a follow-up to vehicles sold from the site but was not to be provided to vehicles that had not been sold on the site, saying it was not for the general public. Mr. Schneiderman asked if Mr. Maynard were saying that cost of the service being provided would be covered either by the cost of the vehicle or by the warranty on the vehicles that had been sold. Mr. Maynard professed not to know about the warranties. Chairman Russo asked if Mr. Schneiderman would have a problem with it if someone who had purchased their car there wanted to bring it back for an oil change; Mr. Schneiderman responded in the affirmative. Chairman Russo then stated that if this was what Mr. Schneiderman meant, he needed to come out and say it.

Chairman Russo asked if Mr. Schneiderman had any proposed wording for the note; Mr. Schneiderman responded "That Stellar Motors cannot accept payment for any repair work on the premises." Mr. Maynard rose to object, but Chairman Russo pointed out that this was just a proposal being made by Mr. Schneiderman. Mr. Schneiderman said he had thought the intention was to sell vehicles and to prepare vehicles for sale. Chairman Russo responded that there was more to it, as Mr. Febonio clearly was looking to take care of his customers long-term.

Mr. Della-Monica expressed a belief that the verbiage that Town Planner Cashell had proposed was perfect. If someone wanted to purchase a car but wanted a stereo put in, he added, that language would preclude that. He said the note was more for giving guidance to Coded Enforcement than anything else, and he thought Town Planner Cashell had hit it dead-center.

Mr. Schneiderman asked if this would be the only automobile business that Mr. Febonio would own. Mr. Maynard declared that this was totally irrelevant. Chairman Russo asked Mr. Febonio if he would own another business. Mr. Febonio answered that he was hoping this would be his only business ever. Mr. Schneiderman asked if Mr. Febonio owned any other businesses; Mr. Febonio replied that he owned no other businesses at this time. Mr. Schneiderman asked if there were any other business location where he could do oil changing, stereo installation, selling mag wheels, etc. Mr. Febonio indicated a negative response.

Mr. Barnes noted that the draft motion referenced Sheets 1 through 6 of the site plan, but the small-set plans given out to the Board only had four sheets, while the large-size set handed out at the start of the hearing had five sheets. Town Planner Cashell said the original submission had six sheets, and all that Mr. Maynard had submitted this evening were the revised sheets. Mr. Maynard said there were six sheets, saying he did not think the Board needed the sixth one again and it had been inadvertently left out. He confirmed that the sixth sheet was the plan showing features within 200 feet.

Mr. Maynard said the only change on the landscape plan was the additional landscaping on the front part of the property, with a note about the removal of the white

pinus and replacing of three deciduous trees. Mr. Barnes asked if Mr. Maynard could be more specific about the eight low-lying shrubs. Mr. Maynard offered to specify that they would be evergreens. Mr. Barnes said he was trying to respond to the abutter-to-the-north's expression of concern about the trees that had been removed; he noted that, driving by, one could see there was a lot of screening still there, with large deciduous trees that were on the abutter's property, but screening would be lost in the winter time, when the leaves would be gone. If the evergreen shrubs were of a reasonable height, he continued, he thought that would provide replacement for what had been taken out. Mr. Maynard said they had no objection to that.

Mr. Hall expressed a belief that the landscape plan was pretty weak, noting that it did not propose much in the way of detail or the type of shrubs and their location—adding that he did not think just putting some on the northerly side was sufficient, as there was a lot of open space on the south side, with a big open gap at the end of the arborvitaes. He then asked why a dense line of arbor vitas was being proposed even with the building, questioning what was being screened there, while nothing was proposed for the rest of the space up to Lowell Road, nothing in front of the existing building, and nothing out front. He said this seemed pretty weak, in view of as much disturbance as had been done on that site. He then asked what the purpose was of all the earth-moving that was going on on the site at the current time.

Mr. Febonio said he was just removing the top soil. Mr. Hall asked why he was doing earth-moving before getting site plan approval. Mr. Febonio responded that the topography of the site was not level, and the site would have to be flat, regardless of what was approved—adding that the property had been a sandpit back in the 1960s, and he was just trying to get a common elevation across the back of the property. Mr. Hall said that process normally was not started until after site plan approval, when one knew what was going to be done. He said the site was now disturbed for the winter, and site plan approval might not be obtained until much later. Mr. Febonio said he would still want the site level.

Mr. Hall said his biggest issue was the weak landscaping. He said he did not know that so many arborvitaes had to be planted along the south side, but there should be some other shrubs planted. He then asked what the thought process was with respect to having a fence alongside another fence. Mr. Febonio said the fence would be continuous along the back of 6 Winnhaven Drive; Mr. Maynard clarified that the fence on the abutting property was an enclosure for the pool, saying the proposed stockade fenced would go right down the lot line. Mr. Hall said they were putting in a fence back to back with another fence, with about five feet in between, and he asked what kind of fence was there. Mr. Maynard said the existing fence on the residential property was an older stockade fence. Mr. Hall questioned why money was being spent to put up a fence there, asking what was being screened or protected, when the next abutter was protesting about not having a fence up near Lowell Road to screen her parking lot and building. Mr. Maynard said the majority of the activity and the cars on this site would be behind the existing building. He said they did not plan a fence at the front, because they wanted to have people see the cars on display, which was why they were willing to put more landscaping on the north side to supplement the trees and shrubs that were there already. He said they did not want to totally obscure the front. Mr. Hall asked if the trees shown on the Existing Conditions Plan as existing trees were all gone; Mr.

Maynard confirmed that to be the case. Mr. Hall expressed a belief that it was a little misleading to show them on a landscape plan; Mr. Maynard responded that there was a note saying they were to be removed.

Mr. Maynard noted that the arborvitae hedge along the south property line had not been installed yet—only the one across the back, near the Briands had been. He suggested that could be spread out, with some more trees along that line, adding that there were existing trees, as well. He declared it was not the end of the world to add four or five more trees. Mr. Hall expressed a belief that some shrubbery at the front and along the north and south sides did not have to be big. Mr. Maynard asked if Mr. Hall meant along the right-of-way; Mr. Hall responded that there was five feet of space between the existing edge of pavement and the property line. Mr. Maynard said they could add shrubbery in that area. Mr. Hall noted that nothing was indicated except grass, saying he thought there ought to be a landscaping plan showing what shrubs would be planted and where they would be going—adding that he thought they ought to consider adding the fence all the way up past Ms. Ziehm's property. He then professed to understand that they might not want to have the fence go all the way to Lowell Road, screening the site from the road, but he thought there should be some combination of fencing and shrubbery, as well as something on the south side and in front of the building. Mr. Febonio said the building had existing shrubs in front of it; Mr. Hall said most of it was pretty overgrown. Mr. Febonio acknowledged that some of it was, saying it could be cut down or removed. Mr. Hall expressed a belief that Mr. Febonio would have to remove the shrub on the left-hand corner, since they were proposing to pave almost right up to the edge of the building. Mr. Febonio said this was very possible. Mr. Hall said he did not think it had been well thought out, noting that Mr. Febonio had said he wanted an attractive site—adding that it would not cost a lot of money to make it look attractive but the given plan did not show that. Mr. Febonio noted that he owned two houses on Winnhaven Drive, suggesting the Board could view those properties.

Mr. Febonio said the grove of pine trees on the Ziehms' property would make it impossible, or nearly so, to run a straight-line fence along the lot line.

Selectman Maddox asked if they were intending to pave up to the proposed 10-foot road and utility easement along Lowell Road. Mr. Maynard said that was existing pavement, saying they would cut back from what existed today. Selectman Maddox asked what would be used to stop cars from migrating onto the lawn. Mr. Maynard responded that there would be nothing in particular, saying there was no curbing or anything there. Selectman Maddox repeated his question, saying cars on used-car lots tended to creep up to the road. Mr. Maynard said he did not have any particular answer, unless the Board wanted a timber buffer or something of that nature. Selectman Maddox said he was asking what they were proposing. Chairman Russo suggested granite curbing; Mr. Maynard declared that would be overkill. Mr. Maynard said he had designed dozens of used-car dealerships, saying there was no easy answer for that, but he could suggest a timbered buffer. Chairman Russo asked about asphalt curbing; Mr. Maynard said they could put asphalt curbing in. Chairman Russo expressed a desire for something more permanent.

Ms. Merrill said she did not think the fencing problem and landscaping problem on the north end of this lot had been resolved. She asked if it were not possible to

continue a nice fence all the way to Lowell Road, even if it had to be continued after the big trees. Mr. Maynard said he did not agree. Ms. Merrill said it would protect the business on the other side. Mr. Maynard said he had to object that their stuff was considered objectionable while Ms. Ziehm's stuff was not. He said a fence interrupted by trees was not necessarily either attractive or stabile, and it served no purpose in his opinion to bring the fence anywhere closer to Lowell Road than the existing house, saying what was proposed was a three-car parking lot and a square holding ten or twelve vehicles, which he said was no different than any other used-car lot, and none of them had ever been asked to put a fence down their lot-line to the right-of-way, which would obscure any visual sighting of the site. He said shrubs would break it up and allow screening but still allow view of the cars—adding that this was typical of all the other car dealerships in the town, along their sidelines and their frontage.

Selectman Maddox asked why the fence could not be brought up to the designated snow storage area, saying that would miss the existing trees but would block the existing building while still showing off the cars on display at the front of the lot. He asked if that were a compromise that both sides could live with. Mr. Maynard said he thought that was okay. Mr. Maynard said that would be approximately a 50-foot extension. Mr. Hall suggested they try to work something out with Ms. Ziehm, noting that she had made a statement that she might want to put a fence up there, and there was nothing stopping her from putting a fence all the way to the right-of-way of Lowell Road, and he suggested they might force her to do that if they did not come up with something that would satisfy her.

Mr. Maynard said his client had attempted on multiple occasions to meet with the Ziehms and go over these things, but they were not interested in talking to him. If Ms. Ziehm wanted to put up a fence there, he added, she was welcome to, and it was her right. He then said he had to keep objecting to the assumption that this was going to be an unattractive site, saying it was unattractive today but there was no reason that this would not be a well-kept good-looking used-car site, every bit as good looking as the Bradley Motors site. He said there was no reason why Mr. Febonio's site would have to look like a second-class site. He said they were willing to extend the fence 50 feet forward, saying it would not hurt their operation. He then clarified that this would extend the fence to approximately the location of the drive aisle.

Mr. Hall said he would only be able to assume that Mr. Febonio was going to make an attractive site, if the site had been left untouched until today, but looking at the site today, which was quite a while since it had been in operation, it certainly did not look attractive, and it had been that way for quite a while, so it was quite a stretch to say the Board should assume it was going to look beautiful. He said it probably looked worse than before, so he had to agree with Ms. Ziehm's concern—adding that it was hard to have faith when the Board was looking at what it was looking at.

Mr. Schneiderman noted that Mr. Maynard had said his client had been trying to meet or speak with Ms. Ziehm but has not been able to—adding that he was trying to figure out what the problem was with respect to communication between them. Chairman Russo said both parties were in front of the Board and they could see that the Board needed to see them get together and come to some sort of resolution; he suggested leaving it at that. He then addressed Ms. Ziehm, saying the Board really did

not want to hear a lot of "He said, she said" discussion, but that he was suggesting that she and Mr. Febonio get together and try to come to some resolution before the next time this plan came before the Planning Board. Ms. Ziehm said she felt compelled to say that Mr. Febonio had contacted her children but had never called her on the phone, personally. She said she was not a person who yelled or screamed, but tried to communicate in a civil manner—adding that she would be happy to talk to Mr. Febonio, as well as to Mr. Maynard, who had represented her before this Board in previous times, so she did not understand that kind of comment.

Selectman Maddox asked Mr. Febonio if he had operated other used-car sales dealerships in Hudson. Mr. Febonio said he had had a business in an enclosed garage. Selectman Maddox said he was trying to get a history, saying the Board could do an assessment if Mr. Febonio told them he had operated a similar business somewhere. He noted that Mr. Maynard had said the Board was assuming things—adding that the Town had experienced difficulties over the years with some used-car lots, and adding further that most of those had been represented by Mr. Maynard. He then asked if Mr. Febonio could identify a location that the Board member could take a look at, to dispel some of the concerns being raised. Mr. Febonio said he had previously had a car lot at 85 River Road, but he was currently on Tolles Street, but it was pretty much Internet sales rather than a used-car lot, as it was located within a 35-foot by 72-foot garage, so there was no drive-by business, and the 85 River Road business was years ago—adding that someone else was there now and that it did not look very good, so he did not want to be associated with it. Mr. Maynard suggested that the Board look at Mr. Febonio's two residential properties on Winnhaven Drive to see the quality of the upkeep and landscaping as somewhat of an example.

Mr. Schneiderman asked if Mr. Febonio had an automobile business in operation right now. Mr. Febonio answered in the affirmative. Mr. Schneiderman pointed out that he had asked that same question previously and Mr. Febonio had said he did not. Mr. Febonio said Stellar Motors was his current business, saying he had thought Mr. Schneiderman was asking about his prior business. Mr. Schneiderman asked if the current business location would be suitable for repairs; Mr. Febonio said it was not a repair shop—adding that it was a leased location and the lease would end if this proposed plan were approved.

Chairman Russo asked for the location of that current business. Mr. Febonio gave the address as 15 Tolles Street, saying it was off Webster Street, down by the river.

Chairman Russo said he would like to bring this hearing to a wrap, saying a lot of time had been spent on it. He pointed out to Mr. Febonio and Mr. Maynard that they did not seem to be selling this plan to some of the Board members, who had expressed a lot of concerns, and he suggested that they needed to try to alleviate some of those concerns. Mr. Maynard said he did not disagree with what Chairman Russo had just said, but he would like a little clearer consensus, because the concerns were all over the place. Chairman Russo said this was why he was going to have one more round of comment from the Board. Mr. Maynard said the last time he had been here there had been concern about trees and shrubs on the northern side and he had put them in, but what was raised this evening was all new stuff.

Chairman Russo then asked for comments or concerns from the Board members.

Mr. Barnes said one of the things was that the Board was looking for details in the landscaping plan.

Selectman Maddox said Mr. Maynard had just made it sound as if the only thing he had to do was to put a couple shrubs in. He said two of the members had previously expressed concern about how much stuff was being placed on the lot, and this had not changed. He said he was still convinced that those two buildings were excessive on this lot, with 50 cars on there as well. Mr. Maynard interjected to ask where the number fifty had come from, saying he had told the Board 20 to 30 at the last hearing. He then declared that the 20 to 30 number was on the record, as he had stated it before the Board.

Mr. Schneiderman said his understanding was that the neighbors would be meeting and discussing their differences.

Mr. Hall said he would prefer to grant a waiver for the 20-foot drive aisle rather than have them pave up to the building and remove that much green space. Mr. Maynard then asked if they could have a motion to that effect tonight, so that he would be sure.

Mr. Hall moved to grant the requested waiver from the requirements of HTC §275-8 (29) (a), *Aisle Width*, to allow a 20-foot drive aisle instead of the required 24-foot width on the southern drive aisle, next to the existing building. Mr. Della-Monica seconded the motion.

Mr. Hall commented that the requirement mostly pertained to the drive aisle between parallel parking spaces, so that cars could get in or out, which was where the Board generally held firm on that 24-foot width, but this was not that situation. Mr. Maynard said the diagram in the regulations showed 24 feet for the drive aisle and that was the only place it was mentioned. Mr. Hall concurred, saying there was not actually a statement that the drive aisles had to be 24 feet wide. Town Planner Cashell confirmed that, saying Mr. Hall's argument was valid.

Mr. Della-Monica said he would much rather see green space there than asphalt.

**VOTE:** No further comment being brought forward, Chairman Russo called for a hand vote on the motion. All members present voted in favor except for Selectman Maddox and Mr. Russo, who both voted in opposition, and Chairman Russo declared the motion to have carried (5-2).

Chairman Russo asked for other comments from the Board members, to help the applicant try to wrap this up.

Mr. Hall noted that two other waivers had not been done. Chairman Russo concurred, saying they looked rather minor in nature.

Mr. Hall moved to grant the requested waiver from the requirements of HTC §275-9 C, *Noise Study*, citing the reason for granting that waiver as being because such a study was unnecessary, taking into consideration the evergreen screening already



planted along the rear and northerly lot lines of the subject lot, together with the hours of operation being limited to similar uses found within the same Business zoning district—and, as such, the granting of this waiver was not contrary to the spirit and intent of the Site Plan regulations. Mr. Della-Monica seconded the motion.

Chairman Russo said he was not certain that the statement was accurate.

Mr. Hall said a negative vote would indicate a desire for a noise study, and he expressed a belief that a noise consultant would say that, when the doors were closed, one would not hear anything from the building. He said there probably would be some noise if someone started up a truck in the parking lot, but it probably would not exceed the noise limit allowed by the noise ordinance. He then suggested that the noise study would mean nothing. Chairman Russo responded that maybe the motion should state that it would be pointless to have a noise study for this use. Mr. Hall said it was not always pointless, but in this situation he did not know what the Board would get.

Selectman Maddox questioned the compass directions cited in the motion. Town Planner Cashell concurred, saying the motion probably should instead refer to the evergreens planted along the westerly rear and southern lot lines of the property. Mr. Hall and Mr. Della-Monica accepted this change, making it a friendly amendment.

Mr. Della-Monica said he did not think the noise was going to negatively affect residential property owners, noting that none of them had come in to express concern. Chairman Russo said he did not know enough about this site as yet to make that decision.

**VOTE:** No further comment being brought forward, Chairman Russo called for a verbal vote on the motion. All members present voted in favor except for Mr. Russo, who voted in opposition, and Chairman Russo then declared the motion to have carried (6–1).

Mr. Hall moved to grant the requested waiver from the requirements of HTC §275-9 D, *Fiscal Impact Study*, citing the reason for granting that waiver as being because the project posed minimal fiscal impact on the Town—and, as such, the granting of this waiver was not contrary to the spirit and intent of the Site Plan regulations. Mr. Barnes seconded the motion.

**VOTE:** No further comment 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).

Mr. Hall moved to defer further review of the Site Plan application for Stellar Motors, 57 Lowell Road, date specific, to the September 14, 2011, Planning Board Meeting.

Town Planner Cashell asked if this would give Mr. Maynard enough time to change the plan. Mr. Maynard replied that they had met in the past with the Ziehm family, specifically with Ken Ziehm, purported to be one of the owners. He said he knew Ms.

Sandra Ziehm was the boss, however, adding that they would meet with her again—saying he was not optimistic that they were going to get an agreement but they would do the best they could. He then indicated that the September 14<sup>th</sup> date would be fine.

Mr. Della-Monica seconded the motion to defer.

Chairman Russo said he would like to see, the next time this plan came before the Board, how they were going to squeeze 20 to 30 vehicles in the display areas and keep access to the parking spaces, and accomplish snow removal without putting their 20 to 30 cars out on Lowell Road. He then stated that he personally thought this site had way too much on it, adding that he thought making the new building a little larger and putting the office in it would free up a lot of space and take care of a lot of the contention raised about this site. He said he did not really know what the purpose of the small building in the front would be, saying it was a pretty big space for one sales person or maybe two. He said he did not think this was appropriate, adding that he thought they could make this site a lot better and make it more attractive, with some interior green space. He said that angled display spaces did not work well. Mr. Maynard declared that there were no angles, saying they were all 90 degrees.

Chairman Russo then stated that he was not thrilled that the Existing Conditions Plan was not accurate, adding that Mr. Febonio had just told the Board he had been changing the site. Mr. Maynard contended that the plan had been accurate at the time of application; Chairman Russo responded that it was not accurate today, saying usually the Board dealt with accurate existing conditions, but the Board did not know what was on the site right now and did not know how the lot had changed. Mr. Maynard said this was a poor choice of words, saying it was a matter of semantics. Chairman Russo responded that he had made this clear several times, pointing out that there was a Board of seven people that they were trying to figure out how they were going to get this plan through—adding that Mr. Maynard had asked for input and he was telling them what he was asking for.

Selectman Maddox asked if the sign saying this site was before the Planning Board was still up. Mr. Febonio responded in the affirmative.

Mr. Della-Monica expressed agreement with Chairman Russo's statement about the existing building being too large for an office for one or two salespersons. He suggested that consideration of whether it could be an expanded building in the back might be something for them to think about. Mr. Maynard asked to explain that, saying the point was that this might not stay permanently as a used-car lot, as Mr. Febonio's business might grow so that he had to go somewhere else, and having this site with just a building in the rear was not very attractive for other types of uses—especially indoor retail or an office building or something else. He said Mr. Febonio would need to sell this site if he needed to move on in 10 or more years, adding that the existing building in the front had served for several decades with several uses. He said he agreed that it looked run down, but it was not going to stay that way, as Mr. Febonio would be upgrading that building, too. Mr. Della-Monica said that was a valid point, but he wished he had heard that explanation two or three meetings previously. Mr. Maynard said he had had so many other issues to address that to him were more important.

**VOTE:** No further comment 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).

**VI. CASES REQUESTED FOR DEFERRAL**

No cases had been requested for deferral for this meeting.

**VII. CORRESPONDENCE**

No items of correspondence were addressed this 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**

No **Public Hearings** items were scheduled for this evening.

**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.

**XV. OTHER BUSINESS**

Chairman Russo noted that the Law Lecture series was coming up, and he asked if Town Planner Cashell had kept the Derry Center dates open. Mr. Cashell answered in the affirmative, and also confirmed that the rule still applied that anyone who signed up for a law lecture and did not attend would be charged for the cost of the meeting. He asked that all members who were interested in any of the lecture subjects sign up with

Town Planner Cashell. Chairman Russo said the October 12<sup>th</sup> and 26<sup>th</sup> dates for the law lecture series.

Mr. Della-Monica asked if something could be done to raise the connectors for the microphones off the floor, for durability purposes. Chairman Russo suggested Selectman Maddox get someone down to take care of that.

Town Planner Cashell noted that a legal opinion had been received from Atty. Buckley, saying Atty. Buckley would attend the September 7<sup>th</sup> workshop to discuss the matter with the Board, as well as addressing the Board about recent land-use legislation that had been passed and other items. He said he would provide the final LGC bulletin about the legislation for that workshop.

Selectman Maddox questioned if all of the October meetings should be canceled, noting that only a few members might go to the October 12<sup>th</sup> lectures, as an example.. Chairman Russo said that was a good point, asking Town Planner Cashell to keep him apprised of how many people signed up for each of the three lectures, saying a final decision could be made later. Town Planner Cashell said he did not see anything else new coming in for October, saying the Board could conduct its business in a timely and efficient manner even with all three law lecture dates canceled—adding that the Board could have three meetings in November without conflicting with the Thanksgiving holidays.

## **XVI. ADJOURNMENT**

All scheduled items having been addressed, Mr. Barnes moved to adjourn; Mr. Hall 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 9:09 p.m.

Date: September 23, 2011

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

J. Bradford Seabury, Recorder

\_\_\_\_\_  
Glenn Della-Monica, Acting Secretary

**-- FILE COPY --**

**HUDSON PLANNING BOARD Meeting Minutes  
August 24, 2011**

**Page 21**

The following changes were made to the draft copy in accordance with review comments at the Planning Board meeting of 10-05-11:

Page 8, 2<sup>nd</sup> full paragraph, 3<sup>rd</sup> line from bottom — changed parenthetical phrase from “people who were owners of abutting property, not renters, but people with financial interests” to read “people who were owners of abutting residences and had financial interests.”

Page 12, 3<sup>rd</sup> paragraph, 3<sup>rd</sup> line from bottom; the word “know” should be “knew” (past tense).

Page 15, 2<sup>nd</sup> paragraph, 5<sup>th</sup> line from end; closed the clause up to the preceding sentence by changing the period after the word “garage” to a comma and starting the following word with a lower-case letter.

Page 20, 3<sup>rd</sup> full paragraph, 3<sup>rd</sup> line, changed “September” to “October.”