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**HUDSON PLANNING BOARD  
MEETING MINUTES  
August 12, 2009**

**I. CALL TO ORDER**

Chairman Russo called this Planning Board meeting to order at 8:07 p.m. on Wednesday, August 12, 2009, in the Community Development meeting room in the Hudson Town Hall basement, following an attorney/client meeting with the Town Attorney.

**II. PLEDGE OF ALLEGIANCE**

Chairman Russo asked Town Planner Cashell to lead the assembly in pledging allegiance to the Flag of the United States of America.

**III. ROLL CALL**

Chairman Russo asked Mr. Barnes to serve as Acting Secretary and to call the roll. Those persons present, along with various applicants, representatives, and interested citizens, were as follows:

**Members**

**Present:** James Barnes, Vincent Russo, and Richard Maddox (Selectmen's Representative).

**Members**

**Absent:** Tierney Chadwick, George Hall (excused), Suellen Quinlan (excused), and Terry Stewart (excused).

**Alternates**

**Present:** Brion Carroll, Tim Malley, Stuart Schneiderman, and Ken Massey (Selectmen's Representative Alternate).

**Alternates**

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

**Staff**

**Present:** Town Planner John Cashell.

**Recorder:** J. Bradford Seabury.

**IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS**

Chairman Russo seated Mr. Carroll in place of Mr. Hall, Mr. Malley in place of Ms. Quinlan, and Mr. Schneiderman in place of Ms. Chadwick.

Chairman Russo stated that he would proceed directly to **XI. Old Business, Item A**

**VI. CORRESPONDENCE**

No **Correspondence** items were distributed or addressed this evening.

**VII. PERFORMANCE SURETIES**

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

**VIII. ZBA INPUT ONLY**

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

**IX. DESIGN REVIEW PHASE**

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

**X. CONCEPTUAL REVIEW ONLY**

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

**XI. OLD BUSINESS**

**A. Bockes Road Proposed Retail Development  
SP# 04-09**

**Map 145/Lot 001  
1 Bockes Road**

***Purpose of plan:* Construction of a 12,800-ft<sup>2</sup> single-story multi-tenant retail building, with associated access driveway, paved parking, drainage, landscaping and lighting improvements. Hearing. Deferred Date Specific from the 06-24-09 Planning Board Meeting.**

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

Town Planner Cashell noted that the applicant had asked for a deferral to the September 23, 2009, meeting. Selectman Maddox so moved; Mr. Carroll seconded the motion.

**VOTE:** Chairman Russo called for a verbal vote on the motion. All members voted in favor except for Mr. Schneiderman who abstained, and Chairman Russo declared the motion to have carried (5-0-1).

**XII. NEW BUSINESS/PUBLIC HEARINGS**

**A. Flagstone Plaza (Extension)  
SP# 05-09**

**Map 222/Lot 014  
3 Flagstone Drive**

**Purpose of plan: to request a one-year extension of a previously approved proposal to construct an 8,576-ft<sup>2</sup> building with parking garage. (Previous extension approved on 08-27-08). Application Acceptance & Hearing.**

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

Mr. Richard Maynard, Professional Engineer, of Maynard & Paquette, Engineering Associates, LLC, appearing before the Board as the engineering representative of the applicant, distributed full-size copies of the plans.

Chairman Russo stated that he was looking for a motion for Application Acceptance, Selectman Maddox so moved; Mr. Carroll seconded the motion.

**VOTE:** Chairman Russo called for a verbal vote on the motion. All members voted in favor except for Mr. Schneiderman, who abstained, and Chairman Russo declared the motion to have carried (5-0-1).

Mr. Maynard discussed details of the original approval in 2007, noting that a 1-year extension had previously been granted in 2008. He described the location and plan, stating that it was to be an 8000 -ft<sup>2</sup> shopping plaza behind the Dunkin Donuts store off Flagstone Drive, with some parking spaces in the garage and another 18 up front. He said nothing had changed on the site but the applicant would like an extension of one year because of the economy situation.

Chairman Russo asked if Town Planner Cashell would concur that no regulations had been changed that would affect this property at this time. Mr. Cashell said that was correct.

Selectman Maddox expressed a belief that the parking requirements had changed, noting that this was one of the sites that had led the Board to change the parking requirements for restaurants, adding that the type of restaurant planned for this parcel had not been identified. Town Planner Cashell said a request such as this did have limitations, noting that it was going into the third year.

Selectman Maddox said the seating had been changed for a restaurant, and he questioned why this did not apply. Town Planner Cashell, after reviewing the regulations, acknowledged that the requirements had been changed, noting the plan had been approved when the parking requirements were based on the number of seats in the restaurant. Mr. Maynard said he believed the plan exceeded the current regulations.

Selectman Maddox asked what the Board's criteria were with respect to extensions, and he suggested this issue should be a workshop item. Mr. Maynard said there were no regulations, but a recently passed State law said this approval was good for three years. He identified the bill in question as being Senate Bill 98, passed early this year.

Town Planner Cashell, having reviewed the regulations, said there was one parking space per 100 ft<sup>2</sup> of gross leasable area. Mr. Maynard said his plan was one parking space for each seat, noting that he had 24 parking spaces. He referenced Note 11. Chairman Russo pointed out that it said 12 spaces. Mr. Maynard acknowledged this, apologizing for his error, and he then stated that he had forgotten that the regulation had just changed. Town Planner Cashell noted that the parking requirements would be even more stringent if the restaurant included a bar.

Selectman Maddox moved to defer this item to the next available meeting, saying he felt the Board needed guidance with respect to the two questions.

Town Planner Cashell said the next available date would be August 26.

Selectman Maddox moved to defer to August 26; Mr. Carroll seconded the motion.

Mr. Carroll suggested that the applicant should bring any information with respect to any plans to change the size of the restaurant, if desired. Selectman Massey said the Town Attorney should be asked if the new State statute created any retroactivity for the existing site plan with respect to changes. Mr. Maynard said the law clearly stated that the plan would be vested for any changes. Chairman Russo noted that the applicable dates were if the plan had been approved on or after January 7 and prior to July 1, 2009, and he asked when the plan was original approved. Mr. Maynard said that was not what the law said.

**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 (6-0).

Mr. Maynard stated for the record that the law went back to 2005, saying it was intended to take it into 2010.

**B. Shepherd & Pepin LLA  
SB# 04-09**

**Map 109/Lots 2 & 3  
3 & 5 Page Road**

**Purpose of plan: to relocate the lot line between Lot 2 and Lot 3, Tax Map 109. The new area of Lot 2 is to be 76,373 ft<sup>2</sup> and the new area of Lot 3 is 48,350 ft<sup>2</sup>. No new construction at this time. Application Acceptance & Hearing.**

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

Town Planner Cashell said the applicant had asked for deferral to October 14<sup>th</sup>, saying Town Attorney had advised that the applicant needed to go before the Zoning Board of Adjustment before coming to the Planning Board .

Selectman Maddox moved to defer this item to the meeting of October 14<sup>th</sup>; Mr. Carroll 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 ( 6-0).

### **XIII. OTHER BUSINESS**

#### **Petition to Appeal Decision of the Planning Board, RE: Permit for Second Driveway at 12 Hartson Circle – Map 154/Lot 015.**

Chairman Russo read aloud the published notice, as repeated above, noting that this petition had been submitted by Ms. LeBlanc. He than asked Ms. LeBlanc to clarify what appeal she was asking for .

Ms. Jeanine LeBlanc , 35 Sullivan Road, said everyone knew what they were going to do on this, saying she would just do what she could and not waste the Board members' time, as they had their decision made . At the first meeting, she said, the driveway was determined , with the second driveway questioned , along with its rear and side setbacks, under Regulation 19 3 G and also unde r 193-10 H, for being in the setback. At that session, she said, there had been conversation as to why there were no violations in the file. She again referenced Regulation 193 -3 C, reading the text aloud, saying this was important because it pertained t o the problem she was having. Looking at the whole thing, she said, there were a couple zoning issues, noting that the neighbors to the rear were impacted by changes to the flat terrain, as Mr. Lashua had brought in landfill and leveled the property in order to put in his driveway on a steep slope. She said Town Planner Cashell had told her that the problem with her lawsuit was that Mr. Lashua was not responsible for damages from the drainage, noting that there were no drainage easements found on the deed. She said that Mr. Cashell had seen something but had not copied it for the file. She said she did not know why a copy of her private lawsuit had been placed in the file.

Ms. LeBlanc referenced colored pictures she had obtained from the Town Highway Department, saying she had asked if the Town were responsible for damages. She said the Road Agent had shown her where the road drain was on the property, with a drain in front of the yard, and with another to the left draining into the culvert on the other side of the fence. She said she had asked the Road Agent if he had received any complaints, and he had looked at records going back to 1998, at which time she had noted that there was only one driveway at that time, and she had asked for a copy of that picture.

Selectman Maddox noted that the Board members had received black-and-white pictures. Ms. LeBlanc displayed the colored photograph which she had had blown up, noting that there was no cutaway from the street shown for the second driveway. She then passed that picture and other pictures she had taken to members of the Board.

Ms. LeBlanc said the aerial pictures were fuzzy, but they showed that there was just vegetation there in 1998 and that it was clear to a reasonable person that there was only one driveway in 1998, which meant that there had been only one driveway in 1992. She said Mr. Lashua had testified that he used it as a footpath, adding that it was probably safe to say that every house in Hudson had a footpath. She said she had all the abutters present, adding that the Planning Board had given Mr. Lashua more than enough time, but he had not produced any credible evidence, without any presentation or anything, and that she thought the evidence she had produced was much more credible.

Ms. LeBlanc said this had all started because she had filed a complaint about the second driveway some eighteen months ago because of the environmental problems and damage done to her property. She said the certified plot survey showed one driveway in 2004, arguing that a second driveway would have been shown if there had been one at that time. She then referenced the 1999 building permit application, saying no second driveway had been shown, with a comment on that application stating that there would be no changes to the driveway location. She said she could only assume that the Zoning Officer at that time probably had been asking how Mr. Lashua was going to get to the building in the back after the addition was constructed on top of the existing driveway, suggesting this was why that notation was provided. She then referenced the requirement that the Planning Board should act within 30 days, saying it had done so, with the Board then having given Mr. Lashua a second meeting.

She referenced HTC §193-3 B, which she read aloud, saying the Planning Board had the responsibility to ensure there would be no unsafe conditions; she noted that all three abutters had testified to damages they had experienced as a direct and/or indirect result of that second driveway. She said Mr. and Mrs. Remp would be testifying shortly, stating that they had just had his property surveyed.

A woman in the audience, subsequently identified as Ms. Brook Lashua, who had been making muttering noises during the prior testimony, at this time became more vocal, saying she thought Ms. LeBlanc should tell the truth. Chairman Russo requested that the audience let Ms. LeBlanc speak, adding that other people would have an opportunity to speak later. Ms. LeBlanc protested that she could not concentrate on what she was saying because of the conversation going on behind her in the audience, suggesting that Ms. Lashua should speak at this time. Chairman Russo asked the audience members to let Ms. LeBlanc speak, suggesting they take private conversations out into the hallway.

Ms. LeBlanc reiterated that all three abutters had testified to the damages, saying all had had to spend money to protect their properties, which had gotten washed out, with their lot line boundaries buried. She said Mr. Remp would talk about what he had done, saying they all had spent thousands of dollars.

She said the garage had been found to be built less than five feet from the property line and had been built much larger than he had asked for on the permit. She said the neighbors had a couple issues with the garage, but the neighbors had suffered vandalism and harassment since she had raised concerns. Ms. LeBlanc at this time became visibly upset, and Chairman Russo suggested that the Board take a break and give her a chance to recover.

Chairman Russo declared a break at 8:42 p.m., calling the meeting back to order at 8:52 p.m.

Ms. LeBlanc said she would let the other people speak.

Chairman Russo asked if there were anyone else present to speak in corroboration of any information that Ms. LeBlanc had presented.

Mr. Timothy Remp, 14 Hudson Circle, said he had read through Ms. LeBlanc's documentation and concurred with everything there. He said he now had two streams running across his property, and there was no question that there had been no driveway there in 1982. He said it was a no brainer and he wanted a decision from the Board.

Chairman Russo said he believed he must be missing something. Mr. Remp said the pictures showed there was no second driveway in 1998—and that it could not have existed in 1982 if it were not there in 1998.

Mr. Carroll asked how long Mr. Remp had lived there. Mr. Remp replied that he had been there 13 years. Mr. Carroll asked if Mr. Remp recalled when the second driveway appeared. Mr. Remp said the driveway had appeared roughly in the year 2000 range.

Mr. John Watkins, 10 Hartson Circle, said there clearly was no driveway there prior to 1982 and it was clearly in violation of setback issues with respect to the Remp driveway.

Mr. Carroll asked how long Mr. Watkins had lived there. Mr. Watkins said he was there in 1975, saying there had been three prior owners to the Lashua property. Mr. Carroll asked if he remembered seeing a driveway there earlier than 1982. Mr. Watkins replied in the negative. Mr. Carroll asked when Mr. Watkins had seen the second driveway. Mr. Watkins answered that it was right after the addition was built, in 2002.

No further speakers in corroboration coming forward, Chairman Russo asked for any information from the other side.

Ms. Brook Lashua, 12 Hartson Circle, said she wanted to point out that the previous two persons had previously testified that there was no parking lot attached to the second driveway, of which they still had the original asphalt, so how was it they could say that... Selectman Maddox interrupted at this point, calling for a point of order and asking for the "persons" to be identified. Ms. Lashua said she was making a point that the Board had listened to what they had said and they could be lying, adding that they had testified differently previously, so how could it be that they were not lying? She said Ms. LeBlanc had been attacking "us" and this had affected her a lot, adding that she did not know how many other houses had second driveways, trucks, and trailers.

Chairman Russo said what the Board needed from her was some sort of information. She said she had information, but it would take a long time, and it was funny how this stranger moved in a year ago and made it her business to say there were violations. She said she really did not get this, adding that she had lived there for 18 years and never had a problem.

Mr. Schneiderman asked if Ms. Lashua had any evidence that showed a second driveway. Ms. Lashua said she had showed it last time, adding that she had videos and her father had met with people, including Mr. Cashell. Mr. Schneiderman said the Board needed to see it. Chairman Russo concurred, saying the Board needed to see them. Ms. Lashua reiterated that she had showed them to the Board before, and she then returned to her seat in the audience section. Chairman Russo then professed himself to be at a loss.

Mr. Carroll asked if Mr. Michael Lashua were aware of any videos. Mr. Lashua said he had videos at home, adding that he had moved in in 1991. Chairman Russo said that Ms. Lashua had said something about videos, stating that the Board had not seen any videos, and he asked if Mr. Lashua agreed that the Board had not been shown any videos. Mr. Lashua agreed that the Board had not seen the videos, saying he had shown pictures the last time he was here and had placed them in the file. Town Planner Cashell said everyone had received the pictures in the meeting packets, adding that there had been pictures dated 1991, showing the children a lot younger at the time, with the driveway in question shown in the background.

Mr. Barnes asked which packet was being referenced. Town Planner Cashell said it was either the March 27<sup>th</sup> or June 24<sup>th</sup> packets.

Mr. Michael Lashua said Jeanine LeBlanc should have had her property surveyed and inspected thoroughly for any damages she was experiencing now. He said she had moved in in February of 2008, and he had never had a problem with the two neighbors who had lived there before, for the past 18 years, and had never had any water issue. He said there was a hump at the parking lot that had prevented any rain from coming down from the road. He said the asphalt was as old as the road was and stretched the whole length, from driveway to driveway, with a section in the middle that he had dug out and landscaped to make it look nicer. He then said Ms. LeBlanc lived on the back side of him, saying she had no right to attack him, as she did not live beside him or across the street. He then commented that the Watkins had to use sandbags on their driveway to stop the water from coming off the road.

Mr. Schneiderman asked if Mr. Lashua had anything to show the Board. Mr. Lashua said he was not prepared for this.

Chairman Russo said the Board members needed to look at the pictures from the meeting packets, with a few copies being passed around.

Selectman Maddox asked how Mr. Lashua could have pictures of how the property looked in 1982 if he moved in in 1991. Mr. Lashua said he did not, saying he had pictures from 1991, when he had moved onto the property, adding that he had just enhanced the property since then.

Mr. Carroll said the grandfathering of a second driveway would be relevant to any driveways that existed in 1982. He then said there was no evidence, but Mr. Lashua was saying there was a driveway there in 1991. He said that the Board was here to determine if there were anything there before 1982, and all he was trying to find out was whether Mr. Lashua had anything to show that the driveway was there before 1982, so that grandfathering would be a logical connection. Mr. Lashua said he had no idea. Mr. Carroll asked if there were any evidence that there was a driveway before 1982. Mr. Lashua said the only thing he had was dating back to 1976, showing a parking lot and a driveway in front of the house. He said the second driveway had been a cart road leading to the rear of the property, adding that he had not used it a whole lot.

Selectman Maddox said the photos seemed to show a dirt road getting to the back before the addition was installed. Mr. Lashua said he had paved it in 2004. Selectman Maddox asked why there would be a second driveway when the first driveway was a clear shot from the street to the back. Mr. Lashua said it was there, as a dirt path, and he had paved it, adding that there had been a parking lot at the rear. He then stated that "they" had been lying when they said that did not exist, and that he had pictures to prove that it did exist. He said the "junk cars" referenced by the others were antiques, which he was restoring.

Mr. Carroll referenced the picture, asking where the second driveway was shown. Mr. Lashua said that was all he had, adding that the driveway was on the far right. Mr. Carroll said all he saw on the far right was trees; Mr. Lashua reiterated that this was all he had. Mr. Carroll noted that the SUV in the picture appeared to be parked on the side of the road. Mr. Lashua demurred, saying it was pulled into it. Mr. Carroll pointed out that it was parked parallel to the road.

Chairman Russo asked Mr. Lashua to point out what he thought was a driveway on the 1976 picture. Mr. Lashua said it was a parking lot, because they did not have a driveway in 1976.

Mr. Lashua said the Remps had used his second driveway for access when there was a septic problem, saying he had allowed them, and they had driven dump trucks and excavators in on multiple times and had made a mess of his driveway and he had put in gravel because they had torn it up so bad, adding that they had left piles of stone and dirt on his property and had never once said "Thank you," adding that they had accused him of taking the stone and dirt they had left there. He reiterated that they had come down his driveway several times to pump their septic tank. He then began to discuss his parking of antique cars at the rear, to make some room to do some clearing for his building, and they had told him not to worry about being close to the lot line. Selectman Maddox raised an objection that this had nothing to do with the question before the Board. Chairman Russo asked Mr. Lashua to stick to the issue; Mr. Lashua replied that he was being bashed, and he wished the Chairman would tell the others the same thing, saying there was no traffic going down there other than his personal vehicle, with no tractor trailers or dump trucks or anything of that sort.

Mr. Malley referenced the 1991 picture showing a black Cherokee. He said it appeared to be parked on a lawn; Mr. Lashua expressed agreement. Mr. Malley said it

looked like there were trees and bushes growing all the way back. He then asked if the second driveway were at that point, going back to the back of the property. Mr. Lashua replied in the affirmative, saying it was a dirt trail in the grass. He said he had his boat and his truck parked back in there, as could be seen in the pictures.

Chairman Russo asked if there were any questions or comments regarding these pictures.

Mr. Carroll noted that Mr. Lashua had moved in in 1991. Mr. Lashua concurred, saying it was in April of 1991. Mr. Carroll asked if Mr. Lashua knew of anyone who could stand before the Board and tell the Board there was a driveway there and in use prior to 1982. Mr. Lashua said he had not thought about that and could think of no one. Mr. Carroll said he was just asking if there were any evidence that there was a driveway there before 1982.

Mr. Lashua said the Remps had a second driveway as well, and he questioned if anyone were investigating that, adding that he had filed complaints against both of these "glass" houses.

Town Planner Cashell displayed an aerial view from 2006, taken from a satellite, saying it showed the second driveway, with cars parked at the front, on the grass. Mr. Lashua said they had just put a fence up there. Mr. Lashua then said he felt he was being singled out.

Mr. Malley noted that the packet included copies of complaints. Chairman Russo said these went to the Zoning Department.

Mr. Lashua asked if he could apply for a permit, saying someone had come out when he put the gravel in and had told him not to worry about it, as he had improved the property. Chairman Russo asked if Mr. Lashua had the name of that person; Mr. Lashua said he had it somewhere.

Chairman Russo noted that this was a difficult situation, and the Board was trying to do its best.

Selectman Maddox said Mr. Lashua certainly could apply for a second driveway.

Mr. Lashua said there had not even been a main driveway back in 2003, because the yard had been all torn up, because it took time to do construction.

Town Planner Cashell asked Mr. Lashua if he would be willing to modify the driveway so that it complied with the Town's driveway regulations, saying it could be a 50-foot driveway that would make the two into one. Mr. Lashua said it was technically one driveway across the whole thing. Selectman Massey at this point called for a point of order, saying Town Planner Cashell was leading the applicant.

Mr. Lashua said he had put in grass and shrubbery where there had been a parking lot, saying it had never been an issue until he paved the second driveway.

Mr. Lashua then began to discuss a second driveway located on another property. Chairman Russo said that did not pertain to the second driveway under discussion. Chairman Russo then asked if Mr. Lashua had any other evidence he would like to

present to show that there was a driveway there when he moved in or in 1982. Mr. Lashua said he did not, adding that he wished to finish his project and enjoy his life.

Ms. Brook Lashua, 12 Hartson Circle, said she wanted to make it clear that Ms. LeBlanc had made irrelevant comments about the second driveway, with tears, but the Board had not stopped her by saying it did not pertain to the second driveway, and that was not fair. When Ms. LeBlanc talked, she said, Ms. LeBlanc should be restricted to talking about the second driveway.

Ms. LeBlanc said she had given all the information about the driveway but it was all related to the drainage and safety issues. She then stated that she had undergone three vandalisms since the first hearing. Chairman Russo said that was not relevant and should be a police issue. Ms. LeBlanc said the Lashuas should do it the right way, as she had done. She then said she was going to leave it to the Planning Board at this point.

Selectman Massey noted that Ms. LeBlanc had supplied two photos but it was not clear where they came from or what the date was. He asked if she were testifying that the photo marked 1998 was from the Town files. Ms. LeBlanc said the Road Agent had supplied that and had said it was 1998. She also testified that the other photo came from the Town's 2004 database. Ms. LeBlanc said it was necessary to determine if there were a second cutaway in 1982, saying the Board did not have evidence to that, and the driveway called a second driveway might have come off the first one. She then concluded by stating that all of the abutters were willing to live with whatever the Planning Board decided.

Chairman Russo asked if any Board members had any specific questions to what Ms. LeBlanc had presented. He then noted that she had presented testimony concerning HTC 193, saying he was not certain that pertained to water runoff running onto her property. Ms. LeBlanc asked if it would pertain if the land had been flattened; she then noted that she and her neighbors had not seen the photographs that the Lashuas had passed around, and she asked if there were something on those photographs showing those pictures had been taken at that location or when they were taken.

Chairman Russo asked how the Board members wished to move forward, and he then declared the matter before the Board.

Selectman Maddox moved that the Planning Board inform the owner of the property at 12 Hartson circle (Map 154/Lot 015) to comply with the requirements with the Planning Board driveway regulations, Chapter 193, to eliminate one of the two driveways on his lot or to submit a request for a permit for a second driveway. Mr. Carroll seconded the motion.

Mr. Schneiderman asked if Selectman Maddox would consider amending his motion to specify which of the two driveways. Selectman Maddox said he was just putting something on the table, so the Board could move forward. Selectman Maddox then modified his motion by removing the latter clause, so that the motion would read that the Planning Board inform the owner of the property at 12 Hartson circle (Map 154/Lot

015) to comply with the requirements with the Planning Board driveway regulations, Chapter 193. Mr. Carroll reaffirmed his second, making it a friendly amendment.

Speaking on his motion, Selectman Maddox said the Board had heard a lot of testimony, with a good portion of it not pertaining to the second driveway, which was the only thing he wanted to focus on this evening. He said there was nothing that convinced him that there was a grandfathered second driveway on that property in 1982. He said the applicant should comply with the regulations, either by removing the driveway or by coming in and apply for a second driveway, but that should be the applicant's decision. He then noted that government moved slowly. If other members wanted to add onto the motion, Selectman Maddox said, he would be open.

Mr. Carroll spoke on his second, saying nothing had convinced him that there was a second driveway in 1982, and he would like the motion to stay as it was, saying Mr. Lashua could do anything he wanted after the Board voted on this, but the Board would be recommending the applicant's course of action if anything were added.

Chairman Russo said he thought the motion was in the right direction but needed to be a little more clear. He said someone had to make a determination, and it was either the Planning Board or the Town Engineer, and the Town Engineer had not been able to make that decision.

Selectman Maddox said he would add that the Planning Board did not believe the driveway in the southeast corner was in place in 1982.

Town Planner Cashell said the acting Town Engineer did not have the authority to make a decision if the driveway put in by an applicant did not meet the technical construction standards of the Town, in which case the property owner had to apply for a waiver from the Planning Board.

Selectman Massey suggested that the revised wording should be as follows: "The Planning Board has determined that no credible evidence has been submitted that the driveway on the southerly side of Map; 154, Lot 15, was in existence prior to January 20, 1982; therefore, I move that the Planning Board inform the owner of the property at 12 Hartson circle (Map 154/Lot 015) to comply with the requirements with the Planning Board driveway regulations, Chapter 193." Selectman Maddox expressed agreement with this wording, and Acting Secretary Barnes read it aloud for the Board.

Mr. Malley said he did not feel that there was any credible evidence that any driveway existed prior to January 20, 1982. Chairman Russo said what the Board did know was that the applicant could only have one driveway.

Mr. Carroll said the Board was talking about a second driveway, but he did not find that the second driveway existed as a qualified driveway. Mr. Carroll again confirmed that he agreed with the modified motion, making it a friendly amendment.

Mr. Barnes said he would vote in favor of the motion, saying the evidence most important to him were the photos identified as 1998 and 2004, which did not show a driveway in that location.

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**VOTE:** Chairman Russo called for a hand vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (6 -0).

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

Chairman Russo noted that the minutes for the July 8, 2009, meeting had been provided in tonight's packet; he asked the Board members to be prepared to review those minutes, as well as two others that had been previously distributed, at the next meeting.

**XIII. OTHER BUSINESS.**

Selectman Maddox noted that the bulletin for the Law Lecture Series did not indicate the location. Town Planner Cashell said he was waiting for the actual notification. Mr. Barnes said he thought it was posted on the Local Government Center's Website.

Chairman Russo noted that there had been discussion about the new amendment to the law about waivers, as well as the law cited by Mr. Maynard that approval was good for three years. Selectman Maddox said this should be a workshop item. Chairman Russo expressed agreement. Town Planner Cashell said the next workshop would be September 2<sup>nd</sup>. Mr. Carroll suggested that a legal opinion on that matter should be obtained. Selectman Maddox concurred, saying Town Planner Cashell should request the Town Attorney to provide a written document telling the Board what to do.

**XIV. ADJOURNMENT**

All scheduled items having been addressed, Mr. Barnes moved to adjourn; Mr. Carroll 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 9:59 p.m.

Date: August 21, 2009  
J. Bradford Seabury, Recorder

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

These minutes were accepted as submitted following review at the 09-09-09 Planning Board meeting.

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James Barnes, Acting Secretary