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**HUDSON PLANNING BOARD
MEETING MINUTES
April 8, 2009**

I. CALL TO ORDER

Chairman Russo called this Planning Board meeting to order at 7: 02 p.m. on Wednesday, April 8, 2009, in the Community Development meeting room in the Hudson Town Hall basement.

II. PLEDGE OF ALLEGIANCE

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

III. ROLL CALL

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

Members

Present: James Barnes, Tierney Chadwick, George Hall, Vincent Russo, Terry Stewart, Richard Maddox (Selectmen's Representative), and Suellen Quinlan (arrived at 8:01 p.m.).

Members

Absent: None. (All present.)

Alternates

Present: Brion Carroll, Stuart Schneiderman, Timothy Malley, 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 Ms. Quinlan, who had not yet arrived.

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V. MINUTES OF PREVIOUS MEETING(S)

Chairman Russo stated that there were no minutes ready for review at this time.

VI. CORRESPONDENCE

Chairman Russo noted that items of correspondence received in tonight's handouts would be taken up in conjunction with the associated cases, with any remaining items being taken up under **Other Business** at the end of the meeting.

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

XI. OLD BUSINESS

- A. Tip Top Tree Service (Existing Conditions) Map 161/Lot 48-1
SP# 05-08 6 Clement Road**

Purpose of plan: Site Plan Review, relative to wholesale distribution of bark mulch products. Hearing. Deferred Date Specific from the 03-11-09 Planning Board Meeting.

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

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

Mr. David Buhlman, representing the applicants, distributed large -size copies of the highlighted plans to members of the Board. He identified the plan on the wall as being **6 Clement Road**, dated August 20, 2008 , last revised on 02 -18-09 (Rev 4), and then noted details of the site on that plan, stating that all lot -size and setback requirements had been met. He noted a berm (10 feet wide, 2 feet high) had been placed around the

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back of the property, as suggested by the Town Planner for filtering processes and retardation of runoff. He said a fence would be erected and locked to protect the property, adding that 22 trees had already been planted to provide buffering, with a 35-foot wide green area along the front of the site. He noted that particulars were highlighted in blue and orange on the plan, as developed in meetings with the Town's civil engineer, and he then discussed those, as follows:

- (1) A 5-foot-wide apron had been added to protect the road, a 50-foot-long, 10-foot wide access.
- (2) A 50-foot long by 10-foot wide stabilized entrance, graveled, to prevent deleterious material from being dragged onto Clement Road.
- (3) Some silt fencing for stabilization at the rear, with hydro seeding.
- (3) Employee parking (three spots) at the rear side of the site (with a portion of the wall needing to be removed to accommodate the parking).
- (4) He noted that some woodchips were dyed in different colors to satisfy the clients' desires, saying he had some backup material to show that some of these dying materials had no environmental impact.
- (5) A path was shown down the Lavoie property to a location opposite the driveway of the main property (1 Clement Road), to be used by employees needing to use toilet facilities at the residential home on the main property.

Mr. Buhlman noted that the two properties were owned by the same people, adding that installation of a porta-potty would cost \$48,000 because of a betterment requirement of the Water Utility. He said these were young people who did not need to use the toilet very often.

Chairman Russo opened the meeting for public input and comment, in favor or opposition.

Mr. Richard Maynard, Professional Engineer, of Maynard & Paquette, Engineering Associates, LLC, appearing before the Board as the engineering representative of Mr. Wallace, an abutter, said there was supposed to be a 15-foot setback, and the row of evergreens, which he described as somewhat sparse, was only ten feet behind the lot line, and he suggested that the existing trees be left in place to increase the buffering. He then asked what would happen if the sanitary accommodations were violated, questioning what the penalties would be, expressing a belief that it would be inevitable, and questioning how workmen who would be coming and going on the site would know about the accommodations. He said he felt the comment in the notes about avoiding the betterment was inappropriate. Referring to the hours of operation, he questioned why a full day was provided on Saturday, saying the woodcutting operation should be in the middle of the day. Ms. Chadwick pointed out that a note on the revised plan covered this.

Mr. Buhlman said the only people being talked about were Mr. Cormier and two employees, saying there would be no problem with people coming onto the property. He said the small trees would grow to a height of 30 feet.

Atty. James Troisi, of Salem, representing the Cormiers, said the Cormiers had purchased the property in July of 2005, represented by his firm in that sale. Referring to the betterment, he read the associated text, saying it pertained to waste water and there was no intent to have that on the property. He said there had never been complaints registered at the use of the property, saying there were only up to three truck trips a day. He said this was a small family business that seemed to be caught in a back-and-forth controversy between different agencies of the town. He said the wood-chipping occurred only up to a maximum of 60 hours per year. He stated that the biggest need was common sense, saying a fully adequate toilet facility was less than 100 yards away. Saying the owners had done everything asked to be done by CLD (Costello, Lomasney, and deNapoli, Inc., the Board's engineering consultants), he said it was the purview of the Planning Board as to whether there had to be a porta-potty on the property, and he would challenge the reading of the betterment requirement, adding that the lots had been joined so that they could not operate if separated. He asked that the Board make the right decision for the citizens and decide this in their favor.

Referring to the minutes of past meetings, Atty. Troisi said everything had been going well until last November, when Mrs. Cormier was asked by Selectman Massey if they were aware of the liability if a sewer were ever connected, after which Ms. McGrath had asked if the Cormiers would accept a porta-potty, which had led to what he called "a wild ride." He reviewed minutes of Board of Selectmen and Sewer Utility Committee meetings, noting that the latter had allowed the use of the property to store materials, with the provision that the use of the property would prohibit the disposal of waste water on the property. He then quoted other minutes of later meetings, saying it had been reiterated that no toilet facility was required.

Referring to the last Board of Selectmen meeting on this matter (01-13-09), he quoted Selectman Jasper as having said a porta-potty was not required and that this would be an unnecessary expense to the owner. If a higher or more intense use later occurred on the property, he said, the Planning Board knew it could then require better facilities and trigger the betterment. At the last meeting of this Planning Board, he noted, Selectman Massey had said the path would be sufficient and Mr. Russo had said he could not understand why a porta-potty was needed or why it would trigger the betterment fee. He said the properties were joined together, so they had sanitation facilities.

Mr. J. Bradford Seabury, speaking as a member of the Zoning Board of Adjustment, said he did not know what was meant by the attorney's statement that the two properties had been put together; he noted that there had been questions raised at the previous meetings about off-site parking for the employees, stating that his reading of the Zoning Ordinance was that parking had to be provided on the property on which the use was taking place. Mr. Buhlman said there was now employee parking on the site on the revised plan.

No one else coming forward to provide input for or against, Chairman Russo closed the public hearing and asked if any members of the Board had any questions.

Selectman Maddox said the attorney may have missed that the Cormiers purchased the property with a continuing escalating cost on the betterment issue, so that all they

had to do was apply the interest. Once it left this Planning Board, he said, it would be up to Town staff to enforce sanitation codes and other issues, and violations would be dealt with in the normal manner. He concluded by saying that it would be neighborly to make the wood-chipping operation on Monday through Friday, April through October, and not do wood-chipping on Saturday, if they were only doing 60 hours a year.

Mr. Hall said he was a little disappointed by the suggestion that any condition that the Planning Board might put on approval of the plan was somehow punitive. If the property had gone through the normal process of getting site plan approval before the use commenced, he said, the applicant would have known what the costs would be before he purchased the property. He said what the Planning Board was being asked was to approve an operation as it was because any condition applied would cost more money and that this was punitive —saying he took exception to that. He then asked to be shown the justifications for the waiver requests; Town Planner Cashell provided copies to Mr. Hall.

Selectman Maddox said he wanted to clarify that the original betterment of \$72,000 had been reduced by the Board of Selectmen; he then expressed a belief that “storage of materials and equipment,” which was how the use had been described to the Board of Selectmen, was a lot different from the operation now being proposed.

Mr. Carroll questioned the meaning of waste water disposal, comparing a bucket of water against a porta-potty. If there is a \$48,000 fee, he asked, why would it be applied? He then spoke in favor of allowing a porta-potty, saying it made more sense to him.

Ms. Chadwick asked if Mr. Maynard could say whether his client had a preference for a porta-potty, saying she thought his client had said he would be satisfied with the path. Mr. Maynard said his client's house overlooked the site, and the preference would be a porta-potty, because he did not believe everyone would always walk elsewhere. Ms. Chadwick said she felt it was going to come down to whether the Planning Board wanted to encourage the Cormiers to put a porta-potty on the site, adding that she did not feel it was necessary and that she felt this few number of employees could be trusted to do as they were told, and she would take the Cormiers at their word that they would enforce it.

Selectman Maddox said a sewer betterment in that area put all of the lots under the betterment district, and the money just kept accumulating, adding that a letter from the Town Attorney had stated that a porta-potty would trigger the betterment. He said this site was not an industrial site, in his mind, but violation by truck drivers would trigger the betterment. Selectman Maddox then moved that the Planning Board not require a porta-potty on this site. Ms. Chadwick seconded the motion.

Mr. Carroll asked why this motion was being made, asking if the plan would have to be changed. Ms. Chadwick said the plan as it existed was correct, showing a path to the main property.

VOTE: Chairman Russo then called for a hand vote on the motion.
All members present voted in favor except for Mr. Hall, Mr.

Carroll, and Mr. Russo, who all voted in opposition, and Chairman Russo declared the motion to have carried (4 -3).

Mr. Hall said he had issues with the waivers, Referring to the request for a waiver of the drainage study requirement, he noted that the applicant had purchased a lot for which a house had been presumed, saying the mounds of dirt on the property meant that there were virtually no controls against flow and there would be significant erosion, with heavy trucks and equipment constantly moving around on the site, which would continually churn up the earth, with no provisions for stormwater management on the site.

Referring to the noise waiver request, he said that the claimed justification was that no more noise than other sites would be made, which he did not think sufficient.

Referring to the request for a waiver of the 100 -foot setback from a residential use, he said he saw no indications that the applicant had done anything to mitigate that condition.

Mr. Schneiderman asked Town Planner Cashell what the scope of the traffic study would be. Mr. Cashell said the scope would be for the property owners to hire a traffic engineer to conduct a study of existing conditions. Mr. Schneiderman asked if this would pertain to all of the traffic on Clement Road. Mr. Cashell answered in the affirmative.

Mr. Buhlman said the justification for the 100 -foot buffer had been submitted separately and might not be in the package reviewed by Mr. Hall. Mr. Hall asked what was being done to mitigate the 100 -foot buffer requirement, saying the Board normally looked for a fence, a wall, etc. Mr. Buhlman said he felt the natural conditions would suffice.

Selectman Maddox said the second paragraph on the right-hand side should be removed, since, as Mr. Maynard had suggested, this really was not the Planning Board's purview.

Selectman Maddox then suggested adding a Note 17, saying that no CAP fees were being assessed because no structures were being proposed.

Ms. Quinlan arrived 8:01 and took her regular seat at the table, although not recognized by the Chairman for the inprocess hearing.

Selectman Maddox said he thought there should be something in the notes about the trees.

Selectman Maddox asked if the applicant would eliminate the Saturday hours.

Mr. Buhlman said he thought removal of the second paragraph was a good idea.

Mrs. Cormier said the only time they made mulch was from January up to June, adding that it had to be done when the weather was cold, and they had to take advantage of the weather. Selectman Maddox said he could not see why Saturdays could not be skipped if it were only done for 60 hours per year. Mrs. Cormier said she

respected her neighbors across the street and had agreed to wait until 10:00 a.m. Mr. Cormier then stated that they would accept May through October, with no Saturdays.

Mr. Buhlman said he saw no problem with planting more trees; the Cormiers expressed agreement. Chairman Russo suggested putting them at the 50-foot setback line; Mr. Buhlman said it would make more sense to put them at the existing line of established trees. Mr. Maynard interjected that the 35-foot setback line would be appropriate.

Mr. Carroll noted that Note 9 said no parking was proposed; he suggested that this should be removed, since employee parking was now proposed. Mr. Buhlman said it would be changed to say that there was only employee parking on the site.

Mr. Schneiderman referred to the dye used on the wood chips, asking if Mr. Buhlman had the safety data. Mr. Buhlman provided him with a copy of the specifications and provided other copies to those who wanted them.

Ms. Chadwick said she assumed that Mr. Hall did not have objections to the other waiver requests. Mr. Hall concurred.

Ms. Chadwick moved to grant the waivers for the following site plan requirements:

1. HTC §275-9 B - *Traffic Study*
2. HTC §275-9 D - *Fiscal Impact Study*
3. HTC §275-9 H - *High Intensity Soil Survey (HISS)*
4. HTC §275-8 B (26) - *Parking Calculations*

Mr. Barnes seconded the motion.

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

Selectman Maddox moved to grant the request for a waiver of HTC §275-12, *100-foot Distance*. Ms. Chadwick seconded the motion.

Speaking on his motion, Selectman Maddox pointed out that there was no building being constructed, noting that this was an industrial zone and there would be buffering at the front.

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

Mr. Maynard asked if that assumed the trees would be provided, Selectman Maddox said it would be a stipulation. Mr. Maynard said he wanted it in the record.

Ms. Chadwick moved to grant the request for a waiver of HTC §275-9 B. *Noise Study*, saying this was not a typical residential neighborhood and the Board had heard from the immediate abutter (the La Voies) that there was no problem. Mr. Barnes seconded the motion.

Mr. Hall said the zoning ordinances were not designed to apply to specific individuals, including future property owners, and he expressed a belief that the Planning Board had an obligation to protect all property owners. He said he would vote in favor, however, because the Town did have a noise ordinance.

Ms. Stewart said she would disagree with Mr. Hall's statement, as her main concern was the people owning property adjoining the site, and future purchasers should know the existing conditions.

Ms. Chadwick said she felt the noise situation seemed already to have been a negotiated deal, noting that people kept their windows down in the winter, as Mrs. Cormier had previously stated.

Selectman Maddox said he would vote for it, but simply because there was testimony that it was only 60 hours a year, with less impact negotiated for the weekend.

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

Mr. Buhlman asked if all waivers had been approved. Ms. Chadwick answered in the negative, saying the drainage waiver request remained.

Ms. Chadwick said she wanted to see the final version of the notes before the plan was approved. Town Planner Cashell noted that the drainage situation had to be dealt with; he then suggested having Mr. Buhlman go over the drainage issue.

Mr. Buhlman said he thought Mr. Hall had been referring to work that had been done before the Cormiers had purchased the property. He said there was no increase in impervious material, and he argued that there was no basis in the manuals that anything going on on the site would require a drainage study. Noting that CLD had not commented on the need for a drainage study, he said there was no change in grading and it would remain the same as when the Cormiers had purchased it. He said a drainage study would cost another \$4,000, and he suggested that it was unnecessary and had no engineering basis.

Mr. Hall said the CLD letter of October 14th was the last he had received, which noted that a drainage study had not been provided and that the applicant had requested a waiver. He said it was not just a study that was involved, when there were all kinds of industrial activity on the site, adding that the Board needed to know what the characteristics were.

Town Planner Cashell noted that CLD had provided a later letter, noting that the site had been prepared as a house lot before the Cormiers purchased the property. He said what the Cormiers were doing was a bunch of wood products, noting that Acting

Town Engineer Webster had been examining the use of the site and had come up with a wood-chip berm, which was now shown on the site —noting that there would be a steady supply of woodchips. He said this site had pervious materials (wood, woodchips, etc.), and the concern of Mr. Webster and CLD had been the slope at the rear of the property. Mr. Buhlman said the berm was placed on top of the slope, in lieu of hay bales, adding that the back was being hydroseeded and all the water would be filtered by the berm. Mr. Buhlman said he could not establish what was done before the Cormiers purchased the property, so there was no “pre-“ and “post-“ conditions involved, adding that the “pre -“ was what Hayner/Swanson, Inc., had provided for the house lot and the “post -“ was what was in front of the Board, unchanged.

Mr. Hall said he would like to see what CLD had for comments in the drainage and stormwater management category. Mr. Buhlman said the berm had been put up at the back of the site, as described by Mr. Cashell and himself. Mr. Hall said he saw no comments regarding drainage study, drainage design, or stormwater management — adding that the comments about erosion control impacts had nothing to do with drainage design or drainage study. Mr. Buhlman said erosion control and drainage went together.

Mr. Hall said he did not agree, saying the “pre-“ was the woods that had been on the site, adding that there was a formula for calculating pre-condition and post-condition runoff differences. He said it was not the case that CLD had said there was no need for a drainage design. Mr. Buhlman expressed a belief that CLD would have suggested drainage if they felt there were a need.

Mr. Carroll said he agreed with Mr. Hall that there was a difference in how waterflow moved when trees were gone. He suggested that rainwater would enter the berm and freeze and that the following rainwater would follow the frozen berm and then go down the driveway and across the road. He said he wanted to know where the water would go if the berm froze, so he would like to see a real analysis by CLD.

Town Planner Cashe II passed around photographs of the site, noting that the site plans had been reviewed by CLD four times, and the only comment was that the applicant was requesting a waiver. Mr. Carroll said he was talking about stormwater management, which he did not think was occurring. Mr. Cashell said there was sheetflow on Clement Road right now, and the applicant was proposing a driveway — adding that the driveway was being impacted by the waterflow down the side of Clement Road. He said the wood chips all over the site would swallow up any flow of storm water. He said this site had been before the Board three or four times over the past two years, and he questioned why it should now become a major issue.

Mr. Hall said he felt Mr. Cashell was crossing the line with his comments. He then read aloud from the latest CLD letter, dated December 29th: “The applicant has stated that no changes have occurred to this rear slope for many years, with no sloughing or deterioration. As it was a Town representative who noted a concern with the slope stability and suggested that it be highlighted as part of the erosion comment, the Town should review the condition of the slope to be sure they are satisfied. The applicant has stated that notes have been added to the plan to indicate the safety of the proposed dye and the ease of handling if any spill might occur. We note that a copy of

the plan was not received as part of the package for review. We continue to recommend that a containment area and spill plan be created for the site.”

Town Planner Cashell said Mr. Buhlman had been working with Town staff on that. Mr. Buhlman expressed agreement, saying a berm had been put up, with the hydroseed, as the Acting Town Engineer had a concern about that. If anything happened to the berm, he said, Mr. Cormier, who was an expert, would fix it right away. He said he had selected the hydroseed at the advice of CLD.

Town Planner Cashell said the Town had been handling this for two years, and he declared that not one aspect had been placed aside. He then suggested that the plan be deferred so that everything could be put together.

Ms. Chadwick asked if Mr. Hall would feel better if the Board sent a letter to CLD asking for a statement about a drainage study, and if CLD sent a letter back saying that a drainage study was not necessary on this site. Mr. Hall said he thought that would be a waste of time, saying the study would not accomplish anything but that part of the study would be to show what the runoff characteristics were and what was being done to mitigate them. Ms. Chadwick asked if Mr. Hall were not satisfied with what was proposed; Mr. Hall expressed agreement.

Chairman Russo said he felt a big concern was the instability of the ground being worked on, with the ground constantly being interrupted. He said the drainage characteristics would change, adding that this was an unusual site. He said the erosion issues around the perimeter were being taken care of, but he was not convinced that the area on which the business would be working was stabilized enough that the board should not be concerned with drainage.

Selectman Massey asked if this would be considered the “pre-”: if another owner came in with a new plan in 10 or 15 years—saying he was concerned about setting up another future board. Mr. Hall said there was not a simple answer, as it depended on what was being done. Normally, Mr. Hall said, “pre-“ and “post-“ referred to a natural site about to be disturbed, with a need to show that runoff was being mitigated. He said this was a disturbed site, and he had a problem.

Ms. Chadwick asked if the Board could alleviate this problem if there were a gravel surface. Mr. Hall said he had dealt with multiple stormwater plans for many sites and there had to be a way of showing how the runoff was being dealt with. He noted that everyone else who came before the Board had to jump through hoops when they developed a site, but the Board was being told that this applicant should not have to do it because it would cost money—adding that he had a problem with that concept.

Town Planner Cashell noted that the Board could move to require a drainage study.

Ms. Quinlan noted that the other Board members looked to Mr. Hall for engineering advice; she then asked what Mr. Hall wanted the applicants to do, if they were not going to be doing any construction or paving. Mr. Hall said he believed the applicants should do what was stated in the last sentence in the CLD comments: “We continue to recommend that a containment area and spill plan be created for the site”—and that CLD should approve it.

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Ms. Quinlan then stated that, if she were currently a voting person, she would move to adjourn for that purpose.

Town Planner Cashell suggested that someone make a motion to deny the waiver request, to see where it would go.

Chairman Russo said the Board needed to make a decision.

Mr. Carroll said he would rather solicit, as a Planning Board to CLD, to determine whether CLD felt that they should have that study, referring to a catch basin. Mr. Buhlman said that had nothing to do with drainage. Mr. Carroll said CLD had asked that the Board ask that such a plan be developed. Town Planner Cashell said that had already been addressed and was already on the plan. Mr. Carroll suggested that the Board should get CLD to confirm that the suggestion was no longer necessary.

Mr. Barnes said he was torn, as he was hearing that CLD had requested something, and Town staff was saying it had been addressed and met what Town staff understood CLD was asking for. He then stated that he thought that what had been proposed was adequate, and he was prepared to move to waive the drainage study.

Mr. Carroll proposed that the Planning Board solicit CLD to review the plan and confirm that the study mentioned in the letter of December 29th was no longer required. He then moved that CLD be requested by the Planning Board to review the plan for 6 Clement Road and to determine if their December 29th comment about a containment area and spoil plan has been sufficiently addressed by the current site plan.

Mr. Hall said the study would give CLD the numbers that firm would use to determine if the treatment was adequate. He said the request being made by Mr. Carroll would be asking CLD to come up with the numbers. He said the applicant was claiming that was only for the dye, but he did not believe that.

Mr. Hall then seconded Mr. Carroll's motion.

Selectman Maddox said he thought draft stipulation 5, that the plan would be subject to Engineering approval, would cover that. He predicted that CLD would say "Yes" if asked if they should conduct a study.

Town Planner Cashell said he wanted everyone to understand that the previous owner had cut down all the trees, and the Cormiers had not done anything; he noted that the Board did not require a drainage study for a house lot. He said Town staff had reviewed this glorified house lot a number of times.

Mr. Carroll said his motion was simply asking CLD to say whether they thought what they had requested had been done.

Selectman Maddox said the Planning Board regularly is told that one thing would be done and then something else was done. He said he did not know what asking CLD would accomplish, other than to have CLD again tell the Board what it had already told the Board. He then stated that the Planning Board had to make a decision.

Selectman Massey expressed a desire to have the Chairman poll the voting Board members to determine if they would be saying they would vote favorably to the waiver,

if CLD came back with a letter saying everything had been done—saying nothing would be accomplished if that were still on the table after this motion were voted .

Mr. Carroll said his answer would be “ Yes,” as the rest was white noise if CLD affirmed they were satisfied.

Chairman Russo requested the Secretary to read the motion aloud, which she did. Chairman Russo then called for a hand vote on the motion.

VOTE: Mr. Hall, Mr. Carroll, and Mr. Russo voted in favor; Selectman Maddox, Mr. Barnes, Ms. Chadwick, and Ms. Stewart voted in opposition . Chairman Russo then declared the motion to have failed (3-4).

Mr. Barnes moved to approve the request for a waiver of the drainage study. Ms. Chadwick seconded the motion.

Selectman Maddox said this plan would be subject to final engineering approval, so he would be voting in favor.

Mr. Schneiderman stated that he understood the Board had been mulling this for a number of years. Noting that when he came on the Board the Board had talked about porta-potties for two hours and now had talked for two hours about drainage. If the Board wanted to have balanced growth in this town, he said, the Board had to make a decision and had to make it timely, and had to stop dragging people in here. He then expressed a hope that the Board could approve this plan, saying these people just wanted to go to work.

VOTE: Chairman Russo then called for a verbal vote on the motion. All members present voted in favor except for Mr. Hall, Mr. Carroll, and Mr. Russo, who all voted in opposition, and Chairman Russo declared the motion to have carried (4–3).

Ms. Chadwick suggested that the board defer this matter so that the plan would come back with the notes corrected. Chairman Russo took this as a motion . Town Planner Cashell suggested the May 22nd meeting, saying this would not hinder the applicants’ business practices, as they were operating now . Chairman Russo noted that the applicant’s attorney was asking to speak, and he asked if someone would like to recognize him; Ms. Chadwick offered to do so. Atty. Troisi said it was common practice in other towns to request that a plan be approved conditionally, with those notes to be reviewed by the Chairman and the Town Planner, saying it would be a matter of record and would expedite the process, so that they would not have to come back again .

Ms. Chadwick reiterated her motion to defer, saying she would take the May 6, 2009, workshop meeting, following the sign issue. Mr. Barnes seconded the motion.

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

Selectman Massey said the fact was that the Board was not talking about a proposed use, but about a use that was not on the site plan. He pointed out that the business was continuing and would continue until the site plan was approved, and they were not restricted from using the property, even though they did not have an approved site plan.

Mr. Buhlman asked if they could be first on the May 6th agenda. Town Planner Cashell responded in the negative, saying approval of the plan was still not cut and dried.

Chairman Russo declared a break at 9:05 p.m., calling the meeting back to order at 9:20 p.m.

Chairman Russo noted that Ms. Quinlan would be seated from this point on, with Mr. Carroll returning to his nonvoting alternate position.

**B. Derry Street Professional Building Map 174/Lot 23
(Amended Plan) SP# 15-08 26 Derry Street**

Purpose of plan: To amend the previously approved plan, HCRD #35723, to include: Existing white fence, exterior lighting, and additional parking along rear. Hearing. Deferred Date Specific from the 03-11-09 Planning Board Meeting.

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

Mr. Barnes stepped down, noting that he had stepped down from previous hearings for this plan. Chairman Russo seated Mr. Malley in Mr. Barnes's place.

Mr. Richard Maynard, Professional Engineer, of Maynard & Paquette, Engineering Associates, LLC, appearing before the Board as the engineering representative of the applicant, said the tall light standards had been removed and were no longer part of the plan. Of the remaining lights, he said, the offending lights were the clear bulbs (100 watts), adding that the wattage would be reduced and frosted bulbs would be used. He said there was also a security light over the back door which needed to be hooded, but was not. In the front, he said, frosted bulbs in the range from 30 to 40 watts did not glare, so all would be made 40 watts or less and frosted. He said a note had been added saying the security lights would be turned off by 8:00 p.m. o'clock, adding that this did not refer to the sign, which did not glare. With the notes added to the plan regarding the wattage, he said, he suggested that the plan was ready for approval.

Chairman Russo opened the meeting for public input in favor.

Atty. Jeffrey Zall, representing the applicant, noted that Ms. Stewart had requested an estimate from Gate City Fence for the fence; he gave a figure of \$14,575, noting that the first estimate had been \$15,000 from Penny Fence for a white Chesterfield fence. He said a colored fence would be 10% more. He submitted that asking the applicant to remove the existing fence did not make sense.

Ms. Padellaro, the doctor's office manager, said the fence was one of the better ones in the neighborhood, saying no one had problem with it except for one neighbor whose own fence was dilapidated and she did not understand why the owner was being given a hard time about the fence. She said 25-watt bulbs had been selected, and they would be off by eight o'clock at night.

Chairman Russo declared the matter before the Board and asked if any members of the Board had any questions.

Town Planner Cashell noted a letter had been received from an abutter.

Selectman Maddox said there was a difference between wattage on the drawing, which said 20 watts. Selectman Maddox then reported that he had received a quote for fencing from a television viewer of the prior meeting, from Lowe's Home Improvement store, for \$3,055. He noted that the letter from an abutter was from someone who could not attend the meeting because of a medical condition.

Mr. Carroll referenced that letter, asking if there had been a request in the original plan that the fence be of a natural color, saying he did not recall any discussion of the makeup. Town Planner Cashell said this issue came up because the immediate abutter had requested anything other than white, saying earth tones were requested but not natural wood.

Mr. Hall said he thought the issue was about what was discussed and what the applicant had agreed to do. He said it should not be a big deal, but the applicant had agreed to have something other than white and had said there would not be any outside lighting. He said his suggestion, when the Board had requested that the triple-light poles be removed, was that the bulbs would be removed, but now they wanted smaller bulbs, and he questioned how that would be enforced. He said it was a matter of what was agreed to when the matter was heard the first time.

Mr. Maynard said there was a need for lights for life-safety. He said the high-powered lights and 25-foot-high standards were gone, and it had been suggested to reduce the 100-watt lights on the other standards to 20 watts to provide light for people coming and going. He said the people turned off the lights when the office closed, and minimal lighting was required, as it would be unsafe to operate the site without any lighting.

Ms. Stewart said she agreed with Mr. Hall and Selectman Maddox, in that the applicant had agreed and had not done it, which was wrong, saying this was the bottom line. She asked what the hours of operation were. Dr. Rabeh Ebeed, the applicant, said the hours were eight to six o'clock on Monday and Tuesday, from eight to five o'clock on Wednesday and Thursday, and from eight to one, sometimes until two o'clock, on Friday. Ms. Stewart said there was no need for lights after 7:00 p.m. on any day. Dr. Ebeed concurred.

Ms. Stewart referenced the barrel next to the dumpster, with a red sticker on it. Dr. Ebeed said it was for the cleaning of the land, with samples being taken every three months, adding that he had nothing to do with that. Atty. Zall said it was part of the remediation process from the preceding owner. Ms. Stewart asked if the barrel were secure. Dr. Ebeed said he did not know. Ms. Stewart expressed concern about medical waste; Dr. Ebeed said he did not have any medical waste at all.

Atty. Zall said he recognized that at the initial hearings there had been a request for something other than white, and Dr. Ebeed had agreed. He said it did not get on the plan, but he recognized it as a condition of approval, but Dr. Ebeed had not realized that it was a condition of approval. He said what the applicant was asking was that the Board approve an amendment of the plan, to amend that condition of approval. He said the request was reasonable, given that the fence looked good and fit in with others in the neighborhood, adding that the person who had made the request, whom he identified as Mr. Tom Donahue, liked it and had submitted a letter saying he wanted it to remain, so he felt it was reasonable to ask the Planning Board to let the white fence remain. Ms. Chadwick said there were other people who felt that what they were supposed to get, as represented by the doctor, was not what they got, noting that she had heard Atty. Zall say at two meetings that it was just Mr. Donahue, but it was a fact that others had felt the same way. Atty. Zall said he understood that, but the representation that had been made by Dr. Ebeed had been specifically to Tom Donahue. Ms. Chadwick said her point was that it was not just Mr. Donahue who had expressed concern, and now there was a bunch of people who were writing to and calling members of the Planning Board to express their displeasure that something that was agreed to, and which they had understood was going to be in the final plan, is not in fact the final plan, and Atty. Zall was now asking the Board members to tell those people they would have to live with it. She then stated that she did not understand why it was "reasonable" for the Board to disregard what the applicant had agreed to, when the applicant had given no reason other than that it was an aggravation to him.

Atty. Zall said his argument was that the fence fit in fine with the neighborhood, looked good, and it would be an unnecessary expense to rip it down and put in a differently colored fence. Ms. Chadwick said she hated to tell abutters who relied on what had been promised that the fence was now okay, noting that she did not live there and did not have to live with the fence. Dr. Ebeed said he had submitted a petition signed by many residents that they wanted the white fence.

Atty. Zall said he felt the original request had been unreasonable, as the fence, right now, fit in with the neighborhood and looked good.

Mr. Carroll said he would consider what the attorney had just said not factual in any way, as the applicant had stood there and said "Yes, I will" to various things, and that was a commitment to the Board, which had trusted his statements. He said the applicant could have said "No," but he did not. He then asked Town Planner Cashell if there were anything that said it would not be a white fence. Mr. Cashell said there was a statement in the minutes.

Mr. Malley said he felt the 20-watt bulb could be replaced by 100-watt bulbs after the plan was approved, saying he did not see that as a solution for the issue. Chairman

Russo said he thought the plan said frosted globes with low-wattage bulbs. Mr. Maynard said he thought it said "either/or." Selectman Maddox expressed disagreement, saying Mr. Maynard's plan said frosted globes with a maximum bulb wattage of 20 watts. Chairman Russo said those fixtures typically had designed wattages, so there was no changing it, but with these types of fixtures one could screw in any wattage up to the maximum; he said what some members of the Board were concerned about was that this would be a code enforcement issue forever and a day. He then referred to the fixture in the back, saying he saw nothing in the plans that said it was going to get a shield.

Mr. Maynard said there was a note somewhere that said all lights would be shielded. He said he had to get the plans in before he got to do the light inspection, but he had actually observed 25-watt bulbs in some lights, and 100-watt bulbs beside them, at eight o'clock at night, and he had observed that the 25-watt bulbs did not glare while the 100-watt bulbs did. He said it would be obvious if a 100-watt bulb were to be put in. He said the office manager had testified that 20-watt bulbs were more than adequate for their safety, and it would be an obvious violation if the wattage were increased.

Referring to the fixture in the back, he suggested that this be made a stipulation of the plan, saying the light just needed a shade.

Ms. Chadwick asked if there were a diagram that could be put on the plan. Mr. Maynard drew a figure on the blackboard, saying the bulb at the rear entrance protruded below the box; he said a square could be provided to shield that. He said a diagram was not needed, as it was just a simple stipulation. Ms. Chadwick pointed out that there had been a continuing issue with this applicant doing what had been requested.

Mr. Maynard showed a different diagram on the existing plan, saying it would be the same thing.

Mr. Hall said he hoped that Mr. Maynard had not been suggesting that lighting was not necessary, saying this was why more than one Board member had asked the applicant when he was before the Board the first time if lights were not needed. He said the Board would never have allowed the type of light fixture that was put in place — adding that lights were needed, but not that kind of fixture. Mr. Maynard said the fact was that some kind of lighting was needed. He said he agreed that it was overkill, but 20-watt bulbs would not shine beyond the site boundaries and would be in conformity with anyone's lighting regulations.

Selectman Maddox noted there was a fifth light on Leslie Street. He said there was also a light pole. Mr. Maynard said "No." Ms. Chadwick said it was shown on Mr. Maynard's plan. Mr. Maynard said there had to be a light 15 feet high in the parking lot.

Selectman Maddox suggested that, if the 15-foot light were on Derry Street, it would illuminate the entire parking lot. Mr. Maynard said it would not get to the front of the building, where there were only soffit lights under the eave. Selectman Maddox suggested blocking the lights with something blocking off the residential area. Mr. Maynard said it would be fine if the Board wanted to insist that the frosted part of the plan be followed through.

Chairman Russo said the Planning Board planned for the future, and would have to deal with the next person who purchased the property. If the Board started altering light fixtures by changing wattages; or if the manufacturer had listed frosted bulbs with that fixture, he continued, he would be okay, but this was not the way to fix the problem.

Selectman Massey asked if Mr. Maynard's applicant would agree that any violation would cause an immediate revocation if the Board allowed the fixtures to remain. Mr. Maynard said no applicant would agree to that. Selectman Massey said the Board was dealing with an applicant who had said he would do what was asked with the fence and that he did not need lights; Selectman Massey then said he did not want this to be a continuing enforcement issue, and he asked what commitment the applicant would make to ensure that there would be no future code violations.

Mr. Maynard said this applicant would make the same assurance that any other made. He said the lighting was a question of safety, and lighting was needed. He said the Board could not allow an unsafe site, and it was absurd that the applicant had been allowed to say he did not need it, adding that it was wrong for the applicant's first engineer to have let him say that. If they wanted to change the light bulb and ended up with an offending light, he said, that was the way it happened—adding that he often received calls and had to tell his clients to put the lights back the way they were supposed to be.

Ms. Stewart said she had been taught that when a person gave their word it meant something, but that apparently it did not mean anything in today's society. She said this Board had taken the applicant at his word, but he had then broken that trust and any assurance he might give could not be taken.

Selectman Maddox referenced Note 14, noting that the plan instead showed compact fluorescent bulbs, which threw a lot more light. Mr. Maynard said he had showed what was in there at the time, saying the note counted, and it had to be 20 watts incandescent, contending that it would be okay if Dr. Ebeed found a fluorescent that was equivalent. Members of the Board indicated disagreement.

Ms. Chadwick referenced Note 14, saying the total number should be five. Selectman Maddox said the note was talking about the three fixtures on the light.

Mr. Malley said he could buy an 8-watt fluorescent light bulb that would put out 60 watts of incandescent light. Mr. Maynard said the equivalency was stated on the bulbs. Mr. Malley said the majority of the lighting fell at the stairs, not across the lot—adding that he found it difficult to believe that the lights were in agreement with the life safety code for the site. Mr. Malley then asked how many foot-candles he needed. Mr. Maynard suggested that he only needed two foot-candles.

Selectman Maddox suggested 20-watt incandescent bulbs needed to be put in one of the lights for three nights next week, so that Board members could go see what it looked like, and the neighbors could see what it would look like.

Chairman Russo said bigger plans had real lighting plans, identifying lumens. Mr. Maynard said those were provided. Mr. Hall asked what it was based on; Mr. Maynard responded that it was based on the manufacturer's specifications. Mr. Hall said the specifications were not for 20-watt bulbs, so they were not representative of what was

being proposed. Chairman Russo said the Board had told Mr. Maynard at the last meeting that he needed to look at this again, as what he had written did not appear to be what was existing—adding that Mr. Maynard had questioned that, and the Board was now trying to fix something with no factual information.

Mr. Maynard said what showed on the plan was what had existed on the site for months, and that what he had suggested tonight was what he had come up with after being on the site last week, noting again that the plans had to be put in ahead of time.

Mr. Carroll asked if Mr. Maynard were going to alter the plan, so that the five fixtures would actually show lumens or whatever he was going to do. Mr. Maynard expressed agreement, saying this was what he had to do.

Mr. Carroll said the lighting was to be available for where people walked, but he did not see any light going to the parking spaces along the back—asking if people did not park there at night or the rules did not apply. Mr. Maynard said the lights at the back could not get lit as the light would spill over onto the neighbors' yards. Selectman Maddox said that was where the employees parked. Mr. Maynard said this was for the public's safety, not the employees'.

Mr. Malley said a comprehensive lighting plan was needed, for public safety. Chairman Russo expressed agreement, and he suggested that the applicant consider low-level ground lighting, noting that the stations were still there, so power was available. Mr. Maynard said he was a professional engineer and the lighting plan shown was based on reality.

Ms. Chadwick said she would like a lighting plan that showed the suggestions that Mr. Maynard was proposing, saying the Board was getting testimony but not seeing what would actually be on the plan, and she thought that was reasonable.

Mr. Malley said the lights needed to reflect the code. Mr. Maynard declared that there was no code in this town. Chairman Russo referenced the life safety code; Mr. Maynard said that did not pertain to lighting.

Atty. Zall noted that Ms. Chadwick had said other abutters than Mr. Donahue had concerns. He noted that the letter from Mrs. Smith said neighbors had requested natural materials. He said Ms. Smith's major concern had been that she wanted a cedar fence, but Dr. Ebeed had wanted a vinyl fence, as he did not want to be bothered with the care. He said there was never a representation made by Dr. Ebeed that he would put up a cedar fence, saying their concern had been natural materials, not a white fence. He acknowledged that a representation was made, saying a mistake was made, and that the fence was put up because Dr. Ebeed did not realize it was a condition of the plan. He then said it would be reasonable to allow the fence to remain, and it would be unreasonable to say he had to take down the white fence and put up another of a different color.

Ms. Quinlan said she would not argue the color of the fence, but the lighting issue was important and problematic to the abutters and the neighborhood, and she would support getting a lighting plan that the Board could note on the plan for approval and that Town code enforcement could have something to maintain as a standard of what should be on that site and be able to enforce.

If the Board did not understand foot-candles, Selectman Maddox said, the board would be sticking the neighbors with that understanding by having a drawing. He felt that putting up a representative light, of 20 watts frosted, so that the neighbors could look at them, would be the way for people to know, so that the neighbors could see what was going to happen.

Town Planner Cashell said Dr. Ebeed had originally come before the Board, and there was a concern about lighting, and Dr. Ebeed had said he did not plan on lighting—but then had built the site and put all kinds of lighting on the site, so it was brought to the Board's attention by the neighbors. If the applicant had said he was going to put up lighting, he continued, this Board had a track record of requiring a specific kind of lighting, but this had been done by the applicant on his own; Mr. Cashell then expressed a belief that the kind of lights that the applicant had put up should not even be on the market. He said what the Board had to do was tell the applicant to come in with a plan that met today's lighting standards.

Mr. Maynard asked that the Board deal with the fence, saying he would put the bulbs in and the Board could look at them, adding that he would look into low-level lights as well, and would put the foot-candle figures on the plan, and also adding that he would talk with Dr. Ebeed about putting a 15-foot light pole back where it should be. He then again asked that the Board deal with the fence now.

Ms. Stewart asked if a notice could be sent to the abutters, letting them know what night the display would be in place. Mr. Maynard said, if the Board dealt with the fence tonight, they could come back at the May 27th meeting and would have the new lights in place through the first week in May. Selectman Massey asked if the lights could be put on timers. Dr. Ebeed answered in the affirmative. Selectman Massey suggested doing it between eight and ten at night or from five to seven in the morning, as no one would see what it was like in the dark. Mr. Maynard offered to leave them on until 10:00 p.m. that week. Members of the Board expressed disagreement.

Selectman Maddox moved that the lights be on from eight to ten on May 4, 5, and 6th for review by the neighbors and Planning Board members. Ms. Chadwick suggested that the motion include that a notice be sent to the neighbors telling them to watch; Selectman Maddox demurred, expressing a belief that most of them were watching the television broadcast. Ms. Chadwick seconded the motion. Mr. Hall said the hood would have to be on, too, or the view would be distorted. Mr. Maynard expressed agreement, but said he would not have the 15-foot light installed in the front, yet, and would not have the low-level system in place in the back.

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

Mr. Maynard asked if the Board could make a decision on the fence.

Selectman Maddox moved to defer to May 27th. Ms. Chadwick seconded the motion.

Ms. Quinlan suggested dealing with the fence now, noting that all of the members were present. Mr. Hall said he felt there was a link between the two issues, and he felt how the Board decided to deal with the lights would impact how the members decided to deal with the fence.

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

Mr. Barnes returned to his regular place at the table, with Mr. Malley resuming his nonvoting alternate's position.

XII. NEW BUSINESS/PUBLIC HEARINGS

A. Review Proposed Amendments to the Subdivision of Land Regulations, re: Cul-de-sacs - §289.18.B(2) - Roadway Length.

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

Town Planner Cashell noted that the proposed amendment had been scheduled for a public hearing.

Chairman Russo opened the public hearing at 10:33 p.m., and he then read the proposed amendment aloud. The only member of the public in attendance declined to speak.

Chairman Russo closed the public hearing at 10:34 p.m.

Ms. Chadwick moved to amend 289.18 B (2) of the Planning Board's **Land Subdivision Regulations** to read, in its entirety, as follows:

(2) Cul-de-sac roadway length. A cul-de-sac street shall not exceed 1,000 feet in length, and shall measure from the center point of the outside edge of the cul-de-sac turnaround to the point of intersection at the centerline of an intersecting street. Said intersecting street shall have, at minimum, two intersections with other streets, leading to a collector/arterial street or limited access highway.

Ms. Chadwick noted that this change in effect deleted the following previously existing language from HTC § 289.18 B (2): "The street length is measured along the center line of the street from the point of intersection with the town road to the center point of the outside edge of the cul -de-sac right-of-way. The 'point of intersection with the town road ' shall be defined as the center of the road. "

Mr. Barnes seconded the motion.

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

XIII. OTHER BUSINESS

Chairman Russo noted that the Board had received correspondence from the New Hampshire Local Government Center concerning an upcoming workshop. Town Planner Cashell said attendance was free, but members would be charged \$20 if they said they would go but did not.

Selectman Massey announced that an ice cream social would be held on May 7th at the Hudson Community Center to recognize the Town's volunteers, saying all members were invited—adding that he had to have a headcount no later than April 30th, and he asked the members to let Chairman Russo know in time for him to get that information.

Mr. Hall asked if it were not part of the regulations that any changes required signatures by all Planning Board members, to be recorded with the Town Clerk to make the changes official. He suggested that there was a technicality as to whether or not it was official if this were not done, and he asked Town Planner Cashell to look into this.

Mr. Hall asked if the School Board were on the next agenda. Town Planner Cashell said it was the first item. Mr. Hall noted that the School Board had voted to come before the Board about the fees, adding that they had not as yet answered his questions. He said he would ask the School Board again to contact Town Planner Cashell.

Selectman Maddox said he did not see anything in the 26 Derry Road documentation about signs. He noted that a sign without permit was cited for that address, but there had been nothing said about signs.

Ms. Chadwick said there were signs on the plan, with a sign permit number designated, so she was confused. Selectman Maddox noted it had not been mentioned. Ms. Quinlan asked Town Planner Cashell to notify the applicant to be prepared to address that when they came back.

Chairman Russo noted that there were two references to sign permits. Selectman Maddox noted that the site was cited for two signs. Town Planner Cashell said signs were in the Zoning Ordinance, saying they were on the site plans but the Planning Board did not have any jurisdiction. Selectman Maddox demurred, saying the Board had ruled that signs on new site plans came under the Planning Board's jurisdiction. Mr. Hall concurred.

Chairman Russo said it had been his impression that the Board of Selectmen was going to address the issue of release of impact moneys and the need to inform the Planning Board of proposals. Selectman Massey said there had been a meeting between Community Development, the Town administrator, and himself, and they had obtained agreement that the past practice for all requests should continue (commenting on the distinction between impact fees and exaction fees) —that requests should come before the Planning Board to let the Board know what was happening and also know that it was consistent with what the Board had thought it was agreeing to when exacting those fees.

Ms. Chadwick asked if this meant things had to go on the agenda and if the Planning Board would be handling them as a group of dealing with them as they came. Selectman Massey said answer to the first question was “Yes,” saying it would be an agenda item and the recommendation would then be made to the Planning Board from the Board of Selectmen. Ms. Chadwick asked if this were being made into so lengthy a process that it would be a hassle to get the fees. Selectman Massey said he did not think so, as it would be following past practice. He said the clock would start ticking when no action was taken for six years or when an appropriation was made (so that the 6-year period would start at that time).

Mr. J. Bradford Seabury, speaking as the Chairman of the Zoning Board of Adjustment, noted that he had spent some time this week working with Community Development Department staff to determine how a proposed antenna should be addressed. He professed himself to be in some confusion as to the applicability of the current antenna ordinance, noting that the Zoning Administrator and the Town Attorney had also expressed confusion, and he asked that the Planning Board consider making it an action item for this year to change the ordinance so as to make it more useful.

Town Planner Cashell noted that the Town could hire a consultant at the expense of the applicant to prove that the tower height was needed.

Town Planner Cashell reviewed the next three agendas, noting that the School Board would be present on April 22nd and that he would have two amendments for the cul-de-sac regulations—adding that he was working with Ken Dickinson of the Conservation Commission, who wanted to have the Prime Wetlands Study here as a joint meeting with the ZBA and the Conservation Commission on the 22nd. Referring to the previous discussion about small wind energy system, he noted that the engineer who had written the model ordinance would work with NPRC and have a regional meeting here in this room for the June 3rd workshop.

For May 6th, he said, the sign officials would be present to discuss LEDs.

For May 13th, he said, there would be a CTAP presentation on the CIP Process.

Mr. Hall said he felt the issue on the cell tower was similar to the one on signs, saying the Zoning Board of Adjustment was not a good place to negotiate and fine-tune illumination on signs, and he felt this should be a Planning Board purview. He said these were judgment calls, not black-and-white issues, and the Zoning Board of Adjustment could only say "Yes" or "No." He suggested that it should be up to the Planning Board to determine allowable height, exact location, fall zone, etc. For both signs and antennas, he said, there should be a broad outline as to what the goal was, leaving the technical issues to be dealt with by the Planning Board as a negotiating thing, adding that he did not believe there could be enough words to write all those variables into the Zoning Ordinance.

Town Planner Cashell noted that Atty. Buckley had amended the Zoning Ordinance for cell towers a couple years ago, and the Planning Board was the Conditional Use granting authority for that, along with the site plan reviewing authority, and the Zoning Board of Adjustment came into play only when there is a dimensional variance request for the fall zone. Mr. Seabury noted that the existing ordinance said applicants could apply to the Zoning Board of Adjustment for a Special Exception.

XIV. ADJOURNMENT

All scheduled items having been addressed, Ms. Chadwick moved to adjourn; Mr. Barnes 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 11:03 p.m.

Date: May 9, 2008

Vincent Russo, Chairman

J. Bradford Seabury, Recorder

Terry Stewart, Secretary

These minutes were accepted as amended following review at the 06-03-09 Planning Board meeting.

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The following changes were made in accordance with the Board's review of these minutes at its June 3, 2009, meeting:

Page 3, 3rd stipulation of the motion — “silk fencing” was replaced by “silt fencing.”

Page 3, 5th stipulation — address was changed from “1 Wall Street” to “1 Clement Road.”

Page 3, next to last paragraph — Text was reformatted to note that Mr. Maynard and others provided input during the public input, with the statement that the chairman closed the public input session being moved to the end of that input, on Page 4.

Page 7, 2nd motion — the identity of the person speaking to the motion was corrected to show that Selectman Maddox was speaking rather than Selectman Massey.

Page 12, the paragraph preceding the second vote — added complete text of Mr. Schneiderman's comments about the need for the Board to make timely decisions .

Page 14, 4th paragraph , 2nd sentence — The spelling of the name of Lowe's Home Improvement store was corrected .