

**Official**  
**As of 02/13/12**

**HOOKSETT PLANNING BOARD HOOKSETT  
PLANNING BOARD & ZONING BOARD OF ADJUSTMENT (ZBA)**

**JOINT PUBLIC MEETING & WORKSHOP**

**MEETING MINUTES**

**HOOKSETT MUNICIPAL BUILDING**

**Monday, January 23, 2012**

**CALLED TO ORDER**

Chair J. Gryval called the meeting to order at 6:03pm.

**ATTENDANCE – PLANNING BOARD**

Chair John Gryval, Vice-Chair Dick Marshall, Town Administrator,  
Dr. Dean E. Shankle, Jr., Frank Kotowski, Town Council Rep. Susan Lovas Orr,  
Town Administration Rep. Leo Lessard (DPW Director), Tom Walsh (left @ 8:00pm),  
Martin Cannata, and David Rogers.

Absent: Yervant Nahikian and Brendan Perry.

**ATTENDANCE – ZONING BOARD OF ADJUSTMENT (ZBA)**

Chair Chris Pearson, Vice-Chair Roger Duhaime, Phil Denbow, Richard Bairam, Don  
Pare, and Gary Lee.

Absent: Vice-Chair Roger Duhaime, Gerald Hyde, and Michael Simoneau

**REPRESENTING TOWN OF HOOKSETT**

Town Planner, Jo Ann Duffy and Dan Tatem, Stantec.

J. Gryval: David Rogers will be voting tonight in place of Brendan Perry.

1. **PUBLIC HEARING** - DISCUSSION AND VOTE TO ADOPT THE  
**PROPOSED DEVELOPMENT REGULATIONS CHANGES 2012** (last updated  
November 29, 2010). DISCUSSION FACILITATED BY THE PLANNING  
BOARD CHAIR AND TOWN PLANNER.

J. Gryval: The most current changes to the proposed Development Regulations are in  
“green” as follows:

- Cover sheet
- Adoptions & Amendments sheet
- I-6 = remove definition “preservable trees”
- I-8 = add definition “specimen preservable trees”
- I-13 = remove “amended site plans”
- I-14 = change to “Eleven (11)”

- I-15 = remove “Building”
- I-16 = add “and DPW Director”
- I-17 = add “and Town Planner”
- I-54 = remove “department” and add “a division of DPW”
- I-76 = remove “department” and add “a division of DPW”
- I-79 = add “or Town ROW”
- III-12 = remove “(Building Department) . . . The Health Officer” and add “Building, a division of DPW”

### **Open public hearing**

Donald Winterton, 10 Prescott Heights Rd.: I am here to urge the Planning Board to eliminate sprinkler system requirements. I was here at the last meeting when the Deputy Fire Chief spoke. That was not a public hearing. I would expect the Fire Dept. to want you to pass any regulations for fire safety. If Fire were King . . . the sprinkler system would be on a well, the well has to work, then electricity has to work (power can't be out). In the last 2 yrs., a sprinkler system failed, but the family got their handicapped child out and no lives were lost. Of course the Fire Dept. is going to advocate for fire safety issues. Where is the support? 675,000 building permits in a boom year = \$1.5 million. \$3,000 per building is a \$3 billion industry. \$10,000 per building is a \$10 billion industry. There was documentation submitted to you by the Fire Dept. James Shannon, politician from the State of Massachusetts, is having his October meeting in Hawaii for a week. The Vice-Chair of the Planning Board made a comment about the legislature at the last meeting. The State of NH has spoken loudly and clearly on this issue. I spoke at the hearings for SB91 & HB109 that were both vetoed by Gov. John Lynch. The Senate and the House, as one of your representatives said at the last meeting, strongly overrode the Governor. The Governor built a \$6.5million house and does not have one sprinkler, because he lives in a State with “right to choose”. I have been a customer of Amica Insurance for 25 years. In August 2011 the Planning Board waived my sprinkler system requirement. Amica said I would save \$20.00 per year if it was installed. Deputy Fire Chief refers to 13D fire codes. He says no sprinklers are needed in closets; however Hooksett doesn't operate under 13D. I have a 2,400 sq. ft. house, and my home required 44 sprinkler heads. Every closet with a light in it requires a sprinkler head. You will hear sprinkler systems save lives. The issue tonight is for single and two-family houses. There is no data stating sprinkler systems save lives. NFPA data in Quincy MA, 7.4% fatality without sprinklers and 1.3% fatality with sprinklers, includes apartments. A 10 story apartment building skews the data. The other myth is that pipes won't freeze. In the other 98 pgs. of data, froze or frozen does not appear once. There is not much in common with winters in Hooksett, NH (10 degrees) and Scottsdale, AZ (43 degrees). At the DES recently 80 sprinkler heads froze, and we will pay \$1 million to fix the damage. In Portsmouth, NH an art studio had \$1,000 in damage due to frozen sprinkler heads. In York, ME there was thousands of damage at the York Harbor Inn, because of frozen heads. I put in extra installation in my attic, but if the power goes out my temp will go down and my pipes and heads will freeze. We are 1 of 10 communities in NH with the sprinkler system requirements in our regulations. I live at the Bielizna subdivision. I had 3” plastic covers over my sprinkler heads, and the Deputy Fire Chief and CEO required me to place 5” plastic covers with double-sided tape over the 3” ones. They said the 3”

covers gave the public a false sense of safety when they entered my home, because it was seen as an unworkable sprinkler system. They said it is for the public . . . I thought my home was private. In this Town be careful whose nose you tweak, because we (Town) will get you. I enthusiastically wanted to move to Hooksett and build in Hooksett. You are looking at the face of arrogance. You protected your CEO. The Planning Board went into a non-public illegally; referenced Ettinger vs. Town of Madison. Please understand this Planning Board has the force of law. Someone sitting here who has been abused and lied to has no other option but to go to Superior court. And Mr. Chair, do not call me Mr. Sprinkler again. I respectfully call you Mr. Chairman.

Chief Michael Williams: I don't know this gentleman, however I would like to apologize for any miscommunications with my department. I was hired to protect public safety of houses outside the water district in the community. It is not only about sprinklers, but also cisterns. I recommend we keep it. If sprinkler language doesn't stay, then municipal water should be brought to those locations or cisterns should be enforced.

G. Lee: Do we have empirical evidence that sprinklers have made a difference?

Chief Williams: I don't have that data, but I can look it up.

G. Lee: To burden the owner with this expense, have we the benefits?

J. Gryval: They (sprinklers) are waiveable. It has been in there a long time. There is no water available in the outskirts.

F. Kotowski: I go back to what I talked about at the last meeting. There is no doubt in my mind that fire sprinkler systems are worth their weight in gold if you need them. I have not seen or heard of an instance they were needed. Codes are so strong now. We pick the right material and right things to make our home. At the end I meet with the builder and he would ask: do you like granite or Formica; this light fixture or that fixture? I think the same should apply for fire sprinkler systems that cost \$5,000. At Berry Hill, I wish it would cost me \$5,000 less, but they have the system. I have heard debate on both sides. I have to believe our Fire Dept. is the best in the State and they make our community the safest it can. There were 400 people debating for months, then the Governor vetoed what was 3-to-1. I don't think it is a good thing to keep in our regulations. The Board can use its good judgment, but I don't think it is needed. If they can afford it they will install it, but they won't be any safer. If they can't afford it, they won't install it.

T. Walsh: I agree with Mr. Kotowski completely. The real thing is the cost of \$5,000-\$6,000 for an average size house. Finance into a 30 yr. mortgage, and it is really \$12,000-\$13,000. 99.999% of these systems will never be used. There is no difference than leaving \$11,000 in their attic and never using it. We don't have requirements for areas with water. I don't care if the hydrant is hooked up to Massabesic water vs. cistern.

R. Letendre: I agree with Mr. Walsh and Mr. Kotowski; 30 yr. mortgage brings it to \$13,000. We shouldn't mandate the fire sprinkler system to our citizens.

**Close public hearing**

J. Duffy: I just wanted to remind the Board that cisterns then become the property of the Town for maintenance and replacement.

*D. Shankle motioned to adopt the changes recommended from the 1/9/12 Planning Board meeting effective 1/23/12. Seconded by D. Marshall.  
Vote unanimously in favor.*

*D. Marshall motioned to remove the fire sprinkler system language from the Development Regulations. Seconded by F. Kotowski.*

D Rogers: I will have to go by the judgment of the legislature and vote to remove it.

***VOTE 5 in favor and 4 opposed. Motioned carried.***

D. Winterton: Who determines the legality for the statute of going into non-public?

J. Gryval: I make that decision under RSA 91:A, and I follow that very closely.

***FIRST PUBLIC HEARING ON FIRE SPRINKELR SYSTEM REMOVAL 2/13/12.***

**2. DISCUSSION – RB RITCHIE BROTHERS AUCTIONEERS, Map 13, Lot 51.  
DISCUSSION FACILITATED BY THE PLANNING BOARD CHAIR AND  
TOWN PLANNER.**

Ben Swanson, RE Coordinator: I am here tonight with Steven O'Duggan, Regional Sales Mgr. A week and half ago we did a presentation to the Town Council. The piece of property is at Exit 11 for our new site. We basically want to introduce our company to you tonight. We have not gone through engineering at this point. We have our business model and will go from there.

B. Swanson: Builders exchange equipment. We are the largest industrial auction company in the world with 110 locations; 40 permanent (26 in US and rest around the world).

S. O'Duggan: We find customers and use a network for the pool of construction equipment. Our Connecticut site has 3-4 sales per year; \$7+ million. Maryland has 5 auctions a year with \$2.5 million. Hooksett would be similar. We have consignments. Two weeks before the auction, customers start looking. We like this site in NH; contractor coming to NH, no matter what the season, can bring his family here to do outdoor activities. At fair market value, everything sells. At the end of a sale day, we

would have had 15-20 FT and 35 PT staff. The New England region is 1/7 of the economy. We are now planning 3-4 auctions in Hooksett per year.

B. Swanson: For the site we have worked with TF Moran, but haven't gotten far yet. It will be a lease site with option to purchase. The site is under contract. Presented slideshow on existing facilities to the Board. In Hooksett we would first build our market with tents and equipment drive-bys. In the future we would have more permanent buildings. To assure no contamination on site, equipment would be checked for needed repairs before it goes to the site. We have spill prevention procedures. Refurbishing equipment consists of wash, paint, and sandblast all in an enclosed building with no discharge. For traffic patterns, it is a 2-3 week ramp up for equipment being delivered and the same leaving the site. The site could be used for community uses when not doing auctions. Some of our competitors have used this site and in the past there were issues with parking on the road. For truck queuing & tracking, and customers, there will be traffic controls so the main road is not impacted.

D. Marshall: What is your timeframe to start-up?

B. Swanson: We wanted to introduce our company to everyone, and then do full engineering a.s.a.p., Contractually complete in August and start holding auctions thereafter.

S. O'Duggan: We have a 4th quarter target.

F. Kotowski: How much acreage is needed without making it look like a big car lot?

B. Swanson: The site is 54 acres with a steep slope that takes up a lot of acreage. I am not sure of the total usable area. The first phase is 25 acres (Mr. Palazzi's office building area).

F. Kotowski: Is it necessary for a lot of site work to change the topography?

B. Swanson: For a storm water point of view, phase I will not have a huge amount of change. We still need to do engineering.

M. Cannata: If I understood correctly, this will not be a permanent site initially?

S. O'Duggan: It will be a permanent site, however we will start with minimum improvements. We need to show our Board our vision to become a permanent place.

M. Cannata: After you are done with your event for the year, when the space is not used by you, you mentioned opportunity for some public use. Who is responsible for what happens there? You, Palazzi, or the Town?

S. O'Duggan: It would be a great spot for Old Home Day.

S. Lovas Orr: Are you planning on replacing your Maryland site or have both?

S. O'Duggan: The Connecticut site would be replaced with the new Hooksett site.

S. Lovas Orr: A lot of large heavy equipment needed on site for storage will be traveling through Town roads. Is there an issue with weight?

S. O'Duggan: We do everything according to State trucking laws. State requires permits. 149,000 lbs. on 8 axels; construction equipment is less of a wear on roads and is more easily enforced.

G. Lee: Currently the only egress is onto Rte. 3A. It seems to me you would want an exit off the highway (Interstate 93).

B. Swanson: The access now is off Rte. 3A. NHDOT is not in favor of us using this access. We met with them a couple of times, and have a meeting with them tomorrow. They would like us to use an entrance off Hackett Hill Rd.

J. Gryval: Does the potential buyer try the equipment out?

S. O'Duggan: We have the equipment in lowest cost to highest cost order. We let the customer start them and waddle them around.

J. Gryval: Will you refurbish at the site?

S. O'Duggan: I would love to have full refurbishing, but I don't see this happening at this site. We will wash them down. We are fanatical about not having contamination.

J. Gryval: The equipment comes in on trailers. What do you with the trailers after they drop off the equipment?

S. O'Duggan: We would try to sell the trailers too, but if not they would be gone 2-3 weeks after the auction.

M. Cannata: It is a good concept. People coming here should be acquainted with Hooksett and the State of NH.

S. O'Duggan: To look at a piece of construction equipment in NH, we would hold the sale in seasons such as leaf peeping and skiing for the customers' kids and family to enjoy. We have a big sales site in Las Vegas, NV.

J. Gryval: Thank you for coming tonight.

- 3. DISCUSSION - BROX INDUSTRIES, INC., Hooksett Rd. (Rte. 3) and end of Lehoux Dr., Map 18, Lot 7 (Brox site) AND Map 18, Lot 48 (former Dolly Dimple property) AND Map 24, Lot 36-1 (former Manchester Sand, Gravel and**

Cement Co. property). DISCUSSION FACILITATED BY THE PLANNING BOARD AND ZBA CHAIRS.

Peter Holden, Holden Engineering & Surveying: I am here tonight with George Hall from Brox Industries: This is the existing land that Brox owns:

- Green – operation approved for a long time
- Blue – bought Dolly Dimple Motel, Chris Mastriano
- Yellow – MS&G after subdividing the Huttig lot

We showed the master plan to the Planning Board last summer. Tonight is just a discussion, not an application. We went to ZBA for a gravel permit and to zone the land. The ZBA, Planning Board and others recently went on a site walk. The ZBA voted to extend the existing gravel permit for the next 5 yrs. The ZBA wanted a meeting with the Planning Board to discuss the PZ area. Discussed the blue and yellow land in the extraction permit. We are going back to the ZBA next month to expand the extraction area.

C. Pearson: We (ZBA) wanted a joint meeting with the Planning Board to get their feedback, because the Dolly Dimple lot is in PZ, and on the industrial. That is why we asked for a joint meeting and joint site walk.

M. Cannata: What is the extraction scope?

P. Holden: The green area of the plan, the lower level has all river bottom sand. They took some out and have their asphalt plant there. They started a rock quarry in the back of the hill (dark lines in green). They are trying to get their permitting organized. The grade will be out to Rte. 3. All drainage would run back to the sand area to percolate into the ground. They will take out rock to make asphalt. They will not take a lot more sand, because there is only a certain amount.

M. Cannata: They will dig out to Rte. 3, so nothing would remain except the base for which something else could be built.

P. Holden: They will over excavate to back fill for soil to build industrial buildings.

M. Cannata: A timing concern is what the site would look like and the phasing of Brox. Will there be an unsightly period of time?

P. Holden: From across the river you see just a rock face. The rest of the site cannot be seen from Rte. 3. The Rte. 3 slope will be torn from the back and eventually you will be able to see into the site.

J. Gryval: You should have a buffer on Rte. 3, so the site won't be seen.

P. Holden: You won't see anything until the very end. Then the last 4 ft. will be graded to build industrial buildings.

D. Marshall: You will reclaim as you go along, then break through to Rte. 3?

P. Holden: George (Brox) has talked 40-50 yrs. to get to Rte. 3.

S. Lovas Orr: After excavated and the quarry is gone, until the site is level, then build industrial buildings.

G. Lee: This is so far out in the future, what is the rush?

P. Holden: We are trying to have a plan. Brox has been in business for more than 50 yrs. They want to get organized for the future.

P. Denbow: On the positive side, they are reclaiming and planting trees vs. other pits in Town.

T. Walsh: I was at the walk and equally impressed. Will they develop the Dolly Dimple site?

P. Holden: No, not until they sell it for industrial lots.

D. Tatem: They want the blue and yellow areas to become green to allow excavating.

G. Lee: If green today, would you be tearing it apart in 6 months if you have material? Would there be anybody stopping you?

P. Holden: The economy is stopping us now.

G. Hall: There are also phasing requirements. We couldn't dig it all up. The ZBA controls phasing. There are two additional phasings for two lots. We have to go back to the ZBA to show reclaiming. I have been there for 25 yrs. When we go to another phase, we come in and ask for permission.

C. Pearson: At the site walk, there is sloping on the industrial and Dolly Dimple side. It is so much lower vs. the elevation. They presented cutting in a clean site until the very end. For phasing, Brox or any excavation, permits are due in front of the ZBA with a site walk to review the elevations. It will be 5 yrs. for another renewal. We would like feedback from the Planning Board for our vote at the next ZBA meeting.

J. Duffy: They went before the ZBA for a variance, but because part of their land is in PZ, they just want Planning Board recommendation if the variance should be granted.

D. Marshall: We have had many years of discussion with MS&G. We have seen this conceptual several times in the history of this Board. Our opinion of the plans was that they would bring down that hill eventually. I see no problem as long as there is a watch dog that the land excavated is being reclaimed. It is still true today that the ZBA watches



over this kind of excavation. The Town has a lot to gain for this land to be improved. Mine it first, then bring it to a usable grade.

F. Kotowski: At the site walk, there were beautiful stands of trees in the reclamation area. This is the kind of group we want to succeed in our community.

M. Cannata: Is everybody up on what is required in the Performance Zone (PZ)?

J. Duffy: The variance is for temporary use for excavation. In the PZ excavation is not permitted. Ultimately the proposed use is industrial or commercial.

P. Holden: The yellow and green on the conceptual is industrial zone.

J. Duffy: If industrial, another variance is needed.

M. Cannata: What is the goal of the PZ?

J. Duffy: The PZ goal is to beautify Hooksett road for a more pleasing place to do business and drive through vs. car lot after car lot and signage. The PZ has many regulations for types of businesses and signage.

S. Lovas Orr: If the goal is to allow future beautification with businesses in the PZ, then before you can do anything, you have to work the land and the ZBA keeps a watchful eye.

F. Kotowski: There will be nothing built until many years down the road. If the PZ doesn't change, these Boards will be sitting here to do this and that to get building permits. Stay vigilant with this. All they are asking for now is permission to excavate in the PZ area.

J. Gryval: The Planning Board's main concern is that the PZ does not become more unsightly than it is now. When you break through the mound, it should look fairly decent from Hooksett Rd.

***D. Marshall motioned to send a favorable letter to the ZBA based on the conceptual master plan and overall excavation plan presented tonight. The Board has no objection with the expansion of the site excavation to include the Performance Zone area, as long as the ZBA monitors that the land excavated is being reclaimed. Seconded by D. Shankle.***

***Vote unanimously in favor.***

- 4. DISCUSSION – TNT PALACE GROUP, LLC (dba Park Place), 1377-1385 Hooksett Rd., Map 18, Lots 30,31,31A. DISCUSSION FACILITATED BY THE PLANNING BOARD AND ZBA CHAIRS.**

Peter Holden, Holden Engineering & Surveying: Tonight we are presenting our concept site plan. We have submitted a TRC application for the February 2, 2012 meeting. The property is owned by Tom Toye (TNT Palace Group, LLC) where Goodnight mobile homes used to be. We came to this Board first, then went to ZBA for approval of two 24-unit residential apartment buildings in the back, and two 5,000 sq. ft. commercial in front. One front building is a hotel, and we are looking for a franchise. We want to market the hotel for people going to GE, HealthSource, etc. There is no user for the other 5,000 sq. ft. building. Your LEED requirement is no longer?

J. Duffy: Correct.

P. Holden: Thursday for TRC, then moving ahead. Tom Toye would have been here, but he took his kids to Disneyland.

M. Cannata: What is the criteria for LEED?

P. Holden: LEED is a design criteria for buildings that causes you to build higher quality and energy efficient structures. We couldn't afford to build it.

D. Shankle: Was LEED in our regulations?

J. Duffy: Yes (9+ units), however it was recently taken out.

**5. DISCUSSION (WORKSHOP) – PROPOSED ZONING ARTICLES FOR 2012.  
DISCUSSION FACILITATED BY THE PLANNING BOARD CHAIR AND  
TOWN PLANNER.**

**2nd Draft – for Workshop Meeting 1/23/12**

**Amendment No. 1**

Are you in favor of the adoption of Amendment No. 1, as proposed by the Hooksett Planning Board, for the Hooksett Zoning Ordinance to amend Article 3, Section P. General Provisions, to change the reference of Hooksett's Open Space Plan "from June 2004" to "the latest version"?

*The purpose of Amendment No. 1 is to modify the date of the Open Space Plan by updating the reference to the most current version of the Plan.*

**Amendment No. 2**

Are you in favor of the adoption of Amendment No. 2, as proposed by the Hooksett Planning Board, for the Hooksett Zoning Ordinance to amend Article 3, Section A., General Provisions, "No permits in any district for any nonresidential or multi-family uses, **nor any change**, or expansion of use, or construction shall be issued prior to site plan approval by the Planning Board per NH RSA 674:43 and as detailed in the Non-Residential Site Plan Review Regulations of the Town of Hooksett as adopted and amended by removing "nor any change"?

*The purpose of Amendment No. 2 is to eliminate the words, “nor any change” from this paragraph because the Town currently has a “Change of Use” process in place to address minor site plan changes.*

D. Shankle: If the ordinance says we don't do that, then why do we have a process to do it? Does everyone on the Board know the process and is it good?

D. Marshall: Change of use applications are handled internally between DPW and Planning.

D. Shankle: Why wouldn't we (Planning Board) want to look at these changes vs. having staff do them?

D. Marshall: The building already exists as a mom and pop grocery store, and another business wants to come in such as a heating supply company. There are no changes to the site. It is basically a code issue. The Planning Board didn't want to become involved. If a change of use shows traffic is quadrupling, then staff bounces it to the Board to exam as a major intensity of use change.

D. Shankle: If staff decides it is not intense, then it becomes intense, the Planning Board can't control it.

J. Gryval: Should they all come before the Board?

D. Shankle: There may be things that don't need to come before the Board, however staff shouldn't be making policy. There are so many things that come into a change of use. Staff did that, and the Board didn't know anything about it.

J. Duffy: If we get something we think could be a problem in the future (i.e. if determined in future an increase in traffic, parking, etc.), then the CEO goes out to make the decision for a formal site plan.

D. Shankle: Someone could go in and tell them it is OK. The sprinkler system was an error of staff. I am not sure if we are capable of making the right decisions on change of use.

G. Lee: You could have everything going to the Planning Board and ZBA, but there has to be a lien somewhere.

D. Shankle: Whatever they feel like not passing on, they don't pass on.

J. Gryval: For staff making decisions, if you don't think that works properly . . .

M. Cannata: What criteria might there be for staff to follow procedurally? I am hearing it is somewhat gray. I am not sure what to put in place to make it black and white.

G. Lee: Have a checklist.

D. Marshall: Put some responsibility in the hands of staff and set the criteria (i.e. greater than 30% increase in traffic goes before the Planning Board). 90% of change of use in past were cosmetic and rarely produced a major increase in traffic.

J. Gryval: Not too long ago there was a building with one office space and they wanted to add another office space. You need to know what is going in there for parking, etc.

F. Kotowski: Is there a model anywhere in other Towns? Are we giving more latitude than other Planning Departments?

J. Duffy: Some towns do this and others don't. We have a change of use form. Building is using it for anything (i.e. furniture existing then leaves and then another furniture fills out change of use).

F. Kotowski: Who makes the decision?

J. Duffy: They fill out the change of use form, then Building sent it out to Planning, Fire, Water, and Sewer for comments. Up to two months ago, the CEO and myself made the decision. Now all these parties sit in one room and make a decision. 4 out of 5 of the forms at the last meeting needed more information.

F. Kotowski: What is the criteria?

J. Duffy: Criteria included: was there a site plan, use, and parking. Increase in intensity would warrant going to the Planning Board.

F. Kotowski: Is it a judgment call of this group?

J. Duffy: We look at the regulations. A building addition would automatically trigger it going before the Planning Board. If adding paving, that would at least require review by Stantec.

F. Kotowski: I can see Mr. Shankle's point.

J. Duffy: Prior to this process, if someone changed from a bakery to a pet store, they would not come to my department. They would get a tenant fit up. This process is bringing all the departments involved into the process. I think it is working very well. Leo and Matt are involved.

L. Lessard: Recently there was a change of use for a 3-stall hair cutting business. The first thing that triggered was septic. It had one bathroom for 300 gallons per day. The septic would have failed with adding the 3-stall hair cutting. By her coming in, we saved her from buying a building that she couldn't use.

J. Duffy: The same day we looked at a daycare at the previous Knights of Columbus building. Most of these people say a site plan is on record. If we can't find anything, we recommend they do a site plan to have something on file.

F. Kotowski: How did they do it in Merrimack?

D. Shankle: I don't recall Merrimack. Retail-to-retail is not a change of use. Any changes to a site plan would have to come back to the Planning Board. Not sure when it is a change of use process. It sounds like staff is doing the process of the Planning Board. How many people of this Planning Board know this process?

J. Duffy: After this process is approved, a change of use approval letter will go to the Planning Board.

D. Marshall: This process came from the Planning Board. We were looking at how many items were on our agendas. We can pull this process and state all changes come to the Planning Board. What do we do with this amendment?

D. Shankle: All I wanted to point out was that the Planning Board should get on top of the Development Regulations of what the change of use process does to make it clearer. Building sends out notices of the decision and the Planning Board receives it after the decision is made. If the Planning Board disagrees, it is too late. I don't know how to get ahead of that.

F. Kotowski: The Town Planner can discuss with the Planning Board Chair what the applicant is seeking. Then the two can reconcile if it has to come to the Planning Board.

D. Shankle: Now I recall Merrimack . . . 2-3 people from the Planning Board and the Community Development Director met to see if it needed to go to the Planning Board. I would hate to see this Planning Board getting blind-sided by staff making decisions, and then getting second guessed by the Planning Board.

J. Gryval: We would need 2-3 Board people.

M. Cannata: Jo Ann in your Town Planner comments, could you include a consensus on discussion whether yea or nay to go to the Planning Board. I am a little uncomfortable for a small click that could blind-side the Board.

G. Lee: Staff could have a provisional approval that the Board is OK with it. Then the onus is on the Planning Board.

D. Shankle: You could have a consent agenda section within your Planning Board agendas for change of use. There would be no public hearing, and the item just moves on.

F. Kotowski: You could pull a consent agenda item out if we needed further discussion.

J. Duffy: We meet tomorrow, any we recommend, we can put on our next Planning Board agenda for February 13<sup>th</sup>.

D. Shankle: Let this amendment go through.

**Amendment No. 3**

Are you in favor of the adoption of Amendment No. 3, as proposed by the Hooksett Planning Board, for the Hooksett Zoning Ordinance to amend Article 24, Section D. Board of Adjustment, “Before reaching a decision under this Article, three (3) members of the Board shall have viewed jointly the subject property” by replacing **shall** with **may**?

*The purpose of Amendment No 3 is to amend the mandatory requirement of requiring a site walk on all special exception applications.*

J. Duffy: Years ago the Town attorney wrote up the special exception criteria to include that at least three ZBA members go on a site walk. On occasion three couldn't make it. It should really be that a variance have a site walk vs. special exception. I spoke with Matt and this way you could leave it up to the ZBA on a case-by-case.

D. Shankle: We should call the attorney at LGC to make sure there is not requirement.

C. Pearson: We do site walks on variances. During the application, it comes up if we need to walk the site. We have site walks on all special exceptions.

D. Rogers: This language only applies to special exceptions.

J. Duffy: Variances refers to law. Special exceptions list the criteria.

J. Gryval: Leave this amendment in.

**Amendment No. 4**

Are you in favor of the adoption of Amendment No. 4, as proposed by the Hooksett Planning Board, for the Hooksett Zoning Ordinance to amend Article 26, Section 3 Non-Conforming Uses, Lots and Structures, by eliminating the entire chapter requiring the merger of two or more contiguous lots in single ownership?

*The purpose of Amendment No. 4 is to eliminate the involuntary merger requirement, per RSA 674:39-aa.*

J. Duffy: Law changed that towns can no longer require involuntary mergers. This Town has it in their ordinance. We need to take it out to comply.

F. Kotowski: This amendment has to stay.

**Amendment No. 5**

Are you in favor of the adoption of Amendment No. 5, as proposed by the Hooksett Planning Board, for the Hooksett Zoning Ordinance to amend Article 22, Definitions, by adding a definition for buffer – “An area within a property or site, generally adjacent to

and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences and/or berms, designed to limit continuously the view of and/or sound from the site to adjacent sites or properties. Whenever a commercial or industrial use abuts a residential use, zone or district, a buffer zone shall be provided subject to the approval of the Planning Board. The buffer shall be not less than fifty (50) feet in width and shall be planted with a dense screen of shrubbery and trees not less than eight (8) feet in height at the time of planting. The screen shall be at least twenty-five (25) feet in width and shall be permanently maintained suitably by the owner. The buffer shall provide a year-round dense visual screen in order to minimize adverse impacts. In order to maintain dense screen year-round, at least fifty (50) percent of the plantings shall be evergreens. Existing natural growth may be included as part of the screen. No penetration of this buffer zone shall be allowed. With the approval of the Planning Board, a suitable combination of other elements, such as fencing, berms, boulders, may be incorporated within the buffer zone”?

***The purpose of Amendment No. 5 is to add a definition for buffer zone.***

D. Shankle: Is it doing what people want it to do? Word smith “Whenever a commercial or industrial use abuts a residential use, zone or district, a buffer zone shall be provided subject to the approval of the Planning Board.” An example is the TNT 25 ft. buffer with nothing in it. They would have to move their buildings back for the 50 ft. requirement. Are those the kind of projects we are trying to catch?

J. Gryval: Commercial use next to residential use is what causes the problem.

D. Shankle: For the residential & commercial buffer, when he comes back are we telling him 50 ft.? We could tell him 50 ft. with all this stuff we are talking about.

J. Gryval: It always was like this. We didn’t allow this in the past.

D. Shankle: On Rte. 3 this will be true of most lots for the back 50 ft. planted in forest.

J. Duffy: My intent of putting this in was for sites like the Pizza Man. I changed the 25 ft. to 50 ft. and screening from 15 ft. to 25 ft.

D. Shankle: Merrimack always had a 50 ft. buffer, but with no plantings.

J. Duffy: I went from 6 ft. in tree height to 8 ft.

D. Marshall: How do we go with commercial land and now mixed use? Our regulations say no, but they were granted a variance, so now it is yes.

G. Lee: It wasn’t to accommodate the residential there now.

F. Kotowski: Are we confused with buffer and screening?

J. Gryval: No problem with buffer between districts, so we wanted separate lots for commercial and residential. Now we have the TNT site.

J. Levesque: Is the 50 ft. buffer area behind the property?

D. Marshall: The buffer has to be on their lot. They need a second variance to comply with the buffer. We are going to displace some people to get rid of an eyesore. However we don't have to do that, if they don't meet our requirements.

S. Lovas Orr: It is important to look at the TNT project, but I am looking long-term. There are many situations coming up where this is going to come up. I live in a development next to where they built a cinema. We need to balance growth and industry and businesses in our community with the comfort and safety of our community as well.

J. Gryval: I was always the one on this Board with the buffer. A lot of applicants come in and want a road in the buffer. I have always said there should be a 50 ft. buffer for commercial use to residential use. I think they could design it.

D. Marshall: Residents of Hooksett back in 1960s had lots 300 ft. on Rte. 3. It took almost 20 yrs. for their entire lot to be all commercial, residential, or industrial. A lot of lots on Rte. 3 didn't have a lot of depth. To have a commercial lot with 50 ft. out of the back for a buffer and 50 ft. in front to the nearest building leaves a narrow lot. TNT is an example of what can go wrong when you make changes. Every time you make a change, there is an impact. I wouldn't mind waiving part of the buffer, but there should be at minimum a dense shrubbery of 25 ft. If we can't do that, then we shouldn't be granting waivers or variances.

D. Shankle: Can anything be in the buffer?

P. Denbow: Utility boxes?

D. Shankle: At least 25 ft. of screening and the rest grass.

J. Gryval: For commercial sites they want to get as much on the property as they can.

L. Lessard: Could we enforce a 25 ft. sound barrier more than evergreens? I agree with the 50 ft., but you know they will come in and ask for less.

J. Gryval: We will keep this amendment.

### **Amendment No. 6**

Are you in favor of the adoption of Amendment No. 6, as proposed by the Hooksett Planning Board, for the Hooksett Zoning Ordinance to amend the following articles: Article 11, Industrial, Section D. Buffer Zone; Article 12, Mixed Use 1, Section G. Buffer Zone; Article 13, Mixed Use 2, Section H.G. Buffer Zones; Article 14, Mixed Use 3, Section G. Buffer Zones; Article 15, Mixed Use 4, Section G Buffer Zones, by



replacing these Sections with the following language: Buffer Zone – Whenever a commercial or industrial use abuts a residential use, zone or district, a buffer zone shall be provided subject to the approval of the Planning Board. Please see Article 22, Definitions, for details”?

***The purpose of Amendment No. 6 is to amend the requirements of the buffer zone between residential uses or zones and industrial and commercial use.***

J. Gryval: This is the same buffer zone amendment into all the different sections.

J. Duffy: In each article, it has a requirement for a buffer zone. Please see Article 22 for definitions. Future changes will now be a one spot change.

#### **Amendment No. 7**

Are you in favor of the adoption of Amendment No. 7, as proposed by the Hooksett Planning Board, for the Hooksett Zoning Ordinance to amend Article 8, Conservation Subdivision, Section C. Definition of Open Space to change the last sentence to read: “Developable (unconstrained) land excludes jurisdictional wetlands, steep slopes greater than 25 percent or flood hazard areas”?

***The purpose of Amendment No. 7 is to correct a typographical error, changing word “include” to “exclude”.***

D. Shankle: Was it a typo?

M. Labonte: 4-5 sentences prior to this that supports “exclude”.

J. Gryval: We will keep this amendment.

#### **Amendment No. 8**

Are you in favor of the adoption of Amendment No. 8, as proposed by the Hooksett Planning Board, for the Hooksett Zoning Ordinance to amend Article 10-A, U.S. Route 3 Corridor Performance Zone, Section J. Environmental Performance Standards, 3. General Provisions, Conditional Use Permit (1) add the word “buildings” to the following paragraph: “For the construction of **buildings**, roads and other access ways, for pipelines, power lines and other transmission lines, water impoundment and construction of well water supplies, drainage ways, where final grade is to be altered; and provided that ...?”

***The purpose of Amendment No. 8 is to include the wetland impact of a building footprint into the requirement for the need of a conditional use permit in the Performance Zone.***

J. Duffy: We have a wetlands ordinance Article 18 and you need a special exception. For the building footprint, you would need a variance because it is not allowed. PZ is written as a Conditional Use Permit (CUP) using the special exception language. The building impact is not covered. I talked to Steve Couture and he agreed.

D. Marshall: No variance allowed in PZ, that’s not true.

J. Duffy: If residential not allowed, they could get a variance with ZBA for use.

D. Marshall: In the case of TNT, they don't need a variance. They would come to us for a waiver. PZ is not 25/15 it is something different, and handled as a waiver.

D. Shankle: CUP doesn't allow for buildings now. Do we want to allow for buildings in the wetland overlay conservation district?

J. Gryval: CUP only has a condition not a right.

J. Duffy: In the wetland overlay, someone could ask for a variance for impact to a building permit for wetlands. PZ doesn't have a provision for that; all wetland impacts are under CUP.

D. Shankle: Why would we want that? What problems are we trying to solve?

J. Duffy: In any part of Town except for the PZ, they could ask for a variance for a building in the wetlands.

D. Shankle: Can they get a variance in PZ?

J. Duffy: Variances for use are only granted in PZ. When they used to come in and it wasn't allowed, we were told they could take us to court. Our new attorney says yes they can get a variance. In PZ everything has been a waiver or CUP.

D. Marshall: If the Planning Board denies something, could they go next for a variance? We should ask the attorney this question. Attorneys only answer specific questions.

J. Gryval: For a CUP, they get permission to use the property for only what it is being used for.

J. Duffy: A CUP typically continues with the land.

D. Shankle: Do we want to make it simple for them to put buildings in these zones?

D. Marshall: I can't imagine in any scenario where the Planning Board would want to have a building in the wetlands.

D. Shankle: Then I suggest we don't move this amendment forward.

***D. Shankle motioned to removed amendment No. 8. Seconded by D. Marshall.***

M. Cannata: If someone wants to build in the wetlands, there only option is to go to ZBA or court.

*Vote unanimously in favor.*

*D. Marshall motion to send amendments No. 1, 2, 3, 4, 5, 6, 7 to public hearing.*

*Seconded by D. Shankle.*

*Vote unanimously in favor.*

**OTHER BUSINESS**

D. Rogers: I have a meeting with the High School Study Committee on Wednesday.

**ADJOURNMENT**

*D. Marshall motioned to adjourn at 9:00pm. Seconded by D. Shankle.*

*Vote unanimously in favor.*

**ADJOURNMENT**

Chair J. Gryval declared the meeting adjourned at 9:00pm.

Respectfully submitted,

Donna J. Fitzpatrick,  
Planning Coordinator