

Official
As of 06/04/12

HOOKSETT PLANNING BOARD
MEETING MINUTES
HOOKSETT MUNICIPAL BUILDING
Monday, May 7, 2012

CALLED TO ORDER

Chair J. Gryval called the meeting to order at 6:00pm.

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), Martin Cannata, David Rogers, and Tom Walsh.

Excused: Robert Duhaime.

Absent: Yervant Nahikian, and Brendan Perry.

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.

APPROVAL OF MINUTES OF 04/16/12

*D. Marshall motioned to approve the minutes of 04/16/12. Seconded by T. Walsh
Vote in favor. M. Cannata abstains.*

PUBLIC HEARING - APPEAL IMPACT FEE

- 1. NATHANIEL CADORETTE & LINDSAY McFARLAND (#12-11)**
455 West River Rd., Map 8, Lot 48-1
Request to appeal assessed impact fees per Article 30 Impact Fee Ordinance section H.1.

Lindsay McFarland and Nathaniel Cadorette: introduced themselves.

L. McFarland: We bought a multi-family in November 2011. It was recognized on the tax card as a multi-family, and we have bunch of other documents stating so. In January 2012 the CEO said this property was not zoned properly and there were some other zoning violations. We went to the ZBA in April 2012 for approval to have a two-family dwelling (basement apartment). Now with this approval, our property is considered a new development. We are asking to waive the assessed impact fees, because we are not altering the use. We were just getting it legalized, because no one did before us.

J. Gryval: The CEO, Matt Labonte, is here tonight.

M. Labonte: For the deficiencies previously identified, we met and a lot have been addressed.

J. Gryval: There was an apartment there previously, because if it was rented out before it must have been there.

F. Kotowski: If the tax card shows a two-family dwelling back to 1980, why did it take us so long to catch this? In other words, why are they here?

J. Gryval: In DPW-Building it was noted as new construction and now they would have to pay impact fees on the new apartment. But, it is not a new apartment.

F. Kotowski: That is the point I am trying to make. The two-family dwelling has been there since 1980.

T. Walsh: If it is a two-family on the tax card back then, I can't see why they need to pay impact fees now.

Open public hearing

No comments.

Close public hearing

T. Walsh motioned to grant the waiver of impact fees. Seconded by D. Marshall.

D. Shankle: I hesitate to use a tax card as the official document. Assessing would see the property has two apartments, but they wouldn't check if they are legal apartments. What concerns me about this is I would have preferred they went to the ZBA to appeal an administrative decision of the CEO rather than asking for a special exception. By doing the special exception, they (owners) agreed their property was a single-family. I just want to be clear why we are waiving their impact fees.

J. Gryval: They have now provided enough documentation that the apartment was there before to make a two-family dwelling.

Vote 8 in favor. D. Shankle opposed. Motion carried.

Waiver above per RSA 674:36 (II) (n)

PUBLIC HEARING – WAIVER REQUEST & EXTENSION REQUEST

2. BEAVER BROOK HEIGHTS (#06-18 & #09-03)

By-pass 28 & Jacob Ave., Map 48, Lot 26, AND Map 49, Lots 49 & 58
87-Lot Residential Cluster Housing Subdivision & Phasing

- Waiver Request - Development Regulations (5/2007) section 6.09 Approval Null and Void
- Extension Request – Development Regulations (1/23/2012) section 10.03 2) Time Limits for Fulfilling Conditions. Application conditionally approved on 05/18/2009 and expires on 05/18/2012. Applicant requesting a 1 yr. extension to this approval (05/18/2013).

Greg Michael, Atty. for Beaver Brook Heights developers: With me is Scott Bussiere one of the principles. We are requesting an extension be allowed for under the regulations for this project to continue for development. They left this Board in May 2009 with a number of conditions to include easements and other items that needed to be resolved. They also made a cross-transfer of real estate and a lot line adjustment plan for tax Map 48, Lot 26, and Map 49, Lots 49 & 58. There is a road proposed over the Town road to come into this project. At the time of approvals we worked with Town engineering and Mr. Hemeon was the Town road agent. The Town suggested Jacob Ave. be straightened a bit by further adjustments and improvements. Mr. Bussiere and his partner agreed to do this work. Steve Keach (Keach-Nordstrom) designed the straightening of the road. Off-site easements were required to straighten the road. Beaver Brook could have upgraded the road to meet regulations without off-site easements. However to do the right thing, the Town acquired easements to straighten the road. 2010-2011 there are e-mails about the easement deeds and Mr. Hemeon gaining appropriate signatures. Ultimately the signatures were done in Feb-Mar 2011. Another thing occurred, Jacob Ave. is a Town road. This project had two site specific permits; one under our name and one under the Town. The Town permit expired. Through Keach's office we extended that permit to move ahead. In April 6, 2012, we finally have the updated Jacob Ave. permit. Next that occurs is in 2009-early 2010, Town Counsel reviewed the needed easements for execution for various parties off and on-site. Then the new Town Counsel reviewed the easements for compliance, and is now requiring a Temporary Construction Easement. D. Fitzpatrick, Planning Coordinator, has provided us with a detailed list of outstanding items for this project to include status, fees, etc. This newest easement is not a permanent easement. It is resulting from straightening out Jacob Ave. to include roadway repairs and extending driveways into the Town ROW. I expect when the easements were reviewed by the Town Counsel years back, no easements were needed for the Town ROW. The new Town Counsel said private land owners need to be granted temporary easements to allow the connection of those driveways. We just found out about these a little while ago. Now we are back before this Board to request that you allow an approval extension; waiver for old regulations "6.09 Approval Null and Void" and request extension under new regulations "10.03 2) time Limits for Fulfilling Conditions". They would like to get their project going before this new extension expiration. Also, there was a letter submitted to the Board through Staff from Matthew & Kimberly Magdiarz (24 Jacob Ave. Map 48, Lot 26) regarding issues on the lot he was deeded by his father Mr. Stanley Magdiarz. This was in conjunction with this project, because land was deeded to Beaver Brook Heights, then deeded back to Mr. Magdiarz (Stanley) and his wife, and then to his son (Matthew) and daughter-in-law (Kimberly). The previous lot line adjustment plan does not show an easement, however the new plans show easements. We would like the opportunity to speak with Matthew and his wife. Alternatively I spoke

with Mr. Keach and we believe we can remove those easements from Map 48, Lot 26, however we would prefer not to. We ask the Board to allow the 1 yr. approval extension. A lot of time, effort, and money have been put into this project; 82 plan sheets. The Board spent a lot of energy on this project. Fairness would prevail to allow this extension. There were timing issues and things that occurred, because we wanted to do the right thing. For the record, staff showed me plan sheet 35 of 82 that Matthew Magdziarz marked-up for his driveway. He shows the driveway through one of the easement areas. My handout shows the driveway is not in that area, but to the right of the easement. We would like to speak to the owner of parcel (Mr. Matthew Magdziarz), and if necessary relocate the easement.

J. Duffy: He not only built his driveway through an easement, but also through the wetland.

G. Michael: We have not surveyed, but our belief to the right of the easement.

J. Gryval: We received a letter dated 5/4/12 from Matthew and Kimberly Magdziarz, 24 Jacob Ave. Map 48, Lot 26 (to be read into the minutes at the opening of the public hearing).

F. Kotowski: What is the problem Jo Ann?

J. Duffy: I met with Scott Bussiere last week and had a lengthy conversation with Steve Keach today. If the Board does agree to extend the approval, there should be a condition that they work it out with Mr. Magdziarz or be redesigned prior to the plan set being signed and recorded. The plans are not recorded yet, because there are other items such as the Temporary Construction Easements they spoke about. Apparently when Dale was here handling this, Dale went to the homeowners, introduced himself as an employee of the Town, and got them to sign the easement. They want Leo to do the same thing for this temporary easement. Leo had to get more information before he makes the decision. This project is very unique. Many things done with this project that wouldn't normally occur in another subdivision. I can see why they couldn't meet conditions. The Magdziarz drainage issue should be resolved before the plans are signed and recorded.

S. Lovas Orr: How many conditions are outstanding?

J. Duffy: There are the boiler plate conditions, fees, and few other items. I believe the easements are delaying the process at this time.

L. Lessard: Where is the existing driveway that goes to the Magdziarz house?

S. Keach: It was a work road at the Tennessee gas line for years and then improved for a driveway.

L. Lessard: Can we get it (driveway) located? I would like it located.

Open public hearing

J. Gryval: Read the letter dated 5/4/12 from Matthew and Kimberly Magdziarz, 24 Jacob Ave. Map 48, Lot 26 into the record "May 4, 2012, Members of the Planning Board: My name is Matthew Magdziarz. My wife Kimberly and I own the property at map 48, lot 26. We are out of town this evening, but we wish our letter to be read and entered into the record for this planning meeting of May 7. We are objecting to Beaver Brooks application for an Extension Request Development Regulations (1/23/2012) section 10.03 2. We contend that Beaver Brook's application is in violation of Development Regulation 11.12 Drainage Design Criteria mm.(I-39), and 11.12 4 Offsite Drainage Considerations a, b, and c.(I-41). . . . We have been and still are willing to work with Beaver Brook through our attorney. As yet, however, they have not responded."

G. Michael: This lot was part of the subdivision originally. The drainage was designed per Town of Hooksett regulations. It is an appropriate design and does work as evidence of approval of this Board. We will work with the Magdziarz' or redesign.

D. Shankle: What is before us is an extension request. What Jo Ann and Leo suggested is that we have questions about the plan. I am asking if this Board is setting a precedent to add more conditions on an extension of a plan you already approved. Have you done extension conditions in the past?

J. Gryval: Without an extension, they would have to start all over.

D. Shankle: You will be putting more conditions (Magdziarz drainage issue and driveway location) and then extending it.

J. Gryval: It is up to the Board if they don't want to grant the extension, then the applicant would have to start all over. In the past we have given a one-year extension to get their ducks in a row. Either they work with the property owner or redesign.

D. Marshall: Why haven't the plans been signed?

J. Duffy: They haven't met their conditions yet.

D. Marshall: An extension to a conditionally approved plan is another loose end. Is it unreasonable to assume between now and the first meeting June (4th) that people can't get together and resolve issues? Mr. Magdziarz and Beaver Brook Heights should resolve issues, before we grant an approval extension.

J. Duffy: They are here tonight to request an extension before the expiration (5/18/12).

D. Marshall: We could grant a 30-day extension to June 18th.

D. Shankle: Why don't we table this until our next meeting and put the expiration time on hold so that it expires June 4th?

D. Shankle motioned to freeze the approval expiration of 5/18/12 and table this item until the 6/4/12 Planning Board meeting. Seconded by M. Cannata.

M. Cannata: What are the outstanding conditions?

J. Duffy: When the Board approved their plan they had about 25 conditions, now there is a handful.

L. Lessard: For the June 4th Board meeting I will not be here, but I would like the Magdziarz driveway located.

D. Shankle motioned to amend his previous motion above to read “freeze the approval expiration of 5/18/12 and table this item until the 7/9/12 Planning Board meeting. Seconded by M. Cannata.

Vote unanimously in favor.

PUBLIC HEARING CONTINUED TO JULY 9, 2012.

J. Gryval: We will send a letter to Matthew and Kimberly Magdziarz informing of the continuation and that the applicant is to contact them. The Board would also like the Magdziarz to attend the July 9, 2012 meeting.

COMPLETENESS WAIVER & PUBLIC HEARING

3. HERITAGE FAMILY CREDIT UNION - HFCU (#12-10)

1337 Hooksett Rd., Map 25, Lots 18-1

Amended site plan to construct a 1-story 3,162 sq. ft. credit union with drive-thru and access off Lindsay Road.

P. Holden: We had final site plan approval for the HFCU new building on part of John Kelly's old auto sales property. There were some conditions remaining to include: paying fees, driveway permit, and a couple of other things. When HFCU finally designed their building and received the contractor price, it was considerably more than they wanted to spend. It was at the point they would be unable to build. We came back to Town staff and discussed how to cut costs on this project. Some of the costs to consider cutting include: fire sprinkler system, and an underground detention area under the parking lot. We talked to the Fire Dept. and because cars were parked in front of the building, they were occupying the fire lane. We moved that parking to the side of the building and moved the building forward. The Fire Dept. has now agreed no sprinkler system needed due to 4-sided access. We can now build a detention area in the back of the property vs. underground. The pipe feeding to the building is a domestic line now with a hydrant across the street. We will now have a well on site vs. Town water. Now the cost is down to a point HFCU can build their building. We are here to ask for an amended site plan approval. We are moving the building forward, taking out the underground detention. Since the first HFCU site plan approval, we purchased a strip of land from Mrs. Roy and no longer need the access easement. Waivers: 1) completeness

checklist, 2) 25 ft. landscape buffer where there are now parking spaces, and 3) pond side slope – asking for 3:1 vs. 4:1 to keep water out of drainage system.

L. Lessard: Are the waivers on your own property?

P. Holden: Yes.

J. Duffy: Is there any objection for the strip of Map 25, Lot 18-2 land purchased to be rezoned next year (January 2013)? It is now MDR and should be PZ.

J. Gryval: It was a residential use and now purchased for a commercial use.

T. Walsh: What changed with the 5/7/12 plan version?

P. Holden: There were two rows of parking with one against the building. Now there is only one row of parking along street.

T. Walsh: I have no problem with the buffer waiver as long as it is the same landscape plan.

P. Holden: The only thing we eliminated from the landscape plan was when Mrs. Roy owned the property there was a condition to maintain the landscaping. We said we would maintain. We were going to plant juniper bushes to have maintenance free. Instead we are just going to mow the area.

D. Marshall: The strip of land you bought from Mrs. Roy, did you attach it to this property? If yes, isn't it already rezoned because it merged?

J. Duffy: No it does not automatically rezone. It is now split zoned until changed during next year's zoning amendments.

Open public hearing

No comments.

Close public hearing

Waiver #1 Development Regulations section III (2) – completeness checklist

*D. Marshall motioned to grant waiver #1 above. Seconded by F. Kotowski.
Vote unanimously in favor.*

Completeness

*D. Marshall motioned to find the application complete. Seconded by F. Kotowski.
Vote unanimously in favor.*

Waiver #2 Development Regulations section 11.13.2 (jj) - pond side slopes from 4h/1v to 3h/1v

*D. Marshall motioned to grant waiver #2. Seconded by L. Lessard.
Vote unanimously in favor.*

Waiver #3 Zoning Ordinance Article 10A (h) (4) (a) – location of landscaped buffer between commercial use and residential use

*D. Marshall motioned to grant waiver #3. Seconded by L. Lessard.
Vote unanimously in favor.*

Waivers above per RSA 674:44 (III) (e)

D. Tatem: The revised drainage system connects with DOT. A condition of approval = written approval regarding the proposed connection of the overflow drainage pipe to the existing NHDOT closed drainage system to be provided by NHDOT.

D. Marshall motioned to approve the application conditional:

- All review fees are paid-in-full
- LCHIP check payable to Merrimack County Registry of Deeds is submitted to the Community Development Dept.
- 2 mylars, 11 paper copies (22x34), 1 paper copy (11x17), and 1 digital
- All outstanding comments from Stantec are addressed to Stantec's satisfaction (see letter dated 05/07/12 from Stantec). Applicant submits two (2) final plan sets directly to Stantec for their review and final letter to the Community Development Dept. recommending plans be signed and recorded
- All outstanding Federal, State, and local permits are obtained and submitted to the Town and Stantec to include DOT permit (w/divided island to force right turn out of HFCU onto Rte 3)
- Letter from Hooksett Sewer Commission stating they have capacity and approve this project
- NHDOT written approval regarding the proposed connection of the overflow drainage pipe to the existing NHDOT closed drainage system.
- Note the non-disturbed buffer between residential and PZ on the landscape and site plan sheets; include on east and south borders
- Sight Distance Maintenance Agreement to be reviewed and approved by Town Attorney
- Sight Distance Maintenance Agreement (signed) to be submitted to Community Development Dept. for recording with plan set
- All signage dimensions & locations noted on site plan sheet
- Submit additional signage details to the Community Development Dept. to include materials, color, and night & day view. Also directional signage should not include letter "H".
- All waivers noted on plan cover sheet

- Applicant agrees to attend a required pre-construction meeting after (a) all sureties are submitted and approved, (b) site plan compliance monitoring escrow is in place and the Inspection Funding Agreement is signed and submitted, (c) the plans are signed and recorded, (d) contractors schedule of work is submitted, and (e) if applicable, retaining wall shop drawings are submitted
- Applicant agrees to site plan compliance monitoring
- Note on plan “Approval of a development plan by the Planning Board shall expire five (5) years from the date of the Planning Board approval, as recorded in the Planning Board Minutes, unless the right to develop has vested pursuant to RSA 674:39.”
- Applicant agrees to remit \$8,109 in impact fees 10 days prior to the issuance of the Certificate of Occupancy subject to NHRSA 674:39 (Impact Fees: Roadway \$5,323 + Public Safety \$2,786). These fees as based on a 3,095 sq. ft. building.
- Prior to issuance of CO, the applicant also agrees to provide: 1) original approved and stamped as-built to DPW-Building, 2) 2 yr. landscape surety from date of plantings, and 3) Community Development with PDFs of Planning Board signed plan set and approved as-built plan

Note: The above conditions in no way reflects all requirements to be met by the applicant per the Town of Hooksett Zoning Ordinances, Development Regulations, Minutes of Boards/Committees/Council, Stantec, and Merrimack County Registry of Deeds.

Seconded by M. Cannata.

D. Shankle: Is it unusual for a commercial structure having wells vs. connecting to available Town water?

J. Duffy: The new buildings in this area have no wells. There may be some older buildings that have them.

D. Marshall: For this project it was cheaper to build a well vs. tying into the water line?

J. Duffy: According to the applicant the water hook-up is \$30,000.

D. Shankle: In my experience it is not unusual for businesses not to tie into water lines. For sewer they make you hook-up to their lines. Explain to me the sprinkler system and why you don't need it.

P. Holden: With our redesign, Deputy Chief Hoisington said the fire lanes comply with the ordinance for 4-sided access.

D. Shankle: This isn't a waiver to our ordinance, because it is not necessary due to 4-sided access.

Vote unanimously in favor.

NH COMMUNITY GRANT PROGRAM

D. Shankle: I asked Kathie Northrup to be here tonight. Jo Ann and I went to a NH Community Grant program meeting about helping towns develop regulations in different areas. One area that appealed to me was working with communities on “neighborhood heritage communities”. It is a 2 yr./\$30,000 contract we would be required to have with the Preservation Alliance to look at Hooksett’s village district. We are nearing our bicentennial. This is a planning grant.

J. Duffy: There is one-million in the State of NH for overall grants. There will be two rounds of grants; this being the first year. Referred to NH Division of Historical Resources “NH Municipalities Neighborhood Heritage Districts”. Two years ago we came up with a new mixed use village zone. It went over like a lead balloon. People who lived in that district didn’t want businesses like Dunkin Donuts and others going in. The Preservation Alliance includes residents in this area in the process. Robies, old “Lilac” bridge, historical building, churches, and old town hall, we think will be well accepted in the end.

D. Marshall: This is not the standard process to become a historic district?

K. Northrup: No, a historic district is very restrictive. This heritage community is more encompassing and people in the neighborhood decide what they want.

D. Shankle: Even if something came out of it (i.e. zoning change), it goes to Town meeting. If it doesn’t pass, they won’t ask for their grant money back.

F. Kotowski: This is seed money. We have had meetings to discuss what to do with the old town hall, etc. People who care about a village area will want this. If we went to the voters of the Town to ask for \$30,000 we probably wouldn’t get it. We should pursue this grant money.

K. Northrup: We have a good start on a historic district with the houses and history listed. To have a long-term contracted person get this information is beneficial for many reasons. They look at reuse for existing buildings and this would be a wonderful partnership.

S. Lovas Orr: What specifically can this money be used for?

D. Shankle: Contracting with the Preservation Alliance to look at a village district will bring people together. They can go structure-to-structure.

F. Kotowski: We are doing due diligence and making a decision to move forward or not. This is money well spent. Somebody is going to get that grant money, and it might as well be Hooksett.

M. Cannata: Where is the money coming from?

J. Duffy: HUD.

D. Shankle: There is a match, most in-kind; out of the \$30,000 we would probably need to come up with \$1,500.

M. Cannata: Competitive wise with others (municipalities) for this grant, how realistic is it for Hooksett?

K. Northrup: We have established a very good relationship with that office (i.e. Head's School dedication). Is the end result to get a heritage district?

D. Shankle: Yes heritage.

J. Duffy: It is consistent with our master plan, and we have a village chapter. It fits in nicely.

J. Gryval: We don't have an area for the center of Town.

M. Cannata: There was a volume printed a while ago containing the Lilac bridge, etc.

J. Duffy: It was in the 2004 charette on the village district.

OTHER BUSINESS

4. SB 291 – IMPACT FEE LEGISLATION UPDATE

J. Duffy: SB291 - Senator Boutin was the main sponsor. It passed through the senate and the house successfully. It is awaiting signature by the Governor any day.

F. Kotowski: I suggest he (Governor) will sign the bill to include the amendment of a north country fire station. There is Chamber of Commerce correspondence on the internet. There is the opening of Market Basket and the State Highway 10 yr. plan. Good work on this bill Jo Ann. I give credit to Senator Boutin and Representative David Hess. I vote for a traffic light at the Hackett Hill Rd. intersection.

M. Cannata: Does this clear the way for exit 11 funding? There was a question two meetings ago as to whether the impact fees could be used in this area.

D. Marshall: Impact fees already collected (Walmart, Lowes, and Market Basket) now can be used on State highway project. It also means any future ones collected can be used in that corridor.

M. Cannata: That is the essence of my questions. Can we go ahead and do it?

D. Marshall: It clears the way to use impact fees for exit 11.

M. Cannata: What about the money from Lowes and Walmart? Does legislation clear the way to do it?

D. Marshall: The issue is rational nexus.

J. Duffy: I talked with Dean on Friday about taking Goonan Rd. portion of the Hourglass out. By doing that we reduced hourglass project by \$1.7 million. If we took all the numbers we will be short about \$83,000. Our share will be 1/3 not 100%, so both our share and the State's share goes down.

D. Marshall: That is to do both projects.

J. Duffy: Right. Dean was suggesting that we approve both. State approved as one project with two phases. Start with Hackett Hill Rd. In the meantime more money would be coming in.

D. Shankle: My point isn't so much because more money would be coming in. For one thing the State wanted to do Hackett Hill Rd. first because it is a cleaner project. It would take us a year or two just to get negotiations on the land for the hourglass project. That is a much more complicated project there. We are going to deal with national companies and trying to get a strip of their land. Ultimately we know we have the money, coming up with \$80,000 over a 5 yr. period, how hard is that going to be? This makes a lot of sense if this is what we want to do. This is a great opportunity to take care of two problems with money we already have.

D. Marshall: For the record, you have to understand I feel strongly about rational nexus issue. If you do the Hackett Hill project first, you are essentially telling Walmart and Lowes (and maybe not Market Basket because you don't need that money for that area), you are telling them we are going there first with their money. You have to account for that money, how it came in and where it goes out. There is no rational nexus of any stretch of the imagination for Hackett Hill to be done with money collected at the south end of that corridor. I just want that on the record, because if that comes back to bite you because Lowes and Walmart suddenly say wait a minute, you have a problem. They won't have an issue if their area is done first and the remaining of their money up there. What happens if you do Hackett Hill, and I know you don't see there is a problem with this Town raising \$80,000 but given the track record in some of our Town meetings lately, nothing passes. Look at and say you are \$80,000 short when you get to the hourglass project, then it is even worse. I just want it on the record, if we are successful and that is the way it goes, so be it. I feel strongly about that.

D. Shankle: Since you persistent about putting that on the record, I would like to say that I have a better imagination. I think you can come up with the rational nexus. It is a road that nothing comes off of. I am not as sure as you are that you can't make that connection.

J. Duffy: I just need to know if you agree with this one project phased starting with Hackett Hill, because we need to go to the Town Council. I need a vote or by consensus.

J. Gryval: It seems to me if you collect money from Walmart, then it should be used there.

T. Walsh: The hourglass will take more time, because of taking of land vs. the Hackett Hill Rd. intersection. Could they be started at the same time, even though Hackett Hill will be easier.

D. Shankle: The State wants us to work on getting one project under contract, before working on another. The Hackett Hill Rd. intersection is easier to get under contract, so we can then start working on the hourglass. The Hackett Hill Rd. intersection is a dangerous intersection.

S. Lovas Orr: Walmart paid impact fees they were supposed to pay. To what extent do we need their permission for the order we do work? Do we need their permission?

J. Duffy: Market Basket gave us a gift (vs. impact fee) only for that project. Walmart paid impact fees and agreed we could hold them for 10 yrs. vs. 6 yrs.

D. Marshall: The assumption being we would take care of Walmart issues first. Is the traffic using Hackett Hill Rd. a result of exit 10? Rationale nexus, we can't connect the two.

D. Shankle: There are traffic studies before and after Walmart. There is the increased traffic on Hackett Hill Rd. Who will pull apart the data to determine what percentage of traffic increase on Hackett Hill Rd. is related to Walmart?

J. Duffy: When we met with the State, they agreed to look at this as one project with phase I = Hackett Hill Rd. intersection and phase II = hourglass. They also made a recommendation we start with Hackett Hill Rd.

J. Gryval: Walmart would be phase II of that same project.

Consensus to move forward with roadway impact fee money on State roads as one project with two phases (phase I – intersection of Hackett Hill Rd. & Rte 3A, and phase II – hourglass):

S. Lovas Orr: yes

M. Cannata: yes

D. Rogers: yes

J. Gryval: yes

D. Marshall: no

L. Lessard: yes

F. Kotowski: yes
T. Walsh: yes
D. Shankle: yes

S. Lovas Orr: John should be at the Town Council meeting when this item is on the agenda.

5. CHANGE OF USE

1. 1368 Hooksett Road, Unit 1, Map 18, lot 41 (old Woodmaster building)
Auto Sales (inside) – approved for display, storage and sales inside only.
2. 1170 Hooksett Road, Map 39, lot 2 – currently used car site. Approved. No parking permitted on grassy area. Used Car Dealership
3. 1562 Hooksett Road, Map 13, lot 45 (old Sportsmen Den)
Gilbert Block – retail sales of hardscape with display area in parking lot and on grassy area. Approved.
4. 1271 Hooksett Road, Map 31, lot 2
Cue and Cushion – Outdoor patio area in rear of building. Approved pending assembly permit by Fire Dept.

D. Shankle: I think I need to sign something for this.

J. Duffy: There should be an amendment to their liquor license that will come through.

5. 33 Prescott Heights, Map 41, lot 13
Neuro-Restorative NH – Rehabilitation Center for brain injuries.
Five bedrooms w/five residents. Special Exception required for use and variance required for having only 50' of frontage where 200' is required. Site plan will also be needed.
6. 161 Londonderry Turnpike, Map 42, lot 17
UA Local 131 – construction of 10'x20' rigging structure for training purposes.
Approved.

M. Labonte: Structure outside for trade education - conduit hanging.

6. WORKSHOP – PROPOSED DEVELOPMENT REGULATIONS

- Checklist – add soils
- Signage in Performance Zone – height and size variances through ZBA
- Section 6.08 Approval Null and Void – remove language
- Section 22.02 Vesting – add language for phased plans
- Dumpsters (construction) – add language
- Other proposed Development Regulations

J. Duffy: The last time the Development Regulations were approved was back 1/23/12. Since then we have found other changes to include:

1. Checklist for Subdivision Review/Proposed Minor Subdivision Information, page IV-10 – change #43 from “Location of soil boundaries and description of soil types, delineated by a qualified Soil Scientist, using the most recent regulation governing “Site Specific Soil Mapping.” To **Soils information for design purposes or for determining highly erosive soils shall be determined from a National Cooperative Soil Survey (SCS) soil series map.**

J. Duffy: #1 is to change the checklist to match the regulations for a minor subdivision.

2. Checklist for Subdivision Review/Proposed Major Subdivision Information, page IV-11 - Add a new #65 and renumber remaining items. #65 to read: **Soils info delineated by a Licensed Soil Scientist utilizing the most recent criteria governing “Site Specific Soil Mapping”.**

J. Duffy: #2 is to change the checklist to match the regulations for a minor subdivision.

3. Part II – Subdivision Regulations, page II-1 – Section 2 Completeness Criteria 2.01 – Eliminate #35, Required on the plan shall be the following statement: “Approval of this plan shall expire five (5) years from the date of Planning Board approval, as recorded in the Planning Board minutes, unless the right to develop has vested pursuant to RSA 674:39.

4. Part III – Site Plan Regulations, page II-3, 3.01 Plan Requirements – eliminate 2) The 5-Year approval expiration statement and 10) a) The 5-Year approval expiration statement.

5. Section 6, General Provisions, page I-10, 6.08 – Eliminate: “Approval of a development plan by the Planning Board shall expire five (5) years from the date of Planning Board approval, as recorded in the Planning Board minutes, unless the right to develop has vested pursuant to RSA 674:39. (A note to this effect shall be required on the plan.)

6. Section 10 Formal Review Procedures, page I-19, 10.04 – Eliminate 10.04 2): Expiration of Approval – If the site development is not completed within five (5) years from the date of the original site plan/subdivision plan approval, as recorded in the Planning Board minutes, the applicant shall reapply for nonresidential site development approval, unless the right to develop has been vested. All work not completed at the time of the reapplication shall be subject to any intervening changes in these or any other applicable regulations.

NOTE: Section 10.03 2) states that all conditions shall be fulfilled within one year of the Board’s granting conditional approval. Extensions may be granted for one year in length. Once conditional approval is received, the plan will be recorded and the requirements of vesting would need to conform to RSA 674:39.

J. Duffy: #3,4,5,6 - State law changed the vesting requirements, because of the economy. The State gave them additional time for “active and substantial” development. After speaking with Atty. Buckley, it is two separate approvals. The 5 yr. approval expiration would go away. Now the Planning Board will approve with no deadline, but the applicant will have one year to meet their conditions of approval. If not met, they could ask for a 1 yr. extension (may be done more than once). Once conditions have been met, then their plans are recorded. The State says they 24 months for “active and substantial development” to vest for 5 yrs. If substantially completed within 5 yrs. they are grandfathered forever. We never had an expiration of Planning Board plans until around 2001-2004, and all it has done is confused everything. Atty. Buckley agreed this is a better way to go. Before the plans would sit there for 5 yrs. waiting for the economy to change.

D. Marshall: We approve plans conditionally with 25 conditions. Then they will have one year to meet those conditions. If not met they can ask for a 1 yr. extension. What happens if conditions are not met after the extension?

J. Duffy: There is no limit on the number of extension requests. It is just that they are granted for 1 yr. at a time.

D. Marshall: If we don't grant the extension, they start all over.

M. Cannata: Do we have criteria on what a conditional approval is based on?

J. Duffy: State law changed and allowed for an extension of the 2 yr. “active and substantial”. The Planning Board can grant these extensions.

D. Marshall: Conditional approvals and extensions are unique to each case.

7. Surety Requirements, page I-72 - Amend 18.03 Acceptable Forms of Surety
To read: “The following shall be considered acceptable forms of surety for
Subdivisions/Roadways:

- 2) Self-Calling, Irrevocable, Non-Lapsing, Letter of Credit – substantially in the form contained in the application package at the Community Development Department and submitted on the Town's standard form.
- 3) Cash Escrow – If a bank check is provided, the surety will not be considered satisfied until the bank has confirmed the required funds available. The Town will not accept personal or business checks. The Town shall maintain the cash deposit in an interest bearing FDIC insured bank of its choosing.
- 4) Passbook Savings Account made out solely to “The Town of Hooksett.” The financial institution must be FDIC insured.

The following shall be considered acceptable forms of surety for **Site Plans:**

- 1) Non-Lapsing Surety Bond of companies with a Best rating of A- or better and listed in the Department of Treasury Circular 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal bonds, substantially in

the form contained in the application. Package at the Community Development Department.

2) Self-Calling, Irrevocable, Non-Lapsing, Letter of Credit – substantially in the form contained in the application package at the Community Development Department and submitted on the Town’s standard form.

3) Cash Escrow – If a bank check is provided, the surety will not be considered satisfied until the bank has confirmed the required funds available. The Town will not accept personal or business checks. The Town shall maintain the cash deposit in an interest bearing FDIC insured bank of its choosing.

4) Passbook Savings Account made out solely

J. Duffy: In November 2010 we eliminated the bond surety option. In January 2012 we put it back in. I spoke with Leo and he is OK with bonds for site plans, but not for roadways. Roadways would be either a LOC, cash, or a passbook savings.

D. Shankle: We shouldn’t be doing future waivers for roadways to have bonds.

8. Part 1, General Development Regulations, Section 6, page I-12, add the following:

6.14 Construction Site Trash Removal and Toilet Facilities

a) All construction debris shall be disposed of “off-site” to a licensed disposal facility. Dumpsters of sufficient capacity shall be provided on site during the duration of construction of the project and in place prior to the first foundation inspection.

b) Sufficient toilet facilities must be provided for construction workers on site and shall be maintained in a sanitary condition.

J. Duffy: This is for construction sites to have trash removal and toilet facilities.

L. Lessard: This is both for residential and commercial construction. On remodeling the CEO will make the decision. Prior to the first foundation inspection, a dumpster should be on site.

J. Duffy: If you agree with these changes, we will hold a public hearing at our June 4th meeting.

Board consensus: Agree to hold public hearing for proposed Development Regulation changes.

OTHER

M. Cannata: What is happening with the Mr. Bees property?

J. Duffy: Mr. Boisvert stopped by and discussed possible tenants to include a flea market or merging with property next door (Faulkners). He is actively marketing the Beanery that had a previously approved plan for a gas station that would have to be reactivated.

M. Cannata: And the Log House Antiques building?

J. Duffy: It will be a fire arm company who sells guns.

F. Kotowski: The corner of Pleasant St.; old Caruso's?

J. Duffy: The building was purchased at foreclosure.

D. Shankle: The Peterbrook Motel (boarded-up building) is getting demolished tomorrow.

J. Gryval: After our last meeting, Donna and I were still here and Dennis Demers came in. He was not happy to find out we did not grant his waiver of the sprinkler system.

D. Marshall motioned to adjourn at 8:00pm. Seconded by T. Walsh.

Vote unanimously in favor.

ADJOURNMENT

Chair J. Gryval declared the meeting adjourned at 8:00pm. May 21, 2012 meeting cancelled. Next regularly scheduled meeting is on June 4, 2012.

Respectfully submitted,

Donna J. Fitzpatrick,
Planning Coordinator