

1 **HOOKSETT PLANNING BOARD MEETING**
2 **HOOKSETT TOWN HALL CHAMBERS (Room 105)**
3 **35 Main Street**
4 **Monday, February 3, 2020**

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6 **MEETING CALLED TO ORDER AT 6:00 P.M.**

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8 **PLEDGE OF ALLEGIANCE**

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10 **INTRODUCE MEMBERS OF THE BOARD**

11
12 **PRESENT: Richard Marshall (Chairman), Tom Walsh (Vice-Chairman), David Boutin,**
13 **Christopher Stelmach, Matt Reed, and Robert Duhaime (Town Council Rep.)**

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15 **ALTERNATES: Brett Scott**

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17 **EXCUSED: P. Scarpetti**

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19 **STAFF: Nicholas Williams (Town Planner) and Bruce Thomas (Town Engineer)**

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21 **B. Scott is a full voting member this evening.**

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23 **APPROVAL OF MINUTES OF JANUARY 6, 2020**

24
25 ***January 6, 2020 Meeting – D. Bouton motioned to approve the minutes of the January 6, 2020 meeting.***
26 ***Seconded by M. Reed. T. Walsh and C. Stelmach abstained due to not being in attendance at the***
27 ***January 6, 2020 meeting. Motion carried unanimously with a vote of 5-0.***

28 **COMPLETENESS REVIEW AND PUBLIC HEARING**

- 29
30 **1. CHUCKSTER’S #20-01**
31 **51 Hackett Hill Road, Map 13, Lot 56**
32 **Amendment to install a fence as a buffer**
33

34 Mark Blasko: As part of our original approval we had a buffer of fur trees between us and our residen-
35 tial neighbor which we did according to plan. A lot of the trees died the first year between seasons so
36 we replaced them and those died. Rather than fighting that I would like to put in a six foot pressure
37 treated wooden fence in place of about half of them to keep the visual buffer because a fence can’t die.
38

39 N. Williams: Section 3.04 of the development regulations states that the applicant has the right to ask
40 the Planning Board to substitute the vegetative buffer with an urban berm to the abutter substitute the
41 berm or a fence. The abutter would probably like to speak on this so we determined it would be best to
42 bring it before the Planning Board for a public hearing.
43

44 Attorney Bruce Marshall (representing Hollis and Pat Cate): When the developer cut into the natural
45 50’ buffer he wiped out all of the trees, cut over the property line, and filled over the property line. We
46 still have problems with that which we will take care of in Superior Court. When he came before you

47 back then he assured the Cates they were going to plant these trees on the berm and build a berm. We
48 had concern about whether the trees would grow or not. The applicant assured this Board and the pub-
49 lic that he had landscapers that knew what they were doing. They were going to plant trees and if any
50 died they were going to put them back. Now trees are not there and he wants to replace them with a
51 fence. When he initially talked about putting up a fence, I pointed the Board to the zoning ordinance
52 regarding the buffer when you have commercial up against residential. There is not supposed to be any
53 penetration of that 50' buffer which he did with excavation, fill, and cutting of trees. There is supposed
54 to be a suitable combination of fencing and evergreens to address both the noise and view. A 6' fence is
55 not going to address the concerns the Cate's have about noise and replacing the illegally cut 50' natural
56 buffer or sizing the trees. Instead of doing it right the first time he is here before you wanting to put a
57 bandaid on this. That is not what your ordinance says, he has not gone to the Zoning Board to seek a
58 variance of that ordinance, and yet he is coming to the Planning Board to try and throw a bandaid on
59 something and not adhere to the promises he made to the Board and the town. We also understand he is
60 proposing to put the fence on the property line. We find that to be unacceptable. Any fence would have
61 to be on his side of the property and we would want to see more specifics of it. A 6' pressure treated
62 fence does not equate to what he represented to the Board and the town. We think his request should be
63 denied. He should have to replace the trees. Maybe he needs a different landscaper. He should have to
64 replace the buffer he took out in the first place.

65
66 D. Boutin: What is the violation of the zoning ordinance?

67
68 Attorney Marshall: He was in violation when he originally cut into the buffer.

69
70 D. Boutin: He is not violating it now.

71
72 Attorney Marshall: He is not maintaining the buffer.

73
74 D. Boutin: The trees are dying. That is why he is here. Where would you locate the fence?

75
76 M. Blasko: Where the dead trees are now. The closest it would be to the property line would be about
77 10' to 20' and it would go roughly parallel to the property line.

78
79 D. Boutin: Are you going to plant any evergreens along with the fence?

80
81 M. Blasko: There are a lot of trees still there which will be left and maintained. The intention of the
82 fence is to replace the dead trees

83
84 R. Duhaime: Evergreens are harder to establish. There is usually a percentage of loss which is under-
85 stood. Success is usually guaranteed by soil amendments. The fence would allow the trees to establish
86 more quickly. A compromise would be the fence being in the middle of the buffer.

87
88 M. Blasko: I am going to put in in the middle of the berm where the trees are.

89
90 R. Duhaime: Then there is no screening of the fence from the abutter. On commercial sites the buffer
91 has to be on your property.

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93 N. Williams read the buffer zone regulation from page 137 of the 2012 zoning ordinance.

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R. Duhaime: Even if you put the fence in the back of the property line you, if the abutter approves, you could put in a mix of shrubs so the fence would not be visible on the residential side.

M. Blasko: I am not sure the abutter will agree with anything. I need that defined so it would be done properly.

R. Duhaime: There is a breakdown in the regulations.

T. Walsh: Is it my understanding that the cutting of the natural buffer was not a violation as long as the intention was to replace what was there.

N. Williams: That is true.

T. Walsh: I heard the attorney say they violated something by cutting the natural buffer and I don't see that to be the case, although they did go on the Cate's property line. Did you say there is something going to Superior Court about this?

B. Marshall: There are issues with the property with the fill coming over. The illegal cutting of the buffers is also 50' of a buffer by state statute. When they went in and mined the material before they built the building and mined the material 75' below grade they went right up to the property line and undermined the property line. That is a violation of RSA 155 (e). They were hauling gravel out and cut that out which is what led for them to come in and reestablish. Your regulation says that it has to be maintained 50' and trees are supposed to be planted 8' tall. Now he is saying a 6' high fence is equivalent to what he was approved for.

T. Walsh: The site plan has a section of trees highlighted in blue. Are you proposing to put a small fence in between the surviving trees?

M. Blasko: Yes.

T. Walsh: So it is a bandaid.

M. Blasko: It is a permanent bandaid. I want it to look good from both sides.

T. Walsh: You own Chucksters, correct?

M. Blasko: Yes.

T. Walsh: Did you do the site work yourself or did you have a contractor?

M. Blasko: I had a contractor.

T. Walsh: Has he taken any responsibility?

M. Blasko: He is long gone and I have no way of contacting him.

141 T. Walsh: Everyone is pointing to you but I don't think you were sitting at the machine.
142

143 B. Blasko: I was not.
144

145 C. Stelmach: I know it went into the buffer and it isn't your fault it got cut. You are just holding the
146 bag for it now. Does Mr. Cate have a say in what you put in?
147

148 M. Blasko: Of course, but my proposal is a 6' pressure treated fence. I have them at my other New
149 Hampshire Chuckster's locations as the border with residential and commercial neighbors and every-
150 body is happy with it.
151

152 C. Stelmach: If a fence goes in I would like to hear what the abutters have to say because they are go-
153 ing to be looking at it. In the end he is looking at something that really should not be there so if they
154 have to look at it it should be to their standards.
155

156 M. Blasko: I need to know what it is before I do it. This is not a huge deal. If I have to I will just re-
157 place the trees. I just saw this was a better permanent solution.
158

159 D. Boutin: It seems silly to require the applicant to do something that has been tried and is not work-
160 ing.
161

162 ***D. Boutin motioned to approve an amendment to install a 6' fence, 10' away from the Cate property***
163 ***line, as a buffer for Chuckster's #20-01, 51 Hackett Hill Road, Map 13, Lot 56.***
164

165 D. Marshall: The town is holding on to a \$10,000 landscape surety for this project. We would prefer
166 not to execute that, but we need to have a solution to this problem. When we worked out the buffer, and
167 how it was to be constructed, you agreed to that. That is what the Board expects to be done. We don't
168 want to see you and the abutter back here every year about dead trees. I understand you want to put up
169 a fence, but you need agreement from the abutter because that is not what we specified.
170

171 D. Boutin: It is not up to the abutter. It is not on their property. We have heard on a couple of tries the
172 trees have not made it. The logical solution would be to let him put up the fence. We could also ask
173 him to put in some evergreen shrubs. It is not up to the Cate's to agree what is there for screening. It is
174 his property. Our ordinance says he can put up a fence.
175

176 R. Duhaime: That would have had to been approved when the site plan was approved. This would
177 change those plans which would mean a site plan update. Nick is that correct?
178

179 N. Williams: That is why he is here.
180

181 R. Duhaime: That is up to us. If we direct the applicant to work with the abutter and make sure they
182 come to an agreement before they come back to this Board, then this Board won't get into that litiga-
183 tion. If you look at the plan you can see the elevations on that corner. When you add a 6' fence on top
184 of a property line that is already six or seven feet above grade, now you are looking at a fence that is
185 10', 12' or 15' tall. Unless the applicant and abutter finds a compromise with the applicant, I don't
186 think this Board should move forward.
187

188 D. Boutin: So how will this be resolved. You can't grow anything there. What are we accomplishing?
189

190 Bruce Thomas: I have visited with both the applicant and Mr. Cate regarding this site. One potential
191 negotiating factor is suggesting to have the fence 20' or 30' off the property line or have the fence
192 parallel. The fence could be further back from the property line and between the fence and property line
193 whatever is there now would eventually grow up.
194

195 D. Marshall: If you are moving the fence 20' from the property line are you saying there should be
196 plantings on either side of the fence.
197

198 B. Thomas: There are a lot of dead trees. I think if the fence was set 20' there would not be any more
199 plantings but the brush would come up and provide it's own buffer zone.
200

201 Attorney Marshall: We are happy to discuss alternative options.
202

203 D. Boutin: How long are you going to discuss those options? From now until next year?
204

205 Attorney Marshall: I don't know why you are attacking me. Your sarcasm is not welcome.
206

207 T. Walsh: Would it work for you to move the fence back? If you had a conversation with the Cate's it
208 would make it easier for us. If I were the Cate's I would prefer a fence. They work better than trees.
209 Had you heard about moving it back more than 10'? Could you make it continuous along the property
210 line?
211

212 Attorney Marshall: We propose that we meet between now and your next meeting and try to reach an
213 agreement. We would like to walk the site.
214

215 ***D. Boutin motioned to table the amendment to install a fence as a buffer for Chuckster's #20-01, 51***
216 ***Hackett Hill Road, Map 13, Lot 56. until the March 2, 2020 meeting. Seconded by T. Walsh. Op-***
217 ***posed by D. Bouton. Motion carries with a vote of 6-1.***
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219 **2. HEMLOCK ESTATES, LLC #20-02**

220 **5 Spruce Court and Laurel Road, Map 26, Lot 3-24 and Map 21, Lots 15 & 16**
221 **Lot line adjustment and lot merger**
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223 D. Marshall: Staff, is the plan complete?
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225 N. Williams: I was just speaking with Mr. Rokeh about an affidavit from the abutting property owner
226 about the lot-line adjustment. We need to have that signed and notarized prior to finding this complete.
227 I was previously speaking with the abutter in my office and there are also some concerns with the lot-
228 line adjustment that they wanted to talk with the Board about prior to finding the plan complete. The
229 plan is not complete without this signature.
230

231 ***T. Walsh motioned to find the plan incomplete for Hemlock Estates, LLC #20-02, 5 Spruce Court***
232 ***and Laurel Road, Map 26, Lot 3-24 and Map 21, Lots 15 & 16, lot line adjustment and lot merger.***
233 ***Seconded by D. Boutin. Motion carried unanimously with a vote of 7-0.***
234

235 D. Marshall: We cannot move forward with a public hearing if the plan is not complete. There is also a
236 request for a waiver.

237
238 N. Williams: There is a request for a waiver for the scale requirements on the plan. They have pro-
239 vided enough detail for that.

240
241 A letter from Robert G. Kilmer to the Hooksett Planning Board dated 1/8/2020 states: "Due to the size
242 of Map 21/Lot 15, it is necessary to use a smaller scale to fit the parcels on 1 sheet. We feel that the de-
243 tail scale of 1" -100' is sufficient for the detail required for this adjustment. Furthermore, the lot line
244 adjustment is in coordination with a proposed subdivision of Map 21/Lot 15, where the 50-scale detail
245 is shown."

246
247 ***D. Boutin motioned to approve the waiver request from subdivision regulation 3.01.12 Plan scale.***
248 ***Required 1" -50', provided 1" -200' overall and detail at 1" -100' for Hemlock Estates, LLC #20-02,***
249 ***5 Spruce Court and Laurel Road, Map 26, Lot 3-24 and Map 21, Lots 15 & 16, lot line adjustment***
250 ***and lot merger. Seconded by R. Duhaime.***

251
252 T. Walsh: Where is our copy of the waiver request?

253
254 N. Williams: They submitted it in writing on letterhead.

255
256 T. Walsh: We had talked about getting waivers on our town paper.

257
258 **Motion carried unanimously with a vote of 7-0.**

259
260 **D. Marshall gave public notice that Hemlock Estates, LLC #20-02, 5 Spruce Court and Laurel**
261 **Road, Map 26, Lot 3-24 and Map 21, Lots 15 & 16, lot line adjustment and lot merger will be**
262 **scheduled for March 2, 2020.**

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264 **3. HEMLOCK ESTATES, LLC #20-03**
265 **Laurel Road, Map 21, Lot 15**
266 **37 lot subdivision**

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268 D. Marshall: Nicholas, are the plans complete?

269
270 N. Williams: The plans are complete but we have to go back and review the lot-line adjustment and the
271 merger first. That affects the access to the sub-division.

272
273 ***D. Boutin motioned to table Hemlock Estates, LLC #20-03, Laurel Road, Map 21, Lot 15, 37 lot***
274 ***subdivision until March 2, 2020. Seconded by T. Walsh.***

275
276 **D. Marshall gave public notice that Hemlock Estates, LLC #20-03, Laurel Road, Map 21, Lot 15,**
277 **37 lot subdivision will be scheduled for March 2, 2020.**

278
279 **Motion carried unanimously with a vote of 7-0.**

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281 **PUBLIC HEARING**

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4. DEVELOPMENT REGULATIONS AMENDMENT

Commercial Architectural Design Guidelines

- i. Limitation on building materials**
- ii. Limitation on colors**
- iii. Standardized requirements for architectural features**
- iv. Limitation on boilerplate corporate/franchise design of structures**
- v. Requirements for Planning Board submission review**

Open public hearing.

N. Williams: I have highlighted any changes in red.

Open to public comments.

No public comments.

Close to public comments.

Close public hearing.

D. Boutin: The color pallet language needs to be moved from page 2 to number 7.

D. Boutin motioned to move the color palate language from page 2 to number 7. Seconded by R. Duhaime. Motion carried unanimously with a vote of 7-0.

D. Boutin: Where will an applicant to see the colors they can use?

N. Williams: That is covered under Item 2, color palate. We changed that verbage to include bright or neon colors of any kind shall require review and approval of the Planning Board. I thought that was what the discussion was leaning towards.

D. Boutin: This is supposed to be guidance for applicants as to what colors they can use.

N. Williams: That was the original intent.

D. Boutin: Now it will be gone. How will that have that guidance? They just pick a color and hope they pick the right one? How is the applicant going to know what colors are acceptable if it is not in the document?

D. Marshall: If the color palate is being moved from Item 2 to Number 7, parenthetically at the end you would say “see color guide on the last page.

D. Boutin motioned to add the color pallet to the end of the amended development regulations for Commercial Architectural Design Guidelines. Seconded by T. Walsh.

C. Stelmach: Even if the color palate is there they have to come before us. Once we know where this is we will know if the color they pick will fit.

329 D. Boutin: They should have something in front of them to know what colors they can pick.
330

331 T. Walsh: As much as I give credit to the people who have know the work, I never thought that in the
332 10 years I have been on this Board, I would have to give people permission on what color they can
333 paint their building.
334

335 **Motion carried unanimously with a vote of 7-0.**
336

337 *D. Boutin motioned to approve the amended development regulations for Commercial Architectural*
338 *Design Guidelines. Seconded by R. Duhaime.*
339

340 T. Walsh: I applaud the effort that has been put into this and I do think this version is a lot better than
341 where we started. I still cannot support it. I have loved this town as much, if not more, than most peo-
342 ple, but I do not see how this theory is going to work. We abut a city of 150,000 people. We are not go-
343 ing to be a rural town again. I am firmly happy with protecting our rural areas. I think the village
344 should stay the village forever and I would not mind creating a few more if that is what you wanted to
345 do. But I don't see how this goal is realistic, especially with all the things that have been approved in
346 the last 40 years. CVS, what do you do with that? I have a list of buildings that are not New England
347 style. Northeast Credit Union, is a brand new building. It will be there a long time. There is nothing
348 New England about it. There is nothing New England about any of our plazas that will be there a long
349 time. What happens when somebody wants to do a Cigna type of building? Are we going to tell them
350 they need to put clapboards and a pitched roof on it? We have got Exit 11 that could potentially be a
351 good business area but I don't see any of that in there. This is trying to turn us into Dublin. We are not
352 going to be Dublin. What do you say to the people that want to put a three story office building up with
353 these regulations. Ignore them. We can do whatever we want and if that is the case then what is the
354 point of this? What do we say to UTZ potato chips? This bans metal buildings so we say we don't want
355 you here? They are not going to put up a brick building to make potato chips. I have been on this Board
356 for ten years and the one thing I have always wanted to do is try to move forward and try to get com-
357 mercial and non-residential growth moving in the right direction and it has been difficult. This is going
358 to make it more difficult and I do not see how this makes sense. I would have conceded if these types
359 of regulations were to keep our New England character where it is in sections of town. This applies to
360 the whole town. I have talked to several people on these buildings on the by-pass. I asked them, look-
361 ing at these new regulations, would you be here? They said absolutely not when you double the price of
362 the building. If we want to do something to eliminate the flat roofed metal shoeboxes that started this
363 whole argument I am fine with that, but these metal companies have affordable design features which
364 can still give people the opportunity to start a business in this town. I am not looking at a corporation
365 thinking they will do anything we tell them to. I am looking at the small guys that just want to open up
366 a shop and make a living. These buildings are not permanent. They have a warranty. When they are
367 gone they are gone. I don't know where this is going. I cannot support this.
368

369 R. Duhaime: I wish you were would have been on the sub-committee.
370

371 T. Walsh: We all have other things we have to do.
372

373 R. Duhaime: You can go to Londonderry and look at those large building by the airport. Some of those
374 buildings are masonry. Some of the acreage is \$300,000 an acre with sewer and water. There will still
375 be steel buildings just as long as they put some masonry and color on the front of the building. That is

376 not going to stop them from putting up a million dollar building. Once the commercial growth is done
377 in Londonderry, they are going to come to Hooksett. Once that happens this Board will be just as busy
378 as it was in 2008. The New England style is not going to be an issue. You will get the commercial de-
379 velopment.

380
381 T. Walsh: I agree. Real estate is finite and it is coming north, but that is not what these say. There is
382 nothing New England in character about a three story office building. You can say you can put all of
383 the clapboards on it that you want, it is not going to conform to what we are going to pass tonight so
384 why would we do that? It just goes a little bit too far.

385
386 R. Duhaime: In the Performance Zone that was in there. Too bad I did not stick around several years
387 ago to phase more of that in. That was the idea in the regulations. How close is the building to the road,
388 how far back is it from the road, how tall is the building? This is about negotiation. We had hoped that
389 all of DW highway got a tree line. That did not happen. A lot of waivers were put in place, a lot did not
390 get put in, and redevelopments happened. It isn't a perfect world. I understand it is going to change.
391 The whole idea is to work to that goal.

392
393 T. Walsh: Fair enough. I don't think we will ever agree on whether or not this Board should be in the
394 negotiating business. I don't think we should.

395
396 R. Duhaime: That is the Town Planner's job.

397
398 T. Walsh: I am more used to looking at a piece of paper and understanding that is going to be fol-
399 lowed. That is why I am having reservations on this. I would like to see this tabled so you can take a
400 ride around town to see what other towns have, such as Amherst and Bedford, that have similar
401 ordinances and regulations to what is being proposed. They look great when you are about three or four
402 hundred feet away when you are driving up Rt. 101, but start looking around these businesses. Those
403 products don't last that well anymore. The products that are now used look terrible in a short amount of
404 time. Be careful what you wish for. I don't get it. I think this is going in the wrong direction.

405
406 D. Boutin: I think Tom is a little obsessed with the idea of New England tradition. Let me read the
407 paragraph that I think is more applicable.

408
409 D. Boutin read the paragraph under building facades and material. The key is "Any proposed alterna-
410 tives to these materials shall be reviewed and approved at the discretion of the Planning Board." The
411 Planning Board has the discretion to approve what fits makes sense. The item that troubled me the most
412 was the language on No. 6 under general requirements where we were going to prohibit any national
413 chain from going in and using there building design. That is not going to be preempted anymore. That
414 was a disaster in the making. Talk about slowing down growth. Most of the stuff that is in here is al-
415 ready addressed when they are reviewing buildings and designs. I appreciate where you are coming
416 from. I don't think you should just focus on New England design. That is not what this is about.

417
418 T. Walsh: That is what the whole thing is about from the first paragraph. The contradictions through-
419 out this do not make any sense.

420
421 ***T. Walsh opposed. Motion carries with a vote of 6-1.***

422

CONTINUED PUBLIC HEARING

**5. STRATEGIC CONTRACTING, LLC #19-29
1794 Hooksett Road, Map 6, Lot 114
27 lot residential subdivision**

D. Marshall: Staff is recommending that this item be continued because there are internal review items that need to be taken care of.

D. Boutin motioned to continue Strategic Contracting, LLC #19-29, 1794 Hooksett Road, Map 6, Lot 114, 27 lot residential subdivision until March 2, 2020. Seconded by T. Walsh. Motion carried unanimously with a vote of 7-0.

D. Marshall gave public notice that the public hearing for Strategic Contracting, LLC #19-29, 1794 Hooksett Road, Map 6, Lot 114, 27 lot residential subdivision will be held on March 2, 2020.

N. Williams: We are in receipt of and I distributed the traffic study to the Board this morning. Mr. MacQuire would like to present the results of the traffic study tonight.

D. Boutin: We cannot hear it.

Doug MacGuire: I do not understand why not.

R. Duhaime: It is just a presentation.

D. Marshall: Staff recommends a motion to continue until such time as there has been an internal review of the items requested by the Board.

D. MacGuire: I met with Nicholas this morning.

N. Williams: Those comments were issued prior to this morning and we have received the traffic study.

D. Boutin: There were a whole series of issues associated with the development.

D. MacGuire: No there are not.

D. Marshall: Yes there are. Who is going to develop and maintain the secondary fire access, erosion control on certain lots, buffer requirements, etc. These are issues that need to be resolved.

D. MacGuire: I have not seen that list.

D. Marshall: He needs to be put in touch with Bruce Thomas.

D. MacGuire: I thought the only item we had left was the traffic study. I understand about the fire access but I thought that was a discussion that was needed with the Board. I would not have come if I knew I was not going to be heard.

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BOARD DISCUSSION

None.

**6. AMENDMENT TO DEVELOPMENT REGULATIONS
NHDES Guidelines**

N. Williams: Town Counsel was looking to release bonds that were collected for non-compliance and well radius requirements. Our development regulations currently require that this Board grant a waiver and subsequently that the applicant signs and records at the registry a release form from NHDES. It appears that there is some language within the DES guidelines that does provide for an alternative if the well radius is not able to be fully contained within the subject lot. It is in the NH Code of Administrative Rules which I provided to you. My comments provide the table for well encasement guidelines for wells that don't meet the 75' well radius requirement.

D. Marshall: I like the verbage that requires written verification from the well contractor.

N. Williams: That is something that we are not currently doing and are not sure, through the bureaucracy of NH DES, who is reviewing this and how that gets taken care of at their level. Three or four years ago the regulation was amended to increase the minimum lot size.

D. Boutin: Should we put this in our site development regulations?

D. Marshall: We need to get the wording right and then it can be added.

A public hearing for an amendment to the development regulations for NHDES Guidelines for a public hearing will be held at the March 2, 2020 meeting.

OTHER BUSINESS

None.

ADJOURNMENT

D. Boutin motioned to adjourn. Seconded by T. Walsh. Motion carried unanimously.

The meeting was adjourned at 7:10 pm.

Respectfully submitted by,

/s/ AnnMarie White

**AnnMarie White
Recording Clerk**

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518

**PLEASE SEE SUBSEQUENT MEETING MINUTES FOR AMENDMENTS TO THESE
MINUTES.**