

Call to Order: J. Dube called the meeting to order at 7:18 p.m.

Present: Bruce Holmes, Tom Hoopes, Cynthia Balcius, Jeremy Dube, Jeanne Crouse, Bonnie Dunbar, and Jim Bureau.

Appointment of Alternates: None to appoint

Approval of Minutes: last

Approval of Agenda:

Motion made by B. Holmes to move Case P06-36 to the beginning of agenda and Other Business was added, seconded by T. Hoopes.

Public Input:

None at this time

Applications for Public Hearing:

Case#P06-36

Map 15, Los 56 & 60

19-Lot Subdivision

Carl Norby & David Reynolds

Old Wolfeboro Road

This application is continued from the May 22, 2006, meeting.

Cindy Balcius stepped down.

Randy Walker – representing Norby/Reynolds. At the last meeting a road waiver was requested and since then a site walk has been conducted. We are here asking for a waiver on the plan that is presented has a 3200' road and the requirement is a 2500' road unless a waiver is granted. Last year the board approved Phase I and asked to see Phase II. At that time we brought in a plan with a 4500' loop road with 31-lots on it. We presented it to the state and they didn't like the amount of wetlands being impacted. There was over 20,000 square feet of wetlands impact and the state wanted it reduced. The plan before you has ~7,000 – 8,000 square feet of impact. We looked a variety of options and this plan seemed to be the best. It is my understanding that the 2500' requirement was based on the fact you had 2500' of fire hose or it is a type of fire safety issue and the fire chief doesn't have a problem with this. We also have talked to the Department Heads and we understand that they have all signed off and the Police Chief wanted as top sign and speed limit sign, the fire chief said he was ok as long as we put a cistern on lot 4, which we put in the exact location that he suggested. The Highway Department signed off. We believe we have been encouraged by the Conservation Commission because there is a lot set aside for Conservation. The lots are all oversized and it is not a maximized utilization of the land. If you measure the road before you in a straight line it is 2400' – 2500'. We obviously went around the wetlands and made the road 700' longer. If this were a subdivision where everything was perfect we wouldn't need to ask for a waiver. The bottom line is that the board has a choice, to approve a road that doesn't comply with the regulations, but is better. It is better for the environment. It has less asphalt. It is less tree cutting and less soil disturbance. It is better right across the board. We respectfully request you approve the waiver as submitted.

J. Dube – First I would like to thank the applicant's for having their agents, engineers, and environmental people there to answer questions. I do think though that we have some outstanding issues that the board did not want to look into and I did some research into some of the comments, so I would have a report from them. From the beginning, I have disagreed with a road that flared like that. I think it is against our zoning and it is not with just this application. It has really never been further than a conceptual or a design review, so we had to find out what the Selectmen's take on the road is. What their take is, is that it does not conform to zoning and

those lots in the front don't conform with our Zoning Ordinance because they do not have the proper road frontage. That is something I did bring up last month and the board at that time did obviously that point to go over. The other thing I would like to go over is the comments from the Fire Chief. His comments were "If the road were to be approved at 3200' that he would want to see two cisterns on that road. That is a little different than what we have seen. I am getting this information from the Technical Review Committee, where it went back in front of the Police Chief, Fire Chief, Town Administrator and this is where I have all this information right in front of me. I have extra copies for the board if they need one.

R. Walker – I don't think we have seen that. May I see a copy? And if I may send copied of a letter from the Fire Chief in reverse that is directly from him suggesting we only need one cistern so two is probably not a problem. This letter from the Fire Chief is dated April 12, 2006.

J. Dube – What we have now is a contradicting thing and maybe he didn't fully understand what is in front of him. Also, the Selectmen have to approve the road waiver. This isn't just up to the Planning Board. If we were to approve it also has to be approved by the Selectmen, and they are not recommending this.

R. Walker – We haven't gone before the Selectmen yet and this is the first time we've heard they were involved. If we have to go before the Selectmen then we will go before them and make the same presentation. I know we haven't been invited to a meeting to make a presentation.

J. Dube – The other issue we come to is the road. Although it is a private road it needs to be built to town specs. The town doesn't even like the idea of private roads, from what I have been told by the Town Administrator and that is from the Selectmen. They need to be up to town specs so if they were to be accepted it would be at least acceptable at this time. I know you have expressed that you have no intention of it becoming a town road it is just what I have been informed of. I really can't answer for the Fire Chief on that right now. It went back to him again and now he wants two. You see that in the minutes from the TRC meeting.

R. Walker – Yes, but I don't know who that is attributed to, it just they would be needed if the waiver was granted.

J. Dube – Monica, were you present at the TRC meeting?

M. Jerkins – No, I wasn't.

R. Walker – It also says highway and fire have no objections to the waiver.

J. Dube – What I said was if we did grant the waiver that they would like to see a second cistern.

R. Walker – I don't think we would be adverse to that condition being placed on the waiver.

J. Dube – I think that the real clincher here is the two front lots don't meet our zoning and without that there is no road, there is nothing as presented. As presented there is nothing we can do, it is against our zoning.

T. Hoopes – So these two lots would be considered corner lots?

J. Dube – yes, they are corner lots, as when they came in the first time proposed as corner lots.

Bonnie Dunbar – I am not appointed.

J. Dube – I should have appointed you when Cindy stepped down. I will appoint Bonnie Dunbar.

B. Dunbar – I'm not sure what to do about this because they did come in for a review prior to doing the previous subdivision and I honestly don't know what to do.

J. Dube – You came in for a conceptual and when you came in March, that entrance wasn't proposed as it is now. You drew those lines on when you came here because you were made aware of the fact that it didn't meet zoning.

C. Balcius – Actually during that meeting the Planning Board suggested that we come back with the plan with the lines like that. The Town Planner at the time stood up and helped draw those lines for our application.

J. Dube – I can't speak for what the board and the Town Planner can do. The only thing I can speak to is that I disagreed to it at that point and I still disagree. I am only one person that disagrees with it and by no means am I the whole board. The Town Administrator and the TRC also agree that it does not meet zoning. This isn't only your case, it has come up a few other times.

B. Holmes – You could engineer this so those two lots are no longer corner lots.

J. Dube – I think that was the objective of the road flaring in the first place.

B. Holmes – If the flaring doesn't go they can bring it out to a rectangle and have common land along the road. If that is common land than there is no corner lot.

T. Hoopes –But they will need to generate 200' on each side.

J. Dube – We need to discuss the flares.

B. Holmes – If this becomes common land off of Lot 3 and Lot 8 than it is no longer a corner lot.

R. Walker – The cul-de-sac is flared at the other end and we are just flaring it up front. It is all part of the road.

J. Dube – Does the board disagree and think the flare meets zoning?

R. Walker – I don't think we are on that issue. The only issue we had was the waiver.

J. Dube – We are on that issue because if we grant the road waiver for 3200' as it stands, we are saying that the flare is ok because it is part of the road.

R. Walker – The waiver is only pertaining to the length.

J. Dube – If you want to go procedurally than this should never have gotten passed stage one. This is a zoning issue and it should never been accepted with a zoning issue.

R. Walker – We believe it is part of the road and it is just wider at the entrance. I couldn't find any place in the ordinance that says we can't have a wide road.

J. Dube – You have a problem with frontage on the corner lot.

R. Walker – Not with a flare.

J. Dube – The flare doesn't meet zoning.

T.Hoopes – We went through quite a procedure on defining frontage. Frontage on corner lots is defined by having frontage of 200' on both roads. The road the access is coming from and the road that you front on, so that you have two frontages. In the past people were dividing their frontage and we wanted to avoid that problem because we had several circumstances in town where this created problems. The definition of frontage is extremely clear. The concept of the flare is something we haven't seen before. I don't understand what Bruce was saying about cutting it off.

J. Bureau – Is this something that has been seen before?

J. Dube – I have seen it on a conceptual and a design review and it has never come before the board for decision. This is the first application in front of us to make a decision on that anyone has done research on.

J. Bureau – I don't like it and if it doesn't meet zoning the point is mute.

B. Dunbar – They have to have access to their back property, how would you deal with it? How would they design a road to go into this property? Looking at his you wouldn't want the road to exit in a different area. You don't want it to exit into the wetlands, so the only thing I see is common land area at the beginning, but no frontage for the lots that are saleable on the other extraneous roads. I don't think the flare meets the zoning with the flare.

J. Dube – We need to decide if that is a zoning issue.

B. Holmes – Can you show us exactly where those boundaries are?

R. Walker – The road would come into the development and widen it out so neither lot 3 nor Lot 8 would have any road frontage.

B. Holmes – I think it meets the zoning.

T. Hoopes – Are these corner lots or are they creating corner lots and whether or not they are I don't think it meets zoning if these are corner lots. The concept of having the flare in some ways is an improvement.

R. Walker – The flare makes them not corner lots. They only have frontage on one road. This design with lots 3 & 8 only have frontage on one road.

T. Hoopes – The way you are proposing the subdivision there will be no frontage on Old Wolfeboro Road.

R. Walker - We are trying to have access only on the internal road.

J. Dube _ I will open this to the public. I would like to please hold the public to this topic.

LuAnne Varney – I live on the Powdermill Road. For years I have gone to the voting booth and voting for the zoning rules that you people present to our town. I know you do a lot of work and spent a lot of time. When I come to these meeting and you toss around whether there is road frontage on Old Wolfeboro Road, I get a little annoyed and a little disturbed and frankly I don't know why you are going to make zoning rules if you are not going to follow them. All I ask is that you have people that come here, read the rules and follow them. They had a 3-Lot subdivision last year and they knew these rules were going to come up. Lack of planning on their part is not the responsibility of me or the town and it is not our job to give them waivers or exceptions because they have not done their job.

J. Dube – This is the first time the board is faced with this is an application and this is really not something that happens all of the time. We have had to get information from other professionals in the town hall and other things.

Tom Varney – I am an abutter. There was a design review and there were two questions asked. One was about the flare and length of the road. This doesn't meet zoning for multiple reasons and because it doesn't meet zoning the abutters will appeal it. It is not your decision it is a Zoning Board decision, and then we can appeal the Zoning Board decision. It is clearly a zoning violation. You need 450' for the corner lots. It also says you need frontage on a town road and that eliminates Route 28 and that compounds it twice as much. You don't have 450' you only have 200'+ which eliminates the whole subdivision. When you talk about these flares the highway regulations define a ROW as a 50' strip going straight. Those are the issues and on the back of lot 8 you don't have 200' on the cul-de-sac and that is a violation there. This was a new law back in March and if you defeat this you are destroying the whole lot. They don't meet zoning they can't proceed.

J. Dube – Is there anyone else who wishes to speak at this time? Seeing none I will close public input.

J. Crouse – The section 452 of the zoning does apply to the rural zone says that in subsection (b) each lot shall have a minimum width of 200' frontage at the street or highway line, corner lots shall have a minimum of 200' frontage at each street or highway line. I can't see for lot 3 that here is any way someone can look at that as other than a corner lot. If the

property is community property it is still a corner lot because it abuts the property line. I don't think it is inline with the zoning and it is not our job to approve it or change zoning.

J. Dube – I think this is a zoning issue and it requires ZBA approval before we can act upon it.

B. Dunbar – I think it technically meets it or if they pull it back from the road, I think it would technically meet it.

J. Dube – I think as presented it does not meet zoning. We have from the TRC, the front lots don't follow the zoning because there was not adequate frontage. They proposed the lots with a flared entrance. Those minutes were from June 13, 2006.

T. Hoopes – Where lot 8 is, is that frontage on Old Wolfeboro Road?

R. Walker – Lot 8 has no frontage on Old Wolfeboro Road.

T. Hoopes – That is the state ROW, so from that point on there is no frontage anywhere. The only frontage that exists is from 15/56-2 over to the boundary line of lot 8 and the state ROW.

R. Walker – Correct

T. Hoopes – There is no question that this is a corner lot.

J. Crouse – How much frontage is there on Old Wolfeboro Road?

R. Walker – I know it is less than the 450' mentioned. I would say roughly ~200'.

J. Dube – At presented this does not meet zoning.

T. Hoopes – I think the problem is that we didn't pay enough attention to it in the beginning. I know I was concentrating on the wetlands and other things.

J. Dube – Cris was absent at the last meeting also, and being the Selectmen's Representative I think it would have been good to have her here when dealing with the road, but after that meeting I mentioned for her to take a look at it to be prepared for the next meeting.

T. Hoopes – I guess what we are looking at right now is just under 200' of frontage on Old Wolfeboro Road for the entire subdivision plan.

J. Dube – And the flare besides.

J. Crouse – In simple terms, if the zoning requires 200' of frontage on both sides of a corner lot and you are trying to make a cut off a road and creating one possibly two corner lots with less than 200' of frontage to begin with. It is not a possibility that you are going to have 200' of frontage without a zoning variance.

J. Dube – I am saying the flare as proposed is against our zoning. I am not saying they can't find a way in.

B. Dunbar – Because they have an association, they can hold common land. The common land could be figured in a way where they have no frontage. The lots have no frontage on Old Wolfeboro Road but the common land does.

J. Dube – Is there any common land presented to use now? No there is not.

B. Dunbar – I thought the triangles were common land that was presented to the Selectmen and they didn't want it.

J. Dube – It doesn't meet the road standards.

B. Dunbar –What doesn't meet the road standards?

J. Dube – This road. It exceeds the length. The Selectmen have recommended against it. This is a zoning violation. The flare was added at the design review meeting. We need to address this for the applicant and move on.

T. Hoopes – I will agree that this does not meet our current zoning. It clearly states in the rural zone you have to have 200' frontage on each road or corner lot. We have questionable 1 or 2 corner lots. Whether Attorney Sessler wants to give us a comment on the difference between the land that has to be separated for a road. I would want to see something from Attorney Sessler or say it has to go to the ZBA.

R. Walker – We would like to get this approved one way or another, so if the board has any way to approve it with conditions. If you are suggesting that those triangles be called common areas that is fine with us. We are more than happy to call it what the board wants us to. We are trying to make this happen and this is our 4th meeting just this year.

M. Jerkins – Procedurally the application would need to be denied if that was the boards wish to send it to the ZBA. Either an appeal to the ZBA based on the Planning Board decision by the applicant or they could request a variance with a different plan.

R. Walker – We are here to discuss the waiver and if the waiver was denied if we could continue the hearing to come in with an amended design so we don't have to resubmit.

J. Dube – I don't know how we can address the waiver when something doesn't meet the zoning in the first place.

T. Hoopes – In the idea of trying to save time here, I have a problem with the road flares, which doesn't meet our zoning. I also have a problem with the concept of the road extending to 3200'. I feel as though we are being bent backwards by the threat of a bigger loop that would have greater impact on the wetlands. I think we should be looking at this road with the point of view of not wanting a lengthy road as such.

J. Dube – If this doesn't get approved it will substantially change the plan and I don't see how you can continue an application with having the possibility of substantial changes. If we continue this application the abutters don't get notified.

J. Crouse – If we were to deny the waiver than they may well in the redesign of the road reconfigure any corner lot. We don't know what a redesign is going to look like and to continue the application when the design could be totally different is not correct. Either the waiver is granted or it is not. Either they have to go to ZBA for a variance on that lot or they don't. I do think we need to establish both things right off.

Motion made by J. Crouse to deny the application because they need a zoning variance to proceed with lot 3 and possibly lot 8 and do not grant the waiver for the extension of the road beyond the stated 2500' in our regulations.

J. Dube – We should do them separately.

Motion made by J. Crouse to deny the request for the waiver on the road of 3200', seconded by T. Hoopes. Motion carried 4 in favor and 2 opposed.

Motion made by J. Crouse to deny application P06-36 subdivision plan of Ridgewood 19-Lot subdivision on Old Wolfeboro Road because there is a zoning violation on lot 3 under section 452(b) and lot 8 is questionable and the waiver for the length of the proposed road was not approved, seconded by T. Hoopes. Motion carried 4 in favor and 2 opposed.

R. Walker – Mr. Chairman may I ask A question just to speed things up when we come back.

J. Dube – Sure.

R. Walker – I appreciate the board taking votes on both. I didn't like the vote but I appreciate you giving us direction in those two areas. Why is the question on lot 8 as opposed to lot 3, what is the waiver on 8.

T. Hoopes – When you look at the map and examine whether or not there is actual frontage of 8 onto Old Wolfeboro Road, it is where it is intercepted. The ROW is on 28 and it cuts off a lot of their land. As it is presented at this time with the flare it does not have frontage.

R. Walker – The lot 8 I don't think this plan has frontage on Old Wolfeboro Road and the same with lot 3, it is just where the intersection is. Where it intersect the state highway.

T. Hoopes – When you look where the 50' ROW lines go out to Old Wolfeboro Road, the distance from the Row of the road out to where the flare is, that is the line in question. The ROW is a standard 50' ROW, the other land should belong to lots. That is the definition of frontage.

R. Walker – If we were to take the road and move it to the intersection of Route 28, so we just have 50' and then were to deed the other land to 15/56-2, I think that is the only way we could come back.

J. Dube – I don't think any of us could give you a definite answer, it would be all opinion. The best way would be to go to the TRC and see their view on it.

T. Hoopes – The property has frontage on Old Wolfeboro Road therefore 1-lot at least has to have frontage on Old Wolfeboro Road.

R. Walker – Unless we take all but the 50' away and give it to the other lot.

**Case#P06-51
James Dunn**

Map 32, Lot 43

**Conceptual Review
7 Barr Road**

The request was submitted by the applicant for a conceptual review of a proposed agricultural based business. The property is located within the Residential Commercial Zone.

J. Dube – Just to let the applicant know, conceptual reviews are limited to a 15 minute time period.

Craig Bailey – Representing Mr. Dunn. What I have here is a drawing of a concept plan. What we have here is an agricultural use currently. The operation is down on Main Street. What we want to do is to upgrade the farm into a more visitor friendly operation, going to the farm stand buying product, vegetables and gardening supplies. The added use we are proposing is a concession stand. As visitors come to the farm, we are proposing an outdoor operation not a sit down operation. I am showing a water line down the private road in the private field. Mr. Dunn has been working with public works and they would like to reconfigure the water line. From what we see it is an allowed use. The expansion of the use right now is the concession stand. Obviously an upgrade to the septic system would be needed and the water line upgrade would be helpful to the Barr Farm and the residence behind it, which are tied to that water line. With the water line construction the entrance would be improved. I would like to keep it as a gravel surface to maintain the agricultural characteristics of the farm. What I am showing a couple parking signs.

James Dunn – I would like to add to the community. I have a very unique spot down there and I would not like to step on any toes. I want to make the property as attractive and useful as possible. My background is in renovations and I would like to renovate the farm. I want to keep it a farm. We want to work with you not against you.

J. Dube – Is that a bathroom where the D-box is shown?

C. Bailey – No, the concession stand will have its own septic system. How would we set up restrooms and parking considering this is a seasonal operation. How would we size the parking and facilities. I didn't find much guidance in the regulations.

T. Hoopes – Is this a conceptual for a site plan review?

C. Bailey – yes

T. Hoopes – When the Downings owned the property they grew flowers out there. In a sense farming is a continuation of a pre-existing concept. You are intensifying it and you do want to sell other products and have a farm stand. A farm stand is to promote local produce. I think the concept of a farm stand is extremely attractive, as long as it is a farm stand.

J. Dunn – Right now we have 15,000 strawberry plants growing right now and 2500 vegetable plants. Anything that is sold will be grown on the farm with the exception of sausage.

T. Hoopes – I don't have a problem with selling other people's produce or maple syrup, but it is when you get outside of the farm. How would you deal with parking?

B. Holmes – What brings you before the board other than the concession?

C. Bailey – That is it.

B. Holmes – If you came in with a farm stand you shouldn't be here.

C. Bailey – We are proposing a structure with a grill and three sinks.

B. Dunbar – Let me read RSA 674:32B Existing Agricultural Uses and there is a subsection (b) any new establishment or re-establishment after disuse or significant expansion of a farm stand, retail operation, or other use involving on-site transactions with the public may be made subject to applicable special exception, building permit, or other local land use board approval and may be regulated to prevent traffic and parking from adversely impacting adjacent properties, streets, sidewalk, and public safety. Basically it is parking and anything that might deal with public safety.

J. Dube – I am looking under the parking requirements that we have and there is really nothing to fit extremely well. The closest I can get to is a drive-in restaurant which it doesn't seat people but it is not a drive-in restaurant either. A drive-in restaurant is one parking space per 50 sq. ft. of gross flooring.

C. Bailey – The state may have some guidance on septic and I can ween from the state regulations and back engineer how many customers.

J. Dube – I don't see this like a big traffic establishment coming out of there.

B. Holmes – What is the parking proposed on that plan?

C. Bailey – I think I show a total of 20.

T. Hoopes – I think that is more than necessary.

C. Bailey – Some will be for employees, he will need room for truck maneuvering to deliver the product.

J. Dunn – We are trying to look at a 5-year plan so that we can put the infra-structure together now so that as we go we can do what we have to do.

J. Dube – If it comes from his lot that still falls under agricultural.

B. Dunbar –If you are making pies and such you do have to meet state regulations for refrigeration and such.

J. Dunn – We just basically need to keep the Alton farm looking as a farm stand and a nice looking farm and any of the dirty business we can keep over in Tuftonboro. We are trying to keep a clean operation and attract business to the community.

J. Dube – We would like to see the road upgrades that you were talking about, the parking places all marked out – some for employees and customers, a place for loading and unloading.

T. Hoopes – I think if you have an employee restroom and also allow the public to use it if they are patrons.

C. Bailey – This is a unique situation for me because I am used to paving the world and filling in wetlands, and here we are doing an agricultural project. Are there any other questions we can answer for the board?

J. Dube –It seems straight-forward and I think it would benefit the community.

M. Jerkins – It should be noted also that none of these proposed uses such as retail operation or the concession portion are all allowable in this zone.

J. Dube – Does anyone have any issue before we proceed?

J. Crouse – I would only agree that you need to show where the parking would be because it seems like there is a few houses down that road and the neighbors would probably like to make sure that they can get to their houses.

J. Dunn –We will address that because we do have a large lot up front where we can park cars and we have frontage on the other side of where the strawberries are going.

T. Hoopes – I think what that means is that you will have to pave your apron access coming off Route 11 so if someone is “peeling out” they won’t be digging into the gravel.

C. Bailey – That would be DOT.

J. Dube – Is the septic design in the works?

C. Bailey – We need to run the survey over it first. I probably won’t have the approved septic for the application.

J. Dube – Just show the proposed location and the test pit area.

C. Balcius rejoined the meeting.

Case#P06-39
Robert Carpenter
Continued from May 22, 2006

Map 11, Lot 25-49-1

Compliance Hearing
37 Spring Street

Bonnie is back to being an alternate.

R. Carpenter – I would like to say that it was a mistake on our end and I was out of the country at the time but I as the land owner I am held responsible and I am just trying to find a way to best appease the town to get the lot back to what the town would consider efficient status so we can continue to build on the property. I had a gentleman to come up with a re-vegetation plan that would be sufficient to the town to rectify this situation.

J. Dube – I think we are missing the caliper of the proposed trees and plants, but I would like to turn it over to Cindy and get her take on this.

C. Balcius – They don't have the caliper but they do have the height. A 6'-8' oak is a decent caliper tree.

R. Carpenter – I wanted to bring a plan to the board to let you know I am doing something with substance and not just planting bushes.

T. Hoopes – Is there going to be hydroseeding or something underneath the trees?

R. Carpenter – The existing mat was never disturbed. The trees were cut but the stumps were never removed.

B. Holmes – What is the length of the area you are going to plant?

R. Carpenter – I don't have that in front of me but it is less than 200'.

B. Holmes – It just seems that 18 plants on 150' is not a lot of material.

C. Carpenter – There are 11 trees and 7 junipers and in speaking with the Code Enforcement Officer he said he had labeled 10 trees that should not have been removed that were in the no buffer zone that were taken down and we came back with 11 substantial size trees and the junipers to add in and fill in the gaps.

C. Balcius – I am ok with the planting plan.

R. Carpenter – Just for the record, it is 195' of frontage.

Motion made by T. Hoopes to accept the proposal from Mr. Carpenter for Case P06-39, seconded by C. Balcius. Motion unanimous with all in favor.

Case#P06-45 & 46

Map 12, Lot 21-8

Condo Conversion/Site Plan Review

Robert F. J. & Susan A. DeFillipo

94 Lily Pond Road

Application submitted by Dennis J. Rialland, LLS, of Brown Engineering, LLC, on behalf of the applicant Robert F. J. & Susan A. DeFillipo for a Condo Conversion and a Site Plan Review of an existing 4-unit apartment building. The property is located within the Rural Zone.

C. Balcius is recusing herself from this case.

J. Dube – I will appoint Bonnie Dunbar for Cindy Balcius.

J. Dube – We should handle each lot separately.

M. Jerkins – For P06-45 Site Plan Review the applicant has requested waivers from Section 7.4.5-1 the drainage plan, Section 7.4.5-2 Storm Water Management and Erosion Control Plan, Section 7.5.11 Fiscal Impact Study, Section 7.5.12 Environmental Impact Study, and Section 7.5.13 Traffic Impact Study. The reason the applicant gave was that there is no further development proposed for the property and in addition to the above waivers, staff review of the plat indicated that a waiver is also required from Section 7.2.19 location that there are no USGS coordinates provided. For the Subdivision P06-46 there are no waivers requested, however staff review indicated that the location 7.2.19 there are no USGS coordinates provided.

J. Dube – A problem I see is that there are 4 units and only 4-acres and you need 8-acres, 2-acres per dwelling.

T. Hoopes – This is an existing lot, so under our zoning is non-conforming. If you subdivide even for the purpose of condo conversion does that new subdivision have to meet current zoning?

J. Bureau – Wouldn't that also apply to the 4 dwellings on 4-acres?

B. Holmes – If they don't have 8-acres, how can they do it?

J. Dube – Monica, do you have any input on these?

M. Jerkins – This is subject to the board's interpretation. The way the zoning is worded it doesn't make it an easy process to be done and it should be simple because there are no proposed changes to the lot what so ever. However, the zoning is not worded that way and they do have to go through subdivision and site plan review and it does create a new lot. Because of the number of acres subject to your interpretation it could be decided by you that they get an area variance.

J. Dube – Can the board decide that because once you go through subdivision it is a new lot and it needs to be conforming.

B. Dunbar – What is the new lot?

J. Dube – As proposed they have 4 units on 4.1 acres. Currently they need an 8-acre lot. Currently this is a pre-existing lot.

M. Jerkins – Where the interpretation from the board comes in is whether or not you consider a condo subdivision the same as a land subdivision, and if you do then you are creating a new lot. If you don't you have the authority to accept the application and move on with the process. This is an interpretation thing.

J. Dube – We have had this talk with Attorney Sessler in the past and when doing condos it is an actual subdivision and that is how he interprets what we have to do.

T. Hoopes – His argument on that is unless you have subdivision there is no way you can sell separate units.

J. Dube – Essentially you are changing ownership.

M. Jerkins – With that interpretation the applicant would have to go to the ZBA to ask for an area variance for the zone restrictions.

J. Dube – Were you present at the TRC Meetings?

Dennis Rialland – No we were not.

J. Dube – I am curious as to why it wasn't brought up by any staff. I know conservation brought it up. I know that Kathy had dealt with the same situation before.

M. Jerkins – It might have come up. If you will notice the Planner's Report that you have in front of you lacks the Planner's comments. Unfortunately Kathy left before those comments were finished. It may have come up and I might not have been made aware of it and I did not review these plans.

J. Dube – What is your take on it Bonnie?

B. Dunbar – I am confused about condo conversions, and I am not sure how our regulations deal with it. We have existing units and I know you can convert existing units, whether they need further variances from the ZBA I am not sure. I think you need to tell them that they need an area variance because they don't have enough acreage per unit.

J. Bureau – Do you know what the road frontage is on this lot?

D. Rialland – For 94 Lily Pond it is ~ 150', so that also doesn't meet zoning.

J. Dube – I think we have to go with the interpretation that Jim has given us and it is what the staff is what the staff has directed other people to do.

D. Rialland – If you would like me to clarify anything I would be more than happy to. Under Section 356b.5 under municipal ordinance I would like to briefly read two statements for the record. "No zoning or land use ordinance shall prohibit condominiums as such be reason of the form of ownership inherent therein." We are simply changing ownership we are not changing the configuration of the unit or land. If we were to have convertible land we would have to meet zoning regulations, which they are too small for these lots.

J. Dube – I think what you are facing here is a difficult situation the same argument we have heard many times. Our Town Attorney has taken a different position than what most people have.

T. Hoopes – We are not preventing anybody from converting to a condo, but until last year we didn't see the word condo. We are getting an education at the same time and learning more about it. As it stands at this moment it is still a subdivision and a site plan review. At this point we see two things on your application that do not meet our current standards and therefore we feel you need relief from the ZBA before we can consider it.

J. Dube – Other than those two items we don't see issues with this project but I think the ZBA has to act first than we go 2nd.

B. Holmes – When you subdivide you are creating a new lot whether it is a condo or land.

J. Dube – Other applicants that came in had to go and get relief from the ZBA so it conforms to current standards.

T. Hoopes – Note 11 on previous applications on the site plan, I know the attorney wanted to see it labeled what area was common land if there was assigned parking spaces.

D. Rialland – On these we have addressed the limited common area right on the plan and the remainder of the land would be common area.

T. Hoopes – Are you saying anything outside of the building is common land?

D. Rialland – Anything outside the building that isn't already labeled limited common area.

J. Dube – We are done discussing the plan and I feel we are moving into a design review and I don't want to go that way. What we need to do is take action.

Motion made by T. Hoopes to advise the applicant to proceed towards the ZBA and not accept the application P06-45 & 46 for the following reasons at 94 Lily Pond Road: the lot at present is non-conforming and requires 2-acres per unit and there are currently only 4-acres and there is a questions about the minimum road frontage, seconded by B. Holmes. Unanimous vote with all in favor.

Case#P06-47 & 48

Map 12, Lot 21

Condo Conversion/Site Plan Review

Robert F. J. & Susan A. DeFillipo

88 Lily Pond Road

Application submitted by Dennis J. Rialland, LLS, of Brown Engineering, LLC, on behalf of the applicant Robert F. J. & Susan A. DeFillipo for a Condo Conversion and a Site Plan Review of an existing 4-unit apartment building. The property is located within the Rural Zone.

J. Dube – We have the same problem here.

Motion made by T. Hoopes to advise the applicant to proceed towards the ZBA and not accept the application P06-47 & 48 for the following reasons at 88 Lily Pond Road: the lot at present is non-conforming and requires 2-acres per unit and there are currently only 4-acres and there is a questions about the minimum road frontage, seconded by B. Holmes. Unanimous vote with all in favor.

D. Rialland – On behalf of my client we have gone through this process at other municipalities, one on going in fact, where it is far more steam lined. If I was sitting in your chair I think I would have to agree with the Town of Alton that this has to go in front of the ZBA. When I was here in January it was just a conceptual review and there was no direction. As it stands right now we are looking at a minimum two months for my client, which financially is going to be an issue. I in no way am disagreeing with your decision on this.

T. Hoopes – Our difficulty really is that we are in the process of re-doing our Master Plan and we want to update our subdivision regulations, site plan regulations, and Monica just informed us that we have 14 new applications for next month.

J. Dube – We do know it is an issue and we are working on stream lining the process now that we are seeing these more.

J. Bureau – That 2nd lot is there going to be an issue with width to length ratio.

J. Dube – The best thing to do would be to schedule an appointment with Monica and then we can discuss with Russ and Jim so we have a lot of firm answers.

C. Balcius stepped back in and B. Dunbar is back to an alternate

Other Business

1. Paul Beckett fee refund issue

J. Dube - we voted with not in favor not to refund Mr. Beckett and the agent has fought with us saying we said we wouldn't, so at last weeks meeting I told him that I would look into it. I contacted Monica and there should be in your packet a copy of Brian's conditional withdrawal that he sent in and it was accepted by town

personnel and Monica cued up the tape in the spot where it was mentioned. The comments were extremely direct and firm made by the chair at the time, Mr. Hoopes, he had said to the applicant, Brian, "that he would just to clarify for you Brian, we are refunding the application fee not the noticing fees" that was made aware to Mr. Bailey and no one on the board said anything. Then again about two minutes later Kathy said "just to clarify for the board and myself that we are just refunding the application fee not the abutter noticing fees." In the tape it was direct and the board didn't say anything. The applicant thanked us and that was the understanding and there was no vote made, but it was extremely direct and they do have a conditional withdrawal that stated that and Brian said in the tape it says that he would draft that up. It would be my recommendation that we reverse our decision on not refunding that application fee because of outstanding circumstances that happened there and it was really the board's fault and that letter got accepted. The agent thought that was what was happening. If I were the agent I would have thought the same thing from the conversation that was at that meeting. I am bringing it back to the board to see if that was something the board wanted to look at. This is a different circumstance, it is a mistake we made in my opinion.

C. Balcius – In my opinion if it was clear on the tape than I have no other alternative to reverse what we said.

Motion made by C. Balcius to reverse the findings and return the application fee for Paul Beckett Case #P06-08, seconded by J. Crouse. Motion passed with all in with unanimous voice vote.

M. Jerkins – I just want to point out that at the last meeting on the 20th, we conditionally approved Gagne pending resubmission of the numbers worked out for the 25% lot coverage on the two proposed lots. I have them here.

LRPC Master Plan Extension Agreement – LRPC is requesting whether or not we plan to extend our Master Plan agreement with them and Russ has asked that I inquire to the board what their intentions are with this.

J. Dube – We already did that.

M. Jerkins – This e-mail to Russ was dated June 16, 2006. Either we made it clear and it was not communicated back to them.

J. Dube – There was a motion made to continue with them and at the same time we made a motion to have a meeting with them to talk about what we wanted them to do and we even had that meeting with him already.

M. Jerkins – With the board's approval, I will follow up with the LRPC and verify that is what we want to do.

T. Hoopes – I talked to Mike IZARD at the LRPC dinner and said I wanted to get in touch with him to talk over what we wanted to do and then come in for a meeting.

New Business

M. Jerkins - The Selectmen have requested comment regarding a request you have in your packet from Alton Village Pizza. They would like to place two tables with chairs and umbrellas on the sidewalk in front of their shop for the summer months and the Selectmen wish to have your comments.

J. Dube – I don't see a problem with it, I think that an outside trashcan would be necessary.

J. Bureau - How wide is the sidewalk?

J. Dube – It is actually very wide right there. It's about 10'-12'.

Wally Keniston – How big is the table they want to put out there and does it end up being a major obstruction, are people having to walk out in the parking area in order to pass by?

J. Dube – I guess they are just looking for a recommendation.

C. Balcius – As long as there is no obstruction to the walkway, I don't see an issue.

T. Hoopes – Is there a concern about hours?

J. Dube – I don't think they are asking us to approve they are just asking if it ok.

T. Hoopes –Do we need a recommendation.

Motion made by T. Hoopes to send a letter to the Selectmen saying that we do not have a problem as long as foot traffic is not interfered with and have an outside trashcan, seconded by C. Balcius. Motion unanimous, all in favor.

M. Jerkins – The Selectmen would like comments regarding the draft policy presented by the Fire Chief regarding cisterns.

J. Dube – Maybe we should defer until the workshop.

W. Keniston –Which will be at what time?

M. Jerkins – The work sessions are scheduled every other Wednesday at 6:30pm.

T. Hoopes – Then we have an on-site prior to the meeting.

M. Jerkins – There is a site walk prior to the meeting at 6:00pm at the Long property on Lakewood Drive.

M. Jerkins – Letter form Russ Wilson – FYI

Copy of letter to James Wieck RE: Major Groundwater Withdrawal Application for Chamberlain Springs, LLC, 166 Old Wolfeboro Road – FYI, DOT letter to Dennis Gray – Driveway permit for Riley's Ridge Subdivision - FYI, Driveway for Florence Rines Map 15 Lot 3 – FYI.

B. Dubnar – Is this the retaining wall on Route 11?

M. Jerkins – I don't know what this pertains to, it was put on my desk and I was told you needed a copy.

J. Crouse – Is there anyway to find out when they made the permit application?

M. Jerkins – Are you talking about Gray? Their application was dated may 8, 2006.

J. Crouse – So it doesn't take the state long to approve it. I would like to request that if the Gray's submit another application than copies of the meeting minutes be made available to the board. I think the new board members need to know the history of the land.

M. Jerkins – I did meet with the Gray's today per the board's recommendation at the 20th meeting and they are coming back this next month and they have submitted an application for a design review and they will be coming back with some amended plans.

J. Dube – Any other business that the board might have

W. Keniston – In the correspondence, I couldn't figure out where one item ended and another began. I don't know if there is a better way to do that.

M. Jerkins – We can do bullets, this is just how it has been done in the past.

J. Dube – Maybe if you list them down in a row.

M. Jerkins – I can also do a memo if you want.

J. Dube – I think listing them down in a row whether we do a memo or not would be good.

M. Jerkins - Belknap County Extension Forestry Program Summer Newsletter 2006 – FYI.

M. Jerkins – At the work session last week we began to discuss to revisions to the Land Use Chapter and as I started to work on those revisions and as I got to page six it started talking about the Winnepesaukee Islands. It says the political boundaries of Alton contains 12??? And they proceed to list them and at the 12th on ???. Either we are seeking more information or seeking to verify this information.

T. Hoopes – There are rocks indicated as islands. Bonnie what was the conclusion we came up with this in the fall? Some of the islands have two names.

M. Jerkins – I have a suggestion for a way to word it so you wouldn't have to list all of the islands or the ones that could be construed as islands. With the board's approval I will draft that and at the next work session I will have the revised copy with that included and you can decide if you like it or not.

T. Hoopes – There are some people who have quit claim deeds filed on those rocks and they are identified as islands at this point.

B. Dunbar – The question was on Abraham's rock, no one knew it. I any knows where Abraham's rock is, please.

W. Keniston – For the purposes of planning wouldn't you just want to know the ones that could be constructed on.

M. Jerkins – This is just a description in the Land Use Chapter of the lands in Alton.

B. Dunbar – Most of them have houses on the m, Plum does not but it is a recreational area.

J. Crouse – Am I correct that we re going to be approving minutes at the next meeting.

J. Bureau – Have we come to an agreement on meeting with the Attorney on the cell towers.

J. Dube – I spoke with Jim and Eric Reitter and when Jim gets back from vacation the three of us are going to meet. After that meeting is over I would like to schedule a meeting with the whole board and go over all the issues and have Attorney Sessler present.

J. Bureau – We are going to have that before the next joint meeting.

B. Dunbar – When are they going to try to have another joint meeting?

M. Jerkins – We are running into a lot of scheduling conflicts right now, not only the board's but the applicant's. It is July and a lot of people are taking vacation. Finding a day that everyone is available is going to be difficult and right now we need to get the procedural questions out of the way before we get into it. The applicant is aware and is willing to wait for us to come to have those meetings and come to some conclusions

J. Crouse – Is the ZBA going to be privy to any of these if there are any issues that are raised?

J. Dube – I think this mostly pertains to the Planning Board it really is the Planning Board's process, so the joint meeting is for the ZBA to listen in and here the process, so they only have to make their presentation once instead of twice for the two board's. If we don't grant it than that is when the ZBA will step in.

B. Dunbar – I want to know from Mr. Sessler what is a viable application, what application are we working on, and what does the ZBA working on?

J. Dube – If you have specific question e-mail them to me and I can have them for the first meeting I have with him and hopefully get them ironed out and if any additional come up when we have the full board.

J. Bureau – Would it be good to have the chair of the ZBA at that meeting?

J. Dube – No it would not.

B. Holmes – Jeane had a questions as to who has the right to apply?

M. Jerkins – I passed all of those question in lengthy e-mailto Attorney Sessler in which he responded that you should as a board should meet. He didn't mention to me the meeting with Jeremy. On the ZBA applications how it came about, under the previous zoning there were tow variances required, the use and area. That need to be taken care of before it cam to the Planning Board. They withdrew on and amended the other one. After they changed it it was a term they needed to come before the Planning Board.

J. Bureau – They wanted a variance for the height.

T. Hoopes – They had to get a variance for the height.

M. Jerkins – Since they already had the application they had the option of withdrawing the application or continuing under the old zoning, because it started before the old zoning changed. Attorney Sessler said that any court issues that could arise out of these would go to Federal Court. That is a big deal. It is very important that the whole board is comfortable with any decisions you make and is very well informed should it get to that stage you are prepared to back up your reasoning.

J. Crouse – Does that apply to zoning too?

M. Jerkins – I didn't ask about zoning.

J. Crouse – Are we also going to schedule the ethics seminar?

J. Dube – On the fee process we have been doing maybe everyone wants to think about it over the next few weeks and come up with something concrete. I think it is something we should look into a little more.

J. Dube – We will shut down to a non-public session under RSA 91a:3II.

J. Dube – At this time we will re-open the public session and no decisions were made.

T. Hoopes – We need to make to nominate someone to be on the hiring committee for the new planner.

Motion made by T. Hoopes to nominate C. Balcius and seconded by J. Crouse. Unanimous with all in favor.

Motion by B. Holmes to adjourn. Second by C. Balcius. No Discussion. Vote Unanimous.

Adjournment

Jeremy Dube, Chairman

Respectfully submitted,
Jennifer Fortin
Recording Secretary