

PRESENT: Vadney, Chairman; Sorell, Vice-Chairman; Finer; Kahn; Worsman; Flanders; Touhey; Edgar, Town Planner; Harvey, Clerk

Finer moved, Sorell seconded, I MOVE WE APPROVE THE MINUTES OF SEPTEMBER 12, 2006, AS PRESENTED. Voted 5 in favor, 2 abstentions.

APPLICATION SUBMISSIONS

1. **JAY AND SALLY PLYLER** - Proposed minor subdivision of Tax Map S22, Lot 2, into 2 lots (3.3 ac – 3.45 ac.) located at 96 Pease Road in the Forestry and Rural District.

Application, subdivision plan and abutters list are on file. Filing fees have been paid. In this particular application, the applicant proposes to subdivide 6.76 acres into two lots. One of the proposed lots is developed and includes an existing dwelling. I would recommend the application be accepted as complete for purposes of proceeding to public hearing this evening.

Finer moved, Sorell seconded, THAT WE ACCEPT THE APPLICATION OF JAY AND SALLY PLYLER FOR A PROPOSED MINOR SUBDIVISION.

Voted unanimously.

2. **DEEP WATER MARINE MANAGEMENT, INC.** – Proposed Architectural Design Review of proposed improvements to an accessory structure, Tax Map U35 Lot 8A, located at 31 Lovejoy Sands Road in the Shoreline District.

The next subject is Deep Water Marine Management, Inc. For that I will simply make an announcement tonight. Earlier today, we received a message from the sureties finding a procedural error in the advertising notifications of that meeting. It did not meet the legal requirements so we cannot hear that this evening. We cannot accept it this evening. It was for a proposed Architectural Design Review. Edgar – Mr. Chairman, if I could just add for the benefit of anyone in the audience that's here on this. The applicant will need to renotice so abutters will be renotified once the abutters list is corrected and we don't have a date because the necessary information has not been submitted yet so abutters will be renotified when we're ready to resume consideration of that filing.

PUBLIC HEARINGS

1. **HORATIO AND CYNTHIA MELO:** (Rep. Carl Johnson) Proposed major subdivision of Tax Map R11, Lot 14, into five (5) lots (10.5 ac. – 80.9 ac.) located on Chase Road in the Forestry and Rural District. Application accepted September 12, 2006.

We were before the Board with a conceptual discussion of this project a short time ago. The property's located on Chase Road which is a Class 5 Town road. It's mainly gravel road. It's about 144 acres and is bordered on the northeast by the Dolloff Brook Road subdivision on the south and between that subdivision and the discontinued Town road, there is the designated Dolloff Brook. We had partial wetland delineation on the property by Nicole Whitney from Ames Associates. She basically delineated the minutes?? of the larger wet area to the northwest and some smaller isolated wetlands in the interior property. She also delineated some wetlands that are associated with Dolloff Brook. We did a partial topography of the property, we did not provide topographical information on the whole 144 acres as has been the case with projects in the past, we do a partial mapping to determine that there's adequate building envelopes on each lot and that the minimum lot sizes are met using the worst case soil scenario. We did some rough calculations and have added a note to the plan that at least 160,000 sq. ft. of upland soil type less than 25% slope exists on each lot. I think in John Edgar's staff review he would like to have a breakdown on each lot to show the individual slope classes and which portion of the lot, but because of the deed restriction, we are limited to 5 total lots on the property so they are large. The smallest lot is 10 ½ acres or so and that's about 3 times what the zoning requires from a density standpoint and we did it on topographic information on each lot to assure that the minimum soils were being met for the soils-based lot sizing. Ames Associates did test pits on the property and we've got adequate testing on each one of the lots. Basically, the testing that was done was to provide at least one good test pit on each lot. We don't intend to specifically identify or delineate a buildable lot on each parcel. The person who purchases the lot is able to build wherever they can on the lot provided that they meet all the adequate setbacks from wetlands and meet the setbacks as determined by some deed restrictions. The deed restrictions on the property deal with larger than municipal setbacks from some of the boundaries, a larger than municipal setback from Chase Road. It deals with a maximum amount of lots and minimum lot size for those lots for the subdivision and so we proceeded with the development with all those restrictions being much larger than what the Town and the Zoning Ordinance requires. John mentioned that the deed setback line of 250' is an important line. You have a plan, but because the Town does not enforce private covenants, he would like to have the municipal setbacks also shown so we would add the municipal setbacks to the plan to show there is a difference between those and the deed line. The balance of the property is going to be occupied by Lot 2 which at this point is to be retained by the owners and that's about an 80 acre or so lot that wraps around the back of the other lots and most of the sensitive areas of the wetland occur in that part of the property so instead of having that divided up into individual fee ownerships, it was determined that it would be nice to have that as part of one lot and have control over some of those sensitive areas for that one lot. As I mentioned, there is a discontinued Town road. Old Stage Road runs through the lower section of the property, that's a road that was discontinued (there's a note on the plan about the discontinuance). There is a tax map and lot number for a pre-existing lot of record that exists about halfway down the road. That lot is identified by tax map, they have fee ownership to the lot which shows up on a previous subdivision plan by Hodges and Hayden in the 70's and we've duplicated the boundaries of the lot based on that subdivision plan. There are also two cemeteries on the lot, there's one just past that

existing lot of record and there's one in the upper left-hand corner of the property. Those have a State setback of 25 feet from the boundary of the cemetery. Because it's a 1" = 200' plan, it's somewhat difficult to show all the information in such a small area. What we have agreed to do in talking with John Edgar and Mike Faller is produce a blowup of the road section of the plan at a larger scale so that we can see power poles, other power locations on the other side of the road, the location of the wall because that is going to be important in the discussions that the applicants have had with Mr. Faller in terms of some potential road improvements. Chase Road, as you might have seen on the site visit, is a gravel road. There are areas of it that are steeper than others and there are areas that may need some drainage improvements and Mike Faller in his initial contact with the applicants inquired as to whether or not they would be willing to surrender a portion of the frontage for some additional ROW for the Town. That would give them some additional road to possibly push some walls back and do some ditching and some road widening in particular areas of concern. The applicants have agreed to that and also Mike had captivated figure based on analyzing the potential road improvements and at least initially that figure in the staff report is \$38,000.00. That figure is probably going to be adjusted depending on the specifics of doing some of the road analysis, but that's the figure that the applicants have essentially agreed to in principle in that area to contribute towards the road improvements along the frontage. The extent of those improvements as I mentioned will be determined by an analysis by Mike Faller in cooperation with the applicants, Planning Department and possibly other departments to determine the adequacy of Chase Road. The five lots will be serviced by four driveways. There is one common driveway servicing two lots and that was a result of some wetlands delineation. Originally, there was a driveway that was potentially to go in to an area that because of wetland setbacks, we were unable to do that so we moved the driveways around a little bit. The driveways were staked in the field and Mike Faller has reviewed all of those locations. There actually is an approved driveway location which is the second driveway down that was approved in conjunction with an application to construct a single-family home on the property. There was a septic system design done by Ames Associates, there is an approved septic system plan on record with the Town and the State for a single-family home in that vicinity. We're basically trying to work around that and create the lots around that approved septic system design. If we have to move it somewhat, then of course we'd have to do that. If the individual home site that was approved on that plan has to shift a little bit and would cause a new design to have to be done, then a new test would have to be done and a new design would have to be done as for each one of the other lots. The services for the lot are all on-site, it will be on-site water and on-site septic. We have shown 4K areas, acceptable well locations and potential house sites. Remember 1 inch equals 200 feet, a square inch is about an acre on this plan so put your thumbprint down and it's almost an acre so it's a little bit, when you see things pressed to the front here, remember that it's a vast amount of frontage and the distances between these lots are hundreds of feet although it appears like they are close together on the plan because the frontage was 200 feet. Just be mindful it's a big piece of property. To better facilitate viewing the plan and the details of the plan as with the Ducharme property, I could produce a plan of the front section at a larger scale which would show those details if it will be helpful to the Board. In John's staff review, there are some

comments regarding the use and the density and the lot sizes that are mentioned. He does mention the deed restrictions and the fact that he wants the municipal setbacks shown as well as the covenant restrictions. There's a wetland delineation on the plan and John recommends that the Wetland Scientist should get together with Bill Edney and discuss the intricacies of where the prime wetland begins and where the prime wetland ends and it's a situation that's come up before but many times if there are adjacent wetlands that don't rise to the level of prime wetland status and we have resolved that with Mr. Edney so we can have the appropriate setbacks on the plan. I have added, based on John's comment, a line which is the limit of the Dolloff Brook Prime Wetland as it appears on the Town wetland maps and if you're familiar with the prime wetlands, the line on that map, the State determines to be the limit of the prime wetland. If either the Town, the applicant or anybody in-between wishes to prove differently, then there's a process they have to go by to determine where the true limit of that wetland is and so I've added that line. It doesn't appear on the plan in front of you, but in talking with John, it would be important to know where that is. In layman's terms, the answer to the wet is where the flags are and that is somewhat complicated with the whole prime wetland statute. We've shown both now on the plan and subsequent copies that you have will show both the limit of the prime wetland as it shows on the wetland maps that are on file with the Town, as well as the wetlands that were delineated by Nicole from Ames Associates. Johnson pointed out on the map the wetland line. Wetlands are shown within and without the limits of that line but that's the line that's shown on the map, remembering that the wetlands, as they were determined by Mr. Keith during the wetlands inventory and the development of all these plans, are based largely on non-site specific criteria. So these are the intricacies that we have to work out between the soil scientist and Mr. Edney just to make sure we're showing the most appropriate wetland setback on the plan. If there was a setback based on that discussion that's larger than the setbacks we're showing, we may have to reconfigure some of the buildable areas of some of the proposed home sites, but right now we're showing the setbacks from the edge of the wetlands that Nicole has determined to be non-prime wetlands associated with the prime wetland. John has a bunch of comments regarding the roads and the access and I'll let him go over those in more detail. I've touched on them briefly. He recommends draft deeds be submitted which contain some of the language dealing with the common driveway as something we typically do towards the end of the project. After we hone in where the lots are going to be and where they are going to be accessed will produce some draft deeds which indicate those easements and basically it's dealing with a maintenance issue and who's going to be paying for what and how they are going to be constructed and maintained. John briefly touches on the abutter concerns through the letter by their attorney and I'm sure we'll hear testimony on that and the pins have to be set prior to recording the mylar. We're not there yet, but they will be as a matter of practice in Town. Vadney - The extra lot that's on Stage Road, how big is that lot of record? Johnson - Half an acre possibly maybe a little bit more. I didn't do a specific calculation on that. Vadney - It doesn't appear to be delineated in any way. Johnson - It is on my plan. It's a very confusing situation that the description of the lot is somewhat vague. There are a bunch of stone walls that are in that vicinity, there's old walls that are part of an old home site. Obviously, it was a home site at one point and Hodges and Hayden I can remember

having worked on this property before and done a lot of work trying to delineate where that lot was based on a lot of research they did and not wanting to reinvent the wheel, I basically took the information that appears on that plan which is a plan of record and duplicated that on this plan. It talks about things like around the home site and there hasn't been a home there in several years and it's very difficult to recreate that, but that's what we've done on my plan is to recreate it as it's shown on the Chase estate plan which was done in the 70's. Vadney – How many feet of pavement are you recommending? Johnson – That hasn't been determined at this point to my knowledge. That's something John might touch on in his comments. Vadney – On the driveways, one of the driveways if you go northwest a short distance from the proposed driveway there's a culvert, which one of those is that, can you tell me? There is a culvert that crosses Chase Road and there's a driveway. Vadney – That's the one I thought it was. I'm calling that driveway #4. There's driveway #1 the first one you come to by Chase Road and #2 and #3 are together and then #4 and #5 the proposed one and that's the one where they are currently logging, right? Johnson – That's where the logging road goes in. Vadney – Way down by the cemetery there appeared to be pegs and it looked like somebody marked another driveway down there, what's that? Johnson – Originally, in discussions with Mike Faller there were 5 driveways identified on the plan and because we had to move one and because of some additional discussions, we're now down to 4 so that was the driveway that was abandoned. Vadney – That one you just pointed out where the culvert is, it seemed like it might have some problems in that if the first 20 feet of the driveway has to be flat or slightly negative, it's going to be very difficult to dig and get up that hill, it was fairly steep. Johnson – There's a distinction between the access for a road and the access for a driveway. The access for a driveway is not restricted to the 50% or 2% that the roads are restricted to. They look at a much lower standard for the entrance onto the highway. The other thing to remember is while the driveway location may be in the vicinity of where that logging road is, the driveway is not going to go off in the same direction that the logging road does. Vadney – I'm not talking about the logging road, I'm talking about the driveway to the south. Johnson – All I can say is that Mike has reviewed the locations and has deemed that to be at least initially acceptable. Vadney – One other thing and this is as we walked it and looked at it, that one seemed right where it was paved would be a problem for sight distance or at least it would require a substantial cutback of that steep hill to get good sight distance and proper positioning. That's why I asked about the culvert because there is about 100 feet; the culvert looks about 100' north of there. If you move in that direction, it brings you out just enough to maybe clear up the sight distance; it might put you into the culvert area. Did you look at that? Johnson – All that we've looked at is the initial inspection with the applicant and Mike and identifying at the beginning the 5 locations for access and now it's down to 4 and Mike reviewing them. If there's some discussion or concerns of the Board about moving them, then I'm sure that will be part of the whole road issue as to where the driveways will be and sufficient distance. If there is to be additional ROW width granted to the Town, then some of those issues can be cleaned up, moved and adjusted as we go along. Worsman – You've researched the title for that out lot and you're fully sure that no one else has title to it but the buyers of this property? Johnson – No. First of all, my company did not research the title for that out lot. That is a lot that has been

existing as a previous tax map and lot parcel for a long, long time. It is not owned by the Melo's. There's a leader here identifying the tax map and lot number and the owners of that lot. Land surveyors in the old days had to certify that they knew the ownership of a piece of property. Now all we do is have to find out what it looks like. Lawyers typically now determine the title and there's no question in our mind that we do not own that lot and that somebody else does. There may be debate as to exactly where that lot is because of those deed issues, but we do not own that lot and there's a note on the plan that we fully understand that we cannot impede the access to that lot over the discontinued road. When the Town discontinues a road, typically what happens is it reverts to the owners on the opposite side of the road. If you own both sides of the road, you own the road and it terminates the rights of the public essentially to use the road. It doesn't terminate the rights of somebody who has a lot up there to use it and so we fully understand that there's a right to use that road and we're not intending to do anything to interfere with that. Vadney – You did notify that owner as an abutter? Johnson – Yes. Kahn – My question was I received from Mike's various memos that he's looking for 17 feet added to the ROW so I take it that this is one of our old 2 rod ROW's, Chase Road? Johnson – Regardless of the width of the road, I think Mike is looking for an additional 17 feet on that side. The 17 foot typically is to get to 50' from 33' is what your point is and if it was a 3 rod road or more, if it was 49 ½ feet wide, I think Mike is still looking for an additional 17 feet and that's what we've agreed to from our side of the road. Kahn – The reason I asked the question is looking at it the other day, the area on the grade between the out lot, Lot 15, and the opposite lot is a real choke point and if we've got a 2-rod road there, it's going to be a real problem improving it in that area. Johnson – I think the 17 feet is a number that we've agreed to. Kahn – You can't convey away somebody else's lot. Johnson – That's correct, we can't do anything on that particular bottleneck. If there are other areas of Chase Road that may require 20 feet, we're not saying that we're just going to allow 17', but you're right where we don't have the ability to convey ROW, we can't convey ROW. Vadney – I need to make sure I understand what Mike meant by 17 feet. Does he want it the full length of this or just in a couple of areas? Johnson – I don't know the answer to that right at the moment. Mike could address that. Vadney – Could you show us where one area would be when he said 17 feet? When he said 17 feet was he standing in any particular curve on any particular side of the road? Johnson – I think primarily from where the property begins at the south up through the corners is where he's most interested in. We're entirely amenable to the entire frontage of the property to offer to the Town for additional ROW. I think Mike's philosophy having come from the State of New Hampshire and I know a lot of the State if there's an opportunity ever to get it, get it even if you might not ever need it. Vadney – I can appreciate that and a physical lay of the land from what we could see on the site walk, particularly on that first corner as you go up the hill, 17 feet on the outset of that corner's almost going to hurt you and we could widen it out, but it's going to make the corner even deeper and you need land on the west side of the road. Kahn – I quite agree with you that there was a curve there that's a real bad curve, but going 17 feet to the east or north isn't going to help it. Edgar – Mr. Chairman, I think what I had suggested in the staff review would be and Carl alluded to this, is that we get a blowup of the road with a little more information so we can get a better feel for what Mike had in mind. We have relatively low traffic volumes

and depending on whether you're going up or down, probably relatively low travel speeds and so we're sort of damned if you do and damned if you don't, I mean as a practical matter you'd like to try to kick it to the inside but then we'd probably be criticized for making it a speedway if we take too much curvature out of it so I think we need to have a little more detail and have Mike get a little more specific as to the nature of what improvements in what areas. I think the discussion we're having right now illustrates the need for a better feel for some sense along the frontage as to where he might kick the road out. I think when we were on that site inspection going up near the top of the property on proposed Lot 1, that part of the road up there looked pretty decent relatively speaking and we start getting into that "S" curve, I think is where we got that choke point and the road narrowed. Vadney – When we looked at that we should at least talk to a couple of the abutters on the other side of the road, it might be to their advantage to give and take a little bit because we don't want to blindly take 17 feet and make the corner sharper just because it's wider. Edgar – Mr. Perkins I think had approached us and had expressed his only concern really had to deal with the Old Stage Road as to whether or not that was going to be an access point. He seemed to not be too concerned about the other driveways so I don't know if his property extends up into that choke point or not. Johnson – The other factor in the 17 feet is I don't get the impression in my discussions with Mike that he's talking about major realignments of the road. A lot of times the 17 feet allows the slopes to extend out without getting slope easements or drainage easements or anything like that so many times it doesn't mean that it's going to be 17 feet more road, it just means that they want 17 more feet to be able to work in and to possibly control the slopes. There are areas out in Chemung that the roads sort of dropped over the years and there's no ability to do any sloping work. That would solve this problem. Edgar – To echo that, if we were to make, we meaning the Town in cooperation with the applicant, an investment in the paving, as a practical matter you want to make sure you get the water out of the way and right now as we probably all visualized the other day, some of the drainage pipes are in but the ditch lines aren't terribly adequate and once you get into that ditch issue, then you get into the slope issue and when you get into the slope issue, you need the elbow room. I think they are all good points but I think the idea is to try to detail this a little bit, not necessarily full-blown engineering, but try to get a little more specific from Mike as to what he's looking for along the way to make sure that the applicant, the Planning Board and to some degree the Selectmen understand what we're talking about. We're talking about a shared cost issue where the DPW would be doing some of the work. They've already started some of that in terms of the drainage pipes that have been replaced; everybody's got to be on Board with the same. Vadney – I'm not against getting the 17 feet on the east side along the way just to help out the Town with drainage issues and all that, I'm just saying it would be at least worth approaching the abutters on the other side of the street because it could be to their advantage and they'd be happy to donate 4 or 5 feet. Edgar – I don't disagree, I think Carl probably understands that. Johnson – Depending on where you are in time and space, there could be people that are very willing to do that. Worsman – As we walked back on Lot 2, there was a significant amount of clearing. Can you discuss that? Johnson – I'm familiar with it but there has been an area in there that's been cleared in conjunction with the original approved septic system design plan and home site. Worsman – So that was for the original

home. I guess the direction in which I'm going is I'm sure there are some awesome views in the back of some of these lots and what kind of pieces can we put in here so we don't have clear cutting and sheet drainage into a prime wetland. Johnson - Generally speaking, there are no restrictions from the Town level in terms of the cutting of trees in this zone. There are clear-cutting restrictions in the Shoreline zone; there are none that I'm aware of in the Forestry/Rural zone. There are private deed covenants that restrict the cutting in certain areas that to my knowledge it's not to the interior of the section of the property that you're talking about. As you look at the Wetlands Ordinance, one of the things that's allowed within the wetlands are logging activities so a cutting restriction is not something that is in an ordinance or in the subdivision regulations in this particular zone. Worsman - I would like to approach it with discussion from this Board whether it makes sense to consider whether there should be any kind of restrictions as far as clear-cutting, etc. Edgar - Mr. Chairman, could I address that whenever it's appropriate to go through my staff review. Just a couple benchmarks here if you will just as you go through the staff review, the issue of the lot size and the density has been noted. There is a deed restriction limiting the property to a maximum of 5 lots which is contained in the covenants. The same set of covenants does provide for increased setbacks as a practical and as a legal matter, the Town of Meredith does not enforce private covenants. There's a number of private covenants on properties all over the community and we have been counseled historically that we do not enforce private covenants so even though there is a valid deed restriction establishing a 250' setback, I'd ask Carl to indicate the 65' setback and note it accordingly so we know what is required by zoning and what is required by zoning and what is required by deed so that clarity is on plans. Carl did touch base on the wetland issue. We have prime wetland #34, the Dolloff Brook Prime Wetland to the rear as well as a designated brook and we just need to double check that, you know what's prime, what's not and make sure we get the applicable setbacks on there. To partially address your question Colette, back at the pre-app we had there was some general discussion about whether or not the applicant had indicated that they were at least thinking about maybe an easement on the property. I don't know if that has been advanced in the interim or if it's still on the table, but that would be a viable mechanism assuming everybody's in agreement where certain do's and don'ts could be established relative to the back acreage closest to the prime wetland. We do have a 150' setback from that prime wetland and because we don't have the data way out the back because they are detailing up front, I've recommended as we typically do on partial mapping exercises to flag the fact that depending on actual house sites and so forth additional mapping could be required. If someone gets back into the rear portion of the property with development of a house site, then we would require more mapping, but for now they are showing the houses more up front so I think the discussion with the applicant and possibly the Conservation Commission could or should be had relative to a conservation easement. It's already deed restricted to 5 lots so there's not a whole lot to be lost and in principle if the grantor which in this case would be the Melos are interested in granting an easement to the Town and if presumably the Conservation Commission was interested in being the stewards of such an easement, that dialogue should happen. Another consideration relative to that and perhaps Carl and the Melos can speak to this is that it is my understanding that there is or was a portion of a

snowmobile trail on the property. I think we actually saw one of the sign markers somewhere in the vicinity of Lot 2 and so there may be an opportunity and I think we briefly touched on that in the design review as well, this may be an opportunity to relocate a portion of that in such a way that it provides for the community recreation but doesn't detract from the privacy that you would hope to find in a nice setting like this so maybe the conservation easement and the relocated trail issues could come together potentially and have the effect of what you were speaking to and that is not to have extensive clear-cutting particularly in closer proximity to the prime wetland. With respect to the utilities, as Carl has indicated, the utilities are on-site. As a practical matter, it would be helpful to have the test pit symbols numbered. We were out there in the rain trying to discern one pit from the other and the logs don't look bad and obviously the lots are big so there's not a viability issue but it would just be something we should have on final plans. Similarly, the utility information on the roadway but I think we've talked about the roadway improvement plan where we would have a little more detail. We'd pick up all the relevant driveways, edges of the traveled way and that plan could also indicate the utility information. Chase Road is mostly a gravel road, there is pavement on the end closest to 104. Obviously, the area's very rural in character and as a practical matter, I think one of the benefits of a little more detail from Mike is to be able to come back to a follow-up hearing and articulate what really is proposed so that we don't inadvertently end up with a 24-foot wide stretch of road and then have 18 feet that's very rural in nature and very appropriate and then have an inappropriate section in the middle so I think just being sensitive to the character aspects of things is relevant. We do have a letter of support for the paving from Jack Kozlowski who is here tonight and can speak to that specifically but we do have a letter in your packet in support of getting that section paved. It's not uncommon, I think even Arbutus Hill Road is a steep stretch of road where you pave steeper sections when you get into mud season and the like, it's not uncommon to see steeper sections of roads paved whether it be for winter maintenance or for emergency services and some of the difficult seasons that we face on occasion. Mike had initially mentioned at the pre-app the general discussions that he had with Mr. Melo, he followed that up with a little more specificity in his Memo of 9/25 and as I've indicated before, I think it would be appropriate to get that base road improvement plan done and back to us in a public hearing so we'll have Mike's views depicted on a plan. Hopefully, at that point some agreement with applicant and be able to present back to you something a little more visual in terms of what the extent of the shared improvement project would entail. We do have a letter in the file from Attorney Pollock which is on Page 37 of your packet. Attorney Pollock notes that the conveyance is subject to the covenants that we've touched on. The covenants deal with the number of lots, the setbacks as well as private cutting restrictions and the attorney can speak to that here in a minute. I just want to reiterate my view and that is that it's not the responsibility of the Meredith Planning Board or the Town of Meredith in general to enforce private restrictions. Those are typically viewed by municipalities as private matters between the parties and I just want to make that clear that if there's an opportunity obviously to resolve any disputes, that's all well and good but the Town of Meredith is bound by its zoning, by its subdivision regulations and its approvals and not necessarily bound by private covenant restrictions where there may be allegations of violation. With respect to the out lot, on my plan it's

noted that there's an issue of access that needs to be maintained on Old Stage Road. It might be good, Carl, to provide a plan reference to the plan that you cited in terms of where that lot information came from that you had eluded to just for historical purposes. A couple other little things in that area that I'd also ask you to consider, we do have a cemetery inventory in the Town. I do not have the inventory information with me tonight, but we can allude to that because not only do we have to provide access to the out lot, we have to provide access to the cemetery in the event somebody wanted to go there and not that it affects the price of eggs here, but there is a statutory setback (25') requirement for excavation near cemeteries and we should just make reference to that as well. In the final analysis, I think we would not be in a position to take action tonight, we would work towards developing the plan that Carl and I have spoken to with Mike's participation and that we have that information submitted together with any corrected wetland setbacks and some of the other odds and ends that are mentioned and that we look at a continued hearing to an agreeable date specific that would allow sufficient time for this information to be submitted on or before the associated filing date. I would just draw the Board's and Carl's attention to the fact that at our next meeting we'll have two acceptances on the agenda for two fairly large projects, one is the Happy Homes project that you were briefed on last fall at a pre-app and then a large subdivision on Pease Road in excess of 40 lots that you've been briefed on as well so those will be considered for acceptance at the next meeting and then probably the next meeting is when those hearings would take place. We just need to sort of plan accordingly and if you want to tuck this one in as an Old Business item and go first, that's fine but I just wanted to make sure everybody was aware that we have a couple that will have a few folks in the audience. Vadney – I want to make sure we're clear on that and it would be my preference that if the Melos give 17 feet of ROW facing their property that doesn't mean the 250' buffer goes 17 feet further into the woods. Edgar – My guess and this would be subject to running it by their attorney, but I think if it was in the context of an easement that would allow us to do road improvements as opposed to jiggering lot lines, then I think we could accomplish both where the fee interest remains the same but we would have an easement right to go onto private property to make road improvements. That would be my sense, I don't know if Carl has a different view or not. Vadney – We should settle that tonight just so we don't overlook it and then later on somebody comes up and says you forgot such and such. The other thing is the cutting rules that I just read in these covenants. If you want to get to the extreme, you can take that 17 feet to widen the road and they would block it because you couldn't cut any trees on it. They are even bringing up the point that you can't cut the driveway through that area which I find a little odd. Flanders – Mr. Chairman, I read this letter from the attorney and first off as John has already mentioned, this Board only has authority to enforce the zoning ordinance and subdivision regulations and the way this is worded here: "Clearing of any kind for these driveways will constitute a clear violation of the Covenants. Any action by the Planning Board which normally promotes such a violation is grounds for an action against the Town." (1) First off, that statement is totally contradictory to any legal advice we've ever had, anything we've ever done and anything I've ever known done by Boards in other towns. (2) I find it offensive and an insult to the intelligence of this Board that an attorney would make a statement which is so legally incorrect. Vadney – I agree with you, Bob. Eric Newman – Good evening,

I'm with the law firm of Gallagher, Callahan & Gartrell. I'm here representing the Walters who were unable to attend this evening; they are both out of town. I believe Mr. Walters is out of the country. I am here to voice the Walter's objection to the proposed subdivision on the grounds that to approve that subdivision as the plan is filed would violate the Covenants that have been discussed this evening. Those Covenants were recorded prior to when the Melos took title to the land and they had notice of those Covenants and in fact reference to the Covenants is made on the plan. Therefore, those Covenants are enforceable against the Melos and they did articulate a 250' setback on Chase Road and also expanded the setback in the vicinity of the wetlands boundary to the greater of 250' from the shared boundary with Lot 13 owned by the Walters or 250' out from the wetlands after the plan as filed proposes a number of driveways which would obviously entail cutting within that setback from Chase Road and in fact one of the driveways has already been improved as was mentioned earlier. In addition, there has already been additional cutting in another location that's taken place within the last year in violation of those Covenants. We also have some question about and the surveyor commented given the scale, it's difficult to tell precisely where the houses and septic will be located. There is some concern whether or not these two houses on the northwesterly area of the plan would be able to be located or their septics located without violating that 250' setback given the location of this wetland boundary here. Vadney – You mentioned that to enforce these covenants, are you thinking that the Planning Board should be enforcing these covenants or is that a civil matter between these folks and the Walters. I understand the comment from the Town. These are private Covenants, we recognize that but I think it would be wrong and objectionable for the Town to approve this subdivision given this prior notice of these enforceable kinds of Covenants. My colleague, Attorney Pollock, articulated the Walters intend to seek an action appealing this decision of the Board against the Town. Vadney – Did the Walters sell this property with the idea that these Covenants would prevent anybody putting in a driveway? Newman – No, absolutely not. Just by way of background if you aren't already familiar, the Walters were the prior owners of Lot 14. They sold it to the Melos predecessor in interest. At the time of that conveyance, that's when the two parties agreed to these Covenants. Those Covenants were recorded at a later date, but a date prior to when the Melos took title and I've articulated their basis for objection and that's not to say that they oppose any development on this lot and in fact they would withdraw their objections to the proposal if the access could be limited to minimize impact to the 250' setback along Chase Road and they would propose access through one point along the existing Old Stage Road and if the Melos could submit a revised plan that accommodated that request, the Walters would withdraw their objections. Vadney – I don't want to get into the details of this just based on an eyeball inspection the other day, Stage Road itself is extremely problematic on the way it enters Chase Road and it was abandoned. Newman – I just drove past there and I appreciate your comments but I believe the idea would recognize the need to improve that access but in keeping with the intent of the restrictive Covenant limiting the cutting would be to minimize the amount of cutting that would take place and focus it in one location thereby preserving the rural character of the road and the other frontage. Edgar – Mr. Chairman, could I ask a question before we leave the covenant issue? The likelihood is probably pretty good that we'll be continuing the hearing and if you would be good

enough to cite for us what you believe to be the legal authority upon which you're suggesting that the Board could withhold a subdivision approval based upon concern over violated private Covenants, I think that would be helpful because I'm not aware of enabling authority that allows the Planning Board to do that and if you were representing that that's the action the Board should take, I think it's incumbent upon you to demonstrate what legal authority you're suggesting the Board rely upon in taking such action. Recognizing that it may not be our enforcement authority, the Covenants speak to 250' from the wetland edge and I don't know if the Melos or Carl or you could identify that and clarify where that is. As a practical matter, up to 5 lots were envisioned and presumably it's not accessed by helicopter so some cutting somewhere arguably was envisioned of some limited variety but the wetland on the boundary with the Walters property could be another sticky point and not necessarily for this Board, but I think if we're showing the Covenant restriction on Chase Road, for example, is there another Covenant restriction that as a practical matter just to demonstrate what's in the deed, is there something else that needs to be added to that line. I know we're showing 250' off the side line, but there's also some reference in there to a setback from a wetland so maybe that could also be clarified when we resume. I think that would be helpful if I understand your comment between 13 and 14, 250' off of what's already delineated as the wetland. Edgar – Here again, it's not likely to be something that we would enforce, but I think that if we're showing the setback from Chase Road by deed, are there any other similar restrictions that are applicable for informational purposes only. Johnson – I just want to briefly comment on what I think the problem is with private deed restrictions and covenants in my experience and I'm not an attorney. I respect attorneys but the problem is, Mr. Newman, Mr. Johnson, Mr. Vadney and Mr. Edgar can't tell you if you're in violation of the deed restrictions and covenants, there's only one person that can tell you that and that's a judge. Until a judge says you're in violation, you're not in violation. That is the problem because we don't even know the way these are written what the intent of some of the restrictions are. It's very confusing to have big major 250' restrictions in the same breath as you're saying that it can be subdivided into 5 lots. It's very confusing for a surveyor to figure out what they all mean. We've tried to put on the plan the deed restrictions as they apply to the setbacks to the best of our ability. Prior to the Melos hiring a wetland scientist, the wetlands on this lot were not delineated so if there's a reference to a wetland setback, it's unclear in my mind if it means all the wetlands that are on the property or the setback from the prime wetland. There's a mention of some pipes that might have been set by the Walters that we're not aware of, it would be helpful to have some of that information. We're not trying to pull a fast one on anyone. We're aware of the deed restrictions, they are confusing and this is not the venue to be determining whether or not the Melos are in violation of the Covenants. If the Walters wish to pursue that matter, that's their right and then if there's a judge somewhere that issues a piece of paper that identifies that there are violations to the Covenants and Restrictions, then they will have to be dealt with at that time. Until we know that, we don't have any evidence that we're in violation. That's the problem with the Town getting into private Covenants. Vadney – I was particularly chagrined when I read one paragraph in there that said that the previous owner had on his own gone out and driven rebar and that was to delineate something, I mean no bearings, no points, no startings and no endings, I'm not sure what that meant

but anyway, granted there is some rebar hanging out there. Flanders – Mr. Chairman, for all of the reasons Carl articulated and John has articulated some reasons and I have also, I feel that we should eliminate any further discussion of deed restrictions from this hearing or this decision making process. It's not appropriate for this Board to try to be a judge and a jury and figure out what was going on out there and so I think we should eliminate any further discussion of these details and stick strictly to the jurisdiction that we do have which is interpretation of the Subdivision Regulations and the Zoning Ordinance of this Town. Vadney – I agree with that and I would be particularly dismayed if someone sold land and intended no driveways would come off of it as has been spoken here tonight. I'm just beside myself on that one. Loring Stephens – I'm the mysterious Lot 7 owner and I'm here today to shed some history and some light. My family has owned that ¼ acre property for almost 30 years. My grandfather lived in the Town of New Hampton and was a graduate of New Hampton School. My uncle and I have frequented that property for many years. My uncle now lives in Hawaii and I became responsible for it and my wife and I and my family frequent summers here. I had two particular issues. I have no objection to the subdivision of the property. I don't know the Melos personally, but we've anticipated possible development in that area and obviously through property evaluations and things, we probably would be receptive to that. We are naturalists and would love to see the land stay as it is. I obtained the plans of the subdivision for the first time today. This is a ¾-acre property and it is very close to a very old cemetery. We walk our dogs up here and we have walked up in that area. My only concern was that the plans that I received today from the Town did not even identify the lot and I was a little dismayed on that and it said that this road has been abandoned and yet we've been accessing this road for almost 30 years so I truly believe we saw horse droppings and skimobile trails and it hasn't been abandoned. Vadney – When the Town uses the terms abandoned, the public no longer has a legal right of way. People can still walk on it just like they walk anywhere, but it's not an official ROW. In your case, as Mr. Johnson mentioned that property would be grandfathered to allow you access to it, but legally I would be trespassing so to speak on the two abutters or whoever owns the land on each side of it until I got to your property and then I'd be trespassing on your property. That's what abandoned means. It doesn't mean that nobody uses it for snowmobiles or anything else, it means that it could be blocked off and they wouldn't have a legal argument. Edgar – The plan does note the fact that access to your lot has to be reserved as a practical matter over that. I haven't researched Article 25 yet and I will before the continued hearing. There's a couple ways that roads are discontinued or a couple effects and one is that the public rights are dissolved and there's another abandonment of sorts where we just don't maintain it, but the public rights are retained and it's a maintenance issue. I'm not sure which one of these it is yet, but it seems to be represented by Carl based upon his homework that it was discontinued outright meaning the public rights were dissolved but not in such a way that dissolved your rights and the rights of others to access the cemetery as a matter of legal necessity are preserved so in either event whichever happened in 1951, it doesn't affect your legal right to access your property. The question is whether or not it was simply a non-maintained public ROW or in fact if it's an "outright" discontinuance then the public rights were dissolved so as Herb has indicated, it doesn't mean that people don't use it or that you haven't used it, it has to deal with the

legal status of the road whether it's a public ROW or not. Stephens – We've envisioned filing an application to maybe put a structure there, maybe a log cabin of some sort to give us a little bit more substance and I don't know what the plausibility of that would but my concern is we're virtually landlocked in that property. Vadney – Except what we're saying is you're not landlocked, you do have rights to that ROW. Stephens – Is it considered an easement as far as, I mean if I ever wanted to put power through Stage Road for instance or be able to, I know my uncle used to bring his 4-wheel drive van up there years ago and he used to camp out there and he used to drive right up into the property. Would we still be allowed to do that? Vadney – I would think so. Edgar – Mr. Chairman, the only caution just like we're not a venue to resolve civil issues, I would be cautious about giving some affirmative answer to that. The likelihood that you have some rights to that property is there. We can do some more homework on the 1951 decision. We're not attorneys and we shouldn't be giving legal advice as to exactly what you can do whatever that is, there's probably others that can do that for you. The likelihood that there's some discretion you have is probably there, but I just would be hesitant to get into a discussion as to exactly what you can and cannot do to that area. Stephens – I did seek legal counsel today and we're not opposing the Board's plan for the subdivision. I think it's really a separate issue but I really wanted to voice my concern. I was a little surprised that Mr. Johnson couldn't obtain records from the 70's, I have a copy here from 2000 which clearly shows the boundaries of the $\frac{3}{4}$ -acre plot and I have a copy of that here and I'd be glad to make it available and you can add that to your future plans. Johnson – Just for clarification, the lot on this plan that this gentleman doesn't have and is not in front of you has been delineated. I've scribbled over it but I would be happy to provide the gentleman a copy of it. I think he's referring to the tax map and the tax map goes way back and shows the lot as an out parcel and we did some plans for the Marcoux's who were previous owners, we did some current use plans and we clearly showed it as an out parcel on those plans so we're aware that it's there and we've now put boundaries with courses and distances on it based on that 70's plan that assimilates the shape that's shown on the tax map that the gentleman has. Kahn – I'd like to make an observation and that is we don't know what rights you have, but the one thing you can be sure of is that whatever this subdivision does, it doesn't affect your rights. Stephens – I just wanted to clarify that. Vadney – And one thing, I'm glad you're here tonight to tell us because when we did a walk of the road and the boundaries the other day, we did see the way that Old Stage Road enters Chase Road and the applicant is proposing the driveway 150 feet or so below there and depending on what comes out of any road widening or road improvements, a couple things could happen and I'm not saying these will happen but things to keep in mind and you should be aware of, we've got to find a way to keep Stage Road's abandoned access. You can still get onto your property, we can't make the road impassable for you or possibly, there could be some easements as part of this agreement that connected the new driveway to Stage Road a few hundred feet back into the woods or something like that. Stephens – I would welcome that opportunity. Vadney – I can't give away people's land. Stephens – It's a sanctuary for us and we'll continue to walk it as we've enjoyed for years. If that opportunity presents itself obviously we'd be extremely receptive to that and obviously it would give us better access and maybe some possible further usage. Kozlowski – I am fully behind what

the Melos are doing and I don't know anything about the legal ramifications but if it does come to fruition, it would be awfully nice to see a paved road on Chase Road. Vadney – Do you have any limits on where to pave? Edgar – It would be nice if there are any other comments to get them on the table. Johnson – In relation to John's comment about the scheduling, I don't believe this blowup of the road is something that needs to be submitted 15 days in advance, I can have that plan to John and Mike tomorrow to start looking at things in terms of the timing when you want this to come back. We're certainly ready to come back as soon as you're ready to have us. The process here is to get the staff review and try to make as many changes as we can and I've made some changes that you don't have in front of you and I apologize for that, that's just because we're trying to get as much information as we can. I have made a lot of changes that were incorporated in John's staff review and so we do have an elevated level of what you see in front of you. I don't generally give the Board a topography because there's too many obstacles to see what's going on. It's up to the Board, we're ready to come back and we'll have an information plan for the road as quickly as tomorrow. Edgar – Regarding the road plan, I appreciate Carl's attentiveness to produce that, but the other piece of that is to then hook up with Mike and to get his take on things and then get that back to Carl and have that depicted on the plan so we might be able to generate a starting point within a day or so's time, but I can't represent that Mike's going to be able to turn right around within a day or two and be able to get that information to Carl and back to the Board within a few days. Just be reasonable with how you pick the date. Vadney – You're saying two weeks probably isn't enough, I agree. I was just going to make one more comment as far as the road goes, it's obvious when you ride on a rainy day like we did on Saturday that the hill is problematic, that hill has been problematic for a long, long time and I've used it for quite a long time and know the problems it has in plowing, erosion, meeting cars on the corners, etc. We are looking at least the first house, the first driveway that's been composed just past the bridge doesn't add too much to the road but the 3 driveways beyond that all have to pass through that sharp corner right in the middle of the hill. There certainly needs to be some work done in there. It then makes the question of can you improve that without paving it and I guess to a degree, it's arguable why it hasn't been paved previous to this. My guess is that it will require at least paving of the hill and I don't live out there, I'm willing to listen to anyone who does but my observation as I left the property and realized how close the end of pavement comes now, the current end of pavement to the bridge and how soon after the bridge you'd have to start paving. It should probably start, I think Mike should be looking at if they are going to pave, paving from end of pavement to the top of the hill at a minimum and then widening and correcting drainage and stuff as he sees it. At a minimum, it would appear you need that much pavement. Touhey – The only question I would have is there's a lot of stonewalls along that road. I unfortunately did not make the site walk, but I hope that they would be preserved in some way. That's not a protected road; it's not a scenic road. Johnson – Improving the slopes and making any improvements on that road that were necessary from a safety standpoint and proper access would hopefully entertain pushing walls back if they had to be moved, not just take them out, but in those areas if it was necessary from a safety standpoint just to push them back so that you still end up with a stonewall. That's been done in a couple other cases in Town where it's been sensitive to the rural character. Edgar – Mr.

Chairman, on that aspect of things notwithstanding the cutting questions, it's certainly in our general interest to have some improvement blend into the area. It's a pretty neighborhood, it's very rural and we on our side need to be sensitive to that. I think the grantor, the reason why these stipulations are in there is because they likewise are generally concerned with the character of the area and certainly not the least of which are the concerns of the applicants. It is my understanding the applicants are going to live there, there's a certain rural quality that attracted them to the property based upon the conversations that we've had over time and so I think there is common ground, hopefully, with respect to that I think everybody's trying to maintain a certain rural character of the area and at the end of the day the challenge is going to be to make a meaningful improvement that will improve the safety for everybody on the street but do it in a sensitive way. I think there's certainly a lot of opportunity to find that common ground. Vadney – I do think we should make clear to Mike that we would be willing to be liberal in, maybe it's the other way, and we'd be conservative. I would hate to see 22 feet of pavement go up through there with a 1:4 side slope on each side that would end up being basically a 120' wide swath coming out of that hill. Even though that's what highway engineers will tell you they need, I think we should back off on that and maybe not have those side slopes and not have some of the wonderful safety inventions of today and keep it as rural as we can at the same time that we make it a little bit better. Kahn – I would just add to your observation that I agree with you wholeheartedly on that but I also feel that it looked to me like the west end of the property really didn't need pavement. Once you get past that hill and around those curves it looked to me like you could come up with a pretty good gravel road that would stand up in all seasons because there wasn't much of a grade. We could drain it and it would stand up so maybe Mike should be encouraged not to engage in overkill. Vadney – That's what I was trying to say as far as the width of the road, but as far as the length of the road I agree and that's why I previously said pave from end of pavement to the top of the hill and anything beyond that I guess would be negotiable, but I would agree it's not necessary. Kahn – I also have a question and that is one of these driveways is approved, where did that approval come from and when did that approval come? I'm just asking the question as a matter of curiosity, it relates to this no-cut restriction that we don't intend to enforce, but when did the approval come? Johnson – I don't have the specific date, but the first step that was taken with this property was to have a septic system designed, a driveway approved and to build one home on the property. Vadney – As part of the old subdivision? Johnson – As far as no subdivision, it was just one house on 144 acres. Kahn – Was this envisioned with this subdivision or was this years ago. Johnson – This wasn't years ago, but it was prior to this subdivision (about a year ago). Edgar – It is certainly within the property owner's right to seek a driveway permit on a lot of record and that shouldn't have a negative connotation. Kahn – My point was not that it has a negative connotation, I was just curious if this driveway approval had come years ago. It bears on the question of whether or not you can cut through the no-cut zone for a driveway, but since it's current, it has no bearing on it whatsoever. It doesn't mean it's bad, it doesn't mean it's good. It just has no bearing. Flanders – We've talked about the road and I think we all agree there needs to be some improvement there. One of the things we haven't discussed is I think at the next meeting we should have some numbers so we'll have some guidance as to establishing

a performance guarantee. Vadney – That's why I'm saying, the next meeting is going to have to be further out than two weeks. Edgar – We can speak more specific to that when we reconvene at a continued hearing. What we have done on a couple smaller jobs where there was consensus amongst the Town and the applicant was in essence the applicant made a payment to the community and then because the project was being coordinated by DPW, they made their agreed-to contribution and they fulfilled that obligation and that was it and as long as we had the assurance on the Town end that they were going to do their piece, there was not a necessity for a guarantee because the two pieces were in place so the way I read Mike's memo was that he anticipated the work assuming all the stars are lined up on this, that would be an '07 project and the way we've handled the Hatch Corner project and the Collins Brook Road were agreed-to payments, payments were made, plans were recorded and then DPW, utilizing the applicant's money and their own road program to finish the work. If it doesn't go that way though, if there's some disagreement, there could be a necessity for guarantee, but hopefully we can avoid that. Rick DeMark, 114 Chase Road – My only question is I attended a Selectboard meeting awhile back where road management/road improvements were discussed and specifically Chase Road was one of those that was talked about at the Selectmen's meeting. Vadney – In conjunction with this subdivision or just in general? DeMark – It was a general discussion and the DPW Director was providing a report to the Board of Selectmen and I came away from that meeting at least my perception was an expectation by the Board of Selectmen that road improvements such as might be proposed on this road or any other road would go back before the Board of Selectmen. Vadney – That is true. The Planning Board has also specified things in conjunction with a subdivision. I believe the minutes of the Selectmen's meeting discussing that do pretty much state that Mike would bring this back before them. Edgar – Mr. Chairman, I've indicated in my staff review on Page 27 that when we develop the road improvement plan if you will, that we would need to bring it back to you folks obviously for your blessing because you obviously have to prescribe the extent of required improvements. What Mike may have been speaking to and I think he probably was correct in that at the end of the day, these are upgrades to a public ROW and in my mind, I'm not clear that this Board has the ultimate authority to allow someone to upgrade a public ROW. I think there needs to be a concurrence with the Board of Selectmen on that because they are effectively the keepers of public rights-of-way. I'm not a lawyer and it probably needs to be double checked, but I don't know that the Board has the authority to say Mike go do X, Y and Z, I think they have the authority to require it, but I think at the end of the day, it's prudent if not a legal requirement that everybody's on the same page to include the Board of Selectmen and I've indicated in my staff review Rick that this information would then be shared with the Planning Board, the abutters and should it be agreeable at that point, the Selectmen would be advised of the proposed upgrades that are necessitated in part by the proposed development and the applicant's contribution and the associated work that would be involved by DPW so they are in the loop giving its blessing and we're all on the same page. Vadney – There are situations where we couldn't specify a plan of upgrade and a certain amount of money and the applicant can put up the money and if the Town didn't do their share, the applicant gets his money back. Flanders – First off, there's a State RSA that gives the Selectmen absolute authority over the roads so it

would have to go to the Board of Selectmen. Another comment I'd like to make, over the past number of years, there's been an ongoing dialogue as to whether DPW should be a maintenance department or a construction department so I would be uncomfortable with making the assumption that DPW is going to do that work. It may be that the Board of Selectmen wants to put this out to bid and have it done by a private contractor. Vadney – I think we're all speaking generically that DPW is the person we deal with at this level. When the work came to be done, it could be by contract. Flanders – The other thing we need to be careful about is when we get numbers from DPW, they do not always include the total cost of the project. Sometimes he takes the cost of asphalt, gravel, culverts or whatever and considers that the cost of the project and totally ignores the expense of the equipment, the manpower and the trucking and everything else so we need to make sure that the number is inclusive. Vadney – We've been looking at that pretty well. Edgar – We can ask that to be clarified. I suspect from the tone of Mike's memo similar to these other projects that we've handled that way as I've indicated, given the preliminary drainage work we've already done in the road, there's some thinking on his part to be some kind of a participant. I can clarify that to make sure we're all aware of what the thinking is, whether it's something they would do. He's eluding to the work being done in '07, I can qualify whether we'd be participating or not, but I think he's described this, in fact the Selectmen's discussion if I'm not mistaken, was in the context of cost-share kind of projects as one of the elements of his representation to the Selectmen in terms of a variety of road related issues. It doesn't necessarily dictate that it has to go that way, but certainly we've done it in a couple other instances and I'd be happy to ask Mike to clarify that. Flanders – I think the clarification needs to come from the Board of Selectmen. Mike can tell you what he's thinking, but at the end of the day what Mike's thinking doesn't amount to spit if the Board of Selectmen isn't on the same page. Edgar – I don't disagree, Bob, but I have to first find out what Mike's thinking so then we can. Vadney – We can handle that, that's a Town administrative problem. I would have a question for Rick. At this point we're aware of who can do what to who and we'll work out all the details on that, I would be very interested in any comments you have since you drive that road daily and your family, any comments you have as to problem areas or specific wishes or dislikes that you could help us to understand the problems because we don't live there. DeMark – First of all, I'm sorry I missed the earlier discussion of this, but in response to your question I did hear your discussion about the hill and the first turn and I would be the first one to say that "yes" the water needs to be controlled better, as much for the road makeup as for the impact that it has on the two abutters that are impacted by the water that comes off the road. I'm not sure that necessarily paving the road is going to solve the water control issue so there's no question that further improvements to water control need to happen whether or not paving is going to solve those problems, I'm not necessarily convinced. Vadney – That is a problematic area, that's why I mentioned as part of that curve and the small lot across from Mr. Perkins and right at the corner of Stage Road and the retaining wall on that particular property and which direction you have to go to straighten the road vs. widen the road and I think this is something that we could come back in a month and do some of it, but I think there's going to be quite a bit of thinking that has to go into how to do that road in some environmentally sensitive way at the same time that it respects the property rights and maybe asks for some

concessions from property owners because they will be beneficial changes. DeMark – Relative to your response to an earlier comment that was made regarding the condition beyond the top of the hill. I would tend to agree that the road base is fairly stable at that point with lots of opportunity for adequate ditching along the road the way it exists. Edgar – I think I shared with you that the next meeting which would be the first week in October is going to have two acceptances of significance that would possibly be followed on or about the 24th for major hearings. One would be on the Happy Homes project and the second being Vadney – We could put those off another cycle. Edgar – Right, and you will have site inspections to consider so I don't know what date you would want for those hearings and obviously this project's in the hopper first, but I just wanted you to be aware that you'll have those issues to address at our first meeting in October to set the hearing dates for those two big projects. Kahn – Ducharme will be coming back the 24th also. Flanders – Those applications that are accepted in the first meeting of October don't necessarily have to be scheduled on the 24th. Vadney – In the interest of and this is very tentative but to keep in mind as you look at your overall schedule, Happy Homes is coming in and the Pease Road/Jutton project, both of those. If we accept them on the 10th and we push them off for a full month from then, that doesn't mean we couldn't, we already know quite a bit about those projects, we can do at least a preliminary site walk on them because those are complex enough that I would like to do a site walk before we get the initial briefing. Edgar – I think you want to do a thorough site walk on both of those projects. Vadney - If we pushed them out a month from the acceptance, we could do the site walk sometime and get that done before rifle season starts or shot gun season on the Neck so let's not worry about that tonight. Hearing closed at 8:43 p.m.

Flanders – I MOVE THAT WE CONTINUE THIS HEARING TO OCTOBER 24, 2006.
Kahn seconded. Voted unanimously.

2. JAY AND SALLY PLYLER: (Rep. Carl Johnson) Proposed minor subdivision of Tax Map S22, Lot 2, into 2 lots (3.3 ac – 3.45 ac.) located at 96 Pease Road in the Forestry and Rural District. District.*

The subject property is located on the east side of Pease Road. It's a little over 6 acres; it's in the Forestry/Rural zone requiring 3 acres per lot for density. We conducted a boundary survey and a topographic survey and had Nicole Whitney from Ames Associates provide some wetland delineation on the property and as you can see, there are only a couple of small wetland areas that are located to the north of the property. The rest of the property is upland. There's an existing dwelling and some outbuildings on the property that are shown. The property beyond the stonewall just a couple hundred feet east of Pease Road is largely wooded. There is a small field associated with proposed Lot 1. What we're basically trying to do is identify a nice buildable area to the rear of the property. This would be called a flag lot or pork chop lot. We have an access coming off of Pease Road with a new driveway going out to the buildable area of Lot 2. Ames Associates did test pits on the lots. I don't have the test pit reports as we speak but in speaking with Dave Ames, the pits are great pits and there are no problems with the test pitting information. When we have the reports, we'll put them on

file. Prior to digging the test pits, Nicole did have the soils information. She did some soil borings out there so we were confident of having sufficient soil. The original plans that were submitted to the Town had 5' contour intervals; John would like 2' contour intervals. I will change that and it does not effect the slope classifications, it just identifies the lines. Edgar – John would like the topo to reflect what is required by regulation. Johnson – It's gently sloping from one side of the property to the other. We did the lot calculations and you can see that using the worst case soils scenario, delineating out the wetlands, you can see that the lots both meet the minimum lot size. We have some setbacks on the plan. This is a subdivision that would require State of New Hampshire subdivision approval because the two lots are under 5 acres each. It is on a State road so the driveway location for Lot 2 would require a State of New Hampshire DOT driveway permit. We're working on that as we speak. The rest of it is pretty cut and dry and the owners wanted to generate some income from the property through the subdivision but they wanted to preserve largely the nature of the existing older home that's on Lot 1 and by identifying the area up back as a buildable area, the houses would be several hundred feet apart. John had some basic comments about the topography; we've upgraded that to 2 footers to be in compliance with Subdivision Regulation 4.11 (7). There is a power pole just south of the driveway proposed for Lot 2 that would be the power pole that would be accessing the power for the back as the existing power pole is in servicing the front. The overhead line there can be added to the plan and John had a question or comment about the easement that's an existing easement here. We can add a deed reference. Essentially, there's a driveway that's accessing the garage that's on the existing dwelling that is somewhat off the lot so there's a reciprocating easement that's on record and we can just add the recording information on the plan. Edgar – Carl pretty much went through it. There are just some checklist type items that we do need on final plans. The 2' topography is not likely to effect things, but it would be a bad precedent for us to accept 5' contours on projects of this sort so we should see them. I did ask Chuck to look at the driveway for the pork chop lot or the flag lot. The 5' contours look good, it looks gently sloping so there's not a grade issue but it is at least 650' to 750' to that building site and I don't have Chuck's comments on it, but I expect there might be something because of the length of the driveway. It starts to get into that issue of equipment having to run the hose out to the building site and how that would work. It's certainly not problematic or something that would be precluded, but I don't yet have his comments. Typically, we've looked at that as an administrative kind of issue. The plan should show the existing septic system for the existing house and the utility information that Carl spoke to. As far as water goes, the plan indicates a well symbol on proposed Lot 2 up in the front. I just raise the question if that is just an autocad thing or.. Johnson – That's an existing old dug well not in use. Edgar – So that would be discontinued or it's not relevant to Lot 1, the developed lot so we should show the well and septic on Lot 1 so we know where that is. Johnson – We can show a proposed well on Lot 2 as well. Edgar – Here again, just as a matter of explanation, it's not probably critical to the viability of the subdivision, but what if the septic was on the other lot, what if the well overlapped on the other lot, these would be the kind of things you'd want to know. Johnson – What the State normally requires is a letter stating the function and use of the well or stick a 75' well radius on it because there are no limits on how many wells you can have on your

property. The easiest thing to probably do is stick a 75' well radius on it. Edgar – It's not the kind of thing that would preclude the subdivision, but its information that is germane, basic information that we would look at. I'm not even as concerned about the State because I know you can show the 150' diameter, the lots are wide enough to do that, it's just that what if there were something on one lot that is serving another lot, you get into easements, common driveways, shared wells, those kinds of things and if you don't have the information, you don't know what goes with what. It's not a big deal, just detail. The driveway permit that Carl mentioned and then the deed reference so it's a relatively straightforward subdivision, there's just some details that are not germane to the viability of the subdivision that I like to see on final plans. Vadney – I'm wondering on the 4:1 ratio. Johnson – It's a flag lot. Some flag lots are as narrow as 50', the reason it's wider is because of the wetland setback here, we had to have a wide entrance to it, but it's treated much the same as having 50' of frontage, it actually is quite a bit more, but having 50' of frontage going back to your built-out area. Sorell – Carl, are you saying that mainly what they are going to do is put a road all the way back and build on the back of the lot. As a matter of fact, I discussed with the applicant and it's not on the plan right at the moment but I discussed putting a note on the front section that there is to be no building on the front section and that will alleviate the 4:1 question and that will be essentially the access and I think that's something we're heading towards if the Board would be acceptable to having that restriction which I think makes sense. It would force the building to be at the back. In terms of the length of the driveway, I think in my discussions with Chief Palm, his major concern there is to have an adequate turnaround at the end and we have put notes on plans in the past just to make the potential buyers aware. A note something like "adequate turning space shall be provided for fire and emergency vehicles at the terminus of the driveway". We did that with Convex and a couple of other ones. I think that's his major concern with the length.

Sorell – How long will that be? Edgar – It's about 650' to the beginning of that building site in the back so depending on where the house goes, it would be greater than that. Kahn – Does Chuck want kind of a double wide somewhere halfway down the driveway? Edgar – I wasn't sure if there was a need for a turnout. The typical questions that come up on these longer driveways is how would you fight a fire, how do you drag hose, if you have to back down a driveway, how far is it reasonable to expect to have to back down a fire truck in the event you're shuttling water or doing things like that? When we have looked at common driveways and particularly long common driveways, I know that he's looked for these turnouts which have been agreeable. I don't know for a fact whether or not he feels one is necessary in this instance or not, and here again, we don't have a house site designed and if we showed a turnaround, not a cul-de-sac, but it would just be for illustration until you put in your driveway, your garage and your house and that kind of thing. Typically what someone would build with a house and a garage typically incorporates sufficient area to turn around because typically the cars have to do the k-turn getting out of the garage to head down so I don't have his specific comments as to whether or not he feels the turnout's appropriate. Johnson – The other thing that comes into play there is just that the persons buying the lot have to be aware that they may have vehicles other than cars like oil trucks and similar things to turn around. Edgar – We've looked at Chuck's signoff on those things

in the past and he's been reasonable in terms of looking at whether it's a cross-section question with a turnout or a turnaround and typically they have been handled with plan notes. Touhey – What is this dashed line? Johnson – That's the soil delineation line. The Belknap County Soils show a Paxton B to the right-hand side of that, Paxton C to the left. Edgar – It is irrelevant, Ed, in that the lot calcs have assumed worst case soil type anyway so the assumption, whether the Paxton's there or not is irrelevant because for lot sizing we've assumed worst case, a shallow to ledge with it all being D slope so there's a conservatism built into the lot calcs. We would not rely upon the soil transfer in today's day and age because of the inherent inaccuracies with transferring Belknap County Soil Survey data to this micro-scale. If we were relying on that soil data, I would have raised it as an issue. The calcs are based upon much more conservative estimates so there's really no concern on this sort of data. Are the utilities planned underground or are they going overhead? Johnson – They are not planned underground at this point. When you're constructing the driveway and because generally the power is not elevation sensitive like a sewer line or anything, it's not as expensive. You would probably have to have one box between the pole and the back but that's something that would have to be, it's the option of the owner at this point.

Touhey moved, Sorell seconded, THAT WE APPROVE THE PROPOSED MINOR SUBDIVISION OF JAY AND SALLY PLYLER, TAX MAP S22, LOT 2, INTO TWO LOTS (3.3 AC. AND 3.45 AC.) LOCATED AT 96 PEASE ROAD IN THE FORESTRY/ RURAL DISTRICT, SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) THE BOARD REQUIRES THE APPLICANT TO SUBMIT 2' TOPOGRAPHY;
- (2) PLANS SHALL BE AMENDED TO SHOW THE EXISTING SEPTIC SYSTEM AND ANY APPLICABLE CROSS REFERENCE TO THE NHDES SEPTIC APPROVAL;
- (3) TEST PIT DATA SHALL BE SUBMITTED AND CROSS REFERENCED ON THE SUBDIVISION PLAN;
- (4) BOTH LOTS ARE SUBJECT TO NHDES SUBDIVISION APPROVAL WHICH SHALL BE CROSS REFERENCED ON FINAL PLANS;
- (5) FINAL PLANS SHALL INDICATE POSSIBLE WELL LOCATIONS FOR EACH LOT;
- (6) FINAL PLANS SHALL INDICATE EXISTING UTILITIES THAT WILL SERVE THE PROPOSED SUBDIVISION;
- (7) A NHDOT DRIVEWAY PERMIT IS REQUIRED FOR PROPOSED LOT 2 AND SHALL BE REFERENCED ON FINAL PLANS;
- (8) FINAL PLANS SHALL PROVIDE THE APPLICABLE RECORDING INFORMATION FOR AN EXISTING EASEMENT TO AN ABUTTING LOT (S22, LOT 3) REFERENCED ON THE PLAN; AND
- (9) THE SURVEYOR SHALL CONFIRM IN WRITING THAT ALL NECESSARY PINS HAVE BEEN SET PRIOR TO RECORDING THE MYLAR.

Voted 7-0 in favor of the motion.

TOWN PLANNER'S REPORT

We placed the zoning question on the agenda to continue the discussion that we had at the last meeting. It was my understanding it was the Board's intent to ask Lou and I to see if there was a way to surgically address one of the four elements that we had talked about primarily dealing with the chart of uses and definitions to see if that was doable in light of the sense of the Board not to address any map changes and scaling things back the way it was discussed. Lou was good enough to spend some time with the draft and gave me an edited copy where there were a lot of edits made essentially to take this part of the rewrite back to reflect mostly the existing conditions, the current conditions in CB and Route 3 South as opposed to maintaining a lot of the use changes that we had envisioned in each of those districts. It was Lou's recollection that was the direction of the Chairman and of the Board at the last meeting to do that to see if that was viable. I appreciate Lou's effort towards that end very much. I didn't make copies of all this stuff. If it's something the Board wants to go forward with, I'd have to go back into the draft, clean it up and so forth and then get that back to you. I guess the million dollar question is that what you want to do? Is there a sense of the Board that paring things back the way it's been discussed, do you want to do that or not? With the things that I'm going to have on my plate in the next couple months, unless there's a clear unequivocal strong support to go forward with something, I'm not real thrilled about the prospects of going around and around the barn on things without a real strong sense of direction. I've got major things in front of me that have to be coordinated and staffed. It's not really what should drive the decision on this whole thing, but I'm just trying to share with you that my work load is going to be not a fun place to be through the rest of the year working on the things that I've got to work on and it's not just with you guys, all of these projects spill over to the Selectmen which represents its own time commitments and challenges and so forth so we have a lot coming at us from a development review point of view and unless there's a very clear and unequivocal direction from you guys, I'm hesitant about getting into zoning changes this cycle, quite frankly, and that's not a discussion of the merits. Lou might be able to shed some light on that as well, but in terms of the editing that has been done but I think that's another dimension of this whole thing is what do we have coming in our agendas and we just talked about October and as a practical matter, we know that's going to be November and December and then we're talking about trying to do these things on the Zoning Ordinance so there hasn't really been a sense of consensus since we've talked about last year's proposal since July. There's been various ideas that have floated and we've kind of pared things down to an edited version of one of those elements so I have reservations about moving forward for a couple reasons, not the least of which is my workload but I would be open to everybody else's opinions. Vadney – John, I think from the defeat last year, we all kind of agree a year totally off or at least very minor things just to let the Town settle down wouldn't be a bad thing. If anything, that's probably even better now since the economy seems to be slowing a bit and subdivisions are slowing, we may have a break in some of the work so maybe it's not so critical to try to do anything. I think there was pretty good agreement that Jenness Hill and Philbrook Avenue didn't need to go forward. That the Village District was a little too soon after they had tried to swallow the one last year so the only thing left was a more general look. Are you saying not even

go forward with that? Edgar – Well, in discussions with Lou in terms of our take of the last meeting, the sense I think was to, you say take the more general look, but it was basically to strip it back even further to almost mimic what we have today in terms of no real substantive change of uses. Vadney – That’s true, but I think the goal there was specifically not to change the substantive uses, but to clean up some definitions and things so that when we do go back into do it, we’d have definitions that would play with us better. Edgar – And the edit work that Lou has done edits out the things that we had added in and juggled around to try to get it back to where it was in the beginning and then inserted some of the old language. One of the things to do from a task point of view and it’s not a real big task, I don’t want to overstate it but when we add back in some of the old uses, they weren’t defined because they were taken out so we have to go back through it with that type of a sieve if you will and make sure we fulfill the intent of trying to define everything that we provide for. That’s not a huge number but the areas where the surgery was greatest, obviously what had been a Commercial 3 South, we have to reinstate the Route 3 South District. What had been the Commercial Route 3 proposal, we have to kind of reclaim that as the Route 3 District and there’s a series of edits there that are fairly significant in terms of permitted uses and special exceptions that go back in and the other area obviously was the downtown district, Central Business and so we have to go back to that because the Village District had been surgically modified to reflect the intent of the Village District so we have to go back to Central Business and there’s a series of restorations and edits to the chart of uses so those are the two areas where there’s the most work to clean this thing back up to reflect a blend of new definitions but trying not to, if we understood the intent right, to not make any real substantive use changes but merely pare it back to the definitional side of things. Vadney – This is easy to say but tougher to do but one of the complaints has always been that there were disconnects and the whole rewrite was to get rid of some of those disconnects and at the same time we had all these substantive differences in the changes and realignment of districts and that’s why people say I don’t want my house to be beside such and such and just vote “no”. I wouldn’t mind if we just picked out 3 or 10 of these things that disagree with one another and try to clean them up, but that may be too much to do. Edgar – It’s not so much to do, but... Vadney – To a degree I’ll be frank, it’s been unclear to me even after all the time I’ve put into this, but we claimed there are arguments in our own ordinance that are troublesome, but then we get with Bill Edney and he says I don’t really like it but it doesn’t bother me or something like that. I’m not sure on some of those we looked at how we would reword them. Edgar – Well, they are all reworded in the text that’s been provided to you in terms of the cleanup work that had gone into it on campgrounds, clubhouses and numerous other things. I guess what I’m hearing is if there is that level of concern and I’m not taking issue with it, it’s your guys call and I respect that, but I just have enough to do where I don’t want to be chasing windows on this whole thing, I’ve got a lot on my plate right now and if there is anything but clear support to move forward with something, I don’t want to be viewed as force-feeding things. If you want to take a break, just say it. We’ll take a break and leave it alone or otherwise. The hesitancy that you sense in my voice, Herb, was just simply that we’ve broken things into pieces, pieces and pieces and if we just take what amounts to the equivalent of a pebble in the context of a beach of sand, why bother. At some point the increments get so small that

if that's the philosophy with which we approach amendment in a context of an upgrade or rewrite, then I probably would have to take more issue with it and think let's take the break, let the dust settle and try to re-strategize as to what we're doing because taking one little piece out of one little district at this stage of the game, I don't know that that would be the right way to go. Vadney – Do you think if we don't clean up just a few of those things that have caused the big rewrite to look funny so to speak, will it be any easier a year from now or 3 years from now. You try to make some zoning changes but then these definitions apply to this one, but they won't apply to that one. People get confused so if we could clear up some definitions first, then we wouldn't have to worry about them and then do the zoning part. I realize that they impact every little tweak in one place and impact several others. Is there a problem right now for you implementing the ordinances that we have? Edgar – It's just like when the lawyer scrutinizes any one of our regulations and you've been on the tip of the pin enough times to know what that feels like and there are numerous opportunities for that to occur relative to the interpretation of zoning. Has it occurred, will it occur, has it been a problem up to this point, no? We've been able to fiddle our way through the routine, but I would suggest and I'm not trying to make an argument to go do this right now, but I think we need to do better on our Zoning Ordinance than fiddle our way through awkward circumstances and that was really the premise behind a big part of the rewrite was to clean some things up. Is it pressing, is it dramatic, have we had lawsuits triggered by this stuff at this point, the answer is no. But it was clear from the get go that that wasn't what we were responding to but were responding to an ordinance that had been amended 30 times over 30 years and if you haven't seen what some of the problematic areas are then shame on us for not collectively having that as a base of knowledge because there are certainly disconnected things in the ordinance and here again and as I mentioned here before, this has been and Herb you remember when we started this thing, our first pass thru was through the entire ordinance. This thing that's been kicked around is just this district component of many, many other articles and we've pared that back, and pared back and now we're back to 4, then we're down to 1 and we're down now to a fraction of 1, which is a fraction of a fraction, of a fraction, etc. The reality of it is very difficult and I don't disagree with your concerns, Herb, I'm just at a point right now where I've got enough coming at me fast and furious as will you in the next several months and if there isn't some consensus that's emerged out of these discussions since July, I need to move on. Vadney – Let me ask the question a different way. If you could know with certainty right now that in the next 10 years any zoning boundary changes were going to be defeated, in other words don't bring forward a zoning boundary change or zoning realignment of any kind, are there any paragraph grammatical and functional changes within the wording that you would change just so there would be less confusion in dealing with the current zones. Edgar – One that comes to mind is the discussion we had about how we interpret zoning boundaries when the boundary bisects properties and that was one of the adjustments narratively to that because the way we do it now represents some due process questions. The way the ordinance is worded is it says that if a boundary bisects a property, the portion of the property or the district that is the largest, in other words you'd have 2 districts on either side of a boundary and if one is 10 acres and one is 5 acres, the 10-acre one might become the prevailing district for the whole property. It says may, it doesn't say shall.

What does that mean, it means interpretive, it means zoning administration. Bill makes a call, what if you're over here and you disagreed with it, where was your opportunity to be heard? We had the illustration of that when Ambrose expanded and they acquired a residential lot adjacent to the Central Business District. They then merged it, the zoning line was still there so they annexed a residentially zoned lot to a commercial lot, the net effect was after the merger, the majority area was Central Business so by extension that zoning boundary kicked to the east. If you take that to its illogical conclusion, you could be thinking you're squarely in a residential district buffered by a lot or two and then wake up one day and you're getting a notice of site plan approval for a commercial expansion. Vadney – Does it physically, legally change the boundary or just say we're going to consider these 5 acres as part of that zone? Edgar – I probably can't give you a concrete answer on that because the ordinance says, it may be considered which implies somebody's discretion. It doesn't specifically say by special exception or it goes to the ZBA so absent any of that, the deduction has been that it's a call made by the Zoning Administrator. Edgar – I guess we could probably pick out a couple things like that but I guess the broader question might be is do you want to do that and really pick at the bone and look at an increment here and an increment there or is there a packaging of sorts that could happen some day and maybe not necessarily this cycle but some other cycle. On the other hand, there's not a lot of confidence in the work that's been done to date just in terms of why are we doing it or what's the effect of it so those are the two extremes and I guess what I'm saying is if we aren't at a point where the Board as a Board is comfortable in moving forward with something, I'd rather take the break and not push if you guys aren't comfortable with it. I don't have time in the coming months to be having workshops trying to get everybody up to speed on things. I was working with a little bit of an assumption that we were more or less up to speed on things and we were just going to repackage some things but that's not where we've ended up and I'm not faulting anybody for that, that's generally where we're at though and I'm not raising a concern about that conclusion as much as I am just saying as a practical matter for us to move forward, it does take time to do all this stuff and to repackage all these things and unless there is a very clear consensus that comes out of all these meetings, I've got to move on to other stuff. Vadney – I thought we had a relatively good consensus that we would not go forward with anything that fiddled with the zones themselves this year to give everybody a rest on that one and that's why I fell back to the position if we could pick out a few things that we really don't know what they mean, then maybe we could take those and figure out what we really want them to mean, get those changes in place and then when it came time to do the zone changes, it would be easier and cleaner to explain it but maybe it's not worth doing that either. By the time you, Tim Bates and Bill have massaged them, we see a pretty clean copy. Sorell – John, your saying if Ambrose bought the residential in back of him and that makes it all commercial, that doesn't necessarily make it commercial if we say "no" you can't extend into that. Edgar – The way we've interpreted it because of the lack of any clarity in the ordinance is that it's a zoning interpretation because it's permissive language, it says "may" as opposed to shall and it's not the Planning Board's responsibility in the first instance to make that interpretation so by default that has been historically something and it has not happened that many times, Betty Baker's was one, Ambrose is another. The determination is made by the Zoning Administrator. Sorell –

If that's our zoning line, why can't the Zoning Board make that determination? Edgar – You could, I think the change made it a special exception if you wanted that to happen. In other words, the potential for the line to get kicked over, it would bring the ZBA into the argument and require a public hearing. Sorell – We can do that by sending them to the ZBA. Edgar – There's interim ways of handling it, Bill could just play it cautious and just say "no", here's my zoning opinion. All that illustrates is that the path is not provided for in the ordinance and there's a host of other things that we didn't even get to like the issue of density vs. lot size and things that we wrestled with at the committee level that are way out and fairly significant areas of confusion. We've delayed jumping into the cluster thinking that we're going to focus on these things so there are a lot of other things out there. If we were in a position to tweak and I'm not advocating this at this moment, the issue that Carl was alluding to on the wetland setback, the reason why that's got to be reviewed by Bill is the wetland ordinance is confusing as to how prime wetland setbacks are determined but we agreed that we weren't going into the wetland stuff until we got beyond this so we haven't spent any time on that. Finer – What if we were to take a year or two off and then present a total rewrite to the Town. No bits and pieces here and there. Edgar – Let me speak for Lou and then Lou can speak for Lou. When we were going through this process, we had a devil of a time at a committee level getting our arms around things because we had 5 well intending people. We spent some money on it, we hired a consultant and the thinking was that we could get the chairmen of our boards and a couple key staff together and plow through this thing and rewrite it and get back to you guys with drafts. Not only did we spend money, I spent a year and a half of my life going to these meetings to do that so there's a little bit of vesting and Herb, Bill Edney, John Mack and myself with the consultant to work through all that. As well intending as all of us were and are, every step of the way there were either honest differences of opinion or just discussions that would drag you down into the minutia of how something could or should be done. Vadney – Believe it or not, in just about every paragraph you come to and I think all 5 of us working on this did this, we'd start out making one argument and by the time we'd come around, we'd be chasing our tail. Edgar – We went from one end of this thing to the other, we marked the whole thing up and working with the consultant we were doing some very preliminary redrafts of all this stuff and it was horrendously difficult and this is people who aren't really philosophically at odds. We all agreed we need to do some cleanup and there's some ideas in the Master Plan that this would be also an opportunity to do the village thing or whatever the case may be so that didn't work. That was the first meeting, you talk about two defeats, that was the first defeat as the consultant and the Planning Board going to a public meeting and the parade got rained out. We went to Plan B, we didn't incur any consulting costs at this point significantly and Lou was gracious enough, we took a different tactic, we'd start where the committee had left off and then a committee of two, Lou as a legal scribe and myself spent a lot of time to take a very, very small subsection of the committee's work which is Article V which was defeated last year to really put some finishing touches on that in terms of cleanup and just some of the editorializing that comes with a number of decisions that have to be made. That's what went to you guys the last time and there was an extensive amount of Lou's volunteer time and an extensive amount of my staff time to even get last year's thing pulled together in terms of what's involved. There's just an awful lot of time into it.

We then come more towards the defeat and talked about why it was defeated and then we get to this year's cycle and we're retreating and I don't mean that with a negative connotation, but we're falling back. So the likelihood of us revisiting a front to cover rewrite is unrealistic. Read the thing. Spend the time and if anybody needs a copy, let me know, just get your arms around the scope of what's there. Everything from mobile homes to earth excavation to campground ordinances and it goes on and on and on. A couple of the new ones are in pretty decent shape, but even the wetland one needs work and so we've backtracked from a lot of those peripheral chapters of the ordinance to focus primarily on the districts, but even that was an extensive amount of work. In conversations I've had with Lou, I don't expect that he's along for that ride that you suggest, Bill, this was a tremendous amount of time and dedication just to do the cleanup work that we did last year, it was weeks and weeks of work to get it to a slightly polished version. Lou can speak to that for himself, but I don't see that process all of a sudden resurrecting itself to have at it. Vadney – I certainly appreciate Lou's work and I don't consider it wasted; two years from now people can pick that up and start doing something. Part of it is just a question of timing whether you want to go forward with it all. I think it all makes sense; I'm just not sure whether we should go forward on that kind of an issue this soon. I think they need the time off from the zoning changes. Edgar – I guess what I'm saying is if that seems to be somewhat of a sentiment, then call it what it is, take the break and we move on. I've got as much if not more time into all of this than all of you looking at the totality of this thing so I'm not thrilled about the idea of just abandoning it, but as a practical matter if we need to put it on the back burner, then we do that and make that tentative decision and we all get on with life. We've all got stuff to do and I don't want to burn Lou out, I value all of your opinions and your dedication on this stuff, my struggle at this point is I don't know, Plan A didn't work, Plan B didn't work, I haven't figured out Plan C as to how to crack this nugget to move the ball forward and maybe that's just another indication we all need a break, I don't know. Vadney – As of right now, it's October 1st and we basically have to be done with it by December. John mentioned we've got Happy Homes, if you're not familiar with that, that's at the end of Meredith Neck, Harris Road looping in through a piece of undeveloped land and there are a number of really sticky legal issues that will go with that and there will be another abutter war. We've got the Pease Road development by the golf course, the Jutton proposal, I don't know what it is now, I haven't seen the new one, but it's coming in. Edgar – Forty-three (43) single-family detached condominiums. Vadney – That will be probably something that requires a substantial amount of looking at including site walks, both of those will require extensive site walks and study. We've got the issue that passed by here tonight briefly and was dismissed and that is the Shep Brown realignment of the one building. Although what was on the schedule for tonight looked very simple, I think that plot is going to thicken substantially and the abutters are already submitting letters and there are some other issues that will come up that I suspect will get in our way to a point where that's going to be time consuming and even this Chase Road one tonight that I thought was going to be fairly clean, when I saw the impact of these Covenants and stuff, I don't know where to go with that and just those 4 things alone, to work them out between now and December, is going to be a lot and certainly a lot of John's stuff as he said. Edgar – And your time quite frankly. Vadney – And a lot of our time too as far as visiting these sites and really understanding and

Happy Homes may be the best example, that's one where both sides have a pretty good point and it's going to be a tough call. But anyway, what do you want to do? Sorell – I really think we ought to leave it alone this year. I know Lou's got a lot of work into it and I appreciate it. Kahn – I would be happier to put a stake in the heart of the thing now than to try to shape it again. I don't want to shape it again. I'm done. Finer – I wouldn't put a stake in it, I would say.. Kahn – You're putting a stake in it, there's not much of it left right now anyway. At one point when you were talking about something that affected the village and coming into town going forward, now we're talking about crap like the fact that theatre in the Central Business District are both permitted and by special exception. Is it something that's going to result in a big loss for the town, no, it's just silliness, but that's all we've got left. Vadney – I agree that part of it, but think what you had the first time, we don't put a stake in the heart of that. We keep that for future use. It will be a good starting point, almost a finishing point. Kahn – If you want to revive it sometime in the future, god bless you. Vadney – I wouldn't use the term "stake in the heart of it", but for this year I think it's probably wise not to press forward. I just think the people need a rest. Kahn – I just wish you had made that decision 4 months ago. Touhey – I know Lou's put a tremendous amount of work into it and he certainly provided it for us to review and I just kind of shot a little bit of it around the P.O. as I'm working there behind the scenes, and I'm sorry these people don't want to hear it is the impression I got. They suspect something's coming forward, but in their minds it's not broken, why fix it. What's it going to do for me type attitude also and I'm saying it's not really going to affect you at all? Well, then I'm going to vote against it. Vadney – There is a feeling around town by many of the local citizens that a lot of these changes were driven by certain business interests who wanted to overtake the Town, I hear it weekly. I don't agree with it, but I know it's out there. It may take a few years of settling in. For the most part, it's all a great improvement to the Town. Edgar – Is there a resolution on this one way or the other? Kahn – Seriously, unless this Board has a real desire to do something, let's not bother people with it, let's just forget about it. Vadney – It's not a question of whether the things need to be done or that we want to do them, there's a feeling out in the Town that needs a rest and maybe the people just have to grow beyond it. I do plead with you to keep in mind the Happy Homes and Pease Road things coming up. They are really some that I think are going to require more time than some of the ones we've been used to. Kahn – I MOVE THIS PROPOSAL BE LAID ON THE TABLE FOR THIS YEAR. Voted unanimously in favor.

Respectfully submitted,

Mary Lee Harvey
Adm. Assistant
Planning/Zoning Department

The minutes were reviewed and approved at a regular meeting of the Planning Board held on 10/10/06.

William Bayard, Secretary