

PRESENT: Vadney, Chairman; Sorell, Vice-Chairman; Bayard, Secretary; Kahn; Dever, III; Touhey; Lapham, New Alternate, LaBrecque, Town Planner; Harvey, Clerk

Touhey moved, Dever seconded, MR. CHAIRMAN, I MOVE WE APPROVE THE MINUTES OF OCTOBER 28 & NOVEMBER 8, 2008 AS PRESENTED. Voted unanimously.

**APPLICATION SUBMISSIONS**

1. **BLUE SKY ENTERPRISES, INC.** – Proposed Major Subdivision of Tax Map S18, Lot 52, into four (4) lots (1.26 ac., 1.30 ac., 3.01 ac. and 3.01 ac.), located on Tracy Way and Parade Road, (Route 106) in the Residential & Forestry/Rural Districts.
2. **ALAN RUEL AND REBECCA WHITCHER AND FINCH PARSONS, LLC** – Proposed Boundary Line Adjustment between Tax Map U06, Lots 50 & 54, located at 5 Waukewan Avenue and 121 Main Street, in the Residential District.

LaBrecque – This is a lot line adjustment between two lots, one is on Waukewan Avenue and one is on Main Street. An application checklist has been submitted and reviewed. The plan and abutters list are on file, application fees have been paid. It is recommended the application be accepted as complete for the purpose of proceeding to public hearing this evening.

Dever moved, Sorell seconded, MR. CHAIRMAN, I MOVE WE ACCEPT THE APPLICATION AS PRESENTED. Voted unanimously.

3. **PATRICIA ENOCH AND 62 VEASEY SHORE ROAD REALTY TRUST** – Proposed Boundary Line Adjustment between Tax Map U38, Lots 1 and 10, located at 49 and 62 Veasey Shore Road in the Shoreline and Residential Districts.

**PUBLIC HEARINGS**

1. **AMBROSE LOGGING CO., INC.:** (Rep. Carl Johnson) (Sorell stepped down, Lapham sitting) Continuation of a public hearing held on October 28, 2008, for a proposed Major Subdivision of Tax Map R04, Lot 16, into five (5) lots (3.00 ac., 3.00 ac., 3.21 ac., 3.00 ac. and 5.27 ac.), located on Livingston Road in the Forestry Rural and Residential Districts. Application accepted October 14, 2008.

Johnson – This project was previously heard by the Board and I basically made my presentation at that hearing regarding the configuration of the lots, the lot sizing, the access and the fact that we were treating all of these lots all as the Forestry/Rural zone even though the property is bisected by a zoning line where the front portion of the property is zoned residential so all of the lots exceed the 3 acre minimum density requirements that are required in the Forestry/Rural zone

and also meet the soils and slopes. The Board scheduled a site walk subsequent to the public hearing we had before and Angela has put together a staff review. LaBrecque – We did have a public hearing on October 28, 2008, and that's when the Planning Board decided to schedule a site walk and the site walk was conducted on November 8, 2008. The use is single-family dwellings and as Carl stated, the Forestry/Rural District zoning is being applied to the entire subdivision. Soils and slope calculations are included on the subdivision plan and the setbacks are shown on the plan for the F/R District. Additionally, wetlands and the existing conditions plan have been submitted with all wetland information and the stamp. The final subdivision plan shall give elevation reference to the topography lines shown on the plan. State subdivision approval shall be cross-referenced on the final plans. On-site water and sewer are proposed, utilities are at the road. Four of the five lots are accessed off of Livingston Road. Mike Faller has been out to the site and reviewed and inspected the proposed driveway locations. Driveway permits are required from Public Works and shall be referenced on the final plans. Additionally, the final plan and the driveways particularly to Lot 5 shall be reviewed and signed off by the Fire Chief and could be done administratively with a plan note. The road drainage along Livingston Road which is at its maximum capacity has been observed by Mike Faller, Director of DPW. He's been out a number of times and abutters have complained about the runoff on Livingston Road and the need for it to not be compounded. It was recommended by Mike Faller that all the drainage from the driveways be infiltrated on site on the parcel and not added to the road drainage and could be done by designing the driveway in such a way that the water doesn't head straight towards the road but with a curve and some sort of infiltration area. At the site walk, the Planning Board did observe the land in that area was significantly wet in the areas that were delineated as wetlands. There was a lot of standing water and also according to the soils data received with the application, the water table is fairly shallow. It is recommended the Planning Board examine the impacts of the development on the downstream flow as well as explore the possible storm water mitigation measures that can be employed on each of the lots as they are developed. Draft easement language for the 50' access easement on Lot 4 for the benefit of Lot 5 shall be submitted for review. There should be particular emphasis to the maintenance and the use of the driveway. This could also be handled administratively. The abutters concern as I previously stated was the storm water runoff. The abutter, Linda French, on the west side down slope of the proposed subdivision does have a very small lot and experiences a lot of water and she has her leachfield in her backyard and she's concerned regarding the storm water runoff. The surveyor of record shall provide written evidence that all pins have been set prior to recording the mylar. If the Board would like to explore the conditional approval timeline for the length of time a conditional approval is valid you may want to consider an expiration date. I know the Board has discussed this previously so we don't have these conditional approvals lingering on for years and years so setting some sort of timeline whether it's a year or two years whatever the Board feels is adequate would eliminate this. Vadney – I've been concerned with the water on that land for some time. We looked at that in detail when we did the 1<sup>st</sup> T project, which is just up hill from that a

little bit to the north as well as east. All of it runs down through the same brook that crosses Corliss Hill right by the cemetery by the general store and I was unable to make the site walk on the 8<sup>th</sup> but I have visited that site and know it. What did you find on the site walk? Touhey – We certainly found by the ditching along the roadway that the runoff going down along the road was certainly maxed out and the slope of the property as it currently exists does not direct the water from the lot to the roadway but rather it sheets across the roadway from east to west if I have my directions correct. Some of the road runoff has been channeled so it does go across that property and that was pointed out so it was quite obvious to me that those people down below probably did have a very legitimate concern and that anything that's done with that property will lead to increased water for them unless some mitigation takes place. Dever – When you get back into Lot #5, there's a tremendous amount of water back there. One of my questions is that it's a designated snowmobile trail, is that going to be continued or cut off because that's a big snow machine corridor right out through there but as the trail goes down, it was probably halfway to my knees deep in water at the bottom of a gully where the trail runs down through. Is that a ROW, is that going to be honored or has that been considered? Johnson pointed the trail out on the map. There is no easement for that snowmobile trail and there is no ROW for that trail. That would be subject to whoever purchased the property whether or not that trail continues. There's no mechanism that I know of when you say a designated snowmobile trail, its designated in that its marked and its patrolled and maintained by a snowmobile club but there are no vested rights in that trail as it crosses private property so its problematic in the sense that if somebody were to cut it off they'd have to go around but that's the way the snowmobile trail system works when it goes across private property. If there had been an easement granted by the previous owner, then it would have to run with the parcel but there is none on record. Vadney – I concur with that, even though the state publishes a map that shows some of these trails, they are ones they've work out agreements with but they are tentative agreements that can be abolished at any time. I concur completely with Mike Faller as far as he went when he said he thinks all of the additional runoff has to be prevented by infiltration but I seriously question if you can get much infiltration in a site that's saturated. What I noted in a couple passes through there over the years just about every tire rut has water in it. What are the depths on these test pits?

Johnson – They varied. I'd like to address that general comment because I spoke with Mike Faller at length today and I think we've come up with a solution that he and I can work out and I can answer your question in terms of the depths, the lowest depth of any test borings taken on the site had a seasonal high water table of 14" and then it went up to as much as 27" and I contacted 2 septic system designers and a certified soil scientist to try to get a handle on what would be considered a shallow seasonal high water table and there is no real definition out there. It's a matter that's subject to opinion. I kind of averaged the answers I got and it was 9" or less would be considered a seasonal high water table that would be difficult to provide any type of an infiltration. Any amounts deeper than that you could certainly provide rudimentary infiltration with some type of a swale or a ditch because as you know if you create a ditch that does not intercept the seasonal

high water table, it's not jurisdictional in terms of your setbacks and so forth. My discussion with Mike Faller today centered on the driveways and his comment made in his staff review, he's not so much concerned with the driveways where they enter right off the road across the ditch with a culvert, he's more concerned with the general way the water would flow and intercept the driveway once it got beyond the property line if you will and entered onto the site. Traditionally, what happens is you collect the water on the uphill side of the driveway and you ditch it to a point where it leaves the property. Commonly, in situations like this the person would create a driveway, the uphill side of the ditch would run out and intercept the Town ditch and continue on down the road and that's what he's concerned with so his suggestion is to create a driveway situation or driveway profile that when it came into the property any water that was collected on the uphill side of the ditch would transfer to the opposite side of the driveway prior to leaving the site with a culvert or some type of a treatment swale and in order to accomplish that we came up the plan where I would develop a plan note and it would also be required to be in the deed for each lot that prior to the issuance of a driveway permit or the issuance of a driveway permit must include a plan which demonstrates the construction details of the driveway and that has to be approved by the Department of Public Works so what Mike would review the driveway that would include a plot plan showing the driveway, the drainage that's coming on the uphill side of the driveway and how that's going to be treated so it doesn't come out into the roadside ditch and that was his primary concern. The other thing is that there are as you noticed these little exit ramps that come onto the property from the ditch, one is in this location which comes in and feeds this little wetland area and then there's another one further up the road. Those would be beefed up if you will because over the years what's happened is when those were created the actual roadside ditch has gotten deeper through erosion so most of the water is going by those bypasses so Mike suggested that those could be beefed up a little bit to handle some of that roadside water and bring it out onto the property where it could be diffused. In terms of the general disturbance or alteration of terrain for each one of these lots, I've mentioned it before but you have 17 acres of land, the wetlands were delineated, we do have evidence of seasonal high water tables in some instances as low as 14 but in most instances greater than that, it's a very gently sloping property not a steep hill, the typical types of disturbed areas for residential development generally run somewhere between 5 and 10,000 sq. ft. of disturbance. The first level of contiguous disturbance that requires any type of review at the State is 100,000 sq. ft. of contiguous disturbance which is 10 times what the normal limit is. As you get further away, certainly the home site out on Lot #5 and the home site that would be on Lot #4 and Lot #3 are significantly upslope from where this property goes down and impacts the French property which is the abutter that had the primary concern about how the water would affect their property so I don't see that there's any way the magnitude of the disturbance up here as you can see can't get much bigger than that because the building envelopes are adequate but they don't allow that much disturbed ground in between the municipal setbacks from the lot lines and the setbacks from the wetland resources that we show here. That somewhat limits the amount you could

disturb and in a residential setting, you basically have the situation where the person would create their driveway and a turnaround/parking area by their house and their house and beyond that there's not generally too much disturbing/paving of land that happens in a residential situation in a rural area so I don't see where that type of disturbance is going to be problematic or cause any type of a drainage situation. With the adequate note and Mike said he was comfortable working out that wording administratively and the additional requirement to have a plan drawn to be submitted with the driveway permit applications, I think we can accomplish a lot in terms of treating that drainage so it doesn't enter into the roadside ditch. Vadney asked what the two blue lines are next to test pit #1 on the plan. Johnson – That's a non-jurisdictional drainage ditch and we don't necessarily know the source of that ditch but I think it was created to prevent the water from coming in this direction possibly by the abutter. Vadney – My concern is about 2 or 2 1/2 years ago, there was a very heavy rainstorm one night and the culvert that crosses the road by the little cemetery on Corliss Hill water was backing up and couldn't get through the culvert fast enough. If there had been a small amount more rain, Corliss Hill Road would have washed out at that point. I stopped by there tonight and looked at that culvert but it appeared to be between a 3 or 3 1/2' culvert and it was running about 60% at the base of the culvert or higher and on the other side of the road it was just roaring and was brown from the mud and slush and stuff in it. It is a very heavy drainage. I walked that recently and there's a stream about in the middle of this property near the northern boundary almost as if from nowhere coming off the Jutton property most likely and it's a pretty good size stream. There are some more streams that come in from further north. I'm very concerned with all the properties up there, this particular property anywhere there's a wheel rut on it, there's standing water in it and if you go up the hill to the stone house or where they built the new house in that field, there's a pond up there and I drive by that regularly and at different times of the year the water is never more than 3' down the side of that point and sometimes its pretty much brim full so that tells you where the saturation level is so to me this is an extremely saturated site and I know there are some areas that qualify as dry but there are very few places you can walk and not feel the sponginess under your feet so I don't think you're going to get infiltration there worth a hoot but I'm will to listen to your arguments. Bayard also has a concern about Mike's idea which normally makes sense to divert a little bit of the water back onto the property to sort of help out a little bit which might not help the regular drainage down there. I am very concerned you're going to be dumping some water into this wetland on Lot #1, there's going to be some disturbance and frankly I really don't see a way that you're improving and I think you're probably harming what's happening on the French property and I think that could be a big problem if you develop this area and cause the other one to flood, I think we need to figure out some way to mitigate that. We do various mitigations for different things, I think in this case the whole issue has to deal with the water and what you're putting out to the road and it appears the worse dump is onto the French family property. Vadney – Carl, the discussion you said you had with Mike Faller today about designing the driveways so that any water that collects above them goes under the drive an doesn't shunt toward the road sounds good but the way I

see these driveways laid out, driveway 4/ 5 is going to dump it onto Lot 3 and Lot 3 will dump it onto Lot 2 and the topography run toward the road slightly almost perpendicular to the road though, so if you're going to block it up some way so it doesn't go toward the road, it seems to me you're concentrating it and sooner or later it's going to head for Corliss Hill. Johnson – Not seeing the forest through the trees here, we keep talking about water running and water flowing, this is a flat site; it's a gently sloped site. When you talk about water running, its minimal amounts of water and the water running towards the driveways is not coming from a parking lot, it's the natural water that's hitting the natural ground surface. I have never witnessed any subdivision of this intensity, adding four lots to an existing 17-acre parcel that has any drainage situations like you are talking about. The soils and slopes table in the ordinance has soils that run from as little as 40,000 sq. ft. up to 160,000 sq. ft. We're using the worst case scenario for the lot sizing for these lots which means based on the slope characteristics, we're applying the worst case possibility on the lot after subtracting the wetlands to generate the lot sizing so there's a built-in factor there in terms of the soils characteristics that we're applying to these lots that we might not have to if we had done a high intensity soil survey. There are two driveways currently with culverts that access this property and we're discontinuing one of them. There are going to be only two driveways along that frontage to access these lots and we don't think that's unreasonable. Vadney - You're adding at least 3 more. I'm looking for input, we've applied the strictest standards of every element of the Subdivision Regulations and the Zoning Ordinance to this development, if the Board is looking at coming up with some drainage mitigation scenarios for lots, we don't even know where the people are going to build on these lots, some of these lots have significantly large building envelopes and we don't want to predetermine where the person is going to build. I show just for simplicity the dwelling on Lot 1 down towards the road but I doubt anybody's going to construct a dwelling down there so we don't want to put the owner of the property in a situation where he has to predetermine building sites on lots that are 3 acres big. If I'm getting the sense the Board wants to reduce the number of lots proposed then I'm going to have a real issue with that. If we're talking about some means about dealing with a minimal amount of drainage that's going to be generated by development through some BMP's that are listed in the Best Management Practices manual, I'd be all for that. Maybe Angela would like to make a suggestion in that regard. LaBrecque –Mr. Chairman, I spoke to Mike Faller shortly after his discussion with Carl and he suggested having a detailed driveway design, he'd like to see the driveways roughed in and this type of infiltration put in before the lots all get sold. However, he did mention that doing the driveway design with the infiltration would be something the Planning Board would review and approve; it's not something he can necessarily do with a driveway permit. The driveway permit is more of a safety sight distance type of thing and distance from other driveways and he is unable to review the design of the driveway with the adequate infiltration by means of a driveway permit but is something that should be hammered down in the planning process. Johnson - I don't think its reasonable for the applicant to rough-in the driveways because it would essentially mean that this subdivision and the ability to sell lots would have

to wait until the spring and I don't think that's reasonable because he's not going to construct driveways this time of year. I think the designs can be reviewed and approved by the Planning Board and the construction can come in the spring. Vadney – I assume it would just be the designs. LaBrecque – That's something he said he would like to see happen correctly according to the design instead of it just being approved and then it being sold and then it being built. I did tell him that would probably be something unreasonable, however, that would put more emphasis on getting this driveway design done correctly. Vadney – It would require basically pinpointing and specifying where the houses would be, if you're going to design the driveway, you've got to know where you're going. Johnson – That's not the sense I got from Mike. He's basically and we've agreed to essentially fix locations on the road. He's saying he wouldn't care where the houses were built but if the house was going to be built upslope of where the driveway came in, that driveway would have to come in off the road and would have to dip down and there would have to be a loop before it went up to the house site. He didn't necessarily care that the house was upslope as long as the driveway didn't go straight upslope so there would be no means to mitigate the water. Bayard – It sounds like you and Mike have reached an agreement, it doesn't sound unreasonable to me, there would be some mitigation on it, you'd be enhancing some of the runoff into some of these wetlands and to me I think we can do that with a plan note but I still have that one problem in that I am worried in part because we're adding some additional water into that final wetland and just in general there could very well be some additional water going onto the French property which I don't think it can handle. It seems to me there is some way you can do some small amount of mitigation so nothing additional comes on and perhaps it might even reduce it slightly. That's what I would be looking for. I understand what you're saying and I pointed out here on the plan what the French looks like, this property line extends all the way straight down to the road and this is the side of the road. They have an extremely tiny lot and they've created a situation where they have built a house, a septic system, a driveway and a yard on a postage stamp lot and they don't have the mechanism to deal with any additional drainage on their lot and I feel sorry for that but I don't think that means the 17-acre parcel with 3-acre lots minimum as big as 5.3 acre lots has to treat that as if there's no possible additional water going onto that property. I think we can mitigate to the best extent with the driveways. The primary concern was with the driveway here in terms of the culvert entering their property and as you can see this ditch there might have been some natural water coming down here that they dug a ditch to try to divert it a little bit and I think we can produce those plans subject to Planning Board approval and they can be part of the subdivision plan and there can be a note on the plan that the driveways must be constructed in accordance with those designs and that's what I would offer. Vadney – As far as the French property goes, it is a postage stamp lot but to your comment a few minutes ago about are we going to punish uphill people after the downhill people have developed. Yes, but not in that way, I think we have to accept that all of the really good land in Meredith was developed about 150 years ago and much of the land that's left on a road such as Livingston Road (easy access), wasn't developed 30, 40, 50 years

ago for a fairly good reason. That piece of property actually was developed, it's got one small house on Lot 2, that was developed and now we're looking at breaking it down into 4 additional lots. I think we do have to look at the upstream just like we looked at the Jutton property (1<sup>st</sup> T), we put a lot of time into the road network, the access down there and the location of the septics and all the other stuff because we know that it drains down through the culvert at the cemetery in Meredith Center and this property does too and I agree 17 acres doesn't sound like much but I've witnessed several times over the last few years how rapidly that creek rises when it rains and I just think if you had 5 lots and everybody had their heart and head in the right place it probably wouldn't be a problem but if one of the fellows decides to buy a small tractor and do some grubbing around, you know what damage he can do because it is a very high water table site. LaBrecque – Mr. Chairman, if I may make a suggestion, an economical type of BMP for capturing and infiltrating water are drip line trenches, they are infiltration trenches that go out from the concrete about 24" and on this type of site all of the houses will probably be designed with foundation drains and when you're installing foundation drains you backfill with the gravel anyway and usually they put sand on top and then lawn but you can just continue that box out and have on all the drip lines infiltration trenches. Vadney – In this soil, maybe. More likely I think what you'll see is all of these sites will be developed on a pile of sand. It seems to me we ought to have somebody, a hydrologist or engineer or somebody evaluate that site. If you're going to develop it, you're going to put driveways across it and you're going to start concentrating and even a rut out there now is full of standing water. If you've got that kind of a site and you've got a creek running down through here that's already starting to tax the town culvert on the road, it seems to me we ought to have a good idea of what can be done out here before this becomes a problem and then we'd know which BMP's to institute or to demand from the developer. Johnson – Let me just mention to the Board that this is a similar situation we ran into with the Eldridge property. There is no simple way to look at the drainage situation and two engineers told me that you can't do a half-batch analysis, if you're going to do it, you have to do a full blown drainage analysis for the entire site and for the Eldridge property which was 5 lots on steeper slope with a probably more exacerbated roadway situation because it was a dirt road and it had some problems to it. The engineer basically said he had never seen that type of requirement for residential development of that nature with 3 acre lot sizes and there was basically not much he could do or say. If you're going to talk about having an engineer or hydrologist look its not going to be a long drawn out thing. Vadney – Right now that site is generating that type of water without any development on it. Johnson – My point is if there's an ambient amount of water being generated by that site, it's not going to be affected much by the development of this intensity, it's going to be what it is. Vadney - I would agree with that to the degree we can lay out driveways that don't concentrate it and maybe put some berms or swales in to retain some of it. That whole site is wet and I think we've got to take some steps to keep it from blowing out the lower end. Touhey – Looping the driveways down is not really removing any water from the site, that in and of itself is just really satisfying Mike's concern about overtaxing the

road ditch and then just kind of emphasize again, if the property owner down below already has a water problem, any disturbance there is going to aggravate it further. Johnson – You don't remove water from the site ever, you treat it. In situations where you have an intense development that has a post-development flow that doesn't exceed pre-development flow, it's through detention and retention and it doesn't really remove the water from the site. Touhey – I realize that and I don't think you're going to be able to remove it because of the high water table and the fact that there just isn't any percolation to speak of on this site. The other comment I would have is that any property owner can develop his property basically in any way they wish to unless we put a lot of restrictions on it and take away a lot of what currently does absorb some of the water. Johnson – There is a restriction of 30% impervious coverage for a lot, that's one of the mechanisms the town does have to control the amount of water that's on a site. Touhey – Then we go into extensive no-cut zones and what not because we realize what happens when trees and vegetation are removed. Vadney – Thirty percent (30%) of that 17 acres, you're looking at about 5 acres out there that could be paved I guess if you want to get extreme on it. Johnson – The point is that doesn't generally happen in a residential situation. Vadney – I want to point out one more thing for the Board's general knowledge, at the bottom of Livingston there's a manhole right by that Stop sign and the water runs into that and as far as I know that water then runs to the north underneath that house on the corner and it goes to the culvert that crosses by the cemetery and tonight the exit of that culvert coming from that manhole, I believe it's a one foot culvert, and it was running at the exit end 50% full, it was blasting out of it, that's a lot for the exit end of a culvert and that then runs maybe 30 or so feet and meets the mainstream that's coming from the east. That culvert is one of the reasons Mike doesn't want anything more coming down Livingston Road because he's replaced that culvert and the whole area around it twice in the last two years. Bayard – I think the lot is developable and there's a solution here and I think Mike's proposal makes a fair amount of sense if we add some protection to the French property, then I would be satisfied. How we do that I'm not sure. Johnson – What if we restrict the building envelope for Lot 1 so the building envelope would have to be on the other side of the old abandoned ROW so there wouldn't be a dwelling located in the vicinity directly adjacent to the French property. In other words the driveway would come through, go outside the wetland buffer and come into the building envelope here and we would restrict any building of structures in that area which is the area most sensitive to the French property. If Bill's concern is primarily with the French property, we'd be willing to restrict the building envelope of Lot #1. Vadney – That's a nice offer but I don't think it does anything to allay my specific concerns about the overall section draining toward that culvert. I guess I'm looking for something that prevents any concentration and I'm worried that any driveways that loop and specifically keep the water from going down Livingston are simply going to run it out the back way, it's got to go somewhere and usually downhill and we have to be very careful how much more water we dump into that ravine so I think we're going to need some kind of infiltration or retention. Have you looked at any kind of retention, small retention basins or anything? LaBrecque – I have a lot of information in the office

and if the Board wishes Carl, Mike and myself could get together and develop a plan that mitigates some of the surface runoff to try to put any storm water back into the ground with what little ground we have to work with and maybe come back to a hearing for the Board to review all the different options that we've put together. Vadney – I don't think Mike's the right one though, Mike has spoken clearly. LaBrecque – Right, but without an engineer I'm just thinking 3 heads are better than two. Vadney – If he wants to volunteer it, I'm not going to say he shouldn't but he specifically looks at driveway access to the road from a safety standpoint and in this case he's added no more water into the ditch. Those things are clear and I accept them. I'm not sure he should be designing the stuff draining the other way. LaBrecque – He's just reviewing the design. He did say when the driveway hooks, it would have an infiltration area in the hook of the driveway so its not directed, it has a curve to it and the inside of that curve would infiltrate water is what he described to me. He specifically stated it would not be in the form of a plan note. We talked about individual plans for each driveway showing where the driveway would not only show getting off the highway, we agreed to look beyond the property line far enough to the satisfaction of DOT, we will be showing some mitigation for that drainage. That addresses the driveway issue. In the larger issue for your concern, there are elements and Angela has mentioned them in the Best Management Manual that we're allowed to incorporate into a plan without the advantage of an engineer getting into complicated drainage calculations and so forth and I'd be willing to work with Angela to see if there are things in that manual that can help us treat some of the water that would be caused by things other than the immediate driveway situation that Mike's talking about. Vadney – That's good if we can look at BMP's and find some things that will work but specifically be careful, it's easy to say we're going to infiltrate it, but if its already saturated, you can't stack water. Dever attended the site walk but was disappointed that things weren't delineated better because he felt he did not know any more about the site now than he did before and he would like to do another site walk. Kahn – I agree with John as to the effectiveness of the site walk. Herb, when you're not there, we don't get much accomplished. The ground does slope gradually, you're halfway down the hill, not all the water that's coming down the hill to that culvert is coming off this land, it's coming from up above and I think we're kidding ourselves if we think we're going to stop water from running downhill particularly when it didn't originate here, a good portion of it originated further up unless we put a tremendous burden on this particular property owner. I think we've got to see if we can come up with something imaginative that does more than just simply deal with water coming off the driveways. Mike's concern is only his ditch and his culvert's on the ditch and I think our concerns have to be larger. Under the circumstances, I don't really want to go on another site walk so let's see if we can come up with something imaginative and continue this and see if people can use their imagination to come up with something but I don't think we're ever going to really be able to solve the problem, what's ending up down the hill is starting further up the hill. Johnson – Can I just make a comment about the site walk? I understand Mr. Dever's comment, the thing that precipitated the site walk was Mrs. French's comment about her culvert and the effect the water from the driveways was going

to cause on that culvert. Had the Board indicated that they wanted to take a walk on the entire property and know roughly where the lot lines are, we can flag lot lines. I was not under the impression that the generated interest for the site walk was the larger picture. In the next event of a site walk, the Board should indicate at that time what their level of interest is to give me enough time to be able to go and give the Board the necessary support they need while in the field. Touhey - Having seen the land, it certainly seems this land should be buildable in some way. I'm sure there's a lot more land around that's worse that's going to be built upon at some point in time. I don't know that walking this site again is going to answer our questions as to know what runoff is going to result from the development. I think the key words I've heard is creative solution to this kind of property that the developer wishes to develop. Vadney – I'd be willing to go along with the Faller comments and the driveway designs and Angela working with the applicant and with Mr. Johnson to identify some BMP's and some possible restrictions on areas we don't want any development in because it would be a concentration point, partly depending where the driveways end up I suppose. LaBrecque – We could certainly give it a shot because I do have a lot of information and we could bring it back to the Board for review at the next meeting. Hearing closed

Bayard moved, Dever seconded, I MOVE WE CONTINUE THIS HEARING TO THE NEXT MEETING ON DECEMBER 9, 2008. Voted unanimously.

2. **ALAN RUEL AND REBECCA WHITCHER AND FINCH PARSONS, LLC:** (Rep. Carl Johnson) Proposed Boundary Line Adjustment between Tax Map U06, Lots 50 & 54, located at 5 Waukewan Avenue and 121 Main Street, in the Residential District.

Johnson – It's important to note that these properties are owned in separate entities but Finch Parsons, LLC is Mr. Ruel and Ms. Whitcher so we're talking about the same parties that hold properties in different names. The situation is such that these properties have been used in a manner for several years that goes above and beyond the actual limits of the property. If you notice, the actual physical limitation, the boundary line if you will, of the existing lot on Waukewan Avenue goes right across the bottom of the stairs of the dwelling so as you come out of the dwelling onto the deck and down the stairs and step onto the patio, you step from one property onto the other. The dwelling that is here actually utilizes both of the patios, this yard and the existing garden that is in between the two structures so you can see we have a situation where we have an extremely non-conforming lot in terms of setbacks, density and lot coverage. We have a proposal before the Planning Board for a Boundary Line Adjustment which would move the line from the existing location that cuts off the patio from the bottom of the steps to an area which is right here, this would be the property line that we're proposing as a result of the Boundary Line Adjustment. It more equitably distributes the land area amongst the parcels and essentially creates a lot line that coincides with the way the properties have been utilized over the past several years. In order to do this, we had a situation where we had to go to the Zoning Board of Adjustment

because we were creating a line that was non-conforming and we were creating a lot coverage situation which was non-conforming, however, in doing that we were also making the non-conforming lot, conforming so it was really a balancing act so we're really making one lot non-conforming and the other lot conforming as opposed to vice versa. In doing so we went to the ZBA for two separate reasons, one of which was to create a setback to a structure less than 40 feet which is the existing setback in the residential zone. We had many discussions at that meeting about the fact that the 40' rear setback in an area of town which allows 10,000 s.f. lots with water and sewer doesn't make much sense, it never has. I've been lobbying for about 20 years to try to get it changed. It was actually changed; believe it or not, it was 75' at one point in time for a lot that could be 100 feet deep. What we had demonstrated before the Zoning Board was that we were creating a line that was a safe line and created plenty of room in back of the structure. It was a lot line that was greater and further away from the structure than many of the other, if not most of the lots that are surrounding. What we had demonstrated before the Zoning Board was that we were creating a line that was a safe line and created plenty of room in back of the structure. It was a lot line that was greater and further away from the structure than many of the other, if not most of the lots that are surrounding this situation. Most notably is the lot to the south that Mr. Vadney mentioned, there were actually 3 lots on that parcel and it was one piece of land. We actually went to the Zoning Board and Planning Board and created a subdivision to try to create separate administrative units or lots if you will and all of the lots were non-conforming from lot density, lot coverage and from setback but it made sense. The other thing we went to the Board for was to essentially make this lot non-conforming for lot coverage, to be conforming to lot coverage and the nut of it is essentially nothing changes in terms of this property, the density remains the same, the use remains the same and the function remains the same. The only parties that are affected by this change are these two pieces of property here. Nobody else is being affected by it. As a matter of fact, I don't think anybody will notice and that pretty much came up in the Zoning Board discussion, it's kind of an unusual case in that normally you have to justify the strict enforcement of the zoning ordinance really did nobody any good and did not move to protect the public or do anything grandiose so both of those variances were approved. The next step would be to have the BLA approved by the Planning Board, which will be conveyed from the Fince parsons lot to the Whitcher/Ruel lot and create the new lot line and the plan would be recorded in that manner. There were a couple of notes on the BLA that we propose, essentially there's going to be a draft deed drawn and during the review process the attorney will also verify in writing whether there is a mortgage on the property and if there is a mortgage, then it would have to be released prior to executing the deeds. I'll have to set one additional pin and we're actually using an existing stone monument to the north so that's basically what we're proposing here. Final lot sizes, U06 – 50 on Waukegan Avenue increases from 7,457 sq. ft. to 16,595 sq. ft. and the other lot is going to 13,862 sq. ft. Basically, Lot 50 is the smaller lot on the left and Lot 50 currently is non-conforming in density, coverage and the rear and front setbacks. The proposed Lot 50 will become conforming in density because it will have 10,000sq. ft. for the

house and the coverage which is currently 39% will be 20% so that will also become conforming. The allowable coverage in this district is 30%. Lot 54 currently is non-conforming in density, I believe it's a 3-unit building so currently its conforming in coverage and setbacks. After the lot line adjustment, it will be non-conforming in density, coverage and setbacks. The property is served by municipal water and sewer and the applicant shall provide a draft conveyance deed for staff review. There is language in the deed that Parcel A shall be merged with Lot 50 and not considered as a separate lot. The surveyor shall provide written evidence that all pins have been set prior to recording the mylar. The Planning Board may want to consider an expiration date for the conditional approval. Touhey – Why do these people want to do this? Johnson – The properties have been used in this manner well prior to the current owners owning them. This garden has always been not associated with this building. The patios and the yard have been used by this lot. The owners wish to sell this property; they don't want to have to go through the process for cross easements, they just want to keep their yard. Touhey - Was there any consideration given to moving the line another 15 feet? Johnson - There's a garden here and we didn't necessarily want to reduce the garden. This line is a line that's a functional line and it's using the stone bound that's there so that's why it's not an even number. I believe it was Mr. Flanders on the Zoning Board that asked that same question you asked. That's not what we're proposing and the discussion centered on the fact that it didn't matter. We are taking a situation where the setback over here is extremely non-conforming and we proposed that and were granted the variance. (inaudible) Just as a matter of interest, a member of the ZBA is here tonight. Warren Clark – The only thing I would add is there was an intention to sell the property that was shrunk, I think everything else was inconsequential since the same person owned both parcels and there was nobody to be protected by insisting on conformance to the letter of the Zoning Ordinance. Hearing closed at 8:27 p.m.

Bayard moved, Dever seconded, MR. CHAIRMAN, I MOVE WE APPROVE THE PROPOSED BOUNDARY LINE ADJUSTMENT FOR ALAN RUEL AND REBECCA WHITCHER AND FINCH PARSONS, LLC, BETWEEN TAX MAP U06, LOTS 50 AND 54, LOCATED AT 5 WAUKEWAN AVENUE AND 121 MAIN STREET IN THE RESIDENTIAL DISTRICT, SUBJECT TO THE FOLLOWING CONDITIONS:

(1) THE APPLICANTS SHALL PROVIDE DRAFT CONVEYANCE DEEDS TO STAFF FOR REVIEW, THE EXECUTED DEED SHALL BE RECORDED WITH THE MYLAR. THE APPLICANTS' ATTORNEY SHALL VERIFY IN WRITING WHETHER A MORTGAGE EXISTS ON LOT 54. IF THERE IS A MORTGAGE, THERE SHALL BE A SATISFACTORY RELEASE RECORDED IN CONJUNCTION WITH THE CONVEYANCE DEED.

(2) THE SURVEYOR OF RECORD SHALL PROVIDE WRITTEN EVIDENCE THAT ALL PINS HAVE BEEN SET PRIOR TO RECORDING THE MYLAR.

(3) THE CONDITIONAL APPROVAL SHALL LAPSE AFTER ONE (1) YEAR IF CONDITIONS ARE NOT MET.

Voted 6-0 in favor of the motion.

**TOWN PLANNER'S REPORT**

1. **DISCUSSION – ZONING AMENDMENTS:** Angela provided copies of proposed amendments to ARTICLE V - C. District Boundaries. Extensive discussion took place regarding the proposed changes to this section, but the Board could not come to an agreement on how to word Sections 5.a. & b. After lengthy proposals were discussed, the Board felt they would not be able to come to an acceptable conclusion this evening and agreed to continue the discussions at the next Planning Board meeting on December 9, 2008.

Respectfully submitted,

Mary Lee Harvey  
Adm. Asst., Community Dev.

Plan Signatures: BLNB, LLC – Site Plan Amendment – 181 Waukegan Street

The minutes were reviewed and approved at a regular meeting of the Planning Board held on \_\_\_\_\_.

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William Bayard, Secretary