

PRESENT: Roger Sorell, Vice-Chairman; Bill Bayard, Secretary; Bob Flanders, Selectmen's Rep.; Lou Kahn; Ed Touhey; Angela LaBrecque, Town Planner; Harvey, Clerk.

Touhey moved, Kahn seconded, THAT THE MINUTES OF DECEMBER 9, 2008, BE APPROVED AS PRESENTED. Voted unanimously.

Meeting called to order by Roger Sorell, Vice-Chairman at 7:00 p.m.

APPLICATION SUBMISSIONS

1. **B & F MEREDITH, LLC** – Architectural Design Review of a proposed 12,000 sq. ft. Commercial /Retail Sales Building, Tax Map S19, Lots 54, 55 and 36, located on Needley Eye Road and Daniel Webster Highway in the Commercial-Route 3 South District.

LaBrecque – The proposed development is for a 12,000 sq. ft. single-story building with nine (9) retail businesses. The application materials and abutters list are on file. The application fees have been paid. It's recommended the application for Architectural Design Review be accepted as complete for the purpose of proceeding to a public hearing this evening jointly with the site plan review.

Touhey moved, Kahn seconded, THAT WE ACCEPT THE ARCHITECTURAL DESIGN REVIEW APPLICATION FOR B & F MEREDITH, LLC AS COMPLETE FOR THE PURPOSE OF PROCEEDING TO PUBLIC HEARING THIS EVENING. Voted unanimously.

PUBLIC HEARINGS

1. **PUBLIC HEARING** to solicit public input on the proposed amendment to the Zoning Ordinance, Article V, Establishment of Districts and District Regulations, to change the application of district zoning to a lot that is split by a district boundary.

LaBrecque - In accordance with RSA 675:3, the Planning Board is holding a public hearing this evening to amend Article V of the Zoning Ordinance in anticipation of Town Meeting. We're here to solicit public input for amending the district boundary portion of Article V. This public hearing has been noticed as required by RSA 675:7. This zoning amendment has been looked at and created by the Planning Board to address a couple of issues (1) to clarify some of the language that's in the existing ordinance, much of it has remained the same, however, we clarified certain sections by breaking it out and (2) to address zoning creep where lots that were split by a zoning district line were then being used for a district that was beyond what was originally intended so the establishment of districts and district regulations we're proposing to change the application of district zoning to a lot that is split by a district boundary. The lot split by a district boundary may be

used according to each respective district zoning or the district comprising the larger land area may be only by special exception applied to the entire lot for single family and two family uses. Basically, when you have a subdivision, you can use the majority portion's zoning and apply it to the minority portion of your lot. The amendment also clarifies the limit of district boundaries with regard to roads, streams and lot lines. We did have a couple of workshops and got comments from the ZBA and they've participated in drafting some of this. Kahn – We got some comments from Walter Mitchell, the Town Attorney, as a result of those comments we're making some very minor changes and as a result of those comments we have to approve the changes and schedule another public hearing. The changes suggested by Town Counsel are as follows: (1) Under District Boundaries – 3. Change the word vacation, which is currently used in the ordinance, to discontinuance. (2) Under 5.b. – If a zoning district boundary line runs through any lot, the following shall apply:

- a. the zoning components of each respective district shall apply to the portion of the lot in such district; however,
- b. at the option of the owner, the portion of the lot in the district having the smaller land area may be developed for single or two family dwellings in accordance with the zoning components applicable to the larger area to the extent such uses are permitted.

That was added in just to make sure it wasn't misunderstood that single or two family dwellings can be permitted in a zoning district that is not under the permitted or special exception list. If chosen a special exception shall be required for the smaller portion in order to so apply the zoning components of the larger portion to the entire lot.

6. In case of uncertainty, the ZBA shall determine the exact location of the zoning district boundary and record its findings *in the minutes*.

Flanders moved, Kahn seconded, I MOVE THAT WE APPROVE THE CHANGES ANGELA READ TO US AND MOVE FORWARD TO THE SECOND PUBLIC HEARING ON JANUARY 27, 2009. Voted unanimously.

2. **B & F MEREDITH, LLC** – Continuation of a public hearing held on December 9, 2008, for a proposed Site Plan to construct a 12,000 sq. ft. Commercial/ Retail Sales Building with related site improvements, Tax Map S19, Lots 54, 55 and 36, located on Needle Eye Road and Daniel Webster Highway in the Commercial-Route 3 South District. Application accepted December 9, 2008.

Ben Finnegan – I'm part of the development team for B & F Meredith, LLC. We do have a couple members of our team here tonight to go over the architectural aspects of the building, Jay Finnegan, David Udelsman and Carl Johnson of Associated Surveyors.

Carl Johnson – As you recall this property is located on Route 3 and Needle Eye Road. Paul Fluet and I previously discussed the proposed site details proposed commercial development, talking about the entrance, the drainage and building and so forth. Subsequent to that meeting, we submitted the plans to Lou Caron, the Town's consulting engineer. We did receive Mr. Caron's comments late last week and Paul Fluet has been working with Lou Caron to develop some of the changes that were being suggested. There were no major issues that came up as a result of Mr. Caron's review. Mr. Fluet did not have time to make the revisions to be reviewed for this meeting. We would like to continue the portion of the presentation that deals specifically with the Site Plan, drainage and engineering issues and concentrate on the architectural review. Angela and one member was at the site inspection. LaBrecque – I would like to add with respect to the site plan review, we have a meeting tentatively scheduled next week with Laconia to determine some of the details that need to be done with respect to bringing the sewer line into Meredith from Laconia so Lou Caron's report should be in this week for discussion of all site issues at the next meeting.

3. **B & F MEREDITH, LLC** – (Rep. David Udelsman) Architectural Design Review of a proposed 12,000 sq. ft. Commercial /Retail Sales Building, Tax Map S19, Lots 54, 55 and 36, located on Needle Eye Road and Daniel Webster Highway in the Commercial-Route 3 South District. Application accepted this evening.

This is a pretty straightforward building. We've tried to put some thought into our overall aesthetic, but we're working with a limited site footprint here, a 12,000 sq. ft. building, 6' canopy overhang to the front of the building. We've designed the roof such that we have a pitched roof structure around 3 sides of the building which allows us some flat area on the back side and non visible side of the building for our mechanical HVAC supports. The roof system design in that fashion provides screening for all of the mechanical systems and supports at the back of the building. There will be a 6' overhang along the front of the building, a variety of gable sizes across here which obviously work for the fact we shed snow away from our main entrances into the space and this will break up the façade and length of the building and the larger pieces at the kind of bookend the overall design of the building, change in color and in texture for the gable faces versus the siding down here would be a shake product and one color tone with some built in details at the front top gable ends of the building below that would be some clapboard siding with punched window openings along the sides. The windows themselves are articulated to have some muttons and divided lights so we're not just looking at open panes of window. Our trims are wider so they look like they're finished. And not small and narrow so they are appropriate to the size and shape of the building. Again, the aluminum storefront system would be a third color introduced to give some differentiation and obviously our sign ban across the front of the building which would be a painted sign band place for signage for each of the tenants on the building. Architectural roof shingle, vinyl products for shake siding and clapboard. Bayard – I think the front view looks pretty nice. Is there going to be some landscaping on the side looking from Needle Eye Road? By our site plan on

Needle Eye we are landscaping and we have green space on the side of the building but we are paved up to edge of building on that side. It's somewhat dependent on what types of tenant they would have in there. Udelsman – We can take a look at that end.

3. **1STT DEVELOPMENT, LLC** – Public Hearing to evaluate progress on conditions of approval and determine additional time to meet conditions set forth in Notice of Decision dated 9/25/07.
4. **DONALD G. HOYT** - Public Hearing to determine Site Plan Compliance with conditional approval granted on 12/14/99. (Bayard stepped down)

Don Hoyt – I'm here tonight to discuss whether or not I get a license for my property to be a junkyard. LaBrecque – The applicant received a conditional site plan approval from the Planning Board on July 27, 1999 for a pre-existing non-conforming use. In order to address one of the permit conditions regarding wetland setbacks, the applicant received a special exception on October 14, 1999, to reduce the setback from the required 75' to 20' plus a 15' buffer for the length of the 10' wide drainage berm (noted in blue on site plan). A second Notice of Decision was issued by the Planning Board on December 14, 1999, as a result of a compliance hearing was required as part of the first approval. The conditions outline additional specific requirements that ultimately would achieve the conditions originally required in the conditional approval from July. Several compliance hearings were held through 1999 and 2000. According to the minutes of those hearings, the majority of the conditions of approval were met and applicant has made substantial steps to clean up the junkyard. Per the Notices of Decision, the applicant merged 5 parcels, installed erosion control measures including this berm, silt fencing, erected chain link fencing with green metal slats to screen the junkyard from view of the abutter, as well as from portions of the road. Vehicles were relocated and removed from setbacks and wetland buffer areas. Still a couple of conditions remained including resolution of the boundary dispute and compliance with the Town's and DES wetland rules and requirements.

A wetland scientist, Gove Environmental, evaluated the site development and disturbance which led to a restoration plan. The restoration plan was approved by DES in May of 2000. A special exception again was granted by the ZBA in June .of 2000 to perform the restoration work within the protective wetland buffer areas. Following some monitoring and a follow up report from the wetland scientist, DES later issued a letter of compliance in November of 2001. In that letter it was noted that the approved restoration was completed property and that all deficiencies had been resolved. The last outstanding condition that appeared to have taken some time to resolve is the boundary dispute. In June of 2001, an agreement was reached between the Hoyt and Dickinson. An item required by the agreement was that the chain link fence with green slats be installed between the properties and the Planning Board grant approval of the Boundary Line Agreement. In the minutes it was acknowledged that the Agreement was approved by the Planning

Board in 2003. The Boundary Line Agreement here is outlined in yellow and there's fence that goes along that yellow line that abuts the property and goes down further down Philbrook Avenue. In conclusion, the record shows the applicant has made great strides in complying with the requirements of the Notices of Decision. A site visit was made by John Edgar, Bill Edney, Herb Vadney and myself on December 1, 2008. We walked the site and looked at the back portion of the property, we looked at landmarks, we took rough measurements and we looked at the wetland and the existing site is in general conformance with the site plan. The general consensus was that the site plan conformed to the site plan conditionally approved by the Planning Board. There 3 items that were mentioned this evening that are minor and can be handled administratively if the Board feels it appropriate. (1) Vehicles being parked in the roadway has been discussed at previous hearings and At a September, 2000 hearing the Board has determined that registered vehicles that are not considered junk could be parked along that 15' roadway because they were temporary. The amount of vehicles stored in that area should be kept to a minimum and should not expand beyond something more than was originally intended. (2) In going through the record I found the middle driveway located on the property was to be discontinued and gated with the issuance of a driveway permit for the entrance so basically you have one entrance here at the beginning off Philbrook Avenue, there's one in the middle and then there's one all the way to the left on the plan. That driveway was given a driveway permit with the condition that the gravel drive going through the wetlands be discontinued and a gated fence be put in that place. Currently, there is a gate made of the same fencing material along the property line, however, it doesn't appear to ever close. The third driveway was given a driveway permit with the condition that this gravel drive going through the wetland be discontinued and gated. (3) I followed up with DES because most recently they did a site visit there on October 10, 2008, and the applicant was instructed to remove 10 cars from the wetland. The Town was aware that this request was made and the applicant noted he complied with the recommendation of DES. After checking with the DES Inspector, it was indicated that evidence has not yet been received by them. Mr. Hoyt did say they showed up, they asked him to remove some vehicles, he did so and that he needs to send them some photographs. I have an e-mail as well as the compliance report that the DES Inspector filled out and the Town should receive documentation from DES that the work has been sufficiently completed prior to final approval. The conditional site plan approvals have yet to get a final approval stamp from the Planning Board. It is recommended that the Board consider the progress and effort the applicant has made over the years. There are a few minor outstanding items that could be handled administratively should the Board feel comfortable and want to act on the matter this evening. A site visit could be scheduled if the Board wishes to do so. We went and thoroughly looked at everything. Touhey – I think the Board would like to have some assurance that the 20' setback from water there be respected in every possible way. I don't think this Board would ever approve a 20' setback when a 75' setback is required. Every inch should be respected. Don Hoyt – That's been done; I've stayed well away from the brook because I know that's a problem with pollution. I've met all

the requirements to do that. Bill comes by and keeps an eye on what's going on. David from the State recommended I use more property because I have more property if I need to get out of these areas so there's extra land there if need be to move out of those areas if need be. I've met all the requirements. The wetlands people have come through and checked it out. The last lady that came by said there were 10 vehicles in wet areas and when they were put there, it was not wet. We're 15 inches above normal for rainfall so we have groundwater everywhere so I did what she said. I asked her to come by to inspect but she wants pictures.

Edney – The progression in this case is that once the site plan is approved, we move to the next step which is to ask the Selectmen to issue a license which is required by State. That license is renewable annually and annually Mr. Hoyt and others who own salvage yards are subject to this kind of inspection. There will be ongoing inspections of the property by the Town and by the associated members of DES.

Flanders – This has been going on for a long time and over the years Don has made a substantial investment, he's been cooperative with the things he's been asked to do and I think it's time we put this thing to sleep and move forward and give him his approval.

Touhey – We have the concern regarding Hawkins Brook, we have detected heavy metals in those waters and we're concerned they are heading toward Winnepesaukee.

Flanders – The State doesn't miss much in their inspections so if they say this thing is all set, I know it is.

Edney – I'd like to remind the Board once again that the process of licensure and recurring licenses done annually is going to be subject to DES water quality issues because that's part of their program as well as the BMP's he's required to follow so this annual licensing and his continued ability to be licensed is going to be predicated on staying up with those standards.

Kahn – Angela are you asking us to find compliance or find compliance subject to certain conditions?

LaBrecque – In the report I noted that he has satisfied nearly all the conditions, however, just a few items could be handled administratively. Basically, it's just that most recent DES correspondence that I had regarding documentation that the vehicles had been moved and the gates and that middle driveway was mentioned specifically in more than one hearing. Other than that, I recommend the Board find that it's in substantial compliance and these couple of items be handled administratively.

Bayard – If I do recall, the Board was concerned about being close to the wetland and that was one of the reasons for the berm.

Mike Dickinson – Right now my father and brother are surrounded by this fence and have a few questions for the Board. We have questions about the culvert that is in the main road which is the main gate as it backs up that water which finally makes it onto my dad's property. We did discuss that with the person from the state and she said she was going to come up with something that he could make a bigger culvert so that water could flow out. No one likes standing water on their property. This has been going on for 10 years and that's too long. Donald has done a lot of work (inaudible). The water ways and the back up of the water and just watching how much of that runoff is going to make it into someone else's water supply or Hawkins Brook.

Flanders – You talk about the time period this has been going on, a substantial period of that time was consumed by that boundary line dispute which Donald did not have control of. That was controlled more by your father than Don.

Mike Dickinson – I

would like to see this ended because I spend a lot of time up there and I would like to see things get back to normal. Flanders – I would suggest that the DES has inspected out there and our Code Enforcement Officer has inspected out there and for the most part members of this Board are not as well versed to know what they are looking at and do a detailed inspection as the people have already done it and given it a clean bill of health. Allen Dickinson – I have a list of items I feel haven't been met. There are cars, equipment and junk still on the Co-op land that was supposed to be removed 10 years ago. On that back line of the Co-op, all the junk is supposed to be 10' from the property line and is right on the property line. If you read the minutes of all these meetings starting from 1998, you will see all these items in this report. There are supposed to be 10 evergreen trees instead of a fence which are not there. The berm that was supposed to be 2' high and 10' wide is now about 6' wide because its been run over, plowed over and beat down. All these cars and trucks are supposed to be behind this road. There are two cars, a truck and a container right at the entrance of the junkyard within feet of the brook. On the other side of the road, they're supposed to be behind this 6' berm, there's a junk frame there with a junk engine on it, within feet of the brook, not 20' away, not 30' away. And also this road that's continued on from the berm, there's supposed to have a 1' high berm with a 2:1 slope on it to keep all this water flowing back away from the wetlands and I didn't see any berm there at all. The gravel has been put in right up to the brook, with no fence and no permit that I've seen and I've complained about this several times and it just goes over everybody's head I guess. In the meeting of May 25, 1999, a representative of NH Electric Co-op indicated their desire to have the debris removed from their property and a simple method to keep it from reoccurring. They've been using this land for 10 years storing vehicles and other junk. The Co-op has asked them to put some kind of a boundary there, but its still used. There was culvert put in on this new road which requires a US Federal government DES permit which I do not believe was obtained. I asked them about it and they said they don't have anything to do with it. I would think if a Town is interested in keeping this water clean, they would notify the government. This culvert was put in on the side of the road to drain water from the road to the brook and not even request this permit. There was not even a request to see this permit. Don Hoyt – I would like to talk about this green fence I was supposed to put up. The Town comes in a pushes all of the snow to the right, knocks my fence, knocks down the trees. Al came up from the Town a couple years ago with a trimmer to trim the side of the road and cut all the brush and all the trees and all the stumps not knowing there was a green fence. Al understands now not to trim there. I cleaned up all the stuff on the Co-op side and all these things he's complaining about and this ditch was recommended by the Town and the Planning Board to pitch it back and there was no such thing as a wall. He talks about this going on for 10 years, the State didn't require permits until about 2 years ago. It was up to me if I wanted to put in a building or anything, I had to get this license. Now that I have to have it, I've done all the things they've asked. I have no problems other than the Dickinsons. When they spoke about the berm, it was on the left of the roadway going down through and they didn't say anything about the other side. Sarah Hoyt – This is an unfortunate situation that's

been going on with our family and not only abutters to the property, I think my dad has worked very hard and I think this thing needs to get resolved. These pictures that were taken appear to be not on the property but very close to it. Percy Hoyt – I'm tired of this dispute, people snooping around and looking over Don's fence. Sorell – We're not getting into a family battle, we don't do that here. Tim Dickinson – I'm also an abutter to this junkyard. I would like to see the junkyard get licensed too, but I would also like Mr. Hoyt to know its not his property value that's being defaced. We get 10% off on our taxes with 4 other houses on the road at the present time and its not the stuff we do on the road. I'm wondering how far he's supposed to be away from the wetlands with his vehicles. LaBrecque – The setback was established from the brook. Tim Dickinson – So anything in the wetland buffer won't get into the brook. I also was visited by the lady from DES because I had made a mistake and come too close to the wetlands and I do believe this was not a junkyard inspector lady, but just a lady from the DES so you can park your cars right up to the wetlands is what you're telling me? LaBrecque – The site plan and the approvals were something that were set back in 1999. T. Dickinson – What were the setbacks back in 1999? LaBrecque – There was a brook setback established with a ZBA special exception and no setbacks from the wetlands were restored. This isn't a compliance hearing for any of the other properties, this is a compliance hearing for the junkyard and it's specifically for the conditions of approval established by the Planning Board back in 1999. T. Dickinson – Are there any things on protecting these wetlands? LaBrecque – Not according to the plan or anything I've read. Edney – I'd just like to remind the Board that as a part of this process in each and every town they have to appear before the Selectmen for renewal of licenses and the State's wetlands people will be required to visit that site for compliance reasons. DES folks that are on the BMP Management side of the salvage yard statute will also be required to visit that site annually and assess progress and assess his ability to manage this site. At this point in time we're satisfied he meets that criteria. The State's satisfied with a couple of exceptions but we feel its necessary and appropriate at this point to that he's satisfied of the 1999 Site Plan Approval and he can move forward for his license. The State has been to Don Hoyt's site on two occasions in the last year working toward identifying what the issues were so after the second visit there were a few things, the fluids, the containment of the fluids and labeling of cans and those kinds of things needed to happen in order to move towards the issuance of this license. The wetlands people have been on that site a couple of times, once at Don's request and once at my request. Once the license is issued, that's an annual requirement. There are issues that crop up from time to time as a result of that that will be addressed at that time. Touhey – Is it the fact that this is still open with this Board that's holding up that licensing. Edney - Yes it is. Touhey – So we would be in a better position to protect all of our concerns and interests in that area if that license was in place. This is one of your ongoing conditional approvals. We feel those conditions have been met substantially. As Angela mentioned earlier, there are a couple of things we could do administratively and that's why we're here tonight and now we're looking for a signature on the plan.

Kahn moved, Flanders seconded, MR. CHAIRMAN, I MOVE THAT WE FIND THERE HAS BEEN SUBSTANTIAL COMPLIANCE WITH THE PLAN IN QUESTION AND TO THE EXTENT THERE ARE OPEN ISSUES LISTED IN ANGELA'S REPORT, THAT THEY BE DEALT WITH ADMINISTRATIVELY.

Voted 6-0 in favor of the motion.