

PRESENT: Vadney, Chairman; Sorell, Vice-Chairman; Bayard, Secretary; Worsman, Selectmen's Rep.; Finer; Kahn; Touhey; Flanders, Selectmen's Alternate; Edgar, Community Development Director; LaBrecque, Town Planner; Harvey, Clerk

Finer moved, Sorell seconded, THAT WE APPROVE THE MINUTES OF FEBRUARY 12, 2008, AS PRESENTED. Voted unanimously.

APPLICATION SUBMISSIONS

1. **CHRISTOPHER P. AND LAURA CHOMA** – Proposed Boundary Line Adjustment to transfer 6,760 sq. ft. from Tax Map I13, Lot 23, to Tax Map I13, Lot 26, located at 30 Leopard's Leap and 36 Tiger Trail in the Shoreline District.

This is a lot line adjustment on Black Cat Island. The application has been submitted, the abutter's list is in the file and fees have been paid. Due to the limited nature of the application and the existing development, both lots are developed, a waiver is requested for topography and soils data as they both have existing septic systems. It's recommended the waiver be granted and the application be accepted as complete to proceed to a public hearing this evening.

Finer moved, Sorell seconded, THAT WE ACCEPT THE APPLICATION OF CHRISTOPHER P. AND LAURA CHOMA FOR A BOUNDARY LINE ADJUSTMENT. Voted unanimously.

2. **CARL JOHNSON FOR 38 MAIN STREET, LLC** – Architectural Design Review of a proposed renovation to an existing commercial structure on Tax Map U07, Lot 131, located at 38 Main Street in the Central Business District.

This is an Architectural Design Review of an existing multi-use building on Main Street, both commercial and residential apartment up above. The application was submitted with photographs of building elevations and abutter's list are on file. Filing fees have been paid. There is a request to waive architectural elevations as the photographs were submitted depicting the changes to the building. It's recommended the waiver for architectural elevations be granted given the limited nature of the changes. Also, it's recommend the application be accepted as complete for the purpose of proceed to public hearing this evening. Vadney – You mentioned an apartment above, we've seen this property so many times I'm not sure, did we eliminate that apartment. LaBrecque – There were two apartments up above, one was voluntarily abandoned for a commercial use and there is still one there in the front.

Finer moved, Sorell seconded, THAT WE ACCEPT THE APPLICATION OF 38 MAIN STREET, LLC FOR AN ARCHITECTURAL REVIEW OF PROPOSED CHANGES TO AN EXISTING COMMERCIAL BUILDING. Voted unanimously.

3. **RAYMOND AND KIM BERTHOLET FOR THE SHOPS AT MEREDITH PLACE** – Proposed Site Plan Amendment to construct a new commercial retail and residential building, Tax Map U06, Lots 144 & 142, located at 8 Maple and 8 Mill Street in the Central Business District.
4. **RAYMOND AND KIM BERTHOLET FOR THE SHOPS AT MEREDITH PLACE** – Architectural Design Review of a proposed new commercial and residential building, Tax Map U06, Lots 144 & 142, located at 8 Maple and 8 Mill Street in the Central Business District.

LaBrecque - This project is a multi-use building with 3 apartments on the second floor and 3 commercial units on the first floor. It's on a parcel that will be merged with the existing Shops @ Meredith Place on the corner of Mill and Maple streets. The site plan and architectural plans have been submitted, the abutters list is on file, application fees have been paid, it's recommended the application be accepted as complete and we proceed to a public hearing this evening for both the architectural design review and the site plan review.

Finer moved, Sorell seconded, THAT WE ACCEPT THE APPLICATIONS FOR SITE PLAN AND ARCHITECTURAL DESIGN REVIEW FOR RAYMOND AND KIM BERTHOLET FOR THE SHOPS AT MEREDITH PLACE. Voted unanimously.

PUBLIC HEARINGS

Vadney – Because we have a long agenda, Choma is being moved to the beginning of the public hearings.

1. **CHRISTOPHER P. AND LAURA CHOMA:** (Rep. Doug Hill, Attorney)
This is a Boundary Line Adjustment and it is I13, Lot 23, located on Black Cat Island, it's that piece of Black Cat that they discovered in the 30's belonged to Meredith. I13-23 is a conforming lot, I13-26 is a valid pre-existing non-conforming lot in that it is inadequate in its square footage. We are proposing to transfer 6,760 sq. ft. from I13-23 to I13-26 as shown on this plan. The green is I13-23 after, the blue is I13-26 after and the small parcel to be transferred is in pink (colored plan in file). The result of this will be to render I13-26 conforming in area, it does not render I13-23 non-conforming in any way. The average frontage of this lot will be increased to 307 feet. The pre-existing lot, I13-23, will not be reduced below the minimum frontage required. Worsman – Is there any particular reason why you're turning it into a conforming lot, are there any plans to do anything to that lot that's precipitating this event. Hill – Yes, the application is pending before the Zoning Board of Adjustment for the construction of a boathouse on this lot and in order to do that we needed more lake frontage. The dwelling and septic system will be removed if the Zoning Board approves the boathouse under the Special Exception provisions for boathouses. The DES has approved the permit. LaBrecque – The Boundary Line Adjustment that is before you this evening is just to move 6,760 sq. ft. of land from one parcel to the other. Although there is a

pending application, it doesn't require that there's site plan review for that. The setbacks are shown and nothing's becoming more non-conforming so essentially moving the lot doesn't create or compound any non-conformities, it is bringing the smaller lot more into compliance as far as lot sizing goes. Vadney – Anything they do in the future will have to stand on its own merits, this is only the Boundary Line Adjustment and is fairly straightforward. Hearing closed at 7:11 p.m.

Bayard moved, Finer seconded, I MOVE THAT WE APPROVE THE PROPOSED BOUNDARY LINE ADJUSTMENT TO TRANSFER 6,760 SQ. FT. FROM TAX MAP I13, LOT 23 TO TAX MAP I13, LOT 26, LOCATED AT 30 LEOPARD'S LEAP AND 36 TIGER TRAIL IN THE SHORELINE DISTRICT, SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) THE EXECUTED DRAFT CONVEYANCE DEED SHALL BE RECORDED WITH THE MYLAR.
- (2) THE MORTGAGE RELEASE SHALL BE RECORDED IN CONJUNCTION WITH THE CONVEYANCE DEED.
- (3) THE SURVEYOR SHALL PROVIDE WRITTEN THAT ALL PINS HAVE BEEN SET PRIOR TO RECORDING THE MYLAR.

Voted 6-0 in favor of the motion.

1. **DEEP WATER MARINE MANAGEMENT, INC.:** (Rep. Carl Johnson) (Touhey stepped down) Continuation of public hearings held on October 9 and December 11, 2007 and January 22, 2008, for a proposed Site Plan Amendment to create a family recreation facility in an existing building for boat slip customers, Tax Map U35-8A, located on Lovejoy Sands Road in the Shoreline District. Application accepted October 9, 2007.
2. **DEEP WATER MARINE MANAGEMENT, INC.** – Continuation of a public hearing held on December 11, 2007 and January 22, 2008 for an Architectural Design Review of proposed improvements to an accessory structure, Tax Map U35, Lot 8A, located on Lovejoy Sands Road in the Shoreline District. Application accepted December 11, 2007.

I think the Board's very familiar with this property and the project that's being proposed so I'll just bring you up-to-date as to what's transpired since the last public hearing. There were 2 basic concerns raised by the Board in terms of the information that's available to them, one of which was regarding a set of rules that pertained to both the Clubhouse itself and the Restrooms and the other concern that was raised by the Board was the safety issue regarding some of the parking spaces that were to the immediate right of the entryway of the building so we made a plan revision that eliminated 3 parking spaces there immediately to the right of the entranceway and we also submitted as part of your packet a set of rules and regulations developed regarding the Clubhouse as well as the restroom facility. I think you've all read them and the basic intent of the rules is to limit the use of the

facility to those that are the overnight boat slips. The Clubhouse and the patio will be available only by key from 7:30 A.M. to 11:00 P.M. The restrooms will be available 24 hours/day by key. For safety the Clubhouse, the patio and the restrooms are going to be locked at all times and there are other issues dealing with the potential for noise in that there is no overnight occupancy allowed in the Clubhouse, no bands or loud music allowed, smoking is not allowed in the Clubhouse or the restrooms and so forth down through the list. There is a provision that outside fires are not allowed at the Clubhouse or the patio or the patio area and the gas and propane may not be stored in the Clubhouse, etc. I think you can see based on the list of rules that a lot of thought went into how the Clubhouse is going to be managed, how the facility is going to be managed and that its to be a quiet place to provide some dry cover for the overnight customers only. I don't believe there are any other major issues brought up by the Board at the last public hearing so that's basically my presentation. If you have any specific questions about either the Clubhouse rules or the restroom rules, Mr. Littlefield's in the audience and I'm sure he will help you out with those questions. Kahn – How many slips are entitled to use the Clubhouse? That's not governed by these rules but needs to be governed by the rules or by the Site Plan? How many guests can each boat owner have at any given time? Are the premises available for rental, can you have a wedding party? Can you hold parties? What is the seasonal restriction? Is it Memorial Day to Columbus Day or something like that or is going to be available all year-round? Littlefield – I believe there was a total and I can get an accurate number on the amount of slips that were allowed for that but I think it was somewhere around 26 units or 21 units but I can look that up in my records. As far as it being open, I see it being opened the same time the slips are from basically ice-out until ice-in. The majority of the time people are there is from Memorial Day to Labor Day. The facility is absolutely not available for rental and we had that in one of our preliminary write-ups but it is not available for rental and we can add that in. I don't have a specific number printed out as far as guests. If our customers come in here, we've talked to them about the limited parking and to please come in and see us as far as parking of vehicles when a guest comes in. To begin with, if we see the slips themselves at 25-30% full for a weekend, it's on the high side of any given weekend except for July 4th weekend. If they came in with one or two guests over a weekend, I would be surprised. I would be surprised if that happens 3 times a summer. This whole entire thing is designed for these overnight slip customers. They cannot have parties in there. Vadney – You might say you're waffling on the number 21 or 26, I thought we had pretty much honed in on 20. Littlefield – We counted the number of slips and however many that count was and we had it in a previous meeting, 20 sounds familiar. Vadney – One thought you didn't mention tonight that I thought we had left the last meeting with was status of the marine construction. I know you've pulled the stuff back away from the ramp that they use but there was concern and at least one question by me over whether or not that marine construction ramp would be used when the peak season was on and I didn't hear it mentioned and I see nothing here. Littlefield – There is something on the drawing that Carl had put on there, it's temporary loading and unloading and we had discussed that at the last meeting

as well. Loading and unloading of stuff to get out to island properties. Vadney – Does this mean that the marina construction activities will continue at roughly the same level? Littlefield – For a lot of years, there's been one construction company that's basically based out of there and I've asked for that not to happen anymore. I do not want boats in there overnight, these people are to come in, load up their stuff to go out to their island properties that they're working on and dropping off any things off as far as equipment or that type of stuff. My real concern has been that narrow throat between the buildings where kids can be running and playing and that's why you've removed a few of the parking spaces and part of that concern is also what hours and months of the year you'll be driving dump trucks, front-end loaders and graders and stuff past there and I realize you're always moving boats but they are not moving out that road very much but marine construction does go out that road to the dock so maybe no one else has the concern but I was just worried about kids playing around there, it is a recreation center and here comes a dump truck looking for a boat to ride. Finer – It says here temporary access, I want to know what temporary means because you have a boat storage building that's temporary that's been there for a few years now. Littlefield – I don't have a building, I have racks but I don't want any overnight boats. We can just eliminate this altogether if you guys would like to see the access gone and run out of the public launch ramp. I can put an end to this down there and quite frankly I would love to. Vadney – I'm concerned about the safety aspect of it and I realize people have to do building out there and you need some marine construction. Littlefield – But they don't have to do it through my property. Vadney – That's true and they don't have to do it on 4th of July weekend and things like that. I assume they wouldn't want to but you never know but I would just hate to see us approve this and then some poor little fella gets run over by a dump truck. Littlefield – I would hate to see that as well. Bayard – Has the construction access been previously approved going out here on prior site plans? Edgar – I know it has existed for a very long time, I know back when we were looking at Shep's under a different application there was a lot of concern as to whether or not it had been grandfathered. My recollection is and I can check with Bill but I don't think it was grandfathered I think they were looking at Island Services as one and Mason as another and I don't believe they were both considered grandfathered at the time, I would have to double-check with Bill so we haven't purposely reviewed it and approved but it got dragged into a whole bunch of other issues and questions a few years back. Bayard – I guess just sort of a concern is that we're putting this on here in order to deal with the parking issue it's a parking issue somewhat limited in scope we've done with this recreation facility and yet it's putting down here that construction is being allowed for something that we may not have previously approved without going through the whole issue of do we want that there or I guess the alternative is it may go to the Town or this or that so it may or may not be the appropriate site but I don't think we've looked at the construction or access and the whole thing there as part of this hearing other than as a safety issue. I guess I'm concerned it may be a de facto allowance of something without appropriate site review. Flanders – Any use that was never created legally in the first place can't be considered grandfathered. Edgar – I just need to double-check

with Bill on what his recollection was based upon the past and the way we could deal with it at least for the time being is that to the extent its determined to be lawfully in existence, then the Board does A, B & C or not as the case may be. So there's a way to address your concern to the extent that it is a use that continues.

Vadney – This whole issue is obviously very sensitive and I'm very sensitive to it and the reason we have so many abutters that turn out for these meetings is its pretty well recognized that the site is a very tight site, by definition it's a very busy site in the summertime and I'm not against having a small recreation center like you're planning, I think you've done reasonably well here in coming up with a list of rules and things to control that but I'm just wondering how many more things can be added out there without abutters continuing to argue against them. It is a very busy site and I don't want to see marine construction stopped, I think I would be happy if you could settle on it not being done on major weekends or it wouldn't be done from Memorial Day to Labor Day or something like that. Granted in the ice-out period, it's time to get moving and you can haul stuff into the Fall.

Littlefield – Most of these people are doing work for island property owners and most island property owners unless they're not here don't want them up on July 4th weekend but I'm not saying that's always going to be the case. There is not something in place that regulates that right now.

Vadney – To me it would be an advantage to the management of your site and it would be a stroke of luck for the abutters if you're going to add one thing to carve something away to help you out a little, help them out a little bit too.

Bayard – To the extent we find it is allowed there, I think limiting it during the summer does make quite a bit of sense and pretty much eliminates the safety issue that you had raised, there's not going to be that much activity then and the use of the Clubhouse should be substantially less.

Edgar – I think we've pretty well covered all of the issues. As Carl indicated the two main ones at the last hearing that it came down to was the tweaking of the parking so we didn't have the parking blocking the distance coming out of the front door and the house rules. I have a couple questions on the house rules. Is it the plan Bill to incorporate the rules and any lease agreement that you have? Similarly, is there something in those documents from a management point of view to the extent there are violations of those rules that someone's slip is at risk. In other words, is there the cause and effect if someone doesn't take it seriously and you've got to hound them?

Littlefield – It certainly can be put in there, I don't think people would risk their slip.

Vadney – The public is welcome to bring up all kinds of new material and we've heard a lot of the arguments many times so I'd rather not sit here for hours hearing those again. You can reference some of them if you think we need to be reminded but try not to plow the ground we've already plowed.

Frank McCarthy, 6 Turtle Lane – We've been coming to these meetings for awhile now, I had thought that 3 years ago this place was played out and there was not going to be anything new added, cut anymore trees down, we were supposed to not have buildings and then a few months later there were 3-boat high racks right in the same spot where the building was supposed to go. If this man sells this place, do these rules go on to the next guy that buys it? I think there's a lot more to it than just what we've talked about today.

Vadney – I think the intent here by all of us is these rules and the other modifications we've suggested, if those pass as part of

the motion and this goes forward, they would be recorded and would pass to the next owner. I would hope these things don't die at the sale of the property. Edgar - There's a couple ways to look at it, first off if there are things within the list that you feel warrant reinforcement as a condition of approval or a plan note that's one way to reinforce some of these. The number of slips its applicable to, some of the more salient ones that address the concerns there might be a way to reiterate those same rules as conditions of approval. You certainly don't want to do that for having to wear flip-flops in the men's room. Another something we could explore from a legal point of view is that if the Board were to approve it with conditions, it can be premised upon its understanding that the site would be managed in accordance with those rules and I think there might be a way to provide some kind of an umbrella statement to that effect as a condition such that if a subsequent owner manages the site in such a way that is in complete violation of all this stuff, you would have some redress. I don't have the particulars but that would be something we could bounce off Tim as to what would be reasonable and prudent under the circumstances. Vadney - To the extent that we've put them in the documents and recorded them, then there are civil matters that could be taken. Edgar - I know I just don't want to be in a position where we get a phone call for Code Enforcement to go out there because someone doesn't have his footwear on in the bathroom. I think the intent is to make sure the site is managed the way Bill, Jr. and Sr. have indicated they are going to manage it. A couple of the ones particularly as it relates to noise and the degree to which the site is used, the rentals and those kinds of things, those are particular issues that if something goes wrong it could be significant moreso than footwear and so that's something I'd want to have the benefit of chatting with Tim as to how to structure it. It can be done in a couple ways but I would not say here tonight that simply incorporating them by reference may be sufficient or it may not, I'd like to be able to talk that through with your attorney. Touhey - I was pleased that you gave further attention to the safety issue that's involved. I understand Chief Palm has expressed some concern over the 15 foot roadway that's available there, he just expressed concern, he did not put any obstacle in your way to approving it. He approved the use of the building for 75 people. I didn't ever think of the building accommodating 75 people so I think the Board has got to give even further consideration to the safety issue if the building is going to be able to accommodate that number and also to the parking issue because there really is no parking that's being added to this building and all of the parking spaces in the proximity of this building and in the proximity of the commercial barge/ramp are assigned parking spaces so the guests that come in by vehicle are going to have to park someplace else. If you are talking 75 and you say that 25 or so are coming from the marina boats themselves that leaves 50. If you say that 2 people come per vehicle, it's foreseeable that you're talking 25 vehicles, if you say that 10 of those vehicles are boats, that's going to take up municipal space at the docks and the other 15 or so by car would obviously take parking spaces that are not being created. I think that is a concern. I also want to point out just as you have that we do have two island service companies operating there, moving in equipment, taking it out, front end loaders, loaded dump trucks whatever, by virtue of their own private cars take

spaces there, but its more the safety factor again that I want to emphasize. You have those kinds of vehicles moving around on a 15' way of passage, you're also using that way of passage as ROW access to the Tall Pines Condominium Complex, you're using that passage for all of those assigned parking spaces, you're using part of that area for the movement of the forklifts that move boats back and forth and I anticipate in the future there will be a greater demand for valet service as slips become more and more of a shortage around the lake. I wish to also point out that the traffic pattern there has to be considered, we have a public launch there and during the busy part of the summer, we have many people coming in, not just people that live in Meredith, but coming in great distances and they at times are lined up 3 and 4 waiting to use the public dock. These are not experienced people in backing up their boats if you go over there and watch them it can be humorous at times so the congestion that's going on there, the access coming from so many different directions for pedestrians, so many different points of entry, there is not one place, two places or three places that one would ever put a crosswalk because nobody would use them because you have so many entry points along the way so I think all those factors have to be considered. 44:45 Warren Clark – We've been at this now for several months and one of the points that concerns and confuses me is this issue of accessory use. I read the zoning ordinance and the zoning ordinance the way I read it says that this is not a permitted use but its been implied that perhaps this can be viewed as an accessory use so what I did was search for case law and didn't find any but I did find a book that seems to be a well respected reference. I'm not trying to be a lawyer but I'm one who believes that normal people can read and understand the law. I certainly hope so that most of us in town who sit on Boards aren't actually lawyers. In this book, NH Land Use Law, it describes accessory use and it describes the expansion of non-conforming use. This marina could probably get a special exception to be operating as they are but they don't have it so they're operating as they are operating as a grandfathered non-conforming use. I decided to compare this clubhouse with the criteria that's in the book. What I learned was an accessory use has to meet all these criteria. First of all, it must be customarily or habitually associated with the primary use. Next, it must remain subordinate to the primary use. An accessory use must not run contrary to the intent of the ordinance. In the section on expansion of non-conforming use, it says it must not have substantially different impact on the neighborhood. The first question, is a clubhouse customarily or habitually associated with a marina. One of our members contacted the marinas around the area and what they found was the marinas pretty much offer boat sales, gas, boat storage, ships store sales, slips, and not a single marina that this person could find offers a clubhouse. So the question of whether a clubhouse is customarily or habitually associated with a marina, at least not on Lake Winnepesaukee and not in this Town. Question #2 – Is a yacht club subordinate to the primary use as a marina. The book says an accessory use cannot rise to the level of a secondary principal use and it cannot stand alone as a primary use and its status must be dependent on its relationship to the principal use. In fact, this Planning Board raised that issue at the last hearing. We could find no marina that includes a yacht club but we did find yacht

clubs that were separated off from marinas, thus a yacht club does rise to the level of a secondary principal use and it does stand alone quite easily as a primary use so that criteria isn't met. Next question, is a clubhouse contrary to intent of the zoning ordinance? This is kind of tricky because what is the intent of the zoning ordinance and I've read the zoning ordinance a whole lot, but I think we have some pretty serious clues in here. One clue is we have a good definition of a marina and it clearly covers boats only, not boat owners. We know that in order to put in a marina, one must get a special exception thus the zoning ordinance is clear that a marina should be limited so as not to adversely affect the neighborhood. What about other uses that are similar to the clubhouse, are those uses permitted by our zoning ordinance in this district? A clubhouse is defined in our ordinance is expressly permitted in other zoning districts. Another similar use is a campground and in fact one could look at this sort of a campground where the recreational vehicles are floating rather than on wheels and campgrounds are specifically permitted in other zoning districts, they are not permitted in the shoreline district. The same thing with RV parks, they are not permitted in the shoreline district, they are permitted in other districts so from this its rather clear to me that the clubhouse is contrary to the intent of the zoning ordinance. What about the impact to the neighborhood? The first impact is that a marina services boats. People stop their boats for fuel and supplies, they drop off their boats and leave them for service or leave them for storage and they don't typically hang around a marina. When people go to the marina, they drop their boats off and then they leave. The clubhouse is for people, its for people to spend time with their boats. They can prepare and eat their meals, they socialize in the evening, they stay overnight. Another point is with a marina operation, there will be no noise at night and I think its great that the marina has been more quiet lately since the Littlefield's took it over but look at their Rule #9 - Noise is restricted, music and television voices must be kept at an appropriate level as to not infringe upon the rights of other slip customers and surrounding neighbors. What is appropriate? Compare this with Rule #2 for clubhouses at Spinnaker Cove Yacht Club – No owner or tenant may make or permit any guest to make disturbing noises in the clubhouses or on the common grounds, the volume of sound reproducing device including but not limited to radios or TV's must be muted to the extent that no sound will go beyond the area containing such devices. That's only a part of the rule. I think there's a lot more that could be done with noise control there than what they're planning to do but even if it is, there is a strong potential for noise at that site and this is not hypothetical because in the past before the Littlefields took that place over, once a year there was a party that pretty much rendered every house in Bear Island channel unusable on the outside, you had to go in, close your doors and windows because the sound carries. You can hear a voice a mile away on that Lake. One of the other things is remember this permit goes with the marina not the owners, you know that and we've talked about what happens if it's sold but in the Littlefields' hearts they intend to keep this quiet, I do not doubt that. Is that something the next owners are going to want in their hearts? What if the next marina owner decides they don't want to enforce this, how are you going to enforce these, is Bill Edney going to come out? I don't think so, I think this could

be a real problem. Parking is going to be a problem. If you build it they will come. Overnight is when we have the problem at that site. We heard somebody say that he was there on 4th of July week and half the parking places were empty, sure they were empty, they are reserved parking places. When extra people come, they are going to be parking someplace else, they are not going to be parking in the reserved places because they are reserved. They will be parking in the Town parking lot. The limit to 20 places is temporary. Is there anybody in this room who believes that number is not going to go up in a few years. I wouldn't be surprised and if I owned the marina, I would be looking to sell slip condos and after those 20 are sold what about the next ones. If this Board says that 20 are OK on what basis could you say that 25 or 30 or 50 or 75 or 90 aren't appropriate? I would hold that there just is no basis on which to deny other than the fact that this is simply not a permitted use in the district, it is not an accessory use because it doesn't meet the criteria. I believe I've demonstrated that a clubhouse is not customarily associated with marinas, perhaps it is in some other areas but not in this jurisdiction, not in Meredith and not even anyplace else on the Lake. The clubhouse could and quite frankly is likely to stand alone as a non-conforming use, it rises to the level of a secondary primary use, it runs contrary to the intent of the zoning ordinance and it has a substantially different impact on the neighborhood. Any one of these should be sufficient to say this is not an accessory use, this is not permitted and I believe its inappropriate for the Planning Board to give site plan approval for something that's not permitted by the zoning ordinance. Touhey – I understand the Chair is trying seek some kind of a middle ground and one suggestion the Chair made was perhaps limiting the hours or not so much the hours but the weeks of the year where that commercial barge operation could operate. I just want to point out to the Board that even though I would like to see the barge operation go away, I don't think that's in the best interest of the island people who desperately need that kind of link to their property for building materials, appliances, front end loaders or whatever that has been used as long as I have lived in the neighborhood from 1976 and that's how that has been used so in any way to limit the use of that and take that away, something they have had the use of for many years, I think would be most unfair so you might want to rethink that particular piece. Johnson – It's important to note that the elimination of those spots that were directly to the right of the entrance increased the passageway to 26 feet so now the minimum passage way width is 26' and I think that's an important difference because those spots are no longer in there. That is a difference that occurred when Chuck Palm was looking at it originally. With regard to the traffic issues, all of those components that were spoken about are components that are there now. There are no more slips being added as a result of this so the notion that more people are going to come to the site to side inside rather than go out on the boats, I think might be unfounded. It's subject to opinion; I don't think there's any way to quantify that. There were some comments made about the rules. Mr. Littlefield looked into his packet and the number that can be included in the rules would be limited to 20 slips. There will be a paragraph added to the rules that there will be no parties allowed and by that we're assuming if a family wanted to have a small birthday party for their son or daughter, that's not what is being talked about, you're talking

about having 20-30 people over and having a party. That type of party is my understanding of what is to be limited and there will be no rentals and we can add that to the rules, speaking specifically to the questions Mr. Kahn had in terms of beefing up the rules. Bayard – Listening to Mr. Touhey about the construction, it sounds to me almost he thinks this predates zoning from his recollection. Perhaps restrictions on weekends and holidays might make more sense so at least its allowed during the weekdays when presumably this is considerably less busy. I am concerned about the busy periods that the construction vehicles not be moving back and forth. In speaking with Mr. Littlefield, we could probably limit it to getting off the island to a period in the morning and then have no availability to get off during the hours when the facility might be busier except for emergency situations. So you would have a restriction if you're going to be working on the island that you have get there and get off by 10:00 or something like that and then have no availability to get off until some time in the evening. Clark – I've heard complaints from Tall Pines about noise early in the morning with the marine construction and that's really the only problem people have so if you restrict it that they have to get off early, it's going to bother people more. Hearing closed at 8:02 p.m.

3. **RAYMOND CARPENTER:** (Rep. Carl Johnson) Proposed major subdivision of Tax Map R22, Lot 1, into four (4) lots (16 ac., 11.32 ac., 11.5 ac. and 36.2 ac.) located at 162 Upper New Hampton Road in the Forestry/Conservation District. Application accepted February 12, 2008.

This is a major subdivision in the fact it's more than 3 lots, the property's about 75 acres and it's located with frontage on Upper New Hampton Road and Arbutus Hill Road. You can see that the property is somewhat pert angularly shaped with the exception of this long piece that sticks out and this actually sticks into the Ames property that is now benefitted with an easement to the Town of Meredith and so the Town is actually an abutter to the southeast. There is an existing home on the property with a septic system and an existing non-conforming shed and Mr. Carpenter and I have been working on this property for quite some time. The first thing was to develop a current use plan for the property so the majority of the property is in current use and then he had been thinking about potentially building on another portion of the property for himself, selling the house and creating another couple lots. This property is located in the Forestry/ Conservation zone, it is a 10-acre zone so all of the lots from a density standpoint have to be 10 acres or greater. Nicole Whitney from Ames Associates did the wetlands delineation on the property in September of 2006 and again in November of 2007. You can see there are some wetland complexes on the property as well as some drainages. This is a partial wetland and topographic analysis of the property in order to demonstrate that there's at least one buildable area on each lot and that buildable area meets the worst case soils and slopes scenario. By that I mean instead of doing a site specific soils map to determine the specific soil types within each lot, we do an analysis of the topography and then use the worst case soil situation for that level of slope and you come up with what's called the worst case scenario. In most cases the soils that actually exist within that are better than the worst case

scenario and we do have several test pits that were dug by Ames Associates beginning right behind the house going all the way down to the frontage of the lots on Upper New Hampton Road as well as the test pit that's on potential Lot 4 and those test pit results indicate soils that are better than the worst case scenario and in many cases are much better than the worst case scenario. The lot calculations were submitted as a part of the additional information which was submitted after the staff review and for Lot 1 because of the large portion of the lot that's actually south of the dwelling, the total worst case soil equivalent is 3.6 lots, for Lot 2 its 1.45 lots, for Lot 3 its 3.09 lots and for Lot 4 it's 1.74 lots so you can see even using that worst case scenario, we do have a situation where all of the lots are compliant by the soils and slopes. You'll also notice on Lots 2, 3 and 4 we do have significant buildable envelopes. We're not creating a situation where the person is severely limited as to where they can put their house. I've shown some very substantial house templates, again this is not an indication of where the actual house would end up. That would be subject to wherever the particular owner wanted to build but if these houses were a two-story home, that footprint there would translate into about a 6,000 sq. ft. home to demonstrate we're not impeding on the buildable areas. There's a multitude of different setbacks that are associated with the different wetlands and drainages and in Angela's staff review she requested some clarification as to what setback applies to what resource and in most of the instances when the wetland scientist goes out to delineate a wetland that's associated with a drainage, there's the drainage and then there's a wetland associated with the drainage and she tends to flag the outside limit of the wetland which would be the line closest to where you're going to develop. Because we're meeting the soils and slopes requirements of all these lots and we're producing a significant buildable envelope, we don't really concern ourselves with the potential wetlands that are in other places on the lot. There's a note on the plan to the affect that it's a partial wetland and topographic analysis and that any home sites intended to be built on portions of this property other than what's shown here may require additional wetlands delineation. There is a series of drainages that go down through this property and some of the drainages are somewhat well defined with a stream channel and some are not. There's a 50' setback from a non-designated wetland 75' from the defined stream channel of a non-designated brook. The problem is that in many of these instances, the drainage is a drainage situation that doesn't have a defined stream channel so it's difficult, there essentially is no top of the bank to map. Conversely, in the drainage that comes across the access way for Lot 4, the channel is very well defined and we can map the limit of the brook so what we've done is shown the 50' and 75' setback along all the wetlands and I've included a note which wasn't on the original submission on each lot that clearly states that no alteration of terrain is permitted within 75' of the top of the defined stream channel and from a practical matter I tend to like the note better than the line because as you know when you're in the field and there's kind of an obtuse wetland that is only discernible by a wetland scientist and its not a straight line and its not defined by metes and bounds, its very difficult to know whether you're within the setback or not so the more restrictive nature is actually to have the note that says you can't do anything within 75' of the stream channel.

That gives something in those instances where you have a defined stream channel where the person can actually measure. The drainage situation meanders down through the lot and exits through a culvert that goes across Upper New Hampton Road to the north. For Lot 4 there is an existing access road that comes off of Arbutus Hill and comes due south past a portion of Lot 4 that Mr. Carpenter is interested in constructing a new home. This is an existing access road that's been there for a long time. Mr. Carpenter purchased the property in the mid 80's, the road was there then. We've talked to other people that are in the area and they have confirmed that the road at the very least has been there since the 60's. There's an existing concrete culvert at the stream channel. That culvert has been there for over 20 years and this roadway has always been used as the access point for the balance of the property because of the fact that the primary portion of the front is separated from the back by the wetland complex so you can essentially come through here and with the exception of this very narrow crossing, you can get to the back of the property without crossing any wetlands. Mike Fallor has visited the site and we had staked out the driveway locations for both the access to Lot 4 and the common access to Lots 2 and 3 and he has field approved both of those entrances. Because Mr. Carpenter was actually going to do some logging on Lot 4, Mike requested that we actually file a driveway permit application and he has issued a driveway permit for that location for access to a woodlot. He cannot issue a residential driveway permit for that lot until such time as the Planning Board conditionally approves the plan and he's indicated to me that at such time the Board would entertain a conditional approval, he would modify the existing wood lot driveway access permit to a residential permit. Similarly here, he's field inspected the entrance off of Upper New Hampton for the common entrance for Lots 2 and 3 and at such time as we receive conditional approval, we would file the permissions for the driveway at that location. With regard to the existing access road, Ambrose Brother's construction came out to look at the access road in terms of whether or not it would require any additional work at the crossing. The opinion is that the concrete culvert is mighty strong and would be sufficient for access to the property, it's in a good location, it's functioned rather nicely for probably 40 years and there would be no additional work that would have to occur at that point of crossing. Initially, I had spoken to Mr. Edney about the access point and told him we had an existing access road, which it wasn't your traditional logging road and it was substantially more significant. It's an access road that at points has cuts and fills, at one point has been a major snowmobile trail. At some point in time after that, Mr. Carpenter did not maintain the vegetation on that road so there was some scrub vegetation that's been removed at this point. Right now with the snow, you couldn't drive it but when the snow melts it's drivable by 4-wheel drive now. The best portion of the road is actually within the limits of the 75' from the brook, there will probably have to be some work done outside of that limit in terms of relocating the accessway up to the house but that's outside the jurisdiction of the watershed overlay district so would not require any permission from the Zoning Board. I spoke to Mr. Edney today and he and I agreed to work out the details in terms of what permits both at the municipal level and state level if any that driveway would need. Our understanding is that it does not need any additional

permit from the state or the town. Angela did have some discussions with DES and asked them if the conversion of a woods road to a driveway needed to be permitted and I think she indicated the answer was yes. We can work out the details and also call DES and get a better clarification. It's my understanding that the typical woods road construction and logging roads use temporary crossings by cutting down trees and they have other ways of creating a sort of natural culvert situation and when those access points are to be converted to residential driveway, you do need to get Wetlands Board approval, but in this particular case it's an existing situation, it probably predates 1969 which we could confirm and that actually predates their jurisdiction so we don't think its necessarily going to need a permit. Angela mentioned she would like to have the utility pole information so we've added the utility pole numbers and connected the dots to show there is power on both roads and available to all the lots. Lot 1 is 16 acres, Lot 2 is 11.32 acres, Lot 3 is 11½ and the balance which is Lot 4 is 36.2 acres. Because all of the lots are in excess of 5 acres and it's not located within a shoreline protection district, there's no state approval needed for this subdivision. LaBrecque - We just received this plan today so there are a number of items on the plan that were highlighted in the staff review that Carl has added and I wanted to make a note of that. Carl did a pretty good job describing all that's happening on the site for a 4-lot subdivision. There is an existing driveway permit with a wetlands crossing but I'll get to that in a moment. The soils and slopes have been submitted and apparently it meets or surpasses the requirement for one residential dwelling per lot. The wetlands have been clarified along with the buffers. The final plans shall have a stamp and signature from the wetland scientist. The driveway permit was issued for a wood lot access. It was just issued this past January and I wasn't clear as to whether or not that was a whole new driveway in January for a wood lot or that it has been there for 30 or 40 years and also it's good information to have that the culvert is concrete because Chuck did have a couple of concerns as to whether or not he could get an engine up there. Initially when I spoke to DES I wasn't clear on the history of this road and how long it has been there so they did mention that a Dredge & Fill Permit would be required, however, seeing there are no proposed upgrades to the road, no additional gravel or widening or culvert improvements, potentially it may not. It would be good to have written confirmation from a staff member at DES just stating that because when I spoke to them, I didn't exactly know it was a concrete culvert and that it wasn't just wood thrown over the river. A revised driveway permit is required from DPW to access a residential site vs. a wood lot. A Special Exception is required from the ZBA given any road improvements occur in the buffer. Carl has indicated that no improvements will be occurring so a plan note indicating any future work to be completed in the buffer or the intermittent stream would require ZBA approval. Johnson - In speaking with Bill, I think he's the one that ultimately would make the call as the Code Enforcement Officer whether or not we'd be required to go to the ZBA and so what I've agreed to do is to provide specific information to Bill about what's going to happen in that buffer and the crossing for him to make that determination as to whether or not we have to go to the ZBA so if the Board were to entertain a conditional approval, if we could leave that decision up to Bill and just to mention

before they leave that in terms of if you couldn't get an access permitted by the ZBA what happens to the lot. We do have options, one of which would be to combine Lot 4 into Lot 3 for now. We don't really want to do that because we don't feel that's particularly necessary, but we could also have Dave Ames dig a test pit right off the road and we do have sufficient area to show a buildable area and show a house site outside of the 75' buffer within the setback from the road provided we get a good test pit there, then that would meet the specifications necessary for the Board that doesn't affect the lot sizing or anything and that way Mr. Carpenter could go and get whatever approvals he would have to get and both Bill and Angela I believe don't see that there's any issue with the crossing, it's whether or not we have to get the approval or not. Edgar – I agree at the end of the day there are all kinds of different ways to skin the cat. What we are concerned about though was if at the end of the day not knowing the condition of the culvert, the lot sold, all of us are gone, someone goes to build and their general contractor says to get the concrete truck up there we need to replace something and then what if we find ourselves or some lot owner finds themselves having to get ZBA approval on a lot of record. Who knows how the ZBA would view it, maybe they view it as no problem, maybe they don't so we just wanted to make sure we had that discussion so we flush out what the history is and the idea of permitting site down up front certainly makes it all go away at least for now. It's a narrow spot, it's not a practical matter of being able to cross it, it's just that we wouldn't want to inadvertently create the lot and then the minute we go to build someone realizes they have to upgrade that culvert and then find themselves in a permitting process that nobody was flagging on the front end. We just wanted to get that out there so the future homeowner is protected, understands what they are buying and if we've got to permit it, we permit it, if we've got an alternate site, there are different ways of dealing with it. Johnson – There is a little bit of extra security in that it's not simply been left to the dumb surveyor to determine whether or not it's an adequate crossing, but we did have somebody from Ambrose Construction look at it and get down there and decide there would be no need to replace that culvert because of its construction and location. Edgar – We didn't have the benefit of the pipe size and type on the plan so Angela insisted we go out there and charge through the snow and try to inspect it so there is a picture of it in your packet, not of the culvert, there is a pole ford over it and so from what we could see through the snow, we couldn't tell really what was under it other than the fact that there's a pole ford that's visible. In summary, it's not as though there's a major issue there, we just have to work through it and make sure we've got the contingencies covered so we don't inadvertently put a future lot owner in an awkward spot. Vadney – Do you see any reason for us to visit this when the snow melts? Johnson – I can tell you that the wetlands delineation and the topography was done when there wasn't any snow on the ground. Edgar – Carl, the lot with the non-conforming structure, hypothetically speaking if someone were to abandon that structure, tear it down, could you just give us a sense as to what the residual building envelopes could be where someone could actually build in a compliant location? This is not something that's anticipated in our ordinance; it's a little bit of an odd duck. We do have a non-conforming structure in the front setback but if

we're thinking long term here, there's a picture of that structure in your packet and it's not going to be there forever so someday that's going to get replaced. When that happens it's going to need to comply with the zoning so could you just describe for the Board what the options would be under that hypothetically.

Johnson – There are two areas that you could fit a fairly sizeable house without the benefit of ZBA approval, one of which would probably require the removal of the existing shed which is kind of a questionable structure right at the moment and so there's an area there because that's a non-designated exempt wetland, there's not setback determined. The other position is in the northwest portion of the site there's another 2,900 sq. ft. non-exempt wetland where you could meet the requirements without benefit of ZBA approval.

Edgar – I had at least raised the prospect of a site inspection on the front end just as a matter of course. The Board, at the time we accepted it, didn't really feel the need. In the meantime, we have gone out there at least in the particular area of Lot 4, we proceeded from the driveway through the log landing, the crossing up to the house site and that's the most sensitive of these properties, it actually looks like a really nice lot, nice building site and the grades are reasonable. Chuck had raised a couple questions we think we can probably address administratively in terms of turnarounds depending on the length of the driveway and that kind of thing so I think as a practical matter as long as we build enough flexibility to resolve that driveway crossing, it's not probably something you need to get concerned about.

Touhey – We don't have any elevations here at all, can you give us blanket information on that?

Johnson – As with most applications, we submit some of the plans that have the topography and some that don't with the application. For the benefit of the Board, initially I had the ones without the topography. That one does show the topography, the breakdown on the lots is most evident in the analysis of the worst case slopes scenario where Lot 1, the A-B slope which is the flattest slope has almost 141,000 sq. ft.

Edgar – Carl, when you're referring to that analysis, is that area what you've got the partial topo on?

Johnson – Yes, so when he runs those numbers its actual topography applying so we know the actual slope break and assuming its shallow to ledge and these are actually very good pits compared to what we normally see. We take the portion of each lot that has the topography on it, we subtract out the wetlands so the letter submitted to Angela says this only includes the upland portion of each lot for the soils analysis. Lot 1 has 141,000, Lot 2 has 101,000, Lot 3 has 77,000 and Lot 4 has 75,000. The topographic map gives you an indication of the slopes.

Touhey – What is the slope on that driveway, I'm sure it's a very long drive that comes in on Lot 4 but at one point there it really seems to take quite a grade?

Johnson – It actually does take a grade, but once we're outside the 75' buffer we're going to blend over and if you notice on the topography there's a very flat ridge that goes out towards the top so they will be very reasonable grades getting up into that house site.

Angela – We were out there and we calculated roughly 9% slope at the most.

Touhey – So once it gets beyond the 75' buffer you're actually going to turn it to the left?

Johnson – Sure, Mr. Carpenter has identified the area that he's interested in building and that's where we primarily did the topography, that's where we show the well and the house site and that's also where the test pit was dug with the 4K

area and then the access road continues and will continue to be a woods road and his driveway will peel off to the house site. Angela – The final plans need to be signed off by the Fire Chief. Edgar – So we would have Chuck double-check the grades and the turnaround depending on the land and those kinds of typical things he looks at. Angela – Let him know it's a concrete culvert and that kind of thing. Worsman – For the record, is there any intention to further subdivide Lot 4? Johnson – Lot 4 will be open for further subdivision by the benefit that it's 36.2 acres and with the 10-acre zoning theoretically it could be subdivided into 3 lots but that would be a separate application to the Board and you would be looking at issues with frontage and access but there's no restriction at this point but there is no intention at this point either. Kahn – Was Vander Poll on this property? Are there any features that he would have noted that are worthy of our concern? Edgar – I do not know one way or the other. Bayard – I need a little clarification on the driveway, it's crossing a stream with a culvert, would there be some work done on this or are you saying there would be no work? Johnson – According to Mr. Ambrose the culvert will not have to be replaced in the brook. There will be some additional gravel added within the limits of the driveway similar to, I mean there are woods access roads all over the place in Meredith and they get upgraded over the years when they start to rut out and I would hate to think that the Zoning Board would have to see every application for every bit of gravel that's added to an existing access road. Vadney – This being a pretty good sized piece of property, I'm quite familiar with that field and 3 of the lots are that field, it would be hard to think you couldn't build on them and the other lot's got 36 acres and John has stated there's reasonable access, there's probably not much sense waiting for the snow to melt so I don't mind going forward. No public comment.

Bayard moved, Worsman, THAT WE CONDITIONALLY APPROVE THE MAJOR SUBDIVISION OF TAX MAP R22, LOT 1, INTO FOUR (4) LOTS (16 AC., 11.32 AC., 11.5 AC. AND 36.2 AC.) LOCATED AT 162 UPPER NEW HAMPTON ROAD IN THE FORESTRY/CONSERVATION DISTRICT, SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) THE FINAL PLANS SHALL INCLUDE THE WETLAND SCIENTIST'S STAMP AND SIGNATURE.
- (2) THE FINAL PLANS SHALL INDICATE UTILITY POLE LOCATIONS AND NUMBERS.
- (3) THAT THERE BE CLARIFICATION WITH THE STAFF AND THIS COULD BE DONE ADMINISTRATIVELY TO GET THE APPROPRIATE NOTES FOR LOT 4 CONCERNING THE POSSIBILITY OF SOME FUTURE DEVELOPMENT WORK AS TO WHETHER THERE MIGHT BE ZBA APPROVAL NEEDED FOR THAT.
- (4) THAT THE DRIVEWAY PERMITS SHALL BE REQUIRED AND CROSS-REFERENCED ON FINAL PLANS.
- (5) CHIEF PALM SHALL REVIEW AND SIGN OFF ON THE FINAL PLANS SHOWING THAT ADEQUATE EMERGENCY VEHICLE ACCESS HAS BEEN DEMONSTRATED TO THE HOME SITES, PARTICULARLY LOT 4.

(6) A DRAFT EASEMENT SHALL BE SUBMITTED REGARDING THE SHARED DRIVEWAY, INCLUDING PROVISIONS FOR PRIVATE MAINTENANCE. FINAL PLANS SHALL REFLECT THE EASEMENT REQUIREMENT.

(7) THE SURVEYOR OF RECORD SHALL PROVIDE WRITTEN EVIDENCE THAT ALL PINS, INCLUDING CORNERS AND ANGLE POINTS, HAVE BEEN SET PRIOR TO RECORDING THE MYLAR.

Voted 7-0 in favor of the motion.

3. **RAYMOND AND KIM BERTHOLET FOR THE SHOPS AT MEREDITH PLACE** – Proposed Site Plan Amendment to construct a new commercial retail and residential building, Tax Map U06, Lots 144 & 142, located at 8 Maple and 8 Mill Street in the Central Business District.
4. **RAYMOND AND KIM BERTHOLET FOR THE SHOPS AT MEREDITH PLACE** – Architectural Design Review of a proposed new commercial and residential building, Tax Map U06, Lots 144 & 142, located at 8 Maple and 8 Mill Street in the Central Business District.

Rusty Bertholet – My proposal consists of the former Harley-Davidson Shop to combine the two lots together. There's an existing house shown on the plan which would be taken down with the installation of a new retail building which would consist of 3 residential apartments upstairs and 3 commercial units downstairs. The drawing of what the complex will look like was shared with the Board. The house will be torn down and the two lots merged with the parking altogether to make it a complex. LaBrecque – There is currently a duplex dwelling on the site and the duplex would get torn down, the lot line would go away and a new building with 3 apartments up above and 3 commercial units down below would be added and the parking from the existing commercial facility would be continued on right through with landscaping to match the existing. A Special Exception from the ZBA is required for the multi-family use and that approval should be noted on the final plans. Density calculations for the 3 residential units are on the plans and 3 are being proposed, however, more than 5 are allowed. The lot coverage is at its maximum at 65%. According to Bill Edney, the setbacks that are shown would be changed as a result of the lot merger because you would have two street frontages, Mill Street and Maple so essentially you'd have front on Maple, front on Mill, side setback where Route 3 is behind way up high and then another side setback on the far end of the site towards Route 3. The final plans need to reflect the correct setbacks, 10' sides and 30' for the front. Bertholet – Carl has changed all that stuff on the plans I have here. A ZBA Special Exception for parking in the front setback is required. As you can see, there's that 30' setback designated on the plan and I don't know if Carl was able to shift the building back according to the side setback because I haven't seen that plan. Bertholet – Yes, he did, it's back to the new setback it would be when the lots get merged. LaBrecque – Should there be any parking in the 30' front setback, a Special Exception is required and should

be referenced on the final plans. The proposed development would require additional water from the Sewer and Water Department. Bob Hill has looked at it and done the calculations and according to him there's enough capacity left, however, we are requiring that in writing and signed off by the Department. The finals shall include specific specifications for the domestic water service and fire suppression lines provided in Bob Hill's comments which I will share with Carl. The note indicating separate water meters shall be revised to indicate one master meter as the Town does not provide multiple meters for single units and the final plans will also be signed off by the Sewer and Water Department. Final plans shall have a note regarding the sprinkler requirement. Chuck Palm did review the plans and due to the multi use of the building, a sprinkler is required. Overhead utility pole locations should be indicated on the final plans. A new driveway entrance onto Mill Street is required for the parking lot and that approval should be cross-referenced on final plans. Prior to construction, a DPW Trench Permit is also required for the work upgrade to the municipal connections and that Trench Permit should also be referenced on the final plans. Mike Faller requested that a one inch overlay be installed on Mill Street from Maple to Harder Lane due to all the cuts that will be occurring and striping will also be required following the overlay. The landscape island shown in the front of the parking along Mill Street does extend slightly into the Mill Street ROW and that will be pushed back. Final plans shall show the landscape island completely within the property and not on the ROW and granite curbing should be used. Bertholet – That's been changed on the plan. It's recommended the Board consider the drainage concerns brought up by Mike Faller. He noted there is existing drainage that collects from all of that impervious, all of the pavement and concrete that's located there, across the street on Subway and all of that area all drains into one culvert that goes underneath Route 3 and across the street. He noted there were concerns and he would be glad to sit down with Carl and the applicant to discuss that. Bertholet – I talked with Mike Faller today and we discussed all this and I told him I was coming to the meeting tonight and he was confident we could get together and take care of all the concerns that are needed to get that resolved and the paving and drainage issues of putting the water into rain gutters going into a collection system and the parking lot going into some type of collection system underneath the parking lot for drainage on the site. LaBrecque – That is up to the Board if they would like to review any drainage improvements that Mike Faller has recommended to the applicant. I don't know if it affects the site plan and if you guys spoke that specifically but it's something we should probably review the drainage and make sure it's sufficient to address the concerns of Public Works. A parking waiver is requested for 7 spaces. The parking calculation is based on the employees to the commercial units plus the people living in the 3 residential units and the patrons to the commercial businesses. An additional 10 spaces are added as part of this site plan application and a 7-space waiver is requested. The parking demand for the existing commercial unit on the corner of Maple and Mill has slightly decreased based on the original approval. There was a higher parking demand but given the current tenants, the parking demand has slightly lowered, 12 parking spaces were waived as a previous approval so there would be a total of 19 spaces waived

altogether on the site so 7 additional parking spaces would be required to be waived by the Board. The final plans should indicate how the commercial units are HC accessible. There is no indication whether or not there is any loading area; I'm not sure what the uses are going to be. Bertholet – Retail/office type, low impact. If they need goods, they come right through the front door like my other tenants do in the other building. LaBrecque – A landscape plan has been submitted and a substantial amount of plantings and shrubs are proposed and a few trees. It would be nice to see some landscaping up by the building just to soften the façade of it. The building and parking lot lighting details would need to be submitted and shown on the final plans, cutoff fixtures are encouraged and given there is a residential neighbor, special consideration should be given. We've seen commercial lighting shining into residences. Bertholet – The lighting would be similar to the lighting used in the parking lot now, the same type of fixtures that were approved before and would be consistent with the rest of the site. LaBrecque – There is a plan note regarding signage. I discussed this with Bill and in this district on this side of Route 3, a total of 32 sq. ft. of signage is allowed per commercial tenant so that note should be revised on the final plans to state that. There is no indication of outdoor fuel supply. Bertholet – We would be putting in a propane tank probably at the back of the building. LaBrecque – Final plans should have the propane tank location and final signoff by the Fire Chief to ensure it meets his standards. No additional dumpsters are proposed on the plan. We made a site visit the other day and noticed there were a few dumpsters there so I didn't know if you wanted to expand on that given there is going to be additional commercial units there. Bertholet – I'm going to get rid of the 3 smaller dumpsters and merge them all into one bigger one and put a fence around it. A Performance Guarantee is required to satisfy the connections to the municipal sewer, water, road restoration, site stabilization. A unit cost estimate is required to be reviewed by staff. It's up to the Planning Board whether or not they would like to review that Performance Guarantee and set the amount or we can do that administratively. It should be posted by either cash or Letter of Credit. Prior to final approval, evidence that Lot 142 and 144 have been merged given that the improvements and the building are on the existing lot line. A Building Permit is necessary prior to demolition and a Demolition Permit is required. A specific layout of the floor plans should be reviewed by the Fire Chief prior to issuance of a Building Permit. I'd like to recommend to the Board that we consider a site visit potentially to look at the drainage or potentially we could work out those drainage concerns the DPW has through a meeting with Carl and Mike Faller. Vadney – One thing that struck me in her comments was the waiver for a larger parking waiver. I just hate to get us into the position where we start giving a waiver and then we increase it because the current tenants aren't using it, what happens when the next tenant does use it and it doesn't come back to us in some way that we can have a handle on it so that's at least a concern for me. Kahn – You've just answered my question, now we're talking about a parking waiver of 19 spaces. We did something like that with the Meredith Shopping Center with respect to the movie theater and maybe the parking waiver has to be conditioned on who the tenants are and it will disappear with a change of tenants. Come back and try another parking waiver. Vadney –

And that waiver even had another facet to it being the hours of operation. The theater seems to be out of sync with the shopping center and things. Kahn – I think here you have an emergency vet. Bertholet – Right now, the parking lot isn't even totally halfway utilized. It's never full. As far as the vet goes, there are usually only two cars there and they rent 4,000 sq. ft. of the building. Kahn – That's the point, if the vet goes and is replaced by something that's really hot and brings in a lot of traffic, why did we give you a 19-space parking waiver. Bertholet – Then I've got to come back to the Board for a change of useage. Vadney – Not necessarily, we'd have to build that into it. A lot of changes of tenants take place at Bill Edney's call and we never see them. LaBrecque – A change of tenancy or a change of use for the emergency animal care facility would require site plan review given it's not going from an emergency animal care facility to a vet's office. If it were to be retail that would require a site plan amendment. Bayard – I think probably a site walk wouldn't be a bad idea, I can't see this thing going forward as is, there are just way too many loose ends at the moment. I'd like certainly for a lot of those loose ends tied up with some time for staff to review them and make sure they meet their needs. I didn't find the lot coverage on here which I think is a bit of an issue. LaBrecque – It's at the top. Johnson – I could address that, Mr. Chairman, essentially there was a little bit of lot coverage availability left over when we had the facility in the front, when we merged the lots we totally recalculated configured in all the existing limits of the pavement and when I moved the building back it actually increased a little bit of lot coverage because we moved all the parking and pavement with it so what I did is when the landscaping area was widened in the front that made up some of the difference and I also tweaked some of the parking and radiuses which still are much more than adequate for minimum returns but that resulted in a net wash of moving the building back so we're right at the 65% by calculation. Vadney – Sixty-five percent (65%) is allowed. Johnson – 65% is very deceiving and I think if you had a print that colored in all of the non-pervious areas of it, you'd have a better sense of it but it is actually based on a lot area calculation. Vadney – There's this concern here I think we all have it to a degree that we're building another Shep Brown's or blivet so to speak, very, very crowded so I think it's something we need to look at very closely when we do a site walk on it. Bayard – We were talking about adding additional parking and I'm not sure you can. Vadney – One additional parking space being impervious would flunk it. Edgar – Rusty, are you going to hang up the building elevations before they wrap up? Bertholet – The new building is designed to basically look like the other building to fit in as a complex and not just a building so it's very similar to the other building. (Displayed pictures of the other building) I had a little more leeway with this building because it's starting from scratch vs. the old Harley Shop where we had to work basically with what we had there so it's a little bit more detailed building but its designed to look similar to the other building so they look like they belong together. I'm trying to make it look like a complex with the buildings, landscaping and the parking. The existing house is pretty dilapidated and needs a lot of work. Vadney – There's no question the work you've done on the Harley Shop is close to miraculous and has been a great addition and I certainly appreciate that so I'm sure this next one would be well done. How does

the Board want to continue, site walk, continue to a date specific? Bayard I'd kind of like to do a site walk, I know its not a huge property but... Vadney – I think its good to do because of how crowded it is and get an idea of what the offsets are and what its going to be like. Sorell – Am I thinking right that both of those houses are going down or just the one? Bertholet – Just the white one. The yellow one is a different property so that would stay. Touhey – I just want to talk about signage. I find the sign that you have at you present building is very attractive, will there be any signage on the Route 3 side of the building. Bertholet – The signage for the new building will be right above the little roofs, the same exact signage that I have on the other building so they all look the same and everybody has the same amount of signage. On the other building they are all the same shape and the same size so they are all uniform. Touhey - So the answer to my question is no, there will be no signage facing Route 3. Worsman – Did I hear correctly that you're looking for a waiver on the height limitations? Bertholet – No. Edgar – The submittal date for the next cycle was yesterday so we'd be looking at essentially a month's continuance so it would be the 2nd Tuesday in April, (4/8). Bertholet – Can it be done sooner than that? I've got to go through the ZBA and everything else, this process takes forever and I'm trying to get going. Edgar – Well, it all starts when you start it. If we have drainage issues I haven't had the benefit of any of the discussion with Mike and if we start putting basins underground and all that kind of stuff, there's a design component to that that's just not going to be done on the back of a napkin so I don't know because I haven't had the benefit of today's conversation between the folks as to what some of the ideas are so it's kind of hard to say if this is just take a look and come back and see exactly the same plan, you can continue it to the next meeting. I can't represent from a staff point of view exactly where we'll be because I don't know the degree to which we have any additional information submitted so if you want to continue it to keep the ball rolling, we don't have a log jam of a lot of stuff for the next cycle but I just want to be clear depending on what we have to look at it would take a little time to (a) to develop and (b) to review. Vadney – I think we ought to do it right rather than just bring them back next time and have to come back a third time so Tuesday the 8th of April would be 2 meetings away, the 22nd would be 3 meetings away. Johnson – Could I ask a technical question, I'm always a little bit confused about the process of going to the Planning Board first for site plan approval and then going to the ZBA to ask for permission for what you want to do and its worded kind of funny, it doesn't say you need final approval, it says written approval by the Planning Board must be on file prior to making the application or something like that. Is there a mechanism whereby we could get to the next zoning because they only meet once a month and what Mr. Bertholet's pointing out is if it gets continued to the April meeting, we wouldn't meet the May meeting and he wouldn't be able to pull a Building Permit until June. If there's some way we could get this to the ZBA for just acting on the multi-family and the parking while you tweak the site plan I think that would resolve his issue in terms of timing. He doesn't want to force you into making a decision sooner than you want to, it's just cumbersome getting to the ZBA. Edgar – There could be various strengths or weaknesses to the conditional approval, in other words if you felt desirous of expediting it, you could conditionally

approve it tonight subject to a compliance hearing on all the drainage and stuff comes back at a compliance hearing but its sort of skirting around. At this point, our understanding of the drainage issues and your comfort level on the parking so obviously those issues are open ended and if you were to grant some kind of conditional approval, its got to be clear that its pretty much for the purpose of going to the ZBA and you need to retain your review of those issues so that's a comfort level thing for the Board Carl but typically from what I can recall its always been some form of a conditional approval so if you were to do that tonight, I think at a minimum you would want to have a compliance hearing to determine the parking issue and to review the drainage issue. Vadney – I didn't hear a comfort level that would lead me to think that we wanted to give a conditional approval tonight. Edgar – I wasn't suggesting that, I was answering Carl's question. There's enough question in people's minds I think to want to see the site and there is a question about the parking and that street has been problematic if there's no parking and they start parking in the street, its very narrow and I think we need to look carefully at that. Bertholet – I don't see people parking in the street there over where I am. Vadney – We want to make sure they don't, they used to. Edgar – I think the operative word is some form of approval that's how we've looked at it and at a minimum, a conditional cuts it loose. We never interpreted that as being final approval, it's at least some form of approval from the Board. Vadney – I don't know what other kind of approval we have, other than full or conditional. Bayard – I'm not ready to approve it, there are just way too many things that haven't been completed on it as far as I'm concerned. I'd like to go out and make the site visit. I'm not saying that we need to necessarily make the building smaller but to some extent when we start getting into these crowded situations, it always becomes a building thrown in front of us and saying how can we maybe fit one more spot in for parking, etc., when in some cases, maybe we have to say the building gets smaller. I don't think it necessarily has to be that way in this case but I think that's still an open issue in my mind as to whether I would approve this at this size so I don't think I'm ready to do a conditional approval at this point. Bertholet – Any building that's smaller than that isn't feasible for me to build so that's the bottom line for me monetarily, that's the minimum size I can get any return on. Bayard – I understand that but right now I don't have a comfort with approval and I don't think you want a denial at this point. Vadney – What are the dimensions of the footprint? Bertholet – 3,200 sq. ft. per floor.

Bayard moved, Finer seconded, I MOVE TO CONTINUE THIS HEARING TO APRIL 8, 2008, AND SET UP A SITE WALK ON SATURDAY, APRIL 5, 2008, AT 9:00 A.M.

Voted unanimously.

PUBLIC HEARING

3. **CARL JOHNSON FOR 38 MAIN STREET, LLC:** (Rep. Carl Johnson)
Architectural Design Review of a proposed renovation to an existing commercial structure on Tax Map U07, Lot 131, located at 38 Main Street in the Central Business District.

You probably remember this property located at 38 Main Street and are back before the Board Architectural Design Review. If you recall during my last presentation representing 38 Main Street, LLC, this property has been a rather dynamic property in the past couple of months and it still continues in terms of people coming and going and a reconfiguration of the multiple uses of the property. What we're here for tonight is an architectural design review of an expansion of the building which was actually included as part of the previous plan approval by the Board the last time around. I have provided some photographs and the first photo to note on Page 23 indicates the area to be enclosed. The footprint of this building in terms of the outside walls is not going to change, there is an existing structure that's above where this addition is being popped out and this addition is being made to increase the square footage of Unit 3 which is a very small retail space so you can see by what I've indicated in that photograph is that is to be bumped out and a window added on that side of the building. The architectural structure, the siding and whatever will be the same as the existing building. The window types will be essentially the same with shutters. Most of the windows in the building are old so they will be new windows similar in nature. The other component of the architectural design review you can see in the photo on the upper left and lower right where the doorway that enters that unit is going to be relocated from its current position to a new position which is facing the walkway and then there will also be a bay window added in that location for display of jewelry. When the doorway is relocated, the siding where the old door is will be clapboard siding put back to its original form and location so there's two components to the architectural design review. It's a very minor change, it's a change that doesn't increase the actual birds eye footprint of the building, there's no additional things sticking out with the exception of the bay window which sticks out a little bit more but its within the existing setback of the building which is nearly "0" at one end of the property. We don't have a real formal application dealing with building mass and orientation and all those elements involved in the ARDO because this is basically a small addition to an existing building and the materials are going to be the same.

Vadney – The last warm day we had I walked that site and I was somewhat concerned that the bay window sticks out into that walkway, it's pretty narrow. How big is this bay window going to be? Johnson – It's about 6' across. Vadney – How far out from the house. Johnson – It's probably 9 inches. LaBrecque – Mr. Chairman, if you look on Page 24 of your packet, there is a spec of this bay window they are proposing and right underneath the price it says size.

Vadney – Because there's a walkway that goes on to further entrances. Johnson – It doesn't come anywhere near that and you have a porch if you look at the photo, there's a porch that sticks out and the walkway goes in front of that porch so that

wouldn't be interfering with the walkway at all. The door that's to be relocated, they are not relocating that same door, it's going to be the same as an existing door already on the building. Touhey – The door will be opening out, right? Johnson – I believe it has to open out. Touhey – So it will open out into the walkway. Johnson – The walkways actually quite a bit further away, the nearest edge of the walkway is about 9 feet from the edge of the building so the door's about 30 something inches so there's still quite a bit of room. Actually, there are two walkways, I'm thinking of the walkway that goes down to Mill Falls. Vadney – I'm talking about the one that really belongs to this property. Johnson – That would open out into that walkway. I could clarify whether that opens in or out, I think it opens in because the other doors open in. Touhey – Is that according to fire code? Johnson – I believe it is. Vadney – Do you want Bill to look at that walkway, I just don't want to end up with a bay window that sticks out into a walkway. LaBrecque – The area where the bay window is going right adjacent to the building, there is some landscaping there from what I've seen. Johnson – The answer to Mr. Kahn's question is that the building is encroaching on the setback to a greater extent at the back of the building than where this occurs so you're allowed to expand a non-conforming structure up to 400 sq. ft. if you're not getting any closer by matter of right so there is no setback issue. (inaudible) LaBrecque – The way the window is depicted here on the photograph on the bottom right, it appears to be a little bit higher and thinner than the actual dimensions shown on the next page. If the window is more than 4 feet high you're not going to hit your head on it. Vadney – You're not going to be able to see jewelry in it either, it will be lower than that. Bayard – There's something back there behind the fence. Johnson – Those are propane utilities and they will be relocated. As dynamic as this project is, I believe that construction's begun, I believe a building permit was issued under the old site plan. LaBrecque – The old site plan was amended to reflect this little enclosure, it's not really an addition because it's under an existing structure up above. There's a patio there right now, all it did was enclose 180 sq. ft., it did not affect the parking demand that was reviewed at the hearing. No back entryway is being permitted so that it does not encroach into the driveway in that alley between the restaurant and this building. No additional lighting was being permitted to reflect on those residential neighbors up above so in effect this 180 sq. ft. is becoming part of the unit that is already there and didn't have that much of an impact. These meters and the propane are not in the area that's being enclosed. Vadney – My guess is they still have to be relocated.

Finer moved, Bayard seconded, MR. CHAIRMAN, HAVING FOUND THAT THE PROPOSED DESIGN DEMONSTRATES SUBSTANTIAL CONFORMITY WITH THE GENERAL AND SPECIFIC CRITERIA SET FORTH IN THE ARCHITECTURAL DESIGN ORDINANCE, I MAKE A MOTION WE APPROVE THIS. Voted unanimously.

PRE-APPLICATION REVIEW

2. **PAUL AND BETH EULER FOR OMNI SIGNS** – Pre-Application Conceptual Consultation to discuss a home occupation in a proposed garage on Tax Map S25, Lot 27G, in the Residential District.

Paul Euler – We are looking to build a 30' x 40' garage on our property. We've downsized our sign business (Omni Signs), we're pretty much out of the commercial sign business and we do basically art work, design work and truck lettering. I'm not involved with the sign business anymore; I work in construction so it's basically my wife's home business. The crane trucks and all the other stuff that we've done in the past is all gone, it's just basically inside. I think 25% is the total square footage of existing buildings on the property that's allowed for a home business and will meet what we're looking for with this size building. We're going to do the driveway off the existing driveway. Euler – The property is the first lot on the left as you pull onto Wall Street off of Waukegan Street. It's in the wooded area just off of Waukegan Street between our house and Waukegan Street. It's pretty much a lot of scrub trees in there, we're going to leave the trees along the road to cover the building and the building will basically look just like the house, same siding and same color. Vadney – That would be built out, go from your house past the leachfield to the new building. We originally talked about a different access point but we're not going to do that anymore. We will take the existing driveway over the culvert and veer it off to the left. I worked with Mike Faller on that and that will work just fine. Signage will be no more than 6 sq. ft. Our business is basically internet and word of mouth so it's not as commercial as it used to be. LaBrecque – This sketch that was submitted, this is a garage and within this garage you'll have your own sign shop home occupation right. That's the 30' x 16' area and the rest will just be your own garage for storage. Edgar – Paul, when you submit the application just make that note on the plan so that matches your calculations. ?? (inaudible) Edgar – No, for home occupations we try to provide a lot of deference to folks so you don't have to spend significant money to get started. The office space itself is just going to be that small area then? The concern is that the other space I don't think because of the size and all just couldn't be the storage space for the signs after they're built. Euler – No, we don't really store signs. The size of the building is basically for the recreational rowing equipment. We basically do truck lettering, job site signs and sign layouts and we do the inn signs which are carved wood signs. Edgar – The sketch shows a bathroom. Are you building a new leachfield or tying into the old one and if you're tying into the existing one you need to demonstrate that you've got the capacity. Euler – I guess I need to talk to Bob about that because the Town sewer ends right there. My house could be tied into it, but we're far enough way on Wall Street that we didn't have to. If we can do the Town sewer that's what I'd do. Vadney – As a general rule the Board has been very receptive to people doing home occupations and this looks fine. I think everybody has given a nod for it and I'd say go ahead. There will be no outside storage. The thing there is we are obviously in the Waukegan Watershed which I'm sure you guys are real sensitive

to and the Board typically goes to great pains to make sure we don't inadvertently just create (inaudible) and if you're thinking in a generic context of sign making that could involve paints, solvents and whatever else so that's something we would work through as we develop your plan to make sure we have the adequate precautions and keeping in mind that this approval runs with the land and at some point you and your wife could sell the property and we want to make sure the ground rules are clear for someone else if they were to inherit the approval and to advance some kind of a shop function. Discussion closed at 9:52 p.m.

Meeting adjourned at 10:05 p.m.

Plan Signatures: Bruce Vaal and Satchel's Realty Trust – BLA

Respectfully submitted,

Mary Lee Harvey
Administrative Assistant
Planning/Zoning Department

The above Minutes were read and approved at a regular meeting of the Meredith Planning Board held on _____.

William Bayard, Secretary