

PRESENT: Bayard, Acting Chairman; Finer; Kahn; Bliss; Touhey; Edgar, Town Planner; Harvey, Clerk

Bliss moved, Finer seconded, THAT THE MINUTES OF MARCH 14, 2006, BE APPROVED AS PRESENTED. Voted unanimously.

Finer moved, Bliss seconded, THAT THE MINUTES OF MARCH 18, 2006, (SITE INSPECTIONS WALDRON & DUCHARME) BE APPROVED AS PRESENTED. Voted unanimously.

APPLICATION SUBMISSIONS

1. **NORTHEAST SELF STORAGE, INC.** – Architectural Design Review of a proposed addition to an existing commercial building, Tax Map S23, Lot 60, located on Enterprise Court in the Business & Industry District.

Applicant proposes to add a 300 sq. ft. addition to an existing 600 sq. ft. manager's apartment at Northeast Self Storage. The Planning Board has previously approved the site plan including the apartment. There is no change in use and no site development associated with this application. Application, building elevations and abutters list are on file. Filing fees have been paid. Recommend the application be accepted as complete for purposes of proceeding to public hearing.

PUBLIC HEARINGS

1. **KEVIN JOHNSON** – Proposed Site Plan to construct a 1,564 sq. ft. garage/hobby shop to establish a Home Occupation, Tax Map U06, Lot 6, located at 137 main Street in the Residential District. Application accepted 9/13/05. Application tabled 9/27/05.

This application was tabled 9/27/05. The Board must vote to take it off the table.

Finer moved, Bliss seconded, THAT THE ABOVE-REFERENCED APPLICATION BE RE-OPENED FOR PUBLIC HEARING. Voted unanimously.

Johnson – I just reviewed this summary that was given me. It looks like there's a little notation about.. Edgar – Kevin, why don't you maybe just back up and advise the Board of what's transpired since you were here last. At the last hearing, the home occupation square footage hadn't really been determined and going by the plans at that time, I came with what the numbers were and I tried to go with that, but the Zoning Board because it

required a Variance, that didn't work so to maximize what my possibilities are here which actually opened up another door to upgrading my home itself. In addition to building this garage, I've proposed the idea to, the condition of my garages, the four garage spaces I have are old and I've always wanted to do something with it so I decided to take them down and add 3 feet to the front face of the garages across the whole front which will basically give you a 25' x 40' base for the garages which adds an additional 120 sq. ft. and then add an addition to my in-law apartment to the second floor of the garages themselves which adds another 1,000 sq. ft. to living space in the in-law apartment. With those numbers, I would be able to build a 1,564 sq. ft. garage which is pretty much what I can use, I believe it will be big enough to work with. The plan that I presented before earlier was for a larger garage with second floor space, but the home occupation square footage doesn't, those numbers don't work with that size so I scaled it down to what I believe is good for me and is what I would like to do. It would be a one-story garage, a front garage door, a back garage door, a basic pitched roof to match the idea of what's on the other structures of the home and at this point, the home occupation square footage comes in right within the limits of 25%. Another issue was there was some buffering that was suggested is the idea of a fence and initially I believe that it was the north side of the property and the west side was suggest to have fencing and I've noted that in the site plan, but I've added another section of fence on the south side because for all intents and purposes when you come up from Mill Street to Main Street, you can literally look between Old Mill Construction and the apartment house they have and you can see right in my back yard and to be honest with you, you know I can understand putting the fencing up, there's trees here and there's trees there and there's houses not too far away, but it would seem to me almost more important to have a fence here also so I included that. I guess the idea of what kind of fence maybe would be appropriate to open for discussion, but I don't know what more to suggest from that at this point, but this idea I think is something that would be good and would work. Edgar – As Kevin has indicated we had a hearing back on September 27th at which time the application was tabled pending the resolution of the issue of the size of the home occupation because it appeared to be in excess of 25%. And as Kevin has indicated, the combination of making the housing a little bit bigger and the garage a little bit smaller, he was able to juggle the numbers to come at 25%. That has been reviewed and determined to be acceptable by Bill Edney. At the bottom of Page 51, I'm just flagging there's maybe a holdover plan note or something, but plan note #14 that refers to 1,650 sq. ft. of home occupation and note #20 is the actual calculation at this time of 1,564 so that's something that Kevin needs to reconcile on the final plan to be consistent. Johnson – At the last meeting I had with them, we ended up shortening the size by about a foot and I didn't make the note in this part here, I can alter that with no problem. Edgar – We do need the driveway permit which when

it's issued would be added to Note #12. Johnson – I believe I filled an application out. Edgar – I think it may have been filed. Typically, that's a condition of approval, it's not something that needs to hold everything up from moving forward, but the final plan needs to refer to the permit. Edgar – With respect to the landscaping, I don't know and help me if I'm interpreting this right, the notations you have relative to the fence, is that 10', are you proposing a 10' high fence. Johnson – That was what I heard in the discussion I thought about the height of the fence. Edgar – He is calling for a fence, basically what I think was the Board's suggestion, but I just want to make sure that you're on the same page in terms of what it would look like and that kind of thing. A 10' fence seems a little tall, isn't it? Finer – What does zoning require for a fence? Edgar – Basically, the zoning I believe gives the Board latitude relative to what fence heights you need to accomplish for site plan purposes. Bayard – It seems to me at one point, we did look at fencing and increased it from 6' or 7' to 8'. Six (6') feet is the norm, but you could grant higher heights under your site plan authority if you felt it was necessary. I think there's a legitimate concern about some of the storage that could get screened, but on the other hand we don't want to create something that is just completely out of character in the neighborhood. As the site plan indicates and the zoning indicates, there really shouldn't be any outward appearance of a home occupation, we're sort of using the fencing to help mask some of the storage that might go with this project. At the same time, you don't want it to look like a prison compound or something that would be very much out of character with the residential district. I just flag that so that you know and you may want to reconcile what type of fence and the size of fencing and what you think would be appropriate given the discussion you had at the last meeting as far as the fencing is concerned. Johnson – If I might interject, I look at the property fairly regular, the actual back, the west border, has got a rock wall there and it sort of grades up somewhat to this corner and then it fairly levels out coming down somewhat, down to here. An 8' fence would work fine through here, I believe, 10' would probably be more appropriate over on this side, it's just my personal opinion. Bayard – I noticed there's a rock wall on that, does that increase the elevation a little bit or is that just a rock wall, sort of a freestanding wall? Johnson – It's a freestanding rock wall, but the actual grade, when you look at Main Street from my driveway towards Waukegan Street, it is an uphill slope and it sort of starts pretty much flat from around this corner by Old Mill Construction and then it starts creeping upwards and you can see it when you look in the back yard there. A 10' fence would actually, if you're going down the street, you might see it, actually if it looks like it goes really high. Edgar – This is probably a 10' ceiling in this room. Bayard – In my own opinion, I think that's more than should be needed in most any case unless you've really got a view down on something and even then, the neighbors have got to look at it too. Finer – You're going to be looking down on that property no matter how you

approach it. Bayard – What type of fencing were you considering? Johnson – I was thinking the typical picket style, 3-3 ½" slats come to a peak. Wooden? Johnson – Wooden. Bayard – I assume an 8' fence would cost less than a 10' fence. Johnson – It was just an aesthetics thing. Technically, actually I would actually be inclined to try find an even horizontal sight line across the back and alter the fence on the bottom as necessary to account for the difference. If it were a 2' difference, that would probably work. It would probably start out about 10' in the southwest corner and maybe transcend a little a little bit shorter, but it wouldn't be in the height, it would be in the bottom because it grows, the ground grows. Bliss – I missed the site walk but I guess one of my concerns with a picket fence is that's not really much of a buffer to the neighbors if that's what we're looking for. You guys did the site walk, I'm not sure along those lines, I mean if you've got a picket fence, you are going to look through the things. It's going to look nice for sure. Johnson – The thing is solid. Finer – Stockade fence. Bliss – And I would agree that I don't really think we need it 10 feet. No public input. Bayard – Personally, I do find 10' an extreme. Bliss – Mr. Chairman, is everybody happy with the 8 feet or is that even too high? Touhey – I'm content with the 8' idea and I think you know, you're tapering it in such a way that it compensates for the elevation change along that back line by going from 8' down. If the fence is higher, if the terrain is higher, you're still going to get kind of that 8' across that lot line and I think that's what we're hoping to achieve. Finer – I would say a maximum of 8 feet. Bayard – What would you propose for the neighbor who's fairly close in the north direction? If we did go with a taper, would a maximum of 8 feet end up being around 6 feet in that area. Johnson – Approximately right here, yeah, I imagine it would be and that would carry over onto.. Technically, my north side neighbor, the south side of his garage is actually right on the line. Their driveway's the boundary line and their garage is approximately right here so the garage on the back side is not all that great to look at and he asked my permission to put up a piece of stockade fence which he did crossing right here so pretty much there's a buffer from there and this fence will come all the way up to here (see plan) and he's got a bunch of firewood stacked there so I don't think it would be much of an issue. Touhey – Your proposed garage, the access to the garage, there's going to be a roll-up door and where would that be? Johnson – There would be a 12' x 10' garage door here (front), but I imagine something close to that size in the back just for simple access to the storage back here. It would make sense to not have to go out around to put something out there to keep it out of the way. Touhey – John, what is the coverage on this lot and what is allowed? Edgar – It's noted on the plan, Ed, and he's received a variance from the Zoning Board of Adjustment. Bayard – I know there were a couple of cars that were kind of off on the side, are those going to be removed? Johnson – I presently have a Camaro and a GMC Jimmy. The Jimmy I'm putting up for sale as a spring fixer upper. I was going to fix it to

sell it, but I'm just going to put it out for sale. With the garages redone, I can stick the Camaro inside. There's actually two of them that I have. I'm getting rid of one and I'm keeping the other because it's more valuable, but it would be garaged. Bayard – So you are not planning on having them in the back? Johnson – I've got a small trailer, I've got a boat, there's enough stuff and my focus is to really just get this built and get out of two mortgages because that's what my rent is like to operate where I am right now. Finer – When this is done, the storage trailers will go? Johnson – The storage containers, yeah, I'm sick of looking at them, but they're just a necessity for, ones got building materials in it and the other's got some overstock from the business. Touhey – Is that something we can put as a condition? Edgar – Prior to occupancy. Removal prior to occupancy. Allow him to build his structure, get his stuff out of the units. I think it's probably not essential because I think that was the condition of the temporary permit that Bill has given him to do that, but it can't hurt to reinforce it.

Bliss moved, Finer seconded, MR. CHAIRMAN, I MOVE THAT WE APPROVE KEVIN JOHNSON'S PROPOSED SITE PLAN TO CONSTRUCT A 1,564 SQ. FT. GARAGE/HOBBY SHOP TO ESTABLISH A HOME OCCUPATION, TAX MAP U06, LOT 6, LOCATED AT 137 MAIN STREET IN THE RESIDENTIAL DISTRICT, SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) #14 ON THE PLAN IS CHANGED TO 1,564 SQ. FT.;
- (2) THE DRIVEWAY PERMIT SHALL BE CROSS-REFERENCED ON THE PLANS IN NOTE #12;
- (3) THE PROPOSED STOCKADE FENCE SHALL BE A MAXIMUM OF 6'- 8' IN HEIGHT;
- (4) PRIOR TO OCCUPANCY, THE STORAGE CONTAINERS SHALL BE REMOVED FROM THE PROPERTY; AND
- (5) THE PLANNING BOARD RESERVES THE RIGHT TO REVIEW ANY APPROVAL AS PROVIDED FOR IN SITE PLAN REVIEW REGULATIONS #7 AND #17.

Voted 5-0 in favor of the motion.

2. **JAMES AND JANET WALDRON:** (Rep. Harry Wood) Continuation of a public hearing held on February 14, 2006, for a proposed Major Subdivision of Tax Map R09, Lot 15, into three lots (2.66 ac., 9.1272 ac. and 16.6669 ac.) located on Corliss Hill Road in the Residential District. Application accepted January 10, 2006.

Mr. Waldron proposes to subdivide his property into 3 pieces which you've looked at once before at a preliminary hearing and I believe you had a site walk since then. Lot #1 would encompass the existing Waldron residence,

which has municipal water, and also a State approved septic system. Lot #2 would be the balance of all the land between Hatch Brook and Corliss Hill Road and that would be running 8 ½ acres or just a hair more. That's been reduced slightly from our last discussion because there was a wet area in the front of Mr. Waldron's yard which we remapped and determined the size of it. It was not flagged when we did the original work and wasn't noticed as a result and we added land to the back of the property in such a way that it would offset the wetlands in the front and that resulted in Mr. Waldron's lot going from 2.6 to 3.1 acres approximately. There's additional comment with regard to that which John will address later and then I'd like to speak to that also with regard to that wetland. The third lot is everything which is West of Hatch Brook and it has frontage on Meredith Center Road. A couple of items that were discussed during the last hearing, one was the access here. There was an indication when we met with John and the Fire Chief with regard to the access for this lot and I think that that has been put to rest as far as this particular proposal goes. The other thing that was of concern was the narrowing down of the entranceway into Lot #2. There was a sequence of events which transpired from the time that this subdivision was conceived until such time as they actually got here with it and it resulted in a constriction at this point which John indicates in his review approximately 15 feet in size. It is level ground in that area, it's not difficult to get through the space, there's adequate room for surfacing for a driveway, paving the driveway and you don't get outside the area at all. If it were excessively steep, obviously it would be a problem but I think for a single house lot, I think it's adequate. There was some discussion about future plans and I think it has been noted that the Board said they probably wouldn't entertain any further development of Lot #2 unless something were done about the entrance, but for a single-family, it should be adequate. I did visit the site after you made a site walk, I'm sorry I didn't go on the site walk, it might have been helpful for you, but I did go back with John at his request and we looked at several things, that was one of them. The other one we looked at was the clearance on the driveway coming up from this side and that pretty well summarizes that. I have added to this copy that you're looking at 90% of the comments which John indicates in his staff review should be plan notes. The two that aren't filled in yet are the NH Water Supply & Pollution Control approval number and the State of New Hampshire Driveway Permit for Lot 3, both of those are still pending and we would have to add those and consider them a condition on any action you might take. The test pit data, the test pits are numbered in this area. There's 4 here and 2 on the last lot. They do have municipal water on Lot #1 and it's anticipated that there will be municipal water on Lot #2 and I would mention there was some investigation going on as to which side of the road the water main was on, but I think it's a moot point because at the time that Mr. Waldron made his connection, he put in a 1" main with a 1" line which is sufficient for two residences. Normally, you'd have a ¾" supply

line and it would only do one, but they increased the size of it and that's already in and across the road so regardless of where the service is, it would just be a connection to that. We would have to submit an easement for staff to review with regard to the common use of the driveway. There's already a road cut there and we don't think it's worthwhile having two and so there would be an easement to Mr. Waldron to come across the corner of what will become the frontage of Lot #2. Mr. Waldron has sufficient frontage, he can build another driveway but that hardly seems desirable and we would be within the limit of two driveways or two residences on a private drive so it's probably better and safer in this instance not to have two driveways and, of course, we have to set the pins. Bliss – Harry, I'm curious how you think you can get two driveways in there where it goes so close to that garage without getting into the corner piece of the other?? Wood – Mr. Waldron will come in the entrance, but he'll depart the driveway onto his own property before he gets to that restriction. There's a telephone pole shown on your plan right between the two driveways. Bliss – So when you say two driveways, you're not talking about two driveways off Corliss Hill, you're talking about one? Wood – One cut with a fork and basically that telephone pole will divide them. One will go to the left of it, the other one will go to the right of it in the future. John's got a couple of pictures there, which when I drove him in I drove my car right down the driveway and right through the space and stopped and I said there, you've just entered the future lot and then John asked me to stand at the 20' offset from the building and he took a picture and I believe you can see the pin, the vehicle and myself in the picture so it does indicate the space that's there and it also shows you the character of the land in that it's basically flat. Bliss – So you would not be getting into the setback of this abutter right here, the Giroux's. Wood – There's no setback for a driveway normally. Would you need any relief from them for anything? Wood – For fill or anything like that, no? Presumably, if there is any future activity on the lot, they will be involved in some way. Before we submitted this to the Town, they were in a position that they had already verbally agreed to exchange some land with the Waldron property that would have alleviated all of this and about the time we filed the application, the whole thing fell apart. It wasn't in writing so it disintegrated to what you currently have and I can't do anything except tell you what's available for the space there. I think for vehicular traffic to a single-family residence, I don't see it as a problem. Bliss – And there won't be any more cutting of trees in that area in that corner? Wood – No, the trees are already cut and I think that occurred back when they were doing the logging and no one knew where the boundary was at that time. We've set the boundary marker that you saw since then. Bliss – I'm curious, Harry, on how you plan on getting into Lot #3 because when we were out there, I don't see how you can do it unless you cross the brook. Bliss – I'm looking at, OK wasn't there a proposed house down and there's one here, so we looked at one.. Wood – Lot #3, the house is right here on the ridge

and we're not going back. I mentioned in the prior presentation that there was a concept that may result in a further application being submitted for this lot, but we were well aware that if we were to do anything else other than what we've got, we would be involved with the Conservation Commission, Zoning Board for both special exceptions and variances, we would have to go to the State of New Hampshire Wetlands Board for wetland crossings and because of that and the length of time necessary, we said we're not going to do that, we're just going to submit this as one parcel and the house would be a driveway up to a point on the ridge here and that's it for this particular application and that alleviates the brook crossing and things that you were concerned about. We did increase the setbacks on the plan, both for the main brook which is a designated brook and also for something we had shown as a wetland and based upon the testimony of an abutter at the last hearing, I went out and looked at that and there is a flow in it so we corrected the setbacks and John and I saw that again last Friday. It definitely does flow. I was a little confused originally because of the width of it where it was flagged, it didn't look like a channel and so I didn't reflect it as one, but after viewing it, it obviously needs the larger setback required by a brook so we did increase it. That has no effect on the ability to build a house. Bayard – I have a question on where the driveway is, is that pin agreed upon with the abutter? Up where the pin, where the driveway, the 15' right there.. Wood – That pin is the basis of a prior sale of these lots along Corliss Hill Road. Bayard – Because there was some question I think somewhere either earlier.. Finer – The last time you were in, you had a plan that had boundary lines intersecting each other. Wood – Well, that was on the site plan. I don't think it intersected here, but there was a little bit of a foul up on the site plan and somebody commented on it and we've corrected that. Touhey – Were the Giroux's approached at all as to whether they would be willing to exchange? Wood – Yes, as I say back when this concept was being put together for this, they were approached and verbally agreed to exchange property which basically would have been a little bit here in exchange for a little bit there, OK? Probably what we could refer to as a zero net change lot line adjustment and so we started off on the project and we didn't hear anything and I called and they said we've got to go talk to the bank because we have a mortgage here and before we could exchange something, we'd have to talk to the bank so I went to the bank and talked to them and they assured me that there wasn't any problem at all with regard to the mortgage, that that could be accomplished and then the Giroux's met with the bank and the next thing I knew, there was no deal, they weren't going to do it and I think that was primarily as a result of some discussions in the neighborhood which have no bearing on what we're talking about at all, but at the present time, there is no willingness to move the line and I suppose if somebody sat down and started talking dollars, somewhere there would be a point at which they would adjust it, but not at the present time. I will point out that the actual

least distance is not a straight line between the pin and the garage. The narrowest point actually happens between the pin and the lot line. When you get to the straight line between the pin, the garage is actually over 17' that you have so the 15' constriction which is being discussed is actually from the pin on the shortest possible distance to that arc, OK, so it's still the same amount of clearance being represented, but it's not the garage that makes it the most critical, it's just getting around that corner and maintaining 50' radiuses which the Fire Department has asked us to do. I suppose if they could go in there with a straight line, I could get a little bit more imaginative. It wouldn't make it any easier to drive, but it would increase the distance, but you couldn't drive it to the corner so it's kind of pointless to do that so we maintained the radiuses so that a fire truck or long bodied vehicle can drive through there also without any difficulty. The widest vehicle that's going to go in there is 8 feet, that leaves 3 1/2' on each side without even crossing the property line so it should be more than adequate for a single-family driveway. Bliss – On the driveway that comes in off of Meredith Center Road, I'm a little concerned about the crossing of that wetland that's right there even though it may be small. Wood – OK, what we have is identified and there's a little bit more space in there that's wide enough for the driveway to go by the wetland without going in it. Now that's an exempt wetland, it's less than 3,000 sq. ft. and as a result it has no setback so we can go up to the edge of it as long as we don't fill it. Again, John has a couple of pictures there where I stood on the edge of the wetland, I didn't have my feet wet, and the wall's off to the side and you can see in the picture that there's a space there that you could drive through without any difficulty so initially there would be no corrective action taken on that wetland, we would just drive right by it. If something happens down the road, there may be a change to that, but again that will have to go both to the State and the Town for Zoning Board before anything can be done with it. We're basically using that for a single-family driveway which was the purpose of it being left there originally when this lot was subdivided years ago, that space was left for future access. Bliss – Also, my other concern for that driveway is the sight distance pulling out of there because it's so high on the other bankings around, even if they own that piece of land there, what are you going to do about the abutting neighbors. Wood – What we anticipate from the State because they control that and what we expect is to have to peel that banking back on the south side all the way back to the driveway from the house which is just below us. This individual who has this dwelling used to have an entrance down close to the cemetery and for their own reasons, that was blocked and they moved the driveway up into this general vicinity and now they come in up here going to the house so what I anticipate is where the driveway cut is, the State's going to say, you peel that banking back so when the front of your car's on the fog line, you're not on the road and you're sitting there, you can look back to the south and in order to do that, it's virtually from there to the other fellow's driveway the

banking will have to be slanted down so it goes from the height of land down to the bottom of the ditch without doing what it does now. Right now it comes right up 2 ½', then it goes back level to the woods and that would just change the shape of that so you go back towards the woods where the edge of the ROW is and just make it an even slope down and then when you're sitting in your vehicle, you'll be 3' above the ground and you can look down in that direction. Bliss – Is it going to affect that telephone pole at all? Wood – If they have to, they move it, that's up to the utility company and whatnot. Right now that pole is far enough off the traveled way and there is a ditch in between so I don't think it's going to become a safety issue as long as we're 8' off the traveled way, it's perfectly legal from that standpoint and not a problem as far as either the State Highway Department or the Power Company. Bayard – I do somewhat agree with Pam's concern that, obviously, in that one direction was the direction that had the worst visibility of the two. It is a fairly high-speed road, even though perhaps it shouldn't be. Edgar – It is subject to State DOT permitting and their standard I believe is 400' in each direction. We would also have to demonstrate that on the plan for the permit to be issued. Touhey – On Lot 3, what are the maximum grades that you're going to have on that driveway. Wood – Less than 10%. You will notice that we kind of took a detour here so we could pass between these two hills. We came up, we stay essentially to the left of this crown, if they do something different in the future, there would be a town specification turnaround at that point and that hill would be gone completely. The top of it wouldn't be there. Bliss – Are you taking that big rock away? Wood – No, the big rock is on the neighbor's property. Wood – I like that too, Pam. I took it in and showed John that, he wasn't quite as excited as I was, but we're passing off the top of the crest there, these are 2' contours so we're passing a couple feet below the top of that and then we're between this one and that one which are substantially higher, but that will allow us to come in pretty close to being pretty much a level run right around there, but it's about 10% at the worst coming up from down on the road and that's right in this area. That was a concern of the Fire Department also, so we had to figure out what it was and they were satisfied. There was also an issue up here on Lot #2, originally we had the driveway going down below this drainage that comes out of the exempt wetland here and we went below it and back up to the house and they felt that would be excessive grade so we simply changed it and put it behind the house instead of below it. Bliss – I'm going to throw something out there. Because of the driveway on Meredith Center Road so close on Meredith Center, any way that the applicant will make a condition of no further subdivision on this other part where it's buildable area out here? Wood – No, he would not agree to that at all, but he would have to demonstrate to you that it was adequate when it comes back. We also have to demonstrate to the State and he'll have to make whatever improvements are required if he's going to do that so I'm looking at that as a non-issue at this time. We are filing for one lot and

that's what the use will be unless you see us again and if you see us again, we will have to have made some changes there because of that situation. I think that the permit that we obtained for the individual house driveway is going to go a long ways to making things much different than what you saw on your site walk. As I say, what I see is that banking being peeled right back all the way down to the neighbor's driveway and that's not affecting the neighbor. Bliss – I hope the neighbors realize that too. Wood – Well, they don't own it, it's in the State ROW so I don't think that's an issue. It would probably help them, too. They would be able to see better themselves, but we won't be on their property at all. Edgar – With respect to the wetlands, I'm certainly not a wetland scientist but my guess is that first small wetland coming in on Lot #3 is relatively low value, it's very small, it's isolated by virtue of it's size and it's isolation, it probably doesn't have a whole heck of a lot of value environmentally. As contrasted with other wetlands on the property, you go further in you have that seasonal non-designated stream, if there were any development, that would have to get crossed, that would raise an issue. The next wetland up is the next picture I have which very well could be a vernal pool or something like that, it's pretty decent size, you have a picture of that. There are some others, you have Hatch Brook and all those things have buffers and so that's another day, they've taken the Phase I reference off the plan so effectively that little lower value wetland down below is exempt so they have the right to build up next to it. They don't have the right to fill it without a dredge and fill permit, but it is exempt from our setback requirements. If you wanted to see grading or something that would be one thing just to demonstrate that they can fit the driveway through there or the other ones, but technically Harry is correct, it is exempt from the setback requirements because of its size. Here again, just pointing out, so none of this project as its presented in the 3-lot context appears to have any wetland impacts. You've got one up top and they're cruising by this other one down below, but the more significant wetlands that are on the property are not impacted by these two new house lots. In the last staff review, I had mentioned that the septic plan for what is now proposed house 1 had indicated a couple wetlands on it and they were not at the time taken out of the lot calcs. Harry I believe, correct me if I'm wrong Harry, but I believe since that time they had the wetlands scientist go up there, that was somebody else's plan not directly tied to this project, since then they've had Nicole Whitney go out and re-map the area that had been as a wetland on the septic plan. That is a fairly significant change in the sense that on the septic plan it may have been somewhere around 1,000 sq. ft. of wetland and this bold up near Corliss Hill Road that cross hatching is up 15,000 sq. ft., so when you apply the setbacks like you would normally do with any wetlands that are mapped to see the wetland setback runs through the fairly new building, so when Bill Edney was reviewing this, he brought to my attention that there is a process that should be followed covered in statute 674:33-a and it's referred to as An Equitable Waiver of

Dimensional Requirements. This is a fairly new statute where if there have been for whatever reason honest mistakes made or basically, in essence, that's what it's intended to cover. It lays out criteria in the statute as to what may be eligible for this dimensional waiver. We've processed several of them through the ZBA. This appears to be an appropriate candidate so that it clears up any uncertainty as to whether or not something was subject to the ordinance or not. It was something that was mapped at the time at 1,000 sq. ft. by someone with certification. Bill had relied on that, it was given exempt status when the house went in, nobody believed there to be a setback issue, we have subsequent mapping that shows a substantially greater amount of wetland and if we then kind of retroactively apply this setback, it could raise a question about the house that's there so Bill has suggested that that process be followed with the ZBA and it basically says if you meet these criteria, you shall be granted this waiver and then that would get noted on a final plan and just alleviate any uncertainty as to how we got to that situation. It certainly is by no fault of Mr. Waldron or Mr. Wood or anybody else, it was just an unfortunate circumstance. There are criteria that the ZBA has to look at including whether or not there's any public harm created by the waiver and so forth and I think you've all been to the property and, hopefully, with the grade that it's not very dramatic in that corner of the property, it's hydric but it's not terribly significant so that's covered on Page 65 of the staff review. Finer – Would that be needed for the garage too, is the garage improperly located? Edgar – No, my understanding of that is there may have been discussions if not confusion about where the owner wanted to site it in relationship to this future project, but it's not a violation of any sort that I'm aware of, is it Harry? Wood – No, it's not in a wetland setback. Edgar – It may not have been at the end of the day the best place to put it, but it's not a zoning issue. Finer – I thought at the last meeting somebody said it was in the wrong place and it affected where the driveway could go. Edgar – It tightens it down to 15' but it doesn't make it illegal from a zoning point of view so it's maybe unfortunate. It makes it a driveway but not a road. As Harry has indicated, most of the notes have been changed. I just draw your attention to Page 65B on top of that page you'll see the reference to the Equitable Waiver. We like to see when we have the wetland scientist's notes on there, just the date of the field work because sometimes when the fieldwork is done with major snow cover, it might raise some questions as a matter of practice. I do like to see the standard that was done, but the wetland scientists are subject to some other criteria relative to licensure if they do work in the wintertime. The rest of these notes have been addressed. As Harry had indicated, he needs to cross reference a State subdivision approval for Lot 1. Lot 1 is developed with a house and septic, but at the time of it's septic approval, it was part of this entire lot so now to subdivide out a 3.1 acre lot even though it has a septic and well and a house, it will need State subdivision approval and Harry anticipates that in the note section, it's just a matter of adapting a condition

of approval. With respect to Page 66, when we're tying into a water line, we like to see the main location and then Bob can then verify exactly what we have with respect to the service that's provided, but here again, we have nothing for Bob to review at this point so I've asked that we add a little bit of information to the plan and it would be made subject to the signoff. We like to see provisions for the electricity, cable and TV. The two driveway permits from DPW and DOT should be referenced on the final plans. We would see draft language for the sharing of the driveway and water line relative to Lots 1 and 2, reciprocal driveway easements of sorts and the water line and the pins. I would also like to point out that we did get a letter from the 28th of March which is on Page 67 from the Websters which are next to the Giroux's and they abut between Corliss Hill Road. The three points they are raising in terms of their concerns, one is that the access to Lot 2 doesn't meet Town standards. As tight as that 15' is, we don't have a standard that says it's not acceptable if they can fit a driveway through there which I think the photographs illustrate reasonably well that you could at least get a driveway at grade in that area. It may not be what we'd all prefer it to be, but it's not a standard issue in terms of driveway standards. With respect to the second point, it's a kind of an if and then kind of thing. If the plan is approved and then if it's further subdivided, well that's speculation we don't know. They can't subdivide without building a road because they only have 80' of frontage for Lot 2 so that can't happen. Whether or not they could finagle something to put a road through there on Lot 2, if they got to that point, that's their prerogative to apply for that, but at present the 15' of width and 80' of frontage notwithstanding something changing, that just can't be sliced in half and.. Bayard – I don't particularly see a road going through the way it's presently configured either. Edgar – So then they start talking about would the road be adequate, that's speculation because we're not looking at a road right now. Clearly, you're not going to have a road in an area 15' wide so either that's a show stopper right there or they do something else potentially sometime in the future in which case it would have to come back before you. We can't speculate today what may or may not be the case. Edgar – And they already have a driveway to a second house and they've asked that the approval stipulate that the lots not be further subdivided eliminating the possibility of it becoming a road and I just would caution against that only because what's the basis for doing it. I just indicated they've got 80' of frontage, 15' of lot width at that point, they need a 50' ROW to put a road through and that's not in front of us. If they were to do that, you'd evaluate the merits of that when it comes in front of you. Bayard – Is there any issue with the 4:1 ratio, these are odd lot sizes? Edgar – Harry can speak to that, I asked him to look at that if you just take 4 times the average width, it's about 800 feet and I think it's maybe a thousand feet long. Wood – When you look at these things, your first impression is that's over 4:1. When you get to checking them out, they generally aren't. Keep in mind, you've got 230 feet on the road, OK, so right

there, if you can go back 1,120 feet based on just that portion the lot does neck down and once you get out in this general area, I would refresh my memory here because we did set it up that's 200' wide back here which allowed them to go 800 feet. You turn the other way, there's 600 feet right there, the length of the road. You go another 200 feet and you're beyond the lot so, yeah, this is skinny but the reason it's skinny is we have a 20' side setback and a 50' setback from this wetland and what we tried to do in here was just to leave a space where they could drive through here legally in the future if they want to get down here and cut some firewood or anything like that on the lot which they own. They can do it without going through a restricted area so that's why this has this chopped off corner and why this is narrower right here, but as it sits right now, it meets the 4:1 just like it is. Bayard – Lot 3 just has a really odd configuration but certainly meets 4:1. Wood – Oh yeah, no question. Bliss – I have one last comment, I know the house being in the wetlands and the garage so close even though it does meet it, I am very concerned as a Board member about people coming in after the fact and saying, whoops we put it there. When do we have to say no, I'm afraid of this precedent that we're setting up because I wish more thought had been put in, yet you're putting us in a tough position. Yes, I know you can finagle your way around it, but I'm afraid for what's coming before us after this. Wood – I'd just like to respond to that because I don't like the tone of it and I'll explain why, Pam, I'm not being argumentative. This house has been there over two years. When it was erected, there were no plans to subdivide. Mr. Waldron's health has changed rather dramatically in the last couple of years; he now is going for therapy every day endlessly so that changes his plans. He had no desire to do this at that time, now he's been moved into having to do something he thought he might do someday, but it's happened. It telescopes down the timeframe between when it started and today, but keep in mind the house itself is over two years old already as far as construction goes and all of that and at that particular instance, he wasn't the least bit worried about anything setback wise or otherwise. This business with the wetland, I don't know I looked at it and I said why did it happen the way it happened and the only thing I can say is last year was exceedingly wet. The people who identified the wetland before were working on the septic system and they looked at it and for whatever reason, they reported it considerably smaller than it is today. I went out the day that the wetlands scientist was there the second time. We hired them this time and I said where's it going to go out here along the edge of this plant line and then back across the front of the house and down and they said, that's the way it looks, I'll let you know when I'm done because they actually take auger holes and stuff to clarify it and it ended up within 10 feet of where I thought it was so I don't know what it looked like two years ago before they started cutting the brush in here, cutting some trees in this area, roughing this ground up in here which didn't help because this is all disturbed in here now where somebody's gone

through taking out stumps and things like that and it's very similar to skidder tracks in a logging operation. If you don't dress them up, you end up with standing water and ponds where there weren't any before they started and I think it's a combination of things, the construction here, the grading around the house, now this entire thing instead of just flowing on down the hill like it did originally, it funnels back around the side of the house and it backs up into this area, probably more than it did before, now it's all testing as wetland and if plants were there, they would spread very rapidly if there already plants there, wetland plants and everything, add more water, change the grade a little bit and there it is. What we tried to do was report it accurately and make no bones about it. There it is, that's what we saw when we got here and reported it so I can't speak for the owner, I can't speak for anybody else, but John pointed out, yes there were wetlands up here, I did not notice it when we first began, the people we hired to flag this didn't flag anything there, presumably because the house was already there and when it was brought to our attention, we not only did just take it and copy it, we went out and reflagged it because I looked at it and I said we're just going to do it over. Finer – If we do a conditional approval and the ZBA says no to this waiver, what's the implication of that and I'm not speaking for the ZBA, I'm just curious? Edgar – To be honest with you, I don't know. It may have to come back at a Compliance Hearing and get something from Bill Edney. I don't know. I honestly don't and with my experience with the ZBA, I think this is the kind of conundrum that the statutes basically anticipated that's why the relief is built into the law, but we can't always predict how a Board will take it, but this is the way I read the statute, I think there's a copy of it in your packet if you want to take a look at the statute, but it doesn't quite directly answer your question, Bill. Finer – I'm wondering if we should have them go to the ZBA first if that will change the way we look at it. Wood – Can I address that, John. If you do it as a conditional portion of the approval and you can't get it, your approval is null and void. You don't have to worry about anything. Now, I would prefer that it not be a portion of the condition of approval because it's a known fact there's an application right here, I can turn it in as early as tomorrow morning, made out to address that on Mr. Waldron's property. We don't plan to just walk away from it, it's got to be addressed, it's been pointed out that it has to happen and the only thing that you could say was let's say we had to move the house, let's get really radical, we're going to jack the house up, pour a new foundation and move it. Can we do it on that 3-acre piece, yeah, we can do it? There's no reason that it can't be corrected if the Board were to feel that the language in the law which John read and it basically states that due to the degree of past construction or investment made and ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, then it would be inequitable to require the violation to be corrected. Now if the Zoning Board can't find that to be true, then presumably the house has got to be moved or the wetland's

got to be dealt with which would require a state application permit to fill, remediation with compensation for what you're filling in and that's not radical, it happens on every major site plan that comes before the Board, if there are changes in the drainage pattern that allows the developer to treat the water somewhere else on the property, either containing it or putting in treatment swales or detention ponds and that's what's required if that's necessary. Obviously, on a new site, we would do it ahead of time. In this particular case, judgment will have to be made by the Zoning Board if there's sufficient public benefit and the only thing I can add with regard to that is when we file this, we have to file a report from my wetland scientist as to the value of this wetland and its nature. What purpose does it serve and how valuable is it and then it will be a judgment by the Zoning Board as to what to do about it. Bayard – Just a comment, I think we could get this through conditional of them either stating that it's not necessary given at the time it was perhaps done properly and this is a subsequent action or that they wish to rule positively for them and, of course, if there's a negative. Edgar – My only concern and I really don't, this is as much procedural as anything else because my hunch is that this is the kind of oddity that the statute's anticipated, but my only concern would be that if it's not a conditional approval, there is a gentleman's agreement that we file that thing tomorrow, you don't have the authority to sign a plan and record it that conflicts with the Zoning Ordinance. Bayard – What I said was, I agree. Edgar – I'm offering a slightly different ... Yes, there's another place to move the building and if they want to go through the process and I don't see the ZBA forcing the building to be relocated because it is a relatively low-value wetland, but the other side of that coin from the Town's point of view is we don't have the authority to approve a plan that conflicts with the Zoning Ordinance and even though we're sort of backing into this one, that's what we have in the setback line, then you probably regardless of the subdivision. Bayard – John, my only comment was that the ZBA may say that application is not necessary because at the time it was built, it was in full compliance. So it would kind of moot the need to get an approval or rejection. Edgar – The house is there with this issue even if we don't subdivide and I would agree with that, but we're being asked to do an approval and it would be preferable to have that circumstance resolved. Carl Johnson – I would like to comment briefly on the application of the dimensional requirements to a dynamic line which is what the wetland line is. Wetlands are not static, they change. They get bigger and they get smaller. I can't believe for the life of me that anybody would contend that the dimensional requirement statute would apply to a line that changes. The statute was specifically created to address a situation where a structure was built and thought to be in compliance primarily with municipal setback boundary line and then found to be slightly in error. In other words, if you have a 20' setback, the house was built and was determined it was only 19 feet from the line, instead of having to get a variance, the dimensional relief

is intended to provide a lesser standard and that the benefit gained for a foot was not enough to warrant the moving of a house. If you were to apply dimensional relief to a dynamic line, you would essentially be saying if the Town were to change the setback from 20' to 30', all those houses that were originally 20' are now not in compliance because the line changed. That's certainly not the case. I think it's a very dangerous precedent to set to apply the dimensional relief to a dynamic line.

Edgar – We can certainly get readout on that and if you want to heed that caution, we can certainly have this reviewed from a legal point of view and if I'm mistaken, I'd be happy to chase it down. I'm relying on Bill's interpretation.

Bayard – I'm not sure where Bill falls on this and/or where the Zoning Board will fall on this in terms of what it was initially versus what it is now.

Edgar – I'll get a legal readout and we could have Bill at a subsequent meeting and we could certainly investigate the applicability of the statute. If you were inclined to move this forward, you can set it up as some form of a compliance hearing so that they can move forward with the other aspects of the application and bring that one issue back as additional information.

Finer – Can it be handled administratively? Edgar – No, not if you look at it as a Compliance Hearing, that's not an administrative matter.

Wood – The applicant would have no problem with a Compliance Hearing to address that issue.

Edgar – We could have a legal readout of Bill's formal review and then it would be compliance relative to being addressed to your satisfaction.

Bayard – It seems to me the issue is, does this even apply and then if it does, then they would go in front of the Zoning Board and I think we probably would tend to agree they have a pretty good shot at getting approval on it since it's even an issue whether it even applies in this particular case, but we can't make that decision for them though.

Bliss – I would be agreeable to continuing it until we get this part resolved because I do think, part of it talks about the public benefit to be gained and as a Board member, but I understand Mr. Waldron has all these problems but then what do we do with the next people that come through. I would just as soon get that resolved in the procedural way.

Edgar – What we were just talking about as another option is to make that a Compliance Hearing issue at a later date. One scenario is we do a conditional approval and most of these are administrative, state permits, plan notes and that kind of thing, but have that one issue come back after we work out the legalities and either at that time, we would get a legal readout, we would share that with them and if the readout is that it applies, then they go to the ZBA, if it doesn't, we'd come back and share that with the Board.

Kahn – I think the way it's worded is that either the Board is advised that it's not necessary or they obtain the equitable waiver.

Bayard – I think that might be the simplest way.

Edgar - That way, you're addressing Carl's concern as to the possibility that it not apply.

Wood – Obviously, we're looking for a conditional approval at this point. If you need to stipulate that there be a Compliance Hearing with regard to that particular issue, that's OK. If we don't come back, we don't

satisfy this issue in some way, then the approval's null and void, but at least it gives the rest of the issues, it turns them into an administrative situation that when the State subdivision approval comes back, when the driveway permit is issued, staff looks at them and says, yes, they were granted and that allows them to continue with the things that they absolutely have to do here without incurring unnecessary expense. If you want to put a timeframe in order to avoid having a conditional approval out there for a year, put a limit on it and that guarantees we'll be back.

Kahn moved, Finer seconded, MR. CHAIRMAN, I MOVE THAT WE CONDITIONALLY APPROVE THE WALDRON 3-LOT MAJOR SUBDIVISION, TAX MAP R09, LOT 15, LOCATED ON CORLISS HILL ROAD, SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) THAT THERE BE A COMPLIANCE HEARING IN WHICH EITHER THE BOARD SHALL BE SATISFIED THAT THERE BE NO NEED FOR AN EQUITABLE WAIVER WITH RESPECT TO THE WETLAND SETBACK ISSUE ON LOT 1 OR THAT THE APPLICANT OBTAINS SUCH AN EQUITABLE WAIVER;
- (2) THE FINAL PLAN SHALL NOTE THE DATE OF THE FIELD WORK,
- (3) THAT STATE SUBDIVISION APPROVAL IS REQUIRED FOR LOT 1 AS IT IS LESS THAN FIVE (5) ACRES AND SHALL BE CROSS-REFERENCED ON THE FINAL PLANS;
- (4) THE LOCATION OF THE EXISTING WATER MAIN SHALL BE ADDED TO THE FINAL PLAN. ANY APPROVAL SHALL BE SUBJECT TO BOB HILL'S SIGNOFF ON THE FINAL PLAN;
- (5) EXISTING POLE AND LINE LOCATIONS TOGETHER WITH PROPOSED SERVICES SHALL BE ADDED TO THE PLAN FOR THE THREE LOTS;
- (6) BOTH DPW AND NHDOT PERMITS SHALL BE REFERENCED ON THE FINAL PLANS;
- (7) DRAFT EASEMENTS FOR THE WATER LINE AND PROPOSED COMMON DRIVEWAY SHALL BE SUBMITTED FOR STAFF REVIEW; AND WRITTEN VERIFICATION THAT ALL PINS HAVE BEEN SET INCLUDING ANGLE POINTS SHALL BE PROVIDED IN WRITING BY THE SURVEYOR PRIOR TO RECORDING OF THE MYLAR. Voted 5-0 in favor of the motion.

3. **LINDSEY LU, INC.:** (Rep. Carl Johnson) Continuation of public hearings held on January 24 and February 28, 2006, for a proposed Major Subdivision (cluster) of Tax Map R09, Lots 19, 19A and 21 into 8 lots (16,465 s.f., 19,464 s.f., 19,842 s.f., 20,016 s.f., 23,118 s.f., 24,063 s.f., 32,760 s.f. and 33,006 s.f.) located on Corliss Hill Road in the Residential District. Application accepted on January 10, 2006.

This was initially submitted as an 8-lot cluster subdivision which is now a 7-lot cluster subdivision and one (1) conventional subdivision lot. The site is about 18 ½ acres in size and is bordered on the west and the northwest by Hatch Brook which is a designated brook. What we are trying to do here is create a cluster subdivision and preserve the integrity of the Brook and not have any wetland impacts or buffer impacts on the entire project. We have a proposed roadway, the engineering of which has been developed by Northpoint Engineering of Concord and has been reviewed by Lou Caron, Town Consulting Engineer. We are connecting to the municipal water line. That information has been reviewed by Bob Hill of the Water Department. Mike Faller from Public Works has also reviewed some of the details of the roadway. We recently received the latest update to their comments and I think it's continuing to be reviewed at the engineer's level and at the staff level so probably we can say that is almost done. At the last meeting, it was brought to my attention that the existing dwelling was within the 50' buffer setback for a cluster subdivision and it caused some consternation so what we've done based on a letter I received from Bill Edney was to remove this existing house from the cluster subdivision and put it on its own conforming lot of record which I'm calling Lot A1 so the house which has been there for probably 100 years is no longer within the 50' buffer for a cluster subdivision, it's within the 40' buffer from Corliss Hill Road. In order to accommodate the 50' buffer, as a result we have incorporated a portion of the 50' buffer to be on Lot A1. That still results in a 50' perimeter buffer around the entire cluster subdivision as per the zoning requirements. I have reviewed that with both Bill Edney and John Edgar and they have agreed that that still meets the requirements of a perimeter buffer. The components of the cluster subdivision will have in their covenants and restrictions how to deal with the 50' buffer and how to deal with the green area. The deed for Lot A1 would have an additional restriction and essentially instead of having just a rear setback, it would have a more restrictive 50' buffer so what you might be able to do in a setback area, you would not be able to do within the 50' buffer and I've cross-hatched the 50' buffer showing that it goes around the entire boundary of the cluster subdivision. Accordingly, I've done a little extra topography, adjusted the numbers, you can see that we've dropped a little bit from the green area calculations because we formerly had a portion in here which was green area, but now because it is part of Lot A1, it's no longer green area so the green area has reduced to 65%, that's still well above and beyond the 50% that's being required by the Zoning Ordinance. The net density is still 8 units because we are subdividing the entire property and you can see that 7.016 is what is within the cluster subdivision has 7 units and the Lot A1 separate analysis based on soils-based lot sizing is 1.10 lots. We have topo'd and done soils work on approximately 15 of the 18 acres so the fact that these numbers are close, we could go out and we could do some additional topography and beef those up. With the site specific soils map, that's not really necessary. One of the advantages that

the connection to the municipal water provides is you do not have the 75' protective well radius on each lot. Some of the soils based lot sizing calculations are based on the assumption that you're going to have this area of 75' radius which is about 17,000 sq. ft. that you're not going to be able to do anything or put a septic system in so the lot sizes have to be a little bit bigger. When you do the State calculations for a cluster subdivision connected to a municipal water line, this site can support 8.03 lots. We do have to have a compliance hearing for this project due to the nature of it and the unit cost estimates for the road and the bonding of such so I think what we had hoped to achieve tonight is a conditional approval of the concept that we're proposing which is a 7-unit cluster and a one unit conventional lot. What we would do is separately notice the Compliance Hearing to address some of the minor outstanding issues regarding the road, details of construction, details of the bonding amount for the road and the water line, the review of the Covenants and Restrictions and possibly adding some elements into those and when we had all that information, we would apply for the Compliance Hearing so we wouldn't be in a situation where we still have some loose ends to tie up. John's done a staff review and I'll just hit the highlights. I've already addressed many of the highlights, one of the things is regarding utilities. At the Compliance Hearing we would come in with a Utility Plan from NH Electric Co-op similar to what we've done in the past. The intention is to have underground utilities primarily because when you construct a roadway, it's a lot easier to put them in and it also adds to the aesthetics of the area. We have the views looking off to the southwest and you wouldn't want them to be encumbered by the utility lines so at least initially, the intent is to have underground utilities. NH Electric Co-op at no charge produces a plan, you've seen them before, that would show where the lines would go and what services would be included. One of the things you will notice, what used to be called the Blake Farm is now called Corliss Hill Farm because the Attorney General's office decided there were too many Blake-type farms already in existence in the State of New Hampshire so now we're naming it Corliss Hill Farm. That is something we had no control over. The reduced roadway standards would have to be addressed at a Selectmen's meeting. That again, we would hope to go to that Selectmen's meeting, get the waivers, this is a tiny road, this is a tiny subdivision, we're hoping that the same reduced standards could apply here as applied to essentially Clover Ridge Subdivision which was an 18-lot subdivision with a 3,000' long road. We're hoping that that same philosophy that you don't want to have the entrance to Pease Airport Authority occurring on Corliss Hill Road to access a 7-unit cluster subdivision. Again, many of the same conditions, setting of the pins, review of all documents and stuff would hold true to this. Edgar – As Carl had indicated, we did receive revised subdivision plans, revised engineering plans and revised stormwater plan largely in response to Lou's recommendation that was to treat the drainage a little bit differently than had originally been proposed.

The design engineer agreed with those, they then incorporated the changes and they've been sent to Lou for final signoff so as a general statement, Mike Faller, Bob Hill and Lou Caron should be in a position to sign off on final plans. That has not yet occurred, but basically the lion's share of the recommendations that have come in from those three have been incorporated in the revisions and the next step is to seek their signoffs as conditions of approval. State subdivision approval will be required. With respect to the electrical and utility plans, Carl when you get to that point, you might just want to consider coordinating that with Mr. Leonard's plan set to make sure that we're looking at the undergrounds and that everything is OK with cross pipes and all that kind of good stuff and show those on the final plans. Johnson – I think what would happen is it would be Kevin's plan that would be submitted to NH Electric Co-op so they would be working on that basically. Edgar – On the cross section do you have any idea where you would show where the pipes would be whether in the shoulder, the conduits and all that kind of good stuff. We do need a permit for the access onto the highway, which is standard. Carl had indicated that there are some waiver issues that would be referred to the Selectmen. The performance guarantee would have several elements. I spoke with Mr. Leonard on the phone and will be sending him our standard unit cost estimate worksheets in anticipation of the following hearing to address performance guarantees to cover the road, water line, drainage, stabilization, connections to the main and whatever and any restoration of the road that's necessary to excavate for purposes of the hookup. We do have a couple of legal things. Typically, we see the merger. That triggers an administrative condition. Covenants and Restrictions, we haven't seen the draft yet. As Carl indicated, that's in the works and as long as we have a draft with sufficient enough advance time to staff it, make some recommendations and kind of work out as many kinks as we can. What Carl and I spoke of on the phone is to work out the performance guarantee recommendations with the engineer at a staff level and work out the Covenants and Restrictions with Doug so that when we come back for the Compliance Hearing, it would be with that pretty well flushed out. So if we are successful in that regard, we'd have a pretty straight Compliance Hearing that would address those two issues primarily. We've made sufficient progress, we've addressed the buffer issue. Things that we'll look for in the Covenants, we do have the buffer extending onto some of the lots which is certainly not precluded, but we just need to know what to do with the area in the buffer from a Covenant point of view. I think there are four lots, that cross-hatched area kind of extends onto some of the lots. The lot owners will need to know what the buffer requirements are so we need to have things like that spelled out in the Covenants as well as other things as to the purpose of the green space. Johnson – One of the things to keep in mind in that regard is that we're showing a 4,000 sq. ft. typical area on the lot, the actual size of the septic system itself that goes inside that box is significantly less so when each one

of these lots gets a State approved septic system, individual approval, that 4,000 sq. ft. box goes away and becomes available for a yard and whatever else you want to have in there. It's not a box that permanently encumbers 4,000 sq. ft. You're demonstrating that there's at least that adequate space on each lot prior to getting your approval so the actual septic system especially for these types of homes is very small. Edgar – Mr. Chairman, I think when we walked the property there was a general sense that it was a pretty decent piece of land and certainly not being maxed out so I believe if there are any fundamental questions as to the suitability of the land for the proposal and then in the engineering mode, you've had the engineering submitted, we've had reviews, comments have been made, they addressed those comments and we're just at this point waiting for the final signoffs from the folks on our end so the two outstanding issues of substance are the amount of the performance guarantee and that's more mechanical than anything, but that does have to come back to the Board and the Covenants, I would not favor a situation nor has Carl suggested that we just handle the Covenants administratively. It is something that needs to be brought to your attention. We haven't had a chance at this point to work out a review and do the kind of detail review that we will do and so if it's the Board's pleasure to do a conditional, we just ask that we set up a Compliance Hearing for at least those two issues. The overall updated plan could certainly require that, but in terms of the Board's subjective involvement in the Compliance Hearing primarily to set the performance guarantee and sign off, hopefully, a set of final Declaration items. Bliss – In John's staff review, it talks about street lighting at the intersection. Johnson – We don't intend any. Whether or not Public Works wants one, that's up to them. No comments from public.

Bliss moved, Touhey seconded, MR. CHAIRMAN, I MOVE THAT WE GRANT CONDITIONAL APPROVAL FOR LINDSEY LU, INC. FOR A PROPOSED EIGHT (8) LOT SUBDIVISION, 7-LOT CLUSTER PLUS ONE CONVENTIONAL LOT, TAX MAP R09, LOTS 19, 19A AND 21, SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) ANY APPROVAL SHALL BE SUBJECT TO FINAL SIGNOFF OF FINAL PLANS BY DPW, WATER DEPARTMENT AND THE CONSULTING PLANNING BOARD ENGINEER;
- (2) FINAL PLANS SHALL BE STAMPED BY THE SOILS AND WETLAND SCIENTISTS;
- (3) NH DES SUBDIVISION APPROVAL IS REQUIRED AND SHALL BE CROSS-REFERENCED ON THE PLANS;
- (4) A UTILITY LAYOUT PLAN PREPARED BY THE NEC SHALL BE SUBMITTED FOR REVIEW;
- (5) A HIGHWAY ACCESS PERMIT IS REQUIRED FROM THE DPW AND SHALL BE CROSS-REFERENCED ON THE FINAL PLANS;

- (6) THE PROPOSED CROSS SECTION CHARACTERISTICS OF 2' SHOULDERS (3' REQUIRED) AND 3:1 SIDE SLOPES (4:1 REQUIRED) WILL REQUIRE WAIVERS FROM THE BOARD OF SELECTMEN;
- (7) THE PROPOSED ROAD NAME (LINDSEY LANE) NEEDS TO BE SUBMITTED TO THE SELECTMEN FOR THEIR APPROVAL AS AN ADDITION TO THE E-911 ADDRESS SYSTEM;
- (8) A COMPLIANCE HEARING SHALL BE HELD BY THE PLANNING BOARD TO SET THE AMOUNT OF THE PERFORMANCE GUARANTEE;
- (9) LOT MERGER IS REQUIRED PRIOR TO RECORDING THE MYLAR;
- (10) DRAFTS OF THE FOLLOWING DOCUMENTS SHALL BE SUBMITTED FOR STAFF REVIEW FOR RECOMMENDATIONS IN ANTICIPATION OF A COMPLIANCE HEARING: A DRAFT OF THE DECLARATION OF COVENANTS AND RESTRICTIONS; HOMEOWNER ASSOCIATION BYLAWS; ARTICLES OF INCORPORATION; DRAFT WATER EASEMENT; AND DRAINAGE AND SLOPE EASEMENTS.
- (11) WRITTEN EVIDENCE THAT PINS HAVE BEEN SET PRIOR TO RECORDING THE MYLAR.

Voted 4 to 1 in favor of the motion.

2. **NORTHEAST SELF STORAGE, INC.** (Jeff Marceau) Architectural Design Review of a proposed addition to an existing commercial building, Tax Map S23, Lot 60, located on Enterprise Court in the Business & Industry District.

This is just a simple addition to an existing apartment that's above the self-storage units. The existing apartment is only 600 sq. ft. so by the time you put a computer, a desk and everything else in there, it's really cramped quarters. Mr. Letendre feels that the best deterrent for crime in these self storage units is on-site managers so when he has a nice manager like Lisa here, he likes to keep them happy so he's just requesting a small addition onto the existing structure. We did the same addition on Gilford Self Storage two years ago. Basically it's the same addition, the rooflines will tie in the same way and then there's a small deck out there too. There is no site work or anything involved here. Edgar - The ordinance applies because it's a commercial building and we're adding onto it. Basically, you have a side elevation in your packet. It's reinforced by the photograph. It's a small addition and is pretty straightforward. We did staff it, Chuck, our Fire Chief and our Building Inspector, I just wanted to reinforce that you touch base with them regarding the building permit because you may have some code separation issues if you are extending the apartment over a storage unit, just going over what the separation is... Marceau - There may be some fire codes? Edgar - Maybe if you have flammables in one of the

storage units, there may be some code questions as to how we separate and rate the ceilings. Maybe it's concrete now. Marceau – There is a 6" concrete slab. Edgar – They didn't know that, just please review that with them in anticipation of the building permit. From an architectural point of view, there's no problem. Bliss – Is it going to be the same color? Is it going to stay white or is it going to be brown like in Gilford? Marceau – No, it's going to stay with the existing color. Kahn – Are the storage units that are going to be under this currently occupied. Marceau – No, they have been empty. Bliss – I know it's architectural design, but should we put in the motion that they check with Chuck? Edgar – It's not necessary. They have to apply for a building permit. As a courtesy, I was just sharing the fact that, they did ask the questions, I didn't know what the answers were and they just asked me to relay to the applicant to make sure they check in so they can visit the building and just double check on any code questions before we get too far ahead of ourselves.

Finer moved, Bliss seconded, MR. CHAIRMAN, HAVING FOUND THAT THE PROPOSED DESIGN DEMONSTRATES SUBSTANTIAL CONFORMITY WITH THE GENERAL AND SPECIFIC CRITERIA SET FORTH IN OUR ARCHITECTURAL DESIGN REVIEW ORDINANCE, I MAKE A MOTION THAT WE APPROVE THIS APPLICATION AS PRESENTED. Voted 5-0 in favor of the motion.

PRE-APPLICATION REVIEW

1. **DONALD HOULE** (Rep. Chuck Braxton)- Pre-Application Conceptual Consultation to discuss a possible Bed & Breakfast, Tax Map S22, Lot 23, located on Parade Road in the Residential District.

I trust you received the briefing package that I sent for this meeting. In consideration of the hour, if you have any questions or comments I'll be glad to go through this or take your comments directly. Edgar – We've had several discussions with Mr. Houle and Mr. Braxton. This is the property on Parade Road some of you may know it as the former Jack Dever residence, it's that nice historic structure in the general vicinity of Tracy Way abutting the Waukegan Highlands property. That building has been undergoing a substantial renovation and a bunch of other things. It has a history of commercial use. There is an old version kind of 1800 style site plan on record and you'd be looking at an amendment technically, but I think at one point it was a bed & breakfast actually, but it had been undone by a vote prior to this Board relative to a mortgage question and some kind of bank question. The long and short of it is there is some commercial history out there, but there's been a big gap in time since it's been used commercially. They are ready to market the property as a Bed & Breakfast and we had

suggested that we update you get your reaction. The issue we've identified at the staff level, it's a very thorough packet by the way that Chuck put together for you, but in essence, they've chased several issues down that we asked them to and I'll just give you the short version of what will need to come back in the context of a site plan. One is a driveway permit. We do have some safety issues in that area with the alignment of the road. They met with the DOT, there will be some access management to locate and better define the driveway in a safer location so the likelihood is that the DOT permit is pretty real. Braxton – The permit's been issued, John. Edgar – We asked the Police Chief to look at it. Unfortunately, our Police Chief was there when there was a bad accident so you've heard first-hand knowledge that there's a tricky turn movement so he looked at the location of the proposed driveway and is comfortable with it so I think we've gotten over that potential hurdle. There's a question about a shared well and whether or not this is a regulated water system under today's laws and there's a letter in the packet from DES confirming that it's not, it's considered a private well. Where we're at now is we have a septic system of somewhat unknown origin and design that has not failed, but we don't really know what it is and the way the law works on that is they would have to go through the septic design process to get one approved. They don't need to build it until there's a failure, but it is required that they go through that design and permitting process. In order to do that and to demonstrate parking and that kind of thing is to have an updated site plan because of the kind of sketch plot plan made from the old one and I think from the packet, that is in process. So when we get to that point, we look at parking, lighting and whatever other details come in on this so whether we are looking at a subsequent filing for a site plan possibly if this markets successfully the way they hope it to be marketed for a six-room bed & breakfast. They are front ending their review on the driveway permit, they have front ended their review on the well and they understand they will have to do a septic design and incorporate that in the site plan. They have made commitments to see that that gets done. I had suggested that while all that's in process to come before you and see if there's anything that we've missed or any other suggestions that you may have so they can move on. Braxton – If I could, John, just a couple of updates. As far as the septic design work is concerned, additional test pits have been dug. The design direction that Mr. Houle's given to the septic designer is a six-bedroom B & B plus which has one set of design criteria, plus the accommodation in that system for a 3-bedroom residence that would be created in the barn. This is just a possibility. We wanted to have the design create an owner's quarters. The nature of the primary structure is such that the residence, it just doesn't divide up neatly for residence quarters/guest quarters. The main structure you see today works very nicely as guest rooms so we want to create that possibility. Some of the people that have looked at the property wanted an on-site residence. Other people that have looked at the property are really

interested in off-site management of the property and the building can accommodate that as well. We will also provide on the site plan for an alternate well location in the event there is a problem at some time in the future with regard to the spring. We have heard anecdotally that that spring at one time served as a water supply for the Town. The spring is off-site and there's deeded rights to use it, a copy of the deed is in the packet that clearly indicates legal rights to the spring and that information also has been reviewed by DES and there's correspondence in the packet that confirms that it doesn't appear to be a transient well site. Braxton – As far as the Driveway Permit's concerned, the State's concern is to, if you're familiar with the site there's a rather long open area, where you can pull into the property immediately to the main residential building all the way over to an area beyond the barn that goes down behind to the parking area. The State wants to focus the entry to the property next to the main residence which provides sight distance as to southbound traffic on Parade Road and aligns more specifically directly across from Tracy Way. There would be a berm across the remainder of the front of the property to focus that entry and exit and that's part of the driveway permit. Finer – My only concern is the traffic and the sight distances for getting in and out. I think, otherwise, it's a very good use for that property. Braxton – An analysis of that sight distance will be part of the site plan as well. Bayard – Will there be much work done to the exterior of the building or is it already done pretty much. Finer – It looks very nice from the outside. Bliss – Great improvement. Braxton – The outside work has been done to the visible sides. There's some work on the back of the barn that could be done in addition. Bliss – It looks OK to me. Finer – Will that fall under architectural design? Edgar – Not if they are not changing anything. Braxton – What you see is what you get. Bayard – You've pretty much got the waste or dump disposal and everything pretty much, that's all resolved. Houle – That was taken care of when Mr. Dever owned it. The State did what they could with it and it's there. Edgar – It will show up and we'll map it, but it's basically, there's correspondence in there that Chuck's provided which indicates the case is closed. Finer – Will there be rooms on each of the floors. Braxton – Yes. The upper floor consists of two, two-room suites, each with $\frac{3}{4}$ bath. The second floor has four rooms, each with $\frac{3}{4}$ bath and then on the main floor, there's a dining room, a library, a parlor and an office. The kitchen is in a wing in the back and there's another office room beside that with a $\frac{3}{4}$ bath. Bayard – It sounds pretty good. Finer – You don't need anything formal from us just feedback? Edgar – This is a non-binding discussion. They are obviously marketing the property and making progress on the site plan and if there are any issues or concerns that you have and want them to explore, this is an opportunity to have that discussion. If not, that's fine. Braxton – Do you have anything else, John? Edgar – From a code point of view, the building IS sprinklered. Chuck and Bill have been all over that. Finer – Do you perceive tying into the hiking trails? Braxton – The hiking trail comes down

and actually at one point where it abuts a stonewall that forms the boundary for this property so it wouldn't be difficult. Touhey – My only comment is that you're taking a tremendous risk on the septic system that you know absolutely nothing about and the number of bed and breakfast units that you are proposing along with the 3-bedroom home just seems like it's a recipe for failure. Braxton – Well, it's a couple of points of view. Given the time of year where we are and how a transaction might unfold, it's very possible that a new owner and operator would sort of face a ramp up period coming up to next year, but if I were the new owner of the property, I might not want to confront an angry clientele on motorcycle week with the possibility of difficulties with the system so I might be starting to plan in the direction of doing something about it. A lot of what's uncertain is what would you like to do as far as an owner's residence in the barn and so it would really set some of your final parameters. Edgar – One thing that we should follow up with Bill on is if we had six bedrooms and we're going to a six-bedroom B & B, I think that was generally where he said, but we don't have any State design history so have the approval ready to go in the event we have failure. The question you want to ask Bill is that if we add three bedrooms to that mix, I don't know if he would allow you to tie in three more bedrooms into an unknown system. That may trigger construction day one. Braxton – But it would be part of _____, it's not there now. Edgar – That may push it into an accelerated mode and not wait for failure because clearly this thing wasn't designed for nine bedrooms. Finer – How close is Town sewer to that? Houle – Way off. I've looked into it; I've been down there a few times. Edgar – You guys aren't buying the building and running this thing, you're going to sell it to somebody. The whole idea was to try to flush out what the issues may be for a prospective buyer and then bring it all together and just in terms of how it's represented to somebody who wants owner's quarters, you very well may not be paying for the septic, you may be flipping it to someone who's going to inherit that responsibility and so if at the end of the day, the owner's quarters in addition to six, if that triggers septic system construction day one that's just a piece of clarification just so we stay on the same page, that's all. Braxton – Most of the people that have looked at it right now have other places to live and then they would move ahead establishing the business and working out their plan as far as their own living on-site and whether they want to seek counseling about whether they should live on-site if you operate a six-room B & B. You may want to live someplace else. Bliss – I know it says 14 rooms, how many bathrooms? Braxton – There are 7- $\frac{3}{4}$ bathrooms in the building and we understand from Dave Ames that the particular criteria for a B & B and the design of a system relates to it is different than how you design a residence so those things are taken into account. Kahn – John, somehow I've got this nagging suspicion that our definition of B & B requires owner residence. Does it? Braxton – We talked a little bit about that. Edgar – I'll have to double check with Bill. Bayard – It's a special exception, right. Kahn - I have this

recollection that the definition calls for owner-residence. One other issue is, is there a safe area where one could dig there if one had to put in a septic system. Edgar – That's what we're talking about is that even if it's just having State approved design waiting in the wings, we'll have test pits, an upgraded plan as far as the site plan that proves that. Kahn – It doesn't uncover what came out of Mills Falls. Finer – That's all been removed. Kahn – No, it hasn't been, it's been covered. Braxton – The structures are in this area and the spoil area was here. The septic system is actually over this way where the opportunity to build a septic is. This area is a little brook that comes down; it's a little damp down in here. Kahn – It drains into Waukegan? Touhey – A brook right next to the fill area. The Definitions indicate that a B & B must be owner-occupied. Braxton – That would solve the problem of the residence.

TOWN PLANNER'S REPORT

1. **DUCHARME** – I did send you all an e-mail that we did have a withdrawal of the Ducharme application. There are some legal things that we've been trying to get our arms around. We do need to address it as a Board, but not tonight. Chairman Vadney couldn't be here tonight so the way I left it with him is that we would bring it up at our next meeting regarding the with prejudice/without prejudice issue and... Finer – Can we accept that? Edgar – Let's hold off the discussion, but at the end of the day you guys have to address it and think of it as a request more than a statement of fact and then exactly one of the ramifications of without or with and all like that so that's something and also because of an underlying litigation against the ZBA, I want to make sure we have the benefit of a sit down with legal counsel to review this issue. I'll be setting that up in the next week or so. Bayard – Can you send us a copy of the specific request. Edgar – I sent you an e-mail that covered the essence of where we are. Bayard – It probably wouldn't hurt to send off the specific request to everyone. Kahn – Did they specify that if they came back, it would be with a different plan or did they. Edgar – I really don't want to get into this too much tonight, but the long and short of it is they want it both ways, they want to withdraw without prejudice meaning they could submit the exact same plan and also reserve the right to come back with something slightly different and so we've got to get to the bottom of that in terms of how you want to handle that. Kahn – The only reason I was raising that was not to discuss, but Bill's point, your e-mail could be read as saying that they were only going to come only with a different plan. Finer – Will that be a public hearing when that's discussed. Edgar – It will be a public meeting, but not a public hearing. Do the abutters know? Edgar – It's not an abutter issue. They all know. They knew before we knew. The attorneys are calling, what's the implication of this and that and I've just said time out, the Board's aware of the withdrawal letter and as a deference to the Chairman, I want him involved because of

some of the complexities of this thing I want Town Counsel involved because we already have litigation pending if for no other reason and so with all that said, we'll formally address the letter as a correspondence item at your next meeting on the 11th of April which will be at the new Community Center, but prior to that, we'll have a scheduled session with Counsel to answer your questions and discuss the legal implications.

Meeting adjourned at 9:40 p.m.

Respectfully submitted,

Mary Lee Harvey
Administrative Assistant
Planning/Zoning Department

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

William Bayard, Secretary