

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

Meeting called to order at 7:12 p.m. by William Bayard, Acting Chairman

Bliss moved, Kahn seconded, THAT WE APPROVE THE MINUTES OF MAY 10, 2005, AS PRESENTED. Voted unanimously.

### APPLICATION SUBMISSIONS

1. **TERRY GRAHAM, DOCKS UNLIMITED FOR CHRIS JOHNSON, EAGLE ENTERPRISES** – Proposed site plan amendment to establish a retail sales facility with outside display of dock equipment and related site improvements, Tax Map S19, Lot 9, located at 45 Daniel Webster Highway in the Commercial-Route 3 South District.

Application site plan and abutters list are on file. Filing fees have been paid. Recommend application be accepted as complete for purposes of public hearing this evening.

Bliss moved, Kahn seconded, THAT WE ACCEPT THE APPLICATION OF TERRY GRAHAM, DOCKS UNLIMITED FOR CHRIS JOHNSON, EAGLE ENTERPRISES, FOR A SITE PLAN AMENDMENT TO ESTABLISH A RETAIL SALES FACILITY WITHOUTSIDE DISPLAY OF DOCK EQUIPMENT AND RELATED SITE IMPROVEMENTS. Voted unanimously.

2. **JANELLE FITCH VAAL AND SACHEL REALTY TRUST** - Proposed Boundary Line Adjustment between Tax Map R07, Lots 44, 46 and 55, located on Sanctuary Lane in the Shoreline District.

Application, Boundary Line Adjustment plan and abutters list are on file. Filing fees have been paid. Site Plan Regulation No. 3 requires that applications submitted to the Board must be in compliance with the zoning ordinance. Two variances are required in order for this application to comply with the ordinance. Applicant was relying on the fact that variances had previously been granted in 2003. However, upon review of the file and the zoning ordinance, it has been determined that the variances granted in 2003 have expired as they were not acted on within one year as provided for in the ordinance. Therefore, I recommend the application not be accepted at this time as the application is not in compliance with the zoning ordinance.

Flanders moved, Granfield seconded, THAT WE NOT ACCEPT THE APPLICATION JANELLE FITCH VAAL FOR A BOUNDARY LINE ADJUSTMENT. Voted unanimously.

3. **MICHAEL AND VICKI GALLAGHER** – Proposed major subdivision of Tax Map R27, Lot 2, located on Roxbury Road in the Forestry/ Rural District.

Application, subdivision plan and abutters list are on file. Filing fees have been paid. Recommend application be accepted as complete for purposes of proceeding to public hearing. As this is a “major subdivision” by virtue of the re-subdivision potential, the public hearing must be scheduled for a separate meeting. I would further recommend that the hearing be scheduled for June 14, 2005.

Flanders moved, Granfield seconded, THAT WE ACCEPT THE APPLICATION OF MICHAEL AND VICKI GALLAGHER FOR A PROPOSED MAJOR SUBDIVISION ON ROXBURY ROAD AND SCHEDULE THE PUBLIC HEARING FOR JUNE 14, 2005. Voted unanimously.

### **PUBLIC HEARINGS**

1. **EDNA SWANK:** (Rep. Carl Johnson, Jr.) - Continuation of a public hearing held on May 10, 2005 for a proposed minor subdivision of Tax Map R10, Lot 22, into two (2) lots (1.76 ac. and 1.82 ac.), located on Bryant Island in the Shoreline District. Application accepted May 10, 2005.

Johnson – I have a two minute presentation to bring you up to speed on what John said and then I'll be gone. Bayard – I assume continuation is what you expected? Johnson - It is what I expected and I just have a couple words to say. As John had mentioned, you've seen this plan before, it's Bryant Island and we had proposed a two-lot subdivision. We have done a site specific soils map and Randy Shuey did revisit the island last Thursday and he verified some of the wetland flags as being accurate. He did have one re-delineation between a very poorly drained and poorly drained soil and under John's recommendation of making sure that each one of the lots have at least 1.0 lot equivalents, I did move the lot line to this rather unusual configuration here and I'm in the process of verifying that those calculations will come out at 1.0 for each lot. As you know, I kind of cut the island in half knowing full well that the leaching will not get here and turn right, but this will meet the letter of the law and it's not too unusual. I think I made it work so that the buildable areas are the same and the leachfields will be in the same position. We don't have actual tableized

figures on that and also I have a letter from Randy Shuey delineating and identifying what he did and John didn't have a chance to review that. We would like to continue this to the 14<sup>th</sup> and I'll come back in with a different table showing these two lots and covering a couple of the other aspects that John had in his staff review on June 14<sup>th</sup>.

Bliss moved, Flanders seconded, I MOVE THAT WE CONTINUE THE PUBLIC HEARING FOR EDNA SWANK UNTIL JUNE 14,2005. Voted unanimously.

2. **WAYNE AHLQUIST, ACME CHOPPERS FOR EAGLE ENTERPRISES:**  
(Rep. Roger Roy) Continuation of a Public Hearing held on April 26 and May 10, 2005, for a proposed Site Plan Amendment to establish a motorcycle sales, service and repair use, Tax Map S19, Lot 9, located at 45 Daniel Webster Highway in the Commercial-Route 3 South District. Application accepted April 26, 2005.

The outstanding issues from the last meeting were basically the use that Wayne's proposing as a permitted use and what if anything did the Fire Department have for requirements for any gas tanks that would be located within the area that Wayne would occupy. Subsequent to that meeting, Wayne did meet with Bill Edney and John Edgar and he walked the property one more time with the Fire Chief. It is my understanding from those meetings, the use as Wayne described it to the Planning Board two weeks ago is a permitted use and the Fire Chief had asked that Wayne install sign placards at the exterior of the building to indicate there are combustible gases and chemicals in that building. We have added a note to the plan to reflect that and also to add a lock box which would house a key to get into the building. I'll read the notes for the Board on the updated plans. Sign placards shall be located on the exterior of Building A to alert emergency responders of the presence of pressurized and combustible gases. Sign placement to be coordinated with the Meredith Fire Department. A lock box shall be installed on the building. Coordinate lock box placement with Fire Department. This is our third meeting and the concern was whether or not this is a permitted use and we've done our homework, we've met with Bill and he has indicated that it is a permitted use. Edgar – As I understand it, there was a presentation that Roger did that explained the uses in a certain way followed by a second hearing where the owner presented the use in a different way and understandably so raised the question particularly as it relates to the application aspects as to whether or not that was permitted and as a result of the May 10<sup>th</sup> meeting, the Board voted to continue the hearing in order (1) to get a reading from the Code Enforcement Officer as to whether or not the manufacturing is allowed in the zone and (2) to get a

reading from the Fire Chief as to what precautions might be necessary to store and use combustible materials and gases on the site. As a result of that public hearing, Wayne came in and sat down with Bill and myself and the long and short of it is that we wanted the owner to detail for the Town specifically what the uses would be in an attempt to have something Bill could respond to. That communication is on Page 25 of the packets which is an e-mail from Wayne to Bill. I know Bill has also met with Bob on one occasion to discuss the concerns that the Planning Board has and so forth. Bill has reviewed it and on Page 26 of the packet, you will see his note to me where he is of the opinion as the Zoning Administrator that the proposal that's outlined in the May 20<sup>th</sup> communication is basically a permitted use and that we allow retail and we allow auto, boat and equipment sales and service. Bill views the fabrication of the motorcycles as accessory, incidental and subordinate to the retail and sales components of the use. Bill has reviewed the issues with Mr. Ahlquist in terms of the relationship between accessory uses and primary uses and if the fabrication, machining operation became the primary use, then it would constitute a problem and it would be an enforcement issue and that has been reviewed with Mr. Ahlquist. With respect to the Fire Department review, they visited the issue of the firewall separations between the apartment use and the welding. There are a series of 3 masonry walls that separate the dwelling unit from the building having acetylene in it. Without getting into all of the code issues, the Chief did go through that. The good news is that there wouldn't be storage of flammable chemicals and I think if there were flammable chemicals in the building that would raise significantly more code issues actually than the welding gas. They did go through lighting requirements, alarm requirements, signage requirements and so forth. They have revisited those aspects of what would typically then get picked up as part of the Certificate of Occupancy process. The Fire Chief will have to sign off on the C.O. permit. Those issues have all been reviewed with Wayne and there is an understanding as to what's expected so I think we are in pretty good shape relative to the code issues. It is my understanding there is no outside storage of any of that material. Those items would be contained within the building. We should locate the water supply on the site plan for informational purposes. There will be an amended NHDOT permit required because of the change of use. That needs to be obtained and cross-referenced on final plans. Fuel supply locations should be noted on the plan with sign off from the Fire Chief. It is my understanding there is no proposed outside display or storage for this side of the site and the final plans should have that noted accordingly. Site Plan Regulations 6 and 17-A provide for the Board to review and amend any approvals and it's the Board's custom to incorporate that as a condition of approval. Granfield – What does this boil down to, fabrication is manufacturing but because it's an

accessory use, then it's OK in a business district. If it became a primary use, then it wouldn't be? My understanding is that the assembly aspects of what they're doing and the machining aspect of it, assembly's virtually a non-issue, even Ford Motor Company or Meredith Harley-Davidson assembles elements of a bike or car, they put things together as a function of the auto service, repair and sales. Granfield – The thing we get hung up on was the fabrication where you bend pipe that may be 16' in length and come up with a frame. Edgar – One of the difficulties, I know Bill had shared this with Bob, is that we don't have..., accessory uses are not always to get your arms around and that's why it's kind of a blanket terminology in the designing world. There is no magic formula in terms of how you precisely determine the accessory relationship. I wish it was more black and white than that. In some instances, you might look at it as traffic volume, in some instances, you might look at it as a dollar volume and in some instances, you might look at it as the square footage occupied, but in every instance, there's a different way of looking at every scenario that would come before you, there's no one pigeon hole you can run a calculation and I just want you to understand that. The guidance to Bill as Zoning Administrator, the definition of an accessory use is that it is incidental to a primary use, it's related to a primary use. My guidance to Bill that if it wasn't clear to him, he should kick it back to the ZBA. He understands that is his option, he's read the ordinance and that's the call he's made so at the end of the day, whatever formula he used in his mind given the scale of what we are talking about, perhaps his view of a fabrication component doesn't rise to the level of a manufacturing operation in the typical sense of what otherwise would be required to be in the B & I. This particular fact pattern is unique to this site, but there's accessory uses and things throughout the community that if they go wrong, it does become a code enforcement issue. That's why in Bill's memo, you can see at the very end where he's reiterated to the owner that if we don't have the sales component or are out of balance in terms of what's going on at the site, then he runs the risk of needing to be somewhere else. We asked that Bill put his decision in writing so there's a record as to what his basis was for the decision. If we were to move forward with the application, we probably should look at addressing plan note #9 relative to use to make sure that it clearly captures the essence of what I just described to you. Maybe a revised language that Bill could contribute to that explains the use corral if you will be placed on any approval. One thing that this application and a few others have brought to light, I think of the Oliver Lodge application and even the Vaal subdivision that we voted not to accept, what it brings to light is an area where we have to improve administratively. On these cases where there are zoning issues that are outstanding of some variety, in the case of the Lodge it was a non-conforming use being expanded and in the

case of the Vaal subdivision, it was a couple of variances that were necessary. In this case, there was uncertainty as to what those relationships are between primary and accessory uses. In each of those three instances, an application gets filed with us, the law requires that if it meets our basic requirements, we proceed and put it on an agenda. We then notify abutters, have a staff meeting after the trains roll and we then have a staff meeting to critique this to write these reports. At that point, in these two examples, the zoning issues then came up. Then we are going into a hearing with all this confusion and to be honest with you in terms of responsibility in our department, we shouldn't be into a third or fourth hearing on an application wondering what the use is. That's symptomatic of a breakdown. We shouldn't be going into a hearing on Oliver Lodge or possibly accepting that and then all of a sudden have to pull back and say we are expanding a non-conforming use and a variance is needed. We're examining ways in which we can improve upon that so that we can provide for a smoother path both for applicants as well as the Board. I don't have that figured out yet, but we are looking at other ways of doing things and it would probably represent a regulatory change where we will require a certification of zoning compliance to be a front-end application item so someone's going to file with me, they have already been to Bill and have all the zoning critiqued, all the uses, the setbacks, the variances and scrub the whole thing from a zoning point of view and have that verified on the front end before my process with you guys begins. We would work up an application for a zoning permit or some verification of the zoning issues to be handled on the front end. In that respect, I do accept the responsibility for some of the confusion because process wise, there's room for us to improve upon this piece of what we've been doing so we will be examining that. I would welcome your input at a later date relative to that because we do need to make some adjustments. Bayard – I think to some extent it's just the growth and the build out of the town a little bit that maybe is partly driving that too, it's just getting a little tougher. Edgar – It is an administrative thing. I'm trying not to have too many meetings because I have to chase everybody down for all the comments and it's easier for me to have one meeting with all my Department Heads, everybody comments and we write it up. That probably doesn't work anymore. Things get a little more complicated and we'll probably have to have two meetings, one on zoning and then one for everybody else. We've got to find a different way of doing it. Granfield – John, it wasn't your fault here, I think both these gentlemen realize there was kind of a disconnect between the applicant and his engineer in what it was. The applicant wasn't at the first meeting and the engineer was. Applicant was at the next meeting and the engineer was late, so what happened was you both were talking a little bit different about what the use was. It was almost 180 degrees between the two meetings.

Kahn – I think we tend to play fast and loose with the definition of “accessory use”. I don’t have any problem with this business in this particular district other than a problem with the zoning law. I welcome the business and I hope it can be there and be successful, but I don’t think the production of motorcycles is an accessory use in this location any more than I thought the sale of boats on Route 104 was an accessory use. There we justified it because there was more storage space devoted to storage than there was floor space devoted to retail sales of boats, but I look at that business and it’s a retail boat store in an industrial zone. You can write a letter stating that you are selling parts and equipment and production of motorcycles is an accessory use, but I think this is a fabrication business in a business district and the fabrication of motorcycles is not an accessory use and I would like to see them there but I would like to see them done as a primary use so I’m going to vote against it, but I’m not going to vote against it because I don’t want the business there. I do want the business there, I just want it done in a different way. I think we are playing fast and loose with the definition of “accessory use”. To me, incidental is incidental, it’s very small, it sort of comes along with the primary use. If it’s 60%, it’s not incidental. If it’s 50%, it’s not incidental, it’s got to be 5% or 10% to be incidental as far as I’m concerned. I do want you to come into Meredith and I do want you to succeed. Flanders – I agree with what Lou has said. This thing got derailed because the first time your engineer came in and gave us one description. He was late and you came in the next time and gave us a totally different description. We are looking at a structure that has 1,320 sq. ft. devoted to design fabrication and we’ve got 360 sq. ft. devoted to sales and for me to accept that the fabrication is accessory to the sales is a real stretch. Part wise, what dollar volume of parts do you expect to retail out of that place. Ahlquist – It’s really difficult to say. Flanders – You must have a projection. I think your business plan’s a little flawed if you don’t have a better idea than that, but you did tell us that these bikes could cost \$80,000 or more apiece and you expected to do 3 or 4 a year, so simple math would make it pretty easy to say you’re going to do \$350,000 approximately in fabrication at that location. It would be pretty hard for me to speculate that you were going to do more than that in your 360 sq. ft. of retail space in volume so my logic tells me that you’ve got 3 times the space devoted to fabrication than you have to retail and you’re probably not going to get half the dollar volume in retail that you’re going to get from the fabrication so to call the fabrication an “accessory use”, it’s just blatantly wrong. I agree with Mr. Kahn, I think this is a good location for this business. I have a problem with the process and the correct way to do this would be to go to the ZBA and apply for a use exception. Whenever a Code Enforcement Officer makes a decision, that’s an administrative decision and if somebody disagrees with that decision, they have the option

to apply to the Zoning Board of Adjustment to appeal an Administrative Decision. I'm real close to filing that appeal myself because the facts here do not support the fact that the fabrication is an accessory use to the retail. It's clearly the other way around. By your definition when you were here last time and by the square foot numbers and dollar volumes of potential sales, any way you slice it, the fabrication is the primary use here. Ahlquist – I honestly don't believe it is. It may appear that the focus of what we talked about the last time I was here were the fabrication items and what have you, but I was simply answering and fielding questions that were asked by the Board. There were not many questions asked about the retail end and that's why it was not talked about and I didn't know it was my place to bring it up and interject that. As far as the majority of the building being used specifically for fabrication, that's not the case. There's a fair amount of space that will be used for storage of stocked items not to mention the fact that we will have an on-line store and will be selling a lot on the web obviously and bringing a lot of our merchandise to trade shows and things like that so it's necessary for us to have that space as well to store merchandise. We will be dealing directly with a lot of major national retailers and reselling their merchandise and we will have a lot of our own product line on display there as well. As far as the motorcycles are concerned, how many am I going to fabricate, I was asked on the up side to give an estimate of what the most expensive motorcycle would cost and at a maximum, how many motorcycles would be fabricated at a time and I gave you those estimates and that's on the up side. Will every motorcycle fabricated in the building require ground up fabrication, absolutely not. There are a lot of motorcycles that can be built with just basic assembly, built out of a catalog, parts ordered and bolted together. Those bikes obviously are going to be a lot cheaper, they are a lot more affordable and they don't require as much time or fabrication to build. I don't think it's fair to say that just because the retail itself might be small in comparison to the rest of the building that there's something trying to be slid through here where it's actually a fabrication shop disguised as a retail area. It's not. It's a retail business. The end result is a sale of a motorcycle regardless of whether it's bolted together. If I have to do a bit more work, any of the actual fabrication that's done is going to be in low volumes and I don't think that's an accurate description. It's not a fabrication shop. I won't be doing outside fabrication work for the public. If someone were to bring me something and asked me to fabricate it, that's not what I do. Bayard – I don't think anyone's saying you're trying to slide anything through. There was a confusion initially, I think you've been very straightforward in what you've told us. There is without saying a gray area. There is fabrication going on whether it's accessory or not could be a question. You may feel that way because it's kind of hard being on the other end and having five or



six people up here quizzing you, but I don't think anyone's accusing you of trying to slide something in here. Roy – From our perspective, you did ask us to clarify the use, whether or not it was permitted, with the Code Enforcement Officer so we've done what the Planning Board has asked, whether or not the answer is what you wanted to hear, I don't know what we can do about that other than there's documentation of support, Bill Edney's decision. We understand that any Administrative Decision could be appealed to the ZBA and, of course, any approval of this plan would no longer be valid if that decision did get appealed. We would simply ask that the Board consider that we've done what you've asked us to do, we know there's a couple items to address, all very easily completed. I would like to get through the use thing. We've got Bill Edney's interpretation of it and I'm sure Wayne wrote what the use is and reflected what was said two weeks ago. There's really nothing new to add and you got the answer you needed from Bill Edney. Bliss – I would just like to say that Meredith pays Bill Edney and John Edgar quite a lot of money for their input and they have both had input and talked about the procedure and maybe it wasn't the right way, but at this point in this process, I believe we should approve this. John has said it is OK. We should not penalize this applicant because somewhere down the road our "accessory use" in our ordinance is not clear. I think we need to be fair and they've jumped through hoops, they've done what we have asked them to do. It may not have been in the manner we thought it should be, but as I stated at the last meeting, this can be a very intimidating process and I think it's hard for people to sometimes get up there and present things and if it's not presented in a way that we think is what we wanted, we shouldn't hold that against them. Edgar – I appreciate very much what Bob and Lou were saying in terms of their concerns and I don't necessarily disagree with these concerns. Regardless of how you proceed with the application, I think it would be appropriate to have a work session with Bill regardless of how you vote on this particular application, to talk about the "accessory use" issues and how that's administrated. If you were to deny it based upon your interpretation of the ordinance, you would need to support that and state that. We tried to guide you not to go down that road so that at the end of the day, you don't become a de-facto zoning administrator as a Planning Board. It's important from a community perspective and staff perspective that the zoning administrator deals with his opinions, right, wrong or indifferent and they move forward. In some cases, they are appealed, 99% of the time it's moving forward. Theoretically, and as a practical matter, if it rose to the level where the majority of the Board felt that was just an outright, absolute, incorrect way to go and short of appealing to the ZBA, you could deny the application based solely upon your interpretation of the ordinance. If you were to go down that road, you need to be very explicit so it is in the record what that finding is

because that is an issue appealable for the applicant to understand what the basis of the denial is. I am not suggesting that you do that, but if you do, you need to create a very clear record. I think it would be very prudent to sit down with the Code Enforcement Officer and have a work session kind of environment and constructive dialogue on the issues that Bob and Lou have raised. Flanders – I would like to respond to a couple of things John said. First, as Selectman, I would have a lot of indigestion if the Board here came up with a ruling that we disagreed with Bill and that's why we are not going to approve this thing. That would really put the Town at risk. There's no way in any type of legal appeal, the Town could prevail on that. It's not necessarily our position to be making these code calls. The thing that's giving me the most indigestion about this is that there's a legal procedure that would be very simple to follow here that would make this be handled correctly and that's simply applying to the ZBA for a use variance and call it what it is, it's a fabrication shop with an accessory use of retail. When you showed up at the last meeting and they were very specific and we were trying to get our arms around this because to be perfectly honest with you, when this gentleman showed up the meeting before that, he didn't know from nothing what you were going to do out there. He just didn't know. He didn't have the answers so that was a problem and at the last meeting, he showed up late. You haven't been very well represented here, that's one of the problems. The other problem is that I still believe that the fabrication is the primary use and the retail is an accessory use and that can very easily be taken care of by applying for a use variance from the ZBA. None of us up here feel that's the wrong location for that business to exist. Roy – He hasn't given us a denial, instead he's given us the approval that it is a permitted use so we have no standard by which to go to the Zoning Board. Flanders – You would have if we approve this site plan conditional upon you getting a use variance, then you would have what you need to go to the Zoning Board. If you come in here and need to have some parking spaces that violate the setback, we grant a conditional approval contingent upon ZBA ruling that they will allow that special exception. This would be the same type of thing. It would be possible for Bill to issue a Temporary Use Permit so that he could go in there and not miss Motorcycle Week. The only difference is that you would have to go through the extra procedure, but at the end of the day, everything would be the way it should be and you don't run the risk of getting hauled back in here under the right to review and amend. I'm not trying to give you a hard time, I'm trying to get this done right and what we do here sets the precedent for what happens in the future. Bayard – If I may back up just a second, John I think that's a great idea to meet with Bill for clarification on the "accessory use" issue. Bliss – I think one of the things that's bothering me a little bit here and with all due respect to Bob, I'm hearing him trying to tell the applicant what his business

is and the applicant has told us what he is going to do. We do have to trust him just like we've trusted other applicants to know that is his intention and not read between the lines and say that it's not going to work. We do have a permitted use as an "accessory" from Bill and I think at this point we can get ourselves into more of a problem if we don't approve this. Yes, I do think we have a problem, but if we don't approve this and nothing over the past three meetings has been said about a variance and to throw it in at the third meeting, I think we're asking for trouble. I would like to see us approve this. Granfield – I always like to have something like a plan note that helps me get my arms around this. If you had to give a percentage of what fabrication you would be doing, what would that be? Ahlquist – Percentage as compared to what? Granfield – 80% is sales, 20% fabrication, 10% whatever. What is your guess on that? I think it's safe to say 15-20% actual fabrication as compared to sales. Granfield – Would you agree to a plan note that says that? Bayard – I would add to the extent if we do approve this, I think a strong plan note needs to be on there and one of the things we do put in is the right to review and amend in which case if things do change and if it becomes primarily a fabrication facility, let's call it that. That would allow it to be brought back in for whatever. Roy – That's built into Bill's interpretation of the use. Granfield – John, if the percentage is appropriate or does that tie Bill's hands on saying what is accessory use. Edgar – It's a good question, but it would be a difficult thing to ascertain anyway. In a sense, that's why I suggested of reworking Plan Note #9 to more clearly elaborate on the primary vs. accessory uses whether we throw a percentage in or not. Granfield – My comfort level on that is that it gives him something and it gives us something. I'm not saying we've got to go out there and knit pick what it is, but then if he decided he's doing 50/50, he could then go for a change. Edgar – I think we want a plan note whether we get into percentages or not, I think a fairly beefed up plan note would be helpful and certainly don't minimize this, but what is going to be in the written record of this hearing is the question that was asked relative to percent of business volume attributed to fabrication, the answer was approximately 15-20%. That's going to be in the minutes in black and white. I do agree that as much clarity within reason as we can have so that if there is a concern that the relationship is out of whack, there's things to fall back to. Granfield – Both from an enforcement standpoint, but also for the applicant to know I now need to go to the ZBA and get it changed. Bayard – Assuming we approve this, I think that's going to be critical that that be worked out. It can be done administratively with Bill and with John's input as well. Edgar – What we've done based upon the last hearing, we very specifically had the Fire Chief go back out to the site and view with Wayne specifically the equipment and materials that would be involved. I wasn't part of that, but they talked flammables, they talked gasses, they specifically

looked at the masonry firewalls relative to where the apartment is and all that kind of stuff against the codes. Basically, the Fire Chief has gone over a laundry list of things that would typically be a function of the occupancy permit. They are all interior to the building, they wouldn't occupy and use the fabrication components until they deal with the requirements that the Fire Chief has set forth relative to signage, alarms, etc., etc. The Fire Chief's review is on Page 27 in your packet. One of the things he reiterated to me verbally that may be in that e-mail as well is the fact that there are no liquid flammables being stored at the site. This is significant in terms of additional hazard issues that we have to deal with and believe me, the Chief is experienced in dealing with all the service businesses in the community, he knows the codes, he's reviewed it specifically and gone over a laundry list with the applicant of the kinds of things that have to be incorporated into the building in order for it to be occupied. The signage really has to deal with putting the responders on alert that there is a tank of sorts in the building because the issues there would be keeping the acetylene at a certain temperature and not having the buildings fully involved. They need to know that there's a tank in there so that's what the signage piece is about. It's not to direct retailers, it's basically for those responding. These are all code related things, there's the alarm requirements so that it's tied into the fire station and could facilitate a response. All those code related things have been reviewed between the applicant and the Fire Chief and will be verified by the Fire Chief. Roy – I think by suggesting that we need a variance from the Zoning Board, really what you are saying is you're appealing the decision of Bill Edney. There's a process by which to do that and I don't believe it's in the Planning Board forum. I just wanted to put that out there for the record and for your benefit when you make a decision. Flanders – I would like to respond to that. If we were to approve a site plan without any kind of stipulation or whatever that we honestly felt needed a variance, then we would be extremely derelict in our duty as a Planning Board and you just asked us to be derelict based on my interpretation. Bliss – Mr. Chairman, are you ready for a motion?

Bliss moved, Granfield seconded, I MOVE THAT WE APPROVE THE APPLICATION OF WAYNE AHLQUIST, ACME CHOPPERS FOR EAGLE ENTERPRISES FOR A PROPOSED SITE PLAN AMENDMENT TO ESTABLISH A MOTORCYCLE SALES, SERVICE AND REPAIR USE, TAX MAP S19, LOT 9, LOCATED AT 45 DANIEL WEBSTER HIGHWAY IN THE COMMERCIAL-ROUTE 3 SOUTH DISTRICT, SUBJECT TO THE FOLLOWING:

- (1) THAT PLAN NOTE #9, AS FAR AS THE USE, IS CLARIFIED FURTHER WITH STAFF, BILL EDNEY AND JOHN EDGAR;

- (2) FABRICATION OF PARTS IS LIMITED TO APPROXIMATELY 15-20% OF THE BUSINESS;
- (3) THE FINAL PLAN SHALL LOCATE THE EXISTING WATER SUPPLY FOR INFORMATIONAL PURPOSES;
- (4) THE FINAL PLAN SHALL CROSS REFERENCE THE NHDOT APPROVAL;
- (5) FINAL PLANS SHALL NOTE THE FUEL SUPPLY LOCATION WITH SIGNOFF BY THE FIRE CHIEF;
- (6) FINAL PLANS SHALL NOTE THAT THERE IS NO PROPOSED OUTSIDE DISPLAY OR STORAGE; AND
- (7) THE BOARD RESERVES THE RIGHT TO REVIEW AND AMEND ANY APPROVAL PER SITE PLAN REVIEW REGULATION NOS. 6 AND 17A.

Voted 5-1 in favor of the motion.

3. **TERRY GRAHAM, DOCKS UNLIMITED, FOR CHRIS JOHNSON, EAGLE ENTERPRISES:** (Rep. Roger Roy)

There are 7 parking spaces here to service the Acme Choppers building and the studio apartment on the second floor. We are not proposing any changes in the access or egress from NH Route 3. We will be submitting the application to the NHDOT for an amended driveway permit. We have Chris Johnson's signature on that. This plan you are looking at today will be going to the NHDOT. The existing landscape island in the middle of that parking lot will remain. The approximate limits of gravel today are shown on the plan. This plan demonstrates how another 9 parking spaces could be accommodated on that gravel. We are proposing to install signs to guide customers. For the size of the area to be used, 9 parking spaces exceeds what the Town would require. Flanders – What size parking modules did you use? Roy – 10' x 20'. The darker line on the plan is where Docks Unlimited would run their business and they would also have an outdoor display area. We basically upgraded and improved the existing path that leads up to this building and then also have a retaining wall to provide a way to level out the existing stockpile that's there, but not level it out into the parking lot so there would be a 3' high +/- retaining wall which would actually is a display retaining wall. Terry does build some walls when he's installing docks. This cream area on the colored plan would be the outdoor display area we are proposing. We've re-graded to about 7 feet from existing wetlands and for that we are seeking a Special Exception from the Zoning Board on June 9, 2005. We will be grading roughly to where the silt fence line is and that allows us to basically knock that stockpile down to the point that it's somewhat level so it could be a useable outdoor display area.

In projection with the grading, we slightly adjusted the swale that's at the toe of the stockpile and the purpose of that is that the stockpile was placed there, the growth that's on the stockpile is not planted growth, it's like any pile of somewhat loamy material, something's going to start growing eventually. A Special Exception is required to grade within 50' of this wetland and we would be grading up to 7' from the wetland, but then restoring that with loam and seed. We are going to submit the entrance permit request to NH DOT tomorrow for the amendment. This building is currently tied to the septic system, however, the records of the NHDES Subsurface Bureau don't reflect that and therefore that requires an amendment to the existing septic permit so we are in the process of filing that. The leachfield, after doing some calculations, initially I thought we had to lengthen it a little bit, but actually based on the total growth on the site, the leachfield is large enough. The amended plan is simply going to show this building being tied in to the existing septic system. Terry is working out of the site right now, he does have a Temporary Use Permit that he filed with Bill Edney. That permit is at his risk with review, comments and hopefully approval by the Planning Board. Flanders – Where is the leachfield located, I see a force main going up and then it's covered by a locus. Roy - Where we did the locus will help show where the leachfield is. What's the size of that leachfield and what type of leachfield is it? Is it stone and pipe? Roy – It's stone and pipe and it's 20' x 30'. It's approved for 405 GPD. I have spoken to Des about this site, it was suggested as we need additional area, we could simply excavate under the existing leachfield bed and add additional pipe to the stone and pipe system. Flanders – Have you calculated the flow that's going to be coming out of the apartment and... Roy – Right now, the approval's for 405 GPD and that approval is based on 3600 sq. ft. of retail use, whereas the original septic designer said he used the number of employees in his calculations, but the DES doesn't look at it that way so the DES approved it for 3,600 sq. ft. of retail which is 180 GPD of flow and 225 GPD for the studio apartment. So our flow is really less than 3,600 sq. ft. of retail use. We have in this building about 1,700 and a 1,000 here so we have 2,700. You take 27 x 5, that's about 130 + 225, you've got 355 so the proposed flow is 355 GPD, which is less than the approved flow of 405 GPD. We still need the amendment to show this building is tied in. When Terry approached us about possibly using the site, it was almost about the same time when Wayne approached us to use the site. It was my suggestion that they use one surveyor because at the time, they were looking at two different surveyors for the same site. I also suggested that they coordinate the review of the DOT permitting so that goes to the state as a package, but as a practical matter, it was also my suggestion that we look at two applications because they are two different issues, one has grading and some drainage improvements, the other

doesn't and two different applicants, technically they are both authorized by Chris Johnson. We wanted to have two different applications, but try to have the plans coordinated so that issues such as driveways, septic and parking can be reviewed on one site plan. That's how we got to this point in terms of these appearing about the same time on the same plan, but with two different applicants. As Roger indicated, Terry is operating on a very limited basis at the site under a Temporary Use Permit. This is consistent with what we did up the street with the gentleman that sells the trailers and he is allowing him to occupy the site for a period up to six months on the premise that they commit to the site plan review process and then at that point it's up to the Board's discretion as to whether or not to approve the application. One of the stipulations that was agreed to is that they would only occupy the existing gravel area and not deal with the grading until we get those approvals in place. There is a very limited window that they've been allowed to mobilize out of one site and into this one. With respect to the use and I don't say this tongue in cheek, I say this sincerely, there is no fabrication on site. There is a fabrication shop elsewhere in the community over on Waukegan Street, that's where Docks Unlimited fabricates. This is strictly a retail and display function that are permitted uses in the district. With respect to structures and parking areas and so forth, basically they are all existing conditions on a 20-acre site. I suggested that we do have some clarity on the display to make sure we don't creep into the ROW, wetland setbacks and the suggestion of cross hatching or shading or something like would perhaps make some sense. I have indicated in my staff review that the kinds of things that we would evaluate for the display area is to make sure we don't obstruct any sight distances for any traffic entering or exiting the driveway, that we would not locate anything within the state ROW, that we would not locate anything within wetland setbacks unless we have wetland relief to do so. Those are the kinds of things we would want to see clarified in terms of outside display for the docks that are sold from the site. As indicated, there is an application that will be going before the ZBA relative to the stockpiling being graded. This is anecdotal but it is my understanding that Jack Dever, the previous Code Enforcement Officer, had authorized some stockpiling to occur. You may remember that area at one time was used most recently as a landscaped area. Prior to that it was a mini-golf in that area. There has been some allowance for temporary stockpiling which turned out to be not so temporary. What we have is a bunch of mounds in that area and it's those mounds they are proposing to grade. This was another reason we wanted to separate these two applications is because this one involved a little bit of grading, the engineer's stamp was a little more critical on that one and basically we are looking at that 110 elevation and if you look on the topo plan, you will see the grading at the 110 elevation so the height of the piles are coming down

to about 6 feet and we are creating that plateau that is very consistent with the elevation of the area around the building being graded off at about the 110 elevation. With respect to utilities, I knew we were examining whether or they were connected, I heard for the first time that they actually are connected, but our review of the file didn't show it so that is what the amendment is about so they can legally tie into that pump system and then to have the amendment to actually reflect the actual uses. With respect to water, I suggest here again, it's existing conditions, we have a well on site and the question simply is, does it serve both buildings? In other words, we have been looking at what used to be the golf shack for the driving range, that's going to be rehabbed into 1,000 sq. ft. of retail and office space, but they are obviously going to need water. That needs to be clarified. With respect to the road access, it was indicated that the driveway permitting is a function of the NH Department of Transportation and that permit should be referenced on the final plans. Plan notes have been set up to anticipate cross-referencing of all these other underlying approvals. It's not a big deal, but I think we need some clarification as to how the site will be stabilized when we push the dirt around. They will be re-grading the ditch line in particular as well as that top platform area. I know they even talked about possibly mulching it at least on the platform. Obviously, the ditch lines would have a different treatment. That should be spelled out. There are two drains that are called for, here again recognizing it's basically existing conditions, but I think to try to make the site work a little bit better, there's a small drain pipe coming off the parking lot and a larger drain coming off the building and those connect into a headwall at the outlet of an existing pipe on site. Roy – There's a cross pipe under Route 3, there's a low area and the existing pipe runs down this way and ultimately discharges into the wetland that's flowing towards the south side of the site. The new drains would be tying in to help drain off the parking lot. The parking lot, as it is, drains towards this low spot. With the installation of the retaining wall, the fill causes a dam so we have a low spot we have to drain. Flanders – Are you putting a catch basin in there too. Roy – It would be a pipe at the wall so the invert would be at grade. It wouldn't be a catch basin scenario, it would be a 12" pipe. Another pipe we're proposing, there's a walk under feature of the building which provides access to utilities under the building, possibly storage and that walk under area and the finished floor elevation is a couple feet higher so by placing fill in this area, it creates a low spot under that building that we want to drain. The pipe submersed in some clean stone can provide an outlet for water and that pipe would connect to this headwall as well. Edgar – That headwall location, where does the water go? Roy – It goes in a southerly direction. Edgar – I'm just looking at the invert out down below is 99.9 and the other end is 99.6. How does that work? Roy – That's the answer the surveyor got. Based on the terrain, the



water's going that way whether or not it has to fill up in the pipe first, the water is going in a southerly direction. Flanders – If it has to fill the pipe up, that pipe will obviously freeze in the winter so that drain will immediately be clogged with ice and useless until it thaws in the spring. Roy – It's an existing condition and the pipe's there. It will still be 10' deep when we are done grading. Edgar – Is there a way for that particular drain to go towards the old driving range? Roy – Only if you dig a trench that's 10' deep. Right now the existing grade where we're proposing that pipe is 106 average and the pipe invert would be 104 so we can install a pipe and then do our fill instead of trying to do the trench and then install the pipe. Flanders – The concern is that the end of the pipe that receives the water has water standing in the pipe, it is going to freeze and it's not under 10' of fill at the entrance. If you put a plug in that pipe at the beginning, it doesn't make any difference if you've got 80' of fill over the rest of it, it still is not going to flow any water once it freezes. Roy – I brought up the fill because it's an existing condition that happens to work and for us to dig 10' deep for 95% of the pipe length to replace that pipe, it's something we can consider but we weren't proposing to do it. Flanders – What's on the plan here, essentially is not going to work in the winter time. Roy – Let me describe what we are realistically doing for a change out here. Right now, it's a stockpile, we are either going to put mulch or loam and seed out here. Edgar – If the volume of water that's around that part of the building is so small, is your water table such where you could just infiltrate. You don't have a high volume, why don't you just run a short run of pipe coming out from the building and infiltrate. It would be cheaper and it's just one less element of confusion you're looking at at that headwall. Roy - It's an existing gravel area. We are going to add lawn areas so the runoff from the lawn is going to be less than runoff from an abandoned stockpile. Is it possible to take that pipe out and reinstall it. Flanders – The pipe that's going to drain and pick up the water at this retaining wall, how far is that below grade? Roy – At the retaining wall the invert in is 102, invert out is .99, what's our invert over on the other end of this thing? Roy - .69. Flanders – So, how far is that from those two invert points? Roy – 150 feet. Flanders – For all intents and purposes, the pitch across there is nothing, am I reading this right? Roy – It's small, it's less than ½% minimum slope. Touhey – About 6 inches for the whole span? Flanders – It's not 6 inches, it's like 10ths of an inch. An inch in 150 feet. For all intents and purposes, that's dead level. Roy – There's always the possibility that someone set up survey equipment, located some things out in the field, came back another day and set up survey equipment, used the same reference point, but somehow the data didn't reflect the same reference point. We can do some more investigation as to whether these inverts are shown correctly and I can go back and verify if this is really a high point and these two pipes carry water in different directions. Let me

verify that. Flanders – Let me interpret what you just told us. You just told us that this pipe is almost dead level from here to here and then you said it may be a mistake, we might not have done it right. If that's the case, if you might not have done this right, what else on this plan did you not do right? Bliss – Mr. Chairman, I think this is really getting a bit ridiculous. I'm sorry Bob I really feel that you are holding the last applicant against this applicant and I think we really have to go at this with an open mind. Flanders – Pam, if there's engineering data here that's in question, that's significant. If we have a pipe here that's laid level that's supposed to drain water and it's not going to work, that's going to have a drastic effect on this and this has nothing to do with the previous application. I asked a question about the pitch, he tells us it's essentially dead level and then he tells us it may not be right, I had better go check it again and a logical question at that point is, if this information he's not sure of, what else is he not sure of on here. I'm sorry, I'm used to dealing with people coming in here and having stuff that's accurate and reliable on these plans. We cannot make a decision based on a plan that's wrong. If the information's not correct on this plan, we shouldn't even waste our time looking at it. Roy – I didn't say it wasn't correct, I said I would verify it. Flanders – You said it may not be correct. Graham – I'm not an engineer, but I have lasers I work with in my work. The pipe does drain, the flow is extremely minimal and probably virtually zero in the winter. It's more related to rainfall than any kind of flow from streams or anything. It does go into the wetland. The wetland is wet from that pipe. That's all I can see with the naked eye. I could go out there myself and verify with a laser what the actual pitch is, if any, but I don't believe there will be any water in the pipe in the winter time anyway. Flanders – Isn't there a piece of pipe that comes under Route 3 and brings water from the other side of the road and dumps it in this same area. Roy – There is a culvert here, there's also a large brook that runs just off Route 3 and really like a major watershed is being collected through a brook that's not impacted by it at all. This part of Route 3 is the fill. Graham – There's a cow path there. Flanders – There's a cattle crossing. Roy – That's not a drainage. Edgar – There's a culvert that empties out right at this location. Flanders – I'm assuming that if there's a culvert there, there must be some water running in it at some point. At one point, this was a mini-golf area, whether or not they needed a drainage pipe when it was a mini-golf, I don't know, but so I don't know if it was installed at the time the mini-golf was there or if it was installed when the stockpile was brought in. I'm trying to conceive why a pipe would be lower than it's adjoining, but it's an existing condition that we weren't proposing to change, but we can consider changing it if that's what the Board wants. I think that draws conclusion to the discussion about the pipe. Bliss – Mr. Chairman, and also in John's review, it talks about that and it should be submitted for review and

indicated on final plans so I would think this is something that could be looked into and so we get a clarification or a verification on it. Edgar – We are working under a Temporary C.O. We are trying to move things along, but not irresponsibly. If you feel you would like to walk the site and get a better first-hand view of it, we've certainly done that in other instances. I pointed out the headwall detail because we have one existing pipe and we are tying in two more pipes into the headwall so in one headwall structure, you would have three openings. I had suggested that we see that detail to make sure from a construction point of view, that's well thought out and we nail it if we were to go that route. When I'm looking at this, certainly I think some consideration should be given to if there is another way to skin the cat. If you look at that 90 degree jog in the retaining wall where the pipe comes out, maybe there's a way to pipe it not into that area, maybe there's a way to swale it or something. Maybe there's another way to address that water to train it to get into the pipe. Maybe there's another way to deal with the small volume that would be trapped by the fill around the building. Maybe all these pipes with all due respect to the engineering profession, engineers do a lot of pipe work. Maybe there's another way to get rid of the small amounts of water we're dealing with. They are existing conditions and we haven't had problems. We are not adding impervious here, but maybe there's a simpler way to make the water go away that doesn't involve as much pipeline. Here again, it's existing conditions, it's more a matter of these retaining walls and the fill around the building creating pockets of water and finding a way to get that water but in that respect, it's a known issue because we are not adding impervious, it's basically the existing conditions. I think we are dealing with very small volumes and if there's ways that don't involve... rather than build a headwall maybe you put a basin in somewhere and I really think that if your water tables aren't excessively high and you've got a small amount of water, you can probably look at infiltrating it in a drywell somewhere and make the water go away and then let it drain subsurface back to that wetland. You know, get it out of the way and so there may be some other ways if we're going to verify those inverts, maybe some other ways to make some of this small volume of water go away so it's not a problem for the parking lot and not a problem for the building. Flanders – Mr. Chairman, to add a little history to this, years ago when Gordon Antiques was getting ready to move into that building where they were, that's where the cycle shop is going now, I had just finished building his house on the lake as a contractor and he hired us to go in here and set up some display cases and stuff before he moved in and that was in the spring of the year and there were some problems back then and this is probably 15-18 years ago with water not running off this corner of the parking lot properly. I doubt anything's been done with the pipe since then and I'm just concerned that when we get done here that this will drain

properly and we're not going to end up having the applicant waste money to do something and then have to do it over again because it doesn't work and a little bit of investigation now would potentially save a lot of time and money later on. Edgar – With respect to the parking, we've indicated, here again it's basically the same layout that you would have had when the driving range was operating and when the landscape business was operating, but spatially it indicates 9 spaces for this portion which is in addition to the 7 that were indicated on the other site. I think that the nature of the beast that, and Terry and I talked about this a little bit, is that this is not a high volume kind of retail in the sense that everybody that drives by isn't going to bang a right and say "hey honey, let's go buy a dock". Edgar – Although there would be some folks that will certainly be seasonal residents, it's not a typical kind of retail business that you would have a lot of folks coming in so I think that in the context of what we are looking at for parking is feasible. Signage, of course, we're using the existing pylon sign. Actually, the top structure that used to be a big golf ball has been removed so the height of the sign has actually come down a little bit, but basically they are using the existing structure. Graham – It's going back. So we are using the existing sign. Fuel supply, same comment as across the way depending on how the building would be heated if we are dealing with any outside fuel source, identify them and make sure that the Fire Chief reviews it against the code. Given the question that we've talked about on the drainage, you may want to look at the site. Currently, there is some additional information that Roger's indicated that he would be taking a look at to double check the inverts to verify them. I don't think there's a necessity that we bang out a vote night one. We do have the temporary permit that we're working with, but we are trying to move forward. I don't want to minimize the applicant's desire to move forward, but I think you've raised some questions and I think at the end of the day, we want to make sure it all works. Flanders – Mr. Chairman, a couple of questions. Does the ZBA application include relief for display in the setbacks? Roy – We did not ask for that. Edgar – It's not required. Roy – For the Board members, this pink line represents the property setback line. This line which is a continuous radius here, that's the setback from the on-site wetlands so we are trying to keep our display outside the 50' buffer from the wetlands, but we would like to put display on our property within the setback. We are outside of the ROW. Roy – You can see there's a big buffer between the edge of pavement and the ROW line. The display area here would not impact sight distance for cars leaving the site. Flanders – Given the close proximity to the wetlands here, I think it would be consistent with what we've done in the past to have a pre-construction conference with Bill Edney and make sure the proper sedimentation and erosion control measures are in place. Edgar – Basically, we would do that. The site plan does call for silt fencing, we've

reviewed that. I've raised the question that we should probably have a little bit of additional information on site stabilization relative to the ditch line that's proposed, but yes, it wouldn't be a big one, it would just probably be whoever's going to do the dirt work, Bill and myself. Roy – I realize we don't give a detail of the silt fence. We called out stone check dams, but we don't have a detail so we can add that to another plan and you can work with the Town Planner. Bayard – On the proposed outdoor sight display, there is one proposed area on the other side of what looks like your main display area, at least there's a rectangle up there. Roy – That would be at grade with the gravel parking so people getting out of cars don't have to walk a 100 feet to go look at something. That would be on the grass area. Bayard – I think that needs to be defined a little bit so it doesn't encroach on the parking. Graham – There is no display proposed north of the retaining wall. All of the display we have located in the leveled area which will be pitched slightly to drain. We build several different kinds of retaining walls and we propose to build an L-shaped wall here and will be roughly equivalent to grade as this existing raised area here and then we would still take all that area and basically pull that over with some pitch to carry the water away from the structure towards the drainage. We don't need to go anywhere near this wetlands area. The only reason there's water under this building now is because of this huge pile of dirt that's significantly higher than grade down here and it causes water to ditch underneath. I don't need access to the bottom of the building, I'm not going to use it in any way so whatever water exists now will be vastly minimized by the re-grading so I don't see a need for a dramatic amount of pipe here. Bayard – So the rectangle shown as display area can be deleted? Roy – We must have misunderstood each other. Touhey – If you go to your parking spaces on the left and go to the left of the retaining wall, how is that area going to be used? Graham – It's not going to be used basically. I have enough area here to display pretty much everything I need to display. I would like to have the right to put a couple small item like a jet ski lift or something small along the perimeter of that wall. I do propose to put some short pieces of fresh treated piling in a row here and make a fence to delineate the top of the wall from the parking lot area and to keep people from trying to climb over the wall. Touhey - John, you recall up on Winona Road and Route 104, the approval that we gave there and we had a limit to the display. Edgar – Different zone, different issue altogether. That was the B & I zone, where this is a retail zone. Outside display is not uncharacteristic in a retail zone. Bayard – Do you have any boat storage? Graham – I'm not contemplating any boat storage. There was some boat storage there prior to my arrival by another person with the approval of the Johnson family. They are not going to do it in the parking lot next year because that's my area. I would also like to make a comment about this large stockpile of dirt.

I researched the history of it and what turned out was that Mr. Piscopo was doing a road project of some kind for the Town a few years back. Mr. Dever allowed him to deliver all the excess fill to this area. I assume there was some verbal understanding that they would eventually grade it or do something a little more attractive with it, but that never happened and also I'm sure permitting was a lot less restrictive in those days and wetland issues weren't as closely watched, but unfortunately this large mass of fill which is extremely unsightly has been left to grow up to wild vegetation and it looks horrible. It detracts from my business substantially and every day that it sits there, not only am I losing sales potential because it's the meat of my season right now for sales, but it also detracts from the overall aesthetics of my business and what I'm doing and I am very eager to move forward and re-grade that so it's functional. I have been dismayed to find out and I'm willing to go through whatever it takes that it is an expensive process hiring engineers, timeliness involved, meetings with the Town and so on, I'm completely willing to go through that, but I would like to see it expedited. I don't see any reason why this should be dragged out as far as drainage issues because largely the drainage issues are created by the large pile of dirt that was allowed to be put there. My intention is to satisfy whatever requirements legally I'm forced to do and comply to make this works drainage wise and aesthetics wise and everything else, but I would hope the Town would understand that this problem was created partly by neglect and allowed to happen and I get to receive the ball now. Bayard – Are you planning on removing the dirt from the site or pretty much level it? Graham – There will be some excess fill that will have to be trucked away. I don't intend to leave a stockpile anywhere. I want an attractive frontage. I intend to mulch it. I was going to have my brother-in-law come in advise me whether we need to put fabric down and then mulch it or whatever it would take to minimize the maintenance and also the appearance. We intend to paint the building and so on and so forth. The idea is to have a clean, open display area that people can access through the frontage over here and not be climbing over the wall. Flanders – Just to correct one thing that he said, Piscopo rebuilt the intersection of Neal Shore Road for the State not the Town. I don't think it's anybody's intention to slow this down. If this area gets graded off here and the drainage doesn't work, it will be up to you to fix it afterwards. In the process of dealing with DMC Surveyors and the engineering company, I have noticed these discrepancies. They were very small. One plan didn't show this island and I indicated to them it had to be shown because it's in the middle of the parking area. Basically, it's possible that this pipe is very minimal pitch, if any, but there's so little flow there, you can see the visual appearance of the site that it already works. I am willing down the road, if I have to and it's proven that this

Causes other problems, to dig it up and put a pitched pipe in there, but I would like to get the grading done now so I can have a better appearance. I actually don't agree that I'll need a pipe running from here to here. The driveway is an issue, there is collective water there now and I do think we need a driveway pipe from the corner that grades down into this headwall so there are two pipes in that headwall, one feeding the wetlands and one coming from here.

Bliss moved, Granfield seconded, I MOVE THAT WE APPROVE THE PROPOSED SITE PLAN AMENDMENT FOR TERRY GRAHAM, DOCKS UNLIMITED, FOR CHRIS JOHNSON, EAGLE ENTERPRISES, FOR A PROPOSED SITE PLAN AMENDMENT TO ESTABLISH A RETAIL SALES FACILITY WITH OUTSIDE DISPLAY OF DOCK EQUIPMENT AND RELATED SITE IMPROVEMENTS, SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) FINAL PLANS SHALL PROVIDE ADDITIONAL CLARITY AS TO THE SIZE AND LOCATION OF THE OUTSIDE DISPLAY AREA;
- (2) THAT THE DISPLAY AREA IN FRONT OF THE PARKING AREA BE TAKEN OFF THE PLAN;
- (3) THAT A SPECIAL EXCEPTION IS REQUIRED AND SHALL BE CROSS-REFERENCED ON THE FINAL PLANS;
- (4) THAT THE FINAL PLANS SHALL CROSS REFERENCE THE AMENDED NHDES APPROVAL;
- (5) THAT AN AMENDED NHDOT DRIVEWAY PERMIT IS REQUIRED AND SHALL BE CROSS-REFERENCED ON FINAL PLANS;
- (6) THAT SITE STABILIZATION WILL BE WORKED OUT ADMINISTRATIVELY WITH STAFF;
- (7) THAT A DETAIL OF THE HEADWALL SHALL BE SUBMITTED FOR REVIEW AND INDICATED ON THE FINAL PLANS;
- (8) THAT A PLAN NOTE BE ADDED TO THE PLAN THAT THERE MAY BE A PROBLEM WITH THE DRAINAGE IN THE FUTURE AND THE APPLICANT HAS AGREED TO CORRECT ANY PROBLEMS IF AND WHEN THEY OCCUR;
- (9) THAT THE FUEL SUPPLY LOCATION SHALL BE SPECIFIED ON THE FINAL PLANS AND SIGNED OFF BY THE FIRE CHIEF; AND
- (10) THAT THE BOARD RESERVES THE RIGHT TO REVIEW AND AMEND ANY APPROVAL IN ACCORDANCE WITH SITE PLAN REVIEW REGULATION 6 AND 17-A.

Voted 6-0 in favor of the motion.

Flanders – I want to get something in the motion that indicates that if there's a question about the drainage across here and if there is a problem, the applicant has agreed to correct that. Bliss agrees. Bayard – That could be handled administratively. Edgar – I need to know what your expectation is for the final plan. Bliss – can I make a suggestion. Wouldn't that be covered under the review and amend. What he does with the drainage if it's not working, then wouldn't that be a process of the review and amend. Flanders - The reason I bring this up is we've got 6/10 of an inch difference from one side of the pipe to the other and we are going more than 150'. If you calculated the pitch, that's close to a thousandth of an inch per foot. Based on this information, if you were doing a new plan, you would never put a pipe that shallow. Maybe this information's wrong, maybe it will work, but there's quite a potential it appears based on the information that's here that it won't work. Bliss – how about if we have them verify to make sure this is correct, because maybe it is a glitch. Bayard – John had a suggestion that we look at some alternatives there if there are some concerns as far as swales, drywells and things like that this may be a way of dealing with this as opposed to digging up the entire thing and raising it by a few inches. Flanders – I was suggesting that we make a statement that there may be a problem with the drainage here and the applicant has agreed to fix it if it is a problem. Bayard – Is that all right with you Pam? Bliss – Yes, but I don't think John liked that because it didn't give him a direction to go in. Roy – It's vague in terms of if there is a problem because Terry doesn't think there is a problem even though when you walk out there, the pipe is full of water. Flanders – It's never going to come up again unless the thing freezes up and the parking lot starts to puddle water. Edgar – If I understand that correctly, let's just say we built it per plan just for the sake of argument and with that stipulation if at the end of the day, we have a problem with the pipe, we go back to the record and clearly we anticipated that it may occur and now that we know it occurs, you've got to go fix it. Flanders – That's right. Because he's represented he would be willing to do that. Edgar - We are accepting it on face value that the design would probably work based on the engineer's integrity, however, we've noted that there may be a problem. If the problem does materialize, it's clear there is a condition subsequent in the approval that there is an obligation for them to fix it. Flanders – That will simplify Bill's life tremendously from an enforcement standpoint. Graham – I have excavation equipment and I want the site to work. It doesn't do me any good to have a big puddle in my display area. The driveway and the parking lot is an entirely different matter. That does need a pipe which he and I discussed and shows on the plan and needs to pitch away from the driveway into that corner of the retaining wall. That we are going to install. I agree with John's suggestion that maybe a short area of runoff feeding into a box of rocks basically is a French drain to



deal with the minimal area of water that might occur near the building might be acceptable. Kahn – That is the clarification that I wanted and that is that the applicant has suggested that he doesn't want to run a pipe from the building to that headwall and he's suggesting maybe we'll grade it, maybe we'll use a drywell, I'm perfectly happy with any of those but how are we going to phrase it in this so that something gets done and we can come back to it if that doesn't work. Edgar – The way we phrase it is the final plan needs to address those issues, he's stamping it. The way I would view this Lou is that for me to be recommending that you sign the plan and maybe we'll put our heads back together, check a couple things, they may tweak the approach and at the end of the day the two drainage issues have to be addressed appropriately. On the final plan and there'll be some latitude in terms of how we problem solve that and then with that stipulation as has been suggested that we've identified that there may be a drainage problem as to whether or not this system works and if it does appear we can confirm the problem in the future if it does occur, we acknowledge that the applicant has agreed to remedy it at that point which could mean a whole bunch of new pipe or whatever the case may be. The final plan will address it as best we can within limitations we've been talking with the stipulation that the applicant is on notice that at the end of the day, the drainage doesn't work, he will fix it. Clearly there's a fix, it's a question of whether or not there needs to be an excessive amount of expenditure in digging.

Plan Signatures: Hart's Restaurant – Site Plan  
Rick Hagan – Site Plan

Meeting adjourned at 9:35 p.m.

Respectfully submitted,

Mary Lee Harvey  
Administrative Assistant  
Planning/Zoning Dept.

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

---

William Bayard, Secretary