

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

Kahn moved, Dever seconded, THAT WE APPROVE THE MINUTES OF AUGUST 11, 2009, AS PRESENTED. Voted unanimously.

APPLICATION SUBMISSIONS

1. **TLF HOLDINGS, LLC & NH MEREDITH PROPERTIES, LLC** – Proposed Boundary Line Adjustment to transfer 200 sq. ft. between Tax Map U07, Lots 135 & 134, located at 62 & 56 Main Street in the CB District.

Boundary Line plan and abutters list are on file. Filing fees have been paid. Recommend application be accepted as complete for the purpose of proceeding to a public hearing this evening.

Dever moved, Kahn seconded, MR. CHAIRMAN, I MOVE WE ACCEPT THE APPLICATION FOR A BOUNDARY LINE ADJUSTMENT AND PROCEED TO PUBLIC HEARING THIS EVENING. Voted unanimously.

2. **TLF HOLDINGS, LLC** – Proposed Site Plan to expand the existing commercial building by adding a partial second floor with related site improvements, Tax Map U07, Lot 135, located at 62 Main Street in the Central Business District.

Site plan, checklist, Architectural Design Review application and abutters list are in file. Application fees are paid. Recommend applications be accepted as complete for the purpose of proceeding to a public hearing this evening.

3. **TLF HOLDINGS, LLC**. – (Sonya Misiasek) - Architectural Design Review of an existing commercial building and proposed expansion, Tax Map U07, Lot 135, located at 62 Main Street in the Central Business District.

Dever moved, Kahn seconded, MR. CHAIRMAN, I MOVE WE ACCEPT THE APPLICATIONS FOR A SITE PLAN AND ARCHITECTURAL DESIGN REVIEW AND PROCEED TO PUBLIC HEARING THIS EVENING. Voted unanimously.

PUBLIC HEARINGS

1. **HARRY F. WOOD, III OF ASSOCIATED SURVEYORS FOR BEN BASSI AND SUSAN A. & GEORGE T. ALLEN, JR.** – Continuation of a public hearing held on August 11, 2009, for a proposed Boundary Line Adjustment between Tax Map U32, Lots 10H & 9, located on Evergreen Lane and Harris Road in the Shoreline District.

Harry Wood – We made a presentation on this at our last hearing so I'll review very briefly. This property is located off the end of Harris Road and is accessed by

Evergreen Road. The property owned by Mr. Bassi is highlighted in yellow and involves a ROW adjacent to the Bassi property which we're representing that under NH Law has reverted to the abutters so Mr. Bassi would receive one-half of that, the portion in orange would have gone to Mr. Allen who has agreed to deed that to Mr. Bassi. There are several reasons for that. The tree line which separates the Bassi and Allen property is actually closer to Allen than that orange strip. There also is a deeded right to have a leachfield and access to the lake over that strip which Mr. Allen does not need, he has his own driveway and his own frontage on the lake so he has decided to formally deed any rights that he may have in that strip to Mr. Bassi and that would constitute a Boundary Line Adjustment. The object of this application is to consolidate all of the parcels that make up Mr. Bassi's property. It's actually comprised historically of 5 different pieces and the Allen piece would be a sixth one. They would all be merged under the terms of approval if this is approved and that's essentially all that's going on with regard to our application. LaBrecque – Mr. Chairman, I didn't receive any additional information from the applicant or any of the abutters since the last meeting so everything that was explained at the last meeting remains the same. We had a letter from Mr. Bassi's attorney but the letter basically summarizes some of the information we received previously in the deeds and the conveyance of Lot 2A, as well as a release from Mr. Krochina of access rights. The letter was received after the report had been written and packets were done.

Chris Krochina – (see Letter submitted below)

Christopher John Krochina
158 River Road
Mechanicville NY 12118
518-664-2097

Town of Meredith Planning Board 41 Main Street
Meredith NH 03253

Re: Boundary line Adjustment by Harry F. Wood, III of Associated Surveyors for Ben Bassi, and Susan A. and George T. Allen Jr.

Dear Planning Board Members,

It appears that the applicants are asking this Board to make a ruling on civil issues in an effort to prevent me from using my property and my easements. The applicants or agents claim that they want to record a plan to "clear up title", (7/28/09 Panciocco Letter, Page 2, paragraph 4). Is the Planning Board the proper place to bring a quiet title action? By letter dated July 28, 2009, Patricia

Pancioco gave her opinion, which to the best of my knowledge has never been confirmed in a court of law, that RSA 231:51 "prompted the underlying fee interest in the private roadway to revert to the abutting property owners, which are now Bassi and Allen" since Harris, my grandmother, made no statement to the

contrary on the 1968 Plan. At the New Hampshire Supreme Court Library I reviewed RSA 231:51, (Attachment 1). RSA 231:51 appears to be intended for the discontinuance of public highways and may not be applicable at all to private right of ways or easements. If RSA 231:51 is applicable regarding public rights, as the applicants claim, then the 1968 plan was approved by this board in 1998, which would mean the right of way that the applicants are now claiming that they own, Parcels D and E on the applicant plan, were dedicated for possible public use and the Town may have until 2018 to accept the road. Even if RSA 231:51 was applicable after 20 years the fee in any of the private right of ways would revert to the Harris heirs. A proper search of the chain of title for Lot A as depicted on the 08/31/1970 Revised Subdivision Plan for Mrs. Jessie Harris, by R. R. Merriman, (Book 34 Page 2617), and the Johnson Lot in the 1968 Merriman plan titled Part of Jessie Harris Land Revised Subdivision would have informed any prospective purchasers that the parcels were subdivided from land owned by a developer, Jessie Harris, as the grantor. The evidence on the Merriman maps and the language of the deeds is clear and unambiguous as the Grantors intent to maintain ownership of a private R.O.W., also known as Evergreen Road, and other right of ways for purchasers to access their lots. A review of the deed from Jessie F. Harris to Henry T. Dunker Jr. and Mary P. Dunker, Allen's predecessors in title, for Lot A (Book 576 Pages 304 and 305), confirms that the R. O. W. on both Merriman Plans is also known as Evergreen Road, (Krochina Exhibit 2). The deed expresses "that the land denoted as Lot 2a on the aforesaid plan shall be and hereby is restricted and limited in its use to use as a right of way to Lake Winnepesaukee for the owner of Lot 2 as shown on such plan and for the maintenance of a small dock and/or a small pump house by the owners of Lot 2". The corrective deed to Arnold Johnson, the Bassi's predecessor in title, (Book 545, Page 415, paragraph 4), clearly states that the Johnson's have "the right to have, use, maintain and repair a filter bed on land of the grantor known as Evergreen Road, said filter bed being part of the sewage disposal system appurtenant to the above described premises." If Bassi's wanted their filter bed on their own property then Marsha Bassi should have purchased another property. If the Bassi's are now claiming that their filter bed is not on Evergreen Road then it should be removed. This corrective deed raises serious questions as to whether the applicant(s) even own Parcels B and Parcel C on the applicants plan. The boundary lines of the plan that is currently before this Board is substantially different than the applicant(s) previous plan they presented to this Board in 1998. The applicants should be estopped from claiming anything different than they claimed before this Board in 1998 and/or in their deeds regarding the title to their property. The applicants are trying to change a map of an approved or recorded subdivision. By definition, (Town of Meredith Zoning and Land Use Regulations, Article II, Sec. 6170(s)) the applicants are applying for a Resubdivision and not a Boundary Line Adjustment. Therefore, abutters were improperly noticed. If the applicants do not want to withdraw their application, their application raises serious questions as to whether their site plan is in compliance with Town of Meredith Zoning. The application provides no variance for the Bassi's garage or house and possibly other violations. A "site plan submitted to the planning board for review and approval must be in compliance with the Town of Meredith Zoning Ordinance, Subdivision Regulations, or any other ordinance which pertains to the proposed development, (Town of Meredith Zoning and Land Use Regulations, Article I, Sec. 6-133). In the interest of judicial economy, what is the

proper procedure for a compliance hearing before the ZBA and/or the selectman prior to this Board making a decision? In summary: Ben Bassi, Susan A. Allen, George T. Allen, and their agents are misapplying the law and the facts to this Honorable Board without supplying the required information for a reasonable person to make an informed decision. I would like to thank the Board for giving me two weeks to research the applicants' alleged claims, but it was not a sufficient amount of time for my surveyor or I to adequately research the applicants' claims since my surveyor and I were both on vacation during the time period with our families. Therefore, I respectfully request more time to work out the easement and other issues with the applicants prior to this board making a decision. Thank you in advance for your attention to this matter and I respectfully request that my above concerns be read to the public prior to any public meeting, public hearing, or discussion on this matter and recorded into the written minutes.

August 25, 2009

Respectfully submitted by,



Christopher John Krochina 158 River
Road
Mechanicville NY 12118 518-664-2097

Webb Stout – Licensed Surveyor from Canterbury, NH. I have concerns on this plan but Parcel C and Parcel B as shown on this plan are not correct. In the corrective deeds it gets a little sticky how that ran. There were 2 parcels at one point in time that were deeded to Mr. Johnson who is 2 predecessors before the Bassi's. A couple months later a corrective deed was written from Harris, Chris's grandmother, to Johnson basically putting the lines back here not where they are shown in the yellow and pink. When McAllister sold the property to Bassi in 1998, the description followed the incorrect line out here. Two or 3 months later there was another corrective deed written which puts the lines back here so we do have some questions and concerns. I'm sure Mr. Wood saw them because I did have a chance to look at some angles and bearings on here and I'm sure you were aware of Parcel A, B and those corrective deeds and I'm wondering why you held the line out here when in fact the Bassi's current deed actually run the inside of the line. Wood – Basically, I responded that I would be glad to meet with Mr. Krochina's surveyor and review the situation. I brought plans before this Board back in the 90's and one of the plans that Mr. Krochina mentioned as going on record in 1998 was really an ancient document that was prepared many years before and in the deed which referred to it said it was to be recorded and it never had been. That raised some questions with the Johnson/McAllister situation and at the time I brought that ancient document before the Board and asked them to acknowledge it as such and it was subsequently recorded. The Harris plans that had been prepared earlier and Mr. Krochina referenced it as if it had taken effect in 1998 and actually it took effect when it was prepared and utilized, it just had never appeared in the record until

that time and it was referred to in the deed as being on record. We were able to locate it from the Merriman files and with that we put it on record. It's a separate matter but he referred to it as if the date started running in 1998. Kahn - You're saying there's some question in your mind whether or not Mr. Bassi owned Parcels B & C. If he doesn't own Parcels B & C, they are part of Evergreen Lane? I think the issue is who owns Evergreen Lane and I don't think who owns Parcels B & C really matters very much. The issue he's raising is if the plan before us can be approved because there's an issue with the way the lines are. We can reach some conclusion I suppose as to the basic issue but can we approve a plan where we don't know where the lines are? Even if Mr. Wood adopts your view as to where the lines are and changes his plan, then he comes back to us with the same issue as to who owns Evergreen Lane. I don't know that your meeting with Mr. Wood really advances the ball on that one. It leaves us with the issue still before us. (inaudible) Kahn - The earlier version of the RSA being discussed does not refer to the governing body. (Inaudible - (no mike) There is no provision for a vote in the provision of the statute that existed at some earlier date. I have testified on similar situations and I can say the Court will not recognize it unless it has formally been discontinued. LaBrecque asked if that was for public roads or private roads as well. Stout - Just for public. LaBrecque - Evergreen Lane and Harris Road are private roads. Krochina - The deeds reference it as a private road. Public and private interests are two separate things. The map has to say proposed public road for it to be dedicated to the Town and from my understanding the Town has 20 years to accept that road or not. Krochina - All the deeds say is it's a private ROW so even if the public portion of it is taken away from the Town, the underlying fee in the road goes to the original developer because it was never given out to the lot owners. It's a servient estate owned by my grandmother. I have the same right to put my leachfield in Evergreen Road just as Bassi's do. They are trying to say that Parcels E and D are not Evergreen which is incorrect because their leachfield as written in the deed is right down there in the road. It's not 2 separate ROW's, Evergreen goes this whole portion on all the historic maps. The 1968 plan shows the inside dimensions if you go through all the bearings on that. The verbage in the previous version said instead of by vote of the Town, the Town never accepted the road in the 20 years so when somebody comes to the Town from my understanding, it needs to be specifically said they want that to go to the public which none of these maps say on there. If it did, the Selectmen need to accept it. The Planning Board cannot accept any roads; the layout is required by the Selectmen. The RSA mentioned applies to public roads and this appears not to be a public road. I would be very uncomfortable voting on this in any way. First, the issue needs to be continued until we can get a reading whether that is a public road and what laws apply to it. LaBrecque - This has become more confusing the more its discussed but I don't think that I have the ability, I'd have to defer to someone with more legal expertise to be able to sift through all of the deeds, corrective deeds and all of the documents. Dever - You did not put the language in the deeds we have in front of us so it conveyed with the property and not with the person. What you signed and drafted up, you sold Lot 2A and you sold your rights to get to Lot 2A along Evergreen Extension as I read here in the deed you provided to us. Krochina - Evergreen Extension is a different one. Dever - Was it physically constructed as a road so you can drive over it? Yes, and you can still drive over it

today, you can drive over grass. Kahn – Mr. Chairman, I agree with you that we cannot resolve this. I have a question about whether or not the RSA applies when you talk about a road dedicated for public use and I don't know that this road was dedicated to public use. I have no idea what this road was intended to be. Looking at these papers, my own view, you can straighten out the boundary lines as to Parcel C and B and if the law is they do get half of road and I don't know that they do, it seems fairly clear that you gave up your rights and that somebody has some rights but I don't think its you. I think your sale and release did you in, I think you're done but that's not for us to decide, that's something for a court of law so I agree with the Chairman, I think we should continue this indefinitely until we have definite information as to boundary lines and as to the law. I don't think we want to spend the Town's money getting the Town's lawyers involved in this. Vadney – I think its incumbent on the applicant to bring in enough data to show the truth as best they know it and then Mr. Krochina can challenge that as best he knows it but for us to chase it down would be silly. Wood – Mr. Chairman, I discussed this with Town staff and John Edgar was acting as Planner while Angela was out and he indicated to me that we should consider submitting an opinion in advance which Mr. Bassi's attorney did do listing the various deeds and stating the reasons for the position. He felt if we did not do anything like that, we would be asked to pay for Town Counsel to review it. If you're going to do that, you might as well pay your own attorney to bring forth documents. I don't think its fair to the applicant to continue this indefinitely. I think at the very least, the Town Attorney would review what Mr. Bassi's attorney has submitted and give you an opinion as to whether or not you should proceed. I did want to bring up the two deeds that Mr. Krochina issued to Mr. McAllister, one gave up the parcel on the shore which the ROW accesses, one says that it releases the rights to the ROW and it states it in such a way that it says all rights of use and other interests, it means everything. He does not restate any of his rights. As an owner of both a ROW and a parcel which has rights to it at the same time, any previously described easement rights are extinguished. He owns them both, he can do exactly what he wants to with it. When he turns and sells both of these properties to Mr. McAllister, he makes no reservation whatsoever with regard to filter beds, right of passage, access to the water, water pumps, nothing and those rights were extinguished when he owned them both because he did not need his own permission to do it and having gone and conveyed this further, should he wished to have retained that should have so stated in the deed. Kahn – I take Harry's suggestion and I do agree with his position that if somebody's aggrieved here, it's not Mr. Krochina because I think he lost his rights but as to who owns this portion of Evergreen Lane, I think we ought, at the applicant's expense, get an opinion from Town Counsel and we ought to continue this until we get such an opinion. Vadney – Harry, does your applicant's application in any way hinge on whether or not this is a public road? Wood – I would refer that to Mr. Bassi's attorney. It was my opinion in the beginning that with the release of ROW to McAllister, there were no rights conveyed to Mr. Allen and we did not need to do this, however, she felt the action of the law and standard practice in New Hampshire would raise that question and she wanted to make sure that Mr. Allen surrendered any rights he might have. It would be very similar to a Quitclaim Deed. Vadney – Does your applicant's application have any direct requirement that this turn out to be a public road? Referred to Bassi's attorney. The short answer is no it does not and I'd like to do is to

have the Board look at the statute again. There is nothing in RSA 231:51 that says it only applies to a public road. It talks about the public's right to pass and the dedication of platted way to public servitude, to serve the public for travel purposes. It applies to both public roads and private roads, it does not differentiate. As to the lapse after 20 years, that relates to the public's right to pass over the road. What remains once public rights lapse are private rights of access. Mr. Krochina had those at that time but he relinquished them. If you look at the release date, you will see towards the end of that paragraph it specifically describes this area to the west of these two pins as being released. There is no question about it. Vadney - This became a public accessed ROW but not a Town road. It can be dedicated as a future public road or future private road. Vadney - Do you consider it a public way right now? Panciocco - Absolutely not. Public way means it's accepted by the Town for maintenance and repair and the Town's responsible for it. My understanding is that's never been the case with Evergreen Road. The public may pass over these roads to reach the lots that front on the road. The reason for the centerline doctrine owing to the centerline of the road is so a subdivider could not land lock people who bought lots by not building the road after they were conveyed. It was to ensure people benefitted from the access provided by the platted way. When they refer to a public road, it more often means it's maintained and repaired by taxpayer dollars. Private roads are different, the public has the right to pass but they are maintained by a homeowner's association or people whose lots front on it. There's nothing on these plans or prior plans submitted with my letter that show that Jessie Harris intended to maintain ownership of the fee interest. Copy of Jessie Harris' Will provided to the Board and the pertinent language is underlined in there wherein she actually refers to the roads, describes them and says I might own. This Will confirms her own acknowledgement that she did not own the underlying fee of these roads. My client is willing to absorb the cost of having Town Counsel provide an opinion to the Board as to the ownership of the road if the Board would feel more comfortable doing that. Bayard - Is the parcel that Mr. Krochina owns next to the Allen's? Panciocco - Yes, I believe it abuts the Allen's on the other side. Currently, the access to those properties is via Evergreen Lane? Will that continue if this were to be approved? Panciocco - Absolutely, we have no right to obstruct his access. Kahn - I think what you're saying is if there were a private road and it was shown on a plot and the road was never constructed, under the current statute, it would take a vote of the Town Meeting to get rid of it. Panciocco - To release the public servitude. In other words, release the public rights to travel over the road. Kahn - It's a private road for the benefit of the people in the particular subdivision. Currently, you are correct; it does take a vote of the governing body to release the public rights to travel over the platted way. Kahn - Where does the public get that right? Panciocco - By the platting of the of the way as a private road. Kahn - The platting of a private road gives the public the right to travel over it? Generally, yes. The public as a practical matter won't travel over the road unless the road's constructed. Vadney - That may be true but that's the strangest descriptions of that situation that I've heard in about 20 years. Kahn - I think we've come to a solution at least for tonight. Krochina - The Will she gave you, she's submitting more things to this Board as we speak so we should at least get more time to review this at another date. I believe its regarding the fee interest in the road which she's quoting is for a different road than

Evergreen Road. She's misapplying the facts here. I also want to bring to the Board's attention; everything the Bassi's are saying is strictly hearsay. They didn't own this property until 1998 so they are claiming stuff that they never knew. I grew up there and I've seen cars go down there, McAllister used to park his car way down toward the bottom. It doesn't matter; I don't have to maintain that up to his standards. As long as I'm not preventing him from doing his easements in there, I still have the right to use it. In regard to the release, this line can't be found in any of the deeds. That release was only for a specific portion of Evergreen Lane. If this point is correct and you go west of this, it's only a small triangular portion. Lot 2 is the dominant estate, 2A is the serviant estate. Evergreen comes all the way down to Lot 2A, they haven't shown any map on that. If they want to continue pursuing this thing, they should do a quiet title action and we can square all this stuff up prior to coming to the Board. They are trying to settle a property dispute before this Board and I have the right to bring in witnesses and everything else before a Court of law which I can't do here. I can't even cross examine them. I believe I'm at a real disadvantage here in this forum. Dever – Mr. Krochina, so far you haven't brought me anything in writing as you said you were going to. We continued this from the last meeting so you could bring us something that says in writing on paper, that's wrong, and you haven't done that yet. I have the word of your surveyor but you haven't shown me that it's wrong. You said you would have the surveyors get together and come up with a decision. We gave you two weeks to do that and you didn't do it. You have shown me nothing. Ben Bassi – When I purchased the property and I did purchase it in my wife's name and we were married. There is no way Mr. McAllister could have driven his car down this road or anybody else because there was a line of trees across here and I have an aerial photograph that I can provide you that has the line of trees taken in 1999 that were there for many years. They started as little shrubs and you can see at the time in 1999, they were probably 8 or 10 feet tall. There's no way anybody had access to drive down that road. Mr. McAllister told me the day I bought the property that this was done so he would have exclusive rights to that, its his lawn without having to pay any taxes. I had an attorney look at everything at the time I bought this property. Several years later I had the same attorney come back in to give a legal opinion on it and he assured me I had exclusive rights to it. I've had two different law firms look at this piece of property and make a judgment and you have both of them. John Allen and McLain, completely different law firms came up with the same conclusion. There was a row of trees here until I rebuilt my house in 2001 and I took them down to get access. This has been my lawn from day one, there's no path on it, there's no place for anybody to access. There's nothing for Mr. Krochina or the public to access. The septic system has been there since the 60's. I think it's unfair to me, because we all agreed that unless Mr. Krochina could come here with something substantial, you would move forward with approving this. I've done everything, provided all the documentation from two different law firms, I don't know what else to do but I think you should just approve this and if Mr. Krochina has a problem, he can take it to some Court of law or whatever. It doesn't matter if Allen owns half or he doesn't, Mr. Krochina has given up his right and it is recorded in front of you. He has no rights to that property, that's black and white. As you said, Mr. Dever, he has given it up and there is nothing in any of the deeds saying it would go back. It doesn't matter whether it's halfway or I own the whole thing, I have the exclusive rights

to that at this point in time because Mr. Allen has said he has no interest in it, Mr. Krochina says he relinquishes his rights, I'm the only other abutter. It has been my lawn for 11 years and before me there were trees blocking it. Vadney – You have said several times, it doesn't matter, why are we doing this? Why are you here? Bassi – Because I want clarity on it. I want it to be made a part of the parcel just as I took this parcel down here and made it a part of my deed; I just want it all together as one thing. I don't want to leave my children in the estate with any ambiguity. LaBrecque – Mr. Chairman, should the Board decide to continue this evening and if we get additional legal opinions from the applicant in advance for Town Counsel to review, I would also like any information Mr. Krochina has referenced at a hearing to be presented for Counsel to review. I wasn't given the opportunity to include any of the information presented tonight and I think if things are going to be referred at the next hearing, it should be submitted in advance. Krochina – The burden of proof is on the applicant. LaBrecque – It is on the applicant and the applicant submitted a legal opinion, however, if you're coming to contest that legal opinion and the Board is actually going to consider a decision based on that rebuttal, then I think they should have the opportunity to also review that ahead of time and not just be presented with the information the night of the meeting. Vadney – I want to agree with Angela to the point that on the first hearing, I would expect you to come without documents, but for following hearings particularly one where we are turning things over to some attorneys to say this is the situation since you have already entered some documents, I would say you need to tell us which ones you want to be your submission for the lawyers to look at or bring her some new ones but we do need that because those are now really part of this situation. Vadney – I will go no further tonight than to vote for a continuation because I think there are enough ambiguities here that I would not risk the Town's reputation voting yes until I've had a chance to digest some of this and get an attorney's opinion. Krochina – I gave a list of things I wanted at the first hearing. If you go by the information available right now, Mr. Bassi doesn't own the property. I also requested more than two weeks because I knew my surveyor was on vacation. At that hearing the Board decided they weren't going to decide on who owns what, they were just going to decide on the merits of the application and whether or not a proposed Boundary Line Adjustment meets our Subdivision Regulations and Zoning Ordinance and if it did, they would make a decision. Kahn – I don't see that a chain of title for Mr. Bassi is relevant. We know that McAllister sold to Bassi, we know you released and sold to McAllister. We need to know whether or not under NH Law, the abutting owners have rights with respect to the property underlying an unbuilt private road. The applicant should supply the information I've requested. Kahn – I suggest we provide the list to Town Counsel and let him decide if he needs anything on that list.

Kahn moved, Touhey seconded, MR. CHAIRMAN, I MOVE THAT WE CONTINUE THIS MATTER TO SEPTEMBER 22, 2009, OR AS SUCH LATER DATE AS THE TOWN'S ATTORNEY PROVIDES US WITH AN OPINION ON THIS SUBJECT. Voted unanimously.

1. TLF HOLDINGS, LLC & NH MEREDITH PROPERTIES, LLC:

Dave Dobbins came back before the Board to answer any questions the Board may have about the uses of the building as proposed. His team of people is Sonya Misiaszek, Misiaszek & Turpin; Dan Ellis, Ames Associates; Doug Grenier from g2 plus 1, Landscape Architects and Bob Brook who is the civil engineer for the project.

Dan Ellis – This is a very simple boundary line adjustment. Its purpose is to find a more practical location for the boundary line in relation to the existing structures on each site. Currently, the line passes within 2.4 feet of the corner of Dave’s building and 9.7 feet at the closest point to the Emery & Garrett building. The proposed line will run straight from Main Street to the back of the property. The result would be that the Emery & Garrett building would be conforming to the side setback of 10’ and would result in a more conforming setback on the TLF building of 4.7’. It’s an equal area exchange (200 sq. ft.) so there’s no impact that would put us in a more non-conforming state. Coverage still remains within zoning ordinance requirements. LaBrecque – This exchange of land does not result in the change of lot sizes, however, both are pre-existing, non-conforming lots. The maximum lot coverage allowed is 65% and both lots pre and post BLA come within the 65%. Setbacks after the adjustment are indicated on the plan. Lot 134 does become more conforming after the BLA. Conveyance deeds have been submitted for staff to review. The executed deeds shall be recorded with the mylar. The applicant has verified in writing the status of the mortgage and a mortgage release shall be recorded in conjunction with the conveyance deed and the surveyor of record shall provide written evidence that all pins have been set prior to recording the mylar and the deeds.

Dever moved, Bayard seconded, MR. CHAIRMAN, I MOVE IN THE CASE OF TLF HOLDINGS, LLC, FOR A PROPOSED BLA OF MAP U07, LOT 134 AND 135 AT 62 AND 56 MAIN STREET IN THE MEREDITH BAY WATERSHED AND CENTRAL BUSINESS DISTRICT, THAT WE APPROVE THE BOUNDARY LINE ADJUSTMENT AS PRESENTED AND THE EXECUTED DEEDS SHALL BE RECORDED WITH THE MYLAR, THE MORTGAGE RELEASE SHALL BE RECORDED IN CONJUNCTION WITH THE CONVEYANCE DEEDS AND THE SURVEYOR OR RECORD SHALL PROVIDE WRITTEN EVIDENCE THAT ALL PINS HAVE BEEN SET PRIOR TO RECORDING THE MYLAR. Voted unanimously.

2. **TLF HOLDINGS, LLC:** (Rep. Doug Grenier)

Doug Grenier, Landscape Architect, pointed out the building location at the intersection of Main and Dover streets with Mill Falls parking area to the rear. The building is oriented with sort of a front-door presentation to Main Street with a porch along the side. There is an entry developed to the south and there are also some entrances off to the northeast in the back corner area. The building is proposed for retail/commercial & professional offices, with a total of 4 units. The project requires because of the proposed building 19.08 parking spaces, 4 parking spaces are proposed and in discussions that’s reasonable in terms of the Town Center context. This is a non-conforming lot and we have proposed 4 parking spaces, 3 are in the area where there is already an existing paved lot and the paved lot is bounded by some stonewalls with a

simple access. The parking and access movements are you drive in and then back out. On the other side, there is a parking area that is off Main Street. We propose to maintain the Main Street parking space but we're reducing the amount of asphalt with two wheel paver tracks and the pavers for the parking areas are pervious pavers for bringing water back into the sub grade. We have not included that in our pre and post drainage calculations. It's sort of an additional feature to the project even though they are not included in the calculations. On the existing parking lot, we've reduced the amount of asphalt and will replace it with pervious pavers to create 2 10' x 20' parking spaces, and a HC space which is 8' x 20' with a 5' x 20' aisle for HC access. Cars will come in to park and back out only in ½ aisle way of Dover Street and continue on to Main Street. Because Dover Street is an uphill grade, traffic isn't that heavy and speeds are relatively slow. One of the overriding goals on this project was to develop the site without completely covering it with asphalt, we're trying to preserve the character of this Town Center property with the landscape and preservation of existing trees that surround it. A public access walkway will be created on the east side of the property between the proposed building and the parking for Mill Falls, a connection that will be ADA compliant so people could meander through and pick up this walkway taking them off of the outer parking area or you will be able to direct them to the front porch. This will be a park-like impromptu space. There is also a walkway that is a direct connection from Main Street to the front porch and this is ADA compliant with a slope less than 5%, no handrails and will allow people in wheelchairs to come up on the front porch and could go into 3 entrances within the building. One entry has 3 steps, the other has 5. This entry is sort of in the knuckle that allows us to make the grades work for the drainage. Pre and post development drainage calculations, we're under the 65% coverage for impervious surfaces for the whole project and that's for the proposed impervious services in terms of roof and we are including the modular pavers that are going to be a pervious pavement design. Coupled with those calculations, there's a drip edge that's developed around the perimeter of the building where we have roof drainage coming off, not on the gable ends but on the ends where water will come down. It's a way to control rain water in a very hard rainstorm on a small site. The overflow would be on the surface. There would be some surface treatment within the beds to allow for that water to break through the edge restraint that is constructed to contain the river rock. The site has water, sewer and electric service already on the site. A conductor comes off a pole for cable and we'll sweep up into this area of the building. The owner is going to collect the refuse and remove it from the site. There is no room for a dumpster. There are some areas we've defined for snow storage that I think are going to be a function of the owner's manipulation of the shoot on his snowblower. Signage will only be on the building, there will not be a freestanding sign, no freestanding lighting, lighting will be handled under soffits within the building. The existing maples will remain with the walkway routed around them. Two small flowering trees are proposed, the hatched areas on the plan are perennial beds because it is a small site. The existing stonewall on the Dover Street side will be removed. There will not be any overhead wires on the project. Sonya – We are going to do an oil tank in the basement of the building rather than trying to do fuel on the property in a tank. Touhey – In the event we have one of these 100-year storms, can you indicate where that water's going to go? Bob Brook – The drainage is going to go in 4 different

directions because of the roof structure. The water you see now travels across the pavement and onto Dover Street and that will continue for a portion of the roof. The site will have a lot of infiltration trench area and pervious pavement area. Touhey – So that drainage just filters down into the sub layers and whatnot. LaBrecque - Mike Faller has reviewed this drainage and has no comments. Sonya – We did a walk around looking for catch basins in the area and currently what happens is the water that's coming off of this site will continue in the event you have this all out storm. It winds up in the catch basin at Hampshire Hospitality Holdings in the corner of the parking lot. Vadney – Are you still thinking about having a directional sign? The existing sign is going to be removed. Sonya – We've held off on that so we could move forward with this, but I believe Dave is in favor of doing something like that. If you think this is something you would like to do and if the Board is in favor, we could authorize it now instead of coming back later. There will be no dumpster located on the site. A property caretaker will remove trash on a daily basis.

Sonya Misiasek – We've kind of picked up on the general store look and context of the building and have added a front porch to enhance the scale of the building, enhance the character of the site and enhance pedestrian flow along Main Street. I'll come back to adding what that front porch and pulling the building forward has done in terms of setback encroachments. The style is very consistent with what exists there right now. We did add a small portion to make the project feasible from a budgetary standpoint for the owner so he'd have a bit more rental space so we've added a second story which is the center volume here and is represented by this rectangular box. We've tried to keep the mass of it down by adding the front porch, the two side wings we feel are appropriate at one story height because one is adjacent to the neighboring building and the other side really is about opening up of the view down Dover Street to the lake and really trying to maintain that view so people walking or driving have that connection to the lake. Meredith is a community on the lake so let's not lose that in this site. The Dover Street side is relatively similar to what you see now, it does have the studio at the back and will remain a one-story volume. We have shifted this volume a little bit in order to provide enough separation here to actually introduce an entrance. We are concerned with roof runoff and are trying not to get it onto people as they're walking up to the building but also trying not to create ice dams in the winter. The style of the building is clapboard, asphalt shingle and metal roof so we've used two different roof materials here to again break up the scale of the building and carry on the theme of the general store concept. We are doing a little bit of change on the Main Street side in that it's going to be an all white façade, white clapboards, windows and trim with gray for the roof. The one portion we're keeping consistent with the existing structure is the studio space on the Dover Street side at the back and that will remain red with white trim and gray roof. The two other side elevations, the top one is looking from the courtyard parking because it is surrounded by buildings that have entrances and now by having the walkway passing through there, it's not really a back of a building even though from a setback standpoint it is a rear setback. This volume will be the red and the white and the rest of it will be white with all gray roof. The second floor is only accessed by this side unit. They are tied together in every one of our schemes. Our schemes will allow for one tenant to rent out the entire building or up to 4 units as Doug

had talked about earlier. The side facing Emery Groundwater looks similar to what it does right now except you get the two-story structure here. We've worked hard on the scale of the building to make it pedestrian friendly. Signage calculations are on the drawing and the total allowed is 64 sq. ft., that's 32 sq. ft. per street frontage. Our total proposed is 49.9 sq. ft. A large sign is proposed on the front gable space looking at Main Street and smaller one on the Dover Street side. That would denote the name of the building and that is to be determined. The other signs will be hung from the underside of the soffit of the porch and one would be similar on the Dover Street side directing pedestrians to the stores. We are requesting a special use permit to reduce that front setback and we feel the architectural character of the building in terms of the improvement of the structure warrants impact into that front setback as well as pulling the whole structure forward into the setback to give us some relief at the back because we've got such a tight situation as it exists right now, it's not really safe for anyone to walk back there because cars are overhanging 2-3' onto this area from the parking lot. By pulling it forward, we've increased safety, added to the character of the Main Street area by introducing this connection out to Dover Street and we've added to the character and scale proportion to correct massing of the building by adding the porch on the front. We do not see any need to move any closer to the street. We did lose the stonewall on the Dover Street side but we have introduced some stonewall (2' high) on either side of the front walk. Bayard asked how they plan to control ice buildup during the winter months. The little roof is a metal roof so rather than using asphalt there, the metal will dissipate the snow and is in a good orientation where its going to get sunlight and some exposure. The bigger issue is possibly with snow coming off the upper roof down onto the smaller one. No gutters are proposed on the building. LaBrecque – The design team did a really good job of addressing all the points in the staff review so I'll just touch on a few. With regards to parking, a parking waiver is required for 15 spaces, 19 required and 4 being provided. With the setback reduction and the special use permit required for the setback reduction rather than the applicant needing to go to the ZBA, I have received favorable comments from the Fire Chief, Code Enforcement and the Director of Public Works for the setback reduction and that is one of the items that's required for the Planning Board to grant that. I have a question about the pavers, are the pavers pervious? Grenier - The spaces between the pavers. The permeability is through the joints. LaBrecque – Does the polymer that binds the sand effect the infiltration? Grenier – One variety of the pervious pavers, you don't have sand in the joints, you have a very small aggregate that stays put so you always have the void space for water to work its way down. Sonya – We will also have some electrical lines to the trees so in the event of a holiday or special event, Dave is able to put some lighting in the trees, the 2 maple trees on Main Street, the spruce tree and then the 2 maples that are adjacent to the parking lot.

Dever moved, Kahn seconded, MR. CHAIRMAN, I MOVE IN THE CASE OF TLF HOLDINGS, LLC, THE PROPOSED SITE PLAN AND THE ARCHITECTURAL DESIGN REVIEW, TAX MAP U07, LOT 135, 62 MAIN STREET, IN THE MEREDITH BAY WATERSHED AND THE CENTRAL BUSINESS DISTRICT, THAT WE APPROVE THE SITE PLAN WITH THE FOLLOWING CONDITIONS:

- (1) THE FINAL SITE PLAN SHALL INCLUDE EXISTING LAND AREA, AMOUNT OF PERMITTED COVERAGE AND THE AMOUNT OF COVERAGE PROPOSED WITH THE BUILDING ADDITIONS.
- (2) THAT WE GRANT A PARKING WAIVER FOR 15 PARKING SPACES. THE PARKING SUMMARY SHALL BE REVISED TO REFLECT 19 SPACES REQUIRED, 4 PROPOSED.
- (3) LIGHTING INFORMATION SHALL BE PROVIDED ON THE FINAL PLAN AS WELL AS A NOTE INDICATING DOWN LIGHTING IS REQUIRED.
- (4) SIGN INFORMATION SHALL BE ADDED TO THE FINAL SITE PLAN.
- (5) THE PLANNING BOARD RESERVES THE RIGHT TO REVIEW AND AMEND ANY APPROVAL AS PROVIDED FOR IN SITE PLAN REVIEW REGULATION NOS. 7 & 17.
- (6) THAT THE APPLICANT BE ALLOWED TO ERECT A DIRECTIONAL SIGN INDICATING DIRECTIONS TO RESTROOMS OR OTHER FEATURES OF THE TOWN.

Voted 6-0 in favor of the motion.

Dever moved, Touhey seconded, MR. CHAIRMAN, I FIND IN THE CASE OF TLF HOLDINGS, LLC THAT THE ARCHITECTURAL DESIGN DEMONSTRATES SUBSTANTIAL CONFORMITY WITH THE GENERAL AND SPECIFIC CRITERIA SET FORTH IN THE ORDINANCE. I ALSO MOVE THAT WE GRANT A SPECIAL USE PERMIT UNDER CONDITIONS THAT THE REDUCTION OF THE BUILDING SETBACK IS REQUIRED TO FULFILL THE PURPOSE AND INTENT OF THE ORDINANCE AND SATISFY ONE OR MORE ELEMENTS OF THE BUILDING PERFORMANCE CRITERIA AND THE PLANNING BOARD FINDS THAT THE REDUCTION IN THE BUILDING SETBACK WILL NOT BE DETRIMENTAL TO PUBLIC HEALTH, SAFETY OR WELFARE. Voted unanimously.

Meeting adjourned at 9:05 p.m.

Respectfully submitted,

Mary Lee Harvey
Administrative Assistant
Planning/Zoning Department

The above Minutes were read and approved at a regular meeting of the Meredith Planning Board held on September 22, 2009.

A. William Bayard, Secretary