

NORTH ATTLEBOROUGH PLANNING BOARD  
REGULAR MONTHLY MEETING  
THURSDAY, MARCH 29, 2007

The North Attleboro Planning Board held its Regular Monthly Meeting on Thursday, March 29, 2007 at 6:30 P.M. in the Planning Board Office located at 43 South Washington Street, North Attleborough, Massachusetts. Board members Christopher Sweet, Joan Marchitto, Richard Houle and Raymond Payson-chairman. Donald Cerrone arrived 6:37 P.M.

Planning Board Business;

1) Review final action dates listed for pending applications;

Mr. Payson, Skip that one for now.

2) Review bond expirations list;

Mr. Payson, Skip that for now.

Other Business:

2) Request of Attorney Ronald Koback to discuss Resubmission of Form A Plan of James LaFratta;

Ronald Koback, We came in here maybe month ago for my application for LaFratta. At that time there was a little confusion. Suggestion was that give me a chance to speak to Mr. Ferris to see what his view was on the project also give us a chance to talk to Mr. Spaulding who is the new building inspector. We've done that my understanding is the Mr. Ferris agrees this qualifies for Form A. Talked to Mr. Spaulding he didn't seem to have any problem with it as long as we had the side yards and setbacks it would cause a restriction on size of building he didn't see any problem with getting building permit to construct building on Form A lot. I think we've done everything that you've asked to do and we'd like to resubmit our application and ask the board's consideration to grant the Form A.

Mr. Payson, You withdrew that's fine to do that. I did speak with town's attorney he related to me the exact same thing as you said. As long as that building is there that spins off the rights to subdivide that. We haven't spoken to the building inspector.

Mr. Houle, Do we have letter from town council?

Mr. Payson, No it was verbal.

Mrs. Marchitto, Would you be submitting this tonight and approval for tonight?

Mr. Koback, Yes I'll do whatever you want to do I just came because I wanted to tie up the loose ends. I think everybody has had a chance to look at it and everyone outside town council and building inspector seem to be fine with it but they don't vote you're the boss.

Mrs. Marchitto, I know Donald Cerrone had questions on it I thought he'd want to ask give him a moment to come in and take look at it.

Mr. Payson, We meet on the 12<sup>th</sup>. I only spoke to our attorney yesterday I'd like to see something from the building inspector also.

Mr. Koback, Can we resubmit it as tonight?

Mr. Payson, Yes we'll take it up on the 12<sup>th</sup>.

Mr. Koback, Consider it resubmitted and I'll be back on the 12<sup>th</sup>.

Planning Board Business:

2) Review bond expirations list:

Mr. Payson, Did everybody review deadlines for decision 3/26, 3/30 Jill Marie Estates.

Mrs. Marchitto, Jill Marie is coming in tonight to do final approvals for conditions.

Other Business:

DPW Meeting for Corliss Landing;

Mr. Sweet, I have brief report from my attendance to DPW meeting last Tuesday night specifically to hear about Corliss Landing and with redesign they have submitted. In attendance Dan Campbell, Mike Stankovich, Bob Norton, Steve Cabral. They went over the new catch basins design slope and sides Bob Norton was in favor of that. Much discussion about water sheeting across John Dietsch Blvd. at corner and substantial amount discussion about need to fix the patch there. Fix it now whether or not the drainage issue is dealt with strongly felt by Mr. Norton and Mr. Cabral patch be replaced. Whether it has to be torn up later to do more work that is not the issue; issue is it is probably the worse patch in town it has to be fixed by end of April. They would like them to put a crown in the street to keep water on each side of John Dietsch. The actual layout of the cul-de-sac Mr. Norton felt that a drainage and utility easement would be required the street should be widen to accommodate having the separation between the utilities. They didn't feel the layout was wide enough. Dan Campbell said an easement has nothing to do with the town infrastructure Mr. Norton felt it was a town infrastructure issue and Mr. Campbell said no. Steve Cabral speaking water, sewer and electric need 20ft. easements so there is enough room for each and fact they don't go all the way out to Landry is an issue. They're looking towards the future sort of same issue that Don brought up the ability to take it all the way out to Landry. Mike Stankovich said they will need at least two weeks to review the plans that were submitted and should have response by Tuesday, April 10<sup>th</sup>. to Dan Campbell about the new plans. Planning board meeting is on the 12<sup>th</sup>. Dan Campbell would like letters from the Dept. of Public Works to be on hand so they're ready for our meeting on the 12<sup>th</sup>.

Mrs. Marchitto, I'm not sure how much of this is testimony verses report and there is a public hearing. There is an ongoing public hearing to give a quick summary is one thing I think going into great detail should be within the public hearing of Corliss Landing.

Mr. Cerrone, Most of that stuff we'll get a written report from public works anyway.

Mrs. Marchitto, Open meeting law and public hearings.

3) Form A: North Attleborough Marketplace ( Tilton & Associates) Action Due: 3/31/07;  
Paul Santos, Representing Carpionato Corp. with John Kokot and Paul Lawrence filling in for Jack Jacobi. We came before the board last month with a Form A plan to combine two parcels of residentially zoned land located in Attleboro owned by North Attleborough Marketplace II with the Wal-Mart parcel which is also owned by North Attleborough Marketplace. We'll be combining the two parcels with front existing Wal-Mart parcel. We have filed the plan with city of Attleboro under a Form A or 81P they have signed the plan and we came to this board requesting that this board do the same. We're asking this board to essentially eliminate two property lines between parcel D & E and between parcel E & B. We're seeking to eliminate the two property lines and combine everything into one large parcel. The reason for Form A plan in order to eliminate that property line we have to do that through the Form A process. At time we submitted this Mr. Cerrone brought up issue of pending abatement for the Wal-Mart parcel. Mr. Jacobi addressed that I believe spoke to Mr. Ferris regarding issue of abatement and in place the board could act on this plan or had some issue with that.

Paul Lawrence, My understanding from speaking to Jack Jacobi is that he had come up with a proposed resolution having to do with superior court action pending as well as to tax abatement applications that had been filed. He submitted a proposed resolution to attorney Ferris and also believe to the assessor's. The abatement applications would be withdrawn and the superior court action would be dismissed. They also had a formula where they were to resolve the underline issue where certain percentage of the land associated with each of the stores would be allocated for abatement purposes so everybody would be on same wave length going forward. I don't believe that it has been finally resolved by all the parties but I think everybody

is on the same wavelength that is my understanding. It is also my understanding if there were taxes due that would be something that would prohibit you from acting but not simply because there is another dispute.

Mr. Cerrone, Do we have any letters from the assessor's or anybody else that it's been resolved?

Mr. Lawrence, It's been submitted to the assessors and town council my understanding is it has not been finally acted on. I think the documents have been drafted.

John Kokot, We've submitted documents dropping all the suits to Mr. Ferris and we have a formula I've worked out with Mr. Kraskouskas and Debbie Foley.

Mr. Cerrone, I think they're meeting tonight.

Mr. Payson, We have letter from town council dated 3/12/07 (insert).

Mr. Lawrence, My understanding is if you're not current with your taxes that would be bases for not acting on this application, which isn't the situation.

Mr. Kokot, We are current.

Mr. Lawrence, If there is some other dispute between an applicant and town that would not be bases for not acting on an application.

Mr. Cerrone, What happens when you made an agreement?

Mr. Lawrence, There was and is an agreement it was the construction of that agreement. Town understood the agreement to be one way; Carpinato understood it to be another way. In fact the action was brought by the town for what is called a declaratory judgment to get a judge to say what the agreement means. The complaint which I just saw today basically attorney Bliss had laid out Carpinato's interpretation, laid out the town's interpretation and he filed requesting that the judge issue a declaration of what was correct interpretation of the agreement. We've now done let's come to a settlement and understanding as to what the terms of that agreement are and that is what the proposed settlement does.

Mr. Cerrone, What gets me is when they came in back 1993 everything was good, etc. You've had the town in court for three years these people's tax money to fight you guys that is what bothers me.

Mr. Kokot, We are no longer in court.

Mr. Cerrone, The taxpayers are fighting you when you came to this town we were going to give you everything now the rules have changed.

Mr. Kokot, It is no longer the case Mr. Cerrone we have filed papers to drop everything. I'm not trying to blame the town.

Mr. Cerrone, I understand everybody reads it different but I remember what the agreement was because I was on this board.

Mr. Kokot, The town did file the action before we filed the action. Everybody is going to drop everything because we've reached an understanding.

Mr. Cerrone, I'm glad but if you had never come to the table this could have gone on for another ten years. If I wasn't sitting here nobody would have known this. Hope everything goes well with you on Wal-Mart it's been a good project.

Mr. Kokot, I think this is a good solution for everyone.

Mr. Lawrence, I think what attorney Ferris is saying is simply because someone has filed an appeal to the appellant tax board that is not a bases for.

Mr. Payson, Does this have to go further in city of Attleboro?

Mr. Kokot, We have to come before you again for the approval of the actual expansion and we have to do to city of Attleboro for change of zone for the expansion in addition we have to come before both ConCom's. Form A is done with Attleboro is my understanding.

Mr. Santos, The mylar I have tonight is the signed mylar from Attleboro that we'd be asking you to sign also.

Mr. Kokot, They've approved it. We're going before city council April 17<sup>th</sup>.

Mr. Payson, I spoke with Gary I'd like to see us go to that meeting. We may have to adjust the meeting for rules and regulations.

Mr. Sweet, How do we act upon property line that is in another city?

Mr. Santos, It is in both jurisdiction. Attleboro has already released their side of it.

Mr. Kokot, There is a precedent on this site behind Lowe's where the same kind of situation both municipalities.

Mr. Sweet, Form A needs frontage.

Mr. Santos, When this parcel is combined that is your frontage. The existing parcel becomes bigger.

Mr. Payson, Looking for a motion to approve Form A plan submitted by Carpiolato.

Mr. Sweet, So moved, seconded by Richard Houle.

Mrs. Marchitto, I just have one more clarification Parcel D does that effect the value of land? We're agreeing tonight the assessor's are making clean slate tonight.

Mr. Kokot, On tax appeal yes it doesn't effect it the whole tax situation has nothing to do with these lots.

Mr. Payson, Hearing no further discussion all in favor 5 to 0.

Mr. Sweet, I have to leave for Cobblestone. I discovered I am an abutter being a trustee of Sturdy Memorial Foundation.

Christopher Sweet left table at 6:58 P.M.

NORTH ATTLEBOROUGH PLANNING BOARD  
PUBLIC HEARING  
THURSDAY, MARCH 29, 2007

7:00 P.M.- Continuation of the public hearing for the definitive subdivision to be entitled Cobblestone ( Note: Final action due 4/30/07);

David Manoogian, Representing the applicant Spinnaker with me tonight is Andy Kushner principle of Spinnaker also we have Audie Osgood and Brian Giroux standing in for Len Bradley from DiPrete Engineering. When we last we met there were couple outstanding issues and matters board requested of us. We gave hope to believe our final set of plans to Mr. Lavin together with written responses to his comments. I'll let Mr. Lavin speak for himself but my understanding is that Mr. Lavin is satisfied with all the technical engineering issues. Whatever minor changes that have to be made could be made at the mylar stage. The board asked me and my client to survey the neighbors as to possibility of installing sidewalks on Draper Ave. There are two ways that can happen one is taking by town they have no say if the town takes it. Other way would be if they granted the town easements to accommodate sidewalks. I obtained a certified abutter's list for all those people on Draper Ave. basically from Pride Ford up to Allen Ave. on both sides of street. I sent letter, which I sent copy to the board and sent them a survey all people responded to the survey saying they would not be interested and not willing to grant town any easement for sidewalks. Some neighbors pointed out that they just didn't have room their houses were to close to the street. Only purpose that was willing to do that was Leo Kushner I thought it was relation to Andy but there is no relationship. We're constrained as to what we can do on Draper Ave. but I think the board still wanted us to survey and get responses, which we have. Survey was put in two parts we would need temporary

construction easement to effect the construction and then they would have to give some sort of permanent easement after it was negative in both responses for the majority of the neighbors.

Mr. Cerrone, Did you represent client on Walcott Rd.?

Mr. Manoogian, Yes.

Mr. Cerrone, You did all the work in the layout. The thing you sent out to neighbors you need 40ft.?

Mr. Manoogian, No I said up to 40ft. of temporary easement. Walcott Rd. was entirely different it was a private way.

Mr. Cerrone, You did everything in the layout. You're telling me you need 40ft. to work on this road?

Mr. Manoogian, No we're working in the layout but most layout doesn't have enough room in the layout to install sidewalks we've been over that. That is why you asked us to see, we all had in mind one goal we wanted to make any improvements on Draper Ave. as safe as possible. I think we all know to do that we'd like to have sidewalks at least on one side but we don't have room in the layout. You asked us to survey the neighbors and we did and we got their response. You need two things temporary construction easement of up to 40ft. because you have to move equipment there you're going to be working on at least 10ft. of their land and you have to get equipment on it so you have to get temporary construction easements of up to 40ft. It would be different for each parcel. After that is over it reverts to a permanent easement of probably 10 to 15 to 20ft. depending upon the nature of the improvements. Some of the improvements would not only be sidewalks some would have to have a retaining wall. To answer your question I don't think we scared anyone by saying up to 40ft. because we have no room in the layout to effect those repairs.

Mr. Houle, If you look at the question that is exactly the way I would read it.

Mrs. Marchitto, I would have said no too.

Mr. Manoogian, With all due respect I sent the survey to you as soon as it was done I didn't hear any comments that is why we sent it to you right off the bat have your comments. I'll ask the neighbors right now are you willing to give up any of your land by way of permanent easement.

Tom Wright, For a sidewalk like they did on Allen Ave. and at Pride they went right down the edge of the road the trees are still there they took maybe 5 ft.

Andy Kushner, The reason we put 40ft. on the survey is we asked the engineers what is the maximum amount of land we'll need to work with because everyone has different grading. We're not working on flat piece of land where we can go in 10ft. and lay a straight sidewalk. There are slopes on many of these lots so in order to have a flat sidewalk and allow for grading we need to go deeper into many of the lots. As you know Allen Ave. slopes down, which is the whole reason we can widen the road wider than what we proposed. Not ever lot requires 40ft. some do.

Mr. Cerrone, What is the pavement width you're trying to get for road when it's finished?

Mr. Kushner, We're trying to get as close to 25 or 26ft. as possible.

Mr. Cerrone, I measured a couple spots myself. I measured in front of Mr. Wright's house 22ft. just pavement I went down a little further it is about 18 to 19ft. I didn't go all the way because I didn't have time. I guarantee you I could put a 24ft. pavement with 5ft. sidewalk not needing 40ft. easement from these neighbors. I'm not an engineer but I'll tell you I can do it.

Mr. Kushner, We used engineers, we surveyed the road the problem is we don't have a 40ft. right of way along that stretch it is variable right of way. Working within the right of way working with grading we have we made it as wide as we could and some areas it does go to 25ft. Some areas you can't put a sidewalk right adjacent to the road but there are other lots if

you want to have a continuous strip of sidewalk running in front of our property down to Draper Ave. there are some lots it doesn't work on.

Mr. Payson, Which side are you going to put sidewalk?

Mr. Kushner, We looked at both sides I think we were looking more at doing it on south side as opposed to north side.

Mr. Payson, We started out and I was part of the negotiation to put sidewalk for Pride and Exxon Station. It was really to continue that when development came beyond that point. I think you really didn't negotiate with anybody you put out this survey.

Mr. Kushner, That is what we were asked to do.

Mr. Payson, I don't know who asked.

Mr. Manoogian, You asked us to survey the neighbors to see if they were willing to give us something for sidewalk.

Mr. Payson, We didn't see what was going to be sent.

Mr. Houle, The way it was worded 40ft. is a little deceiving.

Mr. Manoogian, I'm not trying to scare anyone that is the reality because I'm going to need up to 40ft. to work on neighbor's property. Legally I can't just work within the defined area I have to have a temporary easement to get equipment on to use other portions of their lot. Don's right maybe in some circumstances you can squeeze in a sidewalk but you have to have the equipment there and the working ability to do that. If town took some of their property by eminent domain they took two things temporary construction easement and it would be different on each lot. Before they do a taking at a town everything is carefully surveyed so they tell you we're going to do a pro... taking for dollar amount it would X amount temporary easement on each lot and each lot would be different. The final easement would be different on each lot also. We don't have that luxury and I couldn't sit down with neighbors and tell them I think we're going to do this here we don't know. The question was would you be willing to voluntarily give us some land. I'll let Andy speak to it, it wasn't our intent to go and negotiate separately with every neighbor to try and get a sidewalk. The Pride taking and situation was dramatically different there was land available there within the right of the way and land that was available from Pride that he gave for sidewalks also.

Mrs. Marchitto, Personal experience but by property has a 10ft. easement could be right of way for 40ft. I find it interesting that the engineers divided my piece of property that I purchased so that right of way subdivision road could go in at 40ft. they put 10ft. easement on my property. 40ft. would be 26 pavement, 10ft. sidewalk and 10ft. to get onto mine. I look at this from experience of what is on my piece of property for 10ft. for 10 right away you want 40ft. for temporary easement for 5ft. sidewalk.

Mr. Manoogian, That is what we feel we need. I can't comment on yours.

Mr. Payson, You have to get into some planning here you were going to have sidewalks all through this subdivision come out onto Draper Ave. Kids have to negotiate down that street, bicycles or walking to the attractive nuisance, which is Rte.1.

Mr. Manoogian, That gets us down to the problem that we were looking at before one of the ways we proposed coming out of this subdivision was not do anything with Draper Ave. but come out through Norton Rd. area. That way the sidewalk would be right there for the children on the improved part. We're trying to work on it but I see no way.

Mr. Payson, Question I asked you was north or south side. I've seen towns that have that sidewalk on backside and then you come out on Draper Ave. down to end of your property to see if you can get those sidewalks. In other words the sidewalk doesn't have to be near the roadway it can be 10 or 15ft. in from that roadway, could be behind those trees. You're not

looking at planning you're looking at just a hammerhead subdivision you're not trying to talk about any planning here.

Mr. Kushner, There are a lot of creative ways to do sidewalks the only problem is we don't have any control of the land we need to put them on. We can put sidewalks in front of our property we control that land and we can do that if that is what the board wishes to do. We can't take other people's land we've asked them if they would give us easements and they've said no.

Mr. Payson, I personally have done 100's and 100's of easements for the town of North Attleborough I never took one by eminent domain. There is give and take in all negotiations to better their land and your land or better for the town to do a sidewalk with some innovated thinking not just plant sidewalk on side of road that you don't have the land to do it. How much frontage do you have on Draper Ave.?

Mr. Kushner, About 900ft.

Mr. Cerrone, You have 52 house lots going in there you're going to have a lot of kids.

Mr. Kushner, We've tried to accommodate your wishes here.

Mr. Payson, You did and I don't think we're too happy about it but I think we may want to go a little further.

Curt Chretien-171 Draper Ave., Last month when this all came up about sending letter out, etc. My comment was go back to the records how do you plan if you widen the road to maintaining the existing property lines? Are you going to put up stonewalls? Mr. Manoogian just said that possibly would have to put up stonewalls the engineer was right here. My comment was in front of my house is on 45 angle as is no we're not going to put up stonewalls we're just going to grade it back and seed it. Now all of a sudden they want 40ft. of my land it makes no sense to me to say yes when I was trying to ask a legitimate question of maintaining my property and now all of a sudden they want 40ft. of land with no plan what so ever.

Mr. Payson, I don't think that is fair assessment.

Mr. Chretien, From neighbor's standpoint I come here a month before ask a legitimate questions I'm told this is the way it is going to be. I come back the neighbor's didn't agree with it now tonight maybe some properties need stonewalls I ask that question last time.

Mr. Manoogian, I think your question was where was pavement going to end.

Mr. Chretien, My question was how are you going to maintain the existing grade if you widen the road are you going to build a stonewall? I said that specifically your engineer said no. My comment was my land is on 45-degree angle if you cut 2ft. off the hill and widen the road how are you going to maintain it without building stonewall?

Mr. Manoogian, At that time your question didn't involve sidewalks you just asked how are you going to maintain the cut if the roadway came up there. He also said that he would have to work with you and see when they get out there in the field exactly what was going to be done. The question you asked at the time had nothing to do with the survey we sent out. We sent out blanket survey to all your neighbors because basically what it comes down to where asking are neighbor's willing to give easements on their land of variable width each lot would be different to accommodate sidewalk at least one side of street. That was the question it had nothing to do with the question you asked last time.

Mr. Chretien, I understand I'm just commenting I'm concerned about grade all ready and all of sudden you want me to just give you 40ft. of my land, I'm 10ft. above roadway as it is. I need some answers I can't just say take it there has to be some kind of plan.

Mr. Manoogian, That is understood we feel we have to ascertain whether there is any kind of general interest first before we can sit down.

Mr. Payson, There is another avenue and I've been thinking about it I think we want to have Draper Ave. and I think the town wants it and residents far and wide from that area. It is only cut through from whole area. I think what we should look at is public/private partnership. There is 100's of thousands of dollars sitting in mitigation money for the impact of the Mall and spin off from the Mall. I don't understand why you couldn't use that money to assist your obligation in making Draper Ave. I think that is a good place to use it.

Mr. Manoogian, We concur with that 100% and I think the best way to do this would be to use those funds to fund a taking of whatever you need. Gets engineered we contribute to that taking too, we know we have responsibility there I think it is huge effort for private developer and almost impossible to sit down with homeowners and engineer each lot separately. Any plan you come up with if two or three people say no or one person you can't do it. It is easier I don't mean to sound crass to the neighbors to say okay the town is going to take it by eminent domain, here is the plan, this is what we're getting, it's all engineered here is your money if you want to contest it you have rights in court. It makes a heck of a lot more sense because at least that way the neighbors when you're planning it can be involved in planning process before the taking occurs. I think that could be done harmonious with construction of subdivision so they work out about same time.

Mr. Payson, You have to look at the profile you submitted to us 2ft. down doesn't really give us a lot of sight distance. I've watched enough cities and towns Franklin is a good one. You can't keep building these subdivisions, keep crowding people in there without upgrading Sheldonville Rd., Paine Rd. or Draper Ave. You have to have a safe way in and out of these subdivisions and Draper is probably the most critical one. I think it has to be done right I don't think you can half-hazardly improve Draper Ave. from the impact of this subdivision and other subdivisions also. It is not your fault there has been another probably 300 or 400 lots in there that are built it's not your fault but they're all coming out Draper Ave. Draper is getting stressed out.

Mr. Kushner, We've now done multiple traffic studies having subdivision come out on Draper and having it coming out on Hemlock. We've tested traffic three different times; we've had traffic engineers recommend what we need to do to make the road safe. Their recommendation was to widen it to 22ft. from it's current width of roughly 17 to 18ft. at top of hill. They recommend they we cut the hill down to create a safe sight distances based on national standards of what distance needs to be based on speed people go there. We're willing to put in sidewalks but we don't have land to do it so we have no options there. We've made recommendations that are with amount of houses we have in this neighborhood and impact those houses have on this road. I don't want to get into anymore public/private partnerships or further studies we've done our best to comply with all your wishes with regard to making the road safe for 52 additional homes. That is all we're responsible to have impact for. If there is traffic from Malls, from other subdivisions around west side of town that is not our problem. We're only responsible for our impact and our impact has been studied and presented over and over and we've done our best to try and be as cooperative as possible and meet wishes of this board. If the town has the ability to take land we'd be happy to look at putting in sidewalks but we don't have it with the exception of our own frontage.

Shirley Fisher-256 Draper Ave., Concern about dust and equipment 10 or 15ft. from our door or sometimes closer. I say if they want the land let them buy the house and we'll get out. Problem sleeping with traffic, etc.

Mr. Payson, Traffic count doesn't really tell much it just adds to it. We don't want to create a dangerous intersection either.

Ms. Fisher, Will it be as wide as Allen Ave.?

Mr. Payson, It will be wider.

Norman Hall, I live corner of Allen Ave. and Draper. Since this building has been going on I have a house across the street, house on right hand side and house on rear side of my house. With this proposal there is going to be a sidewalk on other side of my house that is all four sides of my property has been effected by what these people, this town and this planning board has done since I purchased this property 18 years ago. The proposal of taking 40ft. onto my property I have tiny little front on Draper Ave., I have 100 some odd on Draper Ave. and this proposal is to block off my entire land except for tiny piece on Allen Ave. I cannot get to my property if this sidewalk gets put in. They want to take 40ft. easement on my property that will be halfway into my living room, I have bedroom that sits 25ft. from the road. They want to take so much land from my property the square footage on my property will be below what this town wants for square footage to put a house on. That will bring my property not desirable for anyone.

Mr. Payson, I want to clarify a couple things. First it's not the town of North Attleboro; secondly it's not the planning board. It's the availability of land to build on and anyone has a right to build on any parcel of land as long as they comply with town's by-laws. State law says you can't stop that person from building a home on a lot that has right zoning and frontage. I don't think the 40ft. is realistic. Normally when taking goes, which I don't know why it doesn't have a 33ft. layout. You're only talking 5 or 6ft. on either side or 7ft. for a taking to make that road 26ft. with 5ft. sidewalk. I think this 40ft. has been blown out of proportion so badly that it has just poisoned everybody's mind.

Mr. Hall, If that sidewalk goes on my side I can longer access my property.

Mr. Payson, No but it has to be looked at to be correctly built. We haven't seen a sketch of what that would take to do that I don't know why we didn't get some sort of schematic plan of what that was going to take and what the cuts would be and how they're going to handle it.

Mr. Wright, 40ft. you say you're going to re-landscape it, etc. Within that 40ft. I have old oak trees are they going to come down because you can't replace them.

Mr. Manoogian, We just said up to 40ft. it is going to be different for each lot. We won't go in and cut down big trees. We were asked to survey and ask neighbors if they would be willing to give town an easement to construct sidewalks. I went to the engineer and asked him what he would need in terms of temporary easement to do this on some lots that is why survey said up to 40ft. It was no way intended to say we need 40ft. of everyone's lot to do this. This gentlemen's house is within that 40ft. that is not going to happen it is up to and it was a general survey of all the neighbors. The big question I have for the neighbors is are you willing to give the town some sort of easement maybe 5 to 10ft. of your frontage for purpose of installing sidewalks.

Mr. Wright, Why didn't you say that?

Mr. Manoogian, It actuality if we told you 5 to 7ft. it is double edge sword then you'd be here instead of chastising us for saying up to 40ft. for temporary easement you would have said this just said 5 to 7ft. In reality we have to get in some cases up to 40ft. to have equipment to work on that land to build that 5 or 7ft.

Mr. Wright, I can see you saying that where the hill is. Mr. Payson sidewalk they put in at Pride you widen the road and the other one on Allen Ave. all the trees along side of it. They didn't go into that land to put that sidewalk on they put sidewalk on from the street. There has to be an engineer that laid that out and no disrespect to you guys. Maybe you could you introduce them to that engineer.

Mr. Manoogian, You're talking to the attorney that did the project so I know what is there. That was entirely different area the roadway layout was bigger, more virgin property there but it only went up so far as to where we left off at Pride from intersection up. Angos gave some

property the town layout was wider there it was just more wide-open spaces. The character of the roadway even before those improvements at the beginning of Draper Ave. from the light up to end of Pride property was dramatically different than what you have with this subdivision as planned.

Mr. Wright, Not at my house my house is right at the street.

Mr. Manoogian, All we're saying is there was no houses in that lower end this is a different situation because we have a street with narrow existing right of way with houses and in some cases right on the street. You can't compare Pride to what is going on here.

Mr. Wright, You can't compare people being up here tonight after the letter that you sent. If you got that from somebody you'd be there don't get upset with the neighbors.

Mr. Manoogian, I'm not upset with the neighbors we were frank with them.

Mr. Wright, You could have explained it a lot better in the letter too. They way you explained it I figured you were coming in and wiping out every tree, etc. now you're saying you're not. I went through this with the Mall when they made agreements with me that they were going to do this and I wouldn't see the Mall from Allen, etc. You can say anything if it's not on paper it means nothing.

Glenn Whitney-186 Draper Ave., Construction of this road isn't just going to effect residence this is effectively going to be come a thorough way a shortcut it is going to open up that side of town for traffic it's not just Draper Ave. It is going to be a shortcut from Cumberland all the way past the Mall in back road, which it is now. I live right on top of hill I take my life in my hands every time I come out of my driveway. They fly over that road 40 to 45MPH and it's not going to get any slower it will get faster it is going to be a thorough fair to open up that side of town. If it's going to be done it better be done right.

Mr. Payson, It's our mind set.

Mr. Houle, Public safety is one of the things we do here that is why we're in this hearing.

Mr. Hall, I was just going to say 18 years ago when I bought the place I had to install the stop sign because it was not there. My first year there two people went straight across Allen Ave. into Dan Landry's yard and finally the town came up and put their own pole there with the stop sign. I don't get any sleep now never mind putting in 51 more houses there, two cars per house. They're not going to come out of the subdivision and go to Rte. 1 they're going to come out of subdivision and go the other way heading down south.

Mr. Payson, Absolutely I was talking about pedestrian traffic at that time.

Mr. Hall, Pedestrians are going to come up the hill right to my house 5 or 10ft. from my doorway go across the bridge and cut into the Mall because that is what they do. The kids kicked the fence down the first day they put it up, they kept kicking down new fence finally the Mall forget it we're not going to put the fence up anymore. I know where the traffic is I live right there and I see it daily the people that turn around in my driveway. That is the way it is now without the sidewalk and without all of these new homes going in.

Mr. Cerrone, The lights in the morning about 8 to 8:30 never used to be the cars around that bend now the cars are backed up. There are a lot of cars that come down Draper Ave. so that traffic is getting worse every day everybody wants to cut across they don't want to go Rte. 1 and during the holidays it's even worse.

Mr. Payson, Issue is always going to be Draper Ave. I want to get off traffic.

John Lavin, I got this e-mailed by DiPrete Engineering it shows Mr. Cerrone last time asked about centerline layout. He gave centerline layout it's on Allen Ave. side and then up to Norton. If this is the layout as far as the elevation that is vertical but the horizontal if this is the scale you can almost figure out from the information that they have what you need for an X road. Most of the information is there.

Mr. Houle, John in your ascertainment of this can it be done without 40ft.? Can it be done from the road?

Mr. Manoogian, We weren't asking for the 40ft.

Mr. Houle, I'd like him to answer my question if you don't mind.

Mr. Lavin, 40ft. is construction easement it is just a temporary thing and then it comes back and comes away. It is like right now if you have to dig next to your house and do it there are ways around going back if you have too.

Mr. Payson, John getting away from traffic. Are there any issues out there that we have to?

Mr. Lavin, Just to reiterate are you still asking as far as the waivers 3ft. cover, 2ft. that is due too?

Engineer, The question about waivers are for connections out to existing storm system where there is not a lot of cover on those existing pipes. We don't have any ability to control the amount of cover there we have to tie into what is existing.

Mr. Lavin, Request of waiver for sidewalks on one side inside the subdivision?

Mr. Manoogian, That is correct we can go both sides we're going to look at mitigation on outside of Draper then it was just suggested that perhaps that was overkill if it was done on both sides this type of project.

Mr. Lavin, I had the chance to talk to Len Bradley he mentioned NA Regs. are 4 to 1 there are several areas as far as slope that should be addressed the basin areas and there is the wetlands.

Engineer, We will have to get waiver for some of the slopes in those.

Mr. Lavin, That is why I mentioned you might want to look at that.

Mr. Payson, To what degree 1 to 1 or 2 to 1 or what?

Engineer, I believe we have some areas that are proposed at 1 to 1 right now around the basin they're pretty limited to just those areas right around the basins.

Mr. Lavin, Proposing kind of technical proposing grass strip in between the sidewalk and the curb it is desirable but it is not part of the regulations, which I'm trying to stick too. The board might consider that it is a desirable thing to have as far as construction and the mailboxes but technically it is a waiver. Easements we talked about few meetings ago along 7-Mile River for the town.

Mr. Kushner, We're okay with that. What specifically did you have in mind? Where do you want it?

Mr. Lavin, Along the river itself it is just for access to the river to be municipal easements. There is potential for sewer or access.

Mr. Payson, It could be a walking path it could be anything.

Mr. Kushner, We're okay with that.

Mr. Lavin, We talked extensively on soils we've had workshops. Sub drains are shown on the plan and they're shown on one side. The areas where they have cut first thing Len did was put the high seasonal groundwater to show on the crown. Most of the site is filled but the areas where there are sub drains shows them on one side and I'm not sure which way groundwater is falling so recommend in those areas that you have to cut because of past experience. Soils there I've taken soils they're pretty much impervious is to put it on both sides. Also as far as the roadway because of the materials put a note on the plan if the proposed crown of the roadway is less than 2ft. have sub drains go there. It comes down to you have 12" of gravel burrow and 3" of dense you have to be below that 2ft. minimum.

Engineer, Len and I talked about some of your comments with the sub drains and stuff we have no problem with what you're talking about. We want to make sure we don't have issues with that as well.

Mr. Lavin, Sub drain detail have it on outside in right of way instead of underneath the roadway. Then with proper clean outs and such. You have two mailbox clusters or pull offs if you could just show detail on those the width, length, sidewalk layout, mailbox. Just a blowup of that area. Water line depth there are several areas in particular that are at 10 to 11ft. They're at two intersections.

Engineer, I know we struggled quite a bit with getting everything in and out through those intersections between some of drain lines being quite large to provide for conveyance through the site and stuff. We can take a closer look at trying to bring those up as much as we can.

Mr. Lavin, It comes under maintenance if they needed to do it or even the key on the stout for valves because they're at intersections. Due to the soils here put note on any excavated soils like for utilities in roadway layout be replaced with burrow or gravel burrow depending on the depth. If you could explain it the swale along the side that is key to the neighbors.

Engineer, What we've done there is existing water that flows off into back yards of these homes we understand there is some problems that is created in the long run. We've graded a swale that I believe is conveyed out through to the road to pick up that water before it runs off the site into these homes. It's conveyed along through the back I think this is quite a bit less defined as a swale but none the less make sure we provide for the water to drain through and then again with pretty defined swale down along discharging near the river. To cut off any of that surface water that is moving through there obviously we can't do much about the groundwater but we've made an attempt to pick up all the surface water that we could address that issue.

Mr. Cerrone, How deep is the swale John?

Mr. Lavin, It varies.

Mr. Kushner, In response to concerns about groundwater depth we limited the depth of the swale to a foot or less. It is primarily a berm actually not so much a swale.

Mr. Lavin, It is built up the key is not digging into.

Mr. Kushner, Correct impervious soils so we're not digging into water table to create the swale.

Mr. Lavin, The check dams there are several shown but you might until the water gets going pretty good there you might just want to take another look there.

Mr. Cerrone, What happens when it freezes? We have problems right now with another one we have neighbors come in that is why I'm asking we can never get an answer. The swale is frozen where does the water go?

Engineer, It would go same place it goes currently.

Mr. Cerrone, You're not going deep you said.

Mr. Manoogian, It's not a swale it is a built up berm. It's not typical swale it's cut in so that when it's freezing that creates a problem it's built up impervious.

Engineer, There are check dams placed along the entire length of it.

Mr. Payson, How much is going to hold depth?

Engineer, Swale isn't really probably be the term that we should be using. We're conveying stormwater along it but it's being constructed by building up with impervious material on site to convey the water along the edge of property line. We're not digging into existing soil at all.

Mr. Houle, What is the height?

Engineer, 1 1/2ft. minimum, 6ft. minimum along top of berm.

Mr. Lavin, Calculation shows it works.

Mr. Cerrone, Calculations showed at Hickory Woods it worked too.

Mr. Payson, I'm curious about the depth. What depth are you going to cut to create that swale?

Engineer, No cut.

Mrs. Marchitto, Just adding onto it.

Mr. Payson, Where is the water going to flow on top of that?

Engineer, The existing water is coming from direction down the hillside.

Mr. Payson, I understand that I'm coming east to west. What happens if you don't cut it down to at least beyond the sub soil it would run in the subsoil and come out somewhere out the bottom of that traveling down toward Norton Rd.

Engineer, We have a note on here to say remove existing top and sub soil where the impervious material is going in. We're taking that layer out that I think you're talking about where the water would be able to migrate underneath. That layer comes out but over where the water would be traveling. The swale is 1 1/2ft. minimum deep this says remove existing top and sub soil. The idea is to get whatever that is if it's foot or 2ft. or whatever the top and sub come out until we get down to impervious material so we cut that off.

Mr. Payson, That is very important. Are we working on 10ft. gift to the town on Draper Ave.?

Mr. Manoogian, Yes that can be a condition we've been anticipating that all along that is not a problem. With the final mylar we'll have that 10ft. delineated and it could be given in fee but it would be a condition at some point at time. You asked us to show some open space whenever you're ready we'll go through that.

Mr. Lavin, The problem area so to speak down in the lower area we get something from the car dealership to look at it and he did some investigation out there as far as pulling manholes. Is there anything that came from that?

Engineer, I'm not sure what problem area you're referring too.

Mr. Payson, South of Quinn St. it's really a little below your property line. There is an old drainage system there.

Engineer, I'm not aware of anything that came out of that.

Mr. Lavin, It was just kind of workshop stuff just follow up on information.

Mr. Manoogian, We'll have to check with Len.

Mr. Payson, It was our intention to have a 50ft. right of way with 26ft. of pavement that stays?

Correct.

Mr. Lavin, There are a lot of issues 40 page back and forth. They complied with a lot of the issues stormwater is the calculations go. They raised the basins up to more conservative and then the grading is obviously a key. We talked about that in the workshop there was some drains shown, they moved catch basins and also yard drains shown.

Engineer, We've added them off the pavement just into edge of the yards and tied them into catch basin structures so that we can pick them up. They're just outside the right of way basically on backside of the sidewalk.

Mr. Cerrone, Who is going to maintain them?

Mr. Payson, The homeowner they have to be off the layout.

Mr. Lavin, Concern is creating septic systems from experience of creating a valley everything coming down and point sourcing.

Engineer, We want to make sure that we get this picked up before it becomes an issue out in the street.

Mr. Lavin, Variable on lots it is proposed.

Mr. Payson, Usually on lot line.

Mr. Cerrone, Who is going to enforce that John?

Mr. Lavin, As far as the grading off? That is why it's whatever grading they had is the yard drains can we control.

Mr. Cerrone, Top foundations?

Mr. Lavin, Top of foundations are on there they put a lot of information on it but as far as control and regulation of top of foundation that is always towards the building.

Mrs. Marchitto, It is outside our regulations.

Mr. Lavin, You can always put note if there is any significant grading as shown on the plan that it would just come back and be reviewed. Make sure that we're not running into situation of someone raising houses higher and just creating channels.

Mr. Manoogian, This would be a subdivision that would be built by one developer so that we have more control verses individual lots we ran into problems.

Mr. Payson, I think what we're saying is between the septic systems and house foundations there is valley between lot lines that is where the yard drains are going to have to be placed.

Engineer, Right that is what we've done is looked at them. Some lots just don't have that condition the ones that do we'll make sure we address them.

Mr. Lavin, If the grades stay as they are on the plan but if they're not that is the control that is outside and that is the concern.

Mr. Manoogian, If you're concerned about that we could put a note on the plan.

Mr. Cerrone, I'm saying to this board we have problem right now we're trying to resolve for same issue. You're going to have same problem here because they're going to change grades. If you don't put your foot down now you're never going to do it. They're going to change all the grades and then you're going to have same problem 5 years from now.

Mr. Manoogian, I possibly could suggest a remedy to that. Put note on these plans saying that if there is any change to the grades it has to be subject to approval of this board. The lots you think that are going to be effected by that we can even put restriction on record that says if you're going to change it based up and refer back to these recorded plans you have to have approval. It is right in chain of title.

Mr. Cerrone, I agree with you David because everyone changes calculations that these guys did.

Mr. Manoogian, It is not going to be a problem for us because we're going to be doing it probably ourselves and we have control over it. If you're concerned about that problem happening I can make simple suggestion saying that if you put note on plan saying if these grades change it has to be brought back to the planning board. On lot that could conceivable happen on put restriction on saying we reference these recorded plans and say if grade changes there you have to come back here. That way if in the future if you have angry homeowners it is right there in chain of title. I think that happens more when you have 15 or 20 different builders in one subdivision. When one person is going to build it, which we anticipate then we have more control.

Mr. Payson, Identify them because it changes the calculations of drainage system.

Mr. Manoogian, We understand that.

Claudie Moloney-253 Draper Ave., I have real issue with drainage and with sewer. My sewer system is close we've been trying to understand we called you. We're trying to understand how this is going to effect our system. We already have very wet basement and I have sewer problems already. I am very concerned about parcel near me. My husband put a phone call in this week to have one of you come out and look at it and talk to us.

Mr. Payson, Could you show any grades there?

Engineer, We can take a look and see if we have anything on there. My short answer would be that dept. of health requires separation between the system and we're maintaining that they feel is adequate.

Ms. Moloney, If there going to be a retaining wall? On other side their first floor is at my second floor so I'm getting their runoff.

Unknown woman, I think if you took a survey of every property owner on Draper we all have water in our basements.

Engineer, There is a retaining wall proposed.

Ms. Moloney, Why is it going to be there?

Engineer, It looks like it's there to build up the area proposed for that sewerage disposal for the lot.

Ms. Moloney, So you are going to elevate that?

Engineer, Yes currently though any water looking at existing contours this is 238/236 this water comes from your property down across now. What that wall would do in revised once the water comes off of your property onto other property it would direct it out and around the proposed septic. I don't see how we have any ability to push water back we're already lower and most we could do if we raised the grades on our property is hold the water back to property line.

Ms. Moloney, Is it going to be higher than my property?

Engineer, Top of this would be.

Mrs. Marchitto, 234 and you're at 241, 242, 240, 238. You're still higher.

Mr. Payson, What is the finished grades?

Mrs. Marchitto, 238 would be finished.

Mr. Lavin, You have to show positive channel. Show some grade, spot grading.

Engineer, There is 238 and 236 at ends that would be someplace between 2 and 3% slope running along toe of wall directing water back away from the homes and into rear of lots.

Mr. Lavin, Control of the grades when that house is built to protect property adjacent.

Mr. Whitney, Is there any reason why this town can't bring sewer up from Norton Rd. and take into such major reconstruction of Draper Ave. Alleviate most of the sewerage problems that the residence have. They'd be digging up the road wouldn't that be a perfect opportunity to put pipes in?

Mr. Payson, It is up to the developer I don't think the town can't get in that arena. They're proposing septic systems.

Mr. Whitney, I thought it would have been in best interest of the town to handle waste water and put it into sewerage system as opposed to groundwater.

Mr. Payson, It would be.

Mr. Kushner, We agree with you we'd love to connect the sewer as well. There is existing sewer adjacent neighborhood.

Mr. Whitney, I think there is sewer at corner of Draper and Norton Rd. that got put in when Pride project was done.

Mr. Kushner, Correct there is sewer in Draper down at intersection of Norton Rd. neighborhood has sewer in it. Unfortunately it is a private line it is owned by the Mall. This neighborhood as well as the line that runs down Draper is owned by Mall.

Mr. Whitney, How did the extension get put in?

Mr. Kushner, They paid for it. From residential standpoint it is prohibited expensive for us to do so.

Mr. Whitney, It is going to be pretty expensive to put a whole new road in as well.

Mr. Manoogian, There is no public sewer available to the project.

Mr. Lavin, When you put the tops of elevation on for top of foundations did you take into consideration the high seasonal groundwater are you planning on having the foundations above the high seasonal groundwater?

Engineer, I didn't set the foundation elevations but that is standard practice in our office to do that it should have been the case.

Mr. Lavin, Down spouts the calcs. are going to go surface that is why there is two things surface but also being above so foundations drains aren't redirected.

Pat Murphy-71 Norton Rd., Could you tell us what the elevations of the berm are going to be on the properties on Fir Way the back of those properties? You said berm was going to go from 1 1/2ft. to certain level how high is it going to be on property behind Fir Way?

Engineer, We would probably try to stay as close as possible to the 1 1/2ft. we do have grading on here. It would be approximately be 1 1/2ft. high on uphill side might be 2 to 2 1/2ft. high on downhill side the land slopes. It varies some as it comes around here the topography changes quite a bit in this area but generally all along the western property line in that area.

Mr. Murphy, That would be higher enough for 100-year storm?

Engineer, I'm not positive that it is I'd have to pull the drainage calculations and take a look at that. My quick answer would be yes we have to show that we're controlling this water on our site and not causing flooding off site. That water has been directed down and around the site.

Mr. Manoogian, I'm pretty sure that is for 100-year storm.

Mr. Lavin, It is the engineering that is required.

Engineer, To the best of my understanding the entire site was.

Manny Cavaco-Quinn St., I guess I had a misunderstanding of the swale from the beginning. You're going to build it up 1 foot to 1 1/2ft. I thought I understood it to be more like a french drain where you would dig it down so far and maybe line it to catch that water and run it south to north maybe into the river. The discussion here of the foundations being higher, septic systems being built up. You were there just beginning of this week my neighbor on 12 Quinn St. his driveway is like a river I've spoken before about this. I have to keep speaking about it because it is a reality. I had two neighbors on the west side, west/north abutting the woods where the asphalt ends and dead end part of Quinn St. on the west. Their driveway was just flooded with water almost all this week. We actually have to dig our own trenches in the dirt where the asphalt meets the woods. The water that runs west to east from there the volume is tremendous. I know you're going to put your drains in flowing instead of east. It is hard to believe that 1 to 1 1/2ft. is going to retain enormous volume of water that flows now. You're going to create more flow as you build up the septic systems and build the houses higher on the foundation.

Engineer, We do generate more flow but happens is we pick up so much of it in the street drainage that the amount of water that is actually getting to the property line is already pretty significantly reduced. It doesn't take a huge channel and in part because we're picking up water at point everything is coming down through and bringing it out through the piping system in the street. We're really just picking up what is from edge of the homes back to the property line; it is really pretty small amount of water.

Mr. Cavaco, First meeting having been on Quinn St. for 28 years and fought for the last storm drain we have the one that is most westerly on Quinn. Before that the water just ran down almost through the whole street. At any rate my point is the way you have the swale designed you're saying that whatever we're experiencing on Quinn St. now your division will not make it worse?

Engineer, We're actually reducing the amount of water.

Mr. Cavaco, Will not make it worse than what it is now? Hopefully better.

Engineer, Yes.

Mr. Cavaco, Another clarification on Quinn St. just so that I know if anything has changed or not. Quinn St. unlike Draper I think the sidewalks are not an issue because the street is 25 to

26ft. Is the plan still go to 12" main the new main coming from Rte. 1 right it's running west on Quinn St.? The water main and the sidewalk are both going to be on south side of Quinn is that correct?

Engineer, I don't believe there is sidewalk proposed on Quinn. You're referring to Quinn where it exists currently?

Mr. Cavaco, No as it will be when you build.

Mr. Lavin, Outside.

Mr. Cavaco, The sidewalk I was hoping wasn't going to go in.

Mr. Kushner, There is no sidewalk on Quinn St.

Engineer, Water main on the south side. Back up a little bit that swale is sized for 100-year storm.

Mr. Cavaco, One more comment on the sidewalk I think it was the engineer. You said it's not a regulation or not an ordinance but it is desirable if sidewalks do go in you're going to have a grass sidewalk?

Mr. Lavin, Yes in the subdivision.

Mr. Kushner, Existing portion Quinn St. is not proposed to have sidewalks.

Engineer, Maximum on the hill appears to be just a little bit less than 2ft.

Mr. Cavaco, Bringing up sewerage again, which I've been doing for 25 years. Andy as you know is there anything every done with Cavalieri when he offered the Oak Knoll pumping station at DPW for Quinn St. residence and that also asked turn that over to you? I thought at that meeting you guys were going to get together and inspect the pumping station what kind of condition it was in.

Mr. Kushner, The DPW independently went out and inspected it to see if it was something they wanted to take on. They've since told us that they have no interest both from standpoint of taking on the maintenance of the pump station and that it is not in their master plan for sewer not interested in taking it on.

Mr. Houle, Have you tried to contact the privately owned sewer to see if maybe something could be done there?

Mr. Manoogian, You're talking about the Mall line from a financial standpoint the Mall going rate is between \$60 and \$62 a gallon for privilege of just connection getting rights to connect. The average four bedroom home needs 450 gallons do the math 450 x 60 x 50 it is multi millions of dollars. That is not constructing the sewer that is just to tie in and then you have to engineer it and install it, it just can't be done on a project this size or pretty much any size. That is cost prohibited we've been through this that there is literally and Mr. Witschi well knows. We had to tie Mr. Witschi in he's tied in through the private line at Pride through sewer easement that Pride granted Mr. Witschi over their property to tie his home in at time we did Pride. We had hoped to tie Mr. Witschi into the existing Norton Rd. sewer, literally there is manhole outside of his home that ties into that sewer pipe stops foot short because town council has told us we have no authority to tie into that line, which is a private line. Norton Rd. subdivision was constructed by Mr. Myers he died Bob Bliss and I talked to the estate they had no interest in selling us the works under the street. When the town took the street they didn't take sewer they still don't own it. The street within Norton Rd. subdivision is accepted but sewer line is still private. We couldn't tie Mr. Witschi in even though the sewer pipe was a foot from manhole in front of his house. We had to tie in through Pride all the way down Draper Ave. into sewer down there in private line. He has sewer his sewer has been purchased by Pride at the time his gallonage rights and then Pride also gave Mr. Witschi's house permanent easement over Pride's property to run sewer line to that, that is how he is connected.

Mr. Cerrone, David could you get an article to go town meeting to take that Norton Rd. sewer line so these people can tie in?

Mr. Manoogian, No if he takes it by eminent domain the town will have to pay someone for it. Selectmen will have to take it by eminent domain.

Mr. Cerrone, Could you work with the selectmen try and take that over so you can help these neighbors in that area? It might benefit your development.

Mr. Manoogian, We've gone through this we have board of health approval for this property we're not backtracking. We tried to work with Mr. Cavalieri, we've been before DPW there is no public sewer here it is the way it is. Andy has given me explicit instructions that we can't afford to keep on re-engineering this project several ways. We have board of health approval we tried our darndest at beginning of this project before we even got here. We had talks with Cavalieri we thought we had a deal, we had talks with DPW and the permanent easement over Pride's property to run sewer line to that, that is how he is connected.

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Mr. Payson, I think the town has to get its act together as far as extension of sewer west side, it's probably been 20 years now that they've been talking about it.

Mr. Manoogian, I agree we can't do it ourselves.

Mr. Payson, I think what is going to take place that it's going to be mandated by the septic system they're going to fail on Hoppin Hill.

Mr. Manoogian, Sure but we can't do it for this project we tried but it's not feasible.

Joann Cavaco, I just don't understand when you talk to DPW they give you the line that their concerned they want to get North Attleboro into the modern world and be hooked up into sewer lines. There has one that has been practically handed out and they won't even consider it yet they're going to build all these houses. I guess I'm not understanding there is a horrendous amount of groundwater in our area. If you stand in my neighborhood we are the lowest of the surrounding area and we all know water goes to the lowest area along with the rest of the neighbors that are around us. You're going to sink all these foundations that these berms are only going to prevent the surface water what about you're sinking the foundations it's going to reroute all that groundwater. We're going to have more water bubbling up in our yards, in our septic systems and then what is the town going to do for us when we're sitting there and we're going to have to be condemned.

Mr. Manoogian, To partially answer the lady's question. The board of health looked at this project and this was the first project that this new board of health really scrutinized they hired their own independent expert. They came to the conclusion that this would not cause the concerns the lady just set forth. To answer Mr. Houle's question and Mr. Cerrone's question go

back to sewer for a minute. Even if the town took the Norton Rd. sewer system it wouldn't help because that all dumps into the private line owned by the Mall. Even if you own the Mall you would have to take the entire Mall line over from municipal standpoint, which no one in the town seems to want to do. That Mall line was my understanding the agreement after number of years was going to be gifted to DPW so they controls that whole private line now. Town and DPW aren't willing to do it so if the selectmen did take the works under the street of Norton Rd. subdivision all it would do is own that works it still wouldn't give anyone the right to tie into Mall line. That sewer system ties into Mall line that developer of Norton Rd. subdivision bought gallonage from the Mall and has right to tie into that line. Even if you controlled it you would still need to buy gallonage. What we tried to do for Mr. Witschi is buy the gallonage from Mall that was the easy part but we wanted to tie him in right in front of his property because it made sense because that is where Norton Rd. sewer had ended foot away from that manhole but we had to tie him in through Pride but we still had to buy Mr. Witschi gallonage from the Mall line. Taking that line by eminent domain for Norton Rd. isn't going to solve your problem because the effluent goes into Mall line and you have to buy the right to the effluent from the Mall. Everything that is in Rte.1 is controlled by Mall significant part. DPW and town would physically have to take over that line and I thought the original agreement between those two entities that after a certain amount of time the Mall would turn it over. Mall wants to turn it over that is my take on it but town DPW hasn't shown to take it over nor town itself.

Mr. Payson, Want to go back to drainage on Quinn St. You're going to connect those catch basins on Quinn St. tie them into existing catch basin that goes into Cavalieri's modular homes. I think you're going to reconstruct that drainage on Quinn St.?

Engineer, I don't believe we're proposing to do any work for drainage on existing Quinn St. We're installing new basins at the limit of our property.

Mr. Payson, I thought the off site mitigation was going to take care of the drainage and take it down.

Mr. Cavaco, The drain that is the one I called the town for 12 years and I finally got it put in there. That wasn't proposed but that drain now on west/south side right on 12 Quinn the neighbor's driveway and corner of mine. That flows east and connects to the one in front of 8 Quinn that runs north under Quinn ties into another one in front of Mrs. Paquette and that runs to the Cavalieri development those are all tied in.

Mr. Payson, There is only one basin we asked them to look at it because the water runs out of that driveway into that basin. In real world it's going to go by some of these basins whether they get clogged up what is going to happen here?

Mr. Manoogian, John did you and Len have a discussion on that?

Mr. Lavin, Yes at workshop. He was going to look into that there is impact on it right now.

Mr. Manoogian, We'll have Len look at that.

Mr. Cerrone, Not proposing sidewalks on Quinn St.?

Mr. Manoogian, Not on old Quinn St.

Mr. Cerrone, What are you doing for work on Quinn St.?

Mr. Payson, They said they were going to take it down 2ft.

Mr. Manoogian, I think DPW has approved it.

Engineer, We're going to lower portion of the road, filling in just little bit and we're extending water service all the way up and then there will be an overlay after the work is all done. There will not widening or anything just an overlay of an existing pavement. The pavement I think is 24 to 26ft.

Mr. Cerrone, During the holidays when the traffic is backed up from Draper/Exxon Station all the way past the Cinema people that live in that end are going to go right through that subdivision. You don't think that area should have sidewalks?

Mr. Manoogian, I can't speak for some of the neighbors but it was my understanding related to me from some of the workshops with Mr. Bradley and Mr. Kushner that some of the neighbors didn't want the sidewalks on older section of Quinn.

Mr. Cavaco, No I don't want sidewalks all my neighbors really don't.

Mr. Manoogian, Originally we had proposed it but from the comments we got from these folks we didn't go forward with the sidewalks.

Mr. Payson, I suggested that the last subdivision we approved made a gift to the town of \$1800 per unit to look at anything we may have to do in the future.

Mr. Kushner, We'd consider some sort of a gift.

Mr. Lavin, Did you resubmit to board of health?

Mr. Manoogian, No what happen is there was one lot that we had to resubmit on because they withheld approval because they needed some more data. At time they approved all the lots initially and Len went back and got approval for final lot. My guess is what you're looking at is the approval for one lot.

Mrs. Marchitto, It is October 2006.

Mr. Kushner, That lot had to be reworked so we had to go back and resubmit that one. #34 needed to be reworked and it was, #43, #44, #45 we took out. It has been reconfigured but essentially we took 3 lots off the plan so we're down from 55 to 52.

Mr. Lavin, It was timely as far as submittal from board of health 45 days.

Mr. Manoogian, What happen is their first approval came within the 45 days and their initial approval was you have all but those lots that you read and we said that was fine. They wanted some other engineering work we come back voluntarily to them and seek approval on those remaining lots. We did that in October but we only sort approval of 34 because we eliminated the other ones. I believe that is what they approved in October Lot 34. That letter is supplemental to the original.

Mr. Lavin, They talk about stormwater association the planning board can't go around board of health letter of reconfiguring.

Mrs. Marchitto, I think it's been read into the records had homeowner association issue in it.

Mr. Lavin, Language that is in there you can't reconfigure the planning board can't change the board of health recommendation.

Mr. Manoogian, It gets back to control of retention/detention ponds and we said that was not in their jurisdiction because they had no regulations on it, it fell on this board.

Mr. Lavin, They do have jurisdiction under certain stormwater issues under statute in Title V but also you can't change language on board of health letter that is supposed to be put in to the planning board as far as approval. Some of the language they put in there says shall not be approved.

Mrs. Marchitto, Letter from board of health dated 10/11/06 ( insert).

Mr. Manoogian, That was the original approval that was not approval for Lot 34.

Mrs. Marchitto, Do you think they will give us an update letter?

Mr. Manoogian, I'll ask Len to take care of that because he went to a meeting and that was voted unanimously to approve that. The homeowner association I expressed the opinion to them that I didn't think because they don't have regulations they didn't have the authority to impose that on the planning or DPW boards. I know DPW has told them they do want a homeowner's association and you folks had yet to determine how you thought best it could be determined. We're prepared to give them a homeowner's association even if we had that and it

ran into trouble we would still recommend that we give easements to the town to have ability to go on the land to take care of problems. The homeowner's association will not obviate the need for the easements you would still need those easements.

Mr. Lavin, On 7 Mile River says the board of health is contacted Attleboro because it is really your drinking water.

Mr. Kushner, We sent them a letter early on and never got comment back.

Mr. Manoogian, We sent it to planning dept. Attleboro and water.

Mr. Lavin, It's just trying to satisfy the conditions.

Mr. Kushner, Board of health was the group was supposedly corresponding with them.

Mr. Manoogian, The only thing we took issue with was the homeowner's association. I just expressed since they have no local regulation they couldn't impose that was within the planning board's jurisdiction not theirs maybe town council should look into that.

Mr. Lavin, That was what I was going to suggest because you can't go around board of health letters.

Mr. Kushner, We're willing to go either way.

Mr. Payson, I think we're going back to town meeting that town maintains.

Mrs. Marchitto, How are we with DPW comments?

Mr. Manoogian, Andy was with them for the Draper Ave. improvements and Quinn St.

Mr. Payson, We haven't seen anything from them. How long ago was that?

Mr. Kushner, 60 days ago we went to DPW with our off site plans we presented Quinn St. and Draper. They essentially were very comfortable with the improvements we were making on Quinn St. In their opinion they said that Draper should not be touched no improvements to Draper.

Mr. Payson, Was that when they wanted to come out?

Mr. Manoogian, We first proposed work on Draper they told us to look at Hemlock and Norton Rd. subdivision. We've had conference with this board, had workshops we even had workshops with DPW and we told them what we were going to do on Draper and we thought we had a positive response. When we came back with latest set of plans 60 days ago to show them what had road profiles on Draper on Quinn. They said Quinn was fine but Draper they said no don't touch it and come out Hemlock. Our hands were tied and we made a decision that we think your board has the authority and we're not going to keep on bouncing back and forth engineering we're engineering it this way.

Mr. Kushner, If you guys don't want us to touch Draper we're okay with that.

Mrs. Marchitto, Last letter I have is like April 26<sup>th</sup>. from your engineers.

Mr. Cerrone, Electric company anything from them they have new rules and regulations now?

Mr. Manoogian, I've got a call into them to see if this subdivision was under that since it was filed earlier. Those rules and regulations came out long after the filing of this I have to talk to them to see how they're going to handle it.

Mr. Cerrone, I'd like to have something.

Mr. Payson, I don't think we're going to get them in our regs. We're going to discuss this later on whether we take them out of our subdivision control.

Mr. Manoogian, They have a huge potential to drastically increase the cost of any home in town but even a condo. I don't know what they were thinking of when they did it. The developer has to design all the electric layout using their experts paying for all those fees and using their people. They put the onus on the developer under new regs. to do all that themselves Mass Electric doesn't do that no one does.

Mr. Payson, Did they have a public hearing?

Mr. Manoogian, Not that I was aware of.

Larry Tilton, Yes they did it was in the newspaper.

Mr. Manoogian, The downside is if you're trying to do any even affordable housing in town it is going to be prohibitive. I will talk to Mr. Moynihan to see where we fit in on the scope of that.

Mr. Payson, I'd like to see what that mitigation package is.

Mr. Manoogian, I can go over some cost figures that Andy gave us. To date with just the soft cost for the engineering of Draper and Quinn it is approximately \$60,000 that was anticipated we've spent and there is probably going to be more soft cost. The cost of construction of Draper the way we proposed without sidewalks and the cost of improvements to Quinn \$460,000 to do that. The sidewalks we proposed putting in on one side of the subdivision. One of the things that we'd be willing to do is put sidewalks on both sides of subdivision within it and just ask for a waiver of sidewalks at the cul-de-sac just put it on one side or half way around. We feel the more appropriate way to go is to put sidewalks within this subdivision on both sides just for aesthetics and just ask for waiver with respect to cul-de-sacs only. Normally we'd say the cost of mitigation what we'd probably do is say half cost of sidewalks put into a fund. From planning standpoint aesthetically it just doesn't look good. I concur with John that it should have that grass strip even though it's not in your regs. because people are going to try and put something there. We mentioned right now just doing on one side but Andy said he doesn't think it looks that good so we'd rather keep sidewalks on both sides.

Mr. Payson, The reason I asked some mitigate, some sort of number or package we haven't spoken as a board as to what we would do inside the subdivision. That is what I wanted to find out.

Mr. Manoogian, In terms of cost per lot Andy talked to me about \$1000 lot at time of occupancy permits.

Mr. Payson, I think we've got to go over this as we come to conclusion and make some decisions.

Mr. Manoogian, I was involved in the other subdivision I explained to Andy it would be same language just different dollar amount. The other thing we gave you an open space plan and we could talk about that but if all you're looking for is easements for 7-Mile River that is one thing too. Proposed and this would be part of mitigation that open space was about 40 acres.

Mr. Kushner, Upland is somewhere in the neighborhood of 6 to 10 acres.

Mr. Manoogian, You could do walking trails things like that.

Mr. Kushner, It's passive recreation.

Mr. Manoogian, If you were inclined to do that we could do that I don't know how you'd control it but we could work with you on that. Whether it is an outright gift to the town, it is not going to effect our lots, etc. we still have to comply with zoning. I don't think a homeowner's association is the answer to that I think it should either be town's conservation commission or something that is hybrid with this board involved too.

Mr. Houle, Have you looked at maybe putting in a park or anything like that?

Mr. Kushner, We really don't have a good area to do it the uplands are isolated it is not contiguous to any of the roads. You can reach upland from Oak Knoll but you can't reach it from any of the public streets and unfortunately the 7-Mile River blocks us from extending a road through. We have big chunk of upland abutting Oak Knoll and another chunk behind the lots but we don't really have a good spot for a park or ball field.

Mr. Payson, We have a right to ask the developer to set aside land for recreation especially in a subdivision of this. That is why I question that we can go two routes, we can go to take cash to go somewhere else and build a field, rec. or design something within in there of walking trails. Plainville has very nice one on High St. to do some walking trails the town would need to own that I think.

Mr. Manoogian, I think that is better way to do it.

Mr. Kushner, From standpoint of public access the land we're proposing has access on Draper and on Hoppin Hill. This is the area you see from Draper it's a field it's hydric soils it's not a wet boggy area it was farmed forever wooded in back tends to be a little bit swampy.

Mr. Payson, There are ways to get across. I think along the 7 Mile I think we would like to see something.

Mr. Kushner, We're okay treating it with an easement as opposed to dedication of the entire parcel.

Mr. Manoogian, When we talk about mitigation if you don't want to take all that land just easements that is amenable to us too.

Mrs. Marchitto, I think it adds a buffer from other subdivision's neighborhoods the open space to keep it passive.

Mr. Cerrone, It's going to be open space even if lot owner's own it what are they going to build?

Mr. Payson, I think they control it if you can't control it.

Mr. Cerrone, You're getting out of the tax roll lot owners own it they're going to pay taxes on it, it is still open space they're not going to build another house. As far as I'm concerned let the taxpayers have it.

Mr. Manoogian, We have no problem giving you that and the easements. My concern is that we have to gift it to some entity town or conservation so you have make sure that is going to happen.

Mr. Cerrone, I can see if you had 20 acres you could use for ball fields or do something with it. You can't do anything the birds and deer are going to live there let the homeowner.

Mr. Houle, What was the total acreage here?

Mr. Kushner, About 40 to 44 acres.

Mr. Lavin, I don't have anything right now.

Mr. Murphy, I would like to see you look into a higher berm separating the two I'm not sure putting half.

Mr. Payson, We'll have to look at that.

Mr. Cerrone, You guys staked out Draper Ave.? I think this board should go out and look at that.

Mr. Manoogian, Yes you requested that and I guess they left some stakes there. I think we're getting near the end of this we'd like to give you enough time to gather remaining data and then close the public hearing. On issue of Draper Ave. what I would suggest is we'd probably have to have one more workshop with John and Len and at that time we could fully discuss the mitigation. I think the ultimate resolution our position is we'd like to help out as much as we can on Draper Ave. we think we're doing a lot with that. The only remaining issue is sidewalks and overall safety. I don't think it is practical or feasible from my developer/client to undertake that on it's own it is too complicated. I think in the overall discussion with mitigation that perhaps that could be worked out. I just don't think Andy has the where-with-all between negotiations with different houses and what not that is more of a community project that should be undertaken by a more appropriate eminent domain taking. We'd set the stages we could do some engineering work for it and what not but the actual taking would have to be done by the town and construction by the town.

Mr. Payson, I think it connects we haven't planned is there is money for sidewalks for Allen Ave. I think what we're looking for is a network of sidewalks coming down through all those subdivisions down Draper out to Rte. 1.

Mr. Manoogian, You could use some of that money for Draper that could be part of our mitigation.

Mr. Payson, I think the town we have money to do that and that is what that money was for.

Mr. Manoogian, We'll work with you even if that includes us being involved with the actual construction or doing some engineering and I think that could be condition of your approval. I just want to make it clear that we don't have the where-with-all to do that ourselves by way of the actual takings and negotiation with the neighbors and actual construction but we're willing to help.

Mr. Cerrone, I think we should take a look at Draper Ave. first and then we can tell them which direction we want to go.

Mr. Payson, I think we're going to start on order of conditions your time frame is the 30<sup>th</sup>. of April.

Mr. Manoogian, If you need a few extra days we'll work with you that is no problem.

Mr. Payson, I think we want to bring it to a close.

Mr. Kushner, After you've done your site walk we'd be happy to come back and meet with John and whomever the board wants.

Board will take site visit on Thursday 4/5/07 at 6:00 P.M.

Mr. Whitney, Might I suggest rush hour.

Mr. Manoogian, If I could ask the neighbors a favor if you see anyone removing those stakes. We'll have Len contact John and get date maybe with Ray so we get together for a workshop. It doesn't sound like there is too many engineering technical things that have to be resolved.

Continue hearing until 4/12/07 at 8:00 P.M.

Respectfully Submitted,

Board taking 5 minute break.

NORTH ATTLEBOROUGH PLANNING BOARD  
REGULAR MONTHLY MEETING  
THURSDAY, MARCH 29, 2007

Christopher Sweet returned at 9:15 P.M.

Other Business:

1) Request of Shaun McCormack to discuss status of request for Board's endorsement of Street Acceptance for Raymond Sampson Drive;

Mr. Payson, John had to go to Plainville.

Shaun McCormack-Stonebrook, Wanted to touch bases with board on road acceptance with town meeting coming in May. We've been in close communication with John Lavin completing the very minor things that needed to be done. The inverts, manholes as well as side supports. I delivered an asbuilt back in January I have another one this evening because of couple of streetlights and street sign upon my review found was missing or in wrong areas. Had that revision done John I believe has couple of water gates that he found on a walk through I'll have a subsequent revision but he said very minor stuff. Wanted to make sure the board was aware of that going on.

Mr. Payson, We want to see it when you get all these things done.

Mr. McCormack, I anticipate the inverts being done tomorrow as well as the side slope. Come next week the 12<sup>th</sup>. before then you'll have a new asbuilt, letter to John Lavin hopefully his endorsement of the street. We went to meeting on 10<sup>th</sup>. with DPW one of their statements was

they don't endorse any of the roads for acceptance so I'm working with them to understand why. They have a DVD with all their specifications and what have you I'm looking into that. I did get verbal communication from staff on DPW that they were fine with the board but when I sat in front of the board they had different thing to say.

Mr. Payson, I think all you have to meet is planning board regulations.

Mr. McCormack, That is what we're moving forward on doing. I just wanted to drop off revised asbuilt. I know we've talked about detention pond so what I've been doing and I will continue to do for completion of John C. Porter is document some operation of it. I would like to leave some pictures we had an event March 2<sup>nd</sup>. I show the pond filling up and some times as it comes down. I think the cleaning up of that entranceway really helped the flow of that detention pond to bring it within.

Mr. Payson, I think we still want to do what we originally asked. You had a design standard there.

Mr. McCormack, The modification yes we're moving forward John Lewicki has done a partial of that modification and we're going to continue to do that so that we get the optimum drop down of that.

Mr. Houle, It did drop it down quite a bit I was out there after that and it is working.

Mr. McCormack, I will continue to do that for the board and we'll go from there. I gave John the mylar and another copy letter stating transfer of it. I have given public works two copies of the asbuilt and I will continue giving them and I've give electric company their asbuilts as well.

Mr. Cerrone, You should get something in writing from them saying they received it.

Mr. McCormack, I have receipts from them for the asbuilts.

Mr. Payson, Is lighting activated?

Mr. McCormack, The heads are on I haven't seen them in operation I will drive by this evening to see if they're on. The electric dept. said they were all set but I'm not sure they're on.

4) Request for Tilton & Associates for clarification of conditions of approval for Boch Attleboro, LLC site plan;

Larry Tilton-Tilton Associates, Glenn Ofcarcik and Mike Clemmy are here also. Revisit the board on a site plan that was approved and voted through for what we brought before the board for a few minor modifications. We received our signed plans and the conditions that were on it were surprised to find three additional conditions got added to the plan that were not discussed as part of the motion. Those three conditions take us out of the ball game with the building inspector. He sent us back here to get some clarification on a sign issue and rethink what those conditions how, what and where they came in. We're submitting tonight the minutes of your meeting the motion that was made, the condition that was put and we accepted to try to get some remedy to this thing. One through three on conditions just take us out four we agree too and somehow they ended up on my plan, which is another whole issue.

Mr. Sweet, I distinctly recollect that we you weren't going to bring customers to that building.

Mr. Tilton, Yes but it's not part of the conditions. I think we should try to read the motion read who made it and second it. We accepted the condition as showroom we have no question with that.

Mr. Cerrone, Have you been in front of the building inspector?

Mr. Clemmy, Some of my representatives went there.

Mr. Cerrone, He deny you a permit?

Mr. Clemmy, Yes because on question two.

Mr. Cerrone, I'd like a letter from him before I act on this. I'd like to see what he has to say.

Mr. Clemmy, I'll tell you exactly what he said. We're going to knock the building down it's just a temporary use. On #2 it says the subject property shall not be used to conduct business

associated with sales automobiles. When I put a front-end rack in the building it's called an alignment rack.

Mr. Cerrone, When you came into us you said you were going to store papers, files.

Mr. Clemmy, It says not to be used to conduct business associated with sales. Mr. Payson said we want to put condition on that it is used for accessory use. I don't want to sell cars down there I don't want to bring customers down there. I want to open the curb up.

Mr. Ofcarcik, Very first paragraph it says to be used for files, storage and front end rack and that is when Mr. Payson then said you can use it for anything you want as long as it complies with zoning. What the building inspector is saying is that #2 prevents it from being used for anything associated with automobiles obviously that wasn't our intent at the discussion.

Mr. Clemmy, I was here three weeks ago and we waited to come back in front of Mr. Payson. We didn't want come last Thursday when he wasn't here. We want to use the building can you spell out what you don't want us to use it for?

Mr. Cerrone, I want to see why building inspector didn't issue a permit.

Mr. Tilton, It wasn't even part of the motion and it wasn't the second and not discussion. The condition was accepted one condition was clearly spelled out that is the issue here.

Mr. Clemmy, If you have a car bring it inside that building prep it and you have a front end rack that car is going to be sold.

Mr. Sweet, The wording is being interpreted not in way it's meant to be.

Mr. Clemmy, When you say that is it your understanding then that I can use the building to put my front end rack in there and use it for service as we discussed when I was here prior?

Mr. Sweet, Not speaking for the board but personally yes.

Mr. Clemmy, If I could take a car or truck and put it in that building put front end alignment rack in there and use it and then I sell the car later is that associated with sale of a car? Yes it is not to be used for any business associated with sales of automobiles.

Mr. Cerrone, There is building code traps you're going to have a lot of other problems that is why I would like to see why he denied it. Drainage traps.

Mr. Clemmy, He told me let the board call on it I have rules I have to follow. If they allow you to do it and as long as you meet all the criteria and you put vehicles in there you do whatever you want to do and you have oil/water separators that is his jurisdiction.

Mr. Tilton, The three conditions came out of somewhere and that is what started this thing. We very simply asked for three simple little things that we temporarily wanted to use the building for that is what we'd like to have on it.

Mr. Houle, Isn't it basically #2 that you guys have a problem with?

Mr. Sweet, The way it's written he can interpret as #2 trumping the whole thing.

Mr. Clemmy, The building inspector said you can't use it.

Mr. Cerrone, It doesn't meet building codes.

Mr. Clemmy, He doesn't even want to go in the building code issues yet. This says you can't even use it. If he has an issue with building code.

Mr. Tilton, If we have an issue with the building code one we're not back in front of this board we're downstairs in front of the ZBA that is with his appeal. It is your conditions that is stopping us from even applying he is the interpreter but you're the interpreter of what you meant by these conditions.

Mr. Clemmy, You all sat on the board that evening are these the conditions that you meant me to live with? Are these four conditions what we talked about that evening?

Mr. Sweet, I can interpret this as being perfectly fine someone else is taking it the other way.

Mr. Clemmy, That night when we closed these are the four conditions that you thought we're going on? I walked out of this room and I didn't here all these four conditions I'm asking you Chris not the board?

Mr. Sweet, I didn't write this letter I say personally this is fine and somebody is taking it down the wrong road.

Mr. Tilton, I think we need to read the motion.

Mr. Sweet, You're reacting to somebody else's interpretation of this.

Mr. Cerrone, I'd like to have his opinion why.

Mr. Payson, I'd like to sit and listen to the tape.

Mr. Ofcarcik, The point is the first three things are things that were talked about. But if you read from point where Chris makes the motion and Joan seconds it then Dick asks no conditions? Then there was a condition that it wasn't to be used as a showroom, which they've conceded too and that was moved and voted 5 to 0 with that condition.

Mr. Sweet, You're not going to be selling automobiles out of that facility and this can be interpreted as that to me and unfortunately someone else isn't.

Mr. Clemmy, Chris you're telling me you can interpret that I won't sell cars in there but #2 says shall not be used to conduct business associated.

Mr. Sweet, With the sales it is function of business. You have all sorts of functions and sales is a function of business. They don't want sales occurring in that building.

Mr. Clemmy, Sales of what, what is the last word?

Mr. Sweet, Sales of automobiles.

Mr. Clemmy, Everyone that works in that building this is through my eyes this is how I interpret it. Everyone that works in that building even myself our job we sell cars that is what we do I don't want to dance around the situation. Everything that happens in that building all the administration people all the service people wouldn't have a job if they didn't have the sales of the cars.

Mrs. Marchitto, All activity in main building.

Mr. Clemmy, That business down there thrives on sales of cars if I don't sell cars I'm not in business.

Mr. Sweet, It's not interpreted in the spirit we meant so what how do we remedy it?

Mr. Houle, It also says there will be nothing there but employees.

Mrs. Marchitto, For instance you said all activity would be taking place in the main building. I was thinking all activity what you were saying to yourself just now is sales. I agree what you do for a business is auto sales.

Mr. Tilton, #1 says we can't even use it for promotion.

Mr. Sweet, So Larry everything you do in your business is surveying?

Mr. Tilton, Everything is associated with engineering and survey yes.

Mr. Sweet, Engineering sales?

Mr. Tilton, Yes I'm a salesman.

Mr. Clemmy, When I said all activity taking place with sales will be down the other building 100%.

Mrs. Marchitto, That is what we meant the property shall not be used for business associated with automobiles. We're trying to be clear that we didn't want automobiles. Wasn't it in part of the conversation that you had with us that night? You were trying to explain to us that you were not going to sell automobiles on that site plan.

Mr. Clemmy, What I said was we have two buildings now. The building at 620 the current building all the sales and all customers would be pushed down to that building and we will not bring customers to that building what so ever. I think Mr. Payson, which was fine with me.

Mrs. Marchitto, That is what #2 was the board in the discussion that was the intent that second property that you're talking about was not going to be associated with the actual sales of the automobile what you just said.

Mr. Cerrone, You're right Joan.

Mr. Clemmy, Let me clarify one thing. No sales is going to happen in that carpet building. I've been with Boch for 12 years you can talk to anybody in town of Norwood. Anything I say I do I'm going to do. We're going to build 100,000sq.ft. building I have no reason to come in front of this board or any board in town of North Attleboro or talk to someone in North Attleboro and tell them I'm going to do something and not do it. The only thing that would do is hurt me and it is going to hurt the business. I'm going to be back in front of this board asking for 100,000sq.ft. building approved. If I'm not forthcoming and tell you what I'm going to do and what I'm not going to do it is not going to do me any good at all. I've come up honest to the board I'd like to put a rack in the building if you will let me then approve me please. You can go ahead we just don't want sales on that site. I'll bring it to the building inspector he'll do his job and whatever I need in order for him to approve me then he'll do that and then within 3 or 4 months whenever Larry is done I'll be back in front of this board. I know from past experience if I do something that I say I'm not going to do your board is going to hold it over me and I'm not going to put myself or the organization in a position to do something wrong here.

Mrs. Marchitto, You want us to put on #2 the subject of property should not be conducting business associated with sales on site? Is it the autos you want us to take out?

Mr. Clemmy, The existing building shall not be an automobile showroom, sales will not take place maybe would be better language for #4 and just go with #1.

Mr. Tilton, Is #1 okay with you?

Mrs. Marchitto, What is front-end rack lets get that straight?

Mr. Clemmy, When you drive your automobile and you hit pothole and steering wheel goes to the right you need front end aligner. You put it on this rack and have electronics put gages on outside of the tires and they have tie rods and they have stabilizer bars.

Mr. Cerrone, It's a repair shop.

Mrs. Marchitto, Having a front-end rack in this building is preventing you from selling cars?

Mr. Clemmy, Yes because the building inspector #2 says should not be used to conduct business. I could get a brand new vehicle in and I could have the wheel off and in order to sell that car I have to fix that car. I have to put that car on front-end rack.

Mrs. Marchitto, We say here it was going to limited files, storage and front-end rack.

Mr. Clemmy, I'm fine with that.

Mr. Payson, The front-end rack is a repair shop.

Mr. Clemmy, It is correct.

Mr. Payson, I said you can use it for anything you want as long as it complies with zoning but it's not going to be a car lot. Showroom by Mr. Cerrone, you it will not be a showroom. Mr. Tilton this is not the intent, Mr. Payson we want to put the condition on that it is used for accessory use. That car rack to me is accessory use. The whole point of this thing it wasn't going to be car sales, wasn't going to be a car lot, wasn't going to be anything.

Mr. Clemmy, Yes.

Mr. Payson, Other than point where you want to put in there as an accessory use to your car sales end of story. We worded it in that context.

Mr. Clemmy, Chris reads #2 shall not be used to conduct business associated with sales of automobiles. As I read that you need to have a service shop to have new car sales it could ties in. To me it was cloudy to Chris is not the building inspector says I want to clarify it. What I'm going to ask the board is if we just look at the existing building #4 not to be used as

automobile showroom we can add onto that one and put no car sales will take place on that lot. That is what we're really talking about here.

Mrs. Marchitto, You can barter for repairs on that lot you cannot sell cars on that lot but you can sell the service of repair. Is that it?

Mr. Clemmy, I'm going to keep all the customers down at the 620 building.

Mr. Cerrone, I got a call from the building inspector he said because he doesn't meet the building code this is a repair shop.

Mr. Clemmy, Right now and this board that is his jurisdiction.

Mr. Cerrone, That's right that is why he denied you a permit because site plan doesn't meet zoning.

Mr. Clemmy, No if I take a pipe and have oil/water separator I meet it.

Mr. Cerrone, I'd like to get something from him I haven't seen a letter from the building inspector. I don't see nothing we did.

Mr. Payson, In the context of what we said out of that context.

Mr. Ofarcik, If you read the motion you made one condition, we talked about all the other things and I think Mike is concurring with that.

Mr. Clemmy, What would you like me to do with the building?

Mr. Payson, What you're going to do with it knock it down.

Mr. Clemmy, Knock it down put a nice setup come in front of you we want to bring more tax dollars, tax revenues to the town.

Mr. Sweet, We're not trying to fight you.

Mr. Cerrone, I'm trying to find out why the building inspector didn't give you what you wanted.

Mr. Clemmy, I lost another month I was here a month ago.

Mr. Cerrone, I understand where you're coming from I want to know why he didn't accept this.

Mr. Tilton, Because it's associated with automobiles.

Mr. Clemmy, It is too close with sale of automobiles as Larry said. If I took the sales of automobiles away from that business I wouldn't need the business. It all ties in when you get a new car you have to bring it to the service dept. to take the tape off and prep the car so is that associated with the sales?

Mr. Payson, It's accessory use.

Mr. Clemmy, It's associated with shall not be used business associated with sales of automobiles. Prepping that car is bringing that car to my service dept. I have to put it in service dept. before I prep it.

Mr. Tilton, Can we come up with some language here tonight that we could give the building inspector?

Mr. Sweet, We don't know what is going to please the building inspector.

Mr. Cerrone, If you had something from him I could say okay this is what he's saying now lets change it.

Mr. Sweet, You're presenting us with a grievance with no supporting evidence for that grievance.

Mr. Clemmy, He's turned us down. We'd like to ask the board if we could write some language tonight that you're comfortable with? Let's pack it up Mr. Payson's quote in the paper that he wants to see pro business. I'm a businessman I want to use the building.

Mr. Cerrone, I want to help you I'm trying to figure out what the other guy wants.

Mr. Clemmy, What does the board want? You're board has the power and has an obligation you can make a decision.

Mr. Cerrone, We made a decision this is it.

Mr. Clemmy, Is this the decision that we talked about Don?

Mr. Tilton, It is not your motion you're outside your motion.

Mr. Payson, Legal side of the motion verses conditions.

Mr. Ofcarcik, #4 is the condition you voted on.

Mr. Sweet, There was no signage going up is that correct?

Mr. Tilton, Yes that was part of the original site plan we're changing the pylon sign out.

Mr. Cerrone, So you're running a business.

Mr. Tilton, That is what we're here for is the pylon sign, overhead door and this after the fact driveway that got put in.

Mr. Houle, In your words the sign was only being changed so it could reflect the Boch that is all that was done.

Mr. Tilton, That is correct.

Mr. Houle, Not to run a business?

Mr. Clemmy, No.

Mr. Ofcarcik, But changing the sign the building inspector said that is associated with conducting the business and planning board condition 2 prohibits anything associated with the sales of automobiles. If you just wrote #4.

Mr. Cerrone, I'd like to speak to the building inspector.

Mr. Clemmy, We're not asking you to make a determination for him. We're asking the board if we could go ahead and wipe out #1, #2 and #3 come with #4 put existing building shall not be used as automobile showroom, present site will not be allowed to sell any automobiles.

Mrs. Marchitto, What does an automobile showroom mean then? Before I make any motion I want to know exactly word by word.

Mr. Clemmy, I will not sell a car on that lot that is what that means automobile showroom I'm not going to put a showroom down there in that building. I'm not going to sell cars in that building and that is what your board has asked me when I stood up the other night in front of you a month ago not to use it for showroom. I said fine I will not use it for a showroom I'm not that foolish to use it for a showroom and come back here month later.

Mr. Cerrone, You're using it as storage using everything. You're using it right now for storing cars.

Mr. Clemmy, It's paved, it's lined, it's drained I will not use it for a showroom.

Mrs. Marchitto, The question to me was well the showroom Joan what about all the parking spaces around it. Parking space outside the building is not a showroom that was asked of me.

Mr. Clemmy, I can still use the parking and the drainage.

Mrs. Marchitto, Lot to sell cars?

Mr. Clemmy, I will not sell cars there.

Mrs. Marchitto, How do you word that parking lot the cars parked there are not to be sold. It came up on discussion on Friday morning writing the letter up with our secretary.

Mr. Clemmy, What does the board not want me to do? Sell cars on the site I won't sell cars. I'm saying if we could go ahead and get rid of #1, #2, and #3. Existing building shall not be used as automobile showroom or for use of selling new automobiles period. Why do you need to have it in #2, #1 and #3?

Mr. Payson, It reflected what we spoke about. Those minutes are pretty clear on what you wanted.

Mr. Cerrone, Change of use we could have made you do a complete site plan.

Mrs. Marchitto, Carpet sales to auto sales.

Mr. Clemmy, It's zoned for service.

Mr. Cerrone, It is but you have to come in with new site plan. Do you meet all the repairs?

Mr. Tilton, Three little changes is all we asked for.

Mr. Cerrone, You asked for cut and sign and you wanted to put a garage door because you were going to store papers, all kinds of filing, and the rack.

Mr. Clemmy, That is all I'm going to do for I'm not going to hurt my chances later. I'm going to knock the building down I want to look at town of North Attleboro, knock on all the doors of the neighbors I communicate with all the neighbors.

Mr. Payson, Have we seen from Boch a whole scheme of what it is going to be?

Mr. Tilton, Yes we met with the board and we went through the whole plan with you the future layout of the whole board. Color rendering you saw the whole plan.

Mr. Clemmy, We're going to take where Lee's Small Engineers and put jersey barriers where the property line is and then come up and build a building ...(inaudible) around the pond and redo the pond. We came in front of this board and conservation commission.

Mr. Payson, Will it be complimentary to Norwood?

Mr. Clemmy, It will be nicer than Norwood there will be a lot of glass will be Toyota image. We have to go by the guidelines they want so much per foot for sales and services, etc.

Mr. Sweet, We completely agree that this is not been interpreted to be the way you would like and we would of liked it. It's an unfortunate situation how this person is interpreting it we would like to know more about that.

Mr. Clemmy, I have a \$2 million dollar investment and I'm dying not using that building. It is an unfortunate situation there is no finger pointing here. What is the intent of the board?

Mr. Houle, Is the board leaning towards trying to rewrite this tonight?

Mr. Cerrone, I'm not I want to know something from building inspector. I want to get why he denied it or whatever I'd like to know why with this order of conditions. I know he's in a catch 22 I feel sorry for him because he's been waiting.

Mr. Clemmy, If you read #1, #2 and #3 we really didn't discuss those.

Mr. Tilton, It's not back here if it's the building inspector we're going downstairs.

Mr. Houle, We certainly discussed #1.

Mr. Payson, It's in the minutes.

Mr. Clemmy, That wasn't the condition shall not be used for promotional automobile sales it wasn't part of the conditions.

Mr. Payson, It might be a zoning issue.

Mr. Cerrone, Yes that is what I'd like to check.

Mr. Payson, Or a site plan issue. This is not build for promotional sales.

Mr. Cerrone, It's not built for a garage either.

Mr. Payson, If he has a rack in there it doesn't comply with fire dept.

Mr. Clemmy, Is that the board's jurisdiction?

Mr. Cerrone, No but that is why I'd like to know because we might have written this right.

Mr. Payson, There are other conditions out there for that garage.

Mr. Cerrone, It's not our jurisdiction.

Mr. Clemmy, That is what I'm saying if we can clear these up and it says shall not be used to conduct business associated. Sales and service are separate but is it all associated yes it is with sales.

Mr. Payson, You have separate building you don't have a string of sheds over there it is separate lots, separate buildings so you have to treat it that way. You can't treat it as a complex.

Mr. Cerrone, You don't have it all on one lot. That is why probably he might of denied you everything is separate.

Mr. Payson, You're going to put a garage there.

Mr. Clemmy, No all I'm going to do is put the front-end rack there.

Mr. Payson, I know but how about floor drains that is a huge issue.

Mr. Clemmy, There is oil/water separator outside I can put a pipe.

Mr. Cerrone, You have to show it on site plan.

Mr. Tilton, All we came for was three simple little things.

Mr. Payson, I know but it goes into something more with that.

Mr. Tilton, They want and added three more conditions to it outside the motion.

Mr. Payson, That whole minutes are very clear on what we didn't want there and you agreed to it.

Mr. Tilton, We agreed to what was here but it was nothing about in the minutes about sales.

Mr. Clemmy, Mr. Payson if you'd say that sir it says Mr. Houle said no conditions then you said I'd like to see condition it's used for complex not going to be used for car lot or car sales and Mr. Tilton said it's not to be used. That was the condition you asked to put on it.

Mr. Payson, It was in discussion.

Mr. Clemmy, Then we had three additional ones it ties up the whole property.

Mr. Payson, Take it out of context you have to go right up front you have to go through this. You're taking it out of context that it got into condition. I'm just saying the whole meeting was very clear on what the planning board wanted to see you do with that building temporarily.

Mr. Clemmy, I agree with front end racks and files.

Mr. Payson, Somehow the conditions I don't know we did vote on it but I think the building inspector has a bigger issue than that.

Mr. Clemmy, I told the board I won't sell cars there.

Mr. Cerrone, Yes you told us that night I agree.

Mr. Clemmy, I haven't.

Mr. Payson, #1 is what that says not used for promotional.

Mr. Tilton, What if you took out the word promotion in #1?

Mr. Houle, We talked about this in three or four different places. Why take out promotion or sales or any other event?

Mr. Ofcarcik, You made one condition on site plan approval not to use it as a showroom.

Mr. Clemmy, What Mr. Payson and the board are saying they talked about all the other ones and at the end not pointing fingers. We discussed a lot of things at the end we left with feeling that there was going to be one condition and they decided to put more conditions on it. It's their right they can do whatever they want.

Mr. Payson, On that discussion I don't how you can thing that way I really don't. If I read these minutes they are very clear.

Mr. Tilton, Read the motion.

Mr. Clemmy, It says right here no conditions and you said I'd like to see this condition.

Mr. Houle, When I said no conditions I was asking a question.

Mr. Clemmy, And Mr. Payson came back and suggested a condition.

Mr. Payson, I said I don't like to see the condition it was used for...(inaudible) so what was that inaudible we don't know.

Mr. Ofcarcik, We asked for the video tape but it wasn't available for that night it didn't take.

Mr. Houle, Mike to be totally fair with you it says if you look at the next one Mr. Houle no condition at end of his sentence not going to be used for car lot for the sales of cars. That is the next sentence after conditions of what he said. #1 subject property shall not be used for promotional of automobile sales it's the same thing. What on there isn't part of that condition? I'm just asking you if we're playing on words what are we playing on?

Mr. Clemmy, Where is #2 in here in our discussion? I'll go with you on #1.

Mr. Payson, It's not in a motion we know that.

Mr. Houle, Shall not be used to conduct business associated with the sales of automobiles. Isn't that almost the same as #1?

Mr. Clemmy, Look where it's highlighted Mr. Payson says we want to put a condition on that it's used for accessory use that condition is totally opposite of that condition.

Mr. Houle, What did he mean by accessory use?

Mr. Clemmy, #1 is kind of close I'm looking at #2 Mr. Payson we want to put a use on it.

Mr. Payson, Because you were talking about the rack and doors for that is an accessory use that is a repair shop.

Mr. Clemmy, #2 says shall not be used to conduct business, it says not to be used for accessory use.

Mr. Payson, No it doesn't.

Mrs. Marchitto, Accessory sales of automobiles it doesn't say repair of automobiles doesn't say service.

Mr. Clemmy, Mr. Payson said we want condition that it is for accessory use that is service.

Mr. Cerrone, Building inspector might say you have to file new site plan.

Mr. Tilton, That is his call.

Mr. Cerrone, Yes that is why I'd like to have something from him what his call is.

Mr. Ofcarcik, #2 should say not to be used to sell cars.

Mr. Clemmy, Not associated with.

Mr. Houle, That is the same as #1.

Mr. Payson, We don't want salesman down there that is conducting business.

Mr. Clemmy, I told you earlier there will be no cars to sell down there so what else are they going to do there?

Mr. Payson, I'll take a consensus of the board. As far as I'm concerned I think that the building inspector plays a huge roll in this even what you want to use it for. I think that has to be clarified prior to anything because you're going in there in a repair shop that is a whole different matter.

Mr. Clemmy, I'm not doing a repair shop.

Mr. Payson, Someone make a motion to do something it is long enough.

Mr. Cerrone, Make a motion that we receive something from the building inspector then we tell him. See what his reason is with these conditions. I'd like to get an answer from building inspector whether he denied a permit or whatever on these conditions. I'd like to have a letter from him.

Mr. Payson, I don't know how he interpreted them. I want motion and second if you want to discuss it that's fine.

Mrs. Marchitto, I'll second for discussion. We don't really know what the building inspector's determination is and the applicant would like us to reword the conditions? I'm not opposed to hear a determination from the inspector I may not be opposed to do conditions it may not be the conditions the applicant wants. Reword the conditions if the board wants to discuss that I'd be open to that I guess. The thing is if we do the conditions now without information from the building inspector it may not be helpful to the applicant.

Mr. Sweet, I would agree.

Mr. Clemmy, I would like to see the board make a decision.

Mr. Sweet, We can't operate in a vacuum we need to have feedback from this individual if that is indeed the person that is stopping you. We're taking your word for it tonight that is the person that is stopping you we don't know that.

Mr. Tilton, We know for a fact.

Mr. Cerrone, We have nothing from him.

Mr. Tilton, You're not in a vacuum we know for a fact there was only one condition placed on the vote four conditions showed up.

Mr. Payson, We went through that whole thing for the last half-hour.

Mr. Clemmy, What is on the paper we applied in front of your board to make conditions for us to use this building and then take those conditions and our application we'll take that whatever you decide and we will bring it to the building inspector and obviously he'll do his job. I'm not pointing fingers on us, you or anybody it's just the way the words are I'd like to see if we could decide what the board will allow me to use the building for. We spell it out clear what you want me to use the building for and what you don't want me to use it for. Mr. Payson when you say repair shop I will not fix cars there I'm going to put one and it's not in your condition and I thought that should be in your condition. I'm going to put one front end rack in there I'm not putting six lifts in there I'm not going to open a big service quick oil change, I'm going to put one front end rack in there and that is going to be with approval of the building inspector. Put some files in there that is all I'm going to do with the site. As I come in front of you as a business man and man that is all I'm going to do in the building. It is very little and if we could clear this up to make the board feel that they put enough boundary around me to hold me to what you want to me do and what I'm asking you that I will do and let the building inspector make his decision with proper wordage.

Mr. Sweet, We could go through this tonight and make it all agreeable to all of us and then find out that this individual doesn't agree.

Mr. Payson, We're in a defense and we are because we don't have a professional to work with us we have a secretary to do this. I think the board when that took place we were on another I don't know how this happen Mr. Houle said no condition that was a question. I think there was some confusion at that time on what the conditions were going to be.

Mr. Clemmy, That is fine and I'm willing to come in this evening and clarify their conditions. I'm willing to take a risk this evening to have board rewrite the conditions. What Larry, myself and Glenn have applied for write the conditions what you really want.

Mr. Tilton, #1 and #4 are okay with you?

Mr. Clemmy, Yes if we could just modify your conditions I'll bring it back to him I'll live with the poison whatever we decide tonight and that is what it is. My condition suggestion is I'll put one front-end rack in the building. I will not store cars overnight in the building, I'm going to put files in there I'm going to use it for a front-end rack. Everything that your concerned about I'm willing to say yes bring it to building inspector let him make a decision. I've lost a lot of time and I'd like to use the building. I'm going to tell the board right now if we can do it tonight it would be great and whatever the building inspector comes up with is what I have to live with. If we can clean up the decision.

Mr. Payson, He's already done something and we don't know what it is.

Mr. Clemmy, I'll tell you it #2 it says associated with and as building inspector he wants to say it's associated with it.

Mr. Payson, Subject property shall not be used to conduct business associated with sale of automobiles, that is pretty clear. I don't see anything that prohibits you to put that rack in there or do anything you want to do.

Mr. Cerrone, I think the problem is change of use.

Mr. Tilton, Associated with what is that?

Mr. Payson, Sales of automobiles.

Mr. Tilton, What is associated with sales how far back are you going to go?

Mr. Sweet, Why is it some individual making determination?

Mr. Tilton, He's the zoning enforcement officer. Appeal him down at ZBA.

Mr. Clemmy, We'll leave the decision the way it is and we'll go back to him.

Mr. Cerrone, I don't want to tie you up if I can get something from him telling me what the problem is then we'll make our decision how we want to do it.

Mr. Houle, I agree with Joan with rewrite this and maybe doing something but here but I do think it's important that we have a firm understanding as to why the building inspector did what he did.

Mr. Clemmy, I personally talked to the inspector my representative talked to him and he said #2 blew him away you can take that any which way. Front-end rack is associated with sales.

Mr. Payson, I totally disagree with that associated with sales is different than business putting a rack. If we meet with the building inspector.

Mr. Tilton, We're not going to put a lot of funds in this building and then tear it down. All we're trying to use the building for the three things we asked for.

Mr. Clemmy, Sign is associated with sales he think it is. I'm going to take the signs off and put Boch Toyota there, coming soon new Boch Toyota South his thought is that is related to sales.

Mr. Cerrone, I don't think it is.

Mr. Payson, Will talk to building inspector.

Mr. Cerrone, Withdraw my motion seconded by Joan Marchitto.

Mr. Payson, Hearing no further discussion all in favor 5 to 0.

5) Request for Tilton & Associates for update on proposed land taking for Ninety-Nine Restaurant;

Larry Tilton, Don Cerrone and Pat were on the board. Planning board engaged Tilton & Associates to do the layout plan taking grants double line Ninety-Nine Restaurant. This was the one you had to act in time frame and we did the plans and everything and it went off to Zero Land Damage Agreements. It was in between attorneys, towns and getting documents on it. I was under the impression it was all done, signed and gone. I get this call from Mass. Highway wanting this plan finished, which I understand what happen is the whole bunch of dust and cleaning boxes got dumped on this young engineers desk to clean up and this is one of them. He's called me to up initiate finished the plan I thought it was all done. I have no idea what they want. I know they're looking for the Zero Land Damage Agreements, which were these were the deeds, material back and forth.

Mr. Payson, Want to go forward. He called me and I called him back today. We need this to come to closure because what my intention is to for mitigation for the new Wal-Mart is to put third lane from here to their entrance. That was the purpose of that mitigation from Ninety-Nine 10 years ago.

Mr. Tilton, This has gone through I don't know how many sets of hands down there back and forth we put bounds on and taken them off. We've put abutters on taken them off. When it was all done with us it was between the two attorney's Ninety-Nine and Double Nine. I believe town council was involved trying to get the deed signed.

Mr. Payson, I want to see what Mass. Highway's problem is.

Mr. Tilton, I gave them your name Ray told them you were chairman of the board and you were involved in this paperwork.

Mr. Payson, We'll put it to bed the best we can.

Mr. Tilton, I made you a package of what I have.

Mr. Payson, The selectmen will have to sign it.

Mr. Tilton, Selectmen and road commissioners need to sign it. I guess Ninety-Nine attorney's the turned around and divided it they had the leasholders.

Mr. Payson, Now it's Club Ninety-Nine.

Mr. Tilton, David Manoogian was Ninety-Nine's attorney. That was when the condition came on the site plan that they gift this and there was a sunset clause on the gift and you were close to losing it.

Mr. Payson, That is when we cranked it up then it went to Mass. Highway and got lost.

Mr. Tilton, The Zero Land Damage Agreements came back.

Mr. Payson, We'll take care of it.

Zoning Board of Appeals applications;

Mr. Cerrone, There is guy that is going to build a 60ft. garage 24 x 60 he already has one on the property he's putting another one. It's to store antiques the first garage isn't attached.

Mr. Lavin, It's going to be three structures on property.

6) Review Jill Marie Estates Conditions of Approval ( Approved on 3/1/07);

Mr. Payson, We have to do the conditions.

Mr. Cerrone, John on these conditions question you had pre-construction meeting with Christina? Have you got any letters water tie in for public works they haven't given them any approvals yet?

Mr. Lavin, They stated that at pre-construction because I was looking at Steve Cardinelli and I said all set with that and he said I don't know.

Mr. Cerrone, I ran into Steve Cabral Saturday talking about mitigation money to use in that area to do some sidewalks. He asked me we haven't approved Christina Estates yet water tie in, etc. I said they had a pre-construction meeting all your staff was there somebody should have had asked the question where are the letters from the board. I think on these conditions from now on we have to put down at pre-construction meeting you want all the letters from all the departments that it's been approved. We make conditions subject to getting letters now they're starting this project and they don't have a water tie in permit yet. What happens if public works doesn't give them that and they already started?

Mrs. Marchitto, I'm confused I understand how you're getting this information from Saturday but back up a bit back up to November. Glenn from Tilton put out to all the boards planning board, board of health, conservation, DPW and electric that there was going to be a pre-construction meeting at Tilton's. This board stated and told John that all pre-construction meetings occur on town property here in town hall or DPW or down in the selectmen's office. We had set that a year ago with another inspection. All the boards were pretty much put on notice including us that a pre-construction. We set a notice that was fine Tilton & Associates could have a pre-construction however we were going to have one with John Lavin in January and we sent one out to all the boards. The confusion is there is the communication the meeting was there they are here so you're saying they don't have permits.

Mr. Cerrone, I don't know what the staff is doing over there.

Mrs. Marchitto, Is that part of our input?

Mr. Cerrone, I told Steve that his staff is going to these meetings someone from your staff there are no permits yet how can you being having a pre-construction meeting the board hasn't approved anything.

Mrs. Marchitto, John we talked about bonding, we discussed the people actually doing the contractor building the roads were here. They set up two organizations being the builder and new one that will actually build it.

Mr. Lavin, At that point Steve said we're not necessarily approved it because they approve people now.

Mrs. Marchitto, They were going to check Franklin.

Mr. Sweet, This is a quote from Steve Cabral at DPW meeting. Christina Estates pre-construction meeting not official meetings, sign offs for utilities have not been granted.

Mrs. Marchitto, What is not official meetings?

Mr. Houle, Impromptu discussions is what they're saying.

Mr. Cerrone, The staff went the staff represents them.

Mr. Sweet, So Steve Cabral is taking our side in other words they weren't true pre-construction meetings they weren't town sanctioned or planning board sanctioned.

Mrs. Marchitto, We did have one here in the planning board January 4<sup>th</sup>. People did go December to Larry Tilton's board of health was asking why the planning board was not present and our response was.

Mr. Cerrone, I think we did the right thing not going.

Mrs. Marchitto, There were two chances I don't know where the communication is lost. To me the meeting we had was well attended.

Mr. Lavin, Yes everyone was here. I had an agenda from each one and said ConCom are you all set. Cardinelli said I'm not involved with that stuff the approval stuff.

Mr. Cerrone, But he should have a letter saying it was approved.

Mrs. Marchitto, New engineer was present too.

Mr. Sweet, The engineer I got clarification he is only for enterprise funds water and sewer he is not paid by DPW at all. Their engineer is only there in capacity for water and sewer not roads.

Mr. Lavin, He was at the pre-construction and I've met him few times to review stuff on plan reviews he called me up and I said yes more eyes better.

Mr. Payson, We the planning board approve a plan and they get a final plan all the departments. It is up too now the developer to go get his permits for water and sewer.

Mr. Cerrone, I agree with all that but when you have a pre-construction meeting we should be asking if they have all their letters from these departments that is our fault. We're holding the pre-construction meeting if they don't have a letter from public works how are you going to start the subdivision?

Mrs. Marchitto, You're talking clearing land there are different phases?

Mr. Payson, You have a pre-construction meeting to schedule it, what they're going to do. It's nothing to do with a permit for water tie ins.

Mr. Cerrone, What happens if they deny them water tie and they've already started the subdivision? We should know that at pre-construction.

Mr. Payson, We do not approve subdivision unless public works says it's okay.

Mr. Cerrone, We don't have a letter saying it's okay that is what he's saying to us. That is like tonight with Cobblestone you don't have a letter saying from the board of public works approved the tap. When you have pre-construction you should have those letters it should be part of the conditions.

Mr. Lavin, Like Cobblestone everyone says they'll do it later no engineer is engineer, contractors build type thing.

Mr. Cerrone, Do you have all the letters with Cobblestone?

Mr. Lavin, No they need all the approvals whether from electric, DPW, you have board of health technically.

Mrs. Marchitto, We have it in our subdivision control laws and you're right. I wanted to say this the other day to an applicant page 14 Section 4.5 approval from all town boards the subdivider shall before public hearing. Will obtain letters approving the layout of the prospective services from highway dept., water dept., sewerage dept., and director of dept. works and

electric dept. Really means that when we open the public hearing these applicants should have all the approvals and if they didn't do that we could approve.

Mr. Cerrone, Do we have all the letters for Jill Marie?

Mr. Lavin, No.

Mrs. Marchitto, This isn't permits this is approval of letters.

Mr. Lavin, I don't know.

Mr. Cerrone, That is what I'm saying if we approve that subdivision right now do we have all the letters from all the boards?

Mrs. Marchitto, We got the gallonage.

Mr. Cerrone, They have to go back in front of the board.

Mr. Payson, There is a letter.

Mr. Lavin, I talked about the chronological issue and issued another letter from DPW for sewer issue.

Mr. Cerrone, I'm talking about when you're ready to start the subdivision they want you to tie into water line you want letter that they're going to let you tie in.

Mr. Payson, We'll research it.

Mr. Lavin, Have sewer approval. Submit prior to scheduling pre-construction.

Mr. Cerrone, Make sure you have all the permits that you can start the project.

Mrs. Marchitto, It gets lost in conditions as the board changes. It should be in our subdivision control.

Mr. Lavin, It's a check list it's like same thing with submittal of distribution to everyone as far as subdivision have them sign it off have them go to each department and then sign it off and you submit it and any comment letters should be next column and then before approval have another check list. Did they file another plan Jill Marie? Remember the berm, tough stone.

Mrs. Marchitto, I haven't heard anything about that. Did you send copy to their attorney?

Mr. Lavin, No. This was basically the comments they made and to tell you the truth they don't have any input on conditions. You can do whatever you want within the legal law. Plan date 2/5 is the one I have prior to endorsement you need another plan.

Mr. Cerrone, And they were going to put these conditions on the plan.

Mr. Lavin, Conditions on the back put the berm on and the sidewalks back on. The conditions were draft.

Mr. Cerrone, Condition 21 is great example; off site sewer installation shall be subject to dept. of public works approval.

Mr. Lavin, I don't see water we have the sewer.

Mr. Cerrone, Did we get letter for final plans they said they were going to review final plans sewer this is 1/30/2007 the

Mr. Cerrone, Did we get letter for final plans they said they were going to review final plans sewer this is 1/30/2007 the approved the gallons. The condition was the board to be given opportunity to review and comment on final plans last paragraph from DPW.

Mr. Payson, We requested another letter because of that I don't know if we got it.

Mr. Cerrone, If we don't have it that should be put down on our conditions so when John does pre-construction meeting you have these letters?

Mr. Lavin, They're in a lousy area you have to get the reports and you can make field condition changes you could just say all bets are off you have to raise the road. The curbing, binder and catch basins we talked about it at that review you have to get binder in, curbing and catch basins, detention basins or retention basins operating.

Mr. Cerrone, #21 I would like to see read public works approval permits should be on hand before pre-construction meeting.

Mr. Lavin, You voted on the plan you're going to get another one and at the end you have to sign it so everything has to be done before endorsement. They won't get a signed plan until all this stuff is in. Planning board prior to endorsement as opposed to pre-construction one step before.

Mr. Cerrone, Before we sign any plans all the letters this way you would have it on file before pre-construction.

Mr. Lavin, Granite curbing #12 installation of base course, granite curbing and construction detention. They had 3ft. on plan it's 50ft. layout. Here were the changes in general the revision dates, put sidewalks back on. All the grading plans on the lots they showed grading but if they differ at all they'll be submitted and then the foundation asbuilt shall be submitted showing grading and top elevation. The right of way shall be constructed and operable before any occupancy we talked about that. Application shall be responsible on a yearly basis to have maintenance agreement for emergency access. Put the berm in they did it on the plan. Soils take all the poor soils out underneath the retention pond. Engineer to determine high water table, engineer determine what poor soils means. Sub drains installed on westerly upgradient side. Slope of road was greater than 1.5. One more plan should come back with signature and mylars completed before endorsements and if they come back with mylars and it's not fulfilled they wasted mylar. As far as roadway they only place they cut was about 50ft. and rest of it is fill. Taking out poor soils below.

Mrs. Marchitto, Make a motion to approve conditions for definitive subdivision plan entitled Jill Marie Estates, seconded by Dick Houle.

Mr. Payson, Hearing no further discussion all in favor 5 to 0.

Mr. Cerrone, Make a motion to adjourn, seconded by Dick Houle.

Mr. Payson, These electric regulations we have to take the old ones out of the book.

Mr. Sweet, I said last meeting I think we need to review those.

Mr. Cerrone, Take the old ones out and don't put anything in there until we review the other ones. Tell them to go to electric company and pick up their copies we're under review.

Mr. Lavin, Who inspects the electric companies work do they inspect their own work?

Mr. Cerrone, If the electric company has to do all the work in the subdivision why can't the water/sewer dept. put their water and sewer? Same thing you're opening up a can of worms.

Mr. Payson, We need to review them and then have a meeting with them. All in favor 5 to 0. Adjourned at 11:05 P.M.

Respectfully Submitted,

Attach Agenda to Minutes.