

**NORTH ATTLEBOROUGH PLANNING BOARD
REGULAR MONTHLY MEETING
THURSDAY, DECEMBER 18, 2008**

The North Attleboro Planning Board held its Regular Monthly Meeting on Thursday, December 18, 2008 at 6:30 P.M. in the Planning Board Office located at 43 South Washington Street, North Attleborough, Massachusetts. Board members Donald Cerrone, Richard Houle, Joan Marchitto-chairman, Richard Thimot, Christopher Sweet and Mary Burgess-town planner.

Planning Board Business:

- 1) Review Final Action Deadlines;
 - Cushman Village: March 31, 2009 (Next hearing: January 8, 2009)
 - Mount Hope Farm Estates: December 31, 2008 (Next hearing: December 18)
 - Attleboro Enterprises: December 24, 2008 (hearing tonight)
- 2) Approval of Minutes;
 - 12/04/08: All present
 - Do them at next meeting 1/8/09

Other Business:

1) Form O: Attleboro Enterprises (John Dietsch Blvd.);
New revised plan with changes that needed to be made according to DPW's letter water service just wanted to identify the size of it and also clean ups changed. Glen Ofcarcik-Tilton & Associates, Last meeting we had received letter from Public Works they had I think 10 or 12 comments regards to the site. We submitted revised plans, response letter through the planning board, which was forwarded to public works I believe last week. My understanding Bill has responded. Modification to the plans technical details we have standard point by point response letter. If you like we could go through it. I spoke with Bill yesterday apparently he submitted letter to Planning Board saying that he is all set updates have been made to the plan with one exception he has in his letter made a comment with regards to the sanitary sewer connection. Proposed addition is actually going over the existing sewer we had proposed to replace the sewer that is going to be inside the building, construct new manhole then tie in to existing main at which time trunk sewer in industrial park in the back. Existing sewer lateral is asbestos cement pipe, which was installed approximately 25 years ago. The town in effort to dispose of all that pipe had asked that we remove the pipe all way up to Y connection. If that was his only other concern we'd be willing to make that as condition we can modify the site plan. Our only concern as we get close to the main I explained this to Bill this is clay pipe with asbestos Y in it. They've just asked at time of construction when sewer connection is being made that representative from sewer dept. needs to witness that and we'd be willing to remove as much of that as need to be. Asbestos pipe has to be disposed of in certain way so they witness that even though it is on private property. I believe we've addressed all his other comments I'd be happy to walk through the letter if you want.

Mrs. Marchitto, I'm all set we just asked for letter response only because of letter that came back from DPW so out of courtesy we just asked for response.

Mr. Ofcarcik, This plan does not reflect we'd be willing to either make edit on the plan or make it as condition of approval.

Mrs. Marchitto, You have to go back to DPW anyway for a permit.

Mr. Cerrone, They're the ones that give you water and sewer permit.

Mrs. Marchitto, They're going to require that under their jurisdiction. I'm making exception that when you go back to DPW they're going to require their own permits for you and you will be addressing that situation with them. We are just the site plan physical building I don't see issue with it.

Mr. Ofcarcik, Your standard conditions say we have to get any and all other permits associated with the project.

Ms. Burgess, Don't see any issues with it as Glen pointed out all the outstanding issues of DPW have been dealt with. With exception but as Joan pointed out they have to go back to DPW anyway.

Mr. Cerrone, Since when does DPW review the site plan? Only thing they review is water and sewer has that changed through the previous boards?

Mr. Thimot, They don't have drainage jurisdiction we do.

Mr. Cerrone, Only thing they should be reviewing is water and sewer but we get letter from them with 11 things. I thought our town planner did that.

Ms. Burgess, I don't have any expertise in drainage issues and water and sewer.

Mr. Thimot, I don't see any issues with drainage anyway.

Mr. Cerrone, I know I'm just bringing it up. Next site plan are we going to have them review the whole thing.

Mrs. Marchitto, So noted. I would like to add is when Mary asked if this should go to John I had stated when it was presented that night at the hearing that board should make decision whether it goes to our inspectional engineer services. I believe at last meeting we decided that this plan did not necessitate an engineer inspection services. Yes Donald you are absolutely correct and it seems they added more to the review and my instructions to Mary was allow this board to give it to our engineer inspection to look at drainage if this board felt that it needed to be done.

Mr. Thimot, I think there is another consideration in this particular site plan.

Mr. Cerrone, I'm not just saying this site somebody else comes in and we all of sudden we get 10 page report from them.

Mrs. Marchitto, That is why I asked Glen when you go to DPW at that point they have to make that decision. I agree with you Donald so maybe in future clarity is that DPW looks at water and sewer. My direction for the board to make decision whether there was going to be inspection on drainage by our inspection services.

Mr. Thimot, You have another consideration this site presented to us is not profit organization even though it is in industrial park. I make proposal that we approve it.

Mr. Sweet, Second motion.

All in favor 5 to 0.

Mrs. Marchitto, Mary in the future for site plan it is water and sewer to be reviewed.

Ms. Burgess, I will make him aware of that but I can't make him. I think sometime when he does the drainage issues it is because of draining into.

Mr. Cerrone, Pond next to Whiting and Davis has never seen any water it's been there for 30 years I don't think its even seen any water.

New Business:

2) Christina Estates Performance Bond;

Ms. Burgess, My final update.

Bob Shelmardine, We are here for bond release on few lots.

Mr. Houle, 6 lots?

Mr. Shelmardine, Yes ones on side of culvert ones highlighted. We have bond estimate in place and agreement. Bond estimate is \$278,000 from town's inspector and that includes all work that still needs to be done in short section with contingencies and what have you. \$278,000 includes \$210,000 in work, plus 20% engineering contingency of \$42,000 plus project cost increase 5% increase for 2 years \$25,000 get us all the way up to \$278,000. I'm asking the board to approve that amount and to then sign three copies of lenders agreement and then release and soon as you approve the amount the bank will sign the forms and then we can record the documents.

Mr. Cerrone, Do we have all the reports on file?

Ms. Burgess, Inspection reports yes up to this point we do.

Mr. Cerrone, Do they have copies of the inspections?

Ms. Burgess, I'm not sure they have copies generally when we send out the bills they get copy.

Mrs. Marchitto, Mary do you want to bring board up to date what Council Ferris added?

Ms. Burgess, One you have today has gone through some changes between Roger, myself and Bob. All of us kind of tried to make this end product. Updated amounts are on there because I asked John to revisit the bond estimate because it was never posted when it was done in 1/08. Original bond estimate was created in 1/08 but it was never posted so I asked John to revisit it and bring it up to cost today's cost so that is why there is difference between original bond estimate of \$204,000 changed to \$278,000 that you do see. There is also additional part that was added per Roger Ferris it is on second page, third paragraph down first sentence. It says after the comma " so long as inspection service engineer hired by Planning Board deems the work completed in accordance with NA Rules & Regulations for Governing Subdivision of Land or otherwise deemed by Planning Board". This is just so for us to even give money reduce the bond further we have to get okay from our inspection services.

Mr. Shelmardine, Bank can't do anything at all with the money they are holding the \$278,000 unless the town authorizes either dispersment to the developer if your inspector indicates that the work is completed or in fact to the town if the Planning Board deems that we've not done our work and violated our obligation and the town can take the money. The Planning Board acts as the gatekeeper.

Mr. Houle, Do we have all that in writing?

Ms. Burgess, Right in your hand.

Mr. Houle, I just got it.

Ms. Burgess, Only thing that has changed from original letter was the amounts and that one sentence that I read.

Mrs. Marchitto, That is why I asked Mary to explain the first one came in your package that we all read for tonight's meeting and Mary and Roger made some changes and that is why I wanted to highlight to you the changes.

Mr. Shelmardine, Just for context I submitted this form to Planning Board back in January and February a year ago and Attorney Ferris reviewed it and approved for the most part the form. I then resubmitted the same form 3 weeks ago to Planning Board and hopes you'd have opportunity to review it before tonight. Then this week

Attorney Ferris had that one phrase which is added, which he feels protects the town and I don't have any problem with it at all.

Ms. Burgess, Covenant release is in back last page.

Mr. Cerrone, Make motion we set bond amount estimated at \$278,163.86 for the Del Monast lots 19, 20, 21, 22, 15, 17 & 18.

Mr. Shelmardine, Actually 16 through 22.

Mr. Cerrone, I went backwards 7 lots total.

Mr. Sweet, Second motion.

All in favor 5 to 0.

Ms. Burgess, Do you want to also release the covenant subject to having the bond?

Mr. Cerrone, Make motion when we receive the bond to release the covenant for those lots, seconded by Dick Houle.

All in favor 5 to 0.

Mr. Shelmardine, I'm going to ask is that you actually sign this and just have you hold it and then I'm going to run tomorrow and get bank's signature and I will just marry them up so I'll have signatures of the Planning Board. That way I don't have to wait for the 2 weeks. You hold the forms 3 agreements and 1 covenant release.

Mrs. Marchitto, Do we have to sign the bank forms too?

Mr. Shelmardine, It is one form and the Planning Board signs then what I will do is get the bank to sign their signature and then I will bring it in and when I show bank signature Mary can release it to me at that time.

1) Windchime Subdivision Street Acceptance;

Mrs. Marchitto, We have warrant for article for Windchime Subdivision and B of Selectmen agreed to put it on so David is looking for vote in favor of the Planning Board.

Mr. Thimot, What are you proposing?

David Manoogian-attorney, It is just formal acceptance of the roads within the Windchime Subdivision.

Mrs. Marchitto, Mary we have everything at this time?

Ms. Burgess, We have sign off from DiPrete saying that it was built correctly. Have sign off from John Lavin agreeing to that. DPW did not offer comments, B of Health said they were all set and electric dept. wasn't sure if there is issue or not.

Mr. Manoogian, Electric dept. said they don't have easement I said this was one of the first subdivisions where all the utilities were underground. When they set the street they are there. Issue was I think some transformer pads maybe on property line or slightly onto the lines of the residents. I said to best of my knowledge electric company put those boxes in wasn't the Planning Board that did it.

Mr. Cerrone, They were the ones out there watching all the work being done.

Mr. Manoogian, I just told Jay Moynihan whatever easements we can give you we will be glad to give them to you and we left it at that. I'll see where any discrepancies are. Even if box is little bit over onto owner's property I'm sure if electric dept. has to go on there the homeowner isn't going to say don't go it is power to the house. It is nothing that this board or my client did I will look into that with DPW. FinCom formally IP'd this because of the fact that nothing was ready they had quick meetings on this before because they had to get their recommendations in early there wasn't much time period between this. I'm just going to offer on the floor motion to overturn IP in saying that everything is done

and if you folks could say it should be accepted and I will just offer that too and see what town meeting wants to do.

Mr. Cerrone, Make motion we approve warrant article for Windchime Subdivision, seconded by Richard Thimot.

All in favor 5 to 0.

Mr. Sweet, One comment we do have to make recommendation on this.

Mr. Manoogian, No I'm the petitioner but what usually happens is someone would says would Planning Board accept this so if you at least say you're happy from your end that is all I'm going to state.

Mr. Sweet, We don't have to do letter to moderator or anything like that?

Mr. Manoogian, No Mary may just want to drop letter to Fin Com.

Ms. Burgess, And I cc the town moderator so he knows we've made vote. We got the warrant on Monday FinCom had their meeting Monday night and Tuesday I believe.

Mr. Manoogian, It was very quick.

Ms. Burgess, This is the only time I could get it in.

Mr. Manoogian, That is why they IP'd bunch of stuff so people would take action on the floor.

Request for Zone Line Determination, South Washington Street/Old Post Road; Larry Tilton and Glen Ofcarcik from Tilton & Associates, Stephen Clapp-attorney and Michael Clemmey from Boch Toyota present.

Mrs. Marchitto, Ground rules one person talk at time including the board members. One person at time questions can answer directly I don't want to have 3 people talking at one time.

Stephen Clapp-attorney, I believe the town planner has presented her report recommending or suggesting there are 3 choices of where zone line should be in her earlier report. I will respond I've done quite bit of research into what is the correct NA Zoning Map that applies I have materials to submit to the board on that tonight. I also have memorandum to submit.

Mrs. Marchitto, Is there any reason Mary didn't get this last Friday?

Mr. Clapp, Yes there is. Mary and I have been working for several weeks trying to get copies of documents that the town has that relate to this issue. Yesterday I got the final copies that I needed to prepare this. My memorandum refers to materials that we would like the Planning Board to consider in making zone line determination.

Mrs. Marchitto, Attorney Clapp would you answer Mr. Cerrone's question?

Mr. Cerrone, How come we didn't get this in our package?

Mr. Clapp, Because I didn't get the plans to complete it until yesterday. I've been working with Mary for several weeks to get these plans they are on file at town clerk's office. Town clerk can't just allow anyone to walk in and take them out and copy them it has to be done under supervision of town planner. Town planner had to have time to go to whoever it was that reproduced the copies and do it. It was quite a bit of logistics and Mary had to run around for days doing this and finally she delivered the copies to me yesterday. If I had my way it would have all been complete week ago but it couldn't be. In the memo we start off by saying that we don't agree that the Planning Board should make this determination but the Planning Board has indicated that it is going to make the determination. In my memo I go through the steps that I think should be followed to make the

determination. First of all you have to look at NA Zoning Bylaw and that is tab 1 in my packet. In there I highlighted the portion that says, " that the zoning map determines where the zone lines are" it is the zoning map of September 1969. There is some confusion about the validity of that map is it that map or map in January 69 or map in 68. In 1973 Town of NA had special town meeting and article 6 in that special town meeting readopted the NA Zoning Bylaw and specifically adopted the September 1969 zoning map. Tab 2A is the article, which says that town wants to adopt new zoning bylaw prepared by Metcalf & Eddy along with zoning map. Further on I've highlighted portions where the warrant specifies that it is the September 1969 plan, which is zoning map that is being adopted. That was approved in tab 2B this is action on town warrant.

Mrs. Marchitto, We have Planned Business Development 7:00 P.M. Boch Toyota do you wish to continue.

Mr. Clapp, Yes I would until after we are done with this.

Mrs. Marchitto, Recess public hearing for Planned Business Development Boch Toyota until 7:30 P.M.

Mr. Clapp, Tab 2B is the recommendation of the Finance Committee and modification where they amended the section that talked about what zoning map is. It says, " it is zoning map dated September 1969 on file with town clerk and any subsequent amendments made thereto" so that was approved. Next tab 3 is where Esther Hart the town clerk certified that the 1969 zoning map was map considered by article 6. Tab 4 is the approval of attorney general of that article. Tab 5 is letter, which discusses the approval from attorney general. Tab 6 is attorney general's certified approval of September 1969 zoning map. Tabs 1 through 6 establish that it is the September 1969 zoning map that is the map that we go by on file with the town clerk. We went to town clerk's office and town clerk found the 1969 zoning map in the archives in the vault in the cellar that is tab 7. It is huge Mary had copy made for me it cost \$135 for the copy. What I decided to do was make copy of the pertinent sections title page of the map says prepared September 1969. Another section that relates to our property and then there is just the key that talks about different districts. I think it is undisputed that the zone line in area of our property hasn't changed in location since the September 1969 plan was prepared. Tab 8 is the updated version of 69 plan on file with town clerk this also is ... (inaudible) from town clerk's office and it is smaller scale of 69 plan. September 1969 zoning map on file with town clerk it is updated through January 99. There have been changes since then it's not disputed that none of those changes really effect the location of that line. That line hasn't changed since the 69 plan so we believe that it is tab 7 that the board should go on to determine what correct zoning map is.

Mrs. Marchitto, For board members remind them what #7?

Mr. Clapp, 7 is that very large plan that I made September 69 if we turn to middle page that is the one that shows our property near the apex where Old Post Rd. comes into Rte. 1.

Mrs. Marchitto, That scale is 1 to 1000?

Mr. Clapp, Yes. The town planner's report she states and we don't dispute this, " Planning Board has previously delineated the zone line for lots 117 as IC30 presently C30". What she's talking about are lots that I think those lots can be seen on Tilton zone line determination plan, which is tab 11. It gives us all the lots it has all different assessor's lot numbers on all the lots involved. The Tilton plan was

submitted to this board I guess it was back in January of 07. Mary said, " Planning Board has previously delineated zone line for lots 117 presently C30 and lots 159 & 138", which have been established as end of IC30 presently C30. It says lots 75 and 68 has approved site plan with no dispute to location of zone line. Two smaller lots 67 and 224 received special permit and use variance. Current use of 620 S. Washington St. lots 139, 224 and 67 has approved site plan with no dispute to zone line. It is apparent that the remaining lots 225, which is Dunkin Donuts lot 63,91 and 64, which are my client's lots have the only conflicting zone line. By reviewing planning zoning histories of each of lots south of lot 64 the town planner was able to establish that the correct zone line is between residential lots on Old Post and commercial lots on Rte.1. That line town planner determined was not in dispute based on planning and zoning histories of these lots. They all had various site plan approvals that said they were in commercial zone. She says only question remains as to Dunkin Donuts lot, Deli lot and two lots had single family houses on them. The question remains as far as these lots are concerned. She has lines that actually go under all the lots. If you should look at planning and zoning history of lots in south you have to look at planning and zoning history on lots to the north. Residential lots never had site plan approvals because they didn't need them they were single family residences and they weren't commercial uses so they didn't require site plan approval. There is no planning board history on these lots there is also no zoning board history that I can find on two residential lots. There is planning board and residential zoning history on the Dunkin Donuts lot and Deli lot. I go through that in tabs 9 & 10. Tab 9 is index of all 9A through whatever. This is zoning and planning history of lot 63 it is Deli lot. 9A is just letter saying that site plan was approved, 9B is Don Johnson's check list where he says he checked zoning district and he checked it off in connection with site plan approval. 9C is application for site plan approval it says in 5 zoning district IC30. This says Deli lot is in IC30 and planning board signed it approving it. 9D is actual site plan itself, which says zoned IC30.

Mr. Cerrone, When did Deli lot get subdivided from Lum's?

Mr. Clapp, It did.

Mr. Cerrone, In 69 Lum's owned the whole thing use to be their corporate office there.

Mr. Clapp, I got copy from 69-70 assessor's plan showing the lots and at that time at least the Deli lot was separate from main Lum's lot. What is now Dunkin Donuts lot is just what existed at least as far as 69 plan is concerned. Before Rte.1 was put in there Arns was right across Old Post because Old Post is where the stage coaches went. Then when they put in Rte.1 in 30's they took that it was owned by Arns.

Mrs. Marchitto, Notes application present site is paved almost entirely, drains existing, catch basins will actually reduce runoff created. Just reading that indicates to me it is not driveway/home so there must have been business site on it. Is that fair statement?

Mr. Clapp, Yes the Deli lot was developed at time of site plan that was 9D. 9E is decision of zoning board and decision says, " that Deli lot 63 is in commercial zone". 9F is town planner's letter to zoning board concerning zoning application and it says, " that lot is in IC30 commercial district. 9G is decision of zoning board and that recites that 63 is in C30 district. That is zoning and planning history of Deli lot. Now we go to Dunkin Donuts lot that is tab 10. It lists different items that are on file. We

have application site plan approval 10A it says property is zoned IC30. 10B is the site plan, which I highlighted that it is zoned IC30 that was approved.

Mr. Cerrone, We know that lot is commercial the concern we have is where the two houses were.

Mr. Clapp, That is what I'm getting too.

Mr. Cerrone, And not on Nantucket Deli and other one we know that has been like that since 69 commercial.

Mr. Clapp, That is my point Dunkin and Deli lot are entirely in commercial zone.

Mrs. Marchitto, Could we all agree that on prepared September 1969 map that it visibly looks like the lot where Dunkin Donut is? So there really should have been any dispute at that time.

Mr. Clapp, Only reason I bring it up is because when Mary prepared her plan in her recommendation it showed the line going into Dunkin Donuts lots actually taking away its drive through and I think that would be surprise to Dunkin Donuts. 10C is town planner's letter saying Dunkin lot is in commercial zone. 10D is town council's letter saying it is in commercial zone. 10E is zoning board decision that says it's in commercial zone. 10F is a court decree. Owners of Dunkin lot didn't get what they wanted at zoning board so they appealed to Superior Court they found in favor of the owners and against zoning board and in ruling on page 2 said that it is located in IC district. 10G is town planner's letter saying it is in commercial district. 10H is later decision of zoning board saying it is in commercial district. 11 is the Tilton plan.

Mrs. Marchitto, It was supposed to be Nautilus and Exercise I know about this now I'm caught up to why it went to court.

Mr. Clapp, My point is there should be no question.

Mrs. Marchitto, 10D they applied for Nautilus Exercise and Massage.

Mr. Clapp, Building inspector said it was not proper use they appealed that to zoning board they said yes the building inspector is right. They appealed that to Superior Court they said building inspector and zoning board are wrong. Town appealed that to Appeals Court they said Superior Court is right that was end of that. That established that you could have that use I don't think they every put it in there. My point with all of this is that the town.

Mrs. Marchitto, It got zoned for approved service commercial use.

Mr. Clapp, No it didn't get zoned for it was already zoned and they just brought that in as permitted use.

Mrs. Marchitto, It was zoned as commercial we're not in dispute either about that. Court case dispute was the use?

Mr. Cerrone, Yes it was different use.

Mr. Clapp, My point is throughout all of this there has never been a suggestion that there was part of either the Deli lot or Dunkin lot that was residential. Town has taken position consistently that there is nothing but commercial area in Deli lot and Dunkin lot.

Mrs. Marchitto, I think we are all in agreement and we're not going after Dunkin Donuts.

STATIC.

Mr. Clapp, Zone line comes to Old Post Rd. in vicinity of section of Reservoir St. Glen Ofcarik-Tilton & Associates speaking about measuring. Two lots have always been commercial by the town. There is reference in zoning bylaw that says if zone

line falls within 10ft. We connected end of commercial on Old Post Rd. with end of commercial as proved.

Mrs. Marchitto, How much of difference is there between this and colored map? One is only difference is 1 to 800 scale and one is 1000.

Mr. Clapp, Main difference that map you refer to colored map is not official NA Zoning Map. Only map that can be official zoning map is one approved by town meeting, certified by town clerk and approved by attorney general. Color map was never properly adopted. Zoning bylaw in North Attleboro was established in 50's that revision happened proposed in 68 it didn't pass, repropoed in 69 and it did pass but there was some confusion about what was proper zoning map. Article that went to town meeting talked about 68 map being zoning map. Town clerk certified the January 69 map to attorney general he approved the January 69 map. Town only approved 68 map so then when planning board printed bylaw it corrected it by putting in September 69 map, which hadn't been approved by anyone. We had little map that wasn't really the map that was adopted by town meeting. Town figured this out and corrected it in 73 that is why the whole thing was redone in 73. It is the 73 documents that I put into the package because I believe there is genesis for NA Zoning.

Mr. Thimot, Asking about Bodinski home.

Mr. Clapp, Bodinski is part commercial and part residential and so was the other one. We're just saying where is it. In short we would like the planning board to make determination to that effect that zone line goes from the northwest corner of Viscusi lot which is lot 65 to the southeast corner of Deli lot which is 63. Mary said it is undisputed that this is zone line between lots that brings line right to Viscusi.

Mrs. Marchitto, It is 7:30 recess public hearing until 7:45.

Mr. Sweet, According to this map if you take centerline of Reservoir St. extend it to property line that technically is in agreement with what the map is showing us.

Mr. Clapp, I don't think that is true.

Mrs. Marchitto, I think it is further down and to me that looks like more than 10ft.

Mr. Sweet, My point is where ever that point comes to you draw this as pivot point and draw the line over to it. We know lot has been zoned improperly.

Mr. Cerrone, When were those two houses built?

Mr. Clapp, Way before zoning one was more than 80 years old.

Mr. Cerrone, You'd think they would put those houses on commercial. Mrs. Bodinski work for building dept. for 40 years.

Mr. Clapp, It happens and it happen in way someone was motivated at town meeting in 1969 to make motion on the floor to change the way the plan was for the lot.

Mr. Cerrone, I don't believe that she was very smart lady you go to that building dept. she knew everything. You think when they were doing that she was going to have her house commercial? I can see her backyard commercial not front. Way you have it the whole house is commercial I don't think so.

Mr. Clapp, That is what zone map says.

Unknown man, It was funeral parlor at one time.

Michael Clemmey-Boch Toyota, We've been in front of this board for numerous years on this major project. We have lot of money invested there we have big project we want to go we've been held up quite bit over this zone line. Mr. Clapp has taken lot of time forget about the money lot of time, lot of research and I give him

lot of credit. He submitted this book to myself and everyone on this board this evening. I've gone with Steve he's local here after he gets done with Boch he is going to come back in front of this board again. I think he is established quite well that this parcel of land is all.

Mrs. Marchitto, That wasn't in dispute though.

Mr. Clemmey, It was in Mary's finding it was.

Mrs. Marchitto, Is anybody on this board in dispute that Dunkin Donut is not commercial zoned?

Mr. Thimot, It's be established commercial right along.

Mrs. Marchitto, Donald do you have any dispute any question in your mind that Dunkin Donut is zoned commercial? (No.)

Mr. Clemmey, This has all been filed on previous owners Lum's that this is commercial. I think there is one 1983 decision that Bob Bliss attorney for town in 1983 made a decision that this whole lot was zoned commercial. Past history with different individuals on it sign saying when every time they came for an application they put it down as IC30 and they approved it as IC30. There was Lum's, Tai Restaurant when I bought it and it was all paved.

Mrs. Marchitto, On Old Post land?

Mr. Clemmey, There is fence on road that was orange I painted it white on request of neighbors.

Mrs. Marchitto, Is Old Post Rd. that back line was there any commercial building on back line that was residential? I keep on looking at this map I look at it visually and it looks like that zone line is north of Reservoir St. that it would cut through back of those three properties.

Mr. Clemmey, Every time this has been filed before Boch owned it was always IC30 on everything that anyone had owned it before Boch. Before I owned it was always submitted to this board and zoning board as IC30. What I'm proposing is make determination then we open next hearing. I'm going to make it all greenery. I have some neighbors here they are supporting this I'm going to put all hills all rolling hills all trees nice fence make it historical looking much better than it is today.

Leo Bissonnette-96 Old Post Rd., I've lived on Old Post for 20 years. When I moved there Bodinski house next door everybody on that road knew commercial line went through the house. The rate you guys are going we're going to end up looking at nothing. If you don't do something they're going to walk away with the economy and stuff we're chasing people out. Everybody over there knows where the line is. If she were here today she might not want to say it but half of that house when the realtor first sold house before Boch bought it they even said there was problem with zoning that half of that house was zoned commercial. Swimming pool, backyard and half the kitchen was commercial. You're saying it was not built on commercial land but everybody over there knows it was built on commercial. Big house they removed that was always commercial. I'm afraid now we chase these people away we're going to end up with empty lot. Line is there I don't understand why this goes on and on we're chasing people out of town.

Mr. Houle, Are we in agreement that what we're arguing about is 10ft. or do we think it is more?

Ms. Burgess, In my recommendation it is more.

Mr. Clemmey, In Mary's recommendation the board just established. Mary in your recommendation you're saying partial of Dunkin Donuts is residential is that correct.
Ms. Burgess, Correct.

Mr. Clemmey, So if you use Mary's recommendation you have to use portion of it. Her recommendation says line starts back and some of Dunkin Donut is residential some of Tai Restaurant was residential. Board just asked among themselves if they all thought Dunkin Donuts according to attorney Clapp diligence job that it was all commercial in her finding she says its residential. You can't pick and choose. The board just said it is commercial Mary says it is residential we already verified that Mary's findings are not true according to past history nothing against Mary but this is past history.

Mrs. Marchitto, I have difficult time you're showing me your map what you think it is and I keep on looking at 69 map.

Mr. Cerrone, It doesn't look anything like that If I look at that drawing that line doesn't look like that.

Mr. Bissonnette, So we're going to throw Dunkin Donuts too?

Mrs. Marchitto, No they got a permit.

Mr. Bissonnette, In other words if you don't determine the right thing tonight we'll chase Dunkin Donuts out to. Are we going to end up with nothing there?

Raymond Payson-54 Walcott Rd., I'd like to give you little history. I was chairman of planning board in 68. That got defeated because of 1000ft. south of 295 was going over to Cumberland line for industrial. It also encompassed what is there now is the Mall. Resident of the area took the town meeting and convinced town meeting that wasn't right thing to do. In 1969 the planning board again took away that 1000ft. of industrial land and it went to town meeting and it was approved. On one of these maps I have seen a description of that zone line I will tell you where it goes somewhere in this building there is description of where it goes. It goes in southerly side at intersection of Old Post Rd. and S. Washington St. to I think bound Dunkin Donuts then it takes a southwesterly line to the Deli to the 2 residences. I owned the Deli and somewhere in this building is site plan showing that we couldn't stay in the Deli because it was residential on back side. It was probably I would say $\frac{3}{4}$ of the land was industrial/commercial and other $\frac{1}{4}$ was residential. I want to go back to 68 why that land is zoned the way it is zoned. There was lot of dialogue and someone maybe able to go into history and residence of Old Post Rd. did not want any commercial coming out on Old Post Rd. and that is the reason the angle is there. They could be protected from commercial coming out on Old Post Rd. That is my history and I think that is pretty much documented. They've spent all this money and time why don't they go to town meeting and get it rezoned.

Mr. Clemmey, Because it is zoned correctly.

Mr. Clapp, I would like to comment on some of these things. I think Mr. Payson oral history is interesting but I think planning board needs to look at it's own records, which I've submitted. When Mr. Payson owned Deli lot it was entirely commercial 100%. I don't think it is very fair for when Payson's owned Deli lot it is commercial but now that Boch owns it becomes commercial and residential I don't think that is very fair. I think the town has to go by what the town has gone by all along and that is this lot is entirely commercial.

Mr. Clemmey, Can you look at 9A this is application 2/3/89 by Richard Payson-president Old Farm Realty Inc.

Mrs. Marchitto, You don't have site plan.

Mr. Clapp, It is there.

Mr. Clemmey, He submitted it in front of this board and they approved whole site plan when Richard Payson owned it for IC30. It was established by Payson family the Boch family didn't establish it the Payson family did. Show site plan with signatures of previous board of town of NA approved it all zoned IC30. I don't understand what the dispute is on where zone line is when Payson family owned it was all IC30. We have multi-million dollar project we want to move forward with we have much bigger fish to fry than this. We've done all the homework on it. This previous board not these members approved plan that was IC30 on this parcel of land previous past history. We're willing to go ahead and work with the board.

Mr. Thimot, Fact that you have property zone line that goes through house is not unique there are other places in town where zone line goes through houses that is argument that will not stand up. As long as the houses are gone and people are gone from there I would submit that zone line should stand. If you're going to change character of neighborhood I would submit you're not going to get it.

Mr. Clemmey, I don't want to change zone line we're trying to establish zone line and one that has been established by board the town planner and draw line.

Mr. Sweet, I submit it comes down along dividing property line not at point designated.

Mr. Clapp, If there is question as to where the houses were in relation to zone line Tilton has plan where those houses were in relation to that line.

Glen Ofcarcik-Tilton & Associates, We have Viscusi house.

Mr. Houle, What plan is this now?

Mr. Ofcarcik, Existing conditions plan for Planned Business Development application Dunkin Donut, Deli lot.

Mrs. Marchitto, I look at this and.

Mr. Cerrone, It doesn't look anything like that.

Mrs. Marchitto, No it doesn't Glen.

Mr. Ofcarcik, It comes back you measure up distance from the map, which we did within 10ft. of lot line go to two points and you should be looking only at this. This was drawn in 1969 by hand one line is not in question so we're asking about that straight section 560ft. up from intersection to Mr. Viscusi's corner in straight. The oral history presented by Mr. Bissonnette and I think Mr. Thimot is saying it went through that house #73.

Mr. Cerrone, That is way you have it drawn but not by that plan.

Mr. Clemmey, Mr. Cerrone can I ask you question about this decision by this board on that parcel of land it said it was all IC30 does that come in play at all this evening?

Mrs. Marchitto, I don't even know if they said that was IC30.

Mr. Clemmey, This is document that was caught out of your town hall. This document came from here IC30 planning board all sign it all the members of previous board signed it 2/16/89. Members of your prior board and that is what we're basing the history of different points that we're using even one point Mary used.

Mr. Cerrone, Go to vote it is not even close to zone line that is my opinion.

Mr. Clemmey, Don what do you feel about that the board did earlier on it when it was IC30 when the Payson family owned it and it was recorded?

Mr. Cerrone, I have no comment on that I wasn't on the board. Plan doesn't even show zone line on that so how can I make a determination.

Mr. Houle, I think what most of board members have said there is clear difference from what we're seeing here. Clearly there is difference. I understand what you guys just said and I see what you're saying with the history but there is clear difference here.

Mr. Clapp, Zoning map was drawn without all the data that is presently available showing where all property lines are. It was done in an age before GIS and all the other things that we have today and zoning bylaw makes provisions for that. It says there are certain rules for interpreting the zoning map that where a boundary is. One of the rules says, "when a distance is not shown on zoning map" and there is no distance on zoning map between two points where zone line crosses the sideline. It says, "if there is situation where there is no distance shown you use the scale of the map". Glen went through the mechanics of how using scale of map brings the point back to area within 10ft. of property line that is why they chose that under Rules & Regulations of zoning bylaw for where line crosses Old Post. We submit that is where the board should make the determination. This colored map is the March 1969 map, which isn't the proper zoning map so we shouldn't be looking at that. Bylaw says distance which isn't shown in numbers can be figured by the scale. Using the scale going back from one point to other is 560ft., which puts it very close to the property line. That is why we say it's the property line another rule is when zone line is within 10ft. of property line #2 it is property line. That is why we say we think the planning board should make that determination and it is consistent with previous history of those 2 lots. Why do we use previous history of certain lots but not of other lots.

Mr. Sweet, I still contend if you drew line out to where it goes by this map it will intersect line somewhere along there and that is your line.

Mr. Cerrone, I think you might be right.

Mr. Clemmey, Everyone is agree that lot is all commercial?

Mr. Sweet, Apparently so.

Mr. Thimot, You're overlooking one thing those houses were there before this town so line can go through houses.

Mr. Clemmey, I told Mrs. Chen we will take fence down fill it all in with nice loam and put some nice tall 8 to 10ft. trees that I've agreed to do for her. Even though it is commercial I've opt to take fence down and make it greenery and put all tall trees and fence behind it on the commercial land. It will all be hills and trees anyway.

Mrs. Marchitto, I have public hearing at 8:00 P.M. so we have to reopen special permit and get continuation date on that or? I have 2 minutes.

Mr. Thimot, I suggest it is under special permit you go ahead put this aside we have quorum here sitting on it. You don't have lot more days when you will have quorum.

Mr. Cerrone, Go to vote we've been sitting on this 1 1/2yrs. to 2. They could have gone to town meeting if they wanted to resolve it.

Mr. Thimot, I have no quarrel with that.

Mr. Clemmey, It would have been zoned residential at town meeting.

Mr. Cerrone, Make motion I agree with town planner recommendation on zone line.

Mr. Clemmey, We've already established Dunkin Donuts is gone.

Ms. Burgess, Beginning at point of westerly side of Old Post Rd. point to 320ft. more or less southerly from intersection of Old Post Rd. to S. Washington St. along Old Post Rd. as depicted on January 1969 map. At such point the zone line runs parallel more or less to S. Washington St. approximately 520ft. by lot 63, 91 & 64 of map 23 boundary shared by lot 64 and 139 of map 23. Interpretation was taken from January 69-map and March 69 town meeting and approved by Attorney General Office in August 1969 from which the prepared September 1969 map was drawn from.

Mr. Sweet, Line C or B?

Ms. Burgess, Line B.

Mr. Clemmey, That makes Dunkin Donuts residential?

Ms. Burgess, No it does not make Dunkin Donuts residential.

Mrs. Marchitto, I'll clarify for myself and I do apologize. There is commercial building Dunkin Donuts and there was commercial building on lot 33 Nantucket Deli was. Question of zone line come to be lot 91 and lot 64 that this board has address and look at.

Mr. Clapp, Could I point out to the board if the board passes that motion it will be unlawful because you're relying on something other than the town's zoning map. You're relying on maps that Mary has referred to as January and March of 1969, which aren't town zoning maps. I would like to just point that out to the board and let board make its own decision.

Ms. Burgess, We're already in court anyway.

Mr. Clapp, Why do we have to do this? Why is it necessary that we litigate such a silly little question?

Mrs. Marchitto, It is 8:00 P.M. opening up public hearing for applicant George and Linda Weston 193 Mt. Hope St. No. Attleboro, Massachusetts. I'm going to recess until 8:15 P.M.

Mr. Clapp, Dick Thimot made suggestion at one of earlier hearings he said planning board often when it has zone line determination to make goes out there and looks at property. Looks at where possibilities are and makes determination right there.

Mr. Thimot, We've done that number of times.

Mr. Clapp, That is what I would suggest that board consider doing not vote on it right now go down there, look at it and make determination.

Mr. Thimot, Only one thing I'm going to argue about that there is lot of snow coming in that will be there. I have no argument with going down there as far as site plan visit we're going to have to figure out pretty quick when we will be able to go down there.

Mr. Clemmey, I will have snow removed if I have to hire Mr. Walsh remove all the snow that we can get.

Mr. Thimot, You don't know how much you're going to get yet.

Mr. Clemmey, Whatever we get I got money that he will remove it. We will give him job right now to remove all snow that falls whenever you want to come I'll make sure there is all ground there and no snow.

Mrs. Marchitto, Have motion there is no second is that board's wishes? If there is no second we will just go on.

**NORTH ATTLEBOROUGH PLANNING BOARD
PUBLIC HEARING
THURSDAY, DECEMBER 18, 2008**

8:00 P.M.- Continuation of the public hearing on the Special Permit application of Boch Attleboro, for a Planned Business Development;

Was opened and recess numerous times during regular meeting.

Mrs. Marchitto, Planned Business Development open up that do you wish condition on application of Boch Attleboro?

Mr. Thimot, Make motion we have site visit over next couple weeks for zone line determination.

Mrs. Marchitto, In a moment I want to continue on here. Do you want to continue the Planned Development?

Mr. Clapp, I think we should go forward.

Ms. Burgess, Madam chair they've already used their hour for planned business development. We do need to keep continuance it was your choice to move forward with zone line determination through planned business development. We already have 8:00 public hearing that is going to go long as well we need to continue this.

Mr. Clapp, We went through the zone line determination against our will but we did it is not like we chose to have the zone line hearing. We are here because your board is having hearing. We won't oppose the continuance it makes sense to resolve this issue before we go forward with planned business development.

Mrs. Marchitto, Mary made me aware that there was conversation that did take place that you were going to take the whole time.

Mr. Houle, Make motion that we continue this hearing until 3/5/09 at 7:00 P.M., seconded by Chris Sweet.

All in favor 5 to 0.

All in favor 5 to 0.

Hearing continued until 3/5/09 at 7:00 P.M.

Respectfully Submitted,

**NORTH ATTLEBOROUGH PLANNING BOARD
REGULAR MONTHLY MEETING
THURSDAY, DECEMBER 18, 2008**

Zone Line Determination, South Washington Street/Old Post Road;

Mr. Houle, Do you want to move on that motion for site visit?

Ms. Burgess, We can schedule site visit and make them aware of it.

Mr. Thimot, Make motion for site visit for zone line determination, seconded by Dick Houle.

Mr. Cerrone, What are going out there for what are you going to see?

Mrs. Marchitto, Mr. Thimot wanted site visit.

Mr. Clapp, You can see flag where the line would be at Mary's suggestion at Tilton's suggestion at Sweet's suggestion. You can see all those different points.

Mr. Houle, You're going to have flags for us?

Mr. Clapp, Yes.

Mrs. Marchitto, Mary poll the board members to find a date that will work for all.

Mr. Thimot, I'm not trying to be hard to get along with.

Mr. Clemmey, Its been 2 years for 10ft.

Ms. Burgess, When I get date I will let you guys know.

Board is taking 5 minute break.

**NORTH ATTLEBOROUGH PLANNING BOARD
PUBLIC HEARING
THURSDAY, DECEMBER 18, 2008**

8:22 P.M.- Reopening of the public hearing for the definitive subdivision entitled Mount Hope Farm Estates;

Ms. Burgess, Reading in application.

Ed Casey-attorney, Linda Weston is here Carl Boardman-engineer and David Simmons-Angle Tree present. We have submitted...(inaudible) intent is this be limited public hearing to consider the change on proposal.

David Simmons-Angle Tree Consulting, At last meeting the board denied waiver for cul-de-sac we asked you to take formal vote and you did told us we needed to change it try to get it so we had only 3 lots on it. Exactly getting 3 lots on cul-de-sac is difficult anyway we have no more than 3. We basically replicated one cul-de-sac would be 56ft. in diameter. Other major thing we've done and told the board we could do is changed intersection between Richard K. Stevens and Donald Weston. Skewed intersection to limit length of cul-de-sac in combination. One leg of road is shortened and other one lengthened because we slid intersection and rotated by about 100ft. give or take. With that we end up with cul-de-sac that is 899.70ft. to center and other one is slightly less 860 or 870 to center of cul-de-sac. Both of the cul-de-sacs now are low at dead end. In order to get the frontages to work we have 120ft. on all the other lots we also have requirement of 60ft. back, cul-de-sac we have 120ft. You do that geometry we actually had to start back at the beginning and work all lots all way around all way out to street again to make sure we had right frontage so we actually changed at least one lot line in every single lot in subdivision. Visually it doesn't look much different but mathematically it is. We believe now all the lots are conforming, roads conform to your interpretation of the bylaw and cul-de-sacs widths are acceptable at what they are. You certainly had no problem with 52ft. I don't see why 56ft. would be any different. We did keep the same pavement because board had expressed a concern about amount of pavement maintenance so we kept 45ft. You will have slightly larger grass right of way area by couple feet. That change in geometry resulted in need to make lot of changes in utilities. If you look at plans quickly you don't really see it. If you remember we have very large cul-de-sac before with drainage at end and we had changed to a rain garden. Now essential the whole new cul-de-sac is below so it all slid so all the grading all of the drainage everything up above at subdivision has changed to

accommodate change in the road. Cul-de-sac basically drains out from end of cul-de-sac have two catch basins that are where they were before. One of the good things none of this resulted in any significant change in drainage area. It did pull in all the grading so I had to regrade all the houses. Lot 10 changed significantly house used to be down by wetland but now this lot is so big it is almost 4 times of any requirement 50,000sq.ft. We felt to put house in place so that we didn't need to get near wetlands now increased distance. So virtually every place you look on the plan we've increased the distance between limited work in wetland. Other changed that resulted there use to be retaining wall we've eliminated about 300ft. of retaining wall by being able to grade further back. In order to do this plan we have to ask the board again to allow as you did on other one the 90ft. frontages so we can get 3 lots on cul-de-sac. There were plan and profile sheet changes that were made as I said utilities changed some, sewer profile changed some, and location of water service all that got tweaked little bit.

Ms. Burgess, Reading in her review dated 12/15/08(insert). Dated 12/15/08 Board of Public Works Bill MacDowell(insert).

John Lavin- Earthworks, Reading his review dated 12/12/08(insert). John as far as length road is 899 it is matter of where they start the stationing. From what I understand from David's presentation that lot 15 & 17 it was lot width the rear.

Mr. Simmons, We always measured it 70ft. back what probably happen is we moved the house but it is 70ft. back we have 120ft.

Mr. Lavin, I just went by regulations. Lot width it says, " in all districts that lot width is measured at any point between front line and rear building line should be less than prescribed in this intensity Schedule A". The building line maximum would be setback off so it is 15ft. rear setback line so technically you can't do it but you wouldn't be able to hit zoning so he has to push it up anyway. It might be local building but I just went and said it's not 120ft. at setback. That is the width and length is 120ft. too just in general for discussion I really just focused on the lots.

Mr. Simmons, I'm aware of those and they are interpretation unfortunately the bylaw has no definition.

Mr. Lavin, That is true.

Mr. Simmons, It is more than 120ft. to main depth you have more than 120ft. everywhere you look.

Mr. Cerrone, Only ones usually have problem are the cul-de-sacs.

Mr. Simmons, We believe they are okay only one that I can see John's point is 17 is kind of funny shape.

Mrs. Marchitto, What it would become is building permit issue if you pull it and building inspector finds out you don't have room for it they can't build on it. It is almost on applicant's onus to make sure.

Mr. Simmons, I understand the question where it comes from.

Mr. Lavin, If there is no shape dimension in the plan. Next one I pointed out both cul-de-sacs southerly and northerly he asked for 90ft. There were 2 at 90 I guess I missed it at last meeting it was approved.

Mr. Cerrone, Yes.

Ms. Burgess, Do you want to go back to lot 17 with type-o?

Mr. Lavin, It is just 68.76, 68.76 and 68.76. I was just looking at when calculate lines. There is 30 some odd feet.

Mr. Simmons, What happen is someone probably cut and pasted it and forgot to change it.

Mr. Lavin, Full length is 69.7 just then divide them up whatever they are. That is why you have L as 91 but you absolutely need 19ft. so you have to make sure it is 19ft. so you 120ft.

Mrs. Marchitto, Is it there David?

Mr. Simmons, Yes you can scale it.

Mr. Lavin, I did it was close.

Mr. Simmons, What I assume will happen when you get final mylar with survey stamp he right now is doing the math check, etc. By time he stamps it will be checked again.

Mr. Lavin, Grass strip it is just drafting that is all it is you had grass strip going around.

Mr. Simmons, It basically disappears that is why on other cul-de-sac we made it little bigger so we can fit it all. If you do math that grass strip is going to be 1/2ft. wide something like that it is very small because you have 45ft. Grass strip behind the sidewalk is 1/2ft. we'll have 2ft. then it will be 1/2ft. on back side.

Mr. Lavin, As far as on property line? You will have 2ft. then 5ft. sidewalk.

Mr. Simmons, Yes but then between property line and edge of sidewalk only have 1/2ft.

Mr. Lavin, Doesn't matter that is way it is no it's zero right now just show that. Drainage two catch basins.

Mr. Simmons, I understand what you're trying to do you don't want to Mt. Hope drainage so we can move those.

Mr. Lavin, I recommend if you have handicap ramps probably should be before that. #5 is hydro same thing. These are on radius 10 & 10A construction problem first of all typically and then they don't make radius curbing.

Mr. Houle, John what do you mean they don't make that?

Mr. Lavin, When you have curb inlet granite then outlet it is just straight piece.

Mrs. Marchitto, Catch water before it hits intersection.

Mr. Lavin, Way they designed it you have low point then it comes back up.

Carl Boardman-Angle Tree, High point is centerline of intersection with constant slope down to catch basin to low point. What we did was in order to keep drainage area approximately the same.

Mrs. Marchitto, Are you high at the crest right at intersection?

Mr. Boardman, Yes. I don't see any problem doing what John has asked us to do but reason for it was to keep water in same drainage area that it was originally not to add any more water to this drainage system. High point is center of road.

Mr. Lavin, You catch it and then it goes into retention basin in back.

Mr. Boardman, Zero point is not quite at low point.

Mrs. Marchitto, What are you recommending John?

Mr. Boardman, John wants to see catch basins in designated spots, which is fine.

Ms. Burgess, Move them off radius.

Mr. Lavin, Typically they are at radius but the way they designed road was there is low point.

Mr. Cerrone, Water goes right by.

Mr. Lavin, That's why if you move them whatever is going to go by is just this.

Mr. Cerrone, Following curbing it will go in.

Mr. Simmons, We don't want to take water from Richard Stevens and put it in wrong pond.

Mr. Houle, Do you have problem with elevations?

Mr. Lavin, No they're 1% only obvious consideration is you have 10ft. of fill and you 1/16th. of inch pitch. 1/16th. for every foot, which has been an issue on last 5 projects because always end up with puddle or two because there is zero play.

Mr. Boardman, There is monitoring for compaction, which was called for in the plan and also good.

Mr. Lavin, But it is 95% compaction and over the years it might get to 98, which could settle that is the only issue when you're looking at lot of fill like this. Usually you fill 3 or 4ft. or whatever you get 10ft. and if you get 2% after time. It hits regs. it is 10ft. of fill.

Mr. Cerrone, All those lots are going to need fill too right?

Mr. Simmons, Yes that is why we showed you...(inaudible).

Mr. Houle, John on that road over time what is normal when you have 10ft. of fill what is normal rate of compaction over 5 years let's say?

Mr. Lavin, Have to hit 95% then it depends on what water action is going on you have to have spec. material but if there is water going through it is moving silts away that is usually the biggest issue. That is why you see cracking.

Mr. Sweet, Undermining?

Mr. Lavin, It could if the water but this is fill so it's not in groundwater so that is the good point but when you're in groundwater that is when all fine particles move out there is nothing to hold up next particle and next particle. Two years to put the top.

Mr. Boardman, I always recommend that they go to maximum any additional compaction after the first.

Mr. Lavin, You have minimum of 2 years and maximum of 2 years. In the conditions too it is like monitoring this thing over time of settlement for period of time.

Mrs. Marchitto, We could put that in conditions that is what I was just talking to Mary about. What John is saying monitoring through whole time.

Mr. Lavin, Just check it because if you're getting settlement.

Mrs. Marchitto, Before final coat you can take another look at it just put it in conditions.

Mr. Lavin, Same thing with construction because you have sewer you're concerned about any pipes moving and any catch basin pipes and water.

Ms. Burgess, Detail on precast concrete catch basin.

Mr. Lavin, They just show detail alternate top slab what that means is all of sudden you couldn't meet the depth. You have depth at intersections right?

Mr. Boardman, We have depth everywhere.

Mr. Lavin, You don't want flat tops this is really for construction you want cones. It is really taking stuff out that shouldn't be on plan that is all.

Mr. Cerrone, We've had problems before that is all they wanted to use.

Mr. Lavin, This is something from my perspective would come back to the board if anything ever happen. DPW has to maintain these. #11 catch basin I know these were shown and they did state it for representation only. They have retaining walls it is catch basin they had moved as long as it doesn't end up in driveway.

Mr. Simmons, Put note there that says actually what I would recommend is we really can't move driveway much little bit of leg to get catch basin ...(inaudible).

Mr. Lavin, If you can't really move things around here too much because you have retaining walls and fill. Catch basin #11.

Mr. Boardman, We will move catch basin.

Mr. Lavin, #6 drain manhole 10 move it away from curb 2ft. I've seen catch basins put against curbs before.

Mrs. Marchitto, At end it is always hard to move them so it is better we tell you right now.

Mr. Lavin, Fences shown on detention basins recommend black vinyl because it is just PVC coating on chain link it is for maintenance so there is no maintenance really. Fire hydrants are located it says intersection if this is close enough to intersection that is fine. Then hydrant should be located at back of cul-de-sac regulation says.

Mr. Simmons, It can't be over the right away line. We had little problem with 2ft. grass strip it creates a bunch of other issues. It really in this case is in grass strip between sidewalk and curb.

Mrs. Marchitto, I know another situation where we have a hydrant on a driveway.

Mr. Simmons, We'll draw it wherever you want it but problem trying to put it at back.

Mr. Boardman, If we put it at property line where it's called for then we run into issues with ADA and sidewalk.

Mr. Simmons, 56ft. one we can do it other one we can't do it.

Mr. Lavin, What is the minimum 50?

Mr. Simmons, No 45 I think.

Mr. Lavin, You can have easement in the back like utility easement.

Mr. Cerrone, We did that before I think at Cliffs E.

Mr. Lavin, It is better to keep it away from curb. It is southern need easement.

Mrs. Marchitto, Telling Mary to make note.

Mr. Lavin, Carl said he submitted design velocity it is in regulations 2.5. I thought there was conversation you couldn't hit it.

Mr. Boardman, No we had trouble hitting velocities on drain line because of size of pipe.

Mr. Lavin, I think when they moved lot needs water and sewer shown.

Mr. Cerrone, How about trees are they shown?

Mr. Lavin, No this was submitted before. It is part of regulation you have to have 10 per lot.

Mr. Simmons, 10 trees 20 per canopy is 200ft. the lot is only 120ft. wide how does that work?

Mr. Lavin, It depends on what type of tree you pick I guess.

Mr. Simmons, If that's what it requires that is what we'll show.

Mr. Lavin, 8 trees minimum diameter of 2 1/2" per lot.

Mrs. Marchitto, You can put them near the street if you want to you have sewer you don't have septic so you can.

Mr. Simmons, What about when we have 90?

Mr. Lavin, 90 is 6 trees I think.

Mr. Simmons, DPW in the future will be out there cutting every other tree down.

Mr. Cerrone, You have to be out of the layout not in town layout.

Mr. Lavin, Easement they show curb cut to come to easement and bituminous apron as opposed to just running curb right by it. The stormceptor is right behind there so they will have just to vacuum that out typically you wouldn't have to get back there.

Mr. Simmons, I added that I got thinking DPW is going to try and go in there with heavy truck to get down into basin driving over the curb they're going to be taken whatever loose cinder or whatever surface scattering it out into the street. It would seem they should have cut and apron at the street to prevent that problem and they also would be driving over the sidewalk. If you don't want it we'll take them out.

Mr. Lavin, I just brought it up for discussion. It is full curb I'm sure they would put dunnage to make sure they don't disturb the curb. I tried to call Bill to find out whatever they want. #11 fencing as per subdivision regulations.

Mr. Cerrone, There is fence down at 295 there is 6ft. fence.

Mr. Lavin, Then just miscellaneous on note #6 wheelchair ramp shows concrete refers to concrete.

Mrs. Marchitto, Asking Don or Dick if they have any questions. (No.)

Kevin MacDonnell-Lakewood Dr., I have question that really didn't come up this evening but it came up last meeting about swales going back towards Lakewood Dr. You were going to have swales to divert/direct the water and I was told that it is owner of the properties responsibility to take care and maintain these. If the owner doesn't and water creates because there is lot of water back there. Stipulation that when anybody sells one of these lots has to put in writing responsibility of maintaining swales.

Mr. Simmons, Area we're talking about now only has 3 lots. There is swale in back there is low point saddle it is not defined channel nothing that requires maintenance. It is very shallow depression across back of lots formed by the pad of the building and hill that already exists. You go right up to building you get this little swale it is not like swale you see on side of road it is nothing like that. It is depression of grass whole area is about 100ft. where it starts and where it ends and that is 220ft. from the pond, 260ft. from property. It is going to have belly it is about foot 1/4foot and 1/2 difference in way top of slab is so the water can run. All water right now runs off the hill it turns and runs down so the purpose is to collect water. It is to make sure that it still runs not divert the water, water runs down now to make sure that continues to happen.

Mrs. Marchitto, It will look like a lawn.

Mr. Simmons, There is no real swale.

Mr. MacDonnell, That was your definition.

Mr. Simmons, That condition is okay if you want to say on lot 11 you will maintain the low area swale.

Mr. Sweet, Homeowner would not want water running towards the house they would want it going away from the house.

Mr. Simmons, Elevation is about 187 top of hill is 191 so there is over 4ft.

Mr. Houle, Will that swale take some of that out of there?

Mr. Lavin, No it flattens out.

Mr. Houle, So it is going to release it right towards the house.

Sandra Copley, Could there be condition that homeowner cannot raise it? You have walkout basements (Yes). What is grade of walkout basement?

Mr. Simmons, 188 top of back of lot is 181.

Ms. Copley, So they wouldn't have any reason to want to raise it then it would drain back into their house.

Mrs. Marchitto, We have two conversations going on here so either we're going to have engineers talk. My discussion would be Cobblestone they have swale I wouldn't even call that a swale. We are requiring as board now to put elevation lots on lots to show house loting and show where water is elevation and that is what they are showing.

Ms. Burgess, I think also in previous conversations when we had all those lots up there was discussion of running actual swale along lot line but now.

Mrs. Marchitto, That is not there.

Mr. Cerrone, They pulled cul-de-sac back.

Ms. Burgess, That original swale that was going to be there running all along property line is no longer needed because all those lots have been pulled back significantly.

Mrs. Marchitto, I understand what you're saying but one of the things is they can't put I know you've heard this often they can't put water on another piece of property so that is one reason why I mean John has the elevation it is coming back to house foundation and going back to original drainage of the water on western part of property.

Mr. Boardman, You have natural grading high point it comes down on property line toward these houses so that really it's ensured just by share existing topography of the land. It is natural feature that exist today not something we're really making.

Rita MacDonnell-60 Lakewood Dr., What if they plant trees and shrubs and stuff in that swale area what will happen?

Mr. Simmons, 30 or 40ft. ..(inaudible).

Mr. MacDonnell, I would still like something put in you mention have that as condition.

Mr. Houle, Way we're looking at these conditions I'm not sure that it is needed.

Mr. Cerrone, John's recommendation that grade cannot be raised existing grades in back cannot be raised in back.

Mr. Lavin, Yes it will just give you leverage in making sure. Discussion grade.

Sandra Copley, I think Mr. MacDonnell is talking about deed restriction type of thing we understand you're going to develop it to the plan. He's thinking that if there were some kind of restriction on that lot where they couldn't make any drastic changes to configuration of topography in the back so that it would change flow of the water that is what he's concerned about.

Mr. Sweet, What if they put in pool I don't understand.

Ms. Copley, They put pool in and they have to raise it up 4ft. now they have concrete in there and have all of this more impervious surface. What is going to happen then? Is it insignificant? It is okay.

Mr. Simmons, If there was general statement somewhere we could even add to the plan that would say.

Mrs. Marchitto, Lots are much larger now you had 5 lots before they have come down to 3 lots and it is very large lot. What they are creating is not structural swale he's calling it a swale I probably have this on side of my house and you'd never even know it existed.

Ms. Copley, You had swale before with 5 lots but now it's just a depression.

Mrs. Marchitto, Lot 11 water is not even going to the neighbors it is definitely coming onto the subdivision property.

Mr. Simmons, It breaks there is high point it breaks one way and breaks into hole that we've ended up with because there is hole that is now why we need the culvert because you have to get under the driveway. It used to break here before it still does and it runs sideways.

Mr. Lavin explaining to Sandra Copley.

Mr. Lavin, Only other thing you mentioned with ConCom putting roof drains into ground.

Mr. Simmons, That's right and also the dry wells.

Mr. Lavin, Kind of technically from you putting in impervious area but you're taking that water and actually moving it directly to wetlands to your pipes.

Mrs. Marchitto, I would like motion on the waivers then we'll close it.

Mr. Lavin, Only other thing just from neighbors talking of water going and DPW mentioned about water going.

Mrs. Marchitto, This isn't anything new though.

Mr. Lavin, No it's just they made an offer before water going out backside.

Mr. Houle, That is where it's going now right?

Mr. Lavin, Yes. No what they're saying is all water that goes here they made offer before in previous meetings I don't know if you want to take them up on it. The velocity of water meets the standards but there is going to be more water it is going to come out at same rate.

Mr. Casey, That offer was made in context of...(inaudible).

Ms. Burgess, It still falls under same perview so we can still address that in our conditions of approval even though it fell under different plan. That has not changed that existing condition has not changed.

Mr. Casey, We've addressed this I thought in notification from professional engineering perspective. What we're required to do is not to increase the amount of water we are putting onto adjacent property...(inaudible) pre and post construction situation. I think that proposal that we were making were in context of trying to negotiate ...(inaudible). Especially given now reduction of 2 house lots. Carl was always going by there was no increase and consequence to abutting property associated with subdivision.

Mr. Simmons, 2 house pads almost 7,000sq.ft. of impervious and another 6 or 8,000sq.ft. of cul-de-sac we've eliminated almost 1/4 acre of pavement and not changed the pond so even rates have gone down.

Mr. Cerrone, How come it took you 2 years to design subdivision according to our rules and regulations? We have a book.

Mr. Simmons, I have an answer but I'm not going there it is per your rules and regs. At this point you have set of plans in front of you I hope you're happy with but it doesn't change how we felt about ...(inaudible) that we submitted.

Sandra Copley-Lakewood Dr., Attorney Casey was indicating I believe that the pre and post conditions as far as amount of runoff of water have not changed that they're basically the same. My understanding was that the rate of the water discharged towards the neighboring properties has not changed. However due to impervious surface the volume has changed and volume will be increased. Am I wrong in that assumption?

Mr. Boardman, We have reduced the impervious areas significantly.

Ms. Copley, That is not my question.

Mr. Boardman, That is part of the answer that reduces the volume of runoff as well as rate. There was very/very slight increase in volume of runoff between pre and post development conditions. We have not rerun those numbers but I would suggest that it is very close if not less than. Rate of runoff was significantly less volume is slightly greater and I think the changes we've made has lessen volume as well as rate of runoff.

Ms. Copley, But you don't know for sure?

Mr. Boardman, Don't have to know for sure all I'm required by regulations.

Ms. Copley, Are you people listening to this?

Mr. Simmon, Let me change his answer. We know qualitatively that absolutely is even more reduction we don't have final numbers. There is no need to spend that 8 or \$10,000 or whatever it would cost to rerun all the hydro calcs. to show we have further reduction and we're even more in compliance with regulations. John has not suggested that needs to be done.

Ms. Copley, My question is that the rate of runoff is pretty much the same. Okay so the rate of flow of water based on putting these houses is slightly less? (Yes). Our understanding at last meeting is that the volume was greater.

Mr. Simmons, In large storm slightly.

Ms. Copley, So we were going to have more water coming off.

Mr. Simmons, That's correct.

Ms. Copley, Are you telling me now that the amount of volume? If I could finish my question before you answer it would really be appreciated. Is volume more or less now with 17 houses? Is volume of water coming out to Lakewood Dr. more or less?

Mr. Simmons, I don't know it's less than it was with prior set of plans where there was still zero or less than zero...(inaudible) condition we don't know that.

Ms. Copley, You're saying prior set of plans with 19 house lots that the volume was not going to be increased?

Mr. Simmons, It was increased slightly.

Ms. Copley, What does slightly mean?

Mr. Simmons, Does the board want us to go back to those numbers for her?

Ms. Copley, Maybe the engineer could help here. I know I frustrate you I understand that. My point is two days ago.

Mr. Simmons, No you don't we understand we have followed.

Ms. Copley, I understand you have followed the guidelines but what I understand is that you're not allowed to increase the rate and that you have complied with that and I fully understand that. But what I'm also not understanding is because I was told and I was led to believe that the volume is higher.

Mr. Simmons, It has been and it was presented that way since very first public hearing and very first submission of the hydro report over year and half ago.

Ms. Copley, That is why we're here we don't like it we don't want more volume that is why we're here. Fact that you presented it I've been at those meetings and I've always not liked it.

Mr. Simmons, If the board wants to hear it I don't know if they want to get same information again. Do you want us to go through detail explanation for her give hydro story again or not? We will do it if you want.

Mrs. Marchitto, We've already gone through it.

Mr. Simmons, Several times.

Mrs. Marchitto, John you reviewed all the calculations right? (Yes). We had many discussions done all the numbers.

Mr. Lavin, As far as engineering goes and as far as DEP Stormwater Management goes.

Mrs. Marchitto, This public hearing was for scope of review.

Ms. Copley, You did read into the minutes the fact that DPW doesn't like the fact.

Mrs. Marchitto, They didn't like it either before.

Ms. Copley, They still don't like it now and the meeting was closed last time and now it's open.

Mrs. Marchitto, We have reopened up the public hearing because we closed it and therefor no more information could take place, we voted on the waivers and we voted many of them down. Consequently voting them down it changed dramatically it did change these plans the lots, roads enough that we needed to open up. They needed to open up the public hearing when they needed to submit it to give planning board these meetings and public opportunity to take look at these. It was limited scope view we've asked our council and we agreed limited scope review. I feel tonight we have done that.

Ms. Copley, You're comfortable with what you got?

Mrs. Marchitto, I am very comfortable with the limited scope review of tonight reopening of public hearing on what was submitted. We've had much discussion on the previous public hearing. That was the agreement I have to abide by it we talked to council otherwise the board would have had. If we did not reopen it could have been opportunity for appeal anybody can appeal after 21 days I don't want any reason for this board to justify an appeal. If that is proper way to say it.

Ms. Burgess, Why don't we vote on the waivers while hearing is still open so we can have discussion.

Mrs. Marchitto, I'm listening if board wants to make any motions of any type or have anymore discussion I'm okay.

John Walsh, Are all the conditions from previous plan on new plan?

Mrs. Marchitto, We haven't even done conditions.

Ms. Burgess, They will be interpreted so anything from previous public hearing that came into question that are still in question will be part of conditions of approval. Anything new that comes out of these plans.

Mrs. Marchitto, Will be part of the conditions and we're not doing conditions this evening. We need to pull all information the administrative conditions and the engineers for tonight.

Mr. Thimot, Make motion we close hearing at 9:40 P.M., seconded by Dick Houle. All in favor 5 to 0.

Mr. Houle, Make motion that we approve waiver request for section 5.1.2 cross sections figure 1 type 1 subdivision minor street to allow 2ft. grass strip within road layout between granite curb and sidewalk, seconded by Don Cerrone.

Mrs. Marchitto, For discussion we already voted that one.

Ms. Burgess, You said you wanted to vote them all again.

All in favor 4 to 0 to 1 abstain Chris Sweet.

Mr. Houle, Make motion that Planning Board vote to approve the request for exception to allow the lots 10, 11, 12 to reduce frontage from 120ft. to 90ft. on end of cul-de-sac on westerly end of Richard K. Stevens Dr., seconded by Richard Thimot.

All in favor 4 to 0 to 1 abstain Chris Sweet.

Mr. Houle, Make motion that the Planning Board vote to approve the request for exemption to allow lots 4 and 5 to reduce frontage from 120 to 90ft. on cul-de-sac on easterly side of Richard K. Stevens Dr., seconded by Richard Thimot.

All in favor 4 to 0 to 1 abstain Chris Sweet.

Mr. Houle, Make motion we approve subdivision George B and Linda Weston Mount Hope Estates with conditions set forth by Planning Board with any and all conditions, seconded by Richard Thimot.

Mrs. Marchitto, Hearing no further discussion all in favor 4 to 0 to 1 abstain Chris Sweet.

Mrs. Marchitto, We need date for conditions we also need extension.

Ms. Burgess, We could have special meeting on Tuesday before 1/8 we have Cannata and Cushman.

Linda Weston, We go to Conservation we can't be here Tuesday.

Ms. Burgess, We can either go to police station or stay here we just have to pay janitor.

Mr. Cerrone, How about here we have everything here the files, etc.

Ms. Burgess, We'll do it 1/7/09 at 6:30 P.M. As soon as I have conditions done I may not be able to get them to you week before.

Mrs. Marchitto, We do give it to the attorney, applicant and engineering so they can look at it.

Mrs. Weston, Can I have copy of most recent subdivision conditions?

Mrs. Marchitto, You can come in and ask Linda for any of them.

Mr. Houle, Make motion for date of final action until 1/31/09, seconded by Don Cerrone.

All in favor 4 to 0 to 1 abstain Chris Sweet.

Respectfully Submitted,

NORTH ATTLEBOROUGH PLANNING BOARD
REGULAR MONTHLY MEETING
THURSDAY, DECEMBER 18, 2008

Ms. Burgess, We do need to talk 2 minutes about Hickory Woods.

Other Business:

2) Re-endorsement of Form A: Masterson/Wild Acres Road

Planning Board endorsed in April 08

Registry requires re-endorsement when 6 months has lapsed since endorsement Plan is identical.

Richard Thimot left table at 9:50 P.M.

Ronald Caponigro, Had set of plans signed last April.

Ms. Burgess, This is the one we approved and one Elliot Brais brought in and showed me yesterday morning it is exactly the same. You have to file these plans within 6 months. Plan hasn't changed since last time you approved it only problem being they didn't record and you have to record it within 6 months.

Mr. Cerrone, Make motion to re endorse the plan of Estate LC Masterson, seconded by Dick Houle.

All in favor 3 to 0 to 1 abstain Chris Sweet.

3) Hickory Woods: Remaining \$25,000 to be released;

Response to Nicole Riel's email

Donald Cerrone left table at 9:53 P.M.

Ms. Burgess, If we're going to talk about Hickory Woods the only thing I wanted was John to talk about intersection of Fales Rd. We still have \$25,500 to be released with the completion of catch basin moving and Fales intersection needs refix.

John Lavin-Earthworks, The lowered catch basin at radius and they went back and fixed Fales Rd. and then they went back and fixed catch basin it was 8" off the curb line. Everything was done they had few other things to clean up.

Mrs. Marchitto, Fales Rd. is all set?

Mr. Lavin, Yes and DPW was out there at same time. I communicated with Bill McDowell and Steve Cardinelli was out there too.

Ms. Burgess, We still I think it's \$80,000 for rest of clean up work and such and drainage and bubbling hand holes.

Mr. Lavin, Water was still running off the curb.

Mr. Houle, Why did I think we had \$154?

Ms. Burgess, Has Linda not updated it? \$108,000 that is correct minus the \$25,000. There is also letter in your package reply to Nicole Riel my 10 days are up tomorrow. I just wanted to email her back that correspondence on letterhead. Basically what we've done is taken all the questions I'll put it on letterhead and mail it out. What was in your package last time we haven't changed any of the wording we never actually go the okay to move it.

Mr. Sweet, Have my approval.

Ms. Burgess, Only thing that will change is last sentence being that it made it into the paper that DPW will be taking it out of their snow/ice budget. I just needed you to look at it before I sent it out. All set so I will send it out tomorrow. It is okay for me the \$25,000 now that John said it is okay.

Mrs. Marchitto, Yes Bill McDowell is all set with it?

Mr. Houle, John is all set with it?

Ms. Burgess, Yes. Motion was already made 3 meetings ago.

Don Cerrone at 9:58 P.M. Donald Cerrone left again.

Mr. Lavin, Paving is done everything is done the sidewalks are done. I didn't shoot grades on it but the curb where everything was lowered it appears little high and that would have to be taken care of. Just checking it to the plans is all it is I just want them matching it.

Ms. Burgess, Other part meaning Pinsonnault correct?

Mr. Lavin, Other part of Fred's part. What happen is sidewalk goes down and then it kind of comes back up going toward Pinsonnault. When they lowered the catch basin..

Mr. Houle, But it's on other street right?

Mr. Lavin, Yes it is subdivision plan that you guys approved so who owns it?

Mr. Houle, Two different owners.

Mr. Lavin, There is no sidewalk on that side it is on other side.

Mrs. Marchitto, Sidewalk is on high side on Pinsonnault it would be on right side not on left side.

Mr. Lavin, When they lowered that it is at right at radius it comes down and then it starts to rise you just have to match into it make sure that elevation is per plan.

Ms. Burgess, You're saying when we go to pave fix do Pinsonnault? Before Bottomley finishes the rest of the road.

Mr. Houle, Mr. Bottomley did this work?

Mr. Lavin, Yes.

Mr. Houle, Then I think he should fix it.

Mr. Lavin, Look at grades from transition to the other I didn't shoot any grades.

Mr. Houle, I know we have two different builders but you can't hold another builder subject to someone else's work.

Mr. Lavin, It is where they lowered the catch basin it pitches out it is consistent slope down the hill and follows it then when it turns the catch basin is on radius it is going back up little bit. The curb is high it appears to be going up. Drain is fine it is just the transition from one to the other. Then also making sure whatever the road is who knows if road is right on Pinsonnault just making sure.

Mrs. Marchitto, It all blends in together when it is done.

Mr. Houle, Is that big deal?

Mr. Lavin, As long as the water runs and transition is there for sidewalk. It is something that should be looked at from Mr. Bottomley's point of view. Key is if it was designed that way should put in as far as grade. Grades are given on the plan. Problem it usually comes down is putting catch basins at radius it is so screwy.

Mrs. Marchitto, Is this catch basin they corrected?

Mr. Lavin, Yes the one they had to lower right at Pinsonnault where it was going across the road right on corner.

Ms. Burgess, I don't think we have regulation that says it has to be on radius I just think that is where everybody put them.

Mr. Lavin, Board changed it up at Barry there is like these dips is what happens. If you're going to take right hand turn and you go to stop you're like in a gully and what about plows. They should be just nice plain coming down the road capturing water.

Mr. Houle, He wants to know who we think is responsible.

Mr. Lavin, I think it's Bottomley they're his project I just wanted to mention it I'm not sure if it is right or wrong. The way it was before I asked him to check the elevation. It wasn't working obviously we saw that so he had to lower it.

Mrs. Marchitto, Curbing should come down lower?

Mr. Lavin, Yes then it is also checking Pinsonnault make sure it blends it.

Mrs. Marchitto, How much is granite curbing up now exposed?

Mr. Lavin, Probably foot.

Mrs. Marchitto, Verses 6"

Mr. Lavin, Yes it is way up.

Mr. Houle, I think Fred's contractor did the work I think he is responsible for it.

Mr. Lavin, Make sure it's whatever the grades are.

Ms. Burgess, Is it possible for next season to look at this have them feather it back and lower the granite curbing? Would this resolve what you're talking about? If we ask them we need you to feather it back need you to lower granite curbing. We just have to tell him. We're already hanging onto \$80,000

Mr. Houle, How much would it cost to fix this?

Mr. Lavin, Maybe \$5000.

Raymond Payson, John was right it has to be engineered because it could be ... (inaudible) if you don't have Pinsonnault right grade coming out. I think engineering has to be done first determine how deep you get into it.

Mrs. Marchitto, Letter for spring time for check up. John can you send us letter to back it?

Mr. Lavin, I would just have to go shoot some elevations.

Mrs. Marchitto, Okay just letter of conversation that we're having so we can back it up.

Mr. Sweet, Make motion we adjourn at 10:08 P.M., seconded by Dick Houle.

All in favor 3 to 0.

Respectfully Submitted,

Attach Agenda to Minutes.