



# Town of Seabrook Planning Board

## Minutes for December 21, 2004

Planning Board Members Present: Susan Foote (Chairman), Paul Himmer, Peter Evans, Paul Garand (CEO and alternate), Tom Morgan (Town Planner)

Meeting opened at: Chairman Foote opened the meeting at 6:20 with a quorum present.

### Minutes of December 7, 2004:

There was a discussion about the lack of detail, grammatical errors and spelling mistakes. P. Garand noted that these minutes could use considerable review and corrections. Chairman Foote suggested that the board not accept the minutes at this time.

**Motion: Chairman Foote To delay acceptance of these minutes until January 4, 2005**

**Second: P. Himmer All in favor**

### Correspondence:

T. Morgan informed the board that some of the correspondence was included in our informational package, the remainder is the folder.

Chairman Foote brought the board's attention to a letter from Attorney Gagliardi, representing M. Wojcicki for Ava Mae Lane. She also noted a series of communication between Town Manager F. Welch and this attorney. Subject matter: Town's acceptance of Ava Mae Lane and the 2-year maintenance period. The informational package included a memo from F. Welch regarding resolution of the Elephant Rock sub-division security agreement.

A letter from Anthony George, abutter to the Cabral sub-division proposal, regarding unwanted alterations to his property by the Cabral's and his concerns about stormwater drainage.

P. Garand provided copies of two letters that were sent to the Planning Board from the Board of Selectmen regarding the Tucker and Cabral sub-division proposals now under review. The Board of Selectmen advise the Planning Board that the proposed streets may not be accepted as town roads if built as designed in the existing plans.

### Bills:

Mileage reimbursement and recording fees

### Driveway Applications:

Gene Sullivan at 67 Foggs Corner – it was noted the application lacked drawings of the proposed driveway. Chairman Foote read J. Starkey's comments regarding drainage.

Wayne Grubbs at 84 Pembroke St. – it was noted we reviewed this last summer. There were some questions at that time. They have now been resolved.

**Motion: P. Himmer To approve both driveway applications**

**Second: P. Garand Unanimous**

### Public Hearing: Proposed Land Use Amendments (continued from December 7, 2004)

T. Morgan brought to the board's attention the five revised amendments from the previous hearing. Chairman Foote re-opened the public hearing at 6:35 PM

### 1.) Insert the following after the first sentence in the definition of Two-Family Dwelling in Article II of the Zoning Ordinance:

**"At a minimum, the two dwellings must share a substantial part of a common wall in order for the building to be considered a two-family dwelling"**

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T. Morgan informed the board that this has been re-worded and the law requires a second hearing due to substantial changes in the wording.

Chairman Foote polled the board for questions or comments. P. Himmer asked if we needed to better clarify "substantial part of a common wall". Chairman Foote reminded the board that they decided to leave that decision to the discretion of the Building Inspector on a case-by-case basis. P. Evans agreed that the Building Inspector should have that latitude.

Chairman Foote asked if any of the public had questions or comments. No response.

**Motion: P. Evans To place this on the ballot**

**Second: P. Garand Unanimous**

**2.) Amend Article III Section C of the Zoning Ordinance by deleting everything after the word "owner" and replacing it with:  
"grant a Special Exception pursuant to Article VII of this ordinance in order to permit a use that would be permitted in either zoning district. The Board of Adjustment shall set an expiration date for the Special Exception, said expiration to take effect in the event that the Special Exception is not exercised."**

T. Morgan refreshed the board's memory that this sets a criteria for the granting of this form of exception. Additionally this board added the expiration clause and changed the wording to allow the Board of Adjustment more leeway in their decisions.

Chairman Foote polled the board for questions or comments. None at this time.

Chairman Foote asked if any of the public had questions or comments. No response.

**Motion: P. Evans To place this on the ballot**

**Second: P. Himmer Unanimous**

**3.) Adopt a Building Code pursuant to NH RSA 675 by incorporating the entire text of Article XXI of the Zoning Ordinance, and designating that as the Building Code of the Town of Seabrook.**

T. Morgan did some research on this and consulted with F. Welch. He concluded that, due to the legal complexities of this, the board should table this and take it up next year.

**Motion: P. Garand Table until next year, revisit this in 2005**

**Second: P. Himmer Unanimous**

**4.) Add the following to Article III Section L of the Subdivision regulations after the word "required"**

**"and all monies relative to land development owed to the Town by the applicant."**

Chairman Foote stated that this will insure that the Town can collect outstanding debts due. Chairman Foote polled the board for questions or comments. All members present liked it as written.

Chairman Foote asked if any of the public had questions or comments. No response.

**Motion: P. Evans To adopt into the Subdivision Regulations**

**Second: P. Garand Unanimous**

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### 5.) Replace Article V Section A of the Subdivision Regulations with the following:

**"A – An Engineered Plan: Eight paper copies, one original mylar, and a digital copy that is compatible with the Town's software."**

T. Morgan noted that what we are changing is the description of the digital copy by deleting all reference to "AutoCad".

Chairman Foote polled the board for questions or comments. All members present approved as written.

Chairman Foote asked if any of the public had questions or comments. No response.

**Motion: P. Garand To accept into the Subdivision Regulations**

**Second: P. Evans Unanimous**

T. Morgan asked for a moment to go over some procedural items. It was granted. He directed the board's attention to the provided copy of NH RSA 676:4, the State law that governs Planning Board Procedures. He explained the need to vote on accepting a plan as complete, and then begin deliberations to approve. He further explained the difference in terminology of accept and approve. The board should get better at parliamentary procedure and choice of words.

P. Garand inquired about requiring studies for review. T. Morgan read from the RSA for guidance. He explained that it is important the board take formal action for these two phases. In the past the board kind of rolled everything into one. It is possible to accomplish both phases during the same hearing.

Chairman Foote brought up the proposed plan checklist provided by F. Welch. They will help the board determine if a plan is complete and ready for acceptance. P. Garand noted that we should insist on waivers be in writing, it would help with our review of the application.

Chairman Foote suggested that as a formality we should motion to adopt the checklists as part of our administrative paperwork.

Public attendee P. Stockbridge inquired about the requirement of other permits prior to acceptance. T. Morgan replied that sufficient material must be available for the board to come to a reasonable conclusion about the proposed plan.

Chairman Foote added that per advice of legal council, we can insist that there be evidence of application for other permits, but we cannot hold up deliberations until the permit is issued.

Chairman Foote summarized for the board that the board must accept a plan for deliberation and upon completion of deliberation we either approve, deny, or continue.

**Motion: P. Garand To approve use of the plan checklists**

**Second: P. Evans Unanimous**

### **Public Hearings on applications:**

Chairman Foote opened the public hearing at 7:25

### **Case #4-49 – Proposal by John and David Tucker for a 5-lot subdivision at 136 Walton Road and Washington Street. Tax map 10, Lot 93**

Henry Boyd of Millennium Engineering represented the proposal.

P. Garand noted that H. Boyd was not present during the reading of the letter from the board of Selectmen. Chairman Foote asked H. Boyd if he was aware of the letter. He replied in the affirmative and that he is a bit startled to the point of being at a loss for words.

H. Boyd stated that it appears to be much confusion in regards to this application and the nearby abutting proposal. It has embarrassed him in front of his clients because of the board's lack of direction on how to proceed. He was under the belief that waivers were granted to reduce the width of the ROW and the pavement width during the last review of this case. He explained that the safety requirements could not be met with access from Walton Road. He noted that the proposed duplex lots meet out regulations and at the request of the board added note 5 to page one restricting those lots so single family dwellings. He noted

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that the board has to understand the strange and odd position he is in. He doesn't know what to do here. He noted that the owners are not impacting the large lot on Walton Road. They wish to maintain the historical integrity of the home on its land. He noted that it is only one more lot than a minor allows. As soon as there is room, the road expands to the standard requirement. He asked what is the impact on the marketability of these lots if it remains a private road. It is as compliant as it can be with the major regulations. He can add two more feet of pavement, and then we are just back to one waiver for the initial ROW width. He questions what is the jurisdictional procedure after a waiver has been granted.

Chairman Foote responded that the letter from the Board of Selectmen notes their, and the department head's concern about snow plowing and fire fighting equipment in the narrow section at the intersection of another road. She believed the concern was the width of shoulder. H. Boyd suggested doing away with the sidewalk.

F. Welch added that the board has granted the waiver; it is now a condition of the sub-division approval. The board cannot rescind the granted waiver without leave from the applicant to do such. That is double jeopardy. He noted that the board had not voted to accept the plan and should probably do that tonight. If the selectmen do not accept the road, it could be a special warrant article put to the vote of the people.

T. Morgan asked to respond to item #1 of his memo. It reflects the opinion of the Selectmen's Office. He suggested that one thing within H. Boyd's power is to knock one lot off the plan, then it would conform to the minor sub-division requirements. H. Boyd replied that the waiver is a meritorious request. He noted that one of the owners is present (Janet). If he had known the first night that this wasn't going to go he would have designed 18 ft. of pavement, a smaller cul-de-sac, no sidewalk, and less drainage at a considerable less cost to his client.

Chairman Foote noted that we have already gotten over the hurdle of the waiver. The waiver has been approved. H. Boyd noted the waivers are now in the notes section of the plan.

F. Welch mentioned that H. Boyd's concerns might be premature. First the sub-division must be completed, then go through the maintenance period. Three years from now it may be a different Board of Selectmen and they may vote to approve the road. The alternative is to request the local legislative body accept the road on the ballot. H. Boyd agrees with F. Welch that the waivers have been granted, we have to continue from here.

Chairman Foote continued with the items in T. Morgan's memo. Item number 2 has been dealt with. Item 3, town engineer review, the folder has no letter from Mike Fowler in regards to the drainage study.

P. Garand asked if we should accept this application for review. Chairman Foote asked if that is a motion.

**Motion: P. Garand To accept this application as a complete application for review**

**Second: P. Himmer Unanimous**

T. Morgan found a letter from M. Fowler dated October 14<sup>th</sup>, at that time no drainage calculations had been submitted. It does recommend a security of \$101,300.00.

F. Welch asked that when drainage studies come in that one is provided to the DPW for review. The director is responsible for implementation for Stormwater phase II regulations. H. Boyd asked how many copies does the board want submitted. Chairman Foote replied three. Chairman Foote instructed the secretary to be sure the board's copy gets to John Starkey for review.

Number 4 of the memo: H. Boyd says he believe that Mr. York has added the vegetation types. H. Boyd asked about the use of burning bush and barberry, it is soon to be classified as an invasive plant. Chairman Foote replied that Japanese Barberry is very invasive, the native is not. H. Boyd asked for direction for which species should be used. Chairman Foote mentioned several plants that would be acceptable: Witch hazel, Red osier dogwood, blueberry, elder, American Hazel. The deer would love rhododendron.

H. Boyd asks the board to note that they did change the cul-de-sac as requested.

**Motion: P. Garand To set the site security construction amount for \$101,300.00 with a two-year maintenance security of 10% to follow.**

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**Second: P. Evans Unanimous**

Chairman Foote asked if there was any other discussion. P. Garand discussed the date for continuance with H. Boyd.

**Motion: P. Garand To continue until January 18, 2005**

**Second: P. Evans Unanimous**

W. Morrill told the board that he would not be opposed to allowing H. Boyd to continue with his next case so he could go home sooner.

### **Case # 4-58 Proposal by Charles & Francine Felch for a lot line adjustment at 23 & 27 Worthley Avenue. Tax Map 16, Lots 69 & 70**

Henry Boyd of Millennium Engineering presented the proposal. He stated that one comment he had a question about, but P. Grand informed him it really wasn't an issue. Chairman Foote interrupted and told H. Boyd that the board was all set with that issue. H. Boyd went on to describe the intent of the plan.

P. Garand noted that the board needed a waiver for the zoning boxes, neither fit in the lots. H. Boyd agreed, but neither would have fit in the existing lots.

Chairman Foote noted that JoAnne Page had very nicely combined all the department head comments into one printout. Fire, Police, DPW, no problem. Conservation Commission requested to see the edge of brook and 50 ft. set-back on the plan. H. Boyd said that they had to set a rod and he would measure the distance at that time. He is sure the brook is more than 50 ft. from the property line. He would report that distance to the chairman directly. An additional comment by the Conservation Commission is a request that the trees planted during the sewer project remain undamaged or relocated. C. Felch responded that he has no intention to remove the trees. Sewer, Water depts. had no problem with the plan.

P. Garand asked if it met all the requirements for a complete application. T. Morgan replied except for those items that require waivers. H. Boyd requested a piece of paper so he could write the waiver request. H. Boyd read to the board the written waiver request and handed it to T. Morgan for adding to the file folder.

**Motion: P. Garand To accept the application as a complete application for review.**

**Second: P. Himmer Unanimous**

Chairman Foote asked if there were any more comments from the board or public. P. Garand noted that the topography was pretty flat with a slight slope towards the brook.

Audience attendee P. Stockbridge asked about the sewer easement in the parcel. C. Felch said that it would not be affected. P. Stockbridge requested that nobody touch the beaver dam, the pond looked good.

**Motion: P. Garand To waive the topographic and 100 ft. box requirements.**

**Second: P. Himmer Unanimous**

**Motion: P. Garand To approve the lot line adjustment**

**Second: P. Himmer Unanimous**

Chairman Foote noted that we will hold the mylar for 30 days in case of any contentious abutters. P. Garand noted for the record that his last name is spelled G-a-r-a-n-d with a capital "G"

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H. Boyd wished the board a Merry Christmas. Mary Ganz produced a dish of home made cookies. The Chairman called for a 10 minute break. The meeting resumed at 8:25

### **Case # 4-57 Proposal by Jean . Gove 1987 Tryst for a 5-lot sub-division and lot line adjustment between Foggs Lane and Gove Road. Tax Map 7, Lot 50**

Wayne Morrill of Jones and Beach Engineering presented the proposal. He asked for a clarification because he missed the beginning of the meeting. He questioned the procedure of plan acceptance. Chairman Foote explained the correction in our procedures.

**Motion: P. Garand To accept this application as complete for review**

**Second: P. Evans Unanimous**

Wayne Morrill requested a continuance for this plan until January 4, 2005.  
Chairman Foote granted the request to continue until January 4, 2005.

### **Case # 4-57 Proposal by Nelson J. Murray to construct a 5,000 square foot restaurant at 692 Lafayette Road. Tax Map 8, Lot 47**

The board reviewed the available documentation for this proposal.

Wayne Morrill of Jones and Beach Engineering presented the proposal. He stated that a lot of the issues brought up in T. Morgan's memo have been addressed and corrected on the plans. He noted that the Murray family is in attendance. He described to the board the existing use of the property and the surrounding lots. He noted one of the board's concerns was the open space on the abutting lot 48-1, owned by the Murray's. Currently that lot does not meet the open space requirements. This plan intends to rectify that by removing pavement near the South Access Road. He then describes the proposals for the adjacent lot 48-1 including a sub shop and retail shop with their required parking. W. Morrill proceeded to describe this case proposal, which is under review. He calculates that 82 parking spaces would be required and the plan provides 90 parking spaces. He describes the curb cut for Rt. 1 then acknowledges that 32 parking spaces for this proposal are located on the adjacent lot 48-1. The snow storage had been relocated to avoid proposed landscaping. He proposes a concrete sidewalk along Rt. 1 and in front of the building on lot 48-1. There will be a painted island for pedestrians to access the parking area.

P. Garand asked about cross access between lots. W. Morrill replied he would get to that.

W. Morrill continued with the presentation and began discussing the removal of the signs and installing two new signs, one on lot 47 and one on lot 48. The drainage will include a leaching catch basin. The old design's drainage would not work with this plan. The drainage for lot 47 is a small infiltration pond at the rear of the site with surface flow and a roof drain leader from the building.

Utilities are currently overhead, the proposal will place the wires underground to a pad-mounted transformer to service all the buildings.

The proposed restaurant will have a 3,000 gallon grease trap to the sewer manhole with a tie in to sewer manhole #59-A. The sub shop will have a 1,000 gallon grease trap.

The water will be from the existing water line that services the back building. The 1-inch irrigation line will be abandoned and they will install a 6-inch water line.

Lights will be 20 foot high light poles with shoebox style lights, vertical bulbs. All wall mounts are downcast wall mounts with shielding. The fixtures are depicted on this plan. All light will be on timers that reduce the values during non production times.

Landscaping conforms to the sub-division regulations. Additionally there are two Liberty Elms.

W. Morrill believes most of T. Morgan's concerns have been addressed, except for the rip-rap going into the pond. He feels that it is a commercial site and the rip-rap helps to improve the sedimentation in the pond.

Additionally the access onto Rt. 1 will be full access, not the right in-right out as requested by the board. The application to NHDOT for a driveway cut was included with the application.

Some of the notes on the plan such as snow storage on landscaping have been removed.

There is no client at this time, when a client is selected, the architectural elevations will be provided to the board for review of the building.

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One outstanding item is the request for the cut from Mc Donald's to this site. There is a cut towards the south access road via lot 48-1. He then explained the cross easements amongst the CVS, Pizza Hut and McDonalds excludes this lot from a wide range of restaurants if there is a cross connect to those lots. Also it could be a maintenance responsibility problem. He read the language from the NHDOT permit for the other lots.

T. Morgan noted that D. DePorta supported cross connects to keep the traffic off Rt. 1. He also challenged the interpretation of item #2 of the driveway permit from NHDOT for the other lots.

P. Garand noted that this lot contains part of the Church property and is part of that sub-division, with additional land added to it. The cross connect was part of the original approval of the other lots.

Chairman Foote interrupted to remind the board that we have yet to vote on acceptance for deliberation. She asked W. Morrill if he was done with his presentation. She then told the board that they would have to decide if they had sufficient information to begin deliberations. She polled the board for their opinion. P. Evans asked T. Morgan if aside from his comments did the department managers have any concerns not addressed. T. Morgan replied not that he was aware of. If it is not complete, it is pretty close to it.

**Motion: P. Garand To accept this application for review**

**Second: P. Evans Unanimous**

P. Garand discussed the signs and that two free standing signs on a lot are not allowed. He noted that wall signs would be allowed. W. Morrill explained that the intent was to bring the signs into compliance. He was also concerned about the cross easement. We know there will be a large retail box beside this site and every effort should be made to keep the traffic off Rt. 1.

W. Morrill discussed the cross easement and the difficulty of creating it.

Chairman Foote directed the boards attention to sheet C-4, at the back of the lot there might be room between the detention ponds for a cross access. W. Morrill said that they would need McDonald's permission and it would make their lot non-compliant with the open space requirements.

There was a discussion of trash blowing in from McDonalds, plus a large storage container on the site. P. Garand said the storage container did not have wheels, thus it was in violation of the zoning ordinance. Within the next five years there will be no storage containers along Rt. 1.

T. Morgan reminded the board that the original sub-division required these cross connects. He is a bit disturbed that after that plan was approved this agreement between the assorted parties was created, which we had no knowledge of. It goes contrary to our intent. W. Morrill believes that many of the retailers along Rt. 1 have such non-compete conditions. T. Morgan finds it unreasonable that such an agreement would negate a cross connect. As the pieces were sold they agreed to the conditions of the plan.

Nelson Murray said that those lots are separate form this proposal. P. Garand noted that they were a part of the original sub-division of which he combined a part of his lot with a section of the church property to create this lot. N. Murray said NH DOT took by eminent domain part of his property for Rt. 1 and he traded with Scott Mitchell what he lost to NHDOT for a piece of the parcel back then.

Chairman Foote informed N. Murray that part of this parcel we are looking at tonight was part of the church parcel. The combined parcel was part of the original sub-division and the conditions set at that time apply to this parcel as well.

T. Morgan added that the board's job is to insure smooth traffic flow. It is not appropriate for the owners of these lots to enact agreements that go contrary to the intent of the board, without notifying the board of such agreements.

Chairman Foote stated that the restrictions were put on these lots unbeknownst to the Planning Board. The Planning Board intended cross connects and for there to be an agreement that goes contrary to what the Planning Board approved is quite a slap in the face.

N. Murray said it was done and we are stuck with it. Chairman Foote replied that we are not stuck with it, the board could revoke those plans for restricting the required cross easements.

W. Morrill said that he doesn't believe it forbids cross easements, it just restricts the types of use if there is a cross connect.

F. Welch noted that they may be able to restrict privately but they can't restrict the Planning Board's order. And they can't restrict the fact that an order is part of the Planning Board's approval. If the

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Planning Board approved that, it will go on that site, whether they like it or not. This was part of the original approval and the planning Board has statutory authority to enforce that by revoking their site plan approval if they don't cooperate. They have the authority to reopen the hearing and revoke the approval.

Chairman Foote said that during the original plan review for the church lot, it was never mentioned that the proposed businesses may not want a similar business next door so they will not allow the cross connect to happen. It appears that these businesses are doing their own agreements to prevent competition. The Planning board can't bring that into consideration. We have to look out for the best interest of the Town, the public and traffic. Just because these guys have an agreement, it doesn't mean they have an agreement with what might be coming next door. Part of the original site plan had a condition that there will be cross connects for all parts of the original piece. The parcel we are looking at tonight is approximately half from the Parsonage piece. The cross connect is actually on the Parsonage part of that parcel.

P. Garand asked N. Murray if when he made the agreement to do the land swap was he was aware of the restrictions placed on that parcel as far as the restaurant? N. Murray replied that they came and asked if he was interested in cross connecting. P. Garand asked if he was aware of the board's conditions of approval? Was he present at those meetings? N. Murray said he heard strictly by hear-say. P. Garand asked if he was notified as an abutter? He replied he would have to go back and check the record to see if he was properly notified of that meeting. P. Garand believed he would have been as part of the property owners of that sub-division.

W. Morrill noted that the sub-division happened prior to any businesses occupying these lots. N. Murray may not have been aware of the easement agreement documents.

P. Evans asks W. Morrill about the snow storage in front of the building and along Rt. 1. He is concerned that huge piles of snow will restrict the line of sight for access onto Rt. 1. W. Morrill replied that there is an area on lot 48-1 for snow storage, so the snow can be moved to that area. The snow will not impact the line of sight at any time.

Chairman Foote voiced her concern that the pile of snow could get pushed a little to hard from the lot and a huge pile of snow ends up in the traffic on Rt. 1. W. Morrill noted the sidewalk on Rt. 1 will help prevent that. Chairman Foote also noted that it appears snow is to be stored on top of a catch basin (sheet C-4, LCB2). W. Morrill replied that will be removed.

P. Garand had concerns about the sub shop being included in this application for a restaurant on this lot. T. Morgan agreed that is a good point the sub shop should be a separate application. Chairman Foote doesn't believe either the sub shop or the retail shop should even be discussed as part of this plan.

Rob (Cronin ?) of Jones and Beach Engineers was under the impression that the abutters to lot 48-1 had been notified. He was advised that was due to the parking easement. P. Garand informed the board that he had told the owner of that property if they intended to go forward with the sub-shop they would have to apply to the Planning Board due to change of use. He wanted the applicant to understand that he was not getting an approval for a sub shop with this application. N. Murray said he understood that.

Chairman Foote polled the board for any more questions or comments. T. Morgan asked if all his items had been addressed. W. Morrill quickly went through the comments. T. Morgan asked how many light poles. W. Morrill said 9 single polls with a total of 16 poles at a height of 20 ft. The elevation review would require a return trip to the board at a later date when they know who will be the occupant.

T. Morgan asked what was the likelihood of revising these plans when he comes in with the elevations. W. Morrill replied that the parking spaces and building size is designed to most larger chain restaurant requirements. There may be minor changes to 'bump-outs' on the building. The parking should be sufficient. He believes it will be a "Unos". Right now they are trying to get an approved plan so they can go out and market the site.

T. Morgan wanted to know if there was an expiration on the parking easement. W. Morrill replied he expected it would be a 99-year lease that goes along with the site plan. P. Evans noted we would need a copy of the easement as a condition of approval.

Chairman Foote asked if any abutters had anything to say. Catherine Adams questioned if the parking was sufficient. W. Morrill replied this is about the same as Applebee's and their back parking is hardly ever used.

F. Welch requested that as a condition of approval before an occupancy permit is issued they have a pre-treatment permit that the sewer department issues. Should the drainage change a Phase II groundwater permit would be required. The right turn only onto Rt. 1 is desired. The parking easement should have a clause that it cannot be extinguished except by approval of the Planning Board.

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Chairman Foote noted that it looks like we are not ready to approve this. They should try real hard for the cross connect. The elevation drawings are needed. W. Morrill asked if that could be a condition of approval, they would come back with the drawings. Plus a site security amount is needed. P. Garand asked if M. Fowler has given us a letter. There was nothing in the files.

**Motion: P. Garand To continue until January 4, 2005 at 6 PM**

**Second: P. Himmer Unanimous**

### **Case # 4-59 Proposal by Border Winds LLC to erect a 2,400 square foot contractor's job shop at 7 London Lane. Tax Map 5, Lot 8-10**

P. Garand requested that before we look at this he needs to note that Boarderwinds sub-division has drainage that goes onto this lot. Right now there is no resolution to that case. At this time that drainage situation has not been resolved. How do you expect us to act on something that is involved in the courts at this time?

F. Welch said that it is our understanding that the lots have been conveyed without the easement deeds for the drainage structures. As a result of that the developer who is proposing to develop this is obligated to provide those drainage easements otherwise the drainage of Border Winds will not work.

P. Garand stated that until that is resolved, this is premature.

W. Morrill asked if the lots in Border Winds were conveyed with no easement deeds for the actual drainage structures? They were noted on the plan. F. Welch replied that nothing has been conveyed to the town. Where this lot is the same developer, this should be resolved before the board takes further action.

A representative from Jones and Beach identified as Rob stated that aside form the legal issues, the functionality of the drainage isn't going to be impacted by either granite curbing or swales. All the water will end up in the detention pond.

**P. Evans interrupted and noted that before we get into this any further he had to recluse himself due to being an abutter.**

P. Garand noted we no longer had a quorum.

F. Welch said we could discuss the issues but the board can't take action.

P. Garand asked how can we go further with the Border Winds drainage issue unresolved. Until the drainage easements are signed we will not review other plans that interact with that drainage.

Eric Sarri of Jones and Beach asked if we could discuss the application without taking any action on it?

Chairman Foote noted that we do not have a quorum and it brings into violation having two or more members discussing a plan.

E. Sarri asked if we could go onto the next plan.

Chairman Foote said all the drainage interconnects between the sites. The Border Winds drainage outfalls onto this parcel, this drainage outfalls to the London Lane drainage and so on all the way down through these plans.

P. Garand noted that the next four cases all are the same developer as well as interconnected with drainage.

T. Morgan suggested we skip this and move on.

P. Garand says they are all incomplete. F. Welch read some of the department review comments. Because of the cascading drainage they should be presented with a plan that shows all the drainage for the sites, along with the individual site plans. Easements for pass and re-pass for inspection of the wetlands are needed. No drainage study for DPW review.

E. Sarri said the drainage was designed so that once all the lots are developed, the total result is no net increase in run-off. He said that the submitted drainage study covered all 4 parcels. He didn't submit the same study for each plan.

F. Welch noted that virtually all the wetlands on the lots in Border Winds have been filled or otherwise impacted. We now need to see easements to insure that these wetlands are going to be protected, especially because they will receive outfall from the detention ponds.

In Border Winds during a drought two summers ago water was running at a very fast rate out of the pipe into the detention pond. The only reason for this is basement drains connect to the storm drainage

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or leaching pipes have been run underground. They are draining the whole area. Plan 8- 50 has construction in a no cut zone. Parking spaces are not calculated or shown on the plan. On one plan it shows a 5-inch electrical cable going through a 3 inch conduit. No provision for fire alarm signals. There are a lot of little things that all go to making these plans not complete. Our main concern is the drainage.

Chairman Foote states that she suspects that the original drainage calculations for Border Winds is no longer accurate due to the basement connects and leaching pipes. If that detention pond is full in a drought, how can it accept a heavy rain and work as intended. Because these drainages all inter-connect this is our only way to insure we get the deeded easements to maintain the detention ponds in the future. Right now this industrial site would be responsible for maintaining the Border Winds detention pond because it is on this lot and the Town has no obligation or easement.

F. Welch noted that the Fire Chief isn't sure he could get his ladder truck to work on this lot. The space required for the angle of repose would put the truck into the woods and wetlands.

P. Garand noted that this is in our wellhead protection area and there are large gravel areas with no indication of their use. Is it a storage area for 55-gallon drums full of chemicals? Also on a further lot down where you come over the crest of the hill of Ledge Road, do we need to add a decel or turning lane. Do the trucks going to Poland Springs have enough breaking room if the vehicle in front of them turns into that lot's driveway? W. Morrill asked if he was talking about lot 120? He replied in the affirmative.

W. Morrill wants to make sure he gets it right when he goes back to Mr. Colliander. What this board is saying is none of these lots will be reviewed until the Border Winds drainage is resolved. F. Welch said that until the town receives deeded easements for the drainage structures, this detention pond is across the line, it isn't even in the Border Winds development. Our concern is that those be taken care of because the drainage is sequential in all of these lots.

F. Welch suggested that W. Morrill obtain from P. Garand a copy of the notes from the design review by the department managers. Chairman Foote noted that those notes were not included in our informational package. P. Garand said a copy was placed in the Planning Board's mailbox.

F. Welch explained to W. Morrill the intent of the design review and the improvements to the review process.

Chairman Foote continued cases: 4-59, 4-60, 4-61 to January 18, 2005

**Peter Evans rejoined the board at 9:35 PM.**

### **Case # 4-62 Proposal by Pine Street Realty Trust to expand the Pro-Wash car wash at 495 Lafayette Road. Tax Map 8, Lot 24**

Rick Lansy from Lynnfield Engineering presented the proposal to the board. He is seeking approval for a 3,000 square foot addition to the westerly side of the building. The intent is to allow year round detailing in two new bays.

P. Garand asked what the total square footage of the building would be with this addition. If it is over 7,500 sq. ft. the building would require sprinklers. It was decided the size would be over the 7,500 limit.

R. Lansy said the addition would be concrete block. The vegetated plantings would be replicated in front of the drive through bays to maintain the open space area. There would be no additional water usage.

The photometric plan indicates no increase in light. There will be two new wall packs on the new addition. P. Garand asked for a cut sheet for the lights. The engineer responded that the make and model is on the plans.

P. Garand discussed the parking requirements and wondered if those shown on the plan met our parking requirements. There are 3 spots plus one handicapped spot. The engineer said there would be 3 to 5 employees. P. Garand informed him there would have to be more parking spots.

The sewer industrial pre-treatment permit already exists. P. Garand asked if there would be floor drains in the new addition. The engineer replied that they weren't necessary. Chairman Foote asked about the water dripping of the cars and from snow. It was decided that the floor drains would have to be connected to the car washes water reclamation system.

P. Garand noted that we need the cut sheets for the lights, increased parking, sprinklers, and a 6-inch water main for the sprinklers.

## Minutes for December 7, 2004

Chairman Foote polled the board for any additional comments or questions. P. Garand said he would not accept it at this time due to the parking, sprinkler and lighting cut sheets. P. Himmer and P. Evans agreed with P. Garand.

Chairman Foote asked the public if they had any comments.

F. Welch noted that there should be a "no left turn" sign at the exit onto Pine Street. Also there is a question about the turning radius exiting the tunnel wash. Chairman Foote said that she drives her Mother's Expedition through there. The engineer said if an Expedition could make the turn, it should be OK. What is the vegetation in the new islands, no new signage noted. Specifications of on site stormwater drainage, need to include utilities on the plans, will NHDOT require a change to the curb cut?

**Motion: P. Garand To continue until January 18, 2005 at 6 PM**

**Second: P. Himmer Unanimous**

### **Other Business:**

F. Welch informed the board about the status of the Border Winds court case. The judge has decided to include the road plowing and lights into this case. He does not know if this will extend the resolution of this case if the developer contests this decision.

Chairman Foote closed the meeting at 10:10 PM

Minutes revised and resubmitted by:  
Susan Foote, chairman