

PLANNING BOARD MEMBERS PRESENT: Chairman Robert Brown, Vice Chair Susan Foote, Karen Knight, Selectman's Representative, Paul Garand CEO, Mark Preston, G. Keith Fowler, Peter Evans, Alternates Richard Dodge, Michael Lowry. Others Present: Thomas Morgan, Town Planner, Michael Fowler, Town Engineer.

MEETING OPENED: Informal at 6:05 p.m.

SUBDIVISION REGULATIONS:

Tom Morgan distributed copies of Draft Subdivision Regulation Ideas provided by Town Manager, Fred Welch. Pages B through G are an analysis as a result of being reviewed by Tom Morgan, Mike Fowler, and John Starkey, DPW Manager.

S. Foote discussed J. Starkey and Joe Boccadoro's desire to have a work session with the Planning Board concerning proposed zoning and site plan regulations to bring the town into better compliance with the EPA Phase II Stormwater. They need to meet with us prior to May 1, 2004. He has to report what the Town has done in the past year to bring things into compliance; one of them being to meet with Planning Board to incorporate regulations. This report has to go to EPA and be dated by May 1, 2004 or we are in default.

Chairman Brown questioned if our design standards were more stringent than what was presented this evening. M. Fowler - this is just a different way to do it. If you were to incorporate what is listed, it would definitely be inconsistent with what we've done. S. Foote - while some sections are very good and we should incorporate those regulations, no one is suggesting that we throw away what we have. M. Preston - the minor subdivision section has major changes. T. Morgan - their definition of minor is entirely different from our language. M. Fowler - the danger of a new set of regulations is that it opens up a bunch of loopholes, things that have been previously fine-tuned by this board. There are a number of good elements in there, mainly bond and surety information. S. Foote - especially interested in the Inspection Checklist. S. Foote - Suzanne Griggs has requested a meeting with the board about the Bonding Sequence, suggesting there should be a packet with an explanation of bonds, a flowchart, what the applicant has to do and where they have to go. This would be handed to the applicant at the time they submit their application. The possibility exists of an applicant filling out required paperwork at the time they submit application. This paperwork would be held by us, knowing that eventually we are going to approve or disapprove the project. 90 % of paperwork will be ready to go, so that on the night we approve it, we will have paperwork ready and the Secretary will just have to fill in the numbers.

Chairman Brown questioned T. Morgan's comment on prohibiting reserve strips (page 33). P. Garand offered that these reserve strips could create a problem, citing a situation on Deer Crossing. T. Morgan - reserve strips creates more cul-de-sacs in town. Chairman Brown thought whole purpose of reserve strip was to prevent excessive use from a minor subdivision road. H. Boyd, Jr. offers that it also creates frontage. S. Foote - sometimes reserve strips have been used inappropriately to create frontage for extreme "pork chop" lots. P. Evans - questions that frontage that isn't used to access lot, in the absence of other frontage, is it really frontage at all. T. Morgan - if you don't like those kinds of lots, you can outlaw them. Chairman Brown - how would this be controlled? How can you prevent the lot owner with a reserve strip, to not access a driveway off this strip? S. Foote - in your stipulations of

approval, you specify that that specific lot's driveway shall be off a specific street. T. Morgan - planning board is the only board that can issue driveway cuts. P. Evans asks M. Fowler what parts he would like to see incorporated into the boards present regulations. M. Fowler - The number one item we need to look at is to clarify the bond issue, criteria on how we go through that process and how it gets posted. Also need to look at regulations with the Phase II Stormwater Management. Although regulations are helpful and something to think about and discuss, there are too many inconsistencies in it that will cause confusion. S. Foote - our regulations are not so wordy that you lose the intent of what is being said. T. Morgan suggests that if you make an ordinance too wordy, it opens up engineering loopholes. H. Boyd, Jr. offers that Seabrook has easiest-to-use regulations of some 25 towns he has worked in. M. Fowler - what we have, works essentially. P. Evans - asks M. Fowler if section 7 about bonds, works. T. Morgan - there is a difficulty keeping track of the bonds. Wording in Section 7 is helpful, but possible administration change would be more helpful. Putting one person in charge of the bonds - make them accountable, a sort of central clearing house for all bonding. S. Foote - understood that presently the information concerning status of bonds was being input to a database and available on computer located in office upstairs. T. Morgan - one reason we need to get handle on bonds is that, typically they will expire in two years; there is a need to have 30 day notice that bonds are about to expire, to make sure that the improvements have been done. S. Foote - wording may be an issue. What administration calls a bond and what we understand to be a bond. T. Morgan sees a larger problem, that no one person in this building is accountable for the bonds. Someone needs to be assigned that task. S. Foote - it has to be in the Finance Department. P. Garand - suggests need for checklist to walk people through the process. M. Preston - T. Morgan is looking for someone to centralize this information so that it can be accessed at any time. T. Morgan - I have been tracking these bonds as they leave this board and then they go off "somewhere". S. Foote - Better communication and feedback. P. Garand - bonds should be handled by Finance Department as Planning Board is not the only entity to have bonds. Needs to be in a centralized office. The treasurer is the one that goes to the bank with the person to sign the passbook or whatever is issued. This gives the Town the jurisdiction over that money. S. Foote - Finance Department is willing to step forward to help with this situation. Chairman Brown and S. Foote suggest inviting Fred Welch, Suzanne Griggs, and Carol Perkins to Planning Board work session to discuss bond issue and how they want to work it out. Chairman Brown suggests that the work session be 4/6/04.

T. Morgan - asks Board to keep in mind that not every town wants to look the same; they have different goals and aspirations for how they want their town to work. Most subdivision regulations want to make towns look like typical suburbia - that doesn't fit for Seabrook. Our regulations are more tailored to us as a Town. Chairman Brown suggests that they go through regulations, piece-by-piece and take the best of what they offer, and change our regulations.

S. Foote - believe we should incorporate the appendices for subdivision inspection schedule, applications for the inspection, the signoffs for the different departments for inspection. All that should come back to us before considering reducing a bond. M. Preston - need to consider review sheet sent to departments be revised. Revise it to something simple; Police and Fire are going to be safety, water, etc. Added that the street light committee should be included. S. Foote - talked with Al Weare on streetlight committee. A. Weare doesn't have much input on a new plan. There is currently a discrepancy on the number of lights actually in different developments and what we are getting billed for by Public Service. Some lights are listed on the plan, but do not exist in reality. S. Foote states that A. Weare would prefer that no lights be indicated on a plan, to alleviate this discrepancy.

T. Morgan suggests that a sub-committee be appointed to take the new regulations section-by-section and review them. P. Evans suggested reviewing a section a week (meeting). P. Garand asks about the need of looking at the regulations for signage in town. Current regulations are too liberal.

There was a discussion about being televised. S. Foote - suggests that there is a need for an omni-directional boom microphone hanging from ceiling because of large amount of paperwork splayed on the table. Present microphones will get in the way or be buried. Also a need for a camera that will point to plans being discussed, otherwise presenters are talking and the community cannot see what is being talked about.

At 7:00 p.m. Sue Foote presented Bob Brown with a statue made from, and in the shape of the Old Man in the Mountain in honor of the years he has served on the Planning Board.

MEETING OPENED: Chairman Brown opened the meeting at 7:05 p.m. Chairman Brown informed the two alternates present that an elected board was seated. They could participate in the discussions but would not be allowed to vote on any motions.

MOTION: Susan Foote To accept the minutes of February 17, 2004, as written.
SECOND: Peter Evans VOTE - G. Keith Fowler, Karen Knight, Mark Preston abstained. PASSED.

#3-41 - Proposal by Lafayette Realty Trust to construct a 3-unit 5,250 square foot retail plaza west of Lafayette Road, opposite Rocks Road, Tax Map 7, Lots 67 & 67-1. Presented by Eric Saari, Jones & Beach Engineers, Inc.

E. Saari addressed T. Morgan's comments:

- Driveway permit from NHDOT submitted, but not yet received.
- This plan is not in floodplain map area
- Agrees with bond amount of \$20,000.00
- Cross access easement with Sullivan tire - did research the signed plans in Town Hall do not show cross access easement. Approached Sullivan Tire to obtain easement, but they refused. The plan stands as such.

R. Brown asks if they have any prospective use for this plaza. E. Saari states that there has been some discussion with a few prospective tenants, nothing concrete at this time.

MOTION: Susan Foote To approve site plant for #3-41 - Proposal by Lafayette Realty Trust to construct a 3-unit 5,250 square foot retail plaza west of Lafayette Road, opposite Rocks Road, Tax Map 7, Lots 67 & 67-1. Subject to a bond at \$20,000 and it shall be an irrevocable, self-calling letter of credit or cash in a New Hampshire Bank or FDIC Bank that has offices in New Hampshire.

SECOND: G. Keith Fowler VOTE - R. Dodge, M. Lowrey abstained. PASSED 6-0

#3-43 - proposal by Mark Investments, Inc. to construct a Lowe's Home Improvement Warehouse store at 403 Lafayette Road, Tax Map 9, Lot 238-10. Present: Scott Mitchell representing Mark Investments, Inc., Wayne Morrill, Eric Saari - Jones & Beach Engineers, Inc., Rob Jess, Lowes, Rob Korff, Developer, Atty. John Daily, P.S. Atwood, Adele Fiorillo - NH Soils

S. Mitchell addressed T. Morgan's comments:

1. State and Federal Permits - NHDES Site Specific permit has been issued, NHDOT Driveway Permit submitted - waiting for approval, NHDES Wetland Permit submitted - waiting for approval, NHDES Dam Permit - received, US ARMY CORP OF ENGINEERS Wetlands Permit - not applicable.
2. Cross-access easements - referring to two separate accesses at site of possible future development. T. Morgan states that he wants to make sure that board makes a decision in favor of the applicant, that the record is clear that you would like to see two driveways. S. Mitchell states the record is clear, it is on the plans. T. Morgan suggests that this is part of the Motion.
3. Skipped number 3 - Planning Board Review period.
4. Mitigation plans on a website - not acceptable for Lowes. Copies available at Seabrook Town Hall with Building Inspector.
5. Added Yield sign in two places - two signs W1-2 on both crosswalks and on the detail sheets.
6. Future restaurant - From the beginning it has been part of the site plan, not planning to come back. Any changes to restaurant, will have to come back to the board.
7. Yes - seeking waiver for lights that exceed 20 feet.
8. Truck traffic - Previously discussed. In Rob Jess' memo as part of mitigation plan. Marked on plans - Note #28.
9. Sidewalks to be fabricated of asphalt. S. Mitchell stated that they will need waiver.
10. Discernable noise - No waiver will be requested.
11. Request that Irving entrance not be utilized - S. Mitchell agreed to do that - not an issue. S. Mitchell deferred to Board on possible emergency exit.
12. Bayside memo agreeing with traffic engineer that it would be a disservice to restrict the left hand turn out of Irving.
13. Abutters issues - Previously discussed.
14. Architectural elevations were previously discussed - S. Mitchell states that he believes P. Garand made determination that they would be fine.
15. Looking for bond amount from Michael Fowler. M. Fowler states, pending any changes that were going to be made through public comment or Planning Board, he will get that final number.
16. Progress Reports - S. Mitchell agreed. Mike will get reports on where they stand on permits and review everything at the applicant's expense.

W. Morrill - Added that a well has been added to the plan for irrigation for plants. All notes on the mitigation package from Lowes have been added to the plan and a hard copy for the Board's files.

S. Mitchell - states that Lowe's entourage wants it clarified that the average height of the building is 35 feet or less. Chairman Brown asks W. Morrill to reiterate that South entrance will be a left turn, a right turn and one coming in. W. Morrill - Correct, with four-foot concrete median separating them. Chairman Brown suggests that when they have restaurant elevations, to come to Board for input. P. Evans questions whether Note #15 has been resolved so that it is no longer ambiguous. T. Morgan -

there seems to be a loophole in that Note. W. Morrill - Reads Note #15 on sheet C3. P. Evans states that, in his opinion, there is a requirement for a waiver of Article 9, Section N, mitigation package not withstanding.

T. Morgan - W. Cox came to T. Morgan at 5:30 p.m. this afternoon. Agrees with plan for the most part, however, there are a few things he would like changed. The nine poles 35 feet tall require a waiver. There is some miscommunication between W. Cox and Jones & Beach on two poles (#44 & #45). They are stated on plan as 35 feet; W. Cox thought they were to be 20 feet. Also, wants to insure that lights marked "NL" for night illumination - that the hours the lights are on, coincide with the operation restrictions that are out in the back. S. Mitchell - that's fine. T. Morgan suggests to the Board that they put a stipulation that they meet one more time with W. Cox so that they are all on the same page. W. Morrill - states he believes that the illumination levels are for 20-foot poles. T. Morgan - W. Cox mentioned that North side of building shows higher than 15 feet and he (W. Cox) recommended 15 feet for that area. W. Morrill states that this is something they can do. T. Morgan - suggests they should meet again with W. Cox. S. Mitchell states that rather than meeting with W. Cox, he has no problem making the two poles (#44 & #45) 20 feet and the 15 feet on the North side of the building; obviously an error in the plan.

ABUTTERS

Mike Kettenbach, Demoulas Supermarket and Delta & Delta Realty Trust- Proponents did excellent job in roadway mitigation plan. We are participating with it and granting easements for it. Route 1 and the community as a whole will benefit from it. We are working with them to insure that the roadway will function in the future.

Helen Skaleris, Autumn Way - Questioned whether Home Depot has any light taller than 20 feet? Yes they do. T. Morgan stated that W. Cox felt that Lowes design was comparable to Home Depot's.

Ken Murphy representing Mr. & Mrs. Larry Harvey - My client still opposes proposal as it has been presented to you and request that the Board not approve it tonight. Referenced Site Plan Review Standards, Article #9 - minimize traffic congestion, traffic hazard, unsightliness, annoyance to other land users, erosion, and other effects detrimental to the abutters, the neighborhood, and the environment. Despite mitigation efforts, that is still going to be problem.

- In respect to restaurant, Mr. Chairman, they do have to come back for site plan review? Chairman Brown states that, in regards to square footage of building, the parking and drainage, which is incorporated into site plan, they are in conformance. The only thing that Board wants to look at is actual elevation of building itself. At that time, the board would only take questions pertaining to elevation.
- Traffic still a problem. Applicant hasn't presented sufficient evidence to Board that it is not going to be a substantial problem with exiting cars and backup on Route 1. Chairman Brown asks for clarification as to how he arrives at this conclusion given that traffic engineers were in concurrence about this issue. K. Murphy states that that is not how he read the report as it was submitted. He references report that Town had done as stating "reaching capacity" and "asking for more information".

- Discernable noise is still a problem - the generator, venting on roof, air conditioner units. Chairman Brown asks if he has decibel level for discernible noise. K. Murphy - No, he suggests problem is that the building is too close to Mr. Harvey's property and that is what is creating this issue. Chairman Brown reiterates that this is a commercial zone.
- Concerned about wetlands. Board should not approve before State Wetlands Board approves it. A huge amount for dredge and fill. K. Knight states that the Board can grant conditionally upon State issuing permits and that it has been done before.
- Concerned about process of construction on this site. Disruption in the dewatering of the area involved in creating retention pond, which is adjacent to Mr. Harvey's property. What will happen with trees and where will water go while pond is being constructed. S. Foote questioned abutter's previous concerns for excess water in area, now concerned about dewatering. K. Murphy reiterates he doesn't know what will happen to the water during the construction of pond. K. Murphy gives his understanding of dewatering.
- Client doesn't agree that there should be a waiver for either the noise or the sidewalks.
- Client doesn't agree with S. Mitchell that No. 13 of T Morgan's comments have been properly addressed. The impact of stormwater runoff has not been address. Chairman Brown asks how he feels this hasn't been addressed. K. Murphy - how it is going to impact Mr. Harvey's property. Chairman Brown states stormwater runoff doesn't have anything to do with it. He has no water coming onto his property. This is why the detention pond is being constructed - to keep their own water on their own property. That has been addressed.
- Concern with impact of property values. Mr. Harvey feels he will have substantial depreciation of his property.

S. Mitchell states that, for the Board's information, Mr. Korf met with three out of the five abutters (Antonellis, Duggans and Charlie Lang) and have come to a satisfactory conclusion, with mitigation package they put together.

S. Foote asks what the distance is between sound-wall to where you are going to be excavating for the detention pond. E. Saari - From the property line to where we start cutting, there is about 14 feet, but the actual pool that goes down on a 3 to 1 slope, that edge of pool itself is 4 feet. S. Foote asks second distance building-to-building from back of Lowes to back of Mr. Harvey's home. E. Saari - 250 feet ±. S. Foote - almost a football field. E. Saari addresses dewatering, it may or may not happen depending on what you hit for groundwater, but can assure the Board the contractor on the site will comply with all the State and Federal regulations. That the water will be clean leaving the site, certainly won't flood an abutters property uphill, and it will discharge to the stream where it always has. Water will not impact these properties, if anything it will help dry up those properties; if dewatering happens at all.

M. Preston addresses Earl Perkins, abutter of Demoulas, as to how far his house is from Demoulas. E. Perkins states 100 feet. M. Preston states that there are refrigeration units on Demoulas property. He asks E. Perkins if there is anything he can add to this conversation. E. Perkins states that the refrigeration does not bother him "one bit", very seldom hears it, only if the bearings fail. E. Perkins states that "if I bought a house beside a railroad track, wouldn't I expect a railroad train to go by?"

T. Morgan presents memo as a punch list so that board could address waiver requests and any other issues that may require a waiver or not.

WAIVERS FOR #3-43 Mark Investment Inc./Lowe's Home Improvement Warehouse

MOTION: *G. Keith Fowler* *To waive Article X, Para. C - Poles #1 through #8 and #46 only, height to exceed 20 feet*

SECOND: *Karen Knight* *PASSED - UNANIMOUSLY*

MOTION: *Susan Foote* *To waive Article IX, Section K to allow the sidewalk to comply with the rest of the State's sidewalk on Route 1.*

SECOND: *G. Keith Fowler* *VOTE - P. Evans opposed. PASSED 5-1*

S. Mitchell states that he doesn't need waiver for Article IX, Section N concerning discernable noise. Chairman Brown concurs. T. Morgan suggests that to make sure the record is clear. The board needs to make a motion even if you do not feel a waiver is needed. P. Evans states that he feels that we cannot make them take a waiver, but that the mitigation plan is not a replacement for Article IX. Section N.

MOTION: *G. Keith Fowler* *Based on the professional opinion presented to the Board, we feel that no waiver is needed. Article IX, Section N.*

SECOND: *Karen Knight* *VOTE - P. Evans opposed. PASSED 5-1*

S. Foote states, for the record, concerning T. Morgan's comments of March 1, 2004, Item No. 12. Bayside Engineering letter, dated February 25, 2004, the second to last paragraph on the second page - "In summary, the study has properly evaluated existing and future conditions anticipated by the proposed development. Based on the study analyses, the recommended mitigation plan is shown to improve overall traffic operations".

M. Fowler wants some form of surety that the sound wall is installed and conforms to what the board wants. Questions final footage on the sound wall? W. Morrill - 1,150 feet of 10 foot high and 130 feet of 8 foot high.

M. Fowler - the number that they have submitted is \$664,000.00 and I would like to propose an additional \$100,000.00 to be split accordingly. \$70,000.00 for the value of the wall as an off-site improvement, \$30,000.00 for drainage detention pond conformance. I agree with what they have presented. T. Morgan asks if landscaping is covered under the bond. M. Fowler - No, would like to ask Board how they would like to proceed. Speculates that agreements have been made with individual landowners on their landscaping. S. Mitchell states that they offered \$5,000.00 landscaping allowance, which the developer will write a check to them and that it is up to the landowners to do what they want to do with the allowance. M. Fowler asks would that be covered by legal documentation. S. Mitchell - Yes, privately. T. Morgan reiterates that he was talking about on-site landscaping. M. Fowler - a bond amount for a site this size would be approximately \$20,000. This would be specified for landscaping purposes. M. Fowler will work with their schedule of values on this. S. Mitchell asks for a time limit on this. W. Morrill suggests a specification of one-year guarantee that plants stay alive. Chairman Brown - states the total bond amount shall be \$795,000. M. Fowler - There will be a final product that will be

submitted to the board. S. Foote asks how long for the landscaping bond and would it be separated out? M. Fowler - not sure that it is necessary to do that. S. Mitchell states maintenance agreement will cover all landscaping.

MOTION: Susan Foote *To set the bond for #3-43 - Mark Investments, Inc. to construct a Lowe's Home Improvement Warehouse store at 403 Lafayette Road, Tax Map 9, Lot 238-10 in the amount of \$795,000.00 to last for the term of two years, and that the bond shall be an irrevocable, self-calling letter of credit or cash in a New Hampshire Bank or FDIC Bank that has offices in New Hampshire.*

SECOND: G. Keith Fowler **PASSED - UNANIMOUS**

P. Evans suggests additional conditions of approval - referencing T. Morgan's comments dated March 1, 2004.

- Item No. 2 - The intent to require two easements for cross access.
- Item No. 4 - Mitigation plan made public.
- Item No. 6 - Board sees architectural elevations for the future restaurant.

ALSO,

- All permits approved.
 - North wall back at 15 feet and the North wall lights at 20 feet.
 - Garden Center to use their own well water for irrigation of plant products and for lot irrigation.
- Chairman Brown asked P. Evans if he was making a motion, and if so state it properly.

MOTION: Susan Foote *To approve project #3-43 - Proposal by Mark Investments, Inc. to construct a Lowe's Home Improvement Warehouse store at 403 Lafayette Road, Tax Map 9, Lot 238-10 pending these conditions:*

- There will be a correction on the lighting plan C8 for lights #44 and #45 - they should be 20 feet.
- The "wall-pac" lighting on the north wall will be at 15 feet height elevation.
- There will be two cross easements to the parcel to the South for future development.
- There will be architectural plans for the proposed restaurant on the front pad submitted when they are ready to develop said restaurant.
- The Planning Board Engineer, Mike Fowler will receive weekly progress reports to review and report findings to the Planning Board.
- The garden center will use their own well water for irrigation of plant products and lot irrigation.
- This is all pending that the required State Permits (Driveway and Wetlands et al), are concurrent with the plans that we have been reviewing.

- Should there be any substantial changes to the plans for any of the State permits, then the project will have to come back for a secondary review.
- Additionally the Board requires an as-built plan, both paper and digital, once the project is finished.

SECOND: G. Keith Fowler PASSED - UNANIMOUS

MOTION: Susan Foote To have Chairman or Vice Chairman sign the plans when the permits have been submitted.

SECOND: Karen Knight PASSED - UNANIMOUS

3-46 - Proposal by GRA Real Estate Holdings, LLC for truck sales at 11 Stard Road, Tax Map 4, Lot 9-11. Henry Boyd, Jr., Millennium Engineering representing Mr. Al Green with Mr. Rusty Lavin.

H. Boyd contends that they have addressed all the concerns that the Board had, particularly with regard to permission from the power company, as this site is heavily encumbered by the high-tension lines that run through it. There is a 200-foot swath that has been clear cut and maintained for years. Permission was secured before last meeting. H. Boyd, Jr. has chosen to leave Note #8 on the plan.

H. Boyd, Jr. addressed T. Morgan's comments:

1. Potential erosion issue - the earthwork that has been is done very orderly, very neat. It is fractured ledge and shale type material and is very stabilized - with little silt. H. Boyd, Jr. and P. Garand concur that Mr. Green should bring in State Wetlands scientist on site to flag wetlands and put silt fence up - That area, shown to be some 500 feet away from Mr. Green's activities.
2. Construction Stabilization Entrance Specifications - H. Boyd, Jr. concurs with this and asks Board to allow him to attach and make part of the proposal, the standard stabilization entrance that is typically submitted with subdivision applications, allowing that to be an addendum to the site plan. H. Boyd, Jr. believes that, at present, the construction stabilization entrance is in good order.
3. Atty. Craig Solomon's letter and Atty. Bruton's letter -
 - Hours of Operation - added to the plan and are 7 a.m. - 10 p.m.
 - Vegetative Buffers - Take into account the nature of the material in the hill and ability to support a vegetative buffer up on top of slope where stonewall is - would be very difficult to plant or replant with material or type of plant that would, in H. Boyd's opinion, have to be very drought tolerant, as there isn't a lot of native soil to retain plantings - it is ledge and shale. Have proposed a fence 4 feet off property line, along the stonewall and all the way down to toe of slope in area where abutters fill has obscured said stonewall and encroached on client's property. Approximately 450 feet of fence.

- Truck fumes and dust - There is truck traffic on that road generally, as it is in an industrial zone - more than will be generated on this site.
 - Fencing - previously discussed.
 - Lighting - Because this is unpaved surface, and temporary office sales trailer will be on site, they have elected not to light the site. We are not looking at off-site light pollution.
 - Pavement - asked that it not be paved at this point, realizing that, if they do pave, they will have to do full stormwater mitigation.
 - Utility as-built plans - H. Boyd, Jr. went to Warner Knowles, Water Department, concerning water lines and sewer lines - are not concerned. Note #5 states Sales trailer is to be serviced with water and sewer, exact location of lines to be determined by Sewer and Water Department. New lines to be shown on as built plan and filed with town Water and Sewer Departments. S. Foote requests that this is both on paper and digital. H. Boyd Jr., that's fine.
4. Bond amount for proposal - T. Morgan/Board wanted some surety in place that would take care of any issues that the Board would foresee having to take responsibility for and the applicant didn't go through with this.

P. Evans - there are no signs of commercial activity which actually prohibits them from storage of stock. G. Keith Fowler - disagree with P. Evans. Really no different than a car dealership, or something of that nature, with selling or leasing a product. You have to keep the product on site until someone comes to buy it or lease it. H. Boyd, Jr. - the whole application was to deal with the sales, rental and leasing of these trailers and that is what we have talked about from the beginning. Nothing has changed from our perspective, since the first time we were in here. The purpose of this is so that he can store the inventory while it's waiting for sale or lease.

S. Foote - Potential dust was brought up at last meeting. It was discussed the type of soils that you planned to bring in to grade the site with. H. Boyd, Jr. - we have a letter from Aggregate Industries talking about stone that doesn't exceed 2 inches. This was shown to M. Fowler and this is what we are planning. The $\frac{3}{4}$ inch stone binds up a little quicker, but may get more dust from fines coming off trucks. S. Foote - so there will be a crushed stone overlay. H. Boyd, Jr. - Yes, the 2 inch stone will produce less fine and more drainage capacity, stormwater will drain much better. M. Fowler - concur with what they are trying to achieve with larger size aggregates.

ABUTTERS

Francis Bruton with McNeil, Taylor and Gallow - will not address the public tonight because at 4:15 p.m. this afternoon he received a call from his office indicating that Mr. Green had called asserting that we have a conflict. He did not have a chance to determine that that was the case. Would like to ask the board to continue this hearing, to allow the abutters to get council that can represent them or at least allow him the opportunity to see if there is a conflict.

Mr. Arly Green - states he called office in the morning and left messages. He didn't hear back from anybody until after 3:00; that's when he called them. He realized conflict when he obtained copies of correspondence from Henry Boyd, Jr.

Francis Bruton - reasserts that he may or may not have a conflict. He thinks it only fair for abutters to be represented, as they so choose. He respectfully requests that the board continue the case.

H. Boyd, Jr. asserts that this is the third planning board meeting for this project. All concerns that have been brought up by the Town Planner, Planning Board and abutters have been addressed. He believes that they are in compliance, and that this is not an unrealistic use for this site.

F. Bruton - states that he is bound by professional rules of conduct not to comment on this case. So if he wanted to say something, he couldn't. He will just leave it at that and apologizes for the inconvenience.

M. Preston - I see abutters and interested people that are working for abutters, do they have to have a lawyer to speak? F. Bruton - My understanding is they prefer that and I think any applicant should probably be given at least that opportunity. I don't want to belabor it, I'm just telling you what happened, what I know and that's about the best I can do.

H. Boyd, Jr. - If the board is satisfied, after three hearings, hearing their concerns and allowing them to speak as long as they did the last time, and we've come back with these plans, addressing the concerns as we see, in a reasonable way and the Planner himself is satisfied, and the department heads are satisfied, I think it is unfair and inequitable to the client to continue this another time.

S. Foote -After having read extensively the letters that were produced by the attorneys last session, we considered the items that were mentioned in those letters. Is there anything to add, over and above, what was in those letters?

Mike McDonald, Best Western - Yes and appreciates the opportunity to speak. Our first position is that they do want representation here and in fact, have been working with McNeil, Taylor and Gallow since the last meeting, to be prepared for this meeting. If we are forced to address issues, I certainly would like the opportunity to do that. But our first position is that we would like our attorney, who we hired in good faith, to do that.

S. Foote - What I asked was is there anything new to add, over and above the letters we have received in the past?

M. McDonald concerns were in not seeing plan for fence and vegetative buffer, the continued reference to site being a used car lot and the fact that it is not paved, the noise of going over stone as opposed to pavement, dust and mud concerns with pool close to property line, traffic on site - dust and noise, the "temporary building" being a manufactured home of some sort, and originally no water and sewer to said building, questioned letter from aggregate company, no lighting on site, no building elevations rendered, would like the 41 spaces proposed stipulated on plan, counted 171+ vehicles at present business site including heavy equipment and other vehicles, no specs on barrier, asked for vegetative barrier and another barrier, safety concerns for our patrons, vegetative barrier not possible/practical because topsoil has been removed, questioned continued building without approvals, replace topsoil and trees. Asked that site be revisited.

H. Boyd, Jr. addressed concern about children and the fence to be constructed. K. Knight asked height of fence. H. Boyd, Jr. - 6 feet high, matching the fence that is presently there. Abutter M. McDonald - detail not provided to him. M. Preston - it is on plan. H. Boyd, Jr. - The plans are in Town Hall for viewing.

Frank McDonald, Best Western - concerned with tree buffer and proposed fence because of petting zoo and children. States the existing fence is an animal pen. Also concerned with retaining country atmosphere. States that Mr. Green indicated, just vans on property. Asserts that he would like him (Mr. Green) to formulate something that would stop all these problems.

K. Knight asks for picture of fencing? H. Boyd, Jr. - complies. H. Boyd, Jr. addresses concern about removal of trees, the grading. Truck activity is well away from property line. Addressed that pen is created by a fence.

P. Evans asked the board to consider if they have ever seen a used car lot without a sign on it, didn't have some sort from of advertisement on the lot, lighting for public safety. He states that this is a warehouse without the roof over it. In the absence of signage and lighting, etc. the selling is going on someplace else. It is his feeling that that is what a commercial operation is.

Tim Lindsey, General Manager, Best Western - Present fencing is for animal enclosures, not a buffer wall. Vegetation buffer was mentioned at last meeting and the concern was if anything would survive as it was at that time. Since then several more feet have been removed.

A. Green - It is my desire to relocate off Chevy Chase Road, to this location. I am moving.

S. Foote - What type of trucks? A. Green - all commercial, basically what I have today. S. Foote - we are not going to see old sewer trucks that are leaking?

Chairman Brown - how do you intend to get the word out on sales if you don't have a sign there?

H. Boyd, Jr. - I'm sure they have a business plan. A. Green states doesn't need Route 1 exposure. He publicizes in trade magazines - doesn't need a sign. A sign on the office building would suffice. S. Foote asks where there is no lighting on site, would you be willing for hours of operation to be 7 a.m. to dusk.

A. Green - until I have planning approval? I can do that. States he has no lighting or sign on Chevy Chase lot. Chairman Brown questions board about previous situation where there was concern about trucks coming early in morning, and keeping people nearby awake - Hanna on Railroad Ave. P. Evans - this is a parallel situation with motel. A. Green compares his truck traffic to truck traffic at Best Western.

M. McDonald - Questions abutters' future need for expansion referencing 149+ vehicles at present operation. Chairman Brown - it is limited to the number of parking spaces he has. He has 34 spaces.

M. McDonald - will that be noted on the plans? S. Foote - I counted them.

M. McDonald - Questions what type of vehicles were going to be there. Trying to protect our business. Chairman Brown asks H. Boyd, Jr. if there is a Note on the Plan that says type of vehicle. H. Boyd, Jr. - I think Arly just spoke about it, but maybe should reiterate what he said a few minutes ago.

A.Green - Seabrook Truck Center is in the business of commercial trucks, tractors, heavy equipment, trailers, flatbeds, vans, "reefers" (refrigerated trailers). For the most part, any GBW weight and graded truck over 12,000 lbs. We are not in the "retail, Channel 19, come on down, we're going to sell you a car today". That's not my business, never has been.

M. McDonald - asks for clarification of list, as it is getting longer.

S. Foote - I think the plan states that it is inventory of trailers.

M. McDonald - I believe at the last meeting minutes, the applicant indicated that there would be no tractors other than one or two to move trailers around on the site.

Chairman Brown - Yes, I remember that. Note 1 states - Inventory of trailers will be for sale, lease or rent. That alleviates tractors, heavy equipment etc. That is pretty specific.

H. Boyd, Jr. - Note addresses just the trailers itself. It was intended to direct its emphasis towards the trailers - what was going to be there. Because the board had talked about not wanting trailers filled and left on site for storage. He tried to structure Note in accordance with what he believed M.

McDonald and board was in agreement with. Chairman Brown states that the question that was asked was about the tractor on site to move the trailers. The note makes it sound that you will have one tractor there and all of the spaces will have a trailer on it, not something that is self-propelling. I believe that we are all in agreement on one tractor, maybe two, to move the trailers. Now it seems that you are throwing another aspect into the situation when you come up with all these other things.

A.Green - we sell trailers and trucks. States they did speak about that and is not trying throw a curve to the board. To be fair and honest, he has an agreement on some of my property on Chevy Chase Road and it is his intention to move his sales force and sales secretary over on this site as soon as it is developed and graveled. For the short term, parts and service will still stay on Chevy Chase Road. He assures board that his truck traffic will not be greater than that of Coca Cola or Best Western, on a daily basis.

M. McDonald - States traffic not the issue, the proximity of his operation is. The nuisance that it is going to create and the detrimental effect it's going to have on business. States that every time that Mr. Green speaks, he brings up something that has not been introduced to the board, something that has not been proposed to the board. Additional uses that would require him to have Wetlands Permits, to have site studies, to have site specific done, to have paving, to have lighting, to have fire and safety measures. We're just trying to protect ourselves. Just protect us, that's all we're asking.

Chairman Board - Distributes paperwork and asks how abutter feels about the Lowes fence material?

T. Lindsey - states concern is with how much has been cleared down now and at what height would fence be effective.

S. Foote - if they've excavated to what this plan states, it appears to be about 10 feet.

H. Boyd, Jr. shows M. McDonald where the 450-foot fence ends.

M. McDonald - states they would be amenable to having that wall and would further state, that if such a structure were built, they probably would take care of the vegetative buffer.

H. Boyd, Jr. - states he doesn't feel fence has to be taller than 6 feet under any circumstance, if you are worried about children.

M. McDonald - consider that on our side it is a 6-foot fence, on their side it could be a 15-foot drop. H. Boyd, Jr. - The intent is to have a gradual slope.

S. Foote - States that there is a lot that still needs to be worked out between the applicant and the abutters. On that note, would like to continue this project to March 16, 2004.

H. Boyd, Jr. - persists that the situation is "down to a fence", with the gentlemen agreeing right in front of us, right now.

S. Foote - No - it's more than just a fence, we've got to limit to parking types, what type of machinery is going to be there, changing hours of operation, signage and other things that have to be stated on the plans. Plans need revising with all the changes and notes. States that it was her impression that Note 1 was stating that the inventory of trailers will be for sale, and that all that was going to be there was trailers.

A.Green - if it appeases the board, I will come back for trucks and trailers later. I need the trailer sales now.

G. Keith Fowler - States that until the wall and the papers the board gave to Henry and Mr. McDonald are shown on this plan, he is not comfortable with any type of an approval.

S. Foote - states if you push this tonight, you could get a denial. Give this two weeks, go work it out, put the proper notes on it, you stand a lot better chance.

H. Boyd, Jr. - We need to know what those proper notes are.

S. Foote - We understand that this is a temporary plan that is why there is no lighting. The hours of operation to be 7 a.m. - dusk, that way there won't be a requirement for lighting. It needs some sort of sign indicating the name of your business, fencing issue, soundwall issue. The notes should indicate just trailers, if indeed, at this time, there are just going to be trailers. But if you plan on, at this time, with these 34 parking spaces, to put in something other than trailers, we need to know it.

M. Preston - I assumed that there would be tractors up there for sale or lease.

S. Foote - the last time discussed, it was said that there might be two or three cabs there for moving the trailers and that they wouldn't be running more than 15 or 20 minutes.

H. Boyd, Jr. - inquires as to what changes to the plans are needed if he plans to incorporate more than just trailers on the site - ready for sales or lease?

S. Foote - states they are going to have to come into review concerning sound. Moving a trailer is 15 - 20 minutes of vehicle running, whereas selling an actual cab/tractors has potential to run a lot longer.

H. Boyd, Jr. - doesn't the fence have the qualities to mitigate the sounds.

S. Foote - As Peter suggested, you also start running into your environmental controls for fuel, grease, lube jobs etc. that goes with engines, but doesn't go with trailers.

A.Green - It is not our intent to do parts and service on this site.

S. Foote - You need to go work this out.

MOTION: *Susan Foote* *To continue hearing on #3-46 - Proposal by GRA Real Estate Holdings, LLC for truck sales at 11 Stard Road, Tax Map 4, Lot 9-11 until March 16, 2004.*

SECOND: *Karen Knight* *PASSED - UNANIMOUSLY*

#3-49 - Proposal by Elizabeth Rourke for a condominium conversion at 39 Pages Lane, Tax Map 7, Lot 16. H. Boyd, Jr. offers to help Elizabeth Rourke represent herself.

T. Morgan's comments:

1. Applicant received an Equitable Waiver of Dimensional Requirements from the BOA.

2. T. Morgan states there are no water shutoffs. H. Boyd, Jr. states shutoffs already existing are on private property. They are already in place. This has been allowed in the past. I don't know if you can grant a waiver on this, they are very close to the ROW line, nearly on it.
3. Wetlands on site - E. Rourke secured letter through Ernest Cote from Jamie Long of NH Soils indicating that there are no poorly drained soils on the site or within the 50 feet of the site itself.

T. Morgan - states plan missing most of the sewer line. K. Knight - asks P. Garand what are his thoughts on water shutoffs. P. Garand states they are very close to the property line, but doesn't see a problem with it. H. Boyd, Jr. asks if E. Cote indicates where sewer line goes with ties from the sewer department, could motion be made for Chairman or Vice Chair to sign the plan at that time. H. Boyd, Jr. this information would have to be added to the mylar and the copies, showing the connections to the house.

MOTION: Susan Foote *To waive the water shutoff*
SECOND: Karen Knight *PASSED - UNANIMOUSLY*

MOTION: Susan Foote *To conditionally approve this plan #3-49 - Proposal by Elizabeth Rourke for a condominium conversion at 39 Pages Lane, Tax Map 7, Lot 16 in that it complies with the Town of Seabrook condominium conversion regulations pending Ernest Cote finishing the sewer line, to attach them to the building, and allow the Chairman or Vice Chairman to sign when it is corrected.*
SECOND Mark Preston *PASSED - UNANIMOUSLY*

DRIVEWAY PERMIT APPLICATIONS

1. 10 Whitaker Way
2. Walton Road
3. Becky's Way

MOTION: G. Keith Fowler *To approve the following driveway permit - 10 Whitaker Way, Walton Road and Becky's Way*
SECOND: Susan Foote *PASSED - UNANIMOUSLY*

BILLS:

- | | | |
|----|---------------------|------------|
| 1. | Bayside Engineering | \$6,230.00 |
| 2. | Piscataqua Planning | \$1,597.00 |
| 3. | Michael Fowler | \$ 520.00 |
| 4. | Registry of Deeds | \$ 104.00 |
| 5. | Registry of Deeds | \$ 335.92 |

MOTION: *Susan Foote* *To reduce Wojicki bond on Ava Mae Way by \$20,000.*

SECOND: *Mark Preston* *PASSED - UNANIMOUSLY*

CORRESPONDENCE:

- Bond from Honora Mason, which has been extended for one year.
- Town Manager wants to inform you that you still have a bond in the amount of \$46,000 on Border Wind - it's going to last another year.
- Stormwater Symposium Phase II
- Postpone Bylaws to April 6, 2004

MEETING ADJOURNED:

MOTION: *Karen Knight* *To adjourn meeting at 9:30 p.m.*

SECOND: *Mark Preston* *PASSED - UNANIMOUSLY*

Respectfully Submitted,

Melanie Huddell