

Members Present: Chairman, Cynthia Balcius; Vice-Chairman, Thomas Hoopes; Thomas Varney; Marcella Perry; Ex-Officio, Alan Sherwood

Members absent: Bonnie Dunbar, Donn Brock, Robert Eddy

Others Present: Town Planner, Kathy Menici; Secretary, Stephanie Verdile and others as identified below.

Call to Order: Chairman, C. Balcius called the meeting to order at 7:02 p.m.

Appointment of Alternates: None at this time

Approval of Agenda: C. Balcius asked if there were any changes to the agenda.

K. Menici announced the following changes to the agenda:

Case #P04-18 – W&W Ralph Trust, LLC

Revised site plans were not submitted to the review engineer until after the submission deadline and without enough time for the review engineer to complete his review in time for the January meeting. A letter from the applicant's attorney confirming the request to be continued is expected. In addition, there is currently an unpaid balance of \$874.59 for previous reviews.

Case #P04-35 – Warren McGuirk

Revised site plans were not submitted to the review engineer until after the submission deadline and without enough time for the review engineer to complete his review in time for the January meeting. A letter from the applicant's attorney confirming the request to be continued is expected.

Case #P05-03 – Tower Venture

A request was received from the agent, William McQuade, to continue the application to the February meeting to allow the applicant time to complete its lease negotiations with a second carrier.

Case #P05-09 – Ernest Gillan, Gillan Marine

The agent requested that the above application be continued to the February meeting because of the length of the January meeting agenda.

Motion made by T. Hoopes seconded by A. Sherwood to continue Case#PO4-18, Case#PO4-35, Case #PO5-03 and Case #PO5-09 to the February 15, 2005 meeting, motion carried with all in favor.

Motion made by A. Sherwood to approve the agenda as amended seconded by T. Hoopes motion carried with all in favor.

Public Input: C. Balcius opened up the hearing for public input on non-case specific items, there being none, she closed that section of the meeting.

Continuation of Applications/Public Hearing:

C. Balcius recused herself as well as T. Hoopes from Case #PO4-53.

K. Menici introduced the first application and gave her presentation to the Board and spoke about the

quorum issue and she said the Town Attorney explained that the Board could waive the quorum issue; as long as the applicants and the property owner are in agreement that the case would be heard without a quorum and accept any decision made.

**Case#PO4-53 Map 8, Lot 18
Gerard & Kathryn Perreault**

**4-Lot Subdivision
Youngtown Rd.**

Application submitted by Lindon Design Associates on behalf of the owners Gerard & Kathryn Perreault. The proposed subdivision will result in Map 8, Lot 18-5 consisting of 2.69 acres, Map 8, Lot 18-6 consisting of 2.30 acres and Map 8, Lot 18-7 consisting of 2.04 acres, with the remainder of Map 8, Lot 18 consisting of 39.00 acres. The property is located on Youngtown Rd and is in the Rural Zone. The application was accepted at the November 8, 2004 meeting and continued from the November 8, 2004 and December 13, 2004 meetings.

D. Voltz, Lindon Design Associates representing the applicant, and Gerard Perreault, property owner, agreed to have the case heard with less than a quorum.

The Board members that sat on the case were A. Sherwood and T. Varney.

Motion made by A. Sherwood, seconded by T. Varney to hear the case as presented, with less than a quorum, motion carried with all in favor.

K. Menici reminded the Board that the only outstanding issue the board previously had was the Highway Agent's comments were missing from the last Planner's report because the Highway Agent was on vacation. The comments from the Highway Agent were that the locations of lots are good for sight distance. She said that all comments and concerns had been addressed.

D. Voltz said that at the last Public Hearing the Board requested a 25' buffer from the wetlands and he said he added it to the plan and it will be added to the deeds for the lots.

T. Varney spoke about the neighboring communities that have more restrictive wetland setbacks and he thinks that Alton should have one and this wetland is very important to the environment and the community and the setback should be greater than 25'.

A. Sherwood said that the 25' buffer is what the Board talked about at the last meeting and the agent complied. He is also comfortable with the Road Agents comments.

T. Varney has concerns about the road and flooding that occurs on that road.

G. Perrault said he is keeping the larger wetland for logging and he is keeping the back section and not selling it.

K. Menici spoke about the wetlands buffer notes written on the plan and any logging that takes place will be supervised by a NH Forester to comply with Best Management Practices. She said he would be applying for a wetlands permit to cross it and log it.

T. Varney opened it up to the Public for input, there being none he closed that portion.

T. Varney thinks that 25' is not enough and A. Sherwood said that the agent did what the Board asked and is comfortable with the 25' setback.

seconded by A. Sherwood, motion carried with all in favor.

C. Balcius read into the record purpose of the next case

Case#PO5-02

Map 2, Lot 28

5-Lot Subdivision

Fred & Virginia Boelzner

167 Prospect Mountain Rd & Hamwoods Rd

Application submitted by Bryan Berlind of Land Tech Surveying on behalf of the property owners Fred & Virginia Boelzner. The proposed subdivision will result in Map 2, Lot 28 consisting of 5 acres with 1,018 feet of frontage on Hamwoods Rd; Map 2, Lot 28-3 consisting of 7.8 acres with 313 feet of frontage on Hamwoods Rd; Map 2, Lot 28-4 consisting of 7.1 acres with 250 feet of frontage on Hamwoods Rd; Map 2, Lot 28-5 consisting of 8.1 acres with 278 feet of frontage on Hamwoods Rd and Map 2 Lot 28-6 consisting of 5.00 acres with 830 feet of frontage on Prospect Mountain Rd. The property is located in the Rural Zone.

K. Menici spoke about the waiver requests from Section 6.1 – Application Fees and Section 9.14 – Length-to-Width Ratios. She read into the record that the applicant requested a waiver because they came before the Board in November 2003 and the application was not accepted. They are also requesting a waiver on the length to width ratio 9.1.4, and the sheet size waiver.

C. Balcius asked if there is a verification of the wetlands and steep slopes on site.

K. Menici said that information is in the narrative and she read into the record the verified upland amounts for the proposed subdivision.

C. Balcius spoke about the slopes being steep and K. Menici said they did not provide that information and there are areas that slope into the wetlands.

A. Sherwood commented on the 2 waivers and he is not in favor of granting the waiver for the fee to be waived. He spoke about the length to width ratio and they should discuss it within the merits of the case.

T. Varney disagrees with the fees having to be repaid again and that the applicant should be granted the fee waiver.

T. Hoopes agrees with the length to width ratio issue being discussed within the merits of the case and wants to learn more about the fee regulations.

C. Balcius said the previous plan was not accepted and this is a new application; that is why the fees were paid again.

Regina Nadeau, attorney for the applicant, she said it is the policy of other Towns to repay the fees and she said the applicant tried to re-apply and then the zoning changed in March 2004.

C. Balcius said they used the reason for the re-application of the plan because of the zoning change; yet the zoning changes are not included on the plan.

K. Menici spoke about the Town Attorney's opinion that the fees are for the staff time and preparation and Town's expenses and are not refundable.

T. Hoopes sees the dilemma in granting the waivers.

A. Sherwood supports the waiver request for the per lot application fees and put aside the length to width ratio to discuss the merits of the case, seconded by T. Varney motion carried with all in favor.

Bryan Berlind presented the case to the Board. He said none of the lots require NHDES approval because of their size and they are above the requirements of the zoning ordinance. 28-3, 28-4, and 28-5

lots would have 250'-300' of depth. He asked if they have to do a survey of the whole 12 acres.

T. Hoopes spoke about the future of the land and they need enough general information on a plan with the whole property shown to make a decision.

J. Wichert said they are going to have 3 driveways off of a State road (Route 28A).

C. Balcius spoke about the state controlled roadway and the Board has used shared access NOT shared driveways.

T. Varney said he would not vote to approve a lot without a driveway, he is not for shared driveways.

A. Sherwood does not like shared driveways and if it is a state road that has limited driveway cuts he would consider a shared access but not shared driveways.

J. Wichert spoke about the length to width ratio and can they make 3 lots conform and than the 4th lot be larger.

T. Hoopes spoke about the shape of the lots once the subdivision is approved they are creating odd shaped lots and the access is questionable.

A. Sherwood spoke it always being a case-by-case situation and if the width is reasonable and the back lot is left reasonable width he doesn't see an issue.

T. Varney said he does not like the way it is shown because it is too narrow he does not like the "bowling alley" lots and have the 3:1 adhered to.

T. Hoopes asked about building a road and J. Wichert said they thought of that then the IGMO came into place and they are not proposing that at this time.

J. Wichert finished his presentation and thanked the Board for their time.

C. Balcius read into the record the purpose of the next case.

Case#P05-04Map 12, Lot 57 Design Review

**Groundwater Withdrawal Plant
118 Old Wolfeboro Rd**

Deanna O'Shaughnessy

Fae Kontje-Gibbs

Application submitted by Deanna O' Shaughnessy and Fae Kontje-Gibbs for the purpose of Design Review for a Groundwater Withdrawal Plant to be located at 118 Old Wolfeboro Rd. The property is located in the Rural Residential zone.

K. Menici introduced the next case and is looking for 2 components, one is the site plan review and the other is a subdivision plan forthcoming.

D. O'Shaughnessy, Chris Covell, Steve Lamb, Tim Morgan all were in attendance to represent the application.

Discussion on what the application being heard and noticed for tonight a Design Review for the Ground Water Application and not for a Design Review for a 2 Lot-Subdivision.

C. Covell spoke about withdrawing 250,000 gallons a day and only the front portion of the land will be used and the rear of the property will be put into Conservation Easement. The surrounding properties may also be put land into Conservation Easement if this project is approved. He described how the trucks would access the filling station and the layout of the rest of the property and where the wells are to be located.

T. Varney asked about how the water will be transferred from the bedrock wells and S. Lamb said it would be with water lines underground. S. Lamb said the wells would have a submersive pump water line and electrical lines underground. S. Lamb said they would have a septic system installed according to the NH Dept of Health requirements. The roads would be maintained and plowed.

C. Balcius asked how many trucks will enter and exit.

S. Lamb said 30 trucks a day with 8,000 gallons per day.

T. Hoopes asked about 30 trucks entering and 30 trucks exiting and the answer was yes from S. Lamb. He spoke about the traffic and safety concerns of the trucks and Rte 28.

C. Balcius asked about the status of Old Wolfeboro Rd and whether it could handle the traffic.

D. O'Shaughnessy said they gave financial assistance to make improvements to Old Wolfeboro Rd. and it was approved by the Highway agent. She also spoke about the truck traffic passing her house and she spoke about the use of landscaping to cut down on the noise and visual appearance.

A. Sherwood spoke about the truck traffic that he sees and he's seen the trucks use the Jake Brake and it is loud and the intersection at Old Wolfeboro Rd and Rte 28 is very dangerous and is there anything that can be done to make the intersection any safer.

D. O'Shaughnessy spoke about the Highway Agent not having a problem with the truck traffic at the intersection of Old Wolfeboro Rd and Rte 28 and she said if the Board wants her to talk NHDOT she will. C. Balcius recommended it.

T. Hoopes said again there would be an additional 60 trucks per day entering and exiting to Rte 28. He asked about diesel and gas trucks and if there is any noise difference.

T. Jordan spoke about the truck noise and that if any Jake Brake is used the trucker will lose their job and trucks that travel on roads with a speed limit of 35 mph or less cannot be louder than 80 decibels and he gave examples of decibel levels (80 is a decibel level of a dishwasher).

T. Varney spoke about the intersection being very dangerous for a tractor-trailer coming out and turning and he spoke about 4 trucks an hour traveling per day through that intersection and on Old Wolfeboro Rd.

C. Balcius said the Board wants a Traffic Study done and a meeting with a direct consultation with the NHDOT and their engineer.

A. Sherwood spoke about the Conservation Easement and if there would be any allowed uses.

C. Covell spoke to the NHDES Fish & Game and the Society for the Protection of NH Forests about the easement uses and they have not decided on specific uses.

Discussion continued about the allowed uses on the future Conservation property and the uses should be carefully chosen and access to the wells needs to be protected.

K. Menici also spoke about this application having Regional Impact and how that would affect the abutter notices for the formal application. She spoke about Kim Koulet from the LRPC attending the Public Hearing on the application.

A. Sherwood said the law would require it and procedurally it should be done to regionally notify people.

Tim Pellow, lives on 79 Old Wolfeboro Rd. He said he has concerns about the number of trucks per day. He is in favor of the project but wonders about the change in the amount of trucks per day at different meetings. He said as neighbors they would like to know the amount of truck traffic.

The Board explained to Mr. Pellow that information about the truck traffic would be required in the site plan application.

C. Covell said Mr. Pellow is correct initially it was fifteen trucks per day based on a sustainable yield of 100 gallons per minute (gpm) and they know believe they have a sustainable yield of 400 gallons per minute and he said they are asking the state to permit a low percentage of yield and realistically they could get a lot more water out per minute. They are going from 15 trucks to 30 per day because when they drilled the required monitoring wells they hit an increased yield but that is still below what they could extract.

D. O'Shaughnessy understands Mr. Pellow's concerns and the number of trucks in the neighborhood and she said the number of trucks would be based on meeting the amount of water needed to earn money for the business and investors.

C. Balcius said the number of trucks per day will be a Planning Board issue to address to have exact numbers of trucks per day and possibly use a cap on the number of trucks per day.

Jim Bureau, Pearson Rd, has concerns about truck noise and can there be a restriction on the Jake Brake usage from the storage units down Route 28 South.

C. Covell said the truckers will lose the job if they use the Jake Brake.

Elaine Shields owns land across the subject property and other family members own property along the back and she and her family support the project and will consider putting their land into Conservation Easement. She thinks the project is a benefit instead of residential uses.

Don White- wants to know how it will effect the Town of Alton's water supply and how will it affect the Town of Alton.

C. Balcius spoke about the Planning Board's role is only for site plan issues and the Town of Alton Board of Selectman and the Town Administrator can hire an engineer to review the project.

T. Hoopes spoke about if there are any problems with water they can shut down the plant until the situation is fixed.

A. Sherwood encouraged people to speak with R. Bailey because the Town of Alton has 45 days to comment on the project.

Discussion about the trucks and the traffic and K. Menici said that is the reason for the traffic study. Keith Chamberlain- spoke in favor of the application and said if it is not approved than the property will go into housing project and if the project is not approved it will be sold to developers. He said residential uses are allowed in the zone and the water plant should be approved because the traffic impacts would be less and the land is environmentally important to the Town of Alton.

C. Balcius closed the public input portion of the meeting and called for a 10-minute break at 9:25 pm.

C. Balcius called the meeting back to order at 9:30pm and read into the record the purpose of the next case.

**Case# PO5-08 Map 2, Lot 20 Design Review 3-Lot Subdivision
Raco Development Corporation Prospect Mountain Rd.**

Application submitted by Vern Dingman on behalf of the owner Raco Development Corporation.

The proposed subdivision will result in Map 2, Lot 20-1 consisting of 134, 900 SF, Map 2, Lot 20-3 consisting of 87,864 SF. The property is located on Prospect Mountain Rd and is in the Rural Zone.

K. Menici introduced the next case as input for design review.

C. Balcius said it will be limited to 10 minutes.

Vern Dingman, representing the applicant, spoke about designing a future subdivision and a 50' ROW for a future road and 3 more lots. Because of the IGMO they are submitting for 3 lots now. He submitted to the Board wetland plans that were stamped and signed by a wetland scientist.

C. Balcius wants the steep slopes identified on the plans.

T. Varney asked if this land is all woods.

V. Dingman said all of the land is wooded only.

Discussion on the issuance of a building permit for this property. K. Menici spoke about section 4.1 of the subdivision regulations, "whenever any subdivision of land is proposed no land within that proposed subdivision shall be sold, transferred, leased, altered or cleared no road construction or building development shall be started, no permit for the erection of buildings shall be issued and no subdivision plat shall be filed.

A. Sherwood asked if that goes into effect once they formally apply.

K. Menici said yes once the abutters are noticed with Design Review.

A. Sherwood asked if it does apply with Design Review. K. Menici said the legal opinion if going in that direction.

T. Hoopes asked about the hammerhead and they are being designed to gain frontage access on a road. He spoke about getting frontage on curves versus frontage on a straight road. He does not approve of the idea of gaining frontage on curves that does not exist.

T. Varney spoke about buffer zones around the brook and it could come up and he has concerns about the brook acting as a tributary to Halfmoon Lake and the impacts to it.

V. Dingman said any house would be 350' away from the brook and the development will be on the high part of the land.

V. Dingman finished his presentation and thanked the Board for their time.

C. Balcius read into the record the purpose of the application

**Case#PO5-06 Map 15, Lot 4 & Map 15, Lot 1 Boundary Line Adjustment
Epsom Rolling Hills LLC NH Rte 28, Bowman Rd & Calef Dr
Keith Chamberlain**

Application submitted by Douglas V, Brodeur of True Engineering Inc, On behalf of the property owner of Map 15, Lot 4 Epsom Rolling Hills, LLC and property owner of Map 15, Lot 1 Keith Chamberlain. The proposed adjustment would result in 1.85 acres to be adjusted from Map 15, Lot 4 to Map 15, Lot 1. The result of the adjustment would leave Map 15, Lot 4 consisting of 8.51 acres and Map 15, Lot 1 consisting of 3.29 acres. The property is located in the Rural Residential Zone.

K. Menici introduced the next case and said there are no waiver requests but the plans are missing a wetlands stamp.

Discussion about the plans not being stamped and K. Chamberlain supplied a letter from the wetland scientist saying they will put the stamp on the mylar.

Motion made by A., Sherwood to accept Case#PO5-06 as complete with the condition that the final plans be stamped by a wetlands scientist, seconded by T. Hoopes, discussion about the plans not being stamped, a letter was supplied to satisfy the requirement, motion carried with all in favor.

Doug Brodeur gave a presentation about the Boundary Line Adjustment proposal.

A. Sherwood wants to know what it is leading to.

K. Chamberlain wants to expand his business and said he will not be impacting any of the wetlands at all.

T. Varney wonders about the ability to expand the business but will talk about it at the site plan application.

T. Hoopes spoke about the 50' setback because the BLA is creating a new lot and there has to be a 50' setback from the perennial stream.

K. Menici said Town attorney said a BLA technically is a subdivision and anything created by it is a new lot and that lot has to confirm with current zoning.

C. Balcius opened up the hearing for public input, there being none she closed the public input section.

Motion made by T. Hoopes to approve Case#PO5-06 with the condition that the wetlands stamp and signature be added to the final plan, seconded by A. Sherwood, motion carried with all in favor.

C. Balcius read into the record the purpose of the case

Case #PO4-45	Map 21, Lot 14 & Map 21, Lot 13	Boundary Line Adjustment
Alfred McDowell & Marjorie Widerstrom		Robert's Cove Rd
Babson Family Lake Winnepesaukee Realty Trust		

Application submitted by Lakes Region Survey Service, Inc on behalf of both owners for a Boundary line Adjustment. Owners of Map 21, Lot 14 are annexing a 20.5' wide strip to the owners of Map 21, Lot 13. The purpose of this proposal is to add width to an existing driveway corridor. The properties are located on Robert's Cove Rd in the Lakeshore Residential Zone. The application has not been accepted by the Planning Board and was continued from the October 11, 2004, November 8, 2004 and December 13, 2004 meetings.

K. Menici gave her presentation to the Board and spoke about Map 21- Lot 13. She said that Attorney Sessler reviewed the file and his opinion is that Map 21, Lot 13 is one lot as a result of action of the owner and he recommends that Case#PO4-45 not be accepted by the Board. Also, the plat submitted does not show Lot 21-13 in its entirety is only shown in part and the regulations require that a lot be shown entirely. She said that Attorney Sessler recommends dismissal or denial and is incomplete as submitted and dismissal could be more appropriate.

A. Sherwood asked if Attorney Sessler's opinion was expressed in the letter he wrote to the Board and was made public. K. Menici said the letter pertains specifically to the next case. A. Sherwood said the letter had to do with one lot versus many lots and it was made public. K. Menici said yes it was read into the public at the December 13, 2004 meeting and has been distributed to anyone who has requested a copy.

T. Varney added that the Widerstrom application plan does not show the complete lot for the Babson case. K. Menici said that the Babson application is incomplete also.

T. Hoopes asked if the applicant is agreement with the Town Attorney, has the civil issue about access and Right-of-Ways been clarified. He said they do not deal with civil actions or issues. K. Menici said

any civil issues are more related to the next application regarding the dispute over a section of boundary line. T. Hoopes said they are looking at a plan that shows the property in separate lots. K. Menici clarified that T. Hoopes is referring to the Babson plan, Map 21, Lot 13, that shows a number of dashed lines that are shown and labeled "historical deed reference line". T. Hoopes asked by making a plan this way is the Board accepting it contrary to what the Town Attorney said. He asked if they approve this plan doesn't that mean they are accepting the boundary lines as shown.

K. Menici said yes that is why it is an incomplete application and the Board cannot accept the plan.

C. Balcius reminded the Board that they have recommendations from the Town Attorney and Town Planner and asked for the Board's decision.

A. Sherwood said the Board needs to accept the opinion of the Town Attorney on the legal status of the lots or lot.

T. Varney requested a copy of the letter written by the Town Attorney.

K. Menici reminded the Board that the letter was written specifically for the next case and the issue with this case is the acceptance of the application and now there is an opinion from Attorney Sessler on Map 21, Lot 13 it is one lot and it has to be shown in its entirety on the site plan for the Boundary Line Adjustment. She added that Widerstrom should also be shown in its entirety.

Motion made by A. Sherwood to not accept Case #PO4-45 as it does not comply with Section 7.2.21 of the Town of Alton Subdivision Regulations, seconded by T. Hoopes, motion carried with all in favor.

Wayne Kelloway, Lakes Region Survey Service representing the applicant, asked if there is an opportunity for input from the applicant.

C. Balcius said the Board did not accept the application and her opinion is there has been ample time for input. She asked the Board's opinion if W. Kelloway could speak.

A. Sherwood said he didn't mind.

W. Kelloway said the issue at hand is whether these are lots of record. He said the opinion of Attorney Sessler is that the lot is single parcel and the lot should come in as a Minor Subdivision. He said there is a reply letter dated January 4, 2004 from the Trust's Attorney. He asked if the Board has read the letter and if they haven't they should and he wants it entered into the minutes and the record. He said the letter offers clear, concise, accurate presentation of why the lots are specifically and distinctly separate lots of record. He said the letter concludes that a Planning Board member has themselves done this in the immediate recent past and that action has contaminated the entire process. He said the contents of the letter that are on record with the Town Attorney and Planner is important document and should be read by the Board. He said the Board members may be being fed information that if they were aware of the both issues the Board may use their own common sense and realize the fight going on with parties outside the Board. He said the Board is being misused and there are misrepresentations being offered to from within your own ranks. He asked again that the letter dated January 4, 2005 from Sheehan, Finney & Bass addressed to Attorney Sessler regarding Widerstrom and the next case become part of the record for this. He said if they choose to deny it they will appeal to Superior Court and possible Civil Litigation.

K. Menici said that Attorney Sessler read the letter and will not change his opinion based on the actions of the owner it is a single lot.

W. Kelloway wants a five minute break for the Board to read the letter and he said when they read the

letter they will realize there is something going on that is distorted, simplicity, honesty, and fairness to a resident in the Town of Alton that is simply seeking to make a Boundary Line Adjustment and the Board would have to ask why is there so much turmoil over something that fundamentally is basic and simple. He said it is being motivated and driven for purposes that you are being misused.

A. Sherwood said for the Boundary Line Adjustment they are asking to see the whole plan including both lots. He said they voted to not accept it because it is not a complete application. He said the Board will stand by the Town Attorney's letter and opinion.

W. Kelloway said the Board has every right to use their own intelligence to make a decision C. Balcius said she trusts the Town Attorney's letter and opinion and she and A. Sherwood said they will read the letter and spoke about continuing the meeting to hear the other applications.

W. Kelloway said for the record, on the issue of denying the application based on the lack of the meets and bounds on the perimeter of the plans and he filed a waiver request. He said it is customary and normal when the parcel is so large that the immediate part being subdivided or surveyed simply be shown by sketch. He said the Board has probably seen plans tonight that showed an entire parcel and only focused on what was being subdivided. He said this is the same thing and that there is no reason to show 300 hundred acres of boundary for a 20' strip and the waiver request is reasonable and was originally filled with the application in October.

W. Kelloway said the Board will be embarrassed and very uncomfortable when the Board reads the letter.

K. Menici responded to W. Kelloway's comment about having submitted a waiver request, she has the original waiver request letter and the request he was asking for is not listed. She said the waivers requested in the original application are: sheet size, future development, descriptions, wetlands, and parcel size ratio.

W. Kelloway said he was requesting the waiver for future development was the one he was referring and the one he finds in the ordinance. K. Menici said no. W. Kelloway said then it is a minor point and it is not what this issue is about.

C. Balcius read into the record the purpose of the next case.

Case #PO4-61

Map 21, Lot 13

Boundary Line Adjustment

Babson Family Lake Winnepesaukee Realty Trust

Robert's Cove Rd

Application submitted by Lakes Region Survey Service, Inc on behalf of Babson Family Lake Winnepesaukee Family Trust for a Boundary Line Adjustment. Owners of Map 21, Lot 13 are requesting to adjust four boundary lines within Map 21, Lot 13. The purpose of this proposal is to create three separate lots. The property is located on Roberts Cove Rd in the Lakeshore Residential Zone. This application has not been accepted by the Planning Board and was continued from the December 13, 2004 meeting.

K. Menici said this is the case that Attorney Sessler wrote his original letter about. She said when she researched the file to prepare the history of the parcel for the Planning Board; she felt it was necessary for Town Attorney to review the file and make a recommendation to the Board. She said in 1995, one of the Babson family members who held title to 5 different parcels individually combined them into a single deed and then deeded the 5 parcels over to the Babson Family Trust. Then an application was filed with the Town and with The NHDES in 1999 to have a septic system approved for the parcel. She said within that application they stated it was a single lot of record that it was a 5+/- acre lot. She said

Map 21; Lot 13 is currently listed in the Town of Alton tax maps as having 5+/- acre lot. The other issues for this particular plat is they say they are making a Boundary Line Adjustment however; she does not know where the original boundaries are that are being adjusted. That issue was another indication to the Town Attorney. Also, the "Area of Conflict" shown on the plan, if there is any question about the location of the boundary lines on a parcel that is submitted to the Planning Board for a Subdivision approval and a Boundary Line Adjustment is a form of subdivision approval, that the Board cannot take action until that boundary dispute is resolved. She said that issue was a minor issue in Attorney Sessler's opinion, to him the major issue was that everything he found in the file indicates that the owners have taken action to combine this parcel into one lot. Because of that action, the applicants need to apply for a Subdivision approval instead of a Boundary Line Adjustment. He feels this application should be listed as a subdivision not as a BLA and the Board should not act upon the application.

C. Balcius asked if the Board has any questions.

T. Hoopes said he is in agreement with the Town Attorney's interpretation of those events, including once you make an application and deed the land as one parcel it becomes combined.

W. Kelloway said the land has never been deeded and the statements being made are reasonably correct. He said the Board has been poorly informed and these lots have never been deeded as a single parcel, they have always and continuously and without exception, since the 1930's they have preserved the identical, same descriptions as when they were created up to the present day, without exception. He said they are lots of record and there has been a lot of confusion in the last few years. (Tape ended and changed sides)

He continued by saying they have been always lots of record, they still continue to be lots of record. Someone doing a septic plan in 1995, K. Menici said 1999, W. Kelloway said in 1995 clearly on the plan they drew a boundary line and called it property line dividing one lot from the other. Four years later when they decided to invest in a complete new septic system and water system, that designer routinely uses a tax map for reference and cited it to be a 3, 5- acre lot. He said the owner was not responsible for that and neither is the Town of Alton responsible for having an accurate tax map. He said the Scribner for the septic application inappropriately said it is a 5-acre lot. He said that seems to be the only basis that the Town of Alton is claiming that the owner of these separate lots of record made a merger.

T. Hoopes asked if that Scribner was acting as an agent for the owner. W. Kelloway said yes, but the owner is not responsible for that Scribner's error.

K. Menici said this was an issue that Attorney Sessler researched. She said after scaling out the application that was submitted to both the Town of Alton and the NHDES for approval for the septic system, with the statement that it was a 5-lot subdivision and had it been submitted to the NHDES with the boundary lines the applicants now want recognized in order to do a Boundary Line Adjustment rather than a subdivision; that septic system would not have been in compliance. She said it would have met the setback requirements.

W. Kelloway said that is an absurd statement that K. Menici is making. He said he is saying that deliberately that she is misrepresenting so much it is unfortunate.

K. Menici said there is a single deed in the file from Mr. Babson to the Babson Family Trust and the septic site plan that was submitted to the NHDES.

W. Kelloway said she is paraphrasing a lot of things and they are her interpretation. He requested again the Board members read the letter referenced in the Widerstrom discussion and to reconsider some of

the things they are doing. He said patently unfair and he said the Board is being misused.

K. Menici said the other issue remains that they have on the site plan raised a dispute about the boundary line and it is one of the boundary lines that is under review in the application and that alone is reason for the Board not to accept the application.

T. Hoopes questioned the "conflict area" shown on the plan and asked if it was not defined in the Court case.

K. Menici said some parties in the court case believe it has been settled.

T. Hoopes said that if there is any question of conflict, that needs to be settled before it comes to the Board. He said the Board is not in a position of making a legal ruling.

K. Menici said that T. Hoopes is correct.

W. Kelloway said the Board is not making a legal ruling and that is why he is deliberately showing the facts related to these boundaries and bringing emphasis that there is an area of contention that is unresolved and it could be an area of contention for any number of reasons. He said the point is, he has given the limits of what this point of conflict is and no matter which way it goes, if they lose 7' feet of frontage or gain 7' of frontage or if some compromise is made in between; it has no bearing whatsoever to make substandard frontage or substandard area. He said it is his duty to say that there is this conflict because he as a surveyor cannot resolve from the records available to him where the boundary is between the short distance between the tree and the water. There is valid evidence by the parties that opens up a conflict that they may settle amicably or may they may settle it through a court action. He said it is not for this Board to give weight to one party forcing an agreement and he said as long as the activity of the conflict has no bearing on the Board's decision making, the Board in fact are taking sides by refusing to accept the plan.

T. Hoopes said they are not taking sides.

W. Kelloway told the Board they are not denying them due process for a subdivision for which that has no bearing.

T. Hoopes said the actual facts are stated in several different letters the Board has received, that they are different than what is being presented. If there is no clarity for the Board to make any decision, he wants to see a plan without any contention.

C. Balcius said they are acting upon the advice of the Town Attorney that the Board cannot review the application. She told W. Kelloway again they would read the letter.

W. Kelloway asked if the Board reads the letter and if they have a difference of opinion, is the Board likely to get back to them with a response or is it a closed case.

T. Hoopes spoke about if the letter has not swayed the Town Attorney's opinion and he is the one that the Board follows for legal advice.

W. Kelloway interrupted and said the Board has are responsibility to think on their own.

C. Balcius said if there are questions from the letter the Board will ask the Town Attorney.

W. Kelloway said at this point they should consider both applications as rejected.

A. Sherwood asked about a written response from Attorney Sessler and K. Menici said she received a verbal response but will request a written response. A. Sherwood said he would like to see a written response from Attorney Sessler.

W. Kelloway asked if the Board has accepted into the record the letter by the attorney in rebuttal to Attorney Sessler's opinion, meaning the Sheehan, Finney, Bass & Green letter dated January 4, 2005.

C. Balcius said it is already part of the Planning Board file and the record since it was received.

Motion made by T. Hoopes to not accept the application because it is incomplete and needs to be re-written and submitted as a Minor Subdivision per the Town of Alton Subdivision Regulations, seconded A. Sherwood motion carried with all in favor.

C. Balcius read into the record the purpose of the case.

Case#PO5-05

Map 6, Lot 18

3-Lot Subdivision

Donald Roberts

Route 28 and Chamberlain Rd

Application submitted by Randy Orvis on behalf of the property owner Donald Roberts for a 3-Lot Subdivision on Chamberlain Rd and Route 28. The proposed subdivision would result in Map 6, Lot 18-1 consisting of 2 acres, Map 6, Lot 18-2 consisting of 2.04 acres and the remainder of Map 6, Lot 18 would consist of 3.41 acres. The property is located in the Rural Zone.

K. Menici gave her report and listed the waivers: 7.2.4, 7.2.1.5, Length to width ratio and there is a waiver request for the per lot fee that they have paid twice.

A. Sherwood would not approve the ratio of the lots and the width.

T. Varney does not think they should pay twice.

C. Balcius does not want to accept the application with this length to width ratio as submitted.

A. Sherwood spoke about the well radii on lot 1 and it is not a good situation to approve the waiver and feels the requirements need to be met.

R. Orvis said neither lot can meet the length to width requirement.

A. Sherwood said he would not approve the waiver request.

T. Hoopes spoke about some credit for the waiver for the cost

Motion made by T. Hoopes to not accept the application and not grant the waiver request for the 9.14 length to width ratio and accept the requests for the subdivision per lot fee refund, motion carried with a vote of 3 to1.

C. Balcius explained to R. Orvis that the application was not accepted because the Board was not willing to grant the waiver request. He should come back with another application that will meet the length to width ratio.

Discussion about the reasons why they did not accept the application and C. Balcius will get clarification from Attorney Sessler.

D. Roberts asked what he could do different to the plan because he feels he meets all the requirements.

T. Hoopes said in essence you do not because of the design of the lots

C. Balcius read into the record the next case

Case #P04-49 Map 12, Lot 02

19-Lot Subdivision

Wentworth Cove Realty LLC

Pearson Road & NH 28

Application submitted by Randy Orvis, Orvis & Drew, LLC on behalf of Wentworth Cove Realty, LLC for a nineteen-lot subdivision. The proposed subdivision will result in the creation of an extension of Pearson Road and 19 new lots. The property is located on NH 28 and Pearson Road in the Residential Rural Zone. Continued from the October 11, 2004 meeting. The application was accepted at the November 8, 2004 meeting and continued from the December 13, 2004 meeting.

K. Menici gave her report to the Board and the environmental review and engineering review was completed and the Board now has to act upon those reviews.

C. Balcius asked R. Orvis if there has been any formal meeting with the NHDES

R. Orvis said he has not met with them and his comment on Ray Labdel's letter spoke about the water lines and the disturbance of wetlands previously on the lot

C. Balcius spoke about a pre application meeting should be done with the NHDES and it should be done before the next meeting and it will help the Board and the applicant so they do not have to go through many different design changes.

A. Sherwood spoke about the NHDES requiring mitigation and the design could be changed about access and some lot sizes and he agrees that some progress has to be made through the NHDES process.

C. Balcius reminded R. Orvis that she told him before to go meet with NHDES and he hasn't done it yet and the NHDES will be asking similar questions as the Board.

T. Varney asked about the previous temporary access and now it is not temporary and now the road is permanent.

A. Sherwood said the waiver was for the radius not for any subdivision aspects.

R. Orvis has met with the state on site about the road location and they did not feel that there was a high enough traffic volume to not allow it.

A. Sherwood spoke about the access for lot 17 has to be moved and they wouldn't have the large wetland impact.

T. Varney does not like the access road and may not be acceptable to him as a board member. He also spoke about looking into the people's backyard and he does not feel that looks good as a gateway into Alton.

C. Balcius opened it up for public input, there being none; she closed that portion of the hearing.

Discussion about the water main running down the middle of the road and K. Menici said the Water Department is ok with that.

A. Sherwood thinks the applicant should meet with the water department about the water issue.

K. Menici said the Fire Chief wants the fire hydrants to be 1000' feet apart

A. Sherwood spoke about the proposed road way is on land owned by Sheri Barsanti and by the applicant and this has to be resolved for the Town to take over the road and he is asking a legal question.

R. Orvis said the Town Planner recommended at the time to the Board to approve the plan as it is presented now.

Discussion about the legality of the Right of Way and the proposed road.

The applicant still has to address the Ray Labdel comments from the environmental review and site walk he did.

Have a meeting with the NHDES and the NHDES comment on the subdivision.

Brad Hunter asked about R. Orvis having to meet with the NHDES before the next meeting and the board said yes. He asked about the view shed issue.

C. Balcius said comments have come up with the buffer or plantings to protect the viewsheds. His intention is too not clear any more than they have to, they want to sell homes not lots and he wants the homes as close to the road as possible and he wants to plant more trees.

R. Orvis said he has not been able to see into the property when he drives by and he doesn't believe it is in the view shed.

C. Balcius said they are standards to follow for view shed
Discussion about what makes mitigation property and when the application is submitted to the Conservation Commission they will be able to comment.

Other Business

1. Minutes

Motion made by A. Sherwood to continue approval of the minutes from: August 9, 2004, October 11, 2004, November 8, 2004 and December 13, 2004 and December 20, 2004 seconded by T. Hoopes, motion carried with all in favor.

2. Old Business

3. New Business

4. Correspondence

Adjournment

Motion made by T. Hoopes, seconded by A. Sherwood to adjourn at 11:30 pm, motion carried with all in favor.

Respectfully submitted by,

Stephanie N. Verdile
Planning Board Secretary.