

**T. Kinnon** “Going through the agenda it does not appear that there is any chance we are going to get the case that most of you, I presume, are here for, which is the Motorcross Sports Park until 8:30 p.m. this evening. We are going to get to it tonight unless something goes very long on some of the other cases that are before it. Right now that case is next to last. So there are 4 cases ahead of it. What I am going to do is guarantee you folks that there is absolutely no way that we will start this case prior to 8:30 p.m. tonight. So if some of you folks would like to go have dinner, go take care of something and come back, there is absolutely no way that we will start this before 8:30 p.m. We will make sure that everybody has an opportunity to speak. We want to do this in as far and just way as possible. Rather than have everybody sitting here for at least an hour and a half, because I think it’s going to be longer than that, but 8:30, I think, is a safe bet. Just wanted to give you folks that opportunity so that if you want to leave and come back, you won’t, I guarantee you will not miss anything. Okay?”

**Call to Order** by Chairman, Timothy Kinnon at 7:00 p.m.

**Present:** Timothy Kinnon-Chair, Timothy Morgan-Vice Chair, Paul Monziona, Steve Hurst, David Schaeffner-Alternate, Pam McLeod-Alternate, Jennifer Fortin-Planning Secretary, Stacey Ames-Planning Assistant, Sharon Penney-Town Planner, Carolyn Schaeffner-Recording Secretary

**Appointment of Alternates:** David Schaeffner to sit for Marcella Perry.

### **Statement of the Appeal Process**

The Chairman read a brief statement of the Appeal process. The purpose of this hearing is to allow anyone concerned with an Appeal to the Board of Adjustment to present evidence for or against the Appeal. This evidence may be in the form of an opinion rather than an established fact, however, it should support the grounds which the Board must consider when making a determination. The purpose of the hearing is not to gage the sentiment of the public or to hear personal reasons why individuals are for or against an appeal but all facts and opinions based on reasonable assumptions will be considered. In the case an appeal for a variance, the Board must determine facts bearing upon the five criteria as set forth in the State’s Statutes. For a special exception the Board must ascertain whether each of the standards set forth in the Zoning Ordinance has been or will be met.

Approval of the Agenda

**Motion** by T. Kinnon to amend the agenda by hearing Case Z07-22 before Case Z07-21. Second by T. Morgan. No discussion. 5 in favor, 1 abstention.

**Motion** to P. Monziona to approve the agenda as amended. Second by D. Schaeffner. No Discussion. Vote unanimous.

### **Continued Applications**

**Case Z07-14**

**Map 51, Lot 7**

**Variance**

**Stephen Rogers (The Bayside Inn)**

**86 NH route 11D**

Application submitted by Stephen Rogers to request a Variance from the Town of Alton Zoning Ordinance 2007 Article 400, Section 413(A) & (C) to permit a special exception to be allowed to be considered for expansion of an existing business on to an adjacent lot without the required acreage. Continued from November 1, 2007 hearing.

**Case #Z07-15**

**Map 51, Lot 7**

**Special Exception**

**Stephen Rogers (The Bayside Inn)**

**86 NH Route 11D**

Application submitted by Stephen Rogers to request a Special Exception from Town of Alton Zoning Ordinance 2007 Article 400, Section 401. Table of Uses, Retail Business and Service, Item 25, to allow a Lodging House at the above referenced location within the Lakeshore Residential Zone. This Lodging House would be used in conjunction with the existing Bayside Inn. Continued from the November 1, 2007 hearing.

S. Penney the first case will be in tandem. Two parts of the same whole. This is continued case from several times back.

P. Monziona – Mr. Chairman, for the all the reasons set forth on the record previously, I am going to recuse myself from this case.

T. Kinnon – at this point I will appoint Pam McLeod to sit for Mr. Monziona.

T. Morgan – Mr. Chairman, last time Mr. Rogers appeared before this Board some month ago, I recused myself as well. The reason that I recused myself was that the attorney representing him was an attorney with whom I was associated in practice. This is a different application; he is no longer represented by that attorney, so unless there is an objection from either the Board or the public I intend to sit for this one.

T. Kinnon – any board members have any input on that?

[No board response]

Michael Donovan representing Mr. Taylor, one of the abutters. We would like to put on the record an objection to Mr. Morgan sitting, although Mr. Rogers has changed attorneys, this is in essence the same application. It's being called something different but it's the same project that was before the Board the last time. I will be asking, tonight, when we make our presentation that the record of the June 7<sup>th</sup> hearing become part of the record of this proceeding because it is, essentially, the same buildings and all that and we believe that is sufficient grounds for Mr. Morgan, as the law partner, of his prior attorney on basically the same application to have to step down on this, probably both under the Rules of Conduct as well as under the statute on Conflict. Thank you.

T. Kinnon – Okay, thank you.

T. Morgan - probably so as not to taint the record it would be a good idea then, if I did recuse myself at this time.

T. Kinnon – then very good. Okay then, the application has been read in.

S. Penney – correct, and the application is Mr. Rogers and the agent of record is Mr. Rogers' too, so I am not exactly sure who is going to be speaking this evening, because this was a continuance.

T. Kinnon – Right, now the application, (speaking to someone) we have got to go through, we want to follow procedure as closely as we can this evening, and any evening actually. We need to accept the

application first and we need to review it. Does any Board member have any issue with the application as being presented? [No response] Would somebody like to make a motion to accept the application?

**Motion** by D. Schaeffner accept the application for Case Z07-14 and if they're in tandem Z07-15 (T. Kinnon – it would be one at a time.) D. Schaeffner - okay. Second by P. McLeod. No discussion. Vote unanimous.

T. Kinnon. Good evening, Mr. Rogers.

S. Hogan – Thank you, good evening, Mr. Chair, members, my name is Scott Hogan, I am a land use attorney from Lee, NH here representing Steve and Rachel Rogers, the owners and operators of the Bayside Inn. If I may, I am going to really briefly address the past proposal that was here in front of the Board, and actually the first time I wanted to do is apologize for the delay of this case from the last time which was purely my own circumstance and not my client's, so I apologize to the Board and the members that attended the last time. When this proposal was before the Board in its prior iteration, it was then a proposal for a condominium/multi-family residential proposal. The Board, in the last review of that application had some concerns over the premise of the condominium ownership, etc. and looking at the Board's comments the last time, there were several members that expressed a preference for something that's more tourist based lodging which is supported by your Master Plan and more consistent with the Zoning Ordinance, so the application that is now in front of you this evening is for a lodging house, 4 units of lodging. This is on the parcel that is directly across the street from the Bayside Inn. It would be used in conjunction with the existing facility and would be an expansion of their lodging facility. And so I'd like to speak to both the Special Exception request for the lodging use itself and then the Variance request which is going to the 10 acre minimum requirement and the density requirement under the Special Exception provisions of the ordinance. And I know the Board has a full agenda tonight so I'm to try and be as efficient as I can. I also looked at the last time, one of the things I wanted to just frame this whole discussion with, is I saw the discussion the last time, I saw that there were abutters that had come and testified to the Board. I know they are here tonight with counsel. Mike Donovan and I know each other from other cases and other places, and I am most often in this situation representing abutters in my practice. So the vast majority of cases, I am coming from an abutter's perspective so I was pretty focused on what the abutter's concerns were when they came the last time in relation to the condominium project and I would like to try and speak to some of the issues that I think we may here tonight in my presentation as well. As to the requests themselves, one of things that I wanted to frame this entire discussion with was when I sat down and read the Zoning Ordinance again, and you Master Plan, one of the specific provisions out of your Master Plan that really jumped out at me when you look at the Bayside Inn, its location, what they are trying to do here, there is a provision in your Master Plan, and a lot of language about encouraging the development of tourist related facilities, but specifically, there was a quote that said 'lodging establishments located on the Winnepesaukee waterfront were built prior to the exclusionary Lakeshore Residential Zoning, that is now in place, which only allows single family homes to be built along the lakeshore, the present Zoning Ordinances should be modified to allow for moderate expansion of these grandfathered establishments to help alleviate the present shortage of rooms in Alton.' So having had an application here before this Board, the Board expressed a preference, a number of times for tourist lodging related uses, the Master Plan supports that, so that's exactly what we are back here with now. And so specifically now, going to the Special Exception request itself and I'd like to address the Special Exception first and then the Variance because I think that's the more fundamental request we are

making the Variance is actually from a number of the requirements in the Special Exception provisions themselves.

T. Kinnon – excuse me for interrupting you but is it your intent to lay out the evidence for both cases at one time. Usually we do one case at a time but we have, in the past, done that, and I just wanted to make sure that it's clear.

S. Hogan – my preference would be to go through, I'm going to address the Special Exception criteria completely, first and then if I could I'd like to address the Variance criteria as well, and maybe have input after that on all of them, but whatever the Board's preference is.

#### Point of Order

M. Donovan – Especially since you're, have got such a packed agenda, I respectfully suggest that the Variance application is a threshold issue there. I mean, if they don't, you don't give them the Variance they want to those 10 acres and density requirements, there is no Special Exception that you have to hear, because they don't need the Special Exception criteria, I'd respectfully suggest that you take them one at a time and then if you give them the Variance then hear the Special Exception, if you don't then move on and let the next applicant go forward.

T. Kinnon – Thank you. I feel that the Special Exception and the Variance, the evidence for both of them are going to be very similar and very close. I don't think it will be an extraordinary amount of time to listen to both and then we will deliberate on the Variance first and then however that goes, will determine whether or not we deliberate on the Special Exception.

S. Hogan – and again, I will try to be as efficient as I can and I won't repeat, and I'll just indicate that I think it's the same evidence and some of the standards actually are, in essence, just the same, so speaking first to the Section 413 under the Special Exception requirements themselves, again, when you look at the list here, the first on this list is the minimum lot size of 10 acres and so I'll be speaking to that in the Variance request itself but I would note initially here, when I was looking at this 10 acre minimum requirement and I talked to my client and some others to try and get some understanding of what its initial intent was and the thing that struck me in speaking with everyone is nobody could seem to identify a 10 acre parcel in this area that could be used for this use. So the 10 acres, the minimum lot size of 10 acres, this parcel that we're talking about is just under 3 acres and in the context of the neighborhood and in the context of the lot that the Bayside Inn uses right now on the other side of the street, it really is an appropriate scale. The building would be appropriately scaled, even for the three acres, but I'll speak to that in the Variance criteria. The minimum 50 foot setback from any lot line, which is clearly met. C. Total density shall not exceed one dwelling unit per acre; a dwelling unit is defined as a single cabin or bedroom in a bed and breakfast, lodging, or guest house facility. That is the second aspect that we are asking for a Variance from in that here we have just under 3 acres, we are asking for 4 units. And I will speak to that again in the context of the Variance request. The next, the site must be located on a town approved road. It is on public way. Parking areas and lighting shall be buffered in such a way as to not adversely impact abutting properties. I am going to speak to the potential impacts on abutting properties in some detail. The Board, as part of the application had a plan that was submitted showing the general layout of the facility, and again, given the site, parking areas lighting, it's a again, for a 4-unit facility, it is going to be limited and I am going to speak to the way in which it is actually designed such that there is isn't going to be any light, etc. on abutting properties. And again, I would re-iterate that coming from, usually coming from representing an

abutter or three or ten or fifteen in a group at a time, I look and sit down and ask, what are the issues of light, noise, odor, vibration, traffic, storm water run-off, sedimentation, flooding, etc. esthetics. Those are usually, that's the usual laundry list of abutter concerns and the daily use, enjoyment potential effect of the values of their properties. So being keenly aware of all of those, we look to the very specific requirements that you know have in you, for the Special Exception, the seven specific criteria that must be met and again, the first a plat has been submitted, the second, the specific site is an appropriate location for the use, no factual evidence is found that property value in the district will be used due to incompatible land uses. Now, when you look at this right now, in terms of whether it's an appropriate location for the site, and is it an incompatible land use. Right now, if you drive down the road there are, there is a very similar use within a half a mile, both sides of the road, and the thing that struck me as I came to see the property, a number of times, is much of the property, up and down the road is in ownership on each side. There is a parcel on each side of the road. This particular parcel directly across from the existing Bayside Inn, when the location of this particular structure is such that it isn't going to interfere when anybody's view of the lake, it isn't going to be in a position or built in such a character of mass or scale that it's inconsistent with the abutting residential uses and the last time, even when the application was for the condominium/multi-unit/residential the most immediate abutters were supportive of the project and indicated that over their years and experience with Steve and Rachel at the Bayside Inn, they have always run their Inn well, it's always been well maintained, it's an asset to the neighborhood and that's the point and the hope of this is that this facility is going to well-designed, it's going to be well-built and operated and maintained. They've been good stewards of the Bayside Inn and will continue to be. And in that respect, the spot, the character, the scale, the location is appropriate, it's consistent with other uses in the neighborhood, and in fact, our belief is that it will have a positive effect on property values in this area and again is very consistent with what the Master Plan is looking for in this area. It is a natural expansion of an existing bed and breakfast, lodging house. The next criteria, there is no valid objection from abutters based on demonstrable fact. Now when I looked at the site and walked all around the existing Bayside Inn property, the subject property that is proposed for this development, the things that I was looking for were, the differences in topography so that what are the view lines from other peoples houses to this structure? Where the driveway and parking areas going to be so that if the cars are entering and leaving, are headlights going to wash across peoples houses and into their windows, all of the normal things that are irritating to residential abutters and given the lay of the land here, the thing that I was struck with was that the abutter who were expressing concern at the last hearing who are across the street on the side where the Bayside Inn is now, there just doesn't seem to be any way for either headlights or any other direct visual effect to impact them in any way from where their residences are and when I looked at the argument the last time from counsel from two of the abutters, it was a lot of fine legal argument about perhaps why the Variance criteria were not met as a technical matter

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Open to public input in favor of the application.

None seen or heard

Closed

Pubic input in opposition of the application

Jim Cassidy – representing the Woodbury Trust (abutter) both are present but not speaking. Feels this is the same case they decided in June. Substance of the case is the same. Encourage the Board to support the master plan and the zoning ordinance. Legal requirement of hardship is self created. Feels there are no ground if this is self-created. Noted to the applicants - financial hardship is not allowable in the state of NH. Disagree with this only an area variance. Feels this is not a lodging house or bed

and breakfast proposal. There is nothing unique about this property. Permissible use of the property is single family dwelling. Feels this project is more than this area can handle. Discussed the preservation of the lake.

Alan Taylor – presented a letter to the Board. 78 11D, been in family since 1933. Read letter. Asked for applications to be denied.

Michael Donovan – representing Alan Taylor abutter – spoke to the legality of granting the variance and special exception. Stated this Board does not have the jurisdiction to grant this variance. Feels this is not a lodging house that is proposed (Lodging is rented room) These units have three bedrooms. This proposal is still 4 multi-family dwellings. Presented special findings. Bayside is grandfathered motel. Motel is not permitted in Lakeshore residential. Boca does not apply – this is a use variance – density is use. Garrison vs. Town of Henniker. Self created hardship and not in spirit with the ordinance and in harmony with the master plan – it is contrary. Site is a non-conforming use. Destruction of the noise buffer from route 11. Request that the record of the June hearing be part of this record tonight.

John Tibbs – abutter to the property – does not agree with statement that property values will not increase. Does not feel the Taylor family is indeed an abutter to this property but close neighbor. In favor of this project. His land abuts this land behind it. Is willing to transfer property to make this parcel more a

Mark Cassidy – abutter 93 11D. supports the project. Improve the neighborhood.

Rebuttal – S. Hogan – still feels the abutters do not have a valid objection. No direct effect. Self created hardship is not dispositive. Uniqueness of parcel – proximity of 50 year run family business.

S. Rogers stated the uses of the buildings as presented by abutters are not true and are not relevant.

S. Hogan refuted statement of lodging house and this is different from initial application. They are not presenting anything disingenuous. Feels this is not an issue. Density is an area and is a use issue.

D. Schaeffner – questioned the definition of the lodging house. 10-person limit.

S. Rogers – is not sure how many bedrooms there will be . Based three bedrooms on the costs to debt income ratio. Approved for 22 bedrooms for sewer.

T. Kinnon noted there is a huge difference in a lodging house and condo unit.

D. Schaeffner – noted this plan is the same plan submitted in June. Question of the bedrooms listed is the same as June.

Noted 8:35 – spoke to the public – noted there are four cases to hear and will not get Dedicate this to another night where you can hear that case.

Motion T. Kinnon to continue case Z07-21 to January 3, 2008 Second S. Hurst. Discussion.

No re-notification to abutters. First case of the night. 6 p.m.

8:40 recess.

8:50 resumed

### Deliberation

Request for ruling.

T. Kinnon stated he feels they have jurisdiction

Motion T. Kinnon can accept jurisdiction and falls under the RSA . Second by Steve. Vote unanimous.

D. Schaeffner stipulate lodging house

Motion ZBA can accept jurisdiction. Second by P. McLeod: Vote unanimous.

### Variance request

Question Pam – abutter question. Valid abutter?

Taylor was an abutter when the first application was applied. A portion was sold off.

S. Rogers – never has been a direct abutter to the house.

T. Kinnon

50 ft from the property in issue. Not directly abutting. Patch of woods.

T. Kinnon more comfortable with - does seem to be self imposed.

D. Schaeffner – new master plan

Steve concerned with lakeshore residential impact. Also concern for future sale of property.

T. Kinnon noted this variance is for one business entity.

Public interest – variance will not be contrary to public interest. All agree

Is in harmony with the spirit of the zoning ordinance – All agree

Substantial justice will be done by granting the variance – All agree

Request will not diminish the value of surrounding properties – all agree

Hardship area variance is needed – benefit cannot be sought – All agree

Base on the special conditions do exist

Motion to grant (Tim) for a variance with the condition that it is strictly used as a lodging hotel/motel type establishment and remain in conjunction with the existing establishment on the eastside of 11-D.

Second by D. Schaeffner. Vote unanimous.

Motion by T. Kinnon to accept the application z07-15. Vote unanimous.

Open to the public in favor of this application

M. Donovan – made arguments on record.

J. Cassidy – reiterate same argument

Public input closed.

Definition of total density - three or more persons without meals.

Under Lakeshore residential – motel not allowed – lodging only by definition of the town of Alton

Plat has been accepted by the planner and recommendation has been made – all agree

Specific site is an appropriate location for a lodging - All agree

Factual evidence is not found that property values will be reduced – All agree

There is no valid objection from abutters based on demonstrable fact – All agree

There is no undue nuisance – All agree

Adequate and appropriate utilities – All agree

There is an adequate area for safe - All agree

The proposed use of the structure – All agree

Motion to approve (Tim) special exception – with the condition that it is a lodging unit as defined by definition by the town of Alton zoning ordinance and also that this stays as one commercial entity in conjunction with the hotel/motel operation on the eastside of 11-D. Seconded by S. Hurst. Vote unanimous.

P. Monziona and Timothy Morgan resumed their seats on the Board.

P. McLeod recused herself from the meeting at this time.

**New Applications**

**Case #Z07-19**

**Map 74, Lot 29**

**Variance**

**Charles & Susan Brewer**

**Sleepers Island**

Application submitted by Charles & Susan Brewer to request a variance from the Tow of Alton Zoning Ordinance 2007 Article 300, Section 327 Setback Requirements. The property is located within the Lakeshore Residential Zone.

Morgan moved the application complete. Second by Paul. Vote unanimous.

Present for this case: Charles and Susan Brewer

Property is located on Sleepers Island – 1 acre lot. Protected cove. They would like to come up longer season. Would like to expand living room area. Extend front of house out by 6 ft. currently 10 ft porch. Put a 7 ft porch and puts 3 feet into setback. Cannot move house back due to large bolder and very large tree. Area is mostly treed and do not want to remove anymore trees. Closest neighbor is about 100 ft away. This will not decrease the value of abutter lots.

T. Morgan asked if any other residences on the island go into the setback.

C. Brewer 1 house is actually within 10 feet of the water. On ground level and on steep property.

S. Hurst asked if this project would change views.

Noted abutter cannot see him.

Overhang only will be in the setback. No structures posts in the setback.

Open to public input  
None seen or heard  
Closed public input.

Variance worksheet deliberation

Public interest – will not be contrary to public interest. All agree  
Request is in harmony with the spirit of the ordinance and the master plan – All agree  
Substantial justice will be done – all agree  
Request will not diminish values of surrounding properties – all agree  
Area variance is needed given special conditions – all agree  
Noted variance is also for additional living space

Motion Tim Moran second by S. Hurt

**Case #Z07-20  
Jerry Hopkins**

**Map 43, Lot 10**

**Variance  
Traskside Road**

Application submitted by Jerry Hopkins to request a Variance from the Town of Alton Zoning Ordinance Article 300 Section 327A Lakeshore Setback Requirements to allow widening of existing stairs that are within the 30foot setback from the lake. This property is located within the Lakeshore Residential Zone.

Motion Morgan to accept – Paul second: Vote unanimous.  
Present: Jerry Hopkins – present for son Peter owner

3.5 feet wide – bottom three treads in 30 ft set back. Widen to 12 feet wide. Go from three treads to 4 treads. 3 pieces of wood 15 inches.

Currently 3.6 and proposed 3.9 into the setback

Open to the public input  
None seen or heard  
Closed public input

Variance will not be contrary to the public interest – all agree  
Request is in harmony with zoning ordinance – all agree  
Substantial justice will be done – all agree  
Request will not diminish the value of the surrounding properties – all agree  
Area variance is needed – all agree

Motion to approve case z07-20 for a variance – Paul and second by T. Morgan Vote unanimous,.

**Case 07-22  
Gillan**

Paul Monziona recused himself.

T. Morgan concern that this is not complete

Most sections not completed and does not feel they can make a proper decision

No justification

Special exception request.

Plat – copy of tax map – need more information.

7 criteria on 520 - .

Present ; Ernie Gillian Jr. and Michael Carlton

Intention to go through the 7 criteria in explanation of application.

Application does not have questions for special exception. Other case did have the questions for special exception. Mr. Kinnon suggested this was accidentally omitted.

Withdraw motion objection

D. Schaeffner noted Planners concern about dimensions

Motion to accept the application – T. Kinnon – Second T. Morgan Vote unanimous..

No structure – idle storage – seasonally only – winter storage only. From route 28 this is formally a gravel pit area. 3/10 of a mile from route 28. remote rural area. No undue nuisance – gated area.

Provided within the 200 yards from the road. No requirement for any facilities. No water and sewer necessary, no structures. Boats are already covered. 100 ft buffer from Merrymeeting river. Parked perpendicular to the banks.

Question on distance to the water and wetlands in formal gravel pit. Question on leakage and pollution to ground.

Engines are winterized and sealed up.

Noted very dry area – former gravel pit.

Question on size of area for storage or use of entire lot.

Not planning on using the entire lot. – does have potential but not intention.

Approximately 100 boats. Not valet service – trailer storage usually goes back with customer in the summer.

Not aware of abutter view

They use white shrink wrap – blends in with landscape.

T. Morgan concern with no acceptable plat

Planner needs scale and or dimensions.

15 acres are gravel and intended for the use.

Open to public input  
None seen or heard  
Closed public

How wide is the road that goes back to the property.  
Gravel pit road – wide enough for two tractor trailers to pass

Motion to continue to give applicant supply (Tim Morgan) second by S. Hurst  
Vote unanimous

Motion to schedule a special 5:45 p.m. T. Kinnon. January 3. Vote unanimous.

Drafted verbatim

### **Case Z01-21 – Review of Application**

Present: Jody Persson

T. Kinnon - Well, at this time, the applicant, Jody Persson, had requested that we review the application for the Motor Cross. It's case Z07-21 for the Motor Sport Park. He requested that we simply review the application tonight and possibly accept it. I didn't feel that it was contrary to any of the statements I had made earlier because there will be no further testimony beyond us accepting the application, if we do accept it. And my feeling in doing this was, it gives us a quick opportunity, well not a quick – we should have already looked through it, but, it give us an opportunity to let the applicant know if there is anything else we will be looking for specifically.

T. Morgan – do you have a waiver checklist for this or are they requesting waivers?

S. Penney – no, not per se, no there is no waivers. In due time, I have something I'd like to say, whenever it's appropriate.

T. Kinnon – well I think that's kind of the purpose of just even discussing this tonight. If there is anything you know you would like to see for January 3 or any Board member, if they know of anything, I feel that was kind of the purpose, just to speak of it so that they can be more prepared, they can be more thorough that night.

S. Penney - I'm trying to read the legend here, no there is no legend. Shall I or would someone else like to . . . I don't want to be out of order here.

T. Kinnon – no, well actually when, I think you are in order because we are discussing it.

S. Penney – This map that or this site plan, I guess it is, it's not labeled as such, that was submitted, we really need a legend on it, Jody.

J. Persson – Okay.

S. Penney – to determine what is what. It doesn't have to be fancy. The locust map's there, that's great. I also think its, without going overboard on this, because I know it's somewhat, it hasn't gone to the Planning Board yet, or wherever, I think it's very important for wetlands demarcation, because that is a major issue of contention from what we have seen and heard and also if you have got any preliminary contours, topography. I mean, there has got to be some survey's out there already. I don't mean to make you do tons more work. I think it serves the purposes well, those three items, a legend, some preliminary contours and also wetlands.

J. Persson – No, fine.

T. Kinnon – do we have larger drawings than these?

S. Penney – indicated no.

J. Persson – Cindy [Balcius] has already marked these wetlands so.

S. Penney – Okay

J. Persson – Is alright to do another . . . update this and submit it for the next meeting.

S. Penney – Sure, because you got a continuation and that is what they have asked for.

J. Persson – Yes, she's got that so we can put that on. What I'll probably do is have them redo this and it's going to be the whole thing right to 28. It's going to be the whole lot. This was done by the engineers.

J. Fortin – Oh, I know what that is, Bartlett did the conservation . . . .

J. Persson – Yes, Bartlett the conservation . . .

J. Fortin – we actually have sheets 1 and 2 downstairs to match.

S. Penney – Oh, I see.

J. Persson – that's what I was going to mention is we are going to do another one of these but it's gonna be bigger. It's going to show that whole conservation, 28 as far as properties adjacent to that, do you need any kind of. .

S. Penney – Well you got abutters . . . so that's fine. But like I said it's real important to have a legend cause you have a lot of stuff here that most people wouldn't know what it was.

T. Kinnon – Yes, exactly, elevations, and dress it up with a whole bunch more information. Well then I think that we have accomplished what we wanted to accomplish tonight. At this point, I think we should wait until we get that additional drawings and information to accept the application. But it looks like the questions, have been answered. I think that just, maybe for the record to note that we did not accept the application this evening. We simply conversed with the applicant to let the applicant know what additional we will need on January 3<sup>rd</sup>. I just don't want anybody to have the perception

that we actually did have a hearing her tonight. I think what we did tonight was in the sake of having an inefficient hearing on January 3.

J. Persson – so no notification for this next meeting?

S. Penney – no because it's a continuance so it's incumbent upon you if you want folks to come to, you know your people.

T. Kinnon – thank you very much.

Talking off mic.

T. Kinnon – I wouldn't mind walking it. I don't know if we can walk it together, can we?

P. Monziona – is it accessible, should we ask?

S. Ames – you can't walk it without a waiver. You didn't accept it and you can't walk it unless he gives you a written waiver.

J. Fortin – it's needs to be the land owner.

T. Kinnon – Okay.

T. Morgan – ask him if he can get one.

D. Schaeffner – it has to be from David or he can get it. . .

S. Ames – or up to the applicant to notify the land owner who will then supply a written waiver so they can do a site walk.

J. Persson – so would that come into effect before this next meeting?

T. Kinnon – Yes.

S. Ames – Yes. They want to go see the site prior to acceptance.

J. Persson – What about a potential sound test? Sound.

S. Ames – If that pleases the Board, but they can't do anything unless I have a written waiver by you and David.

J. Persson – Yes, Okay.

T. Kinnon – I don't think we are going to be able to do a sound test right now, though.

J. Persson – well now that the snow is on the ground I can get a bunch of machines in there and run them just so. . .

S. Hurst – wouldn't the Planning Board want to be involved in that?

S. Penney – there will be another opportunity for that, and I don't mean to speak for the Board but I think this is just for their familiarity with it.

J. Persson – Yes, Okay.

T. Kinnon – so basically we just need something that says we have permission to enter the property.

S. Penney – come in so we can work . . .

J. Persson – absolutely.

T. Kinnon – that would be great. Thank you.

S. Ames – what kind of a schedule are you looking for for a site walk? I'll need to kind of know, like date. They need to have somebody there to represent them. Do you want to shoot for a Saturday morning?

T. Morgan – I would prefer that, yes.

S. Ames – do you want to shoot for this Saturday or the 22<sup>nd</sup> which is the first day of winter, awful close to Christmas.

J. Fortin – actually for a site walk you only need 48 hours notice.

S. Penney – what?

J. Fortin – for a site walk you only need 48 hours notice. It only has to be posted for 48 hours.

Discussion but not into microphone.

S. Ames I will send out an email. Site walk December 15 at 9 a.m.

Paul Monziona distributed document on variance law for the Board to review. Suggested it has good information.

**Motion** by P. Monziona to adjourn. Second by T. Kinnon. No discussion. Vote unanimous.