

**MEETING  
GEORGETOWN PLANNING BOARD  
Meeting Minutes  
October 25, 2006  
7:00 P.M.**

**Present:** Mr. Hoover, Chairman; Mr. John Moultrie; Mr. Tim Howard; Mr. Hugh Carter; Mr. Harry LaCortiglia; Mr. Larry Graham, Consulting Engineer; Ms. Sarah Buck, Town Planner; Ms. Michele Kottcamp, Administrative Assistant

**Absent:** none.

**Board Business 7:00 p.m.**

Mr. Hoover opens the meeting at 7:10

**Minutes – September 27, 2006**

Motion to accept Sept. 27<sup>th</sup> notes with the changes noted.  
Mr. Hoover/Mr. Moultrie, 5-0 in favor.

**Acorn Way detention basin discussion**

Ms. Buck- The Board's interest has been to find out why the basin was holding water in certain flooding conditions. I have had discussions with Mr. Nixon and Mr. Barry and have asked Larry Graham to talk with them. Thad Barry and Rob Nixon are here to explain to the Board why it works as it does.

Mr. Moultrie- I am abstaining from the discussion.

Mr. Hoover- I would like to hear what Larry Graham has to say.

Mr. Barry - Both ponds are designed to infiltrate water such that during certain events water will drain at a slower rate. Original design of the pond was for a standard subdivision. It was basically oversized by the calculations and underestimated the amount of water that was flowing off site in pre-development– I really am a late comer. As pointed out at the public hearing, the abutter brought pictures. We ran the hydrologies so that no water came off that site. She was confused and thought we played tricks with the numbers. We tried to explain that if no water came off prior to development, then no water will come off post development. There was a large concern for downstream flooding. My client agreed to do the overflow and improve the culvert. The ponds were still kept at same size. Between the discussions with the abutters' concerns - it was no question that Jewett Street was flooded - it was decided to retain as much water as humanly possible. The bottoms of the ponds are therefore 1 ft above the high water mark, usually we have 2 ft. We still get storm water infiltration. The ponds are

functioning as designed which is to infiltrate and hold back the water from downstream flooding.

Mr. Graham- That was a good explanation. I would just add that the estimated water table used in the design was a foot separation. That was in the reports from the people that give us the water table evaluations. If you took 3 different soil evaluators, you might get three different answers. When Millenium did reading in Aug 04- they actually read a static evaluation a couple of tenths or a few inches different. That tells me that the initial ground water could have been a little higher. We talked about the phenomenon that when you put a column of water on an area, it tends to create a mound to the water table. In other words it's like an inverted plunger, it mounds to a certain extent laterally and height-wise. In this case Tenney Street may be causing that mound to last longer. The water table tends to follow the drain and Tenney Street then is acting like a dam. That mounding may be exacerbated by those conditions. I also looked at the soils tests that were done. The soils test in pond test #1 on right was done Nov. 2001 and the left was done in March 2002. The pond on right showed several inches of coarse sand 26-112 inches. I just wanted to review and want to be sure the soil logs didn't mention any other media that might be a factor.

Mr. Hoover- There's something said that is new information to me. In this particular issue under these particular conditions, you could get 3 different interpretations from three different scientists. We should have caught this but want to move forward and let this issue go. Based on the time that has transpired on this, I move that this Planning Board should move forward.

Mr. LaCortiglia –This got permitted before I got on Board. I'm glad we had a break, because I had a chance to drive by. The basins were empty and it all seems to be functioning.

Ms. Buck- Did you want to make any resolution regarding the detention basins? We are considering this street for acceptance at fall town meeting.

Mr. Hoover- I think what I heard is that the three members are in agreement on this issue and it's time to move forward.

**Street Acceptances, Recommendations for Town Meeting: Forest St, Acorn Way.**

Ms. Buck- The street acceptances have been put on fall Town Meeting Warrant by the Selectmen. Larry Graham has received street layout plans from each of the two applicants. We can look at it again on Nov. 8 as I know Larry is still looking at items on the layout of the streets. I thought he should update you on it and see if the Board has further questions. We have signoffs from the town departments on Acorn Way and only Conservation is left for Forest Street but they say it is close. The departments have signed what's called a Form J, Certificate of Completion.

Mr. Graham – It appears that Acorn Dev Corporation has easements on Sunset Rock. Just for the Board’s information, that is the entity that you are going to be looking for the easements of the roads in the town.

Mr. Howard - Who will hold titles?

Ms. Buck - The Town of Georgetown under the stewardship of the Conservation Commission. We have a checklist and at our next meeting we will go over taxes and open space deeds and easements and street acceptance plans and completions from the departments which all be in your packet.

Mr. Graham - Is Millenium working on the as-builts for both of those streets?

Ms. Buck- On Acorn Way they were finalized and completed. On Forest Street, I will go back and check.

Mr. Graham – On Forest Street, one minor matter that I would like to bring to the Board’s attention, has to do with the easements. Easements on the individual lots were all based on the recorded definitive plan. The acceptance plan which I am reviewing has slightly different metes and bounds along the easement. The purpose, basic widths and functionality of the easements will not be affected. What may happen if this street acceptance plan is put on record, some attorney or title researcher might say that the definitive plans that have been drawn will say 74.29 feet and pull up the street acceptance plan it might say 72.49 feet and say, “we may have to resolve that.” I do not see that it impacts the town’s interests as functionality is preserved.

Mr. Hoover – Is there something we can do to help clarify in the future questions that are necessary?

Mr. Graham – I think in the future that whatever scenario is brought up by the researcher, they will rewrite the deed to the most recent street acceptance plan.

Mr. LaCortiglia - So you consider these differences to be insignificant?

Mr. Graham - They are insignificant as far as I am concerned.

**Raymond’s Creek**  
**Affordable housing provision**

Ms. Buck – The next item we have on the agenda is Raymond’s Creek. Mr. Longo has submitted an elevation and a floor plan of his proposed duplex affordable housing unit. Mr. Longo is proposing to put the affordable duplex on Lot 14 at Whispering Pines. I have the plans here if anyone would like to see the location.

Mr. Moultrie- Isn’t there a condition on this permit when that affordable unit is supposed to be built?

Ms. Buck- The Planning Board did not put into the permit a timetable, but the affordable housing is a condition of the now completed Raymond's Creek Independent Senior Housing portion of Whispering Pines. We have been asking for a construction timetable from Mr. Longo as well as a plan for the proposed affordable units.

Mr. Hoover- In a letter dated Sept. 11<sup>th</sup> addressed to the Chairman of the Planning Board, the writer talks about some dates mentioned at an earlier Planning Board meeting. I'm reading from the letter: "at this meeting, Mr. Longo agreed to complete the affordable housing plan by end of July, and then the homes in 6 months." Is that correct? We may not have it in the conditions, but that is good enough for me.

Ms. Buck- That is accurate and that is what was said at meeting.

Mr. Longo- No timetable was set. If it was verbal at the meeting, then that may be. There had been no decision.

Mr. Hoover- Is that a schedule that you can go along with?

Mr. Longo- I'd like to get the foundation in the ground before the winter. We would do framing until spring. The caveat to that is I'd like to sell existing house that I had bought to be the affordable.

Mr. Hoover- I guess what I would like to wrap up with is a commitment on construction to be completed. How many months to then build it out? All these caveats and contingencies aside, it's dragging out and getting complicated.

Mr. Howard- Can you commit to a date in the spring?

Mr. Longo- I will commit to July, 2007.

Mr. Hoover- Why can't you commit to getting it done soon? You are talking about turning everything over to the homeowners association yet you still haven't completed the affordable which is part of this project. There has clearly been verbal communication between yourself and the board that this was committed to be designed by July. That to me means as much as the written word.

Mr. Longo – But I don't see the difference if it is June or July – standard construction is 6 months.

Mr. Moultrie - If that's the case, you said you would have a design here by last July so and we are now at the end of October. It says here that construction is 6 months. That means the start of construction.

Mr. Longo - There was a time that Beverly Drive was looked at for the affordable house. Then the Board wanted a new house instead of using an existing house. That's why you asked for the plans.

Mr. Hoover – The other house was rejected because the building inspector condemned it, correct?

Mr. Longo-There is no such word as “condemn” in that case that was used. What it came down to was that it did not have a foundation. That was not the same as the condition under which I bought it. We did the home inspection first. We all agreed that every item would be completed and fulfilled just like every home inspection should. Someone came back and said, we don't want this house because it doesn't have a foundation.

Mr. Moultrie- But it failed the home inspection, correct?

Mr. Hoover- Did it have structural deficiencies?

Mr. Longo- It did not have structural deficiencies. You don't fail a home inspection. You have a list of items that need to be repaired.

Mr. Hoover- I have a paper that says something very different than that.

Ms. Buck – We had a long list of items that needed to be fixed.

Mr. Moultrie-That house was rejected correct?

Mr. Longo- Because someone deemed it as needing to have a foundation.

Ms. Buck- Could the new affordable housing be framed enough complete so that they could they have a walkthrough in the spring for when they enter the lottery?

Mr. Longo- If they go through a walkthrough, they want to see it complete.

Mr. Moultrie – Are you talking about a completion date of July?

Mr. Longo – July 1, 2007. I want to have a safe window. I don't think I am being unreasonable. Once I commit to putting in a foundation on a house, I am committed to that house.

Mr. Howard- How about no occupancy permits to be issued?

Ms. Buck – I would recommend that you not hold up occupancy permits as opposed to building permits. If the bank has given someone a loan, then you're injuring people from trying to move into the community with good faith if you hold up the occupancy permits. I have not looked at how many occupancy permits are outstanding.

Mr. Moultrie – I think it would be more prudent to hold a building permit in the beginning then at the end. He says he has 6 building permits that haven't been issued yet with 6 open lots.

Mr. Hoover- I have heard July 1 is the commitment. However, I want to see those earlier minutes.

Mr. LaCortiglia- Are the proposed affordable units substantially similar to the other units?

Mr. Longo-This has never been an issue before that it has to match up to the square foot. The game plan changes. The total sq ft will be 1580 per unit. The units will be more in keeping with Raymond's Creek than Whispering Pines. The square footage is within 200 sq ft. Exterior materials are the same. It is a small lot. There are restrictions on the lot because of wetlands in the back

Mr. LaCortiglia - I have spoken to an Affordable Housing Task Force. They have recommended using specific wording. I would hope that the next time there is a permit issued with an affordable housing component that we adopt their language for timetables, specifications, and standards. They clean up a lot of omissions that older permits left out.

Mr. Howard- Set a limit on no more than 200 s.f. difference in the affordable units.

### **Request for release of bond**

Ms. Buck – We have a request to reduce the bond on Whispering Pines, but the spreadsheet I've been given is incorrect. It is showing that we hold a \$309,000 bond but we are only holding \$213,000. There are two releases not shown here. There is no way to move on this now. I will have to review these numbers with Mr. Longo and our reviewing engineer.

Mr. Moultrie- Table this motion until it can further be reviewed.

Mr. Longo- We haven't resolved the \$5,000 bond on Raymond's Creek.

Mr. LaCortiglia – I make a motion to table the requests.

Mr. Moultrie- I second the motion until it can be further reviewed.

Mr. Longo- My recollection from last meeting was that the \$5000 bond was just for the as-builts. The as-builts would be complete and voted upon subject to approval for the affordable house. That was voted on at one of the previous meetings but I don't know if you can table that since it was already voted on.

Mr. Moultrie- We have no evidence of that.

Mr. LaCortiglia- We have decided to hold off until a further meeting.

Ms. Buck- Mr. Longo had asked that the board to release the bond but at the following meeting when the plans had not shown up for the affordable housing as promised, the board then decided to not release the \$5000 bond because of Mr. Longo not meeting his side of the agreement to bring forth the plans and the affordable housing schedule. You are correct that a vote was taken to release it. I would have to check the minutes to know whether that vote was saying “subject to the affordable housing plans.” I think the Board felt they had enough on Whispering Pines at that time.

Mr. Moultrie- The board will need to see a copy of that at that point and time.

Mr. Hoover- I am confused listening to the history.

Mr. Hoover - It has motioned and seconded to table the request for the release of bonds on Raymonds Creek and Whispering Pines. 5-0 in favor.

Mr. Graham- On the affordable unit how is the septic system to be provided for that?

Mr. Howard- These plans show 3 bedrooms.

Mr. Longo – These are generic plans as I need approval to move forward.

Mr. LaCortiglia - Record should show that we are in receipt of generic plans. Will we be in receipt of what you intend to build?

Mr. Longo- Exterior needs to be approved first. If the exterior is approved, then I will order plans. It's \$500 for the plans.

Mr. Hoover- Summarize please, Ms. Buck.

Ms. Buck- Mr. Longo will order his plans that will show two 2-bedroom units within the footprint of the existing house that is shown on the site plan for lot 14 of Whispering Pines. He will put in the foundation before winter so therefore we will have the approved septic systems, correct? He will complete the duplex by July 1. Affordable housing lottery will be July 2007.

Mr. Hoover – And we also will get copy of the meeting minutes.

**Public Hearings:**  
**Harmony Lane**

Ms. Buck- You are in receipt of plans for a 3-lot subdivision on Central Street from the applicant, Mr. Frank Gatchell. Bill Holt from Professional Land Survey is here.

Mr. Moultrie – Before you start, I am head of Georgetown Highway Department and Mr. Gatchell worked many years for the Highway Department. It has been quite some time since he retired, but I just want to disclose that fact so there is no conflict of interest. There is also a disclosure statement on file with the Town Clerk.

Ms. Buck- I have photos I took on a site visit to the property.

Presentation: Ms. Buck shows 8-10 images of Harmony Lane on the projector.

Ms. Buck receives from the applicant the green card certified mail receipts of the notices to the abutters of Harmony Lane.

Mr. Holt – I am William Holt of Professional Land Survey. The actual farm stand is still located on this property. Applicant seeks to construct a roadway with a 40' width with 20 feet of pavement to service two new lots which are Lot 1 and Lot 3 on the plans. Lot 2 is the existing house. Lots are in the RA zone and will be serviced by town water and private septic. Drainage will be in place to handle increase in runoffs. The infiltration basin will be located at front of property. That is what was proposed for this project. Based on Larry Graham's initial comments, we will probably be requesting a continuance until we can talk to the Building Inspector. Larry Graham's first initial review of Lot 1 was that it is not compliant with zoning regulations on the plans. If that is true and Lot 1 is not compliant, we will have to change the plans accordingly. Until determination is made, we need to ask for continuance.

Mr. Graham- Bob is right. I made 3 comments. 1) The proposal doesn't provide the required 30' radius. 2) Doesn't provide a curb return at the turnaround in the cul de sac. This is not required, but they are standard practice. 3) Bill referred that they wanted to go to the Building Inspector. I don't believe that Lot 1 complies with lot frontage as following amendment 117 in the zoning ordinance. That would have to be measured off of the proposed Harmony Lane instead of Central Street. They need a minimum lot depth of 100 feet in this zone. It is clear they don't have that. I sent this to Bill of PLS last week and they responded last week. I also faxed to Ms. Buck this morning. They responded by saying that they measured lot depth according to that amendment. I agree that the wording has some ambiguity and it leaves up to one's imagination and interpretation the measurement such as this. I suggested that the Board should look at this and if they can't decide, they should get the opinion of the Building Inspector.

Mr. Hoover- Is there someone from the public that would like to speak?

Abutter- I live at 121 Central Street. I have concerns that the road is too close to my home. Will there be one or two homes? It is their land, but is the road too close by our bylaws?

Mr. Holt- I think it will take at least a month for revised plans once we get feedback from the Building Inspector and Larry Graham.

Mr. Moultrie- Motion to continue the public hearing for Harmony Lane to January 10th, 2007.



Mr. Carter- Second the motion.

Mr. Graham- Sarah should go to the Building Inspector with that meeting to convey what the concerns are and bring the information back to the Board.

Ms. Buck- We ask for an extension to be until March 31, 2007 and should be signed by the applicant.

Mr. Hoover- It's been motioned that we extend the decision date for Harmony Lane to March 31, 2007. All those in favor? 5-0 in favor.

### **Parish Road**

Ms. Buck- Next item is the public hearing for Parish Road. They asked for permission to re-advertise since the notice to the abutters did not get sent out. They asked that they be on the agenda for the next meeting on Nov. 8<sup>th</sup>. So there is no public hearing tonight for Parish Road.

### **Continued Public Hearings**

#### **Proposed Zoning Amendment: National Avenue**

Ms. Buck- The next item is National Avenue. Planning Board has a continued public hearing for the proposed zoning amendment on the Fall Town Warrant brought forth by citizen's petition to consider re-zoning of 3 lots off Rte. 133 and National Avenue.

Presentation:

Mr. Moriarty – I am here on behalf of Tom Kennedy. We are back as a result of some questions from the last meeting. Essentially, we have 3 issues. 1) The owner of one of the parcels which is Hi-Tech Hose. I have here their authorization to pass around. The other issue is the location of the wetlands in this approximate area and the board has concerns about the impact this area would have with the abutting neighborhood property. We asked our engineer to do these aerial plans with an overlay of the wetlands which is indicated in green. It is unlikely that any development that we have here will have any impact. It is not really developable property. The last issue was that the Board had questions on the developable area at the back end of the Long Hill subdivision. I have here a print from the registry of Deeds. This is the title plan of definitive subdivision at Long View showing Parcel A. Here are the other two pieces that show that this parcel is reserved as open space. Another sheet is noted as storm water drainage that I will pass along to the board. Mr. Keilty, an attorney for the developer, is currently the title holder. However in 2000, there was \$353 of taxes unpaid. We are assuming he has no interest in paying taxes on this piece of property. I would assume at some point the town would take the parcel.

Mr. Moultrie - That sounds correct. I was involved in that and that open space was supposed to go to town. The roads had not been accepted because of other issues. That

other part of that transaction never transpired. There is a huge retention area involving the wetlands. It is all non- developable land.

Mr. Moriarty- I think those were the 3 issues from the last meeting that the Board had.

Mr. LaCortiglia - What is going to go there? Why do you want to change the zoning?

Mr. Moriarty - It was all residential at one time. There were certain set back requirements. Because of the shape of the wetlands, I have small areas that I can develop. Then my area is not large enough to develop. When I look at the buildable area, it is larger at the back and smaller at the front because of the wetlands. The type of development I am looking at has a number of possibilities.

Mr. Howard - Were you the owner of the property?

Mr. Kennedy - I own map 14, lot 7 and am under agreement to buy the road itself and also the small lot between the road and that green area below Map 14, lot 8. I have that under agreement to purchase also.

Mr. Moultrie - A section of National Avenue is owned by the town of Georgetown. You are not the land owner there. It's for the benefit of all the people there. It's a limited access highway and it's for the benefit of everyone. Anyone else that owns land there has the same rights.

Mr. Kennedy - The reason I had to buy that is because I didn't have frontage of my lot.

Mr. Moultrie - There was a small sliver of land there that was put there by National Construction.

Mr. Moriarty - It was done by Rizzo. I made an agreement with Mr. Rizzo – a binding agreement. Let me reiterate to the board - It makes no sense to have this small odd arrow shaped lot in the back zoned for residential.

Mr. Moriarty- I am not here for hardship. I'm here for a zone change. The intent was to make this area commercial and I want this entire lot to be zoned for that. They should have looked at the lot as it is too small to develop for residential.

Mr. Moultrie – You mean that you want to change the whole thing to industrial, not commercial.

Mr. Moriarty - Yes, industrial.

Mr. LaCortiglia - Don't you have to go to the ZBA?

Mr. Moriarty- Only town meeting can change the zoning.

Mr. Hoover- It is my tendency to agree that this line was incorrectly placed.

Mr. Moultrie – At town meeting is where you can do the zoning. The line is placed arbitrarily and there are other mechanisms in place like wetland issues in place. It is good zoning use to change the zoning. The burden of the buffer is on him.

Mr. Hoover- I think it makes a lot of sense to be consolidated. I struggle to take it to the town. The full town needs to weigh in on this issue. Georgetown must get it right. We are in the process of getting the master plan completed. And as part of the master plan, one of the components deals with economic development. We will ask the consultant that is selected by December that this study be done by the annual meeting. The town will then have an opportunity to vote. It may be that the town says, “Thumbs up” and if they do, I will be the first one to stand behind it. I feel more comfortable after consideration of the master plan. I don’t feel comfortable for this town meeting but want to wait until the annual meeting.

Mr. Kennedy- I could not go forward with my last spring hearing because this board did not properly advertise my hearing that I properly filed last year. I then was injured. When you have a spring meeting, you then have to wait until the Attorney General signs off on it. That will be this time next year. Consequently, you’re putting me off until Sept/Oct of next year. You’re asking me to sit for another year, when in fact I was injured and properly filed. Therefore, because of this mistake, I was not allowed to go forward last spring. Everything is timing. I have 700,000 sq. ft. of retail business underway. I wish you would take this under consideration. I can’t go forward until the Attorney General’s office signs off – it will still take me a year. What you’re saying is it will take me 2 years to go forward with development. I may not have a development in two years. I may not have anyone to put there. I have been dealing with several different entities. If they go somewhere else in the area - they’re looking at Pearson’s up the street. If I don’t have a tenant, I will probably sell a portion of it off to Georgetown Cement Company who wants a storage place. There’s a warehouse guy who also wants it. I’m trying to put in a place that is probably going to bring in \$250,000 - \$300,000 / year in taxable income of actual monies and I’ve committed to \$1½ million of road improvements plus a ¼ million to the Town in benefits. If I’m not allowed to start now, I will not be able to proceed. As stated, ¼ mil to school system and ¼ mil to the town benefits. I did file properly last May which should have been heard but had to wait until this fall.

Mr. LaCortiglia – For the record, it was filed last year and there were text errors. You didn’t have the right map and lot numbers.

Mr. Moriarty- We ran it by Town Council and they approved it.

Mr. LaCortiglia – I could have shown you the map and lot numbers, but they didn’t match up.

Mr. Moriarty - Town Council disagrees with you. When the issue first came up about whether there was a discrepancy on the map with lot marks, we ran it by Town Council and they specifically approved it. They said it was sufficient.

Mr. Hoover- I want to move off that a bit. There is nothing I heard that I don't already know. I am struggling with the impact this will have 30 years from now. I hope you can take that and consider it. The master plan will help us make a clear decision when it is complete.

Mr. Kennedy- I have to come back in the spring and come in front of the board again. I have to go to the Board of Appeals. I have to get a special permit from the Board. This is delaying me a year. You have all your safeguards in place. This is incorrect zoning that is a minor issue. I just want one continuous parcel for zoning. Even if I don't go forward, this should be corrected because it was done improperly. Whatever I decide in the future, who knows what I will do. Please consider moving the zone line, everything else in place, or I have to wait around for one year. I can have you talk with 10 different towns and over hundred developments and planners about me and I am concerned about this town. This is just a zoning issue – I do not know what I am going to do. This is merely to straighten out the zone line on a piece of property.

Mr. Moriarty – You do not need a professional planner to tell you that – in terms of fairness and good zoning. There is a small sliver that is inaccessible and it doesn't make sense. Do you really need the advice of the professional? The fundamental issue is that it doesn't make sense to leave the zoning line the way it is. That zoning line doesn't belong there. You're not approving the project this evening, but simply allowing him to begin the process. It would be unfair of the Board to deny this on the basis that you don't like what might be there in the future.

Mr. Hoover- That is not at all what I said. I said to wait for the report from the professionals to determine what is in the best interest of the Town.

Ms. Buck- As planner, this is the only time that the Board does permit this process. They have to go to site plan review but this is the only time they would weigh in on permitting this project. While I empathize with this sliver of land, this is the last chance that the Board has to make a recommendation on the uses of this land. What looks initially simple is a bit more complicated.

Mr. Moultrie- If they fail a site plan request, then they're dead in the water. If they don't pull a site plan, they can't move forward. I want you to understand that even though I am in favor of re-zoning, I am not in favor of putting this before Town Meeting. Why don't you go through the normal route of putting it through the Board of Selectmen instead of cramming it down our throats?

Mr. Kennedy - Because politically some people didn't want to do it. Some people didn't want to vote on it one way or another.

Mr. Hoover- I'd like to open it up to the public at this time. Are there any public comments?

Mr. Richard Lappin - I am the owner of Georgetown Shopping Center. Has he presented all the information requested at the prior meeting?

Mr. Hoover- It appears to be in the letter he gave us.

Ms. Buck- We have received a letter from Flexible Solutions Division, parent company of HiTech Hose, saying that they agree to the inclusion of their parcel in the application.

Mr. Lappin- If approval of the zoning goes by, you start down a road.

Mr. James Crosby – Master plan will be completed by May town meeting. You deal with what comes out of that.

Mr. Carter- What is the total area of the requested square footage for the re-zone?

Mr. Kennedy - a couple acres.

Mr. Carter - When you purchased the property at that time, you understood it was double zoned?

Mr. Kennedy - Of course.

Mr. Carter - So you are taking advantage of an opportunity and trying to get this re-zoned for industrial use?

Mr. Kennedy - Define opportunity?

Mr. Carter - Why would you buy a piece of property that's double-zoned? You wouldn't have bought it unless you expected to be able to re-zone it.

Mr. Moriarty - The vast majority is still already zoned. If the question is, if this is not re-zoned, will it prevent development there? Then the answer is, "No."

Mr. Moultrie- How much acreage is already zoned for industrial?

Mr. Kennedy- My problem is not how much land there but the problem is that wetlands run through it. On each side of my land, I have 75 foot buffers.

Mr. Moriarty - There are about 40 acres.

Mr. Moultrie- In the part that is now zoned industrial, correct?

Mr. Moriarty - Yes. It's not a question that it can't be developed.

Mr. Hoover - It's 9:30 and this is extremely important. I have two things to say as one Planning Board member. I'd like to take a vote from the board. I want to share this with you. Every now and then certain projects come across the table that causes anguish. On the personal side of this, I have 2 children that are coming into the school system. I know the tax benefits that this project could bring into this town. This is a very important issue. Not a special town meeting. We have a master plan coming. I wish the scheduling hadn't happened the way it did. I wish it all happened differently.

Mr. Moriarty – I spent 9 years on the planning board of Topsfield with a similar situation with no industrial or commercial development or tax base. Tax base is based on housing and taxes keep going up year after year. Encouraging smart growth is a difficult balance. When this was originally zoned, the citizens of the town recognized that if any place in town was suitable for commercial development, this is the location. This is an appropriate place for industrial commercial zoning. Town Meeting already voted in that regard. It has immediate proximity to Rte. 133 and I-95 and what happened was that someone just took a line that resulted in triangular line at the back of the lot. It is not a planning issue that this made sense. This was an accident. We just want the master plan to put into effect that this parcel is zoned one way. You then have the flexibility to do what we want to do with this parcel and look at this parcel not as two slivers. That's what we're asking the Planning Board to go forward with now. You still have plenty of time to make any determinations how it should be used. You should encourage retail or commercial development. I don't know what the Master Plan will say but I do say it makes sense to do it as a single zoned parcel.

Mr. Hoover- What would happen hypothetically if after Town Meeting plans for the project with zone lines changed were submitted to the town? At that point you're in and once you're in, you can't come back with any ordinances that changes or deals with any of the issues. Once you're in, you're done. Don't you think we know that?

Mr. Moultrie – Once the plan is filed and accepted by the town clerk, it protects it against any further ordinances or changes in zoning and that's where that would fall under. You know that's the case.

Mr. Kennedy - By voting against it, the likelihood of me still being here in one year is not going to happen.

Mr. Moriarty - The zoning board could deny that.

Mr. Hoover – We have no control over ZBA.

Mr. Moriarty - That's not the case. Filing an application for a permit with the Zoning Board of Appeals does not give him protection other than the zoning is what it is and requires a special permit from the ZBA. The ZBA could deny this on the basis that it has a negative impact on the town. This is the way the town has adopted zoning. We have to get special permit from ZBA and it has to go through you for site plan review.

Mr. Hoover- But the way the zoning ordinance is written today, the fact of the matter is, you could submit a package that goes to ZBA for special permit and they could grant the special permit. We have no control over that and then what we are left with, as a Planning Board, is review of a current ordinance that is in place today. I need an answer for that.

Mr. Moriarty - Yes, that is true.

Mr. Hoover- That's what I need to know as it's important to me.

Mr. Moriarty - But you have no assurances. If you had a master plan in place and it recommended certain zoning changes, but you don't have that.

Mr. Moultrie- We have a land use plan in place already.

Mr. Moriarty - But it doesn't change the zoning on this parcel.

Mr. Moultrie- No, it doesn't. Mr. Chairman, what we should be discussing is to change the zone line and what the potential is to build there because that's not the conversation. It's also zoned for adult entertainment so we have to be careful here. I'm sure you already know that.

Mr. Kennedy - No, I didn't. Obviously that is not my intent.

Mr. Moultrie - I want to stay focused on the fact that whether this is good planning to change this line and whether or not we want this before Town Meeting. Those are the two issues here. Do we need two separate votes at this meeting?

Mr. LaCortiglia – I think we are doing a lot of dancing around here.

Mr. Kennedy – Basically I'm looking at retail space. I'm retail developer.

Mr. LaCortiglia- There are a lot of rumors out there and nothing has been stated at this meeting.

Mr. Moriarty – His best use for that sight is retail development. It's not a secret.

Mr. LaCortiglia- You are talking about a lot of plans. I haven't heard a thing in this meeting about revamping the road.

Mr. Kennedy- I've been talking to Target, Home Depot. If I don't go forward, I lose my tenants, then I can't go forward with this process. I can't wait for one year. If they go somewhere else in this year, there is only one major tenant available. It will be next September if you put me off, not 6 months.

Mr. LaCortiglia - The reality is we are talking about a referendum here. The question will need to be answered at Town Meeting. Do they want a big box store or not? The bottom line is – this is going to turn into a referendum. The problem I have is that we are working on a Master Plan to address this issue.

Mr. Moriarty – 2 Questions - We have all agreed it should be one parcel, one zone – triangle doesn't make sense at the back of the lot. Unfortunately it didn't make it to Town Meeting last year because an advertising issue fell through the cracks. It happened but it didn't go through last May. The other issue that you raised was the difference between special town meeting and the annual town meeting. Zoning issues typically fall at the bottom of the list on the schedule at the Town Meeting, even in an annual town meeting. I have been at many where there are just 60 people left to vote out of 650. We do not want this at the end of the agenda. We want it as a focus point. I would also submit if it is such an issue for the citizens of the town, they will be there if they are opposed to it. They should be there to muster the votes to turn this down. I don't think an annual town meeting is any more representative of the views of the town.

Mr. Kennedy- I could still go forward with a plan right now for the Board of Appeals to get a variance to go forward. If they give me a Special Permit, then they are going to give me a variance. Either they are going to turn me down for everything or they will give me everything. They won't give me one or the other. I am just trying to rezone this thing right. My fear is that if I go to set that variance, someone will appeal that option and I know who will – they are in the room. And then it will kill the deal.

Mr. Hoover- Suggest to move forward to render support or not tonight with a vote from the Board.

Mr. Moultrie – Mr. Chairman, I think there are two separate issues here. Are we not in favor of a special town meeting? You have to state that with a majority vote.

Mr. LaCortiglia- Mr. Moultrie, are you suggesting for Mr. Hoover to stand up at Annual Town Meeting to ask for it to be passed over until Spring Town Meeting?

Mr. Moultrie – You have to give a recommendation if you want it to be passed over.

Mr. Hoover - I can't separate moving the line or not from the master plan. I prefer to take a vote from the Board. Is there anyone else in the public that wishes to say something?

Motion to close the Public Hearing. Mr. LaCortiglia/Mr. Moultrie – 5-0 in favor

Mr. Moultrie – I move that we vote to move the line back from its current position to the projected line on the map to make the entire parcel industrial-zoned.

Mr. LaCortiglia- Second the motion



Mr. Hoover- It's been motioned and seconded to move the industrial line back to the property line as proposed by the plan submitted.

Mr. Hoover- All those in favor? Mr. Moultrie and Mr. Carter. All those opposed? Mr. Howard, Mr. LaCortiglia, and Mr. Hoover. 2-3 in favor.

Mr. Moultrie- Mr. Chairman, you'll be standing up at Town Meeting giving the Board's vote on this.

### **Tower Hill OSRD**

Mr. Tom Neve- planner and civil engineer since 1975. I started this job a couple years ago. Want to bring everyone up to speed. This is an important piece of property. Plan to the right is a master plan showing 85 acres of land. I want to develop it in an intelligent way earmarked for residential development. This current proposal is a subdivision of 5 residential lots. Existing hospital has been only just woods for all these years. Lot 7 and 8 will be developed at some future time. The red area will be a proposal to take advantage of senior housing - here have been some preliminary sketches. We want to show this to you. This is exactly what we propose to do and want to move forward.

We are still working on a way to get consensus for the 5 lot subdivision. You've reviewed it – don't like some steep slopes, issues of development. There is a concern of over utilization of land. There is at least 20% less grading and slopes with the OSRD. We don't have room to eliminate a lot. There is no concern – each lot is a challenge. It's not unusual. I have done a thousand of these. I will be involved in this project. I have never had my bond take away. I have a hard time taking a lot away without justification of why. We have taken your advice. We don't want to reduce the density. Do you want us to go back to a conventional or an OSRD? Which way would you like to go? I want to comply and want to proceed

Mr. Hoover -The density issue has been stated all along. The OSRD plan to drop the lot can help free up the OSRD.

Mr. Neve – What lot would you drop?

Ms. Buck- The board has gone over this plan extensively. The lot is a steeply sloped hillside feeding into a large wetland. The OSRD lot density is high because half the overall lot is wetland. The board keeps coming back to the density issue. The plan is showing re-grading that completely ignores the integrity of the landscape. This is explicitly mandated in the design guidelines. You have not been willing to compromise on these issues. We have allowed you a lot of leeway, with many requests for extensions granted with no additional information to the board.

Mr. Neve - Will you be making a recommendation?

Ms. Buck- we have not seen an application that complies without waivers.

Mr. Neve - If we had to design a subdivision without waivers, it would have to show more grading. There are certain grading and sloping issues – I will build it to proper engineering standards.

Mr. Moultrie - I assume he will present a plan with no waivers.

Mr. LaCortiglia - I agree.

Mr. Moultrie- I am looking at the OSRD plan that presents much more of problem than the conventional subdivision.

Mr. Neve- I found that the definitive plan was an easier plan and gives more room for grading.

Mr. Moultrie - The soil there is terrible. It's trapped sub-surface water. Below that is dry as a bone. I have been an engineer for the hospital there. 2 inch saturated zone. Below that where the systems are, there are 6 inches of loose soil. We lost a caterpillar bulldozer which sunk showing only a pipe.

Mr. Neve - This is not unusual. We've done hundreds in Boxford and Andover. I am there everyday. I take my job seriously and I will do a good job. I am doing a 75 lot division in Methuen and am doing well. This will not be an easy job- both plans are difficult. Your first idea was that it is too dense. Additional revenue will support the construction of the road.

Mr. Hoover- Do you have anything to add?

Mr. Graham- I am disappointed that there is no flexibility. The turn of the road could take a couple of tiered walls to place one of the two houses on either side of that. The disturbed area is more extensive if built to full rules and regulations as opposed to a lane with reduced road widths. The figures presented before us could be improved upon. The board could look at this as an improvement to the conventional if some the clearing and grading could be reduced. Where does that 5<sup>th</sup> lot come from? Cost this out if you haven't. Is a lot over here worth the extra cost to throwing out the reduced standards?

Mr. Neve- I respect your abilities. Possibly a common driveway makes some sense. I am certainly willing to work with you if that makes sense for this Board. I will continue to work on this. I heard it's a density issue so drop a lot. If it's a density issue and you want me to lose a lot, then it's a dead issue. There are a lot of good merits to this plan. There are other things that we can work to develop at this stage. I don't want to go down that road. This is a special permit issue and 6 months from now, the board still might not like it.

Mr. Moultrie - The spirit is to have good usable space.

Mr. Hoover- I'm looking at the general design standards for the OSRD and what's here is so lacking in the OSRD in front of us. It talks about minimizing tree and soil removal, and streets shall be designed in order to maintain natural topography. When I hear density, it's driven by what the by-right rule gives you. It saddens me that this is the approach to the OSRD. It missed the idea of community. I say we are better off going with the traditional plan. The definition of a good plan is subjective. You will sell the lots. In my opinion, that would not be an attractive place to live. There is nothing in the end result that is consistent with the landscape. That's how I would define a good design.

Mr. Neve - If we walk away to go with the conventional one, can we infuse some of the design characteristics of the OSRD bylaws? Using soft drainage, less steep slopes, etc should be used everywhere. I think that OSRD bylaw has merit. If you don't give us everything you need, you still get better design by employing the OSRD directives by waiver. If it makes sense, then do it. I will give you one that complies but will also give options that might be better.

Mr. Hoover- Just make sure you show a proposal without waivers. Let's get the best one. I'll wait to see it.

Mr. Moultrie - Motion to close the public hearing. Mr. LaCortiglia seconded. 5-0 in favor.

Mr. Hoover- Motion to approve the conventional over the OSRD Concept Plan.

Mr. Moultrie/ Mr. LaCortiglia, 5-0 in favor.

### **Caribou Court**

Mr. Tidd- As stated last month, we are appealing. It takes time to sort through it. Last month I requested a one year extension which expires today.

Ms. Buck- I have requested advice from counsel, but have not yet had a response.

Mr. Moultrie - why have we not been getting a timely response from counsel? I feel extremely uncomfortable without town counsel.

Mr Tidd- The Conservation Commission gave a one year extension.

Motion to extend Caribou Court subdivision permit to 12/30/06. 4-1 in favor, Mr. LaCortiglia opposed.

Ms. Buck- I will put Caribou Court back on the agenda in either November or December.

Meeting adjourned: 10:55 p.m