



Mr. Jensen requested a consensus of the board that the minutes are not necessarily quotes, but rather to give an idea of what the intent was. It seems that with some of the comments this evening, it insinuates what was said, was not said. The board will take the issue of minutes up at their work session on July 29<sup>th</sup>.

**Motion:** Mr. King moved to approve the Minutes of July 8, 2009 as amended.  
Mr. Nelson Seconded.

**Motion Carried** – Unanimously with Ms. Fairchild abstaining.

Ms. Ryerson introduced our new Town Planner, Daniel Merhalski to the board and public. Ms. Ryerson noted that Dan will be sitting at the table with the board so he can be responsive if the board has any questions. The board welcomed Dan, noting they are thrilled to have him here and welcome what he brings to the board. Dan has written memos for the three new submissions as well as a draft decision for CG Roxane, should the board come to that point this evening.

Dan greeted the board and gave a brief statement for the board and the benefit of the public as to his role with the board. He will assist the board and answer questions to the board. Dan is not intended to be member of the board, or a voting member. He is here at the request of the board to answer questions and help the board. He will not comment unless asked by the board, or unless there is a pertinent point that he thinks the board may be getting close to crossing a line where they shouldn't be or if there is a point of contention that he may be able to resolve. He will raise his hand and wait to be recognized by the chair. Dan extended invitations to all board members to e-mail him, call him or stop into his office to meet him and go over any questions they may have about the process or any applications that are going on. Dan indicated that he was looking forward to working with the board and would like the board to feel comfortable with the idea of coming in and talking with him if they have any questions.

### III. New Submissions

Ms. Ryerson stated that there are three new submissions this evening and it has been the practice of the board to look at new submissions, judge whether or not they are complete and ready for action by the board and to schedule them for the same night. Also on the agenda is the continued hearing for CG Roxane, and sometimes the sessions are long and other times they are not long. After consultation with the Planner, if anyone here with a new submission, feels that things are going on very, very long, and they don't want to stay, they can write a request for a continuation of their hearing until August 12<sup>th</sup> or 26<sup>th</sup> if that would be better. Ms. Ryerson noted it was the practice of the board to not begin a new hearing after 10:30.

1. **Richard C. & Diane Greenwood (115-23)(23 Buttonwood Drive)**  
**Minor Subdivision**

This is a request for a minor subdivision, creating one additional building lot.

The Land Use Staff has reviewed the application package and judged that this application is substantially complete and ready for acceptance by the board.

**Motion:** Mr. King moved to accept the application of **Richard C. & Diane Greenwood (115-23)** as complete for action by the board, and to schedule a hearing this evening to be hearing #2.  
Mr. Charest Seconded.

**Motion Carried** – Unanimously.

**2. Fred Parks; Pine Ridge Lawn & Landscape, LLC (115-7)(398 Whittier Highway)  
Site Plan Amendment**

This is a request for a site plan amendment for a Landscape Contractor with on-site office and storage of business related vehicles and landscape materials/inventory stock.

Ms. Ryerson noted the request for waivers dated June 17, 2009 from David M. Dolan Associates, PC.

The Land Use Staff has reviewed the application package and judged that this application is substantially complete and ready for acceptance by the board.

**Motion:** Mr. King moved to accept the application of **Fred Parks; Pine Ridge Lawn & Landscape, LLC (115-7)** as complete for action by the board, grant the waivers for the purpose of acceptance only, and to schedule a hearing this evening to be hearing #3.  
Mr. Charest Seconded.  
**Motion Carried – Unanimously.**

Mr. Nelson stepped down from the board for the Berlanti/Cambre application. Ms. Ryerson seated Mr. Jensen with full voting privileges.

**3. Kenneth J. Berlanti and Adam B. Cambre (114-33.1)(Red Hill Road)  
Major Four Lot Subdivision**

This is a request for a four lot subdivision with two lots having frontage on Red Hill Road and two lots sharing a common driveway over an existing 50 foot right of way.

Ms. Ryerson noted the request for waivers dated July 16, 2009 from Roger's Engineering Solutions, Edward L. Rogers, PE, LLS, relating to the construction of the road.

Ms. Ryerson made a suggestion which was a bit of a departure for the board, first commenting that normally applications come into the board substantially complete, and if there are minor omissions here or there the board usually carries on. However, in consultation with the Planner it was noted there are a number of omissions including no wetland delineation, difficulties with the road, no culverts shown for the wetlands crossing, no drainage easements, 75' well head radius not shown, name of the road, geographical features 200' off the lot. Some of these the board does not always strictly require.

**Motion:** Mr. King moved to accept the application of **Kenneth J. Berlanti and Adam B. Cambre (114-33.1)** grant the waivers for the purpose of acceptance only, and to schedule a hearing this evening to be Hearing #4.  
Mr. Charest Seconded.

Ms. Ryerson called for discussion on the motion regarding the board's feeling on accepting the application. Mr. King stated that there were enough deficiencies to not accept the application and ask that the applicant/agent come back with a more complete application. Board members questioned if the applicant had seen the memo prepared by the Planner noting the deficiencies. It was noted that they had not seen the memo as it was a memo presented to the board members from the planner. Mr. Taussig questioned procedurally the point of order, asking Mr. Merhalski about the memo. When a memo is sent out to board members, how will he handle it with the applicants? Will it be sent to applicants at the same time as the board, or how is it going to be dealt with. Mr. Taussig feels if there are deficiencies the applicant should have the opportunity to correct it so the board does not need to go through this review

and then reject it, wasting everyone's time. Mr. Merhalski stated the board is the only one that can make the determination if the application is complete. It has to come to the board first. However, when he does his review on applications he usually sends out his memo in their packets and once they come to the meeting it becomes a shared document that can be then disseminated to the public. Once the board has access to it, it can be sent to the applicant. If an applicant would like to follow up with the Planner he can identify the issues with them, but the actual document itself is for the board only, and it doesn't get disseminated until the board has it. In the future if there are glaring errors that would cause an application to be denied he would contact the applicant. As he only had 2 days in his new position this was not done. Ms. Ryerson asked the board for their feelings on accepting this application this evening. The board discussed this. Mr. Taussig questioned the due process, noting by presenting the memo on the day of the hearing effectively is a surprise to the applicant and they don't have an opportunity for preparation. The board discussed the procedure for notifying applicants of deficiencies and how they would be notified. This is an item they will take up at their work session. There is a motion on the floor as to whether or not accept an application. Mr. Taussig feels there will be some member that will vote to not accept this particular application and then the application will be sent back for redrafting until it is sufficiently in compliance for acceptance. Mr. Taussig suggested that on the day the memo comes in, present it to the applicant and postpone any action until the following meeting. Mr. Jensen questioned if that process would not have the Planner serving in the capacity of the board? Essentially Dan would be making the decision instead of the board. Mr. Taussig stated the board would be making the decision as the memo would now be presented to the applicant. This evening the board could schedule this application for hearing on August 12<sup>th</sup>, and this would allow the applicant time to consult with Dan and get the application in order. Board members felt they should accept the application this evening and schedule it for hearing on August 12<sup>th</sup>. Ms. Ryerson stated this is within the RSA's and that the board has 60 days from the date of acceptance to act on the application.

Ed Rogers representing Ken Berlanti stated that he had two concerns, first they never received the document listing the deficiencies, had they received the document they would have been able to address some of the issues. Mr. Rogers stated some of the issues are not just cause for delaying the application. Board members were concerned this discussion was bordering on getting into the substance of the deficiencies and getting into a hearing mode. Ms. Ryerson asked Mr. Rogers to speak only to the acceptance of the application. Mr. Rogers noted that he did not have the list of deficiencies, but based on what had been said some appear to be administrative issues and not substantial. Mr. Rogers noted if the board was going to reschedule the hearing he was not available on August 12<sup>th</sup>.

Mr. Merhalski explained the procedure. The applicant submits the application, he will complete his review, submit a memo to the board and at the meeting the applicant gets a copy of the memo. In the past Boards have accepted the application as substantially complete, as they usually aren't these types of issues that are missing. In this case there are nine items that are part of the stated issues that are required as a complete submission within the site plan and subdivision regulations. Usually the applicant will get these, and come back for revision at the next meeting, or if they are substantial enough the board might defer the meeting that night when they accept it. The board has the option to deny this and have the applicant come back with a completed application or they can accept it and schedule it. Once the board accepts it the 65 day clock starts. Once the application is accepted you have to schedule a hearing and make a decision within 65 days. The total time is 65 days from date of acceptance.

Mr. King and Ms. Fairchild both felt it would be wrong for the board to accept this application with so many deficiencies and the clock would start tonight with the acceptance. This would mean the applicant would need to make application again with notification. Mr. King stated the motion on the floor is to accept the application, and it has been seconded.

Ms. Ryerson called for a vote for the motion on the floor, which is to accept the application and schedule it for tonight and grant the waivers for purposes of acceptance only. All in favor – None, All opposed – unanimously.

Mr. Merhalski stated the board must actually vote to deny the application and the applicant would then be required to resubmit a whole new application, re-notify, and pay the fees. The board could waive any of the provisions, and the town should not be covering notification fees because of their deficiencies.

**Motion:** Mr. King moved to deny the acceptance of the application of **Kenneth J. Berlanti and Adam B. Cambre (114-33.1)** based on incompleteness.

Mr. Jensen recommended since this is the first time, to be included in the motion a waiver of the fees. It was questioned if this was the notification fees and hearing fees. The board agreed to waive the hearing fee, but require the applicant to pay for the re-notification fees.

Mr. Taussig expressed his concern with this process and recommended accepting the application this evening and not scheduling it for hearing this evening, schedule it for August 26<sup>th</sup>.

There was no second on the motion. The motion is dead.

**Motion:** Mr. Taussig moved to accept the application of **Kenneth J. Berlanti and Adam B. Cambre (114-33.1)**, to schedule a hearing for August 26, 2009 and direct the Planner to provide a list of the deficiencies to the applicant so that they may address them between now and August 26<sup>th</sup>.  
Mrs. Coppinger Seconded.  
**Motion Carried-** In Favor 6 to 1 with Mr. King opposing.

Mr. Nelson returned to the board with full voting privileges at this time.

#### IV. **Boundary Line Adjustments**

#### V. **Hearings**

##### 1. **C.G. Roxane, LLC (Old 85-21 / New 94-4)(Ossipee Park Road / Route 171)** **Continued Site Plan Review**

Ms. Ryerson stated that this was a continued hearing for a site plan review for C.G. Roxane, LLC, Tax Map 94 Lot 4. Ms. Ryerson stated in the past two hearings the board has deviated from their normal procedures, noting she would like to return to the procedures the board normally follows which is to hear from the applicant first as to any changes made since the last hearing. Then discuss that with the board and then open the floor for public input.

Present this evening representing CGR was Tony Moore, Andre Kloetz and Kip Downs (Bauen Corporation). Ms. Ryerson stated CGR has submitted revised plans for the board with revisions based on our last hearing. It was noted the revised plans were submitted at 7:15 this evening.

Andre Kloetz, representing CGR reviewed the changes made to the plans. Mr. Kloetz reviewed the notes added to the plan as required by the Planning Board. These are listed as Numbers 1-8 on Sheet C2 with a revision date of July 15, 2009 which was provided to the board this evening. The notes are as follows:

1. THE SAND MIX THAT WILL BE USED ON THE LOT WILL BE THE SAME AS USED BY THE TOWN OF MOULTONBOROUGH AND THE UPPER FACILITY AT CG ROXANE. CURRENTLY IT IS SAND AND MAGIC-O.
2. LOT WILL BE SWEEPED SEMI-ANNUALLY AT A MINIMUM. SEE DRAWING CI DRAINAGE SYSTEM MAINTENANCE NOTES.
3. VEGETATION WILL BE CONTROLLED/REMOVED BY CG ROXANE AT THE DRIVEWAY ENTRANCE ONTO OSSISPEE PARK ROAD FOR VEHICLE VISIBILITY.
4. VEGETATION WILL BE CONTROLLED/REMOVED BY CG ROXANE TO MAINTAIN SIGN VISIBILITY.
5. DRIVEWAY GATE WILL BE LOCKED DURING NON-USE DAYS OR HOURS. LOCK WILL BE A DOUBLE PADLOCK SYSTEM LOCK, WITH A KNOW SYSTEM STYLE PADLOCK FOR EMERGENCY SERVICES ACCESS.
6. DRIVEWAY GATE WILL BE HIGHLY VISIBLE WITH REFLECTIVE PAINT AND/OR STRIPING.
7. PROJECT SUPERINTENDENT WILL BE ON-SITE DURING CONSTRUCTION ACTIVITIES AND ACCOUNTABLE FOR SUPERVISING ALL WORK PERFORMED.
8. SIGNAGE TO BE SHOWN ON THE PLANS:
  - a. "TRUCKS ENTERING ROADWAY" PRIOR TO DRIVEWAY, HEADING UP HILL
  - b. "TRUCKS ENTERING ROADWAY" (BLINKING LIGHTS) – PRIOR TO DRIVEWAY, HEADING DOWNHILL
  - c. IDLING LAW SIGN –WITHIN LOT, 4 OF THEM, ONE ON BUILDING NEAR LOADING DOCK DOORS, ONE ON EACH OPPOSITE SIDES OF THE LOTS, ONE ON SMALL SIDE OF LOT OPPOSITE BUILDING.
  - d. "AUTHORIZED VEHICLES ONLY" BEYOND THIS POINT – 2 OF THEM, ON EACH FRONT CORNER OF THE BUILDING.
  - e. "WHEEL CHOCKS REQUIRED" ONE FOR EACH DOCK DOOR (2)
  - f. "IF GATE IS OPEN, ALL TRUCKS TURN LEFT" JUST BEFORE DRIVEWAY, HEADING UP HILL
  - g. "INFORMATIONAL/DIRECTIONAL SIGNS (INSTRUCTING DRIVERS TO CALL FOR INSTRUCTIONS – (4), ONE NEXT TO EACH IDLING SIGN.
  - h. STOP SIGN AT END OF EXIT DRIVEWAY
  - i. SPEED LIMIT SIGN ON BOTH DIRECTIONS OF TRAVEL AT DRIVEWAY

Mr. Kloetz stated this was a summarization of notes based on the last two hearings. The second sheet submitted was sheet C01, which has information that was collected regarding the boards question regarding the sight line/location of the Crowe's residence in relation to the parking lot. This was accomplished with GPS readings. They located a number of utility poles that are shown on the plan, and then shot the front of the Crowe's residence. The small box shown on the plan which represents the Crowe residence is approximately 1200 feet from the parking area. The line of the gap of the sound barrier is not in line with the Crowe residence.

Mr. Taussig commented on Note #1, stating that on Ms. Murray's original recommendation she said that she thought where the warehouse area was a level area that there would be no need for any salt and that the mixture could be less than the normal mixture since the trucks themselves would be bringing in salt/Magic O from Ossipee Park Road, and there would be no need to add additional Magic O. There was a comment made that in certain circumstances where it ices up and it was not a sunny day there may be a need for it. Mr. Taussig did not think Ms. Murray's intent was that the applicant has a right to use the same mixture all the time, but was only to be used when it is absolutely needed. Ms. Ryerson stated that she remembered that as well, but that there was a subsequent conversation about that. It was noted in the minutes of the last meeting that Ms. Murray stated CGR could try to keep as close to a zero salt as possible, and there was a discussion about the fact that if it is very cold and there is no salt in the sand that it will freeze and they can't spread it. Ms. Murray agreed with that and yes, they can use the same mix. Mr. Moore addressed this at the last hearing, indicating they would use the minimum, noting they have a logistics issue with trying to use sand only. They get their mix directly from the town, and would have to have a separate sand pile and separate truck to run just a sand operation.

Mr. Moore noted the issue left un-discussed two weeks ago was the hours of operation. Mr. Moore has spoken with the owners and they willing to limit the normal staging hours of trucks between the hours of 10AM and 7 PM barring any circumstances as far as road construction, storms or something that would require them to open the warehouse from 6AM – 9 PM. The extra hours would be for loading the warehouse, and they would close the gate behind them so that the trucks would not be pulling in there

behind the CGR trucks that are just hauling product down the hill. Mr. Nelson commented when they are rotating the water in and out they may be loading and unloading between 6AM and 9 PM. Ms. Fairchild questioned how many trucks this would be. Mr. Moore stated there may be days when there are no trucks, and when there are trucks he doesn't anticipate more than 10 trips a day.

Ms. Ryerson stated according to her notes most everything has been covered, noting there was a question about the maintenance schedule/document. Ms. Murray had suggested one document with all of the requirements in one place, opposed to searching on multiple pages/plans. Mr. Merhalski stated that a maintenance agreement is not an uncommon practice. They can be fairly simple and cover things such as cleaning out catch basins, mowing every so often to make sure everything is in operational condition. The board discussed this and was in agreement that they would like CGR to compile a simple document for maintenance that could be used by the Code Enforcement Officer to make certain regular maintenance is completed to ensure the drainage systems are in proper working order.

The board discussed the hours of operation being 6AM – 9PM for the rotating of stock, loading the trucks in inclement weather and 10AM – 7PM for the staging of trucks. Mr. Taussig commented that Ms. Murray had recommended daylight hours, and with this facility being situated in a Residential /Agricultural zone he would like to see the hours of operation limited to daylight hours as recommend by Ms. Murray. Ms. Fairchild asked if the proposed hours of operation were seven days a week, and that it is her understanding that they do not operate the facility at the top of the hill on Sundays. Mr. Moore stated 99.9% the warehouse would not be open on Saturday and Sunday. Ms. Fairchild would like to have Sunday operations restricted. Mr. Moore stated that he would agree to restrict operations of the warehouse facility on Sunday.

Mr. Jensen questioned how this restriction would be communicated to any new management regarding the hours of operation. Mr. Nelson noted that these would be noted on the plan and a condition of approval. Mr. King sated if these were violated it would become a compliance issue.

Mr. Taussig questioned the list of six stipulations that Ms. Ryerson had reviewed at the prior hearing. Mr. Taussig asked “where did the list come from and why did the board go through them?” Ms. Ryerson replied this should have been done in the very beginning of the hearings, as there was a lot of confusion, people were talking about this being a facility in a residential/agricultural area, is this new information that had to be considered, so she wanted to make certain that everyone understood that the ZBA had looked at all of these issues, had looked at the traffic issues, had looked at the issues of property values and looked at the issues of transportation and infrastructure and had made a ruling. She wanted to make sure that they were all starting from the same point. Mr. Taussig noted he had a concern regarding number 6 on the list. He has heard a variety of statements both from the applicant and the board and he still does not understand exactly how this facility is going to be used. Mr. Nelson stated that they had the discussion at that time, where they agreed to that {number 6} to a point, but they also agreed that it includes the restocking and rotation of stock through the facility. Mr. Moore indicated that the restocking was covered with the ZBA.

This facility is to smooth out the number of trucks arriving and departing during inclement weather.

Ms. Ryerson opened the floor for public input. Abutter Will Powers stated that the Crowe's property has been identified and he asked again why his property on the opposite corner has not been located in reference to the driveway and the lack of a sound barrier. Mr. Powers questioned if the board was going to do this. Ms. Ryerson stated the question that came up at the last hearing was about the slot that ran along the side of the building. If you look at the plan Mr. Powers house is behind the wall. Secondly the board is talking about normal and abnormal business activities. How many times in the past has the road been closed for and for how long? Lastly Mr. Powers asked that the hours of operation be limited to Monday through Friday from 8AM – 5 PM or less. Mr. Powers had submitted a letter to the

board requesting this. Mr. Powers read portions of his letter into the record noting that the board had restricted the hours of operation for approval for both his workshop and his tenant to 8AM – 5PM, Monday through Friday. Ms. Ryerson noted she was on the board when approving the application for Mr. Litcoff (tenant) and in reviewing minutes for number of trucks and hours of operation Mr. Litcoff stated that he is started at 6AM and was gone by 2:30PM, Monday –Friday. The board was generous in granting the hours of operation to 6AM-5PM, giving a little extra time in case needed. It was Ms. Ryerson's sense that the board asks the applicant what they would like, and if it is within reason and in compliance with the Town regulations then the board says the hours of operation shall be... Mr. Merhalski reviewed the Moultonborough Noise Ordinance and it says between the hours of 6AM and 9PM you can operate hydraulic jacks and other equipment, so from 9PM – 6AM it is a quiet phase. These are exactly the hours of operation that the applicant is asking for. Today CGR came back with less, 6AM – 9 PM for the warehouse and 10AM – 7PM for staging. CGR is trying hard to comply with the board's requests.

Mr. Taussig stated he felt the hours in the noise ordinance were set for the purposes when construction/contactors were taking place so they could complete their work. This wasn't intended that this apply to everything in all situations.

Mr. Nelson commented that the board did not require Mr. Powers or his tenant to install sound barriers. Mr. Nelson stated there is a lot of mitigation going on here on this plan for sound. Mr. Nelson stated if the expectation is the site is going to be developed and be completely invisible and nobody is going to hear anything at all ever, is an unreasonable expectation.

Mitzi Crowe requested clarification on the hours of operation, noting she understood the hours for the staging area will be from 10AM – 7PM, Monday – Saturday, with the gate open. Before 10 AM and after 7 PM the gate will be locked, but CGR's Trucks can restock from 6AM -9PM, but must close the open and close the gate while they are restocking. In inclement weather the warehouse may be open for loading between 6AM – 9PM. It was noted that Mrs. Crowe's understanding is correct.

Enid Holmes questioned if Mr. Kloetz had been made aware of her son's proposed home, located closest to the facility. Ms. Holmes provided the board with a copy of her son's letter with a sketch, which had already been included in the board's packet for this evening. Ms. Ryerson stated no, the home doesn't exist, it is a proposed house. It was noted the that the plan will need to be revised to reflect the correct owners name and address of the lot Ms. Holmes was referring to, which is Edward C. Peterson.

Cristina Ashjian read her letter dated 22 June 2009 into the record. Mr. Nelson noted that the date of the letter should in fact be 22 July 2009. It was noted this letter was included in board members packet.

Mr. King made a comment referring to a statement contained in Ms. Ashjian's letter referring to the "offensive" comment by Mr. Downs—incorrectly attributed to Mr. Kloetz—about a possible suit. Mr. King stated that he did not take a threat or bullying stance from the applicant at the last meeting at all. He felt that that was inappropriate to put words in his mouth and is offensive to the applicant. Mr. Kloetz noted the comments contained in the letter were not made by him.

There was no further input from the public.

Ms. Fairchild had one last item to discuss, the issue of Jake braking, which she believes was not resolved, noting there is nothing noted on the plan about signage. Ms. Ryerson stated she had summarized this at the last meeting, in the sense that there had been a lot of comment that the board shouldn't say anything about the Jake brakes in the site as it might be confusing. Ms. Murray indicated that the Jake

brakes would not be used on the site. So the Board had not asked CGR to include those previously discussed signs.

Ms. Ryerson stated the next step was for the board to begin a deliberative session and look at a draft decision that has been worked on by the planner.

**Motion:** Mr. King moved to end the public input portion of the hearing and go into deliberative session.  
Mrs. Coppinger Seconded.  
**Motion Carried** – Unanimously.

The board reviewed the draft Notice of Decision prepared by the planner.

A few items which need to be added to the draft were reference to the maintenance agreement, and construction phasing, such as the sound barrier being constructed during the first phase. Mrs. Coppinger noted this is covered in Section 15 with the Certificate of Occupancy and when it is issued. Mr. Nelson noted staging on the site would not involve a Certificate of Occupancy as it applies to a building. The board would like a sentence added that there be no use of staging area prior to the issuance of a Certificate of Occupancy for the warehouse or completion of construction of the sound barrier. If the warehouse is not constructed they would need to extend the sound barrier to provide the same level of protection as the warehouse structure would provide. The board reviewed Section 15, striking “If deemed appropriate by the Planning Board, the barrier shall be extended to ensure proper noise reduction of adjacent lots”, and adding No use unless sound barrier is installed in lieu of building.

The board reviewed Item #16, Hour of Operation. This will be 6AM – 9PM, six days a week, Monday through Saturday for the warehouse and 10AM – 7PM, six days a week, Monday through Saturday for the staging area. Added will be a requirement that the gate will be closed behind the trucks rotating stock between 6AM – 10 AM and 7PM – 9PM.

Mr. Taussig expressed his concerns with the hours of operation as discussed by the board. Mr. Taussig would like to limit the hours of operation to daylight hours during inclement weather as recommend by Ms. Murray. It was noted the board did not agree to this recommendation.

Mr. Merhalski walked the board through the draft decision stating that many of the sections in the draft are boiler plate items. The decision indentifies what the permit is, who it’s going to, and the location. There is a description of what the project is, the applicants name and address, the dates of the hearings that were held. Many of the conditions are boiler plate. Mr. Merhalski went over the sections included in the decision.

The board spoke to Section 9, Clerk of the Works. An independent inspector will be hired by the town, at the applicant’s expense, to verify that what has been approved on the plan is actually being constructed. In this case where there is a building being constructed it is usually under the purview of the Building Inspector, but because of all the infrastructure elements it will usually be an inspector on-site. Ms. Ryerson questioned how this differs from an on-site superintendent. Mr. Merhalski stated a superintendent is owned by the applicant, this is a third party independent hired to inspect what is being built is what was approved. A Clerk of the Works will be an on-site engineer that oversees construction. This is not a full time position, but is hired to come in periodically to review the work to make certain it is

being constructed according to plan. This person/engineer will be working for the town at the applicant's expense. Mr. Kloetz stated that this is not an uncommon practice to have an outside inspection agency inspect the work.

Mr. Merhalski referred to Section 12, Utilities, questioning if they are proposed to be above ground or below ground. Mr. Kloetz stated they are above ground.

Section 13. Lighting; wording will be amended that all lighting shall be in compliance with the Town of Moultonborough Zoning Ordinance.

Section 14. Maintenance; add language to ensure proper functioning of stormwater structures.

Section 15. Strike "If deemed appropriate by the Planning Board, the barrier shall be extended to ensure proper noise reduction of adjacent lots", and adding No use unless sound barrier is installed in lieu of building.

Section 16. Hours of Operation; as noted above.

Section 21. As-built Plans. Mr. Merhalski noted it was his understanding that board doesn't usually require an as-built, but has recommended this be required. Change language from Department of Public Works to Road Agent.

Section 22. Violations. This is new for the board and they would like to keep it in, adding language Cease and Desist.

Ms. Ryerson indicated that the board has been adding the condition that all development be constructed substantially in accordance with the plans on file and testimony at the hearings and to Reserve the Right to Amend. Language/Sections will be added to the Notice of Decision regarding these two items. Mr. Nelson suggested that the wording should be "representations by the applicants" rather than "testimony".

Mr. King noted the board had discussed CGR providing the board with a condensed maintenance agreement. Language will be added to Section 14. Maintenance. The agreement shall be submitted to the Land Use Office prior to the issuance of a building permit.

There was a question regarding the Bi-monthly trucking reports being submitted to the Land Use Office for the facility at the top of the hill. It was the decision of the board that these would NOT be necessary for the warehouse facility.

Mr. Merhalski noted there was mention of a stormceptor being added to the treatment areas and he did not see that on the plan. Mr. Kloetz stated they have been added to the catch basins.

Ms. Ryerson questioned the planner as to how they proceed forward from here. Mr. Merhalski stated ordinarily what is done is, based on the board's additions and revisions made this evening the board would make a motion to approve the application with the conditions noted in the Notice of Decision as amended this evening. Mr. Merhalski will amend the decision and have the Planning Board Chair sign the Notice of Decision within the required 144 hours, and then it would be on file with the town.

Mr. King noted one addition to the motion which is always included the board's site plan approval is that they "reserve the right to amend".

**Motion:** Mr. King moved to approve the site plan for **C.G. Roxane, LLC (94-4)** per the amended Notice of Decision, reserving the right to amend, noting the project will be substantially in accordance with the representations made by the applicant during the hearing process.  
Mrs. Coppinger Seconded.

Discussion on Motion: Mr. Taussig requested an amendment to the motion relating to the hours of operation. Mr. Taussig would like one set of hours, not two sets of hours, and proposed the hours be 9AM – 7PM.

Ms. Ryerson asked the board if they would like to substitute the hours of operation as discussed in Section 16 to the hours proposed by Mr. Taussig, 9AM – 7PM.

Board members discussed the hours of operation as the motion stated, 10AM – 7PM and 6AM – 9PM and the hours proposed by Mr. Taussig. Mr. Taussig noted his concerns regarding two sets of hours, regarding CGR closing the gate while restocking the warehouse.

Ms. Ryerson called for a consensus of the board regarding amending the hours of operation as requested by Mr. Taussig. Eric-Aye; Ed-Nay; Jane-Nay; Natt-Nay; Keith-Nay There were no board members that would have seconded a motion to amend the hours as requested by Mr. Taussig. Ms. Ryerson called for a vote on the motion on the floor.

**Motion Carried – 6 to 1 in favor, with Mr. Taussig abstaining.**

Mr. King questioned Mr. Taussig as to why he abstained. Mr. Taussig stated that it was not necessary for him to explain his vote.

The board took a five minute break from 10:15 – 10:20.

**2. Richard C. & Diane Greenwood (115-23)(23 Buttonwood Drive)  
Minor Subdivision**

Ms. Ryerson noted that this is a request for a minor subdivision, creating one additional building lot.

Test Pit data dated June 24, 2009 from Ames Associates was noted.

A Draft Driveway Easement and Protective Well Radius Easement were noted.

It was noted the Police department had no comment.

It was noted the Conservation Commission had no comment.

The Fire Chief commented that he had reviewed the application and determined that as a minor subdivision there are no significant fire protections concerns, however further subdivision of either lot would require evaluation for fire protection water resources.

Dan Ellis of Ames Associates was present to present the application for subdivision. Mr. Ellis briefly described the proposed subdivision of an existing 6± acre lot. The proposal is to create one new 2.88 acre lot, with a 3.16 acre residual lot. The back lot will be served by an access easement over the front lot, parallel with the existing driveway. Mr. Ellis noted they have received state subdivision approval. Mr. Ellis answered any questions from the board.

Mr. King questioned if 15 feet was adequate width for an easement. Mr. Ellis stated a typical driveway is 10' wide. The land is relatively flat, there will not be any fill extensions or cut slope extensions. Through an earlier conversation this evening with the abutter, they have agreed to widen the easement area to 18' to slide the proposed driveway closer to the existing driveway to allow room for snow removal.

Ms. Ryerson questioned why they would not do a shared driveway. Mr. Ellis stated that it is for resale value. The feeling is that if there is a clear defined easement area and a separate driveway there would not be any conflict over the driveway from a maintenance standpoint. It was noted that Buttonwood Drive is a private dead end road.

Mr. Merhalski noted that there are no easements for utilities (electrical) to the proposed lot, and that an easement for the utility poles/lines is needed to provide access to the proposed lot. There should be a utility easement in place and noted on the plan.

**Motion:** Mr. King moved to approve the subdivision of **Richard C. & Diane Greenwood (115-23)** conditioned upon the granting of a utility easement, and noted the plan and that the project be built substantially in accordance with the representations made by the applicant during the hearing process.  
Mrs. Coppinger Seconded.  
**Motion Carried – Unanimously.**

**3. Fred Parks; Pine Ridge Lawn & Landscape, LLC (115-7)(398 Whittier Highway)  
Site Plan Amendment**

Ms. Ryerson noted that this is a request for a site plan amendment for a Landscape Contractor with on-site office and storage of business related vehicles and landscape materials/inventory stock.

Ms. Ryerson noted the request for waivers dated June 17, 2009 from David M. Dolan Associates, PC.

It was noted the Police department had no comment.

It was noted the Conservation Commission commented that this is a new use that will impact the area within the 50' wetlands setback. The Commission feels that this use will require a conditional use permit under Article IX, Section G, Item 6 "Other Uses".

The Fire Chief commented he has no objections to the Site Plan, and that the applicant is reminded that any proposed structures and or additions must be compliant with the applicable portions of Chapter Saf-C 6000 State Fire Code, NFPA 1, Uniform Fire Code 2003 Edition and NFPA 101 Life Safety Code 2003 Edition.

Dave Dolan was present to present the application for a site plan review Todd Pulis and Mr. & Mrs. Parks were present in the audience for the hearing. Mr. Dolan briefly described the location of the site, noting the majority of it lies within Commercial Zone "A". The wetlands have been shown on the lot, and there are existing improvements on the site. The existing building is to be used for an office for the

operation of a landscaping contractor and the storage of materials on-site, and not to be used as retail. There is parking for six employees. They have shown the location of a proposed sign/planter in front of the building, the addition of a wall and landscape area in front of the building. There is a proposed Landscape Berm shown on the plan with evergreen/deciduous and perennial mix to be planted along the abutting lot. Proposed are a nursery stock storage area, material storage bins and dry storage area shown on the plan. There is an existing septic on site that meets the requirements for an office building. The hours of operation are 7AM – 7 PM; Monday through Saturday and 8AM – 1PM on Sunday. Mr. Dolan answered any questions from the board.

Ms. Ryerson noted the wetlands ordinance and questioned what type of material is allowed in the 50' setback area. The board discussed this and the need for a conditional use permit. After further discussion it was the decision of the board to restrict the material stored within the 50' setback to hardscape materials only and that it is to be noted on the plan.

Ms. Ryerson questioned if there are to be any structural changes to the building as the town has design standards and any changes must be approved by the Planning Board. It was noted only the addition of a planter, signage and painting of the building. Mr. Pulis questioned if they relocated the door on the building to the front would this require board approval. Ms. Ryerson feels that it would.

Mrs. Coppinger noted that there was not any area shown on the plan for snow storage. Mr. Dolan indicated areas on the site which snow could be stored. This will be added to the plan.

**Motion:** Mr. King moved to approve the site plan of **Fred Parks; Pine Ridge Lawn & Landscape, LLC (115-7)** subject to the verbiage being added to the plat regarding loam being added to the material storage bins, and hardscape materials in the dry storage area, the word etc. removed from the material storage bin, location of the well head and subsurface added to the plan, snow storage area indicated, and that the project be built substantially in accordance with the representations made by the applicant during the hearing process. A conditional Use Permit is granted for the proposed dry storage area for the storage of hardscape materials only and shall be noted on the plan. Grant the Waivers as requested and Reserve the Right to Amend.  
Ms. Ryerson Seconded.  
**Motion Carried – Unanimously.**

## **VI. Informal Discussions**

## **VII. Unfinished Business**

## **VIII. Other Business/Correspondence**

1) Letter dated July 9, 2009 from the Moultonboro Citizens Alliance inviting the PB to a “Right to Know” Seminar they are holding on August 10, 2009 at the Moultonborough Public Library was noted.

2) Selectmen’s Draft Minutes of July 16, 2009 were noted.

3) Ms. Ryerson noted next week is a “fifth” Wednesday and that there is a work session and that it will begin at 7:30 PM.

4) Mr. Taussig noted that earlier this evening Mr. King had questioned why he had abstained from the vote for site plan approval for CG Roxane. Mr. Taussig stated that he had made a decision after the February 22<sup>nd</sup> e-mail from the Chair that he not sit on this particular application. At that time he had

indicated that he would not step down. However he indicated that he would make a decision prior to the end as to whether or not he would vote on this matter. He had made the decision sometime ago that he would not vote on the final decision, which is why he abstained.

5) Cristina Ashjian had a follow up comment regarding the Master Plan. She noted that MRI had posted the Moultonborough 2008 first Draft of the Master Plan on the website moultonboroughsfuture.com. The website has not been kept up since the passing of Burt Watson and she is concerned that people will be accessing this site and downloading draft documents. She suggested that someone contact MRI to deconstruct the site and or the outdated draft so that there is not erroneous information available to the public. Ms. Ryerson noted that MRI had recently called to say that the Flip Books were complete and that she would be speaking with MRI and will ask about this as well.

**IX. Committee Reports**

**X. Adjournment**

**Motion:** Mr. King moved to Adjourn at 11:18 P.M.  
Mr. Nelson Seconded.

**Motion Carried** - Unanimously.

Respectfully Submitted,  
Bonnie L. Whitney  
Land Use Coordinator