



**PLANNING BOARD
TOWN OF EAST KINGSTON
NEW HAMPSHIRE**

2005-2006
*James Roby Day, Jr., Chairman
Richard A. Smith, Sr., Vice Chairman*

MINUTES
(Regular Meeting and Public Hearing of July 21, 2005)

AGENDA:

- 7:00PM– **Call to Order and Board Business**
7:15PM – **Continued Public Hearing**– for a proposed 22-lot subdivision of Bowley Real Estate, LLC, involving MBLs 1-1-1 and 2-2-3 (PB # 05-01)
7:45PM – **Public Hearing** – for Donald H. Clark, 110 Sanborn Road (MBLs 7-3-6, 8 & 24) involving a proposed lot line adjustment preparatory to placing land in conservation. (PB #05-06)
8:15PM– **Public Hearing**– Diane and Edward LeClair, One Depot Road (MBL 9-2-6) involving a proposed Home Occupation for a real estate of fice
8:45PM – **Public Hearing** – for Glenn and Kathleen Clark, 21 Burnt Swamp Road (MBL 10-4-8) involving a proposed 12-lot subdivision (PB# 05-07)
9:30PM – **Discussion Only** – for Joseph and Henriette Conti, 168 North Road (MBL 16-3-11) in regard to a proposed subdivision
9:45PM – **Discussion Only** – for John and Theresa Mulvey, 17 Haverhill Road (MBL 9-8-19) in regard to a proposed site plan
10:00PM– **Adjournment**

CALL TO ORDER AND BOARD BUSINESS

CALL TO ORDER: Chairman Day called the regular meeting of the East Kingston Planning Board to order at 7:00PM.

Mr. Day welcomed Ted Lloyd to the Board

ROLL CALL: Mrs. Helen Lonek called the roll.

Members present– Mrs. CE Belcher, Chairman JR Day, Vice Chairman RA Smith; Dr. RA Marston, DVM, Mr. R Morales, ex-officio
Alternate members present – Mr. JD Burton, Mr. EA Lloyd
Advisers present –Dr. Jill Robinson, Rockingham Planning Commission (RPC); Fire Captain A. Conti, East Kingston Fire Department; Raymond R. Donald, East Kingston Building Inspector; Mr. LK Smith, East Kingston Conservation Commission

BOARD BUSINESS:

Minutes–

MOTION: Mrs. Belcher **MOVED** that the Board accept the minutes of the June 16, 2005 meeting as corrected. Mr. Burton seconded and the motion carried unanimously.

Designated voting member – Mr. Day noted that Mr. Lloyd is the designated voting member.

Action/Information Items –

Calendar Updated – Mr. Day stated he received the Targeted Block Grant application from the RPC with a deadline of August 19. He stated that the Board wanted to do a Community Profile Chapter. He stated that he

would be speaking to Glen Greenwood about the cost of this. He added that last year the estimate was \$1,600 made up of \$800 from EK and \$800 from RPC. He stated that the \$800 is budgeted for this project.

Mr. Day stated that the Board has to write the Goals and Visioning section of the Master Plan and take it to a public hearing. He added that he would like to have a work session in September to work on this section.

OEP Conference – in Lincoln in November

KELO v. City of New London—Mr. Day stated that it was essentially a taking of private property at the behest of a governmental body. Dr. Robinson stated that some states explicitly say in their laws that it is okay to take property for economic development, Connecticut being one of them. She added that New Hampshire is one of the states that is somewhat silent on that, but there is some case law that found that takings were not going to be allowed for development. She stated that she thought the position of the current judges would probably be to rule in favor of protecting property owners rather than promoting development. She added that the Supreme Court case has made other states look at their laws and ask if economic development is not proper grounds for eminent domain. She added that this is being looked at in New Hampshire.

MPO – Mr. Day stated that there has been a request from the MPO (Metropolitan Planning Organization) to fill a TAC (Technical Advisory Committee) position, which has to do with transportation. Mr. Day explained that it consists of parts of the Strafford Planning Commission and the Rockingham Planning Commission, it's not entirely inclusive as they were originally looking at urbanized areas. Mr. Day added that there is a movement to restructure. Mr. Day suggested to the Selectmen was to wait and see how the restructuring pans out.

The Source (NHDES newsletter) – Mr. Day noted that there is a lot of information on watershed protection. Mr. Day stated that East Kingston protects its water one way by requiring two acre lots. Mr. LK Smith stated that there is a concept of watershed protection overlay districts which would involve multiple towns and there are a number of towns in New Hampshire that have done it. He added that he has model ordinance language.

August Agenda Items – Mr. Day stated that there are two potential items for August; Larry Bean's chicken hatchery and a new tenant at Carmen's. He stated that Larry Bean wants to find some use for his barn until he can sell the property, it is zoned commercial. Mrs. Belcher noted that the property is not being taxed as commercial because it is being used solely as a residence and if it is converted to commercial, it will have to be reassessed as commercial.

Mr. Day stated that he spoke to Mr. Coleman, owner of Penang and Tokyo restaurant in Exeter who wants to lease Carmen's from Julian Dunlop. Mr. Morales asked if a wine and beer license was allowed since the property was grandfathered. Mr. R Smith stated that there has never been any beer or wine licenses in East Kingston. Mr. Morales noted that the golf course has a license for beer and wine. Mr. Morales stated that a beer and wine license was voted down by the Selectmen. Discussion ensued regarding the issuance of a liquor license to the premises. Mr. Morales also noted that there is now a staircase leading to the second floor of Carmen's.

Mr. Donald explained the history of Carmen's and stated that they were told that the State would not allow him to have a liquor license because he was not a US citizen. Mr. Day added that he assured Mr. Coleman in no uncertain terms that using the attic or the basement was out of bounds.

CONTINUED PUBLIC HEARING—FOR A PROPOSED 22-LOT SUBDIVISION OF BOWLEY REAL ESTATE, LLC, INVOLVING MBLs 1-1-1 AND 2-2-3(PB#05-01)

Mr. Day opened the public hearing.

Mr. Garrepy appeared before the Board. Mr. Day noted the revised plans. Mr. Garrepy stated that he lowered the grade significantly on the shared driveway from 7% to 6%, which in turn lowered the overall height of the road by two feet. He noted that the Fire Department did not have any objection to the grade issue at 7%. He added that the Town Engineer is more than comfortable with the plan as designed.

Mr. Day queried the Board with regard to their opinion of the shared driveway. Mr. Burton stated he felt there would need to be some justification to not accept the driveway configuration. Mr. Day stated that the cluster ordinance allows for three lots on a shared driveway. Mr. R Smith stated that the State allows three lots on one driveway.

Mr. Garrepy stated that the width of the driveway is 14 feet with 3 foot shoulders. Mr. LK Smith stated that it is a cul-de-sac rather than a shared driveway. Mrs. Belcher stated she thought the idea of a cluster was to keep the houses in a cluster and what this plan is doing is separating the cluster. She added that she was disappointed that this shared driveway situation was not changed in view of the comments made at the last meeting.

Mr. Garrepy stated that he was aware that the Board was looking for some alternatives to the three-lot shared driveway, and they did look into some, but economics was the driving force to press forward. He added that they weren't trying to anger the Board. He stated that they've done the best they can with the site constraints.

Mr. Morales stated his concerns regarding the height of the house compared to the driveway and that water may flow in. Mr. Garrepy stated there are appropriate construction standards to make sure there is no runoff from the driveway to the basement or garage. He added that when the builder designs the septic plan, they account for driveway location design, house location drainage plan. He added that they have not designed drainage to accommodate the entire site except for the estimated impervious drainage for each house lot to account for pre and post development standards.

Mr. LK Smith stated that lowering the grade of the driveway will help considerably with any drainage issues. Dr. Robinson stated that she still has some concerns about the overall design.

The next item discussed was the fire ponds. Mr. Garrepy stated that they went from two fire ponds to one to none. He showed two cistern locations and designs one on Sheet P2 and the other on Sheet D1. He stated that they will be 30,000 gallon cisterns. He added that they have been reviewed by Carl Richter and Mr. Garrepy has received a verbal okay that he may have some minor modification to the design, but nothing in writing at this time. He stated that it is the exact same design by Jones & Beech used in the Maplevale subdivision. Mr. Garrepy stated that there was a DES issue of the fire pond on Rowell Road drawing water from the wetlands and that is why they switched to a cistern.

Mr. Garrepy stated that as far as the covenants are concerned, he has gathered the data (comments from the Board). Mr. Day brought up the fact of lighting that any reference to it should be removed. Mr. Garrepy stated that the references on the plan to lighting detail will be removed on the final plan.

Mr. Garrepy stated that with respect to deed restriction language for the open space in the covenants, he stated that it was his hope that he could pass through the draft language to Town Council and have him review and suggest changes. Mr. Day stated that he would prefer that Mr. Garrepy take the Board's comments and incorporate them in the covenants, submit it back to the Board for a second review and then it will be sent to Town Council.

Mr. LK Smith noted a change to Page A1 of the town line boundary.

Mr. Day opened the floor to abutters of which there were none and closed the floor.

Mr. Day asked that the revision dates be placed where they are supposed to be. He noted Page C4 where there is a July revision, but it does not explain what the revision was. Mr. Morales noted the random sequence date of revisions as well. He added that it is very difficult and time consuming to have to see there is a revision and then have to go back to notes to see what it refers to. Mr. Day noted C4, 5, 6 and 7. Mrs. Belcher stated that the Registry is very particular about how much information they want on the plan. It was suggested that he could have an addendum specifying the revisions if there are many. Mr. Day explained that historically what was done was when a new revision was submitted, the old one was thrown out and it was considered a new starting point.

Mr. Day pointed to Page H1 where it says "Driveway to be removed per NHDOT District No 6 requirements." He stated that that is a private driveway. Mr. Garrepy stated that the loop driveway is on the Bowley property and there is an easement. He added that that is supposed to be their only legal access. He stated that the builder for that lot,

not the current owner, put the driveway in and probably wasn't supposed to. He stated that Bowley Real Estate applied for and received a driveway permit for a new driveway location, which is directly in front of the home, but a condition of the approval the driveway shown on Page H1 has to be abandoned and closed.

Mr. Day noted Page P3, he stated that in the Minutes of June 16, 2005 there was a specific request for a Note being put on the plan with regard to the guardrail as well as the maintenance of it and there is none. Mr. Garrepy stated the maintenance is the responsibility of the three residents and this will be reflected on their individual deeds. Mrs. Belcher stated that she thought it should also be added as a Note to the plan.

The next pages Mr. Day noted were FP 1 and 2. He stated that there is no size detail that it is a 30,000 gallon tank. Mr. Garrepy stated that this will be corrected. Next D1, Mr. Day stated he presumed the street light detail will be removed and he asked if there are any lights indicated on any other pages. Mr. Morales noted Page P1 Note 19 which says "Ornamental street lights shall be privately owned and maintained by the Homeowners Association. Lighting shall not be owned or maintained by the Town." Mr. Garrepy stated that this refers to a light at the end of a driveway. Mr. Day suggested taking it out to avoid any confusion about the lighting. Mr. Donald stated that it has to be clarified to refer to individual lot lights on a driveway so the Homeowners Association can't construe it to mean street lighting. Mr. Garrepy stated that he would have his engineer go through the plans to assure there are no references to lighting. Dr. Robinson suggested including in the covenants standards for acceptable lighting. Mrs. Belcher recommended having this on the plans as well. Dr. Robinson said the International Dark Skies Association standards is no light radiating above the horizontal plane, the light is not supposed to glare out. Mr. Garrepy asked Dr. Robinson for some language for uniform lighting design.

Dr. Robinson stated that one thing that is still outstanding is the review of the covenants by the Board and Town Counsel. She stated that she would not put that in as one of the conditions of approval. Mr. Day stated that typically the mechanism of a compliance hearing is used to tidy up loose ends and this has worked well in the past.

Mr. Day polled the Board for comments on a conditional approval. Mr. R Smith asked if the people on the shared driveway decide not to upkeep the driveway, is the Association going to step in. He stated that he thought this should be a cul-de-sac so that those three houses are treated the same as the other houses in the development. Mrs. Belcher agreed and stated that why should these three houses that are part of the covenant and pay Association dues not get the same benefits as the other homeowners. Mr. Morales stated that if it is a cul-de-sac, then the Association will plow the 800 foot road and not be the responsibility of the three homeowners. He added that it will be so costly to maintain the driveway that it will fall into disrepair. Dr. Marston stated he agreed with Mr. R Smith on the cul-de-sac issue. Mr. Garrepy stated that in the deed it states that the three landowners would be responsible to maintain and upkeep the shared driveway and they would have to work this out themselves. Mrs. Belcher stated she agreed as well and stated that she didn't think anyone was happy about the shared driveway in the first place and if it's inevitable, then the Board has the right and obligation to scrutinize it rigorously. She added that because of its length, it should be the Association's responsibility and not the individual homeowners. Mr. Burton stated that he didn't think the Board has the discretion to decide if it doesn't like something. He added that there are plenty of examples of what happens when governments allow their officials a broad discretion to pick and choose what they like or dislike when the regulations permit it and all of the hired experts are fine with it. Mr. Lloyd stated that he shares Mr. Burton's opinion that if the regulations allow it, is it proper for the Board to say they cannot do it. Dr. Robinson stated that she liked the idea of putting it under the Homeowner's Association's responsibility. She stated that she didn't think it's arbitrary because it speaks to real issues of maintenance and cost.

Mr. Garrepy stated that he hoped the Board would see that they met the ordinance of a shared driveway and not put the burden on the Homeowner's Association to maintain a road that not all the residents use. He added that he didn't think the Town would ever want to accept this road and a town road. He stated that these roads will be private during construction, but will be accepted by the Town.

Mr. Day suggested continuing this hearing to the next month, however, Mr. Garrepy disagreed and stated that he didn't want to leave this meeting and come back next month and discuss the issue all over again. He added that if the Board is not willing to accept what the ordinance allows, he asked for a vote. He stated that if the Board could come up with some justification why this shouldn't be allowed, he would move on in a different direction. Mrs. Belcher suggested continuing the public hearing to the end of the meeting for the sake of time and other public hearing scheduled.

Mr. Day continued the public hearing to the end of the meeting agenda.

PUBLIC HEARING—FOR DONALD H. CLARK, 110 SANBORN ROAD (MBL 7-3-6, 8 & 24) INVOLVING A PROPOSED LOT LINE ADJUSTMENT PREPARATORY TO PLACING LAND IN CONSERVATION (P.B#05-06)

Mr. Day opened the public hearing.

Mr. Clark asked for a conditional approval so that he can proceed. Mr. Dennis Quintal appeared before the Board.

Mr. R. Smith recused himself as he is an abutter. Mr. Day stated that Mr. Lloyd would have to vote.

Mr. Quintal showed the plans. He stated that Mr. Clark wants to do a lot line adjustment on a small section (Parcel A, 4,000 square feet) to straighten the lot line. He added that the adjacent lot's driveway extends over to Mr. Clark's property, so they would move the lot line over so it is off his property. He stated that the next lot line is to just square off the curb in the front, and the purpose of that is to make a non-compliance situation compliant because the lot only has 178 feet of frontage and now it would have 200 feet. He said that the other intent of the plan is to create a conservation easement on the back portion (28 acres) of the property. He stated that the three acre lot has access from the street (3.5 acres) and is being identified as a "buildable" area. This will not be in the conservation easement. He stated that a garage or shed could be built on this property and it would not be an actual building lot. Mr. Quintal stated that this would be clarified in the easement language, what can and cannot be done with it. He added that they need to have access to the conservation land in the future for maintenance purposes and logging and brush cutting that needs to be done, as well as access to trails.

Mr. Quintal showed where the bounds were set for the lot line adjustments. He added that Mr. Donald is ready to do a bounds certification for that. He stated that five new pins were added. He said that he could put in markers for where the conservation easement starts. Mr. LK Smith stated that they usually nail a notice on the tree to show where the conservation easement begins.

MOTION: Mrs. Belcher **MOVED** that the Board invoke jurisdiction on this plan. Dr. Marston seconded and the motion carried unanimously.

Mr. Day opened the floor to abutters of which there were none and he closed the floor.

Mr. Day asked if a Site Specific Soils survey or waiver is necessary. Mrs. Belcher stated that she did not think a waiver is necessary because it's a minor lot line adjustment and no new lots are being created. Mr. Day stated he felt more comfortable with a waiver request.

Mr. Quintal submitted a waiver request from Section X.B.2 Site Specific Soil Map.

Mr. Quintal stated that he would take off "future buildable area" for the three acres not in the conservation easement.

Mr. LK Smith suggested putting in "area excluded from conservation area" for the three acres not in the conservation easement".

MOTION: Mr. Morales **MOVED** that the Board grant the waiver request from Section X.B.2 Site Specific Soil Survey. Mrs. Belcher seconded and the motion carried unanimously.

Mr. Day went over the conditions of approval.

1. Waiver to be noted on mylar.
2. Professional Engineer & Soils Scientist stamps and signatures.
3. Certificate of Monumentation signed by Building Inspector for 5 bounds.
4. All fees and charges due the Town in connection with the subdivision, including, but not limited to the review of Town Counsel, Town Engineer, RPC Senior Planner and Fire Department and administrative costs incurred by the Town be fully discharged.

5. Final mylar to be submitted to the Board for Chairman signature and recording, together with full-sized paper copy and 11"X17".
6. Change descriptive term for "buildable area" to "area excluded from conservation easement".

MOTION: Mr. Morales **MOVED** that the Board grant conditional approval of the lot line adjustment of Mr. Donald Clark with the six conditions of the plan. Dr. Marston. Mrs. Belcher seconded and the motion carried unanimously.

Mr. Day closed the public hearing.

PUBLIC HEARING—FOR DIANE AND EDWARD LECLAIR, 1 DEPOT ROAD(MBL9-2-6), IN REGARD TO A PROPOSED REAL ESTATE OFFICE ON THE PREMISES

Mr. Day opened the public hearing.

Mrs. LeClair stated she had submitted a Home Occupation application and she would like to put a sign in her front yard advertising her business so that she can refer business to the broker she is affiliated with McPhail Associates in Seabrook. She stated that most of the business will be conducted in Seabrook.

Mr. Day went through the check list on the application to make sure all items were met, and they were. Mrs. LeClair stated that the business would take place in the house, and the garage would not be used. She added that there will be no commercial vehicles. She stated that any parking would be on the paved driveway as well as a gravel lot. She added that she was not expecting a high volume of customers. Mr. Day stated that the business will be subject to an annual inspection by the Fire Department. Mr. Morales advised Mrs. LeClair to bring a diagram of the type of sign she wanted to put up for the Board of Selectmen.

Mr. Day opened the floor to abutters.

Mark Coorsen, 7 Haverhill Road. Mr. Coorsen asked about the sign. He stated that his concern is would there be any more fill on the property. He asked how much fill is allowed to go in on any given piece of property. It was determined that any fill being put in is on a different lot from the one in question.

Mr. Day closed the floor to abutters.

MOTION: Mrs. Belcher **MOVED** that the Board recommend to the Board of Selectmen to grant a Home Occupation to Diane LeClair based on Article XVI.E.7. Mr. Morales seconded and the motion carried unanimously.

Mr. Day advised Mrs. LeClair to call the Town to get on the Selectmen's Agenda.

PUBLIC HEARING—FOR GLENN AND KATHLEEN CLARK, 21 BURNT SWAMP ROAD (MBL 10-4-8) INVOLVING A PROPOSED 12-LOT SUBDIVISION(PB #05-07)

Mr. Day opened the public hearing.

Mr. Ken Berry, Beals Associates, Exeter, appeared before the Board on behalf of Bruce Nadeau, DeBross Builders. Mr. Berry stated that they are presenting a 12-lot cluster open space subdivision. He stated that there will be 11 new house lots and the 12th is the residence of Glenn and Kathleen Clark. He stated that Lots 1-11 all have buildable areas that are less than 15% slope with the exception of Lot #3. He stated that Lot #3 consists of stockpiled materials that have been disturbed over the course of time. He stated that the road construction is going to level the front third of Lot #3 so that there will be a level building pad created.

Mr. Berry stated that he has distributed copies of the Reclamation Plan for the sand and gravel pit. He stated that they did have a Site Specific Soil Survey conducted. He stated that they have changed the yield plan and have reapportioned all of the lots so that each lot in the yield plan have got a buildable area on slopes of less than 15%. He added that they have provided area and frontage data to the Rockingham Planning Commission. He stated that

there is a letter from Dr. Robinson addressing the completeness of the yield plan. Mr. Berry stated that they are asking for two waivers: the road grade and the 20 foot road radius at the intersection of Burnt Swamp Road. He stated that he has met with the Fire Chief and there will be a fire pond and they will be designing a dry hydrant and will submit it to the Wetlands Bureau. He stated that the second pond is shown on the plan as a detention pond. He stated that the reason that fire pond has not been completed is a new battery of test pits is being conducted and is indicated on Page P1.

Mr. Berry stated that there are three sets of State of New Hampshire permits that are going to be submitted. He said the first one is the wetlands permit. He stated that there are three minor wetland impacts in addition to the dry hydrant that is going to be placed in the wetland down by the westerly right of way entrance. He added that two of the three appear to have been created during the excavation process and the third one is a small pocket by the Westly Road boundary.

Mr. Berry stated Lot 13 is identified as a non-building lot, open space consists of 17.2 acres; Lot 14 is between Glenn Clark's home and Burnt Swamp Road which is 2.2 acres and Lot 15 is between Lot 1 and Burnt Swamp Road and provides a buffer between the development and Burnt Swamp Road. He stated that open space calculations are on the Existing Conditions Plan, and there are comments in the Dr. Robinson's review letter that have been reviewed and found to be acceptable.

Mr. Berry explained the two waivers: 20 foot right-of-way radius on the westerly right of way and 8% center line slope for the proposed roadway. Mr. Berry pointed to where the steep slopes are located.

Mr. Berry stated that they are doing a land swap with the abutter to the west and they are going to be abandoning their driveway and DeBross Builders is going to be rebuilding their driveway off the internal road.

Mr. Morales stated that it would be helpful in the future to elaborate on the plans what the revisions are

Mrs. Belcher noted the concrete slab on Lot 15. Mr. Berry stated that there is also a septic system on that lot that is going to be moved and the concrete slab is also going to be removed.

Mr. LK Smith stated that the yield plan needs to be a legally buildable subdivision. Mr. Berry stated that he is confident that they can present a subdivision that would be approvable on the yield plan. Mr. Conti stated that they've had preliminary discussions only and are waiting for test pits to be done.

MOTION: Mr. Morales **MOVED** that the Board invoke jurisdiction of the Glenn and Kathleen Clark cluster subdivision (MBL 10-4-8) as the plan is complete. Mr. R Smith seconded and the motion carried unanimously.

Mr. Day stated that the 65-day clock is ticking.

Mr. Day opened the floor to abutters of which there were none and closed the floor.

Mr. Day stated that Mr. Berry has a fire suppression plan to complete. Mr. Berry asked for permission to deal directly with advisors. Mr. Day stated that it is fine as long as any material submitted to the advisors is also presented to the Board.

MOTION: Mr. Morales **MOVED** that the Board continue this hearing to August 18 at 7:15. Mr. R Smith seconded and the motion carried unanimously.

Mr. Day closed the public hearing.

DISCUSSION ONLY—FOR JOSEPH AND HENRIETTE CONTI, 168 NORTH ROAD (MBL16-3-11) IN REGARD TO A PROPOSED SUBDIVISION

Mr. Day opened the Discussion Only.

Mr. Quintal appeared representing Mr. Conti for a subdivision of MBL 16-3-11. He stated the Conservation Commission has identified the poorly drained and very poorly drained soils. He added that there is a significant amount of uplands. He stated that Mr. Conti would like to subdivide the property into two lots. He stated that Lot A would have almost 3.3 acres of non poorly drained soil and Lot B would have 5.5 acres of non poorly drained soil. Lot A would have 56,000 square feet (over an acre) and B would have 47,000+ of uplands. He stated that they have identified test pits and there is plenty of room for building on the lots.

Mr. Quintal stated that the biggest problem is the access. He added that the existing access is a woods road and crosses through a wetland area. Mr. Quintal stated that Mr. Conti has applied and obtained a driveway permit which gives sight visibility in both directions. He stated that he would like to get a Dredge and Fill Permit since this would be the most acceptable spot to cross the wetland area and this area has already been disturbed and is stabilized to a certain degree. Mr. Quintal asked the Board how it feels about using this as a common driveway to access both lots. He stated that the Wetlands Bureau would most likely not grant a second crossing. He stated that he would be creating a back lot with one parcel having 200 feet of frontage and the other having greater than 40 which meets the backland requirements.

Mr. Donald stated that he has witnessed the test pits on the property, and the property is a difficult lot to. He couldn't think of any other way to get to it. Mr. LK Smith stated he would agree because using an existing road in an area that has already been disturbed makes more sense than disturbing new area. He noted that this was done on the Bodwell property with a shared driveway to three lots. Dr. Marston stated using that road makes the most sense to him. Mrs. Belcher stated that in the past the Board has granted waivers for common driveways because of wetlands.

Dr. Robinson stated that she thought the shared driveway was the way to go.

Mr. Day closed the Discussion Only.

DISCUSSION ONLY--FOR JOHN AND THERESA MULVEY, 17HAVERHILL ROAD(MB L9-8-19) IN REGARD TO A PROPOSED SITE PLAN

Mr. Day opened the Discussion Only.

Mr. Quintal stated that the Mulveys were unable to attend the Discussion Only for personal reasons, but he asked if this could be continued to August.

CONTINUED PUBLIC HEARING--FOR A PROPOSED 22-LOT SUBDIVISION OF BOWLEY REAL ESTATE,LLC, INVOLVING MBLs 1-1-1AND 2-2-3(PB# 05-01)

Mr. Day reopened the public hearing.

Mr. Day stated that the Board seemed to be leaning to making the shared driveway a cul-de-sac which opened the question of Town roads.

Mr. Donald asked about the road lengths with regard to dividing up the responsibility equally among the three lots. Mr. Garrepy stated that the shared driveway is 500 feet. Mrs. Belcher reminded the Board that the roads are only the responsibility of the Homeowner's Association for three years at which time they would be assumed by the Town. Mr. Morales asked if it is possible to include in the covenants that that shared portion of the driveway will always be maintained by the Homeowner's Association. Mr. Day pointed out that covenants can be changed. Mr. Donald stated that the Building Inspector has a responsibility to make sure a house is safe and he thinks the Planning Board has a similar responsibility to protect homeowners. He stated in his opinion having a driveway that long and three people sharing the cost of maintenance is an unequal value. He added that he didn't think it should be the Homeowner's Association's responsibility as all the owners will be taxpayers.

Dr. Robinson stated that having it as a Town road doesn't put any additional burden on the Town. She stated that she sees it as the Town being responsible in reviewing this development since the Town is eventually going to be responsible for the other two roads in the development and the three homeowners aren't any less deserving of having a safe road to their homes.

Mr. Garrepy stated that the ordinance allows for three lots on a shared driveway and he suspects that was done to allow for alternative designs. He added that they are not trying to put the burden on the Town; it would be the responsibility of the homeowners, and if they don't want to take the responsibility of maintaining the driveway, they don't have to buy that lot.

Mrs. Belcher stated that if someone was not willing to share and maintain a driveway, they won't buy a house on those lots. Mr. LK Smith stated that this is an excellent argument for flexible standards. He suggested narrowing the driveway and making it a road. Mr. Day stated that it would be stipulated on the deed that the homeowners would be responsible for the maintenance. He added that he doesn't want to burden the Town with anything that is unnecessary. Mr. Donald reminded the Board about Cove Road which doesn't meet Town standards. Mr. Day stated that he felt the Board should go with what is being presented. Mrs. Belcher stated that she would like to see the language about maintaining the driveway on the plan, on the deed and in the Covenants.

Mrs. Belcher stated that there was some talk about ledge at the last meeting. She stated that one of the conditions should be that the abutters have to be notified about blasting. Mr. Garrepy stated that they would be required to notify the abutters.

Mr. Day polled the Board. Dr. Marston stated that if it is on the deed, have a shared driveway; Mr. Morales agreed; Mr. Smith stated he was in favor of a cul-de-sac; Mrs. Belcher said shared driveway; Mr. Burton said shared driveway and Mr. Lloyd said shared driveway.

Mr. Day noted a letter from the NHDHR regarding archaeological sites. Mr. Garrepy noted that they are required per a State process to submit plan proposals to the Division of Historical Research to make sure there are no known historical sites in the area. He stated that he doesn't know if they are statutorily required to do anything, but what he has done in the past is hire an archaeologist to evaluate the site.

Mr. Day went through his list of proposed conditions.

1. NHDOT approval for Squire Way intersection.
2. EK Building Inspector approval for Winslow Way intersection.
3. Signage to be approved by Board of Selectmen/Building Inspector.
4. EK Fire Department approval of fire suppression provisions.
5. A note on FP plan pages stating the minimum capacity of the cistern to be 30,000 gallons
6. Fire Department functional test and written acceptance of fire suppression systems prior to building permit issuance.
7. Adequate bonding to protect Rowell Road from construction equipment damage.
8. Adequate bonding for Winslow Drive and Squire Way construction/acceptance.
9. A three (3) year bond for tree and vegetation protection.
10. Inspection of erosion and sediment control measures by EK Conservation Commission and Town Engineer.
11. Certificate of Monumentation signed by the EK Building Inspector.
12. Newly created MBL numbers obtained from Town Office and noted on final mylars and copies.
13. Planning Board approval and Town Counsel review of restrictive covenants/homeowner language.
14. Open space to be held in perpetuity by Homeowner's Association and deed restriction to be reviewed by Town Counsel.
15. Review and approval of all easements, covenant and deed language by Town Counsel. Deed language for Lots 1-3 sharing a driveway to include description of shared maintenance responsibilities for the driveway and guard rail.
16. Final plans to include a note on the sheets to be recorded indicating they are a part of a 22-page plan set on file with the Town.
17. Professional Engineer and Soils Scientist stamps and signatures on final mylars and copies
18. Final mylar pages A1, A2, A3 and A4, together with full sized and 11X17 copies to be submitted to the Board for Chairman signature and recording.
19. All fees and charges due the Town in connection with the subdivision, including but not limited to the reviews of Town Counsel, Town Engineer, RPC Senior Planner and Fire Department and administrative costs incurred by the Town be fully discharged.
20. A compliance hearing to be conducted prior to final approval to assess conditions completion.

21. Town boundary to be revised on Sheet A1.
22. A note on plan Page A2 "Lighting on individual homes shall comply with the following standards:
 - A. No light shall spill onto neighboring lots.
 - B. No light poles shall be higher than eight feet.
 - C. All light fixtures shall be full cut off or fully shielded such that light fixtures do not create glare to motorists or neighboring lots."
23. It is the intent of the Planning Board that all notations on the mylar as well as any unrecorded plan sheets are incorporated into and are enforceable as conditions of approval.
24. Note on plan Page A2 stating applicant will mark the area of the landscape buffer with No Cut/No Disturb marker or signage on each lot.

MOTION: Mr. Morales **MOVED** that the Board grant conditional approval of the Bowley Real Estate subdivision plan with the 24 conditions. Mrs. Belcher seconded and the motion carried unanimously.

ADJOURNMENT:

MOTION: Dr. Marston **MOVED** the Board adjourn. Mr. Morales seconded, and the motion carried unanimously at 11:05PM.

Respectfully submitted,

Heleen M. Lonek
Recording Secretary

Ap p r o c e e d n : 8/18/05