



Town of Hebron

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Hebron Planning Board

APPROVED Minutes of Hearing 7/5/06

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Members Present: Chuck Beno (alternate), Dick Cowern (Selectmen's rep), Tom Gump (alternate), Roger Larochelle (chair), Ellie Lonske (vice chair), Curtis Mooney, Martha Twombly (alternate), David Wall and Sheila Oranch (secretary)

Others Present: Nancy Howard, Gerald Anderson, Marcia Anderson, Nadine Hession, Mark Hession, Patrick H. Wood (attorney), Leslie Boulton, Barbara Delaney, Richard Delaney, Dorothy Maruska, James B. Docan Jr, Richard Keller, Brian Vincent, Bill Nobles, Carmine Tomas (attorney) John Voelbel, JoAnn Voelbel, Jeff Hillier, Phil Twombly, Betsy Twombly, Patricia Biron, Roger LaFontaine, Corey Johnston, Katherine Keon, Anne Hill, Barbara Pape, Beth Stondel, Lisa Carpenter, Cindy Matthes, Bill Thistle, Sue Thistle, Peter G. McGrath (attorney), Alan Barnard.

Time Convened: 7:07 PM **Time Adjourned:** 10:10 PM

Next Meetings: 7/17/06 workshop, 8/2/06 regular monthly hearing

Agenda Items:

1. Approve minutes of 6/7/06
2. Administrative Matters
3. Continuance of Jaques ET AL subdivision and boundary line adjustment applications
4. Continuance of Ridgewater Commons Cluster subdivision application
5. PEFF Corporation subdivision application for Whip-O-Will property Tax Map 5, Lot 5-2
6. Any other matters that come before the Board

Roger Larochelle introduced the members of the Board and discussed hearing protocol. He reminded members of the public to sign in and when being recognized to state their names. He moved Jaques ET AL to third on the agenda at Alan Barnard's request.

Minutes of 6/7/06 were reviewed and several changes of grammar and format were suggested. On page 9, Curtis Mooney amended his statement to read "he does not recommend doing the environmental impact study until the design has been accepted, because it might change."

**Curtis Mooney moved/Dick Cowern seconded approval of the 6/7/06 minutes as amended.
PASSED**

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Continuance of Ridgewater Commons Cluster subdivision application

Roger Laroche announced that Paul Fluet is available and willing to do the engineering review in a timely manner, but he does not do environmental impact studies (EIS). Paul made a recommendation for an appropriate firm, which will be taken up at another time. Leslie Boulton has sent the design to Paul Fluet for review. The application was accepted by the Planning Board on 6/7/06, so the Planning Board can now go forward with hearing about the subdivision plan.

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Chuck Beno recused himself, as he is an abutter.

Richard and Barbara Delaney (developers), Leslie Boulton (design engineer), Pat Wood (attorney), and Alan Barnard (surveyor and agent) were present to represent the project.

Alan Barnard showed a plan for a conventional subdivision on this lot, to prove the land could support 21 units. He explained how the lots were computed and showed a map with areas of wetlands and steep slopes shaded. He described frontages and compliance with current zoning.

Ellie Lonske asked the length of the road from West Shore Road to the end.

Leslie Boulton said it would be 2100 feet for this layout.

Ellie Lonske questioned the road length, since zoning restricts dead-end roads to a half mile.

Alan Barnard said it is compliant with the zoning.

Ellie Lonske said the Subdivision Regulations state that up to 5% of land may be required to be set aside for open land or recreation purposes and asked if that was figured in and shown.

Alan Barnard said it is and showed where it would be.

Ellie Lonske cautioned that the reserved land could not be wetlands or steep slopes.

Alan Barnard said wetlands could not be considered recreational due to State Regulations, but steep slopes could be okay.

David Wall asked if the lots shown were compliant with the four to one ratio requirement.

Alan Barnard said yes, any long lots are along the road and the point is to have frontage.

Ellie Lonske read the regulation that no more than 5% of the land may be required for recreation and the Board decides what is appropriate.

Alan Barnard talked about what the land is like and the recreation uses available in the area.

Roger Laroche summarized what had been discussed so far.

Curtis Mooney asked Alan Barnard if the lot had been mapped for wetlands.

Alan Barnard said it had and it was done by a certified soil scientist and wetlands scientist who is also a biologist.

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Roger Larochelle said the question about the length of the dead-end road remains unclear.

Ellie Lonske said she felt the Board could move on with some ambivalence, as this is a prototype plan and she won't make it an issue.

Roger Larochelle asked what the length of the actual road in the real plan would be.

Alan Barnard said it would be 2,600 feet from the center line of West Shore Road.

Ellie Lonske began a discussion of whether the prototype plan could be accepted as proving the viability of the land.

Roger Larochelle said he will consult with Paul Fluet on the road and whether this plan proves the land could support the desired number of dwellings.

Curtis Mooney asked if the prototype plan would also be reviewed and the numbers (lot calculations) checked (slopes, wetlands, and ledge).

Pat Wood said he will make sure it is done.

Alan Barnard then turned the presentation over to Leslie Boulton, as she is the designer.

Curtis Mooney questioned the driveway permit from the State if it was based on the original plan with the original road and building site layout a road curve waiver.

Alan Barnard said it was based on the number of units and Leslie would explain. The only time it would be an issue is if they wanted to build more than the number submitted originally.

Leslie Boulton showed the new subdivision plan with 19 clustered lots, sized per State regulations, with 1.0 to 3.4 acres each. The road is 2,600 feet in length to the cul-de-sac. More than 77 acres will remain as open land, which is 69% of the total area. All lots meet DES subsoil regulations. There would be three shared driveways for units 4-5, 6-7 and 17-18. She passed out charts of the lots with total area, countable area (usable land), road frontage and driveway service.

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Ellie Lonske asked about setbacks.

Leslie Boulton explained that they have left more than required by the regulations. The plan shows possible building sites within the lots. When doing the last review, they put together specifications with the Fire Chief and included the parameters for curves, junctions, driveways and anything that could impact emergency vehicle access. So the new plan includes all those considerations.

Roger Larochelle asked the maximum slope on any driveways.

Leslie Boulton said it is 15%, which is in compliance with the regulations. She had designed some driveways to show the Board as well as prospective buyers. The road is designed to Town standards with a 150 foot curve and a maximum 10% grade. Drainage designs will be submitted to DOT because they need to review the amended application. All previous requirements are the same as already required. The only difference is that units are more spread out, so drainage is even better.

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Drainage will be improved overall on the lot over what currently exists. She did the calculations up to a 100—year storm. The prior State road cut approval was for 21 units, so 19 should not be an issue.

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Curtis Mooney said that sounded good.

Leslie Boulton asked if that answered the question.

Curtis Mooney said yes.

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Roger Larochelle asked if there were any other Board comments or questions before he opened the hearing for public comments.

Alan Barnard said on cluster subdivisions the regulations say you can have reduced lot sizes but still have to meet setbacks, etc. They still have to meet State cluster regulations so you can't make them too small.

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Ellie Lonske asked what the magenta boxes on the plan represented.

Leslie Boulton said they were showing usable land on each lot. She designed the lots around the best building sites and around topographical features.

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Ellie Lonske said Lots 32-1, 2 and 3 look like they don't have many choices for where to put houses and some are as small as .2 of a usable acre.

David Wall and Ellie Lonske discussed interpretations of usable land.

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Alan Barnard said in clusters it is interpreted differently because so much area is set aside. There is still plenty of room for a nice house, septic system and driveway. This is the first genuine cluster development proposal and it will certainly need some discussion. It will be a learning process for all.

Roger Larochelle read the definition of cluster in the zoning regulations according to Amendment XV, B-9, it is permitted if a) the number of lots is not more than the lot would bear in a conventional development, and b) the minimum lot size is determined by the Planning Board. That is the area that will really be focused in on. He asked Ellie Lonske to discuss her point further.

Richard Delaney asked the Board to keep in mind that in a cluster development the open areas cannot be further subdivided and that is some protection for the land.

Ellie Lonske said not at all—that is not relevant and people cut what they want.

David Wall discussed usable land and the 10,000 square feet a builder is allowed to disturb to build a home and asked how they relate.

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Alan Barnard said you can add 10,000 square feet to each of those sites, in theory. This is the first time anyone has been in this situation.

Ellie Lonske pointed out that the zoning regulation says you must have two acres of usable land—not where you'll put the house but how much area. Let's not muddy the issue.

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Roger Larochelle said now that we have a better idea of what cluster means, we can look at the benefits. How are we preserving natural topographical features? How are we protecting more of the land than in a conventional subdivision?

Phil Twombly said he had two questions. When do you require that these lots must have septic system approvals and well approvals to determine if their sizes are adequate? The second question was that he thought the new zoning was to limit the number of shared driveways. Doesn't it?

Roger Larochelle asked Alan Barnard to respond to the question about septic system approvals.

Alan Barnard and Leslie Boulton showed that soils and slopes meet State requirements. You have to maintain the well radius or you can put the well on the common area. You don't dig test pits until the plan is approved.

David Wall said the point of the zoning for driveways is that you want road frontage, to make sure it is adequate. By having shared driveways, you reduce the number of curb cuts, save more land and can conform to the topography better.

Leslie Boulton agreed and said less pavement means less run-off. You can't have it both ways.

Bill Nobles said their group has been attending these meetings about development for the last two years and they still have a number of questions about run-off. They have hired an engineer to do a study and he can address the concerns, if the Board will allow him to speak.

Roger Larochelle said any abutter can hire an engineer and the public should be clear that the Planning Board has not hired this engineer. He recognized Brian Vincent of Nobis Engineering, Inc.

Brian Vincent said he had done a brief review of select materials available at the Town offices and had some preliminary review comments. He said the basis of the subdivision on the conventional plan has some technical issues. He questioned the geometry of the road access, cul-de-sac designs are unusual, the design speed of the road and usable lot calculations are difficult to assess without one plan that shows everything.

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Roger Larochelle pointed out that the conventional design is theoretical, not highly engineered.

Brian Vincent said the road permit has expired and they need to examine DOT driveway standards. He questions turn radii for truck access, buses, deliveries and moving vans. He said they would have to either go on the gravel shoulders or have to cross the center line of West Shore Road to enter the proposed new road.

David Wall asked him if the issue raised was the basis on which the initial road design was approved—was it his point that a mistake was made in the original?

Brian Vincent said if it is engineered exactly the same. He questioned septic system approval from DES. He found eight lots wouldn't be approved for continuous area. He had questions about drainage calculations and erosion, cluster subdivision regulations locally and at the State level, and had similar questions about lot calculations. He said it would be prudent to show how driveways would be constructed as in some cases they could be very steep. He said more technical questions would be

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given in writing. He also recommended an environmental impact study and will give the Board a list of things he would like to see.

Mark Hession said they were calling the entrance on West Shore Road a driveway, but isn't it a road?

Roger Larochelle said the State calls it a driveway permit even if it is a road. This plan doesn't show driveway designs.

Carmine Tomas requested a drainage report as there wasn't one on file.

Roger Larochelle said there is a copy on the back table in the large binder available for review but it is not permitted to be taken out of the room.

Jeff Hillier talked about their family well near the bottom of the slope. Looking at the conventional design, that first lot doesn't seem usable.

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Ellie Lonske said that was the point. They need to see the conventional design with steep slopes shaded in so they can compare apples to apples.

Chuck Beno asked if drainage calculations were included within the overall drainage of the site.

Roger Larochelle asked Leslie Boulton to respond.

Leslie Boulton said they assumed a certain amount of impervious area on each lot, but not knowing where each house would be built they included some grass, some paved area and some house.

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Roger LaFontaine asked if there would be any stipulations for lighting and color.

Roger Larochelle said they have not broached any of that level of detail yet. Wells, house design and etc. will be reviewed later in the process.

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Pat Wood responded to the question. He said they don't know exactly what house designs would be as they are not building but selling lots. The covenants can cover a good number of those items. They will develop as we go through the process.

Anne Hill said she hasn't seen the new zoning regulations but had heard that two acres of usable land is required. That would be 19 units times 2 acres to a total of 38 acres and the chart shows less.

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Roger Larochelle explained that a cluster development does not require exactly the same amount of usable land.

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Ellie Lonske explained that having smaller lots helps preserve more land.

Chuck Beno commented that Leslie Boulton spoke of assumptions about driveways and how much area would be used. When the developer leaves it to the home buyers, it would be harder to enforce driveway designs. The Planning Board could consider requiring the developer to build driveways to the house sites and hold them accountable for upholding the drainage plans.

Roger Larochelle gave the applicant team an opportunity to respond.

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Pat Wood said an environmental impact study was mentioned and they would need more discussion to know how to respond appropriately.

Roger Larochelle reviewed that at the previous hearing on 6/7/06 the application was accepted as complete and the question had risen about the need for an environmental impact study. Paul Fluet will do the design review which includes the road and drainage. Curtis Mooney had made the point that the environmental impact study should not be done until they are further along with the design.

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Pat Wood asserted that they would need more information to make the designs appropriate and if they need to do another environmental impact study later, they were willing to do that.

Curtis Mooney said he had given this some thought and offered some guidelines, which he submitted in writing (see below). He also gave the “farmer’s view” description verbally.

Maps

Property and surrounding natural resources (wetlands) including topography, surficial geology, groundwater sources, potential contaminates, potential/future open space.

Development of a Land Management Plan

The plan includes a study of the property’s existing conditions, monitors these conditions over time (pre-construction, during-construction and post-construction).

Baseline Inventory

Describe and evaluate terrestrial, aquatic and wetland habitats (including plants and animals) focusing on groups of organisms that best indicate changes in environmental quality. For example, aquatic macroinvertebrates, vertebrate animals, woody plant species, herbaceous plants and any threatened and endangered animal and plant species. Standard methods of evaluating habitats and ecosystems will be followed. The inventory will be conducted at representative locations.

Inventory Map

Includes plant cover types, wetland classification, all sample stations, listed species occurrences, etc. This information will serve as the pre-construction point of reference against which to measure changes in the site environment thereafter.

Surveys

Terrestrial ecology- major plant covertypes, rare, threatened and endangered plants, wetland boundary determination, animal habitat evaluation, vernal pool survey, breeding bird survey, survey for reptiles and amphibians.

Aquatic ecology- spring and fall surveys of benthic macroinvertebrate community upstream, midstream and downstream. Fish survey is not applicable.

Surface water quality- upstream, midstream, downstream before, during and after. Chemical parameters for PAHs (polynuclear aromatic hydrocarbons), TSS (total suspended solids), drinking

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water metals (arsenic, barium, cadmium, chromium, lead, mercury, selenium and silver), chloride, phosphorus, nitrate and nitrite, pH, temperature and dissolved oxygen results will be presented.

Environmental impact study

Driveway-blasting-survey, road-survey, wetlands-survey, house/driveway locations-survey, monitoring during construction and post-construction.

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Retention/run-off analysis, based on road/curve configuration and original site plan duplex, quads, etc. ¶

Pat Wood said this is the kind of detail we need before there is too much engineering. If there is something out there we haven't found, we need to know. We need a base line and then can evaluate the design and have another study after we are further along.

Curtis Mooney said this is definitely an environmentally sensitive site. The land slopes down toward Newfound Lake and there are many cottages and homes downhill. It needs a full study.

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Pat Wood and Richard Delaney said Pepperdyne can do it and is ready to.

Ellie Lonske said the Board and the Applicant need to agree on a firm to do the study.

Roger Larochelle said the Board will spell out the criteria. Copies will be made of Curt's notes and if the Board needs explanations they will ask for that. Everyone is now on notice that a study is in order.

Curtis Mooney said in addition they would need a monitoring plan pre-, during and post-construction.

Pat Wood described the process of review and explanation and said that they will work with the Planning Board to develop a protocol and monitoring plan.

Alan Barnard said he reviewed the zoning regulations and there is no zoning for lighting, color or style except in the Historic District. Each unit is a separate dwelling. Individual lots will be sold. The DOT will handle its own review of the situation.

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Roger Larochelle asked about the expiration of approval for the road cut.

Leslie Boulton said the approval ran out in April and they are awaiting the new approval.

Ellie Lonske pointed out that at the 6/7/06 hearing they said there was a current permit.

Alan Barnard said he thought there was but apparently it had expired.

Curtis Mooney said he had questioned that and was glad to know it is resolved.

David Wall said to Alan Barnard that they stated the developer would be selling lots. The implication is that the developer has no influence over color, lighting, etc. With Hebron Country Estates Phase III the developer said he would influence design.

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Alan Barnard said the point is that any action is voluntary on the part of the developer.

David Wall said it is not out of the Board's purview to make those requests.

Roger Larochelle brought the discussion back to the Board.

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Ellie Lonske asked for an itemization of the requests for the developer and began the list.

- 1) Provide the same information on both styles of plan showing steep slopes, setbacks, wetlands.
- 2) On the lot showing 5+ acres that would be open space, identify and describe the area.

She commented on driveways and agreed that fewer driveway cuts would be better. The concern is having a lot with no frontage as when there is a back lot with no access. Two lots with frontage sharing access is better.

Martha Twombly said that septic designs for shared systems could be considered.

Alan Barnard said cluster septic systems are a different design. Unless they create a large shared system on common areas, they are separate. There may be shared wells.

Roger Larochelle summarized that the concern is about well areas.

Alan Barnard said they need to know the Board's decision on lot sizes before they invest in test pits.

Curtis Mooney said some smaller subdivisions have test pits before presenting their plans.

Pat Wood said they need to have an idea of lot size first and Richard Delaney said if the test pits don't substantiate the lots, then they will have to redesign them.

Ellie Lonske said they are putting a burden on the Board.

Alan Barnard said this is the first cluster development, we are both learning. The Board is not in the design business.

Pat Wood said they need perspective, like a use permit with a ZBA. They need a "use permit" in concept and then can get into initial design.

The list of requirements was continued.

- 3) DOT approval.
- 4) Planning Board engineering review from Paul Fluet to be forwarded to the applicant when received.
- 5) Environmental impact study contractor to be agreed upon.

Roger Larochelle commented on this give and take discussion. Those lots next to the turn have scarce usable land. The shorter road is attractive as there is less impact on the land. Small lots are problematic—minimum amount of space with maximum potential erosion problems. He looks forward to the give and take and truly less impact on the land.

Pat Wood asked if Brian Vincent would send his detailed concerns to the Delaney team also.

Roger Larochelle said that is between both parties. Mr. Nobles and his team have agreed to share. He asked the applicant to accept a continuance to 8/2/06 although we are within the required 65 days.

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Alan Barnard formally requested continuance to 8/2/06 and it was granted.

Roger Larochelle summarized where we are in the process.

Carmine Tomas asked from the applicant's perspective, would there be enough time to prepare by 8/2/06.

Roger Larochelle reminded everyone that the Board wants 10-14 days advance submission of any materials to be taken up at the next hearing.

9:00 PM five minute break

PEFF Corporation subdivision application for Whip-O-Will property Tax Map 5, Lot 5-2

Bill Thistle, Sue Thistle, Peter G. McGrath (attorney) and Alan Barnard presented the application. Alan Barnard told the Board that two waivers would be requested.

Roger Larochelle read a letter from the applicant describing their intended use of the land, confirmed that abutters were notified and read a letter from Northpoint Engineering (an abutter) with suggestions for consideration. (on file) He asked the Board to discuss whether there was enough information to accept this application as complete.

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Alan Barnard reviewed the package, which included an existing conditions plan, overall plan showing the proposed sites, colored maps with slopes and area calculations table, a statement that it would be a condominium form of ownership so it is one lot with five units, proposed road profile, center line, driveways, typical section of traveled way, ditch lines and under drains, authorization for him to act as agent, check for fees, application form and request for waivers.

Curtis Mooney asked for clarification of condominium design and isn't this a cluster development subject to proving the land can support the number of lots.

Alan Barnard said currently there are 35 bedrooms there and this is a reduction, so it doesn't apply.

Ellie Lonske said what we established with the Hebron Country Estates Phase III development is that the Town of Hebron recognizes two kinds of development- conventional and cluster. The form of ownership is irrelevant. The fact that there is a motel there to be torn down is irrelevant. This has to go to Town Counsel up front.

Alan Barnard said this is not a cluster, it is a condominium.

Peter G. McGrath spoke up and introduced himself as attorney for the developer. He said by law the Town cannot forbid a condominium, that RSA 356-B:5 specifically states that no subdivision ordinance shall apply to any condominium in this situation, as the application cover letter said. The developer must be able to use the property as a condominium if the land can support the load. This application reduces the load so the Board should focus on whether the application is complete.

Roger Larochelle and David Wall discussed that form of ownership is not style of development, it is conventional or cluster, call it anything you want.

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Peter McGrath said that a condominium doesn't need to conform to zoning for a cluster development.

Ellie Lonske said Hebron's Town Counsel had already stated definitively that it does. That is on file.

There was considerable discussion.

Roger Larochelle said what we are discussing is whether we are going to accept this application as complete. There was more discussion.

Alan Barnard said they are submitting this application as a condominium and the Board can decide to accept it or not.

Roger Larochelle asked as a cluster, have you proven the setbacks and all that.

Alan Barnard said we don't have to do that, it is not a cluster.

Ellie Lonske said let's not get adversarial. We are requesting a continuance to consult with Town Counsel. If he tells us our recollection and understanding is not correct, we will accept that.

Alan Barnard said it is not a cluster because these are not lots of reduced dimension.

Peter McGrath said the applicants want to get started building their home. You can accept the application and get into the details later.

Alan Barnard said there will be five units, separate single family homes, each a condo unit. You can hold a hearing next month and if you find it is illegal you can deny the application.

Roger Larochelle said he was not sure there was sufficient information to accept it as complete.

Peter McGrath said the applicant wants to know if the Planning Board is refusing to accept this application because it is called a condominium.

Roger Larochelle said not at all. If this was a vacant lot and this application came in, we would be asking what this is. If it is a conventional subdivision, show five lots. If it is a cluster, show five lots.

Alan Barnard said if you ask Town Counsel, according to the newly adopted zoning amendments, this is not a cluster, in my opinion.

David Wall asked if this could have been presented as a conventional subdivision.

Alan Barnard said we didn't. We won't speak to that question.

Sue Thistle said we've hired these three people to be here and it will be considerable expense to hire them to come again. Can't we just look at this plan tonight?

Roger Larochelle said we all appreciate the expenses of putting together a team to represent the application, but it is our job to represent the Town and we don't see how to go forward.

Ellie Lonske said we sympathize but you are embarking on a big enterprise and this has to be done by the book.

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Alan Barnard, Curtis Mooney and Ellie Lonske had a discussion of condominium versus cluster.

Tom Gump asked if all five units were condominiums, as one seemed to be outside the common area.

Alan Barnard briefly explained the layout.

Roger Larochelle said we can't talk about the merits of the plan if the application hasn't been accepted.

Sue Thistle made a further appeal for the application to be accepted and discussed.

Roger Larochelle said you are hearing from the Board that this looks like a cluster development. This is entirely new territory. You are sensing from the Board our unease with accepting this application until we seek advice from Town Counsel.

Peter McGrath asked if they could have a commitment from the Board that it get an opinion back in a timely manner and that their application be first on the agenda at the next hearing.

Roger Larochelle said there are two prior continuances but they certainly could do their best to get them on as early as possible.

9:45 PM

Continuance of Jaques ET AL subdivision and boundary adjustment applications

Continuance to the next monthly hearing on 8/2/06 was requested and granted.

Additional Administrative Matters

Roger Larochelle said a letter had arrived regarding Kill Mountain Realty from Robert Kline, the town engineer. He described the slope failure near Lot 11 caused by excessive ground water. Roger said the road had been accepted conditionally and still needs to be completed.

Ellie Lonske said this demonstrates why we have an issue with steep slopes.

Dick Cowern explained the bond-surety issues on the road. It can't be fixed yet because the ground is too wet. He will keep the Board informed on the progress of the issue.

Roger Larochelle updated the Board on Limited Editions versus the Town of Hebron and Nobles ET. AL. as an intervener/interested party. The Town of Hebron's answer letter just came in.

With no further business and hearing no objections, the chairman adjourned at 10:10 PM.

SUMMARY OF MOTIONS:

**Curtis Mooney moved/Dick Cowern seconded approval of the 6/7/06 minutes as amended.
PASSED**

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