

**MINUTES OF November 4, 2009 ADOPTED WITH CORRECTIONS 12/2/09**



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**Hebron Planning Board**  
Minutes of Public Hearing 11/4/09

**Members Present:** Roger Larochelle (chair), John Dunklee (selectman), David Wall (member), Chuck Beno (member), Martha Twombly (alternate), Mitch Manseau (alternate), Joe Hogan (alternate), Richard Cowern (alternate) and Sheila Oranch (secretary).

**Others Present:** Brenda and David Mento, Barbara and Rich Delaney, Attorney Bud Martin, Deb Mekula, Corey Johnston, Paul White, Attorney Rod Dyer, Bill Robertie, Alan Barnard, Neil McIver, Ken Dearborn, Bill Nobles, Steve Tippett, Steve Derochea, Katherine Keon, Anne Hill, Randy Pitts, Henry Lynch, Hugh Sycamore, Lee and Polly Alexander, Betsy and Phil Twombly.

**Time Convened:** 7:00 PM    **Time Adjourned:** 10:57 PM

**Next Meetings:** 11/16/09 site walk for Wendt subdivision, 12/2/09 hearing

**Agenda:**

1. Administrative Matters and Announcements.
2. Review minutes of prior meetings for additions, corrections and adoption.
3. Continuance of Jaques ET AL subdivision and boundary adjustments.
4. Continuance of Limited Editions (Rogers Ledge West) cluster subdivision.
5. Continuance of Site Plan Review for Change of Use by Bill Robertie for Hebron Boat Sales.
6. Site Plan Review Application for Change of Use by Barbara Mento to open a massage studio.
7. Application for a 3-lot subdivision by Roberto Redondo Wendt, Tax Map 7, Lot 5.
8. Any other matters that come before the Board.

**Administrative Matters/Announcements**

Roger Larochelle noted that Ellie Lonske (vice chair), had a planned absence. Martha Twombly and Dick Cowern were appointed as voting members. Mr. Larochelle welcomed the public and reviewed the agenda and protocols for a hearing.

**Review Minutes**

Corrections to **Minutes of 10/7/09 hearing:** Chuck Beno (member) was present, adjournment was at 11:30 PM. Pg 2, line 21 change "Mr. Franklin" to "Mr. Sanborn." Pg 4, line 7 change "approved" to "being considered," line 18 change "accumulate" to "accumulation." Pg 5 line 9 change "Roos" to "Ross." Pg 5 line 15 up from bottom, delete "to the Town," line 4 from bottom change "\$" to "%."

**Chuck Beno moved/John Dunklee seconded a motion to adopt the minutes of 11/4/09 with corrections noted. PASSED**

**Chuck Beno moved/David Wall seconded a motion to adopt the minutes of the 10/22/09 Site Walk of the Robertie property at 99 North Shore Road as written. PASSED**

**Continuance of Jaques ET AL subdivision and boundary adjustments**

Alan Barnard requested and was granted continuance to 12/2/09.

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### Continuance of Limited Editions (Rogers Ledge West)

Chuck Beno, Martha Twombly and Joe Hogan recused themselves. Mitch Manseau and Dick Cowern were appointed voting member. Richard and Barbara Delaney, Bud Martin (attorney), Corey Johnston (engineer) and Alan A. Barnard (surveyor) were present to represent the application. Mr. Larochelle acknowledged receipt of a letter from Bill Nobles, which would be summarized later, and a certified copy of the transcript of the hearing 10/7/09 by Ms. Mekula. Mr. Martin said there was nothing new to submit as Applicant's understanding on 10/7/09 was that the Board is in a deliberative state. Mr. Larochelle asked for Board comments. Mr. Dunklee said he has a problem with the long driveways, and that dealing with them in winter will be difficult, especially getting an ambulance or fire truck up there. As the Town will not be maintaining them, there is no assurance that owners will. He would like to see residences closer to the main road. Mr. Cowern asked the status of an engineer's review. Mr. Larochelle explained the resource of a limited review of completeness and compliance proposed by Peter Julia that would cost about \$2,600. Applicant suggested that would be a rehash. After discussion Mr. Larochelle agreed that a full review is not merited at this stage. As Corey Johnston stated last month, many permits will [need] to be obtained from the State and there will naturally be changes in order to gain approvals. He proposed that the Board retain Farmhouse Engineering (Peter Julia's firm) to review any new material as the process goes along. A review would be duplicated effort now. Mitch Manseau said he is really concerned about the tremendous volume of dirt that needs to be moved and results for neighbors downhill. Just from the Site Walk it is obvious. David Wall said seeing the new lot layout for the first time he was pleased to see lots moved uphill and off steep slopes. He shared concern with Mr. Dunklee about the lengths of driveways. His major concern is impact on the lake and what procedures will be needed. Engineering aside, if damage is done, you can't take it back. Mr. Larochelle asked for Public Comments. Bill Nobles said as a concerned taxpayer he sent a letter which he summarized as two points. One, the development deviates from Cluster Development in the size of the lots, sprawl, and long driveways. Discussing State permits is putting the cart before the horse. First discuss environmental standards and Hebron standards before moving up. Phil Twombly said he seconded Mr. Nobles' notes. The road is going to emasculate the whole side of the hill. DOT will require clearing to get line of sight for the road entrance and that raises esthetic concerns. Large lots and long driveways will deface the slope. Randy Pitts, 181 West Shore Road, said his house is directly across the street from the proposed development. He is a builder and engineer who helps build large subdivisions and he is very worried. The culvert where the lot will drain is already bad. This year there has been more silt, weeds and trash as there has been so much rain. Owners have a right to develop their land but with this density and steepness it is going to seriously impact the area. There is the right to develop but it's gotta be done right. What methods will be used to control impact during development? This is a very sensitive parcel, it's beautiful and it is a point of discharge into Newfound Lake, one of the cleanest lakes, and important to all of us. Smaller lots, closer together make sense. Look at resources across the street. There are major concerns for abutters and neighbors and the lake. John Dunklee asked where Mr. Pitts is licensed as an engineer. Mr. Pitts said he works in MA, mostly in the Boston area. He is doing major developments and roads and is not a PE. Dick Keller, Panorama Lane, said he is an interested citizen, a concerned neighbor and taxpayer, speaking because he is not sure the Applicant understands residents' concerns. After months of discussing the current proposal, he believes the Delaney team does not understand why many in the Hebron community are opposed to the plan. He summarized for the Board and the Developer why Hebron neighbors are so concerned about this latest plan. He said Mr. Nobles' letter of 10/21/09 is cogent and conclusive on two points: the plan is not consistent with the Hebron definition of a "Cluster" development; and the plan creates serious safety, environmental and esthetic problems. It is more

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than that. It is not just the sheer grade and inaccessibility of the road; it is not just the soil and ledge damage and groundwater contamination from blasting; it is not just the storm water and chemical run off that may contaminate Hebron Bay; it is not just the frightful 20' Walmart-like retaining walls defacing the hill above West Shore Road; it is not just the potential devastating effect on the water quality in Hebron Bay and the entire Newfound watershed; it is not just taking 44 pristine acres out of open space, scenic space and turning it into a disturbed, developed area; no, it is about the spirit and character of our town. The potential catastrophic destruction of our primary natural resource, the Newfound Lake watershed, is ignored by this plan. At the October 7 meeting, Mr. Delaney said, "No additional water flow or erosion will result onto or across West Shore Road. That, to me, is not credible. Your highly-paid engineers assure us there will be no problem. I would remind you that highly paid engineers assured us the Titanic would not sink and Chernobyl was safe. If you live in this community, we have all seen the effects of harsh winters and spring runoffs on well-engineered roads and bridges. The Hebron community is proud of the character of our town and the character of our land. Hebron Zoning article VI. (6): Lake District, states, "That developers and boards should choose growth that fits the vision of the Town." This plan clearly does not fit the vision of our town. I would strongly urge the Board to reject any approval for this new plan. Martha Twombly, George Road, said her concerns are in agreement that this flies in the face of "Cluster" development. Second, the esthetic impacts will not be from a single retaining wall, but from two walls that will be visible from across the lake, from on the lake and from the Town beach. You asked about costs of the road and issues that could be raised. Can we get a blasting engineer review? The potential damage flies in the face of the spirit of protection. Bill Nobles said he had a written statement from Jeff Hillier, who had a prior commitment. He read that Mr. Hillier asked whether the Applicant convinced the Planning Board that 7,100 cubic yards can be blasted and moved without impact; and whether the Applicant convinced the Planning Board that retaining walls will never cause disaster. (On file) Chuck Beno, abutter, said with all due respect to comments about engineering, the engineering of this plan dates back to Leslie Boulton, as acknowledged by Corey Johnston, and has not been updated. She was engineering to different State standards, which have changed. He does not think the Planning Board can responsibly consider this project. Randy Pitts said if you are going to blast 7,000 cubic yards of "neat" rock, you are going to blast 10,000 cubic yards and have serious impact. By what method have you determined the lack of runoff and how are you going to secure that? Katherine Keon said she agrees with all that was said. After the Developer sells and leaves, will the owners build according to the plan? Mr. Laroche closed public comments and organized what he heard: this is not being developed as a Cluster; there is need for a Best Management Practices plan for runoff and point of drainage from the lot, concerns include clearing areas, density, phasing, retaining walls, engineering, further engineering review on behalf of the town, and security for the Town. He asked if the Applicant had any comments. Bud Martin said he does not want to have ongoing discussion as the Board agreed full engineering review is not warranted now. Mr. Johnston can address questions of runoff. Corey Johnston said he is a Northpoint Engineering partner, not a PE (licensed professional engineer). He has a BS in civil engineering, both partners are PEs and all the plans have been reviewed and stamped. He said Northpoint reviewed the engineering history when they were hired and did not take the original design but reviewed volumes and conclusions. A PE (Paul Fluet) reviewed the original and updated engineering. All were reviewed on prior State laws which all changed January 2009. A major sticking point for years was the lot plan design. Road design met State and local criteria of the time at all points of discharge. With new regulations at the State level for disturbance of terrain, taking into account changed weather patterns, they will have to meet more stringent drainage regulations. Certification on drainage will have to satisfy not only the Town engineer but also State engineers for storm water. About common driveways, the Fire Chief met with them and found widths, etc. acceptable for safety issues. Mr. Laroche asked him to

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include the length of the longest driveway in his response. Mr. Johnston continued that for construction of the road, Best Management Practices will be used and they will have to submit the BMP plan to EPA and submit a SWIPP, plus coordinate with Town engineer inspections of construction. Construction of the road is planned in two phases, the first up to Station 16, between lots 2 and 14. After there is income, they will build the remaining 1,000 feet. Randy Pitts said he will want specifics about the first phase road. Mr. Johnston responded to Mr. Larochelle's question that the longest driveway is just under 800 feet and the next longest is less than 600 feet. Building the first 1,600 feet of road, any blasting envisioned in the SWIPP permit will require specific phasing of how the work will be done. Engineers envision and then have to work with contractors on the reality. They envision blasting in front with the rock moved up or crushed for gravel to use on site. They have to open the first part to get access to four or five lots for income to go ahead with the remaining 1,000 feet of road. Mr. Pitts complimented Mr. Johnston on being honest. Mr. Johnston said in terms of contractors, there will be practical considerations. Mr. Larochelle took discussion back to the Planning Board. John Dunklee said he has heartache and concern about the long driveways. As an EMT, with the long driveway sweeping back and forth on an icy night, it could be very difficult to deal with it. He has had the experience. In a cluster development, residences should be much closer together and he agrees with David Wall's comment that driveways should be a good deal shorter and grades less. Mr. Larochelle asked Mr. Johnston if there are any alternatives to the long driveways on these lots. Mr. Johnston said on some lots they could shave 100 feet at most. The other three lots they could shorter if they built on steep slopes. The long driveways function to avoid steep slopes. A previous application brought the road higher, into steep slopes, so there were shorter driveways on these lots. Mr. Martin asked Mr. Johnston if there was any latitude to bring lots down below steep slopes. Mr. Johnston said there is no way for some of them. Two lots could possibly come about 100 feet closer and one lot 50 feet closer. Richard Delaney said if the Board granted a waiver to extend the road beyond the half-mile limit, they could get the lots out of steep slopes. Mr. Larochelle reminded everyone that the Plan does not obligate the builder to put the houses where they are envisioned. As a Board they should be looking at worst-case scenarios. Mr. Martin said they could embed in the Covenants that run with the land that building has to be to certain standards. John Dunklee said in Hebron Zoning the minimum space between dwellings is 50 feet and asked why they couldn't cluster the dwellings more closely. Mr. Larochelle said that is the spirit of cluster development. As David Wall pointed out, they did take lots out of the Lake District and away from very steep slopes. As Mr. Martin offered, they could set no building on very steep slopes in the Covenants. That's more a marketing issue. Dick Cowern asked whether the Covenants are only enforceable by the owners in the subdivision. Mr. Martin responded that not only could they have Covenants, but also an easement for the Town for enforcement purposes. We were getting close to an understanding of acceptance of the overall vision and could add conditions. They are working hard to stay within planning and not adversary. Mr. Larochelle asked Mr. Martin to explain the concept of "conditions" and how the Planning Board could develop conditions that have not been thought of in the planning process. Mr. Martin said it is difficult. Mr. Larochelle asked him to explain an "easement to the Town for enforcement." Mr. Martin said if the Board could articulate a checklist of all these things, they could move forward with a Developers Agreement with the Town. Mr. Larochelle asked if anyone understood that. Alan Barnard said it is not in the best interest of the Town because of legal fees but it is better to tie it to the Building Permit process and enforce that. Mr. Larochelle asked if there were other Board comments or questions. David Wall said harkening back to concerns brought up by the Town and over the years, we may not be seeing the trees for the forest. The object of the process is to approve a plan that is advantageous to the Town, to the region, to the owners and to the Developer. He doesn't see how this project benefits anyone besides the Developer. In his heart he cannot see how this benefits anyone else. It is a major risk to the water

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and to downhill owners, and there are safety considerations, all of which are irreversible. If dynamite goes off and dislocates an aquifer, how do you fix that? As a Planning Board member sworn to uphold the regulations of the Town, he could not vote for this. Mr. Larochelle asked Mr. Wall, what—if anything—could change his mind. Mr. Wall said although he has spoken for owners' rights, he cannot see anything so far that changes his opinion. The Master Plan is the vision. There is not enough tax revenue to justify the risk to the Town. Mr. Larochelle brought discussion back to the remaining Planning Board members to weigh in. Dick Cowern said he shares John Dunklee's difficulty about the road, although it is possible to approve it within Town regulations. He is concerned about getting up and down it in snow with emergency vehicles. Someone said to use chains and they help you get up, but they don't help you get down. He is very concerned about blasting. You can't say it won't change the aquifer or a 100-year storm during blasting won't affect people down slope. He is also concerned about the lake. There has been a lot of change already, with sand where there shouldn't be. There is slime on rocks that is new. He has seen changes in Hebron Bay probably from the Cockermouth River due to wind and rains. He has very big concern about the blasting issue. On the Site Walk they could see where the construction will run into ledge, and as David Wall said, when it's done, there is no going back. If a plan is approved he will want to see an insurance policy, bonding to protect people downhill, the Town, and to pay for impact clean up. He is concerned about the long driveways. They could do a cluster and eliminate the long driveways. He is really concerned about serving the Town and doesn't see how to do it. Eventually the Town will be asked to take over the road and it will be difficult and expensive to sand and plow, but what happens to all that water, snow and sand? The Developer has done a good job, but we still have serious concerns. John Dunklee said a major part of the tax base is because of the lake shore, and the ability to drive a boat up to your own property. We could lose that ability and lose that tax base. As a Selectman, he worries the risk is too great. Mitch Manseau said he has a great deal of respect for engineers' solutions. He just doesn't see how that much rock and dirt can be moved without unintended consequences, how to guarantee it or fix it. Mr. Larochelle said he has also vacillated. The Board's responsibility is to the Town; to satisfy regulations. The engineer has satisfied that on paper; now we need to understand how to address concerns. By conforming to regulations, there is no way to deny an owner's ability to develop the land. There have been no opinions in favor of the development. But, there are no grounds to deny. The Application was denied before for lack of planning. We cannot find grounds to throw it out, taking into account great concerns about erosion, drainage and impacts. I feel we could give conditional approval with many safeguards. We must come to a consensus somehow. Dick Cowern agreed with Mr. Larochelle that if conditions are satisfied he doesn't think the Board has a leg to stand on to deny it. They would have to establish a real set of conditions, with an attorney, to assure it is done as well as possible, have engineer inspections twice a week, during storms, and shut down if necessary. We would need iron clad protections for abutters, the Town, the State and the lake. John Dunklee said the only way he could ever vote for this project would be to have a large enough letter of credit to cover all abutters and dredge Hebron Bay if needed, for a long enough term to cover all concerns in the future. Mr. Larochelle said they would need legal consultation about can be bonded versus what is usual. Mitch Manseau said the other aspect is remediation of any damage. Dick Cowern said another thought is there has to be a method to require the land owners, current or future, to maintain drainage functions, not letting maintenance revert to the Town. That would satisfy part of John Dunklee's concerns about what happens in ten years or so. Mr. Larochelle said another question for Town Counsel is if the road is accepted by the Town, who has what responsibilities. The Planning Board is at a moment of decision. Could they entertain a motion? David Wall asked if they wanted to hear the Applicant's response. Mr. Larochelle said, no, that would just start another round. He said the Board would entertain a motion to deny or organize conditions for acceptance, including safety, BMP, protections,

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sureties, easements, agreements, etc. Dick Cowern said they could begin to draft a motion to accept with a set of conditions to be garnered. Mr. Larochelle said his sense of it was that the Board members were not at consensus. John Dunklee asked if they could vote for approval with conditions without specifying what they are. Mr. Larochelle said that would be risky. The Applicant could ask for a continuance to work out conditions for a conditional approval and not rehash the engineering. Dick Cowern asked the Applicant if that was acceptable. David Wall said he would move continuance in order to develop a proper set of conditions to be able to move a conditional approval. Dick Cowern said he would second it. Everyone agreed they would vote for it. Mr. Larochelle asked the Applicant to grant continuance to give the Board time to organize conditions. Mr. Martin said he is prepared to work with The Board on that. Mr. Larochelle said the Board will prepare conditions, and can they count on the Applicant's team to work on this. The answer was emphatically yes. Request for continuance was granted to 12/2/09. Mr. Martin said he would hope they could have work sessions to work out the details. Mr. Larochelle said, no, those would have to be public hearings if they were going to discuss an application. Mr. Martin asked if the Board would grant continuance to January 6, 2010, with no further information to be discussed 12/2/09 and meanwhile Town Counsel can address Mr. Martin directly but the Board will set the conditions. David Wall withdrew his prior motion to make a new one with the changed date. Alan Barnard said as a point of procedure for the next hearing, the Board is in a deliberative state. Betsy Twombly asked if members of the public can suggest conditions. Mr. Larochelle said yes, in writing far enough in advance. Randy Pitts asked if they can give input about questions. Steve Tippett, abutter, asked whether proceeding to an inevitable approval or is it possible that even with conditions it will be denied. Mr. Larochelle said it is correct that the Application could be denied. Mr. Pitts asked Mr. Larochelle if he felt pressured. Mr. Larochelle said he does not feel pressured other than by the extraordinary length of time and the need to be fair to all concerned. He reminded anyone who wants to have input to submit materials to the Planning Board in writing. David Wall said to the extent that the public wants to have input to the development of conditions, the Board needs it sooner rather than later.

**David Wall moved/Dick Cowern seconded a motion to grant continuance of the Rogers Ledge West application to 1/6/2010 while the Planning Board chairman consults with Town Counsel and develops a list of conditions to be able to move a conditional approval. PASSED**

9:08 PM Mr. Larochelle called for a brief break.

### **Site Plan Review Application for Change of Use by Bill Robertie for Hebron Boat Sales**

Bill Robertie, Neil McIver and Alan Barnard were present to represent the application. Dick Cowern recused himself. Chuck Beno returned and Martha Twombly was appointed as voting. Joe Hogan (alternate) returned. Roger Larochelle reviewed that the application had been accepted as complete at the hearing October 7. A site walk October 22 was attended by Roger Larochelle, John Dunklee, Chuck Beno and Mitch Manseau. Bill Robertie and Neil McIver were present to host the site walk. Mr. Larochelle noted a letter from Dr. Darryl and Alicia De Vivo expressing objections to the application and a letter authorizing Attorney Rod Dyer of Wescott, Dyer, Fitzgerald & Nichols to represent their interests as an abutter at 91 North Shore Road. On being presented with new site plan material, Mr. Larochelle reminded the Applicant that the procedure is to submit materials at least ten days before the hearing so members have time to review them. Consequently, no decisive action would be possible at this hearing, but the team would be permitted to present material to be considered for the next hearing. Neil McIver presented a new site plan. He said it addressed concerns expressed during the site walk. They moved several areas to be less visible. The plan also shows installation of an evergreen screen to obscure the building and parking areas, and any boats that might be seen from the road. There are parking areas marked for 20 boats, and 5 spaces for owner's

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equipment behind the knoll to the left of boat storage. According to Shoreland Protection RSA 483.B.9, it is permissible to store boats and equipment. There will be no cutting, clearing or removal needed, just grass as the field has been maintained. They already submitted an application for groundwater discharge registration. They are except from it but already submitted it to the State. All activity will be outside the 100 foot setback for Hydric Soils. Also shown are three parking areas for the house, which are accessed from the other side of the barn. They will store any scrap or recycling in the barn. It will be removed monthly along with the dumpster by Waste Management. Also shown is a Porta-potty, which is temporary. They dug test pits and got excellent soils for a gravity septic system. The building is 50 feet from the barn. They will use silt fences so there will be no impact. Slopes are only about 3% so hardly any cuts are needed. Chuck Beno asked about siding on the building. Bill Robertie said they will use white clapboard style, probably vinyl, with wood trim, and the building will hardly be seen. It will look like a traditional barn. Roadways will be left natural grass. Everything is located outside all setback requirements. Mr. Beno asked if they had the driveway permit in hand. Mr. Robertie said the State agent was due the next day or Friday to deliver it. The only change is from private to commercial, as there is no widening planned. An addition to the narrative is monthly removal of scrap and batteries. The existing connecting road will not change. Neil McIver said the listing of notes on the Plan should enable the Town to effectively enforce Zoning considerations as per the minutes of the October 7, 2009 hearing. David Wall said procedurally, they should submit ten copies of all materials at least ten days in advance. When questioned about storage, Mr. Robertie replied that only boats being repaired and waiting for pick up will be stored. Mr. Wall asked him to verify that there will be no valet service for boats. Mr. Robertie said they dropped the idea both here and in Groton. Mr. Larochelle opened the floor for Public Comment. Attorney Rod Dyer introduced himself as representing Darryl and Alicia De Vivo. He said he had not had the opportunity to see any of the plans or material, and in view of the 10-day rule, he asked if the Board would invoke the rule and continue the application to the December hearing. This would allow opportunity to review the materials and submit comments. Mr. Larochelle affirmed that the Board would not take up a motion at this hearing, but would hear public comment. Lee Alexander said if you were coming into town on North Shore Road and someone was towing a boat headed toward Groton, visibility is good coming into town, but short going out. He would like to know what can be done about visibility. Randy Pitts asked if there is a LOCUS plan with the materials. Mr. Larochelle said, yes, it is available to look at. Steve Derochea asked to see it. Alan Barnard explained that the snowmobile trail will be relocated to maintain access. Hugh Sycamore, a Hebron resident, said in general he is not opposed to the concept of a marina. He would like to hear assurance from the Applicant of acknowledgment that this is the first property seen coming into Hebron proper. If he continues to collect old fire trucks, dump trucks, etc. it will be an eyesore. As it stands that is becoming a junk yard. Paul White, Hobart Hill Road, asked if they will pave the entrance to the driveway to make it safer, and about signage. Mr. Larochelle said they will respond and discuss lighting later in the process. Paul White asked if there shouldn't be a little paved entry onto a dirt road. His comment addressed design and appropriate look. Polly Alexander, Groton Road, asked how close to the Cockermonth River anything will be. Mr. Larochelle asked Neil McIver to address public questions and to show positive relative to the river. The closest point to the river is greater than 300 feet, and he showed the 250 foot line of setback to the Shoreland. Mr. Larochelle had him show the Hydric Soils line, and the Flood Plain Terrace, and asked about the status of launching boats on the river. Mr. Robertie said at this time the Application is only for repair and service with no plans for any boat launching. The whole property has to go commercial. He will continue to allow free launching of canoes and kayaks by the road. They won't know until they get the driveway permit if they can have the paved apron at the entry for safety. For now, it's gravel. The sign will be in conformance with Zoning and unlit. There are two lights planned for the gravel

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parking area, and they are downward pointed and hooded. Mr. Larochelle discussed visibility. Mr. Robertie said the fire truck is leaving after the flat tire is repaired. The dump truck has been sold. Mr. McIver said all that equipment has to be removed. Mr. Dyer asked if the Applicant will continue to live there on the property, and Mr. Robertie replied that yes, he will. Mr. Larochelle brought discussion back to the Board. David Wall said he shared concerns about how the property presents itself today. Chuck Beno said on the same note, a marina may be permitted use under Zoning but a junkyard is not. There is all kind of stuff back there. David Wall said you must get it all cleaned up. Chuck Beno said as a Planning Board member he will insist that full measure of control be exercised to keep it cleaned up. A boat yard can easily evolve to a junk yard. John Dunklee said as a Select Board representative, he reminded Mr. Robertie that the concern began long ago. The Select Board filed a Cease and Desist which has been ignored and they have gone to court seeking a \$275 a day fine for using residential property for a commercial enterprise. Their position is that there should be no action on the Application until the owner complies. Mr. Larochelle said with all due respect to the responsibilities of the Select Board, we need to insulate the Planning Board from any legal actions of other boards. Joe Hogan said one reason they wanted the site walk was to have a basis to enforce the Site Plan as approved. Mr. Larochelle said the site walk was instructive. He feels the repair shop is now in a better place on the updated plan. Moving from residential to commercial property, it's a different situation and as it is the entrance to our fair town it should be attractive. A condition of approval could be clean up. By defining areas which are measurable it helps code enforcement. There will be no long-term storage, as noted on the Plan. Masking areas behind hemlocks is a good move. Alan Barnard said responding to that he has worked with Mr. Dyer and having surveyed the De Vivo property, there could be concerns with the WPOD (Wetlands Protection Overlay District). There is an established use for the entrance, but they may need Town Counsel to determine if it is permitted for that to be improved. The Board should check in time to be able to consult with the ZBA or ask for a joint meeting. For safety reasons, it would make sense. About cleaning up Mr. Robertie's eclectic collection, this is a good chance to make continued clean-up enforceable, as anyone can make complaint if he is not living up to the approved Site Plan. Bill Robertie said the only boats that would be remaining are his and his sister's personal property. Clean up should all be completed within the next ten days. Mr. Larochelle pointed out that once it is a commercial property, there is no accommodation for personal boats. Chuck Beno said he still has concerns about Shoreland Protection. Mitch Manseau said they need to define "long-term storage." Mr. Larochelle asked what is normal. Mr. Robertie said a boat could sit there 90 days waiting for parts. There is no extra space on the plan for anything else. Mr. McIver asked if the extra information discussed here can be added on the Plan. Mr. Larochelle said yes, and be sure to date it. A copy will be sent to Mr. Dyer. No continuance was needed as the Application is still within the normal decision timeframe.

10:08 PM Mr. Larochelle allowed for a brief break.

### **Site Plan Review Application for Change of Use by Brenda Mento to open a massage studio.**

Ms. Mento was present to represent the application. Her intention is to operate a "home occupation" business, as described in Zoning. She will provide therapeutic massage in a guest room in her house. She submitted a written narrative for the Board describing her training and license, her house, exits, landscaping, parking, lighting and septic system. Her application and check were signed 9/25/09. Secretary Sheila Oranch apologized for not realizing she should have sent the abutters notices and will do that in time for the next hearing. Roger Larochelle commended the Applicant for coming before the Board so prepared and with complete materials. David Wall stated that at a gathering of neighbors, all were in support of this use. Mr. Larochelle asked Ms. Mento to get Bruce Barnard, who designed her septic system, to provide a statement of adequacy for this use. Ms. Mento said if the septic design was approved for three bedrooms and there are only two residents, why do that?

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Mr. Larochelle and Alan Barnard explained that commercial use is held to different standards. John Dunklee said for the record he is in favor of approval. He will be absent 12/2/09.

10:25 PM

**Application for a 3-lot subdivision by Roberto Redondo Wendt, Tax Map 7, Lot 5.**

Alan Barnard presented the application for a 3-lot subdivision, all lots of which conform to Zoning. He said they will request a waiver for one driveway. He described the property, explained the plan and went through the materials.

**David Wall moved/Chuck Beno seconded a motion to accept the Wendt Subdivision Application for Tax Map 7, Lot 5 as complete. PASSED**

The Board consensus was that a site walk would be helpful. Alan Barnard as representative for the Applicant agreed to host a Board Site Walk Monday, 11/16/09 at 4 PM. Attendees will meet there.

**Other Matters**

In view of the late hour, no other matters were discussed.

**John Dunklee moved/Chuck Beno seconded a motion to adjourn at 10:57 PM. PASSED**

**SUMMARY OF MOTIONS**

**Chuck Beno moved/John Dunklee seconded a motion to adopt the minutes of 11/4/09 with corrections noted. PASSED**

**Chuck Beno moved/David Wall seconded a motion to adopt the minutes of the 10/22/09 Site Walk of the Robertie property at 99 North Shore Road as written. PASSED**

**David Wall moved/Dick Cowern seconded a motion to grant continuance of the Rogers Ledge West application to 1/6/2010 while the Planning Board chairman consults with Town Counsel and develops a list of conditions to be able to move a conditional approval. PASSED**

**David Wall moved/Chuck Beno seconded a motion to accept the Wendt Subdivision Application for Tax Map 7, Lot 5 as complete. PASSED**

**John Dunklee moved/Chuck Beno seconded a motion to adjourn at 10:57 PM. PASSED**