

**NEW LONDON PLANNING BOARD
REGULAR MEETING & PUBLIC HEARING
July 25, 2006**

MEMBERS PRESENT: Karen Ebel (Chairman), Tom Cottrill, Sue Ellen Andrews, Dale Conly, Celeste Cook, Jeff Hollinger, Ken McWilliams (Planner), Sue Clough (Selectmen's Representative)

Chairman Karen Ebel called the **MEETING TO ORDER** at 7:00 PM.

I. JONATHAN FEINS – Continued Preliminary Plans for Stonehouse Road Access to the Harborview Subdivision in Sutton

Jonathan Feins was represented by G. Dana Bisbee (Pierce Atwood), his attorney, and Kim Hazarvartian (TEPP LLC), a traffic/transportation engineer.

Chair Ebel advised that a draft of the Minutes of the July 18, 2006 meeting of the PB subcommittee had been distributed. She listed the parties present at the subcommittee meeting to discuss the intersection of Stone House Road and King Hill Road, in addition to herself, were NLPB member Sue Ellen Andrews, NLPB member Dale Conly, Town Planner Ken McWilliams, applicant Jonathan Feins, Attorney Dana Bisbee (Pierce Atwood), David Eckman (Eckman Engineering), Kim Hazarvartian (TEPP, LLC), Louis Caron (L.C. Engineering Company, LLC), Bob Eaton and Douglas King (NH DOT – District 2), New London Town Road Agent Richard Lee, New London Town Administrator Jessie Levine, New London Zoning Administrator and Fire Chief Peter Stanley, New London Police Chief David Seastrand, and Sutton PB member Dan Sundquist.

Chair Ebel opened the discussion by addressing three issues. She explained that the jurisdictional issue keeps recurring, i.e., Attorney Bisbee continues to raise the issue in order to preserve his client's right to appeal any PB decision. She stated that the NLPB believes that it does have jurisdiction pursuant to RSA 674:53, IV. and that the PB will proceed to hear the Harborview matter on that basis. Chair Ebel further advised that RSA 676.4 of the New Hampshire Planning and Land Use Statutes authorizes the PB to require the applicant to pay fees for an independent engineer to review the project. She read aloud RSA 676.4, 1. (a) and (g) of the NH Statute that provides for the imposition of reasonable fees in applications other than those submitted for subdivision approval. She said that New London's Subdivision Regulations, Section IV.3. (d) contain a similar provision. In regard to the standards to be applied for purposes of review of Stonehouse Road and its intersection with King Hill Road, under 674.53, IV. Chair Ebel advised that the PB will proceed pursuant to the standards set forth in New London's Subdivision Regulations. She said that this approach is anticipated by the statute and legally supportable. She added that the PB applied its Subdivision Regulation standards in a previous PB action pursuant to RSA 674.53, IV. In that case, a road in New London was the sole access to the King Ridge subdivision. Ken McWilliams explained that the situation was very similar in that the King Ridge subdivision was in Sutton and access was via a similar road up to the old King Ridge ski area. He advised that a portion of the access road was in New London and that the PB had used standards in the New London subdivision regulations in its review, as well as NH Department of Transportation's (DOT) comments to assess the road. Mr. McWilliams said that in the King Ridge case, the subdivider had been required to improve the road for approval and never questioned the applicability of the New London subdivision regulations. Chair Ebel stated that the PB had established precedent pursuant to that application and intended to review the current application in the same manner. Chair Ebel stated that by letter dated July 17, 2006, Mr. Bisbee opined that neither the NH DOT 400-foot sight line requirements nor the New London subdivision regulations applied in determining what to do with the intersection of Stonehouse Road and King Hill Road. She acknowledged that because the road and intersection were existing, the PB would not necessarily apply only the road standards set forth in its subdivision regulations, but would look to the NH DOT comments and American Association of State Highway and Transportation Offices (AASHTO) standards as well. Chair Ebel stated that she agreed that the NH DOT 400-foot rule did not apply because this was an existing road. She recommended that the PB take the agency's comments into consideration. Chair Ebel stated that she wanted to get the NLPB stance out at the beginning of the discussion.

PB member Andrews asked if the PB needed to vote to have the applicant pay the fees related to a review by an independent engineer. Mr. McWilliams responded affirmatively.

It was MOVED (Hollinger) and SECONDED (Conly) THAT THE APPLICANT BE REQUIRED TO PAY REASONABLE FEES FOR AN INDEPENDENT ENGINEERING REVIEW OF THE IMPACT OF THE PROPOSED HARBORVIEW SUBDIVISION IN SUTTON, WITH ACCESS OVER STONEHOUSE ROAD IN NEW LONDON, ON THE 1000 FEET OF STONEHOUSE ROAD LOCATED IN NEW LONDON AND ON THE INTERSECTION OF STONEHOUSE ROAD AND KING HILL ROAD, AS PROVIDED IN 676:4 OF THE NEW HAMPSHIRE PLANNING AND LAND USE REGULATION AND ARTICLE II. N. OF THE NEW LONDON LAND SUBDIVISION CONTROL REGULATIONS. THE MOTION WAS APPROVED UNANIMOUSLY.

PB member Cottrill asked what the object of the review that night was. Ken McWilliams replied that the object was to clarify the New London Planning Board's position and begin the review of Stonehouse Road and the intersection with King Hill Road.

Dana Bisbee presented the applicant's point of view. He confirmed that his continued emphasis on the jurisdictional issue was to preserve his client's right to appeal. He opined that the NH statute cited allows a planning board to impose fees for an independent review of a subdivision. He questioned its applicability to a subdivision in another town. Chair Ebel responded that 676.4.I. (a) says that the subdivision regulations apply when applications for approval are filed in situations other than a subdivision, such as this. Mr. Bisbee stated again that he was not sure that the NLPB had any jurisdiction to review the application or to impose fees. He objected to the New London Land Subdivision Control Regulations reference. Mr. Bisbee disagreed with Chair Ebel's comment. He opined that the New London Subdivision Regulations did not apply to the project at all. He said that the subdivision regulations do not apply *strictly*. He conceded that they might apply generally and said that the PB could look to the regulations for guidance. Chair Ebel replied that the PB probably would not apply the subdivision regulation road standards *strictly*, because Stonehouse Road is an existing road, but the regulations did apply and the PB would certainly look to the regulations for guidance. She asked the PB to approve a request for town counsel to write a letter to Mr. Feins regarding the issues of jurisdiction and the imposition of legally authorized fees.

It was MOVED (Cook) and SECONDED (Cottrill) THAT THE PLANNING BOARD ASK TOWN COUNSEL TO WRITE TO JONATHAN FEINS REGARDING THE ISSUES OF THE NEW LONDON PLANNING BOARD'S JURISDICTION AND THE IMPOSITION OF FEES FOR AN INDEPENDENT ENGINEERING REVIEW WITH REGARD TO THE HARBORVIEW SUBDIVISION IN SUTTON WITH ACCESS OVER STONEHOUSE ROAD IN NEW LONDON. THE MOTION WAS APPROVED UNANIMOUSLY.

Chair Ebel stated that she wanted to leave jurisdictional issues and move on to a discussion of the road design. Mr. McWilliams advised that concerns had been raised regarding the grade of the road approaching King Hill Road and the sight distances. Chair Ebel said that the PB might need to understand the differences in the three sets of sight distance guidelines and why one set might be used rather than another.

Mr. Bisbee responded that David Eckman, the road engineer for the project, could not be present; therefore, he could not get into any details regarding the road design. He advised that Mr. Eckman was presenting detailed plans to the Sutton PB that evening. He suggested that Louis Caron might be able to summarize the issues related to Stonehouse Road and its intersection with King Hill Road.

Mr. Bisbee stated that there were three potential standards one could use to assess the adequacy of the 1000 feet of Stonehouse Road and the intersection of Stonehouse Road and King Hill Road were adequate by all three standards used to judge adequacy: local subdivision regulations, NH Department of Transportation's general rule of 400-foot sight distance along state highways (RSA 236:13 III), and American Association of State Highway and Transportation Officials (AASHTO) policy for sight distances at unsignalized intersections. Mr.

Bisbee verified that his letter of July 17, 2006, a memorandum from TEPP LLC, and minutes of the PB Harborview July 18, 2006 subcommittee meeting had been provided to PB members. He opined that the NH DOT's rules did not apply, as they apply to the issuance of driveway permits and new roads, and DOT would not be required to issue a driveway permit because this was an existing road. He said that NH DOT had no approval authority over an existing road. He stated that the regulations say that a subdivision may have one driveway permit to a parcel of land and the 400-foot rule would not apply because Stonehouse Road would be that one access. Mr. Bisbee stated that the New London "on-site" subdivision regulations would not apply to this "off-site" intersection. He said that he had reviewed the New London regulation and noted that it used a 30-foot truck, which is much higher than a passenger car, in its calculation. He opined that specifications for construction of new roads should not be imposed on existing roads and intersections. He also said that the regulations require the PB to ask the Board of Selectmen to reduce the speed limit if it is impossible to comply with the required sight distance requirements. He said that consideration of the AASHTO guidelines indicated that the existing intersection would be adequate if warning signs were to be placed at the approaches to the intersection. Mr. Bisbee advised that Eckman Engineering was in the process of designing a modification in the slope of Stonehouse Road coming into the intersection.

Chair Ebel advised that while the New London's Land Subdivision Control Regulations do require the PB to ask the Board of Selectmen to reduce the speed limit if it is impossible for an applicant to comply with the required sight distance requirements, the minimum speed allowed on a state highway by NH DOT is 30 mph. She pointed out that the current speed limit on King Hill Road is 35 mph.

Chair Ebel clarified that, although NH DOT does not have approval authority, it does have review authority and has reviewed the study given to it by the applicant and that the NH DOT July 10, 2006 memorandum had been provided to the subcommittee and the PB. She said that NH DOT wanted to see the plans for the "Y" intersection. She said that the applicant had brought plans for a "T" intersection to the subcommittee meeting on the basis of prior discussions that indicated a "T" was the preferred intersection design. Mr. Bisbee agreed that that was the case.

Chair Ebel asked Kim Hazarvartian (TEPP LLC) to review the three sets of standards for sight distances. He displayed the AASHTO "green book" and said that it was the national design guide used by most states, including NH DOT. He said that the guide really applies to new roads. He emphasized that it contains guidelines, not standards. Mr. Hazarvartian advised that two types of sight distances are often considered: stopping sight distance (SSD) and optional intersection sight distance (ISD). He explained that SSD provides for safety by providing time for a driver to perceive and react accordingly to a vehicle entering the major road from a minor road. ISD is ordinarily greater than SSD; however, it is not required for safety. He advised that ISD is conservative because it encompasses a wide range of brake-reaction times and deceleration rates. He said that both SSD and ISD use eye and object heights of 3.5 feet. Louis Caron requested a copy of the guide.

Chair Ebel stated that NH DOT uses ISD guidelines. Mr. Hazarvartian advised that ISDs that exceed SSDs are desirable along major roads to enhance operation, not to enhance safety. He read from page 651 of the AAAHTO guide that states if SSD is available, it is adequate. When someone pulls out from a side street, on-coming traffic does not have to stop, unless entering traffic happens to stall. Chair Ebel said that the decision regarding which sight distance guidelines are required would impact on the applicant's expenses because it would dictate the extent of improvements the PB could require for approval.

PB member Hollinger asked what the maximum sight distances are now and how do they compare with the guidelines. Mr. Hazarvartian replied that with a "Y" intersection the worst SSD along King Hill Road is 220 feet looking toward I-89 and the SSD toward the west is 296 feet. Regarding traffic coming along Stonehouse Road, the SSD is 275 feet from the west and 700 feet in the other direction. He said that the SSD of 275 feet allows for approach speeds of about 39 miles per hour, compared to the posted 35 mph speed limit. He advised that a traffic study showed that the median speed at that point on King Hill Road was 33 mph and the 85th percentile speed was about 37 mph. He said that the shortest sight distance of 220 feet provides SSD for approach speeds of about 33 mph. He added that the traffic study revealed a median speed of 37 mph and the 85th percentile was about 41 mph from the east along King Hill Road.

Louis Caron advised that if there were a stop sign at the end of Stonehouse Road, a car making a left turn would need a sight distance of 335 feet toward the left and 290 feet toward the right at a 35 mph speed limit on King Hill Road. Mr. Caron commented that there might be a sight distance of 220 feet looking from I-89, but the line of sight actually goes off into a field due to a curve in King Hill Road. He opined that it would probably be okay if the car was visible to a driver at the end of Stonehouse Road. Mr. Hazarvartian said that when the car pulls out, it disappears momentarily. PB member Hollinger asked how far back the car had to be and said that the distance to the intersection is very important. He said that it seemed to be very difficult to get numbers from the applicant. Mr. Hazarvartian replied that he was drowning in numbers due to the multiple sight line distances and the two different intersection designs.

Mr. Caron pointed out that Stonehouse Road was an existing road, not a new road being constructed. He opined that safety was most important. He pointed out that traffic on Stonehouse Road would increase, and he recommended that the use of ISD guidelines. He advised that the approach grade is now approximately 7% and that it should be modified for safety. He recommended that the applicant submit a conceptual design for a more desirable "landing platform".

PB member Cook asked Mr. Hazarvartian if his numbers were based on the existing conditions or on the increased traffic that would result from the number of houses increasing from six houses to 35 houses. Mr. Hazarvartian replied that the guidelines used were those that would be applied to any intersection. PB Clough noted that there had been a lot of discussion about going toward I-89, but she wanted to know what the sight distance was if a car was turning toward the left. Mr. Hazarvartian replied that the sight distance was 275 feet. He advised that 275 feet was the SSD for 39 mph with a median speed of 33 mph and an average speed of 37 mph. Mr. Bisbee pointed out that a snow bank on the opposite side interfered with the sight distance. Mr. Hazarvartian said that the driver would actually lose sight of the pavement, but the sight line extended beyond the visible pavement. He advised that AASHTO guidelines use 3.5-foot eye and object heights in computing sight distances. Chair Ebel advised that NH DOT uses 3.75 heights.

Mr. Caron mentioned that one of the abutters to Stonehouse Road had been very uncooperative in regard to surveying or anything else; however, he suggested that Mr. Feins investigate with the other abutting property owners because the road could be moved over slightly to improve sight distances. Chair Ebel asked which intersection design would be preferable, a "Y" or a "T". Mr. Caron replied that, if the sight distance and grade issues could be resolved, a "T" design would be preferable because it would involve less neck turning on the part of drivers. The ISD would be 350 feet to the left and 300 feet to the right at 35 mph and 300 feet to the left and 260 feet to the right at 30 mph.

Chair Ebel said that the PB needed to have comments from the NH DOT before moving forward, especially because she understood the NH DOT to prefer a "Y" intersection. She asked if the applicant wanted to submit its existing design for NH DOT review. Mr. Bisbee replied that the engineers were working on a new conceptual design for the "Y" and "T" intersections. He said that Mr. Feins was also reaching out to abutters regarding additional land. Chair Ebel reminded him that the NLPB had a subcommittee that could review any suggestions/plans when they become available. She asked for confirmation that there were no plans available yet for the second access. Mr. Bisbee confirmed that there were not.

It was MOVED (Clough) and SECONDED (Conly) THAT THE PRELIMINARY PLANS FOR STONEHOUSE ROAD ACCESS TO THE HARBORVIEW SUBDIVISION IN SUTTON BE CONTINUED TO TUESDAY, AUGUST 22, 2006 AT 7:00 PM. THE MOTION WAS APPROVED UNANIMOUSLY.

PB member Clough requested that the PB be provided with a chart of the sight line figures. She and PB member Cook also requested a drawing or a diagram of the intersection as well as the chart.

II. J. & P. SHEEHAN AND B. & K. COOK –Final Annexation (Tax Map 44, Lots 20, 21, 25, & 26)

J. & P. Sheehan and B. Cook were present. Mr. Sheehan advised that they were proposing to divide an undeveloped lot between the parties and to make a minor lot line adjustment. He said that he and his wife

owned an unbuildable lot (Tax Map 44, Lot 21) adjacent to their home lot. They proposed to divide the undeveloped lot roughly into two equal portions. One portion would be retained by John D. and Patricia H. Sheehan and annexed to their home lot (Tax Map 44, Lot 20). Ownership of the second portion would be transferred to Bradford E. and Kathleen D. Cook to be annexed to their lot (Tax Map 44, Lot 25). He said that this action would eliminate an unbuildable lot and make the other lots less non-conforming. He pointed out the proposed changes on the plan presented.

Mr. Sheehan said the minor lot line adjustment involved properties described as Tax Map 44, lots 20 and 26. He said that there would be no net change in lot size of either lot, but the adjustment would bring the rear-yard setback on Tax Map 44, Lot 20 into compliance with the 15-foot minimum setback requirement by allocating 129 square feet differently. He said that the houses on both lots would then be in conformance with setback requirements.

PB member Cottrill asked if an old cart path on the property would be eliminated. Mr. Sheehan replied that it has been abandoned quite some time ago.

It was MOVED (Hollinger) and SECONDED (Andrews) THAT THE FINAL ANNEXATION OF PORTIONS OF TAX MAP 44, LOT 21 TO TAX MAP 44, LOTS 20 AND 25, AND THE MINOR LOT LINE ADJUSTMENT FOR TAX MAP 44, LOTS 20, AND 26 BE APPROVED AS PRESENTED BY JOHN SHEEHAN. THE MOTION WAS APPROVED UNANIMOUSLY.

The mylar was presented for PB signatures and forwarding to the Merrimack County Registry of Deeds by the Town of New London.

III. ROBERT EWING – Preliminary Major Subdivision & Annexation (Tax Map 96, Lots 15 & 15.4)

Robert Ewing was accompanied by Charles Hirshberg (CLD Consulting Engineers).

Charles Hirshberg stated that Robert Ewing proposes to create two new lots from the existing Map 96, Lot 15. Since one lot would have road frontage the subdivision constitutes a major subdivision. Mr. Hirshberg pointed out on the plans displayed the location of the 96-acre parcel to be subdivided. He advised that the property extended down to and across Lyon Brook. Mr. Hirshberg said that the subdivision would create a two-acre lot with frontage on Main Street in the R-2 District, a 23-acre lot, and the remaining 79.7 acres would be annexed to Mr. Ewing's house lot. He advised that the 23-acre lot would get its frontage on Balsam Acres Road by extending the road, as well as the sewer and water services, to a hammerhead at the end.

Ken McWilliams report on the meeting with municipal department heads. He said that Town Road Agent Richard Lee advised that the hammerhead must be built before any driveway could be constructed, a permit to work in the road would be required in order to extend sewer and water services, and the 23-acre lot would require a driveway permit. PB member Cook asked if the 23-acre lot would be for one house or would it be subdivided. PB member Andrews opined that extending sewer and water services seemed to indicate subdivision. PB member Clough stated that some of the land is wetlands, and she asked about the impact of the proposed extension of the road and services on the wetlands. Mr. Hirshberg replied that constructing the hammerhead would not require wetlands crossing. Ms Andrews asked if the Town of New London already owned the land for the road extension. Mr. McWilliams replied that the Town right-of-way already extends through there.

Abutter Robert Bausch (209 Squires Lane) asked how far into the woods behind his house the construction would extend. Chair Ebel invited any abutters present to come forward to view the plans displayed. Several accepted the invitation. Abutter Dolores Bausch (209 Squires Lane) spoke about the need to cross wetlands for driveways. Abutter John Holton (51 & 65 Squires Lane) and Ms Bausch said they were very concerned about drainage issues. Mr. Holton asked where the lot divisions would be. Mr. Hirshberg pointed the proposed lot divisions out on the plans displayed. Ms Bausch asked for confirmation that right now no houses were planned. Mr. Hirshberg confirmed that nothing was planned right now. He demonstrated possible house locations that

would not involve the wetlands. He said that it would be possible to obtain wetlands crossing permits. Chair Ebel asked Zoning Administrator Peter Stanley if drainage issues were addressed by building permits. Mr. Stanley responded in the negative.

Abutter Holton asked how the 23-acre lot would be accessed. Mr. Hirshberg replied that access would be off Balsam Acres Road. Mr. Bausch asked about the scale of the map. Mr. Hirshberg responded. Ms Bausch inquired about setback requirements. Mr. McWilliams replied that there was a 25-foot front setback and 15-foot rear and side setbacks. He also advised that a Zoning Board of Adjustment (ZBA) Special Exception would be required, as well as a Wetlands Crossing Permit and Conservation Commission approval, for any driveway, access way, street, and/or utility lines.

Abutter D. Bausch asked about building on wetlands. Zoning Administrator Stanley advised that he visits all properties and evaluates all proposed building sites before issuing building permits. Mr. McWilliams said that the subdivision plan provides the basis for the evaluation and wetlands should be accurately delineated by a licensed wetlands/soils scientist. PB member Andrews asked if the survey before the PB had just been prepared. She noted that the date that it was signed was July 2006. Mr. Hirshberg advised that the survey had been conducted when conditions were very wet.

Abutter Holton asked if the entire 23-acre lot was unbuildable because of wetlands. Mr. Hirshberg responded that there was a place for a house. Mr. Holton spoke about drainage problems in the area. Town Planner Ken McWilliams and Chair Ebel recommended that Zoning Administrator Stanley view the property. Zoning Administrator Stanley suggested that the PB appoint a subcommittee and he would accompany the subcommittee on a site visit. Chair Ebel appointed PB members Clough and Cottrill to a subcommittee. Mr. Hirshberg confirmed that he would accompany the subcommittee on its site visit. Abutter Bausch said that the new drainage installed by the Town had helped a great deal to mitigate drainage problems. PB member Clough suggested that a soils scientist go on the site visit. PB member Andrews said that the subcommittee visit would be preliminary in nature. Mr. Hirshberg offered to have Jonathan Sisson, the soils scientist for the project, accompany the subcommittee. The subcommittee tentatively scheduled viewing the property for 8:00 AM on Wednesday, August 9, 2006. Mr. Hirshberg said he would coordinate with Zoning Administrator Stanley to confirm the meeting date. It was decided that, based upon the results of the site walk, the applicant would return to the PB for either a Preliminary Site Plan Review (SPR) or a Final SPR. Either option would require that abutters be "re-Noticed."

Abutter Jim Lightfoot (39 Squires Lane) asked how many feet down from Main Street the two-acre lot would extend. Mr. Hirshberg replied that the lot would extend 480 feet down, but the buildable portion was closer to the road. He said that approximately 200-210 feet down, they had found a discharge pipe. In response to Mr. Lightfoot's question regarding who the Squires Lane abutters would be, Mr. Hirshberg replied Jones (19 Squires Lane) and Stevens (31 Squires Lane). He said that the buildable portion of the lot extended no further than 300 feet.

Abutter Lightfoot advised that Scott's Lawn Service had cut all the growth on the property previously; however, no there were many, perhaps 50, metal stakes in the area. Mr. Lightfoot said that he was very concerned that anyone trying to mow the property now would be exposed to possible injury from flying metal because the field is overgrown and the metal stakes thereby concealed. He asked how far the building envelope extended. Mr. Hirshberg replied that building on wetlands was not permitted. He advised that the wire and metal stakes delineate wetlands. Chair Ebel said that this was not a PB matter; however, the owner probably shouldn't mow now.

PB member Cottrill asked about the discharge pipes that had been uncovered. Mr. Hirshberg said that they had also found an old manhole. PB member Andrews opined that any purchaser of the property would have to address drainage issues. Mr. Cottrill asked where the drainage would be directed if the lot were developed. Mr. Hirshberg replied that it would be directed toward the areas delineated.

Abutter Lightfoot asked what the maximum square footage was of a house that could be built. He said that he was concerned for abutters Jones and Stevens, who were not at the PB meeting. Zoning Administrator Stanley

replied that there is no maximum square footage as long as all required setbacks are met. Abutter Lightfoot asked if the PB was aware that there was a change in zones from R-2 to ARR in the middle of the property. Zoning Administrator Stanley replied that the zones are not bounded in any way and the exact locations are not delineated. Mr. Lightfoot contested that statement. He advised that he had documentation to the contrary and that he would bring it to the town offices in the morning.

IV. RUSS SARLES/PC'S – Preliminary Site Plan Review: Kitchen and Dining Room Renovations
(Tax Map 73, Lot 77)

Eric Palson (Sheerr McCrystal Palson Architecture, Inc.) appeared on behalf of TKR, LLC. He advised that Mr. Sarles wanted to build a new kitchen while staying open for business, and then convert the old kitchen to a small seating area with 30-35 seats. He stated that Mr. Sarles planned to add parking by removing a shed on the property.

PB member Conly asked what amount of seating would be added. Ken McWilliams replied that 30-35 seats would be added. PB member Cottrill asked if there had not been some issue in regard to the Kearsarge Regional School District driveway. Mr. Palson replied that the issue had been resolved. He said that issue was related to land ownership.

Mr. Palson displayed conceptual drawings of the proposed renovations. He advised that the porch roof would be rebuilt, the building would be made handicapped accessible, and an internal stairway would be introduced for the apartments for which entry currently involves using a series of porches. He said that the kitchen have a flat or only slightly-pitched roof with equipment on top.

Reporting on the meeting with municipal department heads, Ken McWilliams said that the Fire Department would require that the owner agree to a phasing plan for the building to be sprinklered over a set time period or that the entire building be brought up to code, i.e., wiring, access, etc. He said that all code infractions could be resolved by sprinklering the building. He said the issue had been discussed at length with Mr. Sarles at the meeting. Mr. McWilliams reported that the Sewer Department would require a grease trap under the sink and discharge oversight. Mr. McWilliams advised that PC's currently has 96 indoor seats, 16 seasonal seats, proposes the addition of 35 seats and the building also contains a retail operation, five one-bedroom apartments, and one two-bedroom apartment. He said that the parking regulations require 55.8 parking spaces and PC's has 55 spaces available, without taking into consideration the seasonal seating. He advised that the department heads had discussed with Mr. Sarles the need to reduce the interior seating in order to accommodate the 16 seasonal seats and had told him how other local business had made similar accommodations.

Fire Chief Peter Stanley advised that there must be an agreement to phase in a sprinkler system throughout the building over a reasonable period of time or the entire building must be brought up to code for mixed-use buildings as required by state and local fire codes. Mr. Palson asked if the concern would be reduced if the apartments were eliminated. Fire Chief Stanley replied that he could not believe that the square footage would not be used for something else. He advised that the ISO guidelines require fire flows of 3500 gallons/minute for a building of that size; however, there are only 1200-1800 gallons/minute available. Fire Chief Stanley said that a sprinkler system buys time for the evacuation of a building and for the fire department to arrive on the scene. Ken McWilliams added that the estimate of available fire flows take into consideration the new cistern located at Colby-Sawyer College. He advised that the new cistern is now on line. Mr. Palson asked if the Fire Department wanted to have the entire building laid out. Fire Chief Stanley replied affirmatively. He identified the need to set a sprinkler system phasing timetable with provisions for inspections/checking at intervals. He advised that some security might be required. Initial service and piping in the building should be considered.

PB member Andrews asked if there were any plans to change the upper floors. Mr. Palson said that he was just trying to find out what was needed. Fire Chief Stanley advised that seating arrangements would be helpful. He and Mr. Palson described the existing stairways. Fire Chief Stanley opined that bringing the building up to code would necessitate massive structural changes and that sprinklering the building would be much less disruptive and less costly in the long run.

PB member Cottrill asked what the procedure should be. Mr. McWilliams replied that the Fire Department concerns must be resolved. If the decision is to sprinker the building, a phasing plan must be established. PC's must create one additional parking space and agree to reduce indoor seating to accommodate the seasonal seating, and then return to the PB for Final Site Plan Review.

V. J. & L. ALEXANDER/ALEXANDER CONCRETE – Concept Site Plan Review (Tax Map 52, Lot 3)

PB members Cook and Conly recused themselves from the PB.

James Alexander was accompanied by his attorney, Michael Todd (W. Michael Todd, PLLC).

Ken McWilliams advised the PB that James Alexander had come to the PB because Town Administrator Jessie Levine had sent him a notice of zoning violation dated June 2, 2006. He was at the meeting to present a concept Site Plan Review to have a home business in a residential zone.

Michael Todd advised that he had sent two letters to the PB, one dated July 10 containing an incomplete attachment and one dated July 12, 2006 containing a sketch of the existing site conditions. He said that the services performed by Alexander Concrete were performed on the construction sites, that all except two or three employees working on equipment went directly to the job sites, that no customers visited the home site, that there were very few deliveries, and that all activity on the home site was located at the center of the property. He also said that the remainder of the property was heavily wooded and the center was not visible except in winter when the leaves were gone. Mr. Todd said that his client used the home site only for form and equipment storage and that the equipment typically moves from job to job except during the slow time.

Mr. McWilliams suggested that Mr. Todd and Mr. Alexander work through the latter Mr. Williams sent to Mr. Todd dated July 24, 2006, listing potentially problematic criteria from the home business regulation, as described in Article II, Section 15, of the New London Zoning Ordinance. *Criteria "a"* re non-resident employees or subcontractors who use the site as their base of operations: Mr. Todd advised that there was one resident employee, Mr. Alexander's son, and 11 non-resident employees, most of whom go directly to the job site, as does the concrete truck. He also stated that signage was not an issue. *Criteria "c"* re the number of company vehicles parked on the site: Mr. Todd said that some of the company vehicles went home with the employees. He said that some of the heavy equipment also did not return, but went from work site to work site. Ken McWilliams requested an inventory of company vehicles. Mr. Todd listed three box trucks, 2 crane trucks, a bulldozer, a pump truck, seven three-quarter-ton pickups, five trailers, and an excavator. Mr. Alexander said that there were 22 registered vehicles, including four personal vehicles and 5 trailers. He offered to provide a list of all vehicles so the PB would have the precise number.

Chair Ebel asked if the employees who took company trucks home worked all year. Mr. Alexander said that they worked all year except during the slow season; however, he paid them all year. The New London Zoning Ordinance Article II.15.b.2) e. states that no more than three Company Vehicles may be parked outside at the site of the Home Business. Mr. Alexander stated that seven could be parked inside and the remainder could not be seen from the road. Chair Ebel advised that the PB could not waive the requirement. That would be a matter for the Zoning Board of Adjustment (ZBA) to review.

Criteria "g" re what is the floor area used for the home business: Mr. Todd said that the requirement that the home business not exceed 35% of the finished floor space was a problem. He said that the tax appraisal indicated that there was 5200 square feet used for the home business and only 3200 square feet of residential space. He asked if the business area had to be "finished". Ken McWilliams reviewed the method of calculating the percentage used by a home business. Chair Ebel explained that the rationale for this requirement was that if the applicant wanted to operate a business in a residential zone, the business could not occupy more than the specified percentage of the dwelling unit as defined in the ordinance. She said that if Mr. Alexander's business did not meet that requirement, this would be another issue for ZBA review.

Criteria "h" re are there outside operations, storage, or display of materials: Mr. Todd noted that Article II.15.b.2) h. states that there shall be no outside storage. He stated that Mr. Alexander stored forms outside

when they were not in use at a job site. He asked what storage was at issue. Mr. Alexander said that sometimes the yard was empty, but forms were assembled and stored on the site as necessary. Chair Ebel advised that this would be an item for ZBA review.

Criteria "i" re does the business involve the use and storage of heavy vehicles or equipment: PB member Andrews said that Article II.15.b.2) l. relating to the use and storage of heavy equipment would also be a ZBA issue. Mr. Todd agreed.

PB member Clough suggested that compliance with Article II.15.b.2) m. re a home business being compatible with residential Uses might be a possible issue. Mr. Todd responded that the Alexander property was included an ARR and Forest Conservation district combination. He opined that there was nothing done on the Alexander property that was contrary to those uses permitted in the Forest Conservation District. He said the activity did not increase the amount of traffic; the owner tried to minimize any impact on the neighbors and knew of no complaints. This might be something for ZBA review. He opined that residential uses were not defined by the ordinance. Mr. Todd asked what regulations prevailed if a property was bisected by zones. Chair Ebel and Zoning Administrator Peter Stanley both replied that in the case of overlapping districts, the more restrictive rules prevailed. Mr. Todd asked if that applied to only that portion of the property in that zone or to the entire property. Chair Ebel replied that the more restrictive rules applied to the entire property.

Ken McWilliams advised that Article II.15.b.2) m. and n. had no specific guidelines; rather, they required the judgment of the PB and were not appropriate for ZBA review... PB member Andrews asked if nuisances, like the beeping of trucks backing up, couldn't be regulated. Mr. Alexander said that Tom Miller left at the same time in the morning (6:30 AM) as he did. He said that before everyone left the yard for work they were likely to be at the Park 'N Go getting coffee. Chair Ebel asked if everyone generally left the yard around 6:30 AM. Mr. Alexander responded in the affirmative. Mr. Todd said that Mr. Alexander worked longer hours during the summer than at other times of year.

PB member Clough suggested that the seasonal nature of the business results in more vehicles parked on-site during winter when the site is more visible because the trees have lost their leaves. Mr. Alexander asked what the issue was with the vehicles. Zoning Administrator Stanley responded that if everyone had a home business with an equal number of vehicles, residential neighborhoods would become commercial areas. Chair Ebel stated that the intent of the regulations was to preserve residential neighborhoods and to locate commercial activities in those areas where such activities are permitted. SPR of home businesses by the PB assures that all potential home businesses are held to the same standard. Zoning Administrator Stanley advised that others who have proposed operating businesses of equal intensity from their homes have been denied and required to find a commercial location. Mr. Alexander said that he had been operating for 22 years with no complaints. Zoning Administrator Stanley responded that Mr. Alexander had started illegally, and he reiterated that subsequent applications have been denied. He opined that some people might be afraid to complain. Mr. Alexander said that he thought he knew what Zoning Administrator Stanley was referring to.

PB member Hollinger said that deciding when enough is enough was problematic. Mr. Todd opined that Mr. Alexander's business could not be approved with a limitation on the number of vehicles. PB member Cottrill asked if there was another site where vehicles could be parked. Mr. Todd responded that they could probably be parked in an impoundment lot for a fee. Mr. Hollinger opined that there were ways by which to get around the criteria. PB member Clough said that the PB wanted to minimize the impact of the business in a residential area. PB member Andrews asked at what point someone should be required to find space in an area that is not zoned as residential; at what point is it not a "home business". Mr. Cottrill said that we all need to work together to resolve this issue.

Resident Celeste Cook stated that she lived above the business for five years. She said that in an effort to be a good neighbor she has not made any formal complaints, but she has made telephone calls. She opined that there were an enormous number of vehicles and the related noise was a nuisance. She asked at what point a business became too big to be located in a residential neighborhood.

Chair Ebel stated that the June 2, 2006 notice of violation referred to five employees on site at that time. Mr. Todd responded that Alexander Concrete accumulates trash lumber and then gets a burning permit to dispose of it. He said that on that particular day Mr. Alexander did not have a permit, but burned only the trash lumber. He said that the employees just happened to be on the site that day to help with the burn. He opined that issue regarding the number of employees should be referred to the ZBA. Ken McWilliams and various PB members concurred.

Ken McWilliams reminded the PB that when the regulations were crafted, time was spent carefully considering the various aspects of home businesses before setting limits for home businesses. He said that all of the issues identified violated those limits. He said that the PB cannot waive the requirements. PB member Clough asked if there had been any discussion about the size of a lot when the regulations were drafted. Mr. McWilliams replied in the negative.

It was **MOVED** (Andrews) and **SECONDED** (Hollinger) **THAT JAMES ALEXANDER BE REFERRED TO THE ZONING BOARD OF ADJUSTMENT FOR REVIEW OF ARTICLE II.15.B.2) a., e., g., h., AND i. OF THE NEW LONDON ZONING ORDINANCE IN REGARD TO HIS REQUEST FOR APPROVAL OF A HOME BUSINESS. THE MOTION WAS APPROVED UNANIMOUSLY.**

Mr. Todd asked about the procedure to be followed. Ken McWilliams advised that he should contact Amy Rankins at the town offices to schedule a meeting with the ZBA after which Mr. Alexander would return to the PB.

Celeste Cook and Dale Conly returned to the PB

VI. BETTY SJOSTROM – Tree Cutting Request

(Tax Map 43, Lot 17)

PB member Conly presented a request by Betty Sjostrom to cut three trees located within the 50-foot buffer at 1745 Little Sunapee Road. He stated that he had viewed the trees and two were birches leaning over the water and one was a maple that had been damaged by both the ice storm and disease. He said that Ms Sjostrom had agreed to plant three blueberry bushes in place of each tree.

It was **MOVED** (Cottrill) and **SECONDED** (Andrews) **THAT THE REQUEST TO REMOVE TWO BIRCHES AND ONE MAPLE TREE LOCATED WITHIN THE 50-FOOT BUFFER AT 1745 LITTLE SUNAPEE ROAD AND THE AGREEMENT TO PLANT THREE BLUEBERRY BUSHES FOR EACH TREE REMOVED BE APPROVED AS PRESENTED. THE MOTION WAS APPROVED UNANIMOUSLY.**

VII. SAMUEL ROWSE – Voluntary Merger of Lots of Record

(Tax Map 103, Lots 23 & 24)

Ken McWilliams presented a request from Samuel Rowse to merge two lots of record, Tax Map 103, Lot 23, located on Route 103A and Tax Map 103, Lot 24, located at 47 Sunset Shores. PB member Cottrill asked if the parcels were lakefront lots. Zoning Administrator Peter Stanley replied that they were.

It was **MOVED** (Cottrill) and **SECONDED** (Andrews) **THAT THE REQUEST MADE BY SAMUEL ROWSE TO MERGE TWO LOTS OF RECORD, TAX MAP 103, LOTS 23 & 24, BE APPROVED. THE MOTION WAS APPROVED UNANIMOUSLY.**

The Merger of Lots of Record form was circulated for PB signatures and will be forwarded to the Merrimack County Registry of Deeds by the Town of New London.

VIII. WILMOT BICKNOR, INC.

(Tax Map 73, Lot 80)

Ken McWilliams advised that there were now two storage trailers at 207 Main Street. He stated that one trailer was located in the commercial zone and one was in a residential zone, and both were located in the setbacks. He said that placing the storage trailers in the only other space available would eliminate parking.

It was suggested that perhaps Haywood would allow storage of the trailers at 125 Newport Road for up to six months while the construction was going on at 207 Main Street. Mr. McWilliams asked if the PB saw any issues with that suggestion. Zoning Administrator Stanley advised that the storage trailers met the definition of a structure under the New London Zoning Ordinance and, therefore, would be subject to building permit and Site Plan Review requirements, but the PB could waive those requirements for up to six months to relieve congestion at 125 Main Street. He said that it brought up the issue of what other structures would be on site during the renovations.

It was **MOVED** (Hollinger) and **SECONDED** (Cottrill) **THAT WILMOT BICKNOR, INC. BE PERMITTED TO STORE TWO TRAILERS TEMPORARILY FOR A PERIOD NOT TO EXCEED SIX MONTHS AT 125 NEWPORT ROAD WITHOUT A SITE PLAN REVIEW. THE MOTION WAS APPROVED UNANIMOUSLY.**

The PB directed Wilmot Bicknor, Inc. to facilitate compliance as soon as possible.

IX. OTHER BUSINESS

- A. **LOUIS CARON AGREEMENT:** Ken McWilliams presented an agreement for Louis Caron (L. C. Engineering Company, LLC) to provide independent engineering services and traffic studies, if the PB approves, for Stonehouse Road and the intersection of Stonehouse Road and King Hill Road. Mr. McWilliams read the scope of services. PB member Clough questioned the scope. PB member Cottrill asked what the cost would be. Chair Ebel advised that the PB budget contained only \$2,800 for engineering studies. She stated that the fees should eventually be paid by Mr. Feins. Mr. McWilliams advised that Mr. Caron had only stated an hourly rate of \$125.

It was **MOVED** (Andrews) and **SECONDED** (Conly) **TO APPROVE THE AGREEMENT PRESENTED BY LOUIS CARON TO PROVIDE INDEPENDENT ENGINEERING SERVICES AND TRAFFIC STUDIES, AS DIRECTED BY THE PB, FOR STONEHOUSE ROAD AND THE INTERSECTION OF STONEHOUSE ROAD AND KING HILL ROAD. THE MOTION WAS APPROVED UNANIMOUSLY.**

Copies of the Agreement were presented for Chair Ebel's signature.

- B. **MINUTES** of the **JUNE 13, 2006 MEETING** were **APPROVED**, as circulated.
- C. **MINUTES** of the **JUNE 27, 2006 MEETING** were **APPROVED**, as circulated.

The **MEETING** was **ADJOURNED** at **10:22 PM**.

Respectfully submitted,
Judith P. Condict, Recording Secretary
New London Planning Board

DATE APPROVED _____

CHAIRMAN _____

