



# TOWN OF NEW LONDON, NEW HAMPSHIRE

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## PLANNING BOARD APPROVED MEETING MINUTES December 10, 2013

**MEMBERS PRESENT:** Tom Cottrill (Chair), Jeff Hollinger (Vice-Chair), Paul Gorman (Secretary), Peter Bianchi (Board of Selectmen's Representative), Michele Holton, Emma Crane (Conservation Commission Representative), Bill Helm (Alternate)

**MEMBERS ABSENT:** Michael Doheny (Alternate), Deirdre Sheerr-Gross (Alternate), John Tilley  
**STAFF:** Lucy St. John (Planning and Zoning Administrator), Kristy Heath (Recording Secretary)

**Others Town Staff in attendance:** Jay Lyon, Fire Chief.

**Applicants Legal Counsel and others:** Attorney John Arnold representing McChesney's, Attorney Kevin Baum representing Marshall's, Attorney Karyn Forbes representing David Guimond and others were in attendance.

### Call to Order

Chair Cottrill called the meeting to order at 7:02pm. Mr. Helm, alternate, was asked to sit in for John Tilley, who was absent.

### Work within Waterfront Buffer – Paul Property- Beaconwood, 2012 Realty Trust, 231 Poor Road. Tax Map 091-006-000.

Ms. St. John provided a brief overview stating state applications (shoreland and wetlands) were previously included on other agenda attachment list; noted that a site walk was conducted by the Conservation Commission in October, Emma Crane was in attendance; referenced the section of the Ordinance requiring review by the Planning Board and introduced the landscape architect Greg Grigsby from Pellettieri & Associates.

Mr. Grigsby referred to the application and illustrations projected on the screen. They are seeking approval to disturb some area within the 50' waterfront buffer. Some digging will be done behind the existing boat house and a few small trees will be removed. He explained the property includes an existing boathouse, retaining wall and a new house that is being constructed. To work on the boathouse, they will access the waterfront area. Improvements to the wall will be completed by hand. He explained how they plan to create plywood walkway, as illustrated by the photographs to bring their equipment in and out of the area without damaging the groundcover and waterfront buffer area.

Greg Grigsby explained that a Permit by Notification (PBN) application was submitted and approved by NHDES (Dec 2013), and they are responding to questions asked by NHDES regarding the wetlands application. Mr. Grigsby said the new boat house will be built within the footprint of the existing boathouse. Most of the boathouse is in or over the water and they are seeking approval for access to it and to rebuild it with occasional equipment moving to and from the area. They have received State permits for the main house and the area outside the boat house. They have submitted some additional information to NHDES specifically details of the boat house and the construction details for the walls along the shore. They anticipated a response from NHDES in the next week or so. A map of the wetlands application, currently under review with DES,

was shown. There is a 12' access route they would like to use by getting a permit by notification. A plan of the existing conditions was displayed. There is 910' of waterfront they would disturb and they have approval by DES to do so. They are now just seeking Town approval. The tree-count in this section is 66 and after the removal of trees they would have 57, which still meets the Town's requirements. They are looking into putting some native plants into the area surrounding the walkway to the boathouse. The walkway will most likely be covered in native fieldstone.

Ms. Crane said the Conservation Commission had no concerns with the plan, as presented.

**IT WAS MOVED (Emma Crane) AND SECONDED (Michele Holton) to approve the plan for 22 Realty Trust, as presented. THE MOTION WAS APPROVED UNANIMOUSLY.**

**Site Plan Application – EPG Colonial. Located at 277 Newport Rd, Mountainview Shopping Center. Tax Map 059-008-000.**

Ms. St. John provided a brief overview, referencing the staff report including applicant's request for several waivers.

Mr. Paul Feinberg, ground lessor of the building, said he would like to turn half of the space of the former Nonni's into office space. Parking requirements are less than what was needed for a restaurant. Mr. Feinberg noted that Nonni's had moved on to Newbury and he has the potential to put in an office tenant and would like to split up the space into two units. They will use the same entry way in from the hallway to access the space. They plan to put in a new window on the Newport Road side that would match the existing window and eliminate the men's/women's separate bathrooms and replace them with one ADA compliant unisex bathroom.

He was asked what use is being considered for the remaining space. His idea would be to have a low-use food/bakery in the remaining section, noting that the remaining space is not part of this site plan application. Mr. Feinberg said he would like site plan approval and explained that he has received comments from the Fire Chief and Public Works Director. He noted that he would comply with their recommendations. These comments are included in the staff report. He explained that Fire Chief Lyon has asked for an automatic fire alarm system for the entire building. It is currently sprinkled but there is no notification system in place in case of a fire for the tenants who live on the second floor, where there are three apartments. He has agreed to do this as he wants to make the building code-compliant. Mr. Feinberg agreed to comply with the Fire Chief's comments and explained that mechanical and electrical plans will be provided as part of the approval process.

He discussed that a sign application will be submitted. At this point in time he is unable to create a signage plan because he is under a confidentiality agreement with the proposed tenant. Once he has permission to disclose the tenant's name, he would submit a signage plan.

Mr. Feinberg said he was asking for 23 waivers (#1, 2, 5, 6, 8, 9-20, 22-27). He explained that it is an existing building and some work was done for the shopping center complex including renovation at Clark's Hardware, and the discussion on Radio Shack. Chair Cottrill proceeded to identify and review each of the requested waivers. It was generally agreed that due to the interior nature of the changes, the requested waivers seemed reasonable.

Chair Cottrill asked about the amount of anticipated customer visits and Mr. Feinberg thought there would be 10-12 customers in the office per day with a maximum of 20. There will be six employees. Chair Cottrill said suggested waiving the parking space requirement since the proposed new office space requires less parking spaces than did the restaurant.

Mr. Helm wondered if Mr. Feinberg had taken into consideration the parking needs for the remaining portion of the space. Mr. Feinberg thought a less-intense use of the remaining space would be made at some point in the future. Hunter Ulf, of UK Architects said Nonni's used 21 parking spaces. The office use will use 3.3

spaces per thousand feet. In the worst case scenario, they would need just seven spaces. Even if a restaurant took the rest of the space, they would still require fewer parking spaces.

Mr. Feinberg also agreed to the comments noted in the staff report from Richard Lee (Public Works Director) regarding the grease trap.

**IT WAS MOVED (Jeff Hollinger) AND SECONDED (Paul Gorman) to approve the request for waivers for items 1, 2, 5, 6, 8, 9-20, 22-27. THE MOTION WAS APPROVED UNANIMOUSLY.**

Staff suggested that the Board consider the comments of the Fire Chief and Public Works Director when discussing their motion.

**IT WAS MOVED (Jeff Hollinger) AND SECONDED (Paul Gorman) to approve the site plan for EPG Colonial LLC provided the applicant comply with the recommendations and comments of the Fire Chief and the Public Works Director and that the applicant submit a sign permit application with the Town Office. THE MOTION WAS APPROVED UNANIMOUSLY.**

**Tree-Cutting Application – Mary Helen Morris, 201 South Cove Road. Tax Map 045-032-000.**

Ms. St. John said the tree in question was hazardous and has already been taken down. The arborist (Dave Carey) suggested it should be removed as soon as possible. She explained that she had talked with him and he conveyed an urgency to remove the tree and there were more than enough trees in the segment so no replanting was planned.

**IT WAS MOVED (Jeff Hollinger) AND SECONDED (Emma Crane) to approve the tree cutting request for 201 South Cove Road, as presented. THE MOTION WAS APPROVED UNANIMOUSLY.**

**Tree-Cutting Application – Caroline Crawford, 407 Bunker Road. Tax Map 062-026-000).**

Ms. St. John said there were two trees to be cut and permission had been given from Mr. Jim Labe to have Tom Conway, of Conway Tree Service represent them at this meeting. Tom Conway discussed the trees to be removed. One tree is a white birch with root rot and it is a weak tree. The other tree is dying as well. Branches fell last summer and they were concerned with safety. There will be 53 points in the segment after the trees are removed. There are no current plans to replant but he said there were two Hemlocks that would likely take over the space. Ms. Crane advised it would be a good idea to plant some low-bush blueberries and she thought they should be careful with the low points in the segment.

**IT WAS MOVED (Emma Crane) AND SECONDED (Jeff Hollinger) to approve the tree-cutting request for 407 Bunker Road, as presented. THE MOTION WAS APPROVED UNANIMOUSLY.**

**Marshall's Garage – Continue Discussion from the November 12, 2013 Meeting. Located at 330 Elkins Road. Tax Map 077-037-000.**

Chair Cottrill said since there had been letters submitted to the Planning Board within 24 hours of the last meeting by both the Marshalls and the McChesney's, the Board felt it needed time to review those letters and as a result, the last meeting was continued to this meeting. Chair Cottrill said the purpose of the meeting is to review issues on the Marshall's Garage site and make a decision as to whether or not Marshall's Garage will need to have a site plan review.

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Mr. Arnold, attorney for the McChesney's, called attention to the letter he submitted after the last meeting wherein he requested that Ms. Holton recuse herself from voting because she indicated that on more than one past occasion, she has rented an automobile from Marshall's Garage and that represented a special relationship. Ms. Holton said she wasn't aware of a special relationship she had with the garage and felt that by applying that thinking, half the town probably has had a relationship with Marshall's Garage. Mr. Arnold reiterated his reason for asking Ms. Holton to recuse herself was because she indicated that she was a user of the car rental portion of the Marshall's Garage business and they wanted to make sure there were no biased opinions on the Board. They were, at that time, discussing the car rental business being conducted at Marshall's Garage, not the repair portion which perhaps more people would have had experience with.

Chair Cottrill said if Ms. Holton felt that she would have a hard time making an impartial decision she could recuse herself. Ms. Holton said to avoid any problems in the future, she could recuse herself. Mr. Bianchi said most people have had some relationship with the Marshalls and he thought recusing themselves would be ridiculous. Attorney Baum, representing the Marshalls, said it did not seem necessary and would set precedent in this type of situation. Ms. Holton commented that she considered herself a fair-minded person and in the interest of other people who have also done business with the Marshall's, she felt confident she would make a fair decision. She then rescinded her previous comment to recuse herself, and stated she would not recuse herself from the vote. Mr. Arnold reiterated that he felt it was an issue because the rental business was different from the garage/repair portion of the business.

Chair Cottrill said the Board would review each of the items discussed at the last meeting to determine if site plan review is needed.

**Temporary Structure:** Chair Cottrill said the allegation was that a tent-like structure was added to the property some 10 years ago and was installed before the Town required such an action to be part of site plan review. He asked the Board if it was still considered it a temporary structure. Mr. Hollinger reflected on Town Counsel's letter, and stated that since the structure has been there 10 years, it really couldn't be considered a temporary structure.

Mr. Marshall said he would remove the structure if the Planning Board felt he shouldn't have it. It will create an impact but he would take it down if he had reasonable time to do so. He said he put it up in good faith after consultation with the Zoning Administrator at that time. Attorney Baum said the structure was permitted at the time it was installed and should be allowed to stay. Mr. Hollinger felt the Board should accept the recommendation of Town Counsel and require a site plan review.

Mr. Bianchi said with the fact that the Planning Board may require a site plan, he didn't see it as a big problem to come in and amend the site plan they already have. Mr. Bianchi suggested Marshall's Garage consider this before deciding to take down the temporary structure (tent-like structure). Attorney Baum responded that they don't think it is as quite as easy or cheap to go through the site plan process as Mr. Bianchi was alluding to and that significant work would need to be completed to meet the requirements of the Site Plan Regulations. Attorney Baum also stated that having to complete a Site Plan, would continue to be an adversarial proceeding. Chair Cottrill said he understood the concern of a possible adversarial proceeding but that the Board renders its Planning Board process based on the provisions of the zoning ordinance and site plan review regulations. Mr. Marshall said Pierre Bedard (local surveyor) told him it would be several thousand dollars to prepare a new site plan

Mr. Gorman didn't know the specific definition of "temporary structure" but the fact that it has been there for so many years, it really shouldn't be considered "temporary".

Annie Ballin asked if there was a time limit on something that was grandfathered. Chair Cottrill said there is no time limit as various elements of a site that are "grandfathered" if they existed before a zoning ordinance was approved affecting that particular element. However, if the question is about the amount of time constituting "temporary," as it applies to the placement of structures, current zoning defines that as 30 days.

Mr. Marshall asked at what point he would have been asked to take the structure down. Chair Cottrill said that was a good question. Ms. St. John commented that under current zoning and site plan, temporary structures are subject to Site Plan Review as the placement of any temporary structure may have impacts on the site, the neighbors and other typical site plan consideration would be discussed at that time.

**IT WAS MOVED (Jeff Hollinger) AND SECONDED (Bill Helm) that the existence of a temporary structure that had been on the property for 10 years, made it no longer “temporary” and that a site plan review is required.**

Ms. Holton felt the town was at fault for not establishing what “temporary” meant.  
Mr. Marshall said he would be willing to take the structure down if given suitable time to do so.

**The MOTION was AMENDED:**

**IT WAS MOVED (Jeff Hollinger) AND SECONDED (Bill Helm) that site plan review is required unless Marshall’s Garage removes the temporary structure within 60 days of this meeting. THE MOTION WAS APPROVED UNANIMOUSLY.**

**Annex Building Changes** – Chair Cottrill said the allegation concerns changes that may have occurred to the interior of the building and asked if the Board needed any more information in order to make a determination. The Planning Board had no issues with this allegation. Based on Town Counsel’s suggestion, this was not seen as a prompt for Site Plan Review.

**Drainage** – Chair Cottrill asked the Planning Board if Marshall’s Garage should have come in for a site plan for work on the drainage ditch. Did they believe the work done on the ditch was maintenance or was the design changed or moved? The Planning Board felt it was a maintenance issue.

**IT WAS MOVED (Paul Gorman) AND SECONDED (Jeff Hollinger) to not require a site plan for the drainage ditch. THE MOTION WAS APPROVED UNANIMOUSLY.**

**Main Garage Building** – Chair Cottrill noted that a door had been added to the East side of the building (McChesney’s side). Did this constitute a change in the layout of the building? Would it constitute a site plan review?

Bill Helm opined that the question had to do with internal traffic circulation. Attorney Baum said the allegation was that the door was put in sometime in the mid 2000’s. He offered that any use of this side door was limited and that it was mainly a fire door. Current regulations are more restrictive than when it was put in. Mr. Marshall said it is a two-way door and isn’t used by anyone but employees, it is not used for deliveries and customers do not use it. It was put in for use as a fire exit.

Fire Chief Lyon was in attendance and was asked to comment. He said the addition of the door would be required today. If the door was not there they would be required to have some other alternative means of egress. Ms. Marshall said the door was not put in to make things easier for them; it was put in because the insurance company required them to do so. Chair Cottrill wondered if it would help things if they used a one-way fire door with a breaker bar. Chief Lyon said generally one-way fire doors with a breaker bar are used in buildings with an average of 50 people or more. He commented that he didn’t think Marshall Garage had this many people, but they certainly could consider putting one in if they wanted to.

Mr. Helm didn’t feel a site plan would be required for this. Ms. Crane said it sounded like a safety issue. Chair Cottrill said they have allowed egress to be built outside the non-conforming building footprints from a second or third story for safety reasons. Attorney Arnold said they should make part of the condition of an approval be that the door be locked from the outside, as Mr. McChesney has seen deliveries being used from that location in the past.

**IT WAS MOVED (Bill Helm) AND SECONDED (Michele Holton) to not require a site plan for the exterior door that was added to the side of the building provided it is locked on the outside and is used primarily as an emergency door exit. THE MOTION WAS APPROVED UNANIMOUSLY.**

**Car Sales:** The Planning Board did not see this as an issue because Marshall's Garage has proven they were in the business of selling cars before the last site plan review in 1998 and Marshall's says they have sold cars since 1947.

**Car Rentals:** Chair Cottrill said it is alleged that Marshall's is now renting cars and that Marshall's said they have been doing so since the mid-2000s. Initially, the Planning Board sought to determine whether the rental of cars was a natural extension of garage-type work. Then it was determined that cars have been sold by Marshall's Garage since 1947 and the Board discussed whether the rental of cars was a natural extension of car sales. Mr. Hollinger said Town Counsel thought it was a change in use and would require a site plan review. Mr. Gorman said there was a difference between selling and renting. It is customary to make a car available to a customer if the vehicle is being repaired, a loaner car is different than a rental vehicle. Selling cars is a different issue altogether and different rules apply. Chair Cottrill said rental or loaner cars take up parking spaces which should be considered when determining available parking spaces.

Mr. Helm said if the volume of the business of renting/selling cars increased, this would be re-visited. Mr. Marshall commented that he only has three (3) rental cars in the rental pool. Attorney Arnold advised the Planning Board to look at the regulations. They don't have to look at the volume of the business, but the nature of it. If there is a different use, it is a change in use and site plan review would be required.

Attorney Baum said applicants in non-conforming status are permitted a natural expansion of a pre-existing use and it is up to the Planning Board to decide what goes beyond this natural expansion level. Mr. Hollinger said it is important to be consistent with the concept of natural expansion and he suggested the Board follow Town Counsel's direction in this matter. Mr. Gorman commented that when his car is being repaired he gets a loaner car from his garage. Mr. Bianchi said it is different in this case because anyone can rent cars from Marshall's for any period of time. Mr. Helm agreed and said the problem arises when people are using the cars who were not getting their cars repaired. Mr. Marshall said he called Hastings Garage and Rainbow Garage, who were dealers like him. They also had loaner cars and sold cars.

Chair Cottrill said the concern is both a site space issue and a volume of traffic issue and any proposed increase in the number of cars rented would have to come before the Board. He asked, how many parking spaces are allocated to rental cars and how many rental cars are offered? Mr. Bianchi believes the history of all the site plans for Marshall's Garage have never mentioned car rentals. Mr. Marshall thought it was an ancillary use. Ms. Holton said they don't have a clear definition of ancillary.

Mr. Marshall said if a site plan were to be required, he would discontinue his rental of cars. It was generally agreed that a 60-day time limit be included for the discontinuance of the car rental business and upon such action, Marshall's Garage shall provide a letter to the Town to confirm this action. It was also suggested a letter be sent to the Town upon the removal of the temporary structure.

**IT WAS MOVED (Jeff Hollinger) AND SECONDED (Peter Bianchi) to require a site plan review unless Marshall's garage discontinued the business of renting cars within 60 days. THE MOTION DID NOT PASS: 2 were in favor, 4 opposed. Chair Cottrill abstained from the vote. Site Plan Review is not required for the on-going rental of three vehicles.**

Attorney Arnold said there were remaining items that had been mentioned in his letter of September 6, 2013, which included the Annex building changes, addition of a water line, a chimney, and the interior floor plan to include an office where there wasn't one previously. Chair Cottrill said Mr. Marshall's response via his letter

satisfied the Planning Board's questions on those issues. Attorney Arnold said they had alleged that a partition wall was created where there wasn't one before the 1998 site plan review. He asked that the Planning Board vote on that remaining item. Additionally, he saw this as a change in expansion of the use on the site.

The Planning Board agreed all issues have been considered and that there are no further issues needing discussion.

### **Correspondence and State Permit Applications**

Ms. St. John explained that the agenda attachment list includes correspondence and State Permit Applications that have been submitted to the State. Some state permit applications require that the Town, the Planning Board and the Conservation Commission be provided a copy. She read from the State Wetlands Permit Application, page 6- Application Submittal and Mailing Directions from Town/City Clerk- #6. Immediately distributed a copy of the application and attachment to the municipal Conservation Commission, the local governing body (Board of Selectmen or Town/City Council), and the Planning Board in accordance with RSA 482-A:3, I.). She commented that any of these bodies, or others can provide comments to NHDES.

### **Guimond NHDES Wetlands Application for a dug-in boathouse. Located at 17 Wilmot Center Road. Tax Map 077-017-000.**

She explained that Mr. Grimond's attorney Karyn, Forbes of Sheehan & Gordon is in attendance. Attorney Forbes asked why the Planning Board is considering this. Ms. St. John explained to the Planning Board that she had previously talked with Attorney Forbes that this would be included on the agenda attachment list. Ms. St. John further explained that Charlie Hirshberg and Frank Anzalone were involved in the project. Frank Anzalone was in attendance, Charlie Hirshberg had a previous commitment and could not attend. Ms. St. John explained that since the beginning both Charlie, Frank and staff anticipated that this boathouse application would generate some local discussion. Ms. St John explained that Charlie Hirshberg had met with the Conservation Commission back in March 2013 and most recently on Nov 20<sup>th</sup> (the application was submitted to the Town on Nov 18<sup>th</sup>). The Conservation Commission minutes of Nov 20<sup>th</sup> reflect the Conservation Commission's comments on the application in that they believe it is not a permitted use (dug-in boathouse).

Chair Cottrill wondered if the Planning Board also wanted to comment. Ms. St. John explained that the State has a 75 day period in which to review the application. She spoke with the Wetland Bureau, who informed her that the Conservation Commission may ask for a "hold" on the review, but the Conservation Commission has not done this and has missed this opportunity. The Planning Board may comment if they choose, however the State may complete their review before the end of the 75 days. Mr. Helm said the plans go directly against the town's regulations and the State should know this. Mr. Hollinger and Ms. Crane agreed with Mr. Helm.

Attorney Karyn Forbes thought the Town's ordinance was preempted by the State's regulations. The standards have to be met and there is a review process and an appeal process. Attorney Forbes distributed a letter to the Planning Board dated December 10, 2013. Ms. St. John suggested that the letter be read or accepted into the record.

Mr. Hollinger felt that as a board that the request is a contradiction to their regulations. Ms. Crane said the CC unanimously agreed that the plans went against New London building regulations.

Mr. Helm said the attorney may be correct, but it would be good to send a letter from the Planning Board.

**IT WAS MOVED (Bill Helm) AND SECONDED (Jeff Hollinger) that a letter be sent to DES providing provisions of New London's Zoning Ordinance pertaining to boat houses and outlining (p 63, c1) Article XVI of the Shore Land Overlay District that shows that docks and boathouses constructed entirely over a body of water are permitted subject to required State permits and standards. THE MOTION WAS APPROVED UNANIMOUSLY.**

satisfied the Planning Board's questions on those issues. Attorney Arnold said they had alleged that a partition wall was created where there wasn't one before the 1998 site plan review. He asked that the Planning Board vote on that remaining item. Additionally, he saw this as a change in expansion of the use on the site.

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### **Guimond NHDES Wetlands Application for a dug-in boathouse. Located at 17 Wilmot Center Road. Tax Map 077-017-000.**

She explained that Mr. Grimond's attorney Karyn, Forbes of Sheehan & Gordon is in attendance. Attorney Forbes asked why the Planning Board is considering this. Ms. St. John explained to the Planning Board that she had previously talked with Attorney Forbes that this would be included on the agenda attachment list. Ms. St. John further explained that Charlie Hirshberg and Frank Anzalone were involved in the project. Frank Anzalone was in attendance, Charlie Hirshberg had a previous commitment and could not attend. Ms. St. John explained that since the beginning both Charlie, Frank and staff anticipated that this boathouse application would generate some local discussion. Ms. St John explained that Charlie Hirshberg had met with the Conservation Commission back in March 2013 and most recently on Nov 20<sup>th</sup> (the application was submitted to the Town on Nov 18<sup>th</sup>). The Conservation Commission minutes of Nov 20<sup>th</sup> reflect the Conservation Commission's comments on the application in that they believe it is not a permitted use (dug-in boathouse).

Chair Cottrill wondered if the Planning Board also wanted to comment. Ms. St. John explained that the State has a 75 day period in which to review the application. She spoke with the Wetland Bureau, who informed her that the Conservation Commission may ask for a "hold" on the review, but the Conservation Commission has not done this and has missed this opportunity. The Planning Board may comment if they choose, however the State may complete their review before the end of the 75 days. Mr. Helm said the plans go directly against the town's regulations and the State should know this. Mr. Hollinger and Ms. Crane agreed with Mr. Helm.

Attorney Karyn Forbes thought the Town's ordinance was preempted by the State's regulations. The standards have to be met and there is a review process and an appeal process. Attorney Forbes distributed a letter to the Planning Board dated December 10, 2013. Ms. St. John suggested that the letter be read or accepted into the record.

Mr. Hollinger felt that as a board that the request is a contradiction to their regulations. Ms. Crane said the CC unanimously agreed that the plans went against New London building regulations.

Mr. Helm said the attorney may be correct, but it would be good to send a letter from the Planning Board.

**IT WAS MOVED (Bill Helm) AND SECONDED (Jeff Hollinger) that a letter be sent to DES providing provisions of New London's Zoning Ordinance pertaining to boat houses and outlining (p 63, c1) Article XVI of the Shore Land Overlay District that shows that docks and boathouses constructed entirely over a body of water are permitted subject to required State permits and standards. THE MOTION WAS APPROVED UNANIMOUSLY.**

### Other Business

#### **Driveway Permit application for VICSI 2003 Revocable Trust. Located at 838 Route 103A. Tax Map 103-018-000. Townsend Thomas, Owner. Peter Blakemen, engineer.**

Peter Blakeman was at the meeting with his client, Mr. Townsend Thomas. Ms. St. John said she received a driveway permit that day for this project. An abutter had recently visited her office was concerned with drainage, the wetlands and stream on the property. She explained the process to him, and he commented that in the past the Town has been out to inspect the property, informed him where the wetlands were located, and measured setback lines. Ms. St. John explained during the office visit, that she does not do this. The abutter also conveyed that he thought ZBA approval was required, for crossing a wetlands and streams. Ms. St. John explained that Peter Blakemen discussed the State permit application at the Nov 10 Planning Board meeting. Ms. St. John noted that the minutes of Nov 10<sup>th</sup> reflect that the property does have wetlands and an intermittent stream, however these are not included on the Town's Streams and Wetland Map. Ms. St. John referred to the driveway regulations provisions regarding wetlands and streams, and asked for input and clarification from the Planning Board.

Mr. Blakeman said they have been working on this project for a long time. Mr. Thomas is looking to build a driveway that bridges a wetland. Peter Blakeman explained that a State Wetland permit is not required, as they won't be impacting any jurisdictional wetlands. Mr. Blakemen explained that he spoke with the abutter, since his visit to staff's office. The abutter has a wet basement and is concerned about drainage. Mr. Blakeman said the neighbor and his client are in discussion and he didn't feel it was a zoning issue, but more an issue between the neighbors. They have a building permit and shoreland permits and are ready to go forward. He wanted permission to keep moving forward without having to go for a zoning variance. There are no buffers to the wetlands because they don't appear on the map.

Ms. Holton said a bridge over wetlands was approved on the Ewing property in the past.

Ms. St. John asked the Planning Board to provide direction on this driveway permit application as the Ordinance and Driveway Regulations have conflicting language. Chair Cottrill said the Zoning Ordinance says the overlay district shows the wetlands and if the wetlands and streams don't appear on the maps, then the overlay doesn't apply. Mr. Blakeman said if the wetlands are disturbed to put in a culvert, a special exception is needed. Mr. Hollinger said there is less or zero disturbance, so why wouldn't she sign off on it? It was the consensus of the Board that staff could sign off on the driveway application as it meets the driveway regulations and Zoning Ordinance.

#### **James DeAngelis – Rowell Hill Road**

Mr. DeAngelis was in attendance and said he had submitted an email regarding some trash in the Rowell Hill Road area. He was asking that the Board consider some new language for upkeep of properties in any future updates of the zoning ordinance. Ms. St. John explained that she and the Town Administrator have met with other residents in the past about similar complaints on other properties related to the storage of tires, pallet, debris in the front yard and etc. She explained the current Zoning Ordinance includes a definition of "junk" and the preamble includes general language about the general welfare, however this language could be enhanced to be more productive. Ms. St. John also explained that upon receiving the complaint, a letter was sent to Mr. DeAngelis' neighbor, the letter is referenced on the agenda attachment list- correspondence. Mr. DeAngelis (Jim) said he wasn't aware that the situation had been alleviated even after the Town had sent a letter to the property owners in question. Mr. DeAngelis was concerned with more health and safety issues rather than it being unsightly. Mr. DeAngelis asked about how the issue of the flying paper/trash can be addressed. Ms. St. John explained, that if a complaint is filed about flying trash and debris it may be difficult to ascertain where the trash is coming from. Chair Cottrill said the Selectmen should be able handle this situation under current regulations. Ms. St. John said another letter could be sent to the neighbor, mentioning the issue