

**Town of Warner – Planning Board
Meeting Minutes
Monday, April 6, 2009 7:00 PM
Warner Town Hall, Lower Level**

Members Present: Barbara Annis, Paul Violette, Hank Duhamel, Clyde Carson (sitting and voting for David Hartman), Rick Davies, Ed Mical, Dan Watts
Members Excused: David Hartman
Members Absent: None
Alternates Present: Harold French
Alternates Excused: Peter Wyman
Alternates Absent: None
Presiding: Barbara Annis
Recording: Jean Lightfoot

Open Meeting at 7:00 PM

Roll Call

Ms. Annis opened the meeting at 7:05 p.m. The roll call was taken. Ms. Annis confirmed that the two members who were reappointed, Paul Violette and Hank Duhamel, had been sworn in.

1. SITE PLAN REVIEW

Applicant and Property Owner: Warner Aggregates, LLC, David Herrick, Owner
Agent: Charles Cleary
Property Location: Route 103, Warner, NH, Map 3, Lot 84-10A, OC-1 Zoning
Description: Site Plan Review of an auction site for construction equipment and supplies.
a. Review Application – Accept/Reject/Continue
b. Close Meeting and Open Public Hearing
c. Close Public Hearing and Re-Open Meeting
d. Action Taken – Approve/Disapprove

Ms. Annis recognized Michael Ritter of Warner Aggregates and Attorney Charles Cleary. Mr. Cleary said that a site plan is proposed for a portion of the property on Route 103 that Warner Aggregates owns. He said that the submitted plans show the outline of the property. He said that the site was the subject of a variance request which was granted by the Zoning Board of Adjustment at the end of 2008. He said the proposal is to have seasonal auctions of construction equipment and supplies on the site. He said there are no buildings or structures proposed for the site, so it should be a minimal site plan review. He continued, saying an existing right-of-way off of Route 103 will be used which is on the snowmobile trail that leads onto the property. He said that a level field would be created for the auctions to be held during the good season. He added that there is no landscaping, pavement or structures to be proposed, so he has requested a number of waivers from the regulations because they do not apply. He said the people will arrive, set up their equipment for auction, the auctioneer will organize them, customers will enter and park on the same site, the auction will be held and they will haul the equipment away. He said he had spoken with Ms. Annis earlier about a number of issues that needed clarification. He said he believes there are still questions about access and DES. He said the access is over an existing 50-foot right-of-way that was inherited when the property was sold to Warner Aggregates. He said it is an old service road that was created when I-89 was constructed. He said that the deed provided shows that they have full rights to use the access road. He said they have talked with NHDOT and understand that they do need a driveway permit. He requested that that be a condition of approval. He said that they will not seek that permit unless they are allowed to move forward with the site plan. Mr. Ritter said he had spoken with Gloria Andrews with DES and she referred him to someone else who was in a seminar all day. So, he said that he was not able to get a response to the question about the Alteration of Terrain Permit. He said that she did send an amendment to the previous permit to correct the reference to

the location of the property in the heading of the letter and he provided a copy of that amendment. He also submitted copies of the Site Plan Review checklist which had not been submitted with the original application.

Mr. Cleary continued to explain that the site is permitted as an excavation site. He said that they are now proposing this commercial use for part of the site. He apologized for not submitted the checklist at first because he had not seen it at the end of the regulations. He said the plan has been submitted and the easement/right-of-way has been submitted. He said the site is wholly contained within the larger property owned by Warner Aggregates, so there are no immediate abutters and there are no immediate adjacent streets or close streets. He said there are no buildings of any type, size or location and all off-street parking would be within the site as specified on the plan. He said there will be an auctioneer's staff there organizing both the equipment and the parking. He said that the auctioneer is experienced in this. He said there are no disposal facilities, other than a couple of port-a-johns. He said, in regard to signage and advertising, they have not spoken with the auctioneer specifically as to what he will be using. He said that usually it will be very temporary sign on the day of the auction that is out for no more than a week. He said they can get more detail on that question. Ms. Annis said that they will need more detail on that issue. He said that, to his knowledge, no permanent signage is proposed. He said there will be no outdoor lighting on buildings, but towards dusk, there may be some temporary lights, but perhaps not even that. He said there are no existing streets that abut the site and there is no water supply or sewage. He said that the Zoning District was spelled out in the variance that was received from the Zoning Board. He said that the plans now show the elevations for the site and the rest of the Site Plan Regulations have been requested to be waived because they are not applicable.

Ms. Annis noted that David Herrick is identified as a Member of the LLC, and inquired if he has the power to speak for the other members. Mr. Cleary said yes, the other member is his wife, Marla, and they both have the power to speak for the LLC. Mr. Mical asked if there is proof of that. Mr. Cleary said he can get it, but he is their attorney and he drafted the agreement, so he can testify that they both have the power to speak for the LLC, adding that they have authorized him to speak, as well. Mr. Cleary said he will provide the necessary proof that Mr. Herrick has the right to speak for the LLC.

Ms. Annis asked if there were any questions from the Board. Mr. Carson asked when the auction season is. Mr. Ritter said between May and September. Mr. Duhamel asked about the conditions listed on the Zoning Board Notice of Decision. He asked about developing the fluid recovery protocol to be developed between the auctioneer and Mr. Herrick and if once that is developed it will be submitted to the Planning Board and placed on file. He said it would be a good thing to have because right now we do not know what those conditions are. He then referred to number 1 related the potential leaking from some of the equipment. He said that they have been given no chance to fix it immediately. He said that perhaps it could be fixed so it could remain on the property for the auction. He said he would like to see the wording changed to "fixed immediately or removed from the property." Mr. Cleary said that was a condition of the Zoning Board. Mr. Duhamel yes, but he didn't know if the Planning Board would have a chance to address it. Mr. Cleary said he thought it could be noticed and corrected before it reaches the site, and then the condition would be met. He added that Mr. Herrick is adamant about keeping the property from these fluids.

Mr. Mical said that the driveway permit and parking are of concern. He asked to see more detail on parking as far as an emergency access and egress to and from the site is concerned. He asked if the plan has been submitted to the Fire Chief and Police Chief for their suggestions. He said that he would like to have both of them review the plan for emergency services requirements. Mr. Cleary asked if the concern was with the access road so it would stay clear. Mr. Mical said the whole site was a concern, since the construction equipment would be all set up and then open to the public and there is a concern about access for emergency vehicles. Mr. Violette said that it appears that it would not be feasible to have parking along the roadway at anytime because of its width. Mr. Cleary said that the intention is to have all parking on the site and none on the roadway or entranceway. He said a schematic could be prepared to show how the parking would work. Mr. French clarified that the access road is not to be through the flea market area, but near the I-89 north entrance. Ms. Annis asked Mr. French if he is an abutter. He said yes, and she asked him to recuse himself, which he did and moved from the table to the audience.

Mr. Violette asked how much change in the topography will occur as the area is graded. Mr. Ritter referred to the drawing and said it will be about 6 feet in one place, with the idea being to balance the site and still maintain the positive drainage. Mr. Violette asked if it is a matter of shifting the existing soil. Mr. Ritter said yes. Mr. Violette asked what material will be placed on top. Mr. Ritter said it will be loam and that will be seeded. Mr. Violette asked if the road will follow exactly where the snowmobile trail is. Mr. Ritter said yes and it will enter from Route 103 where the trail now goes. He said it may be changed a little because some of the curves are too sharp for a larger truck, but, otherwise it will follow the trail. There was a discussion about exactly where the trail is.

Mr. Davies asked what method Warner Aggregates will employ to be sure that the Zoning Board conditions of approval are enforced. He asked what procedures will be used to show that they are prepared to meet the conditions and how would they be presented. Mr. Cleary said that Mr. Herrick knows the auctioneer quite well and they will put the conditions into a contract with him and require him to be personally liable to be sure they are enforced. He said that he is sure that members of Mr. Herrick's staff will be on site as well. He said that they will be relying in part on the auctioneer's professionalism to keep the site and be sure that nothing is violated. He said they could file protocols with the Planning Board, but they have agreed to the conditions and agree to be responsible. Mr. Davies said that sometimes a board will feel better if up front they know what the procedure is that will be enacted. He asked if there is a way that each one of the Zoning Board conditions could be spelled out in some kind of procedure to be presented to the Board so we could understand that they are prepared to act on these things. Mr. Cleary said that he could use the conditions to prepare a notice to and an agreement with the auctioneer and add some precautions to it so the Board can see what will be required for the auctioneer to sign.

Mr. Davies asked who is in charge of enforcing the conditions of the Zoning Board – is it the Selectmen, the Planning Board? There was a discussion and it was agreed that it was the Board of Selectmen who would enforce. Ms. Annis said she thought the Conservation Commission should oversee the site. She said if the Planning Board makes it a condition of approval, then we are responsible to oversee that it is being followed. Mr. Violette said that he didn't think someone should have to formally oversee the site because it's already been spelled out very well by the Zoning Board, so it's already been ruled on. He said that he didn't see where the Planning Board had any role, other than to ask questions so we might properly consider the site plan review. Mr. Davies said that some of it might be picked up by DES with their concerns. He said that possibly the Selectmen could set up a procedure, knowing what the requirements are, to oversee and make sure that something is on file so the first day of an auction there is not some complication. Mr. Carson said it's a new question for both sides and asked if it's customary to have some kind of insurance or bond posted to cover these conditions. Ms. Annis said that it has been used for construction of buildings and drainage to assure that they would be completed, but those are the only times it's been done.

Mr. Duhamel said that we do not police Caterpillar or other companies that have heavy equipment in town. He said that if someone is there and notices something leaking or there is a problem, then they would put a complaint into the Board of Selectmen or the Police Department. He said the Selectmen might then want to have, say, Allan Brown or someone who is familiar with heavy equipment, to go in and look at things. He added that the Conservation Commission members may not have the background necessary to look at something and say it's in violation. He said it's giving someone who is not accustomed to working with this type of equipment more power than necessary and making a big issue of something that perhaps is not. Mr. Mical said that there is already a Hazardous Material Ordinance in effect and it has been since the 1990's, so the provisions are there. He said that there is state law with respect to these issues, as well. Mr. Cleary said that he will provide the Board with the agreement with the auctioneer as agreed previously. Mr. Violette said that having it in the contract is a good idea. Mr. Cleary said that Mr. Herrick is just as concerned about the land as everyone else is.

Mr. Davies asked if there could be a schematic provided showing the parking, with an emergency access loop scenario. He said that he would like to see information about the lights that are being discussed also would be appreciated. He asked, in thinking about the noise for the abutters from generators and back-up alarms,

for example, if there is a time of day when equipment may be dropped off and removed. Mr. Ritter said that the State regulates when you can and cannot move large equipment, especially if it is over-width and/or overweight. He said that is daylight, but he said he did not think it would go past 5:00 or 6:00 p.m.

Mr. Violette asked if the driveway will be gated which will normally be closed. Mr. Ritter said yes. Ms. Annis asked what the hours of operation are and what days the auctions would normally be held. She asked for a plan of operations. Mr. Cleary said he would prepare that for the Board.

Mr. Davies asked about the waivers that have been requested regarding the landscape issues. He said he does not know what types of trees are between the abutters' houses and the site. He said he would support waiving the overall plan of landscaping, but would like to leave open the possibility of requiring some buffer if it is needed. Mr. Cleary said that the entrance would be a 50-foot right-of-way and then the site is very far in, so nothing beyond the right-of-way would be impacted. He said that the trees around the site itself would protect them from even being able to see the site. Mr. Davies suggested reserving some right on the landscaping to require a buffer along the driveway, for example, or any situations that may or may not come up.

Mr. Davies said the signage waiver request refers to the Zoning Ordinance and that cannot be waived. He said that they would either get a sign permit or they wouldn't, so he said he did not think the signage requirements should be waived. Mr. Violette asked which number Mr. Davies was referring to. Mr. Cleary said he'd based his waiver request on the Site Plan Regulations and not the checklist. He said that the reference is to signs in those regulations. He said they are not proposing any permanent signage, so he said it should not apply. Mr. Davies said that there then is no waiver required and added that sometime in the future they might want a permanent sign. Mr. Violette said that he has Not Applicable on the checklist. Mr. Davies said he was looking at the attachment to the application. Ms. Annis said that the checklist does not follow along in the same order as the regulations.

Mr. Davies asked if they were going to seed the whole area. Mr. Ritter said yes, except for the driveway access. Mr. Davies said that the Site Plan Review suggests a paved surface unless it's reasonable to have a different surface. He asked if there is any detail that they can give spelling out the thicknesses, etc. He noted that it's not a town road, but for emergency vehicles it might help them to have a designated area that they know they can drive on that is not lawn area. Mr. Ritter said the lot itself will be a grass lot and gravel under it. Mr. Davies asked if they would build it this year, seed it and use it next year. Mr. Ritter said no, they would use it this year and re-seed as needed.

Mr. Violette asked about the buffer zone and where the site will be used and if they plan to leave a buffer strip. Mr. Ritter said they would not come right up to the property line. Mr. Davies asked where the flood plain is on the plan. He asked about the 650 feet maximum required from the I-89 boundary by the Zoning Board. He measured the plan and agreed that the site was well within the 650 foot requirement, being within about 400 feet.

Mr. Davies asked if there would be any solid waste disposal, noting that a building would normally have a dumpster, for example. Mr. Ritter said that he was not sure. He said they have discussed it with the auctioneer and they do not want to leave something on the site. He said one plan they have been discussing is having a temporary barrel system where they are carried in and carried out.

Mr. Carson asked if the flea market will be impacted with the heavy equipment movement. Mr. Ritter said that it is brought in prior to the public being allowed into the site. He said it will be delivered and then removed after the auction. Mr. Violette noted that it is a half mile up the road from the flea market, since they will be using a different roadway right beside the I-89 north ramp and not the one that goes through the flea market.

Ms. Annis asked if there were any other questions. She said the next order of business is to determine whether to accept the application, deny it or continue it.

Mr. Violette MOVED to accept the application. Mr. Duhamel seconded. Mr. Mical asked if the checklist was going to be reviewed first. Mr. Violette said that he thought they'd already done that. Mr. Violette said that he would like to accept the application and then discuss it some more, without necessarily approving it. Ms. Annis said that it would indicate that the application and plan are complete. Mr. Violette asked if he should add wording about conditions. Ms. Annis said that would come under the approval, not the acceptance. She said that if it is accepted, the indication is that the plan is complete and everything is in that is needed to complete the application. Mr. Cleary said that when the application was filed, he was following the shortened application requirements on page 3, and he said he did not see the checklist at the end of the document.

Ms. Annis said that she would prefer to not accept the application tonight because there is too much missing. She said the two members of the LLC are missing; a contract with the auctioneer is missing; the driveway plans are missing; the hours of operation need to be written; there is no driveway permit from NHDOT; there is no information on the All Terrain waiver from DES or something in writing from them; and what was posted for the public is the plan which shows the driveway starting nowhere and ending on the piece of property and it does not show the locus. She said the latest plan showing the locus was not received until today in the Planning Board office and it has not been posted for the public to see. She said it only shows the driveway on the right-of-way, but it does not show Route 103. She said the new map does show 103, but it was just received today. She concluded that, if she could vote, she would vote to not accept the application today. Mr. Mical said that he has the same concerns. Ms. Annis said she would like to continue the application to the next meeting. Mr. Davies said that he agreed with Ms. Annis that there are too many loose ends on the application that need to be tied up. Mr. Watts said that he agreed with Mr. Davies. Mr. Violette said that he did not think that he would want to apply for a driveway permit, for example, if he were not going to be able to use the land, so he disagrees with Ms. Annis on that point. Mr. Ritter said that they only need to file for a standard driveway permit, but the only thing that is holding them up is the approval and would ask that the driveway permit be a condition of approval. Mr. Duhamel said that most of the issues have been discussed, so suggested that the vote be affirmative but to include the pending documents on the condition that we receive them at the next meeting, then it can be approved at the next meeting.

Mr. Davies asked about the drawing which showed Route 103. Ms. Annis said that there was one plan that was posted that did not show where Route 103 was or where the driveway goes. She said the other plan which was provided this morning and therefore not posted has the locus and Route 103 on it. There were no other comments.

The vote was taken, with a vote of yes being to accept the plan application. Mr. Carson, no; Mr. Mical, no; Mr. Duhamel, no; Mr. Violette, yes; Mr. Davies, no; Mr. Watts, no. The motion was DENIED.

Ms. Annis said that the motion was not to accept the plan tonight.

Ms. Annis MOVED to continue the plan. Mr. Mical seconded. Mr. Violette asked what exactly this would mean. Ms. Annis said it means that abutters do not have to be re-notified by certified mail and there is no requirement for another newspaper ad. She said it is a continuation of what is being presented and at the next meeting; we will have everything presented to us. She said it would mean that at the next meeting, we would not have to start from square one. Mr. Davies asked if this would intend to be continued to the first week of May. Ms. Annis said yes. Mr. Duhamel asked if we should review what is expected at that time. Ms. Annis said yes. There was no further discussion.

The vote on the motion was taken. The motion was PASSED unanimously. The application will be continued at the May 4th meeting.

Ms. Annis asked for something to show that Mr. Herrick has permission to sign for the company. She said there will be a copy of a contract with the auctioneer, including the plan of operation, including the hours, the days, how traffic will be handled. Mr. Watts asked for a description and plan of how emergency vehicles will have access and egress, in addition to saying that there will be no parking on the street. He also asked for a

parking schematic to show how these vehicles will be able to move around on the site. Mr. Mical asked for that before the next meeting so it can be referred to the Fire Chief and the Police Chief for their comment, so that can be available for the next meeting. Ms. Annis said it all needs to be received so it can be mailed out to the Planning Board members so they can review it well before the time of the meeting. Mr. Watts said the plan needs to be updated so you can see exactly where it intersects Route 103. Mr. Davies asked if the right-of-way information and the travel lane would be shown on the plan from the deed. He also asked for the road design.

Ms. Annis said that by then the driveway permit should have been received. Mr. Ritter said that they were not planning to apply for that until the approval of the plan was received. Ms. Annis said okay. Mr. Carson asked if the Conservation Commission bears some responsibility that the conditions of the Zoning Board are met. He asked if that needs to be confirmed prior to approving the Site Plan. Ms. Annis said that it is for the Zoning Board to confirm that the conditions are met. Mr. Davies asked Mr. Carson if he could bring it up at the Selectmen's meeting, perhaps resulting in a letter to the applicant, reiterating the requirements. Ms. Annis said that there is also some money still owed for the newspaper ad, which is \$112.00.

Mr. Davies asked if he could go and look at the site since he is not familiar with it. He wondered if a site visit might be required. Ms. Annis said it would have to be done before the May meeting so as not to hold them up again. Mr. Davies asked if there is anything that indicates the boundary line. Mr. Ritter said there is a fence for I-89 which is quite near the property line, but there isn't anything else that is clearly specific to the property lines. Mr. Davies asked if there should be a formal site walk. Ms. Annis said that when an application like this is made, it is known that the Board has a right to go onto the property. She said if there is a formal site walk, then it is a meeting and the public must be notified and has the right to attend, as well. Mr. Davies said he was simply looking for permission to go down to see it. Ms. Annis said that if 4 Board Members go together, it becomes a meeting. Mr. Violette said he would be happy to show Mr. Davies around. Mr. Davies said he is familiar with the back of Hamilton Building Supply and will be happy to go by himself to look around. It was agreed to not have a formal site walk.

Mr. Duhamel asked if there is any excavating planned for the road. Mr. Ritter said no. He offered to meet Mr. Davies at the site to show him around.

Mr. Cleary asked if the Board wanted them to find out if the signage will be temporary. Ms. Annis said yes. Mr. Cleary said he does not know exactly what the auctioneer will use, but will find out and report to the Board. Mr. Mical asked about the seeding that they referred to for the parking area. Mr. Davies said that perhaps they could put on the drawing something like "typical four inches in place," seeded with XYZ seeds. Mr. Mical said yes.

Ms. Annis thanked Mr. Cleary and Mr. Ritter and they left. She said that the public hearing will be next month. She then asked Mr. French to return to the table.

2. INFORMATIONAL MEETING

Property Owners: Nancy Ladd Trust and Douglas R. Newton Trust

Property Location: off of Newmarket Road (Map 13, Lot 35 and Map 12, Lot 21 (Peter P. Bean, Owner))

Description: Potential discrepancy in lot lines.

Ms. Annis recognized Nancy Ladd and Douglas Newton. Mr. Newton said that they want to point out an error on a subdivision plan of Ivar Martin. He said they have provided a map of a survey that was done on their property, Lot 13-35, which is off of Newmarket Road. He said that one of the markers on the subdivision plan was put in the wrong place, which is about 150 feet from where it ought to be. Ms. Ladd showed where an iron pin had been put in the wrong place by a prior surveyor and it was noted on the subdivision plan as "pre tax map" and it is not on the tax map. Mr. Newton talked with the surveyors from Bristol Sweet to say that the marker was in the wrong place, but they did not want to hear about it. Ms. Ladd said they are concerned because the lot has been sold to Cersosimo, who is currently logging the area. She said that they

do subdivisions and the lot is being sold as "subdividable." She said that they are concerned because their corner is 160 feet off based on the Bristol Sweet plan and they want to log their property. She said that it needs to be clarified where their corner is. She pointed out that from the original map's rectangles the line was straight which it would not be on the Bristol Sweet plan for Ivar Martin. She said when you look at the pins, you can see that the newer pin does not line up with the pin from the other side of the road and the other pin which marks their property. She said that they want the Planning Board to be aware that there is an error on that subdivision plan. Mr. Newton said that when the next owner comes in for a subdivision, then the Planning Board needs to know that there is a discrepancy.

Mr. Violette asked which lots are being discussed. Mr. Newton said it is lot 13-35 and Ivar Martin's and Cersosimo's and Peter Bean's (who was in attendance). He showed the Board members on the map. Ms. Ladd said that they were not asking for any decision; they wanted only to give the information to the Board to prevent future problems. She said they have informed Mr. Bean about the discrepancy and are now informing the Planning Board that if a future change on the Cersosimo lines, then the old map is not correct. Mr. Davies asked for clarification on the plans. Ms. Ladd showed him the various pins in question on the map. Mr. Newton said that the Bristol Sweet comment on the Ivar Martin subdivision plan that one of the pins is "per tax map" is not correct because it is not on the tax map. He added that the tax map is correct.

Mr. Violette asked when the Planning Board had approved the Ivar Martin subdivision and plan. Ms. Annis said it was 2006. Ms. Ladd said that at the time of the subdivision, they thought the pins might be wrong, but they could not confirm it until they actually had it surveyed themselves. Ms. Annis asked which lot number is Mr. Bean's. Mr. Newton said it is 12-21. He said that 13-35 is their woodlot. He said that the exact location of the corner of their woodlot never mattered until Ivar Martin decided to sell his land. He said that they did not touch the 150-foot strip of land in the woodlot because they were not sure where the boundary was. He said with the survey, and some further research, they were able to find within 18 inches of a tree noted in the deeds for them and Mr. Bean, the correct pin. Ms. Ladd said they are looking at the corner of their property that touches Mr. Bean's property and the former Ivar Martin property.

Ms. Annis said that we do not go by the tax map because it is for assessing purposes only and it is not for conveying of property. Ms. Ladd said they recognize that, but by looking at the deeds, it is clear that it is a straight line and on the subdivision plan for Ivar Martin, there is a jog in the line. Mr. Violette said that where there could be a problem in the future is if any of those parcels are to be subdivided. Ms. Ladd said yes, but for logging, also. Mr. Newton said that lot 12-20 is the one being marketed right now by Cersosimo as being subdividable. Ms. Ladd said that she believes that the frontage requirement is 250 feet in that area, and even if the plan is corrected, they will still have the 250 feet frontage. Mr. Newton said that their woodlot, 13-35, is an original lot in the town, which was number 20, and it was a 60 acre lot. He said that the line in question is pretty clear that it was a line between a row of 60 acre lots and a row of 100 acre lots and it is clearly between these two properties. He added that the original map of the town showing this has been provided to the Board. He said their lot was that of Joseph Jewell.

Ms. Annis said that she understands that what they show is the history of lot numbers 12-20, 12-21 and 13-35. She said that the Board appreciates receiving the information. She asked if the deed will be recorded. Ms. Ladd said it has been recorded. Ms. Annis how the Bean survey comes in. Mr. Bean said he didn't know what his father's surveyor used for reference points. He said in the old records he could find, it only referred to stone walls and brooks. Mr. Newton said they tried to contact the surveyor who had done the plan and he is deceased, so they were unable to find out why the new pins were placed where they are. Mr. Violette asked if there is any action required by the Board. Ms. Annis said that it is her understanding that if Mr. Bean wants to write a letter to the Registry of Deeds and acknowledge that the Ladd-Newton survey supersedes his survey, that can be done and that would be the point of origin. Mr. French asked when there are conflicting surveys by licensed engineers, isn't it a court matter? Mr. Violette and Ms. Annis said yes, that the Planning Board cannot change any boundaries. Mr. French said that it would require a court action, since if the Cersosimo came in, then the Board could not necessarily question what the licensed surveyor said was the line because the surveyor is licensed and the Board is not. He suggested that, if it looks like their land were going to be taken based on the prior survey, they take them to court to get it settled. Mr. Newton said

that they have flagged their boundary as they see it. Ms. Ladd said that she thinks they should be aware of the problem and should be investigating it as they prepare to subdivide. Mr. French asked if they have met with the new owners and, if not, perhaps they could talk with them and come up with a lot line agreement. He said that agreement could then be recorded.

Ms. Lightfoot said that there was a conceptual request for a 2-lot subdivision received in the Planning Office today from Cersosimo and it will be heard on May 4th. Mr. Newton said that if someone comes requesting a subdivision and an abutter has questioned the boundary, a survey might be requested. Ms. Annis said there is no subdivision without a licensed survey. Ms. Annis thanked Mr. Newton and Ms. Ladd and they left.

3. ELECTION OF CHAIRMAN AND VICE CHAIRMAN

Ms. Annis asked for nominations for Chairman. Mr. Davies MOVED to nominate Barbara Annis as Chairman. Mr. Mical seconded. Ms. Annis said she accepted the nomination. There were no other nominations. Ms. Annis was elected unanimously as Chairman.

Ms. Annis then asked for nominations for Vice Chairman. Mr. Duhamel MOVED to nominate Paul Violette as Vice Chairman. Mr. Mical seconded. Mr. Violette said he accepted the nomination. There were no other nominations. Mr. Violette was elected unanimously as Vice Chairman.

4. MINUTES

Ms. Annis said to skip the driveway discussion and return to it so the minutes and other things could be discussed.

Mr. Violette MOVED to approve the minutes of the March 9, 2009 meeting. Mr. Mical seconded. Ms. Lightfoot said she wanted to thank Mary Whalen for preparing the March 9 minutes. The minutes were APPROVED unanimously.

Mr. French noted that he was marked as absent on March 16, but he came to the meeting the week before, not having gotten the notice that it was cancelled, and would like to be marked as excused.

Mr. Violette MOVED to approve the minutes of the March 16, 2009 meeting. Mr. Mical seconded. Mr. Mical said that he had voted yes on the conceptual and he was recorded as voting no in the minutes. The correction will be made. Mr. Davies asked what it is called if someone wants to tweak something and perhaps not have to go through the whole application process. There was a discussion about what this should be called when it is similar to the Circle K discussion on March 16. The minutes were APPROVED unanimously with changes as noted.

5. SUBCOMMITTEE REPORTS

Ms. Annis asked Mr. Mical about the CIP. Mr. Mical said he's done nothing on it yet. He said he is looking for some Planning Board members to participate in the process. He said he will meet with the Selectmen to see what they want for the CIP. He said that once the committee is put together and have met, then the information will be put out to the various departments and agencies.

Ms. Annis asked about the Master Plan Committee. Mr. Violette said that at the last meeting, April 20th was chosen for the second Visioning Session, unless a different date worked better. Ms. Annis said she thought it was the opinion of the Board that most of the members wanted to be involved in both the Zoning questions and in the Master Plan. She said that she didn't know if there would be time to go over the driveways tonight. Mr. Davies said that he does not know how to do both simultaneously and have everybody know what is going on with each, but each takes a significant amount of time. Mr. Violette agreed. Mr. Davies said that some of the things could be researched by each person and submitted to everyone to get things going. He said to take a meeting away for the Visioning Session cuts into the time. Mr. Duhamel suggested meeting

another night. Mr. Violette asked if the Board would rather schedule the Visioning Session for another night and keep the Work Session night on the 20th. He said that this will probably be the last Visioning Session. Mr. Davies pointed out that some of the Visioning Session issues are targets of the proposed work on the ordinances that are going to be done. Mr. Violette added that he thinks that some more of the data from the survey is to be shared with the general public, as well. He said the idea is to get public input. Mr. Mical asked if the idea was to invite some of the Department heads to this next Visioning Session, as well, and solicit their input. Mr. Violette said yes. Mr. Mical said that from that perspective, it would be in the interest of the Planning Board to hear what they have to say. It was agreed to leave it as scheduled on April 20th. He said that there may be other things to do on the Master Plan but they'll be done on another night.

Ms. Annis said that starting in May, the third Monday will be back to the Work Session. Mr. Davies asked if it is possible to change the third Monday in May to another date. It was agreed to change it to Monday, May 11, for the month of May only, and not meet on the 18th, with the next meeting being on June 1st for the regular meeting.

Mr. Davies said he is the Planning Board's representative to the Transfer Station Planning Committee and if anything comes up on that, he will report it.

Ms. Annis said that she and Mr. Duhamel had had a meeting with Jim Marshall which was reported earlier. She said that she finally had reached Mr. Marshall and found what "precedent set" meant because that was the reason for the possibility that they may refuse State funds. She said that it meant that another town had multiple driveways coming onto a State road and because it was not a Town road or a State road coming into a State road, the DOT denied State funds for that project. She said that Mr. Marshall said that if she disagreed to write a letter to him and she said that she has written a draft for other people to review. She said that Mr. Violette and Mr. Mical have added their suggestions. She said it is a letter with questions about why the Town was not told all along the way that State funding might not be forthcoming, and, in fact, were encouraged to plan on it. Also, she said that she asked why it took from November 2008 to now to get answers from the Hoyle, Tanner report. Mr. Violette said the letter could be softened a little and said he would be happy to help to do that. He said that it could be written to state chronologically what happened and then say that we don't understand why it appears that we were not given all the information. Mr. Carson asked what is hoped to be received from them as a result of the letter. Ms. Annis said to change their minds. Mr. Violette said we'd like to get some clarification and support for the project. Mr. Mical asked if they have sent a written response yet as to which alternative they prefer. Ms. Annis said no. Mr. Mical said he thinks that should be part of the letter – requesting a written response. He said that every response so far has been verbal and he has added the request to the letter for the written response. Mr. Violette read, "Please consider this a request to provide a written response to our questions." Mr. Violette said he would work on it some more and get it back to Ms. Annis.

Mr. Mical asked if the May 11th meeting notice could be put up as a change from the normal so people will know. Ms. Lightfoot said yes.

Ms. Annis said there is no further report on transportation.

6. MEMBERS AND ALTERNATES CHOOSE AN ORDINANCE OR REGULATIONS PROJECT FOR STUDY AND REPORT

Ms. Annis said that as Mr. Davies has done with the roads and driveways, she would like to suggest that other members choose projects, research them and report back to the Board. Mr. Davies explained that in the informal meeting that he had with Allan Brown, Mr. Brown had said he would like to have it all in one place where he could point to that place and say it's in the Planning Board's document. Mr. Violette asked if he was able to boil down the items that he wanted to address. Mr. Davies said he had e-mailed that and would like to review the various items. Ms. Annis said we will not be getting into the detail of this tonight. Mr. Davies said that Mr. Brown agreed with the initial things and if he did not comment on something, then Mr. Davies had told him that the assumption would be that he agreed with it. He said we would put it in one

document, and Mr. Brown will then read the draft document and agree with it or not. He said that Mr. Brown liked that the document would have some teeth, but also some leniency as was discussed before, to allow some judgment by Mr. Brown or the Planning Board.

Ms. Annis asked Mr. Watts how the drawings of the road specs are coming. He said he finished them and sent the PDF files to the Planning Office e-mail address. Mr. Davies said the one thing he did not discuss with Mr. Brown was the idea of not having driveways around a cul-de-sac. There was some further discussion about the effect of driveways around cul-de-sacs and the effect of the diameter of the cul-de-sac. Mr. Davies said he thought the issue should be re-addressed with Mr. Brown since he thought it would be possible to write the regulations to allow driveways under certain conditions on cul-de-sacs.

Ms. Annis asked for each member to take on a project, do the research and then bring it back to the Board. She said that she has looked at the Site Plan Regulations and has suggested a new form for the Planning Board Application. She gave copies to each member and asked for suggestions and approval of it. There was a suggestion to increase the width of some of the lines. Ms. Annis clarified that there is no change to the substance of the application, other than to remove Voluntary Merger and add places for e-mail addresses. Mr. Davies suggested adding a clarification at the bottom for the number of pages attached. Mr. Watts suggested saying "indicate number of separate pages attached." Ms. Annis explained that Voluntary Merger was removed because this form is not used for that. She said the request goes to the Assessor who brings it to the Planning Board and no fees are involved and no notice is required. Mr. Davies asked if there is an instruction sheet. Ms. Annis said no, they go to the regulations and the checklists.

Mr. Violette MOVED to approve making the application form easier to use while still capturing the necessary information. Mr. Duhamel seconded. The motion was PASSED unanimously.

Ms. Annis said as she reviewed the Site Plan Regulations and the checklists and noted that the word, "monuments" has caused problems. She said she has researched on line what other towns do with monuments. She has copies of all of those for the Board to look at. She said that they need to provide 3 large maps, but occasionally, someone will bring in the smaller maps so they can be sent to the Board beforehand so they can be reviewed ahead of time. She said that is not in the regulations, but perhaps this is something that could be added. She said the purpose is to do some background so when it comes up the Board will have some information to look at.

Ms. Annis asked for someone to research other items. Mr. Carson said there is the Energy Committee which might be interested in doing some of the legwork, at least, on some alternative energy. Mr. Duhamel said it would be good if they could do that and then bring it to the Planning Board at one of their meetings. Ms. Annis said they could do the research and come up with some open-minded ideas for an ordinance if they didn't mind if it were adjusted by the Planning Board. Mr. Carson asked if it would be what other towns are doing, what the technology is and what sort of things should be considered. Mr. Duhamel said yes, and also added to include what the State's requirements are. Mr. French asked if this would be for commercial or residential. Ms. Annis said it would be both. There was a discussion about what currently applies in this area and whether the town wants to regulate this beyond what the State says. There was also a discussion about the various requirements for the technology of wind and solar. Mr. Carson said he would take the proposal to the Energy Committee.

Ms. Annis said that the survey showed a number of people were interested in increasing the allowable size and height of a building in the commercial district. Mr. French and Mr. Violette said they will research this issue. There was a short discussion on using incentives, for example, if a building is built as a green building, then it might be allowed to be larger. The question was raised as to how the original numbers were arrived at. Mr. French asked if the Planning Board minutes from that time might have the discussion. Ms. Annis said yes, but they might not be very detailed. There was a discussion about the impact of the size restrictions on bringing businesses into town and the necessity of further research on the issue. Ms. Annis said the other issue that has been difficult is the height of a building in the commercial district in that the question is

whether or not to include the façade or other parts of the building as part of the height. There was a discussion about various options for adjusting height requirements and incentive possibilities.

Mr. Davies suggested that someone look at the workforce housing issue. He said he would be willing to tackle the issue. Mr. Violette said there is a list that was prepared and a letter from the Zoning Board about issues that they would like to see addressed. Ms. Annis said one of the things they mentioned was that they thought that 40,000 square feet was too restrictive. She said that one thought from the Zoning Board was to have no size restriction on a commercial building, but have a very long setback, say, 200 feet, from abutters. She said that they agree that 2,000 square feet in the B-1 district is unrealistic. She said that they suggest that the Ordinance be clean and not overly-detailed with formulas for square footage, driveways, etc. Ms. Annis asked Mr. Carson to ask Mr. Hartman to take on a topic and Mr. Violette said that he could work with him and Mr. French on the building height and size issue. Mr. Carson said he thinks that if the Energy Committee agreed to take on something, they would want to do a comprehensive type of approach, including all types of green energy. He said they would then come back and report on what they found. He suggested that if they agree to take it on, that they come to the Planning Board to get some direction. Mr. Violette asked if that has to be done this year. Ms. Annis said no. Mr. Watts said that the only deadline would be if they want something on next year's ballot, it has to be ready in the fall for the public hearing required in December. Mr. Carson said he would suggest it to the Energy Committee and e-mail back to the Planning Board Office what their response is.

Mr. Davies asked about the suggestion to enlarge the commercial district at Davisville. Mr. Violette said that he and Mr. French could take that over, as well. Ms. Annis said she would like to see the size and height sections done so that the proposed changes to the Ordinance can be presented at the March 2010 town meeting. She said that the public hearing would have to be in December and the Board would have to look at it before then. Mr. Violette said that it needs to be decided how much of a proposed change we want to present in one year.

Mr. Davies asked about updating the checklists and the color code on the plans. Mr. Mical said he is going to the session on the plans at the OEP Conference in May and will ask if there is a definite color coding system. Mr. Davies asked about the definitions in the various regulations to see if the definitions dove-tail. Mr. Davies said he will volunteer to do that once the road issue is settled.

7. COMMUNICATIONS AND MISCELLANEOUS

Ms. Annis asked who was signed up for the OEP Spring Conference – it was Mr. Mical, Mr. Duhamel, Mr. Davies. Mr. Violette said he wasn't sure if he was going. There was a discussion about coordinating which sessions each is attending.

Ms. Annis said she got a notice from Jim McLaughlin that there is a workshop with Randall Arendt on Monday, April 13 at the resource room at the Horseshoe Pond. She said the first one is on "Redevelopment Design Strategies to Create Mixed Use Centers." She said the second is "Conservation Subdivision Design as a Tool for Building Community." She said the information can be found on PlanLink or from Sharon Wason.

8. PUBLIC COMMENTS

Ms. Annis asked Carolyn Stoddard if she had any comments or questions. She asked about a road closure for the Connors Mill Bridge. There was no other public comment.

Mr. Mical MOVED to adjourn. Mr. Watts seconded. The motion was PASSED unanimously. The meeting was adjourned at 9:45 p.m.