

**Town of Warner – Planning Board
Minutes of Meeting continued from August 4, 2008**

**Monday, August 18, 2008 7:00 PM
Warner Town Hall, Lower Level**

Members Present: Barbara Annis, Paul Violette, David Hartman, Hank Duhamel, Ed Mical, George Pellettieri, Dan Watts

Members Excused: None

Members Absent: None

Members Late: None

Alternates Present: Rick Davies, Harold French, Robert Ricard

Alternates Excused: None

Alternates Absent: None

Alternates Late: None

Presiding: Barbara Annis

Recording: Jean Lightfoot

Open Meeting at 7:00 PM

Roll Call

Ms. Annis opened the meeting at 7:00 p.m. The roll call was taken.

1. COMMERCIAL MAJOR SUBDIVISION

Property Owners: Alan & Lee Ann Wagner, Jr., 33 Newmarket Road, Warner, NH 03278

Agent: Stefan Toth, P.E., Toth Engineering, PLLC, 5 Bernards Rd, Suite 37, Merrimack, NH 03054

Property Location: Intersection of Route 103 and I-89 southbound off-ramp

Map/lot: 14/10, C-1 zoning

Description: Subdivision of existing 13.03 ac. lot into 4 commercial lots: 2.90 acres, 3.44 acres, 2.75 acres & 2.56 acres.

- a. Application Accepted 2/5/07
- b. Public Hearing held on 3/5/07
- c. Action Taken – Approve/Disapprove/Continue

Ms. Annis recognized Mr. Pellettieri to continue his questions from the prior evening.

Amount of Bonds

Mr. Pellettieri asked who determines the amounts of bonds necessary to accomplish specific goals. Ms. Annis responded that the Planning Board does. Mr. Pellettieri asked how the amount to be set is determined. Ms. Annis said that the Board can go in whatever direction is desired, whether it is to complete construction on the project or whether it's a portion of the project. Mr. Pellettieri said then that he understands that one of the things to do tonight is to develop a list of those things. Ms. Annis said that depends since first the subdivision has to be approved or disapproved. She said if the subdivision is approved conditionally, then that would be part of it, but if the subdivision is denied, then no conditions will need to be considered.

Storm Water Pollution Prevention Plan

Mr. Pellettieri referred to SWPPP (Storm Water Pollution Prevention Plan) and asked if that has already been submitted. Mr. Toth responded that the Storm Water Pollution Prevention Plan is part of a notice of intent that has to be submitted to the EPA before construction starts. He said it is usually filed electronically within two weeks. He discussed in some detail what might be included in the SWPPP when it is filed with the EPA. He said that is what is filed by the contractor, and not before construction is scheduled to begin.

Tailwater Analysis

Mr. Pellettieri asked about the Tailwater Analysis that was done and asked if it were based on a 50-year storm. Mr. Toth said yes. Mr. Pellettieri asked if there were any consideration of a 100-year storm, especially in light of the storm events that have been experienced in Warner in the last few years. Mr. Toth said that the swales and the area at the bottom of the roadway on 103 were looked at and it was considered that if there were a flood over the catch basins, there were additional measures considered in the planning for the capacity. He said that the design helps to allow more water into a catch basin than the normal design. Mr. Pellettieri asked where the final discharge location for most of the stormwater is. Mr. Toth said it goes to 103 and another place that drain toward the Warner River. He added that this had to be reported to the State for their approval. Mr. Pellettieri asked if any discharge would head towards Stevens Brook. Mr. Toth said no, it's towards the Warner River.

Board Input during Project

Mr. Pellettieri asked if there is a project sequence, assuming that the project is approved, in terms of what steps are to be gone through by Mr. Wagner as the project is carried out. He asked if there are points at which the Board will have input. Mr. Toth said that it will be whatever the Board determines, and said it is the contractor, and not him who will be involved. Ms. Annis said that sometimes in the past, it has been put as the conditions, certain steps along the way that the applicant would have to return to the Board to get permission to proceed. She added that there will also be a clerk of the works. Mr. Toth said that a bond will be posted before the construction begins and after the plans are recorded, but he said that is dependent on discussions with the Board. He said he was hopeful that any conditions would be workable for the applicant, as well. Ms. Annis said that there will be discussion among the Board members with input if warranted from Mr. Toth or Mr. Wagner.

Blasting and Quantity Estimates

Mr. Pellettieri asked about the blasting and if there have been any quantity estimates about how much material will be taken out. Mr. Toth said that there would probably be a few hundred thousand cubic yards, but it will be done in stages. Mr. Pellettieri asked who oversees the operation and if there are any conditions in the driveway permit or the site specific permits that are related to the blasting. Mr. Toth said not in the site specific, but for blasting, permits are needed from the state. He said that work within the right-of-way is going to be inspected by DOT. He said that once it gets into the site, the town will be involved. He discussed different types of bonds. Mr. Wagner said that there will be a pre-blast survey done and that the State Police will be involved with DOT.

Mr. Pellettieri said that he asks the questions because this is a very unusual project from anything that would typically occur in the Town of Warner. He said that just to gain access to the site to get off the right-of-way requires blasting, a large amount of which will take place just adjacent to Route 103. Mr. Wagner said that there are other options and he said it will have to be discussed with DOT in pre-construction meetings. Mr. Toth said it might stop from the top and they would have to get a permit from DOT to approach the top through their right-of-way from the side. Mr. Pellettieri asked if a representative from the town or an engineering company is involved in that meeting to protect the town's interest. Mr. Toth said that at the Board's request, he asked for a qualifications packet from three qualified engineering firms to be an overseer. He said he has two, but got nothing from the third. He said later on this could be covered as to whether they will be at the pre-construction meetings.

Protection after Construction pre-Sales

Mr. Pellettieri asked when Hudson Lane is constructed and completed and before any of the lots are sold, how it will be protected from potential trespassers since it will present an "attractive nuisance." Mr. Toth said it is a private road and Mr. Wagner will probably put up some barriers and signs so it can't be driven up and he, not the police, will be responsible for it.

Surrounding Towns

Mr. Pellettieri asked if the surrounding towns should be notified and then hold a joint meeting with them. Ms. Annis said that there has not been a discussion. Mr. Toth said that he believed that there had been some discussion on regional impact and it was decided it was not necessary to contact the other towns. Mr. Mical suggested that it's possible it was decided not to be necessary because we don't know what's going in there.

Mr. French said it couldn't be a very large business because there is a 20,000 square foot limitation, so he didn't see how it could significantly impact the region. He said the traffic would be coming off of Route 103 or I-89 and it would generally not be coming through other towns to get there. Mr. Pellettieri said that he agreed that we don't know what's going in there, but with any subdivision, no one ever knows how much of it will ever end up being developed, but the idea of notification for regional impact is important. He said that the Bradford people, for example, who want to get on I-89 or to the Intervale area for shopping come down Route 103 and will be going right past this project. He said he thinks that a project of this size and impact would constitute something that surrounding towns should be notified about. Mr. Watts said that all we have right now is a road. Mr. Pellettieri said that it is not a tiny private road that's being put in; it's a major construction project. Mr. Watts said that right now we don't know what is going in there – it might be one store. He asked how you measure the impact to the traffic if you don't know what has been put in up there. Mr. Pellettieri said the whole point of the notification is that it's not for the Town of Warner to decide for the entire region. It is to notify our neighbors so that if they do have concerns they can express them. He said it hasn't been done yet and it's part of state law. Mr. Toth said that for large developments he has been involved in have included other towns, but for this one, it is a four-lot commercial subdivision and he said he didn't see how it's going to impact the road and the people in other towns.

Hudson Lane Future Extension

Mr. Hartman asked about a road that is indicated with a dotted line that goes through the cul-de-sac and on into property that is beyond. He said he is concerned that that potential road extension is part of something that will be approved and he is not sure if that is associated with the other towns, as well, since it goes towards Sutton. He asked what that dotted line represents. Mr. Toth said it is a design that was not a personal choice. He said he believed the Board wanted it shown as a future extension which is why it is shown with dashed lines. He said if it were ever extended to its neighboring property then the curves of the cul-de-sac will go away. He said that the road is in to protect the right-of-way from the nearby subdivided lots so the road could be extended if necessary. He said the abutting lot has frontage on a road in Sutton. He said it would not have enough land for residential lots to have any real impact on Hudson Lane. Mr. Pellettieri asked who makes the determination on what constitutes the threshold for regional impact. Mr. Toth said that is why the traffic impact study was done in the beginning. He said that the Board decided that they wanted to have a possible future conduit instead of a permanent dead-end road. Mr. Hartman said that he is concerned about showing something that the Planning Board is going to approve that has a dotted line intent of extending a road sometime in the future. He said he would rather say that a cul-de-sac is what we're approving and then not have those dotted lines in there. Mr. Toth said it is put in for clarity and there is a 60-foot right-of-way. Mr. Pellettieri said that he thinks that the concern is that in the past, when the town has approved subdivisions, there have, at times, been things that were included or things that should have been included that affect future outcomes of when the lots are developed and then create a problem for the town. He said that when there is something that is shown as an extension or a potential extension, we don't know what that will be or if it will ever come to be, but when it does, it could potentially be a problem for the town. Mr. Toth said that's why there are easements, so that when and if it is continued through, there is enough room to continue the road without having to go back to the home owners to say we need 10 more feet for the extension. Ms. Annis said this was a request of the prior Planning Board because there is a lot beyond it and we wanted it in this plan in order to protect for the future. Mr. Watts said on September 7, 2006, was when Mr. Wagner was told that the Board wanted the road to be indicated straight to the end per our regulations.

Pedestrian Access and Safety

Mr. Pellettieri said that with many of the projects in the Intervale area the question of pedestrian access and pedestrian safety has arisen. He asked if any consideration was given in the design process to how pedestrians might get to the lots on the top. Mr. Toth said no, because there is no connection from the Market Basket for pedestrians to get there safely. Mr. Pellettieri asked about those coming from the opposite direction. Mr. Toth said no because sidewalks would have to be built in the DOT right-of-way and there's no real room for them, as well as there is a question because of the steep slopes as to whether they could be built, and, in the long run, would they even be used. Mr. Pellettieri said there is no sidewalk from the village down to the R.A.W. property, and yet they were required to make provisions for pedestrian access. He said the point is that the Planning Board is charged with looking to the future and who is to say that somewhere in the future there would not be a sidewalk constructed right through and under the bridge at I-89

connecting both sides of our town. He said if 103 develops and any of the projects in the Sunapee area takes off, the amount of traffic both vehicular and pedestrian will increase dramatically. He said that should that occur, we are approving a project here now that has absolutely no provision for and no consideration of pedestrian access in the future. Mr. Toth said if it's needed in the future, the ditches on the roadside are wide enough, you could add sidewalks. He then pointed out on the plans where they could be put if it turns out that they would be needed. He added that to put sidewalks in now with the required curbing would change the drainage and require many more meetings with the various parties. Mr. Pellettieri said that pedestrian access does not have to be up Hudson Lane; he said that it could be up a peripheral area through the individual lots. He said with no thought given to it, then we are stuck here without anything.

Steep Slopes

Mr. Pellettieri said that much of this property is in a steep slopes classification. He said that much of the construction necessary for Hudson Lane is in a steep slopes area. He said that the grading that will be necessary for the access drives to the individual lots when they take place, and the development of those individual lots, a considerable amount of steep slopes on this property will be destroyed. He said that our regulations ask for and the intent of our regulations is to not create damage in sensitive areas and steep slopes are identified as sensitive areas. Mr. Toth asked if lot development is being prevented by calling it a sensitive area because there are steep slopes. Mr. Pellettieri said not preventing lot development, but requiring lot development that takes into account those sensitive areas. Mr. Toth said that will be part of a site plan review. He said that whoever buys these lots will have to fit their program into what meets the regulations. He said this is a commercially zoned area; there's nothing special in the town regulations that identify it as special. He said it is steep and they will build whatever they can in that area. Mr. Pellettieri said that is the whole point of having sensitive areas – that just because you can do something doesn't mean that you do it. Mr. Toth said that is preventing development and putting restrictions on development.

Construction of Roadway

Mr. Pellettieri said the construction of the roadway is probably bigger than any of the construction projects that will take place on the individual lots. He said that the Board does not have site plan review of that. Mr. Toth said that the road is to be built to create a commercial subdivision. He said if the Board approves it, it will be inspected, and then the lots will be sold and someone will come before the Board with a site review plan. Mr. Pellettieri said that he believes in our consideration, we have to address the fact that major construction is taking place simply to create this subdivision. Mr. Toth said that they are allowed to develop this parcel, and, it's a steep parcel. Mr. Pellettieri replied that they are allowed to develop it and we're allowed to set restrictions and conditions. He said he is just raising it as a point of information for the Board. Mr. Toth said that a lot of changes have been made to comply with the Board's wishes and the Board has changed since the initial review. He said because of the adjustments made over the last year in trying to comply with the Board, it would be difficult to make more now at this late date after what Mr. Wagner has been through to get to this point.

Second Public Hearing Question

Mr. Pellettieri said it is nothing personal when raising these questions, but the problem for the Board is that the project has taken a year and a half and during that time the Board has changed, and so there are those of us who are currently on the Board who are not aware of the kinds of questions that he is raising, for example. He said there is a whole history plus numerous written materials and questions. He said this is one of the reasons that he has suggested that there should be another public hearing. He said that it's been a considerable amount of time that has passed since the earlier public hearings and the public doesn't have a chance to ask any questions or provide any input at this point.

Ms. Annis asked if Mr. Pellettieri had any more questions. He said he has more, but he will get into them as the conditions are being listed, if we get to that point.

Allan Brown Report

Ms. Annis said that Allan Brown is in the audience tonight and she asked him if he has reviewed the current plan and if it is the plan he approved of originally. Mr. Brown said that he has reviewed the plan and reviewed it with Provan and Lorber a year ago. He said that there was a list of questions which were reviewed with Provan and Lorber and Mr. Wagner. He said he thinks it was all worked out. He said that he

thinks that these plans represent all the changes that they were asked to do. He said he thinks there were some changes that the State required, but that hasn't changed his approval of the plans.

Wetlands Scientist Signature

Ms. Annis said on Sheet Number 4, it is not signed by the Wetlands Scientist. Mr. Toth said that the Wetlands Scientist, Richard Bond, who was self-employed, retired. He said that they had a signature block and it is his understanding that the Wetlands Scientist only signs one plan certifying the wetlands. He said that he is retired and they cannot get hold of him. He said that the wetlands have not been changed. Ms. Annis said that she understood that the wetlands on the lot are still the same as when he did do it. Mr. Toth said yes. He added that he talked with Granite State Survey, and they say that he is no longer available. He said that he would like to reference the previous plan as certified by Richard Bond, Wetlands Scientist. **He said they would remove the block since it cannot be recorded without his signature and say in reference notes on the Note Sheet as Note 14 that previous versions had his signature. He said it would say that previous versions of sheets numbers 1, 2 and 4, on record at the Town, had the Wetlands Scientist's stamp and signature on the survey of the wetlands.** Ms. Annis said that something needs to be mentioned somewhere and asked that this be highlighted so the Board can remember to be sure on the approval, if it is approved, it is mentioned. There was discussion about which sheets had to be corrected and Mr. Toth agreed to change those sheets for the final plan, sheet numbers 2 and 4 and add Note 14 on Sheet 3.

Sheet 5 Width of Roadway and Ditch

Ms. Annis said on Sheet 5, she can see that the travel lane is 24 feet wide, but asked what the width of the drainage ditch is. Mr. Toth said the shoulder is 3 feet wide. Mr. Toth said the depth and the width varies some based on the geotech report.

Typo on Sheet 24

Ms. Annis referred to Sheet 24 (now Sheet 26) and said there is a typo – “nad” should be “and” – in the note. Mr. Toth agreed to correct it.

Blasting and Pre-splitting

Ms. Annis said that earlier Mr. Wagner said he would be doing a particular kind of blasting. She said it wasn't going to be irregular blasting so that it wasn't like drilling; it would go out. Mr. Wagner said it is pre-splitting. Ms. Annis asked him to explain to the Board about this since many of them were not here when it was discussed. Mr. Toth said that as part of the geotech report, GTI looked at the exposed ledge on Route 103 and they did some testing on site to determine the strength of the ledge because there are 40 or 50 feet of ledge. He said the question was how steep can it be. They also looked at how wide the ditches had to be depending on the height. He said that they had mentioned pre-splitting. He described it as if the ledge face wants to be in a certain place, then a lower charge with a lower blast so that when it is blasted, it is a clean face to start off with. He said if you just blast it alone, the edges can be very jagged. He said with pre-splitting, they will end up with a clean face to the ledge. He compared it with scoring granite with an axe before hitting it with a hammer to make a clean break. Mr. Wagner added that the technique is that the pre-split is the edges and that will be going off in advance of the production shot which is the center of the blast. He said it actually makes a small crack on the edges and then the production shot from all the other holes in the middle comes off. He said there will probably only be a couple of holes going off at a time, and it will all happen in only a few milliseconds. He said it is sequenced, with 25 milliseconds or sometimes a little less, in between rows.

Ms. Annis said that she believes that Mr. Wagner's profession is blasting. Mr. Wagner said yes. He added that he has a commercial blasting license with no restrictions from the State. Ms. Annis asked if he is planning to do this himself. Mr. Wagner said he may do some of the smaller pieces, but he said he does not have the equipment to do the bulk of it.

Project Cost

Ms. Annis recognized Mr. Mical to ask his questions. Mr. Mical said that with this project, they must have some idea of the cost of the roadway to be put in if it's approved. Mr. Wagner said he hasn't spent that much time on that. He said he is hoping that aggregate will offset the cost by a substantial amount. He said

that the cost has changed a lot. For example, he said, asphalt is extremely expensive right now. So, he said, the cost of the project is getting more expensive fairly quickly. He said that if the Board is going to use the number for a bond, he didn't want to just throw out a number.

Drainage Maintenance Cost

Mr. Mical said that it appears in correspondence that we received tonight that an estimate has been provided for that. Mr. Toth said the company, Stormwater Compliance, was recommended by the manufacturer of Stormtech since they have extensive experience in maintaining and cleaning these types of systems. He said that the estimate included things that he was not asked to include. He said he added costs to do the swales and the structure above it, which was not requested. He said it does give a pretty good idea of what is typically done. He said that there was one thing pointed out that he wanted to talk about and it had to do with the isolator row. He said that with the system as it's designed, the water comes from the catch basin and it's directed into the first row. He said that the first row is not connected to any of the other rows. He said that it is completely wrapped in fabric. He said that the point of that is that the major sediment flush is going to go into that row first and water must go through the filter fabric into the stone and then into each of the others beyond. He said the point is to reduce the sediment and clean the first row on a regular basis so the others will get hardly any sediment at all. He said that 90% of the sediment gets trapped in the first row, so maintenance is reduced for the other rows.

Mr. Hartman said that he had raised the issue of the cost of maintenance at the last meeting and had asked where he could see one of these systems in practice. He said that at the time Mr. Toth did not know and asked if that is still the case. Mr. Toth said that he had asked Gregg Novick from Stormwater Compliance and he said that if someone called him, he would be happy to let them know ones that he has maintained that have been in for quite a while. He said he asked about any in the area that had Stormtech. He said that Mr. Novick needed to talk with the owners of the sites and try to arrange site walks and that he would get back to Mr. Toth. Mr. Hartman said that his specific concern is getting into doing something that they estimate may cost \$3000 a year, and it may have to be ripped up after 10 years because it's completely plugged up. He said he would want Allan Brown to take a look at one of these that is in practice and assess it for himself, and certainly before the town would accept it as a maintenance responsibility. Mr. Brown said that we are not anywhere near where a town is going to accept anything yet. Mr. Toth said that Mr. Novick is an expert on maintaining the systems.

Ledges and Ice Buildup

Ms. Annis recognized Mr. Ricard. Mr. Ricard referred to the ledge faces and asked if it's low groundwater in that area or if it's deep. He said he was concerned about ice buildup on the faces. Mr. Toth said no. Mr. Ricard asked if they were going to cover the ledge faces on the road. Mr. Toth said no. For the ice buildup, he said it all depends on the type of ledge that you're blasting and the strength of it. He said that the report from the geotech didn't note it as a concern. He said that they have a bench that goes backwards, so that any runoff will go back.

Rock Crushing and Blasting

Mr. Davies asked how many days it might take to blast and then to crush the rock. Mr. Wagner said typically 4 months or 8 months. Mr. Toth said that they might blast for a certain amount of time and then they have to stop and haul it. Mr. Wagner said you might blast, say, 10,000 yards at a shot or two 5,000 yard shots and then bring a crusher in and crush that and move it back from the face so the next shot has room to go. Mr. Davies asked how long the whole process of blasting and crushing will take, recognizing that at a certain point you start putting utilities in, for example, which is less disruptive to the neighborhood. Mr. Toth said that as you get further down, there is probably less intrusion because of the barrier, if you're blasting from the top. Mr. Wagner said that they have equipment now that is different from the old days when they used what they called air traps. He said the air could be quite loud because of the way it powered the drill. He said that now they're hydraulic-powered with a small amount of airflow to get the stone dust out. He said that once they're down about 4 or 5 feet, the noise is half of what it used to be. He said it's loud when you start the hole, it's loud, but once it's in, you'll hear more the hum of the engine, rather than the air. He said that also, if they come from the top down, there will be a big hole, so you would hear it, but it wouldn't be some deathly noise.

Wooded Buffer

Ms. Annis said several letters have been received.

The first one has no date and is not signed, but it says it is from the Conservation Commission. She said that they are very concerned about the wooded buffer towards the Interstate. She asked Mr. Wagner to repeat what he has told the Board about his plans as far as logging this property is concerned. Mr. Wagner said that the State has a substantial wooded buffer there right now where the pine trees were built when I-89 was built in the 1960's. He said that that can't be touched. He said that on the site specific plan, they are only able to do logging for the road and then some access areas and some staging areas. He said that all the other timber will have to be left on the 4 lots. He said the property will not be clear cut. He said if there are some trees that are bad leaning, for example, that might come down in an ice storm, just out of the scope of the road, and then that will probably be taken down for safety issues. Mr. Toth showed on the plans where the buffer is and how the tree line is. Mr. Wagner said that the people who are looking at this site from the Police Department area will see McDonalds, Dunkin Donuts, a divided highway, state land with the state trees and then this property. Mr. Pellettieri referred to the grading plan. He said that Mr. Wagner has permission to remove the vegetation in the area where the construction is going to be taking place. He said that includes all of Hudson Lane, the cul-de-sac, the small spurs for the individual driveways and all of the grading beyond that, including the area for the infiltration system and any staging and access areas. He said the area looks to him to be about 30% of the lot. Mr. Toth said maybe 25% or 20% of the lot. Mr. Pellettieri said it is a substantial part of the lot and the vegetation that is referred to as the highway buffer is at a dramatically lower elevation than the elevations where the subdivision lots are going to be resting. Mr. Toth said the trees are 60 to 80 feet high. Mr. Pellettieri asked what the elevations are of the lots on the top. Mr. Toth said it is 630. Mr. Pellettieri asked what the elevation is where the trees are. Mr. Toth said it's about 500 or 560 to 580. He said he was just guessing on the height of the trees. Mr. Pellettieri said that the point is that trees are down at a lower elevation than the lot development. Mr. Violette said that he has seen the site and has walked across it and has looked at it from a lot of different angles. He said he doesn't think a lot of it will be able to be seen. Mr. Pellettieri commented that a balloon test is required when we put up a cell tower. Mr. Toth said this is different.

Drainage, Runoff and Erosion Plan

Ms. Annis said the Conservation Commission letter was also concerned about the drainage, runoff and erosion plan. She said that she thinks the drainage plan that is from the state has answered that question.

Location of Roadway

Ms. Annis said that one person has written a letter asking if the driveway, the roadway, could have been in a better location. She added that she believes that the deed allows one driveway for the lot. Mr. Toth said yes, and the placement of the planned roadway is at the station that was allowed by DOT in a letter dated 1970-something at the time of the taking of some land for the improvements on Route 103. Mr. Wagner said that it was not his first choice.

On-Site, Stormwater Management Regulations

Ms. Annis said there is another letter that is not signed, but is on Conservation Commission stationery. She said it asks that the Board pay attention to specific sections in our regulations – on-site, stormwater management. She said that she believes that the forms have responded to that concern.

Site-Specific Permanent Application

Ms. Annis said there is a letter from Amy Clark which is not on any letterhead and is not signed, but she says that she works for the state. Mr. Toth said that there was something in the packet from the last meeting that was from Ms. Clark on state letterhead. Ms. Annis said that the letter received in December was not on the State letterhead. Mr. Mical said it is in the packet and it is an application from the State Environmental Services signed by Amy Clark on January 15, 2008. Ms. Annis said the letter she has is from a person who says she works for the State, but it is not signed and is not on state letterhead and therefore is problematical. Mr. Toth said it was sent by e-mail and it was sent to somebody who isn't a board member and is not either Mr. or Mrs. Wagner or Mr. Toth. He said that is where the letter that Ms. Annis has came from. Ms. Annis asked Mr. Toth where they are at in responding to the letter. Mr. Toth said they have the permit so the letter is moot at this point.

Blasting and Potential Damage to House and Well

Ms. Annis said there is a letter from a neighbor who is very concerned about the blasting and potential damage to their house and their well. She asked if Mr. Wagner would please respond to that concern. Mr. Wagner said the closest house is a considerable distance, which is good. He said that he has blasted literally right up to artesian wells and it is possible to shoot right up to a well. He said that obviously, this is a lot more blasting, but he said that he is very comfortable with the distance he has for the blasting work that has to be performed. He said that she should be protected. Ms. Annis asked if a horn is blown so many minutes ahead of a blast so that people can be prepared. Mr. Wagner said yes. Ms. Annis asked if he would be contacting the neighbors in the area. Mr. Wagner said that generally speaking, they would contact the closest neighbors about what is going to happen. He said the State Police will be contacted also.

Hours of Operation and Equipment Storage

Ms. Annis referred to the hours of operation. She said that she realizes that with fall coming, it will be difficult. She also said that she realizes that DOT says that they can't do anything from November 15 to April 15. Mr. Wagner said he will go by what DOT says. Ms. Annis asked what will be done with all this equipment, where you cannot put anything in the State right-of-way. Mr. Wagner said it will be up on the site. Mr. Toth said that the last time they were allowed to go up on the side by the State to get the equipment up on top. He said they hope to get the permission again. Mr. Violette read from the letter: "We would like to see a guideline that would permit the elderly abutter to maintain some quality of life; for example, Monday through Friday, 7:00 a.m. to 5:00 p.m." Mr. Toth said that seems reasonable. Mr. Ricard added that the way the topography is, the bedrock, the odds are that the groundwater pool is probably going towards the Warner River and not in the direction of the proposed subdivision.

Pre-construction Meetings

Ms. Annis said that a pre-construction conference will be required prior to the start of any work within the highway right-of-way. She said that she thinks that part of the conditions, if it is approved, is that the Board will be represented at that meeting.

Removal of Materials

Mr. Hartman asked how, by blasting from the top down, is the removal of the materials to be handled. Mr. Wagner said that will have to be considered with the state. Mr. Hartman asked if he is considering hauling the materials out and down through the state land. Mr. Wagner said he's considering that, but he doesn't know what they're going to say. He said it will either that or it will be stockpiled until the road is opened up. He said if he can't haul it out, then he will need a larger area for staging. Mr. Ricard asked how long it would have to be staged if it had to be staged on site. Mr. Wagner said it depends on how fast he can sell it. Mr. Violette asked if it would be in aggregate form by then. Mr. Wagner said yes, it would be processed materials and the state will actually be taxed on the product. He said if anything is processed, it is taxed. He said that the Town of Warner may find that they can save some money by buying some of it.

Ms. Annis asked if there were any further comments or questions. Ms. Annis said that she had asked Mr. Toth to offer to the Board the names of several engineering firms that would be clerk of the works, if the application is approved.

Mr. Toth showed Mr. Pellettieri on the plans where the building setback would be, as he had requested. He then reviewed some corrections to the plans with the Board that had been requested previously. He said he thinks that that completes all corrections requested up to now. Ms. Annis asked if anyone knew of anything else.

Acceptance as Town Road

Mr. Hartman asked about the Town's involvement in official acceptance of a town road or a drainage system or the things that are being discussed tonight. He asked if these are outside of this discussion. Ms. Annis said yes. Mr. Hartman said that there are no promises from the town of accepting any responsibility for the improvements that are going to be made. Mr. Toth agreed. Ms. Annis said they will have to petition the Board of Selectmen at such time. Mr. Brown said that in their construction process there is a set of written rules that they have to follow to have it accepted as a town road. He said that every phase has to be inspected by him and it has to be approved before they get the okay to proceed. He said the approvals have

to be received all along the way if they want it to be accepted as a town road. Mr. Hartman said it is his understanding that that process is aside from the Planning Board process at this point. Mr. Brown said yes. He added that if the Planning Board accepts it as a plot plan, then the next step is if he starts to build it, he has to follow the next step. Mr. Hartman said that he wanted to reiterate that it does not mean that one thing follows into the next automatically. He said that this is just the design standards that have to be adhered to, whether he is designing it for himself or for the town. Mr. Brown said that even if he goes to step 3, it doesn't mean that step 4 will automatically – he said that the town has no liability for it. He added that there will be no lot development until the road is accepted because there have been subdivision roads by having them build houses or businesses before the road is accepted and then had trouble. So, in summary, he said, get the road built, and then develop.

Mr. Duhamel said that he thinks that Mr. Brown has confirmed that the road will surpass the state regulations for road, as well as the town of Warner. Mr. Brown said it is being designed as foolproof as you can foolproof a road. He said he didn't think you could find any in the State of New Hampshire that exceeds our design requirements. He said the Highlawn Subdivision road, as an example, has been in for 21 years and it hasn't had to be touched. He said he thinks that if this road is built, it will not be huge dollars for the town to maintain.

Changes to Plans

Mr. Pellettieri asked if the written materials are substantially the same as those reviewed by Provan and Lorber. Mr. Toth said the offsite improvements have changed, but the subdivision plan itself hasn't had any significant changes at all. Mr. Pellettieri asked what offsite elements he was talking about. Mr. Toth said that working with DOT, the infiltration system got a little bigger, but the offsite, the size of the pipes, the island, the striping has been variable until the DOT permit was received. He said the offsite was changed to whatever DOT wanted. Mr. Pellettieri reiterated that the site specific permit, the driveway permit and all the offsite issues were not reviewed by Provan and Lorber. Mr. Toth said yes, they concentrated on just what the Planning Board was to approve. Ms. Annis said that she recalled that in order to develop this site, they could not increase the drainage going into the Warner River and this is why they have been working with DOT in regard to the drainage on the other side of the road. Mr. Toth said yes. She asked if this is what has held up the approval or disapproval of this application. Mr. Toth said yes, the DOT process took close to a year because of scheduling and staffing problems. Ms. Annis added that the postponement, then, has been due to offsite questions and not the site itself. Mr. Toth said yes.

Earth Excavation Regulations

Mr. Davies asked about the relevance of the Earth Excavation Regulations. He asked if they apply to this site because it's over 100,000 yards of excavation and do they have to apply for a permit to excavate. Ms. Annis said she did not know. She said that usually it is for a gravel pit. Mr. Davies said that skimming through it, he thought that any roads for a municipality don't apply, but for every other type, it seems to be applicable. Mr. Toth said they have to get a permit from the state. Mr. Violette said this is not going to always be a private road. There was some further discussion as the Board members read the regulations. Mr. Watts referred to the definition of Commercial Excavation:

“Commercial Excavation means excavation of earth intended for commerce, excluding excavation that is strictly conducted for the purpose of alteration, renovation, improvement or construction to the property on which the excavation takes place. Any material leaving the property for whatever reason is considered to be a commercial operation.”

Mr. Davies said that looking at paragraph E on page 3, it seems like it may not apply. This paragraph reads:

“Excavation that is exclusively incidental to the lawful construction or alteration of a building or structure, a parking lot or way including a driveway on a portion of the premises where total earth removal quantity is more than 1000 cubic yards. This excavation cannot be started, however, until any required state and local permits have been issued.”

Ms. Annis asked if there were any further comments or questions from the Board. Mr. Pellettieri asked what the procedure for this evening will be. Ms. Annis said the next step, if there are no further questions, would be a motion to approve the subdivision, approve with conditions or deny with reasons.

Mr. Violette MOVED to approve the subdivision with conditions that will be set by the Planning Board. Mr. Duhamel seconded. Ms. Annis asked for discussion on the motion.

Mr. Pellettieri said he has a number of concerns in two different areas. He said one of the areas has to do with the conditions that we would attach to the approval and the process going forward. He said that given the complexity of this project, he thinks that there are quite a number of issues for which we do not have sufficient information to make a thorough list of conditions at this time. He said he has reservations about numbers of bonds, the dollar amounts of bonds, what types of maintenance qualifications should be put into it and so on. He said those could be addressed later. He said his initial concern is that he thinks the Board is approving a project that is way beyond what would normally be considered a reasonable project and impact on a property of this nature. He said this is his personal opinion, which he was sure a number would disagree with, but he is not sure that the Board has a good understanding of the significance of the visual and physical impact, not to mention the amount of disturbance that will take place over the force of the first phase to get the roadway in, of this project. He said this is something that goes against the intent of our regulations. He said a good majority of this site is in what is considered sensitive areas. He said that our regulations are set up to prevent disturbance in those sensitive areas. He said the Conservation Commission and the Central New Hampshire Regional Planning Commission have both expressed concerns along those lines. He said again that he thinks the visual impacts are going to be significant, and, even though there is discussion about a buffer to protect the project, he said the roadway will be a canyon that is cut into the rock. However, he said, he does this for a living and he assured the members that when the lots are developed, there is going to be a significant visual impact. He said there will be a significant visual impact just to get the project constructed, just to get Hudson Lane in. He said it is a major environmental impact. He said he understands that the State has signed off on the alteration with the site specific permit, however, he said, we know that the State doesn't always look out for the town's concerns. He commented that the State has a hard time taking care of its own concerns, let alone that of the town. He concluded that he thinks this is a project that is way out of scale in keeping with what is reasonably able to be put on this property.

Mr. Hartman asked how the conditions get attached. Ms. Annis said we have to notify Mr. Wagner within X number of hours by law. She said it is a Notice of Decision and it can have conditions. Mr. Hartman asked how we put the conditions on this motion. Ms. Annis said that it is covered by the words "conditions that will be set by the Planning Board." Mr. Hartman asked when the conditions will be set. Ms. Annis said that when the motion is approved, then the Board will start doing the conditions. Mr. Hartman said that he does not want to approve a motion with conditions where he does not know the conditions, so at this point, he would have to vote against the motion. He said he needs to know more about the construction of the conditions. He said, for example, we will come up with the conditions by September 15; or, those conditions shall be issued at a point at an undetermined time in the future. Mr. Violette said that is what he was thinking. He said that his view would be that we need to sit down and look at some other conditions which have been used in the past. He said he thinks that most of the Board knows right now what kinds of conditions we would put on something like this. He said there may be some other points that might be a little harder that we would have to consider. Mr. Hartman said that his problem is that he doesn't know those. Mr. Violette said that he can read the papers that have been used in other situations in that same area, for example. Mr. Hartman said that he has not had a chance to look at that, so, again, without knowing what those are, he would have to vote against approving with open-ended conditions.

Mr. Toth asked if there could be a motion to approve the plan with conditions and if there is a reason that the conditions can't be discussed and listed and then the members vote on what conditions they want and don't want. Ms. Annis said she thought it would take another three hours. Mr. French said he thinks there should be a lot of thought put into the conditions that will be put on the approval. He said that might take time afterwards. He said if we approve it subject to conditions we are to add on after, that would give us time needed to be thorough with it.

Engineering Firms and Conditions of Approval

Ms. Annis said, for instance, they have two engineering firms that he has received qualifications from on what they will do for us in regards to being a clerk of the works. She said the Board would have to choose one of those firms. She said that we would contact the firm, find out how much it would cost for Mr. Wagner. She said he then would have to put up an escrow account so that there would be money to pay them for their work. She said we would have to come up with the bonding, an insurance policy, also liability insurance, will there be an exaction fee, will there be a notification (even if there is no public hearing) of the neighboring towns. She said that part of the conditions would be that he must comply with the DOT driveway permit. She said a condition could be a mandate that we be present at that meeting with DOT prior to the start of construction. She said it could be that he would have to get permission from the EPA where a stormwater drainage permit is necessary. She added that we have some of that information. Mr. Toth said it is required. Ms. Annis agreed, but said that the Board has to have the permit or a confirmation that it is not necessary. She said that there are a number of things that the Board has to sit down and discuss.

Mr. Hartman said that his hesitation is about saying let's approve this application without making it understood that conditions are definite. Mr. Hartman asked for the motion to be read again. Mr. Violette read, "motion to approve the subdivision with conditions that will be set by the Planning Board." Mr. Duhamel said that most likely each condition will be voted yea or nay by the Planning Board. Ms. Annis agreed. Mr. Hartman said that it seems that his concerns are answered in the motion in that conditions will be set with the approval of this board. He said that he just wants to be sure that there is no indication that the approval of this subdivision plan tonight does not get interpreted as being the approval of this subdivision plan tonight, since it is not as it is tonight, but it is with conditions. Ms. Annis said yes. Mr. Hartman said he understands it to be with as yet unknown conditions. Ms. Annis said yes. Mr. Violette said that is one way to interpret that motion.

Mr. Mical said that in the past when we have denied or approved something like this, the conditions have been listed as part of that motion, so that the applicant has access to that information. Mr. Duhamel said he would like to see a time frame put on this, whether it's 60 days or 45 days or whatever is felt is necessary. Mr. Wagner said that he understood that there will be conditions and asked if when the Board gets to that point, he would be able to hear what they are and comment on them before a vote is taken, because he might affect what the conditions are. Mr. French said he thought that they were talking about doing these conditions in a round table manner which would include Mr. Wagner. He said that was what he had understood from earlier comments.

Ms. Annis asked what is on the agenda for September 8th. Mr. Mical said that the extension was voted on last month for 65 more days, which takes them to October, so it could be discussed in September. Mr. Watts said that each could then bring in their ideas of what we think of for conditions. He added that he wanted to point out to Mr. Pellettieri that the open space regulations are for residential, not commercial, property. He said they explicitly say it does not apply to C-1 and this is a commercial development.

Ms. Annis asked Chris Connors what her point of order was. Ms. Connors referred the Board to the subdivision regulations on page 7, Conditional Approval, where it specifically states what conditional approvals may and may not be. The Board members reviewed the regulations. Mr. Violette asked Mr. Connors which specific item she was referring to. Ms. Connors said that a plan can be legally approved without stating what the conditions are, and that is because it is the applicant's right to know what those conditions are, so when it comes to discretionary judgment, she said she believes those conditions need to be made public at the time of approval, unless they are something like a spelling error. Mr. Violette said if the conditions are not agreed to, then the motion fails. Ms. Connors said again that she does not think it is legal to approve a plan without the conditions. Mr. Violette said that he thought they could.

Mr. Toth said that he had hoped they could finish up tonight. Ms. Annis said that she would not support a conditional approval for tonight. She said she had spoken with Mr. Brown earlier about how much a bond should be. She said that he said it depends on many things. She said she asked Mr. Wagner and he doesn't have a good number. She said that the Board has to determine how much the bond is going to be for this project. Mr. Toth said that he has never had that. He said that he has never posted a bond. He said that to have the amount determined is not in his experience. Ms. Annis said that we always do it – for site plans and

for subdivisions sometimes. Mr. Toth said that if he'd known that a bond estimate was critical for approval, he would have put one together for this evening. Ms. Annis said another thing that will be requested is an escrow to pay one of the engineering firms to review the plans and to be clerk of the works. Mr. Wagner asked why he couldn't pay that out of his own account, rather than escrow. He said if he fires the firm or they don't approve the project in certain steps and it doesn't go forward, it's infuriating. He said it's one more thing to make it complicated. Ms. Annis said that she trusts Mr. Wagner, but said if he should suddenly die tomorrow, it's going to be in his bank account, not the town's bank account and the town will be the one who will have to finish the project. Mr. Wagner asked why the town would have to finish the project. Ms. Annis said that we wouldn't want a cut there and doing nothing.

Mr. Toth said that for the engineering firms to provide an estimate for inspectional services, they need a list of what services we want them to provide. He said he could then approach each one and get an estimate for the services.

Mr. Pellettieri said in reference to Mr. Watts' point regarding residential vs. commercial. He said on page 8 of the subdivision regulations, Requirements for the Subdivision of Land, Item Number 2. He said that the Planning Board's responsibility is to pay attention to the intent of our regulations. He read:

"Due regard shall be given to the preservation and protection of existing natural and cultural features, such as scenic vistas, streams, rock outcroppings, water bodies, . . . Such features shall be preserved and protected to the maximum extent possible by the applicant."

He said that this plan does not protect the natural features of that site to the maximum extent possible by any stretch of the imagination. Mr. Violette said that was in Mr. Pellettieri's words. He said that his interpretation is that he does not have a big problem with it. He said it's interpretive what was read.

Mr. Hartman CALLED the question. Ms. Annis asked if Mr. Violette wanted to consider withdrawing his motion. Mr. Duhamel asked if it could be continued to the next meeting, and leave the motion on the table. Ms. Annis said no. She said we could leave the issue with no motion and no vote and take it up at the next meeting. Mr. French asked to limit the discussion of the next meeting to just the conditions of approval.

Mr. Violette WITHDREW the motion. Mr. Duhamel WITHDREW his second.

Ms. Annis said that at the next meeting there is a minor subdivision scheduled for the next meeting which should not take too long and then, Mr. Wagner will be the next thing on the agenda, which will be a little after 7:30. Mr. Hartman asked if someone could draft up some of these proposed conditions so they could be passed around before the next meeting so it can be studied before we get here. There was some discussion about the electronic portion of the new right-to-know law. It was agreed that various conditions could be sent around by e-mail to everyone and no discussion is to take place in the e-mails. Ms. Lightfoot asked that the members copy the Planning Board e-mail so she can save and print any e-mails in regard to the conditions. Mr. Mical said that there should be no comments back and forth because that would constitute a meeting that has not been announced.

Mr. Mical asked if the CIP Public Hearing was going to be at the September 8 meeting. Ms. Annis said yes, and that will be scheduled after the continuation of the Wagner discussion.

Mr. French asked about limiting the discussion at the next meeting exclusively towards the conditions of approval. Ms. Annis said it could be done for the Wagner subdivision. She said that if it is not voted to not approve the subdivision first, then the conditions of approval will be discussed.

Ms. Annis asked Mr. Toth to talk about the two engineering firms. He said that of the three he requested information from, Keach-Nordstrom and CLD Consulting Engineers responded. He handed copies to the Board Members. He said the reason he selected Keach-Nordstrom is because they review for about 14 towns. He said that the towns they review are smaller, like Atkinson, so he thinks there's a little better experience with working with smaller towns like Warner. He said they also have experience as a reviewing engineer. It gives them a little bit more diverse background, he said. He said that CLD also was selected because they

have similar experience and background, although CLD is a much larger company. He said that CLD would probably cost more. He said he had also contacted Underwood Engineering which has not responded. He said they have an office in Concord and they do quite a few reviews. He said he tried to get firms that were near this area and had the experience doing not just inspections but also this type of project. He said that the other companies around here that he looked at had the years and type of experience that he would prefer to have. Ms. Annis asked if Mr. Toth has worked with both of these firms before. Mr. Toth said he was an employee of Keach-Nordstrom for six years, so he knows them well. He said for CLD, he has no experience with their inspectional services, but he has some familiarity with their other services and the people seem to be good and to have the experience. Mr. Annis asked if Mr. Pellettieri was familiar with any of these. Mr. Pellettieri responded that CLD and Keach-Nordstrom are both great. Mr. Davies said he's worked with both of their sets of drawings in the past, and also, with Underwood, and he said they're all very good outfits. He said that the size factor is something that makes sense to consider. Mr. Toth said that it has been his experience with larger firms and smaller clients, that the larger firms have inspected things that the town was going to inspect and then charged the client, making it a billing nightmare for the client. He said that he also had tried to choose firms that seemed to be reasonable with their services and charges.

Ms. Annis said Keach-Nordstrom has done construction inspections in Sandown, Deerfield, and Atkinson. Mr. Violette asked if it is Mr. Toth's experience that when a smaller firm is selected, the same person would be onsite most of the time and familiar with the work. He said that his experience is that if the same person is on the job, then they don't review things that perhaps have already been reviewed earlier. Mr. Toth said that the Keach-Nordstrom presentation isn't as pretty as the CLD one is because they had to e-mail it because of the time factor. He said they're both competent companies. Mr. Violette said that these are just qualifications, with no idea of the cost. Mr. Toth said trying to get a contractor to bid on a job that they may not get is hard, plus, they need to know what they will be going to inspect to provide the cost. Ms. Annis said in order for them to give us a quote, we will need to decide now what services we want them to do on the site. She asked which firm the Board would prefer or if they want to get quotes from both firms. Mr. Toth said that if they are given a copy of the plan and what they are going to be asked to do, they will come up with a cost item for each service. Mr. French asked if because we believe they're both equally good, it could not be left up to Mr. Wagner to choose which one he prefers to pay. Mr. Duhamel said it thought it would help the project if it should go forth.

Mr. Watts MOVED to allow Mr. Wagner to choose which of the firms to use for the inspection. Mr. Hartman seconded. There was no discussion. The motion was PASSED unanimously.

Mr. Davies said that in the motion, we are referring to just these two that were presented tonight. Ms. Annis said yes.

Scope of Work of Engineering Firm Inspector

Ms. Annis asked for the scope of the work of this company. She said: review the plans as presented to us. Mr. Ricard said review these plans and any other specifications; contract documents. Mr. Toth said that the plans would be approved by the Board. Mr. Pellettieri said they have to have a copy of them to be able to understand the project. Mr. Ricard continued: ensure that it will be built the way the plans were. Ms. Annis said they will be clerk of the works. Mr. Ricard agreed. He continued: a set of as-built drawings so when it's all done, we know what's actually out there – if the elevation changes and things like that. Ms. Annis said they would have to come to the Planning Board if there were going to be a change. Mr. Ricard said he's thinking of when it is finally built, a set of as-built drawings, to show it as completed. Mr. Violette agreed that there needs to be a record of it. Mr. Toth said that it would be the surveyor of record who would do the as-built drawings. Mr. French said: reviewing what is used for pipe, light fixtures, etc. Mr. Ricard said: shop drawings. Mr. Pellettieri said: compliance with the permits that have been issued. Mr. Toth said that they will be site specific and DOT permits to be sure it was built as permitted. Mr. Pellettieri said it would be to keep track of whether Mr. Wagner is complying with the conditions of the permits or not. Mr. Toth said that DOT inspects it during construction. He said he is reluctant to agree to the DOT driveway permit inspection since DOT will be inspecting, too. He said he could see the site specific, though. Ms. Annis said that for DOT, Mr. Wagner has to put up a \$100,000 surety bond. Mr. Pellettieri said okay. Mr. Davies asked if there could be a regular progress report to the Planning Board. Mr. Ricard asked how detailed do we want that to be. Mr. Toth asked if the Board wants them to submit monthly reports to the Board on construction progress. Mr.

Ricard said that he is used to building, say, a water treatment plant where a person is there constantly, writing down daily reports of what is being built. Ms. Annis said this is different because work may be done on one day and then because of the weather not be back for another week. Mr. Ricard agreed. Mr. Toth said, for example, when the road base is completed, they could take samples of that to be sure that that road base is up to the specifications. Mr. Mical said that Allan Brown will be doing part of that. Mr. Wagner said that a lot of the material that he will be working with is in the ledge and will be on site. Ms. Annis said that she thinks that when it gets to the time to put the pipes in up on top, for example, they will be there to see the pipes put in, but they would not necessarily be there when the digging goes on. Mr. Toth said that usually the pipe is exposed, they go in to check it, and then say back fill. He added that they would need to be there for the pre-construction meeting. He said they need to know how often the blasting needs to be inspected. Mr. Wagner said that for the initial phase, he doesn't think they would have to be there very often because they're just digging blasted ledge out. He said there is one area where there will be fill and that will be a particularly interesting time for them to be there and be sure there are no organic materials and that it is compacted appropriately. Mr. Toth suggested that they would stop by once a week to see where things are and write down what's been blasted and how much, until Mr. Wagner gets to a point where there's something more substantial to inspect. He asked if there should be monthly reports to the Board. Mr. French asked why monthly reports would be needed since the basic concern is that they oversee the entire project so we get the end result. He said that we don't really care how long it takes, since it's not costing the town money to pay crews to do this. He said that the main concern is that it gets done the way it's supposed to be done. He said that it doesn't matter whether they report to the Board every month or every three months. Mr. Ricard said that unless they run into a substantial problem. Mr. French said if there's a problem, then we would want to know about it. Mr. Duhamel asked, due to the cost factor, why we should go through a monthly report if we don't really care. Mr. Davies said because we know somebody's paying attention; he said they might not spend much time looking. He said if they come up every certain period of time and look, then we have something to look back on. Mr. Ricard said there are certain points that are critical. Mr. Toth said he could ask them, based on their experience, what those points would be. Mr. Duhamel said that the next time we meet, Mr. Toth could give a narrative of what they think they could provide. Mr. Toth agreed and said he would try to get more itemization of what they're going to do and the cost. Mr. Hartman suggested the kind of inspection that will keep Mr. Wagner's firm out of hot water. He said it keeps the town informed; it keeps Allan Brown understanding that everything is going right; and, if Mr. Hartman decided to call Mr. Wagner to see how things are going with the project, Mr. Wagner might say he doesn't know. He said the recent experience with the Mill Street project, which was a town project, the inspector was on site and he said he could go over and chat and see how things were going. He said the inspector made his reports and he was inspecting to make sure that all the parts were going – the road, the waterline, all of those things. He said that in this case, there probably will be a lot of times where there's not going to be much to report. Mr. Toth agreed and said he hopes to get something from the firms for the next meeting. He said if he gets them earlier, he'll send them to the office to be sent to the Board members.

Bonding

Mr. Toth asked about the bond. Ms. Annis said the only thing that has been required of others is a performance of payment bond for the full amount of the anticipated cost of construction, with the town named as the obligee. She read, "Said bond to be issued by an entity which is Treasury listed and at least an A rated." Mr. Toth said that usually when a bond estimate, the town tells you that gravel costs are so much for the town, so you figure out from there. He said he will ask Mr. Brown. Mr. Toth said it's called "build bond" where you don't have to post the bond. He said you can build first and post what is remaining. Mr. Violette asked about a performance bond. He said that what is going to be built in the end is what was planned and the performance bond assures that. Mr. Toth said that there are inspections to assure that it's built per plans. He said that you don't post a bond and go over bond reduction every step of the way. He said that the build bond means that you can build the whole project and not post a single bond. He said you can say that it's built, it's inspected and you don't have to post a bond at all, except for what the holdback is for a year for erosion control, etc. He said if you post a bond for the whole thing, then Mr. Wagner will have to come before the Board every month to release each item. Mr. Toth said with the build bond, Mr. Wagner could build the project, with inspections after each phase to be sure the work's been done, and then come to the Board and say it's complete, and he only needs to bond what is remaining. Mr. Violette asked if that is done because of the cost of inspection. Mr. Toth said that it is done because you may not have the money to post the bond and you begin the construction and post what's left because it's cheaper for you. Ms. Annis

said that a \$1,000,000 bond is not going to cost \$1,000,000. Mr. Toth said that some people build it because they believe it's cheaper for them in the long run. He said it's State law how you post the bond. He said that you pick which one you want. Ms. Annis said that it's been required for subdivisions and site plans. Mr. Toth said that the bond is required, but how you post that. Ms. Annis said that the Treasury and an A-rated have been required for every one of them. Mr. Toth said that you don't have to do it that way.

Mr. Toth said that he will ask the engineering firms to come up with estimates for the September 8th meeting. Mr. Davies said that the concern here is completing the project, and we want some document that says an entity will make sure that the project gets completed. He said the approximate cost of it is up to the bonding company but we don't care how much it will cost. He said that bond will make sure the project is completed. He said if someone says it's worth \$1,000,000, but because it's strung out, it really costs \$1.1 million, then nobody cares because from our point of view, we have a bond saying it will be completed. Mr. Toth said that typically a bond estimate is computed and whoever posts that bond, it is equal to that amount, and then you go in each month to the Board to request a bond reduction for whatever portion is completed. Ms. Annis said yes. Mr. Toth said that when you go to a bonding company, you have to give them an amount. Mr. Davies said that the bonding company has to have a way of knowing that the estimate given to them by a contractor is legitimate. He said that they will get a check from an outside company and it is a completion bond.

Ms. Annis asked if anyone else had suggestions of what they would like the engineering firm to review or be involved in. Mr. Toth said that whatever number the firm comes up with, that will be part of the escrow to be set up. Ms. Annis said yes.

Ms. Annis asked if there were any other questions. She said that Mr. Wagner is still within the 65-day extension. Mr. Mical asked if we needed to continue the application. He said that we voted for the 65-day extension at the last meeting. Ms. Annis said that Mr. Pellettieri had asked if we could make a legal decision at a Work Session, rather than just the monthly meeting of the Planning Board. She said that is why the meeting from August 4 was continued to tonight. She said that we do not have to continue this meeting because it will be a regular meeting on September 8th.

Ms. Annis said that nothing more will be discussed tonight.

Mr. Violette MOVED to adjourn. Mr. Duhamel seconded. The motion was PASSED unanimously.

The meeting was adjourned at 9:55 p.m.