

**NORTH ATTLEBOROUGH PLANNING BOARD
REGULAR MONTHLY MEETING
THURSDAY, FEBRUARY 4, 2010**

The North Attleboro Planning Board held its Regular Monthly Meeting on Thursday, February 4, 2010 at 6:30 P.M. in the Planning Board Office located at 43 South Washington Street, North Attleborough, Massachusetts. Board members Richard Peterson, Richard Houle-chairman, Donald Cerrone, Scott Weymouth and Mary Burgess-town planner. Richard Thimot arrived at 6:38 P.M.

Planning Board Business:

Endorsement of Vouchers;

Approval of minutes (9/22/09, 1/7/10)

Mr. Cerrone, Make motion to approve minutes 9/22/09 and 1/7/10, seconded by Richard Peterson.

Old Business:

Site Plan: Boch Attleboro, LLC, 553 South Washington Street Note: Final Action Due 2/28/10;

Held workshop on January 26, 2010.

No new plans submitted.

Donald Cerrone left the table.

Stephen Clapp-attorney, Represent applicant Boch Toyota South. Engineers are working on plan revisions and we believe that we can satisfy concerns of both reviewer for Planning Board and reviewer for Conservation. By next meeting we ought to have all those well submitted before the deadline for that.

Ms. Burgess, Final action is due end of month.

Mr. Clapp, There was issue at last meeting I think the board voted to request opinion of town council concerning permitted use issue. Not knowing what was going to happen with that I submitted memorandum to town council and set copy to Mary. I received telephone call from town council saying that he would not be issuing opinion on that question since the board had already asked the question of the building inspector.

Mr. Houle, What does one have to do with the other Mary?

Ms. Burgess, It's more of Roger said this is not his job to make determination it is job of building inspector according to zoning bylaws. Town council is not suppose to make determination, which he is correct so he would not be offering an opinion.

Mr. Clapp, It is our position that there is established procedure for testing rightness of the decision by building inspector. That would be that the building inspector makes the determination and then if someone doesn't agree with that it would go to Zoning Board for its determination.

Mr. Houle, Is that what you're saying you want to do?

Mr. Clapp, No we're happy with what his determination was.

Mr. Weymouth, Was not determination it was an opinion.

Mr. Clapp, It is not something that we need to take to the Zoning Board is my point. We're happy with his opinion. We believe his opinion is founded on his duty under bylaw and if anyone disagrees with the opinion they have right to take it to Zoning Board. We don't disagree with it.

Mr. Thimot, What are we talking about? What is the issue Steve?

Mr. Clapp, Issue was is this use that is proposed by Boch a permitted use in the C30 district across the street. We submitted to both building inspector and town council prior ruling by Bob

Bliss back when this same use was being conducted by Pride Ford. Pride Ford had a dealership on one side of Draper Ave. and they were using Witchi property, which was at that time place where they had flea market for storage of new vehicles.

Mr. Weymouth, Did they come in for site plan review under that scenerio?

Ms. Burgess, No I believe zoning has changed over there as well. Not withstanding none of that is relevant right now because he's not going to act on it anyway. We already have all that information from what you provided to building inspector.

Mr. Clapp, Will the Planning Board be making decision on that issue is the question that I have.

Mr. Houle, Mary since we do have a question on it maybe what we should do is send letter off to Zoning Board and ask them what they think?

Ms. Burgess, I'm not sure that would be right area to go to. I don't think they would actually offer their opinion because then it would be kind of bias situation that if this does go in front of them they've already told us X. This wouldn't be appropriate situation for them.

Mr. Clapp, Statue does authorize the board to appeal a building inspector's decision to Zoning Board.

Mr. Weymouth, Can we ask building inspector an opinion to a question regarding use?

Ms. Burgess, Yes.

Mr. Weymouth, I'd like to ask the building inspector if he considers the open storage of raw materials or finished goods?

Mr. Clapp, I believe board already asked that question of the building inspector and that is what he responded to.

Ms. Burgess, He actually just said it was an allowed use he didn't specify what allowed use it was under I believe.

Mr. Clapp, He quoted that a commercial parking lot is #20.

Ms. Burgess, So he's considering this commercial parking lot.

Mr. Houle, Storing cars how is that a commercial use?

Mr. Clapp, Commercial parking lot I think Mary could give you copy of my memo to town council it is quite extensive but I go through the way zoning bylaw is written. Definitions it uses, definition clause that says when there isn't definition in zoning bylaw of a particular term then you go to State Building Code if it is not defined there then you go to Webster Dictionary and you can also go to US Dept. of Census classification of different industries. I go through all of that in the memo.

Mr. Houle, Do we have copy of that memo?

Ms. Burgess, Yes.

Mr. Houle, What is it you'd like us to do tonight? I'm not sure because you haven't gotten back to us on anything so I'm not sure what you want us to do tonight.

Mr. Clapp, I think that we would like to schedule this matter for next hearing when the rest of the site plan materials will be exchanged between engineers and we'll have the engineers your reviewing engineer's input on whether we've satisfied his concerns. We believe that we will be able to satisfy those concerns and that it should be right for a vote at next meeting.

Mr. Houle, Do you think you're going to have everything in by then?

Mr. Clapp, Yes.

Ms. Burgess, Monday I need everything by Monday two weeks to review.

Mike Clemmy, That is going to be tough we were thinking Wednesday.

Ms. Burgess, I doubt they will get it that is their rule two weeks to review it. You have to get it to us by Friday so we can have packages ready.

Mr. Houle, That is not uncommon Mike that is everybody.

Ms. Burgess, That is for everybody.

Mr. Clemmy, Things he asked to do are quite extensive and Jim is working on it so I will speak with him. I'm not going to rush him and have him do it wrong but he had said Tuesday or Wednesday at the latest just about everything we had. Mary did great job with peer review meeting and I appreciate it. He's asked for few things and he's getting them all I think once he gets them there are only few things left to review. Hopefully we'll get it to him and we'll see how the peer review can do. We'll get it to you when it is complete and you're probably talking Tuesday or Wednesday.

Mr. Weymouth, What was specific instructions to building inspector?

Ms. Burgess, I had asked him if this is allowed use for this property. I basically stated site application Boch Toyota 45 acre as vehicle storage or display in connection with Boch Toyota Dealership. I just asked him if it was an allowed use and he replied with in his opinion it is.

Mr. Thimot, Are we talking about single layer or multi layer?

Ms. Burgess, They're not talking any building at all except for security building.

Mr. Clapp, Arns Park Motel is A-frame with two residential unit wings on it. We're going to tear down those wings and leave the A-frame. That A-frame building will be for the security personell and Boch people who will be shuttling cars in and out.

Mr. Clemmy, They will be checking in cars there will be bathroom just place to get out of cold weather security office per say. Two wings on both sides of the building will be demolished.

Mr. Thimot, What I'm concerned about is the possibility your company is going to put in multi layer building.

Mr. Clemmy, I would have to come back to the Planning Board for any type of building and at this time all we want to do is use it for excess storage. We don't want any customers over there it is just going to be for our use only. If we put building or anything on there I'm only getting approved for parking lot and then just leave one section A-frame building up. We'd have to come back to Planning Board if I was going to do anything else at that time I couldn't build anything. I'm not asking to build anything I'm actually demolishing the sides I'm not going to build anything at this time.

Mr. Peterson, This parking lot will be considered commercial parking lot use correct?

Mr. Clemmy, Yes.

Mr. Peterson, So you will be following all the parking regulations for a commercial parking lot? It is not accessory use to anything.

Mr. Clapp, That is right.

Mr. Houle, Using this for storage and display?

Mr. Clapp, Storage.

Mr. Houle, I think to answer your question could you tell me how that reflects a Class 1 or Class II license.

Mr. Clapp, Class I or Class II license is across the street. Storage of the vehicles will be for the holder of Class I license. It is going to be owned by Boch Attleboro LLC and leased to Boch Toyota South who holds the Class I license. It would be Boch Toyota South's vehicles that would be stored on the lot. We believe that Section N new section in off street parking regulations exempts this use from the ordinary off street parking requirements for this kind of parking lot.

Mr. Houle, Maybe I'm missing something here Mary. I think that would basically create two uses wouldn't it?

Ms. Burgess, If it is in connection I would say it is accessory to the principle but considering the commercial parking lot is going to be the principle use of the property. I would expect 10 x 20 to be adhered to.

Mr. Clapp, Section N does not say that storage or display facilities have to be on the same lot as the dealership proper. It can be on lots other than the dealership lot proper as was demonstrated in 1998 when this same bylaw was applied to the Pride property. In that Pride was parking off site and building inspector and town council ruled that property off site did not have to be part of Class I license as long as customers were not going onto parking lot. Since that time the bylaw has been amended to ...(inaudible) that ruling that building inspector and I guess it was the town council made that ruling and that was entered into Section N in parking regulations that says storage and display in connection with holder of Class I license is not subject to parking regulations. We say that this lot fits within the category defined in Section N as storage or display in connection with Class I license holder because these are the cars of Boch Toyota South, which is the Class I license holder. So it is storage of his cars in connection with his use as Class I license holder.

Mr. Houle, Mary Pride Ford had some extenuated circumstances didn't it? Did they do that for a different reason if I remember correctly I wasn't on the board then.

Ms. Burgess, I'm not aware of the.

Mr. Clapp, I was involved in that issue and so was Dick Thimot.

Mr. Thimot, What they're saying is true.

Mr. Clapp, What happen was through these rulings before Pride decided to build a building on Witchi property and then Pride decided to build a building over there several years after these rulings were made saying they could use the lot as parking lot. Then Pride said I'd like to put my Ford building on that property and they came for Planned Business Development permit. First they had to go for zoning variance for certain things.

Mr. Thimot, Five.

Mr. Clapp, Five variances. Planning Board appealed the variances that were granted at Zoning Board. Case was pending and ultimately that was settled and Pride got its Planned Business Development permit so we could build that building. What I'm talking about is something that happen some years before that.

Edmond Alcock-attorney, Represent Rita Fish. I just wanted to hit on couple things. When the applications was first filed I'd like to back up. I think the Planning Board in order to approve site plan has to made determination whether this use is permitted or not permitted under zoning bylaw. That is the Planning Boards role in this case ultimately when you approve the site plan either the Planning Board determines it complies or it doesn't comply. That is decision you guys have to make. I think it is interesting that when they first applied for site plan they contended that this was use permitted as matter of right by relying on off street parking regulations. Off street parking regulations say and I thing logically say I don't know what happen with Mr. Bliss and Mr. Pride back in 1991. They talk about off street parking and loading standards not applying to vehicles stored in connection with outdoor display to somebody possessing Class I or Class II license. They tried to use that to say okay if we have Class I or Class II license here in this part of town then if I own another parcel of property wherever it maybe situated I can park cars there. What I'm telling you is that the off street parking regulations are not in the use table it is not a specific use it is something that is accessory component when there is principle use allowed. They were initially saying that was the use. Since then the building inspector said no that allow use is commercial parking lot. If it is commercial parking lot then the off street parking pervisions apply. They want to point to Section N but as I pointed out in my last letter one of the off street parking regulations that would apply and I'll say this specifically were commercial parking is the prohibition of loading vehicles to access another lot. That is section VIA11. Reality is what may have happen at Pride I don't know why it happen I don't know what the zoning was at that time but I think what is being suggested here is I don't think this is

commercial parking. I don't think your zoning regulations when it was adopted or enacted considered that commercial parking lot would be one owner on property across the street or somewhere else in the town storing vehicles. Commercial parking lot means something that you have in the town maybe it is 3 or 4 story metered non-metered where people would go to park their cars like they have I think in City of Attleboro. We don't have one of those here but we could have one that is not what is encompassed in your zoning bylaw is that somebody could simply park cars to access another property. I think reason that is not what is contemplated by zoning bylaw is that you have provision in the off street parking regulations that specifically prohibits loading of vehicles to access another lot. It specifically prohibits this exact type of scenerio. I think if you took Boch's ultimate argument to its ultimate extension it would be that as long as we own a lot in town of NA and as long as Boch has Class II or Class III license then they have the ability to buy whatever piece of property they want in town of NA. However it is situated however it is zoned under this interpretation they can park cars there whether it is across the street, whether it is down the street, whether it is on other side of town. I don't think that is what your regulations say. I'm not saying they couldn't ultimately get permission to do it they couldn't file variance if that is what they wanted. Remember they initially came in saying we want vehicle storage facility not its turned into commercial parking lot. In any event I don't understand how it could possibly be an accessory use. Accessory use by definition is use that is accessory to the principle on same lot. You don't have use being accessory to something across the street or some other lot that is not the way zoning is interpreted. For those reasons I think I've laid it out now twice in two letters I think it is pretty clear that if you allow it would sort of be a proversion of zoning bylaw in town of NA. I think it would stand for the proposition that if somebody has Class I or Class II vehicle license they can park cars wherever they want as long as they own another piece of property whether it is across the street across the town and I don't think that is what your zoning bylaw as grafted was intended to provide. I'm not saying they ultimately couldn't get that releif but I think they need zoning variance to do it.

They don't get it as matter of right as they're seeking here for that reason I say you have to deny the site plan because it is not permitted use.

Mr. Clapp, I have to disagree with Mr. Alcock we did not come to this board filing our site plan approval saying that we were a permitted use because we were operating under Section N. We did say that Section N does apply to this use. We had a pre-meeting with building inspector, town planner and Conservation agent before we even filed to get the lay of the land before we even went to the trouble of filing this site plan approval request. We met with building inspector and told him that it was my opinion that this was a commercial parking lot and that Section N applied to it. This is not a change in anyway that we're saying we're a commercial parking lot all of sudden. I told the building inspector that when I wrote to him before he made his ruling that we say that it does qualify as commercial parking lot and it would fit under other uses as well. The strongest one was the commercial parking lot use so we think that it is commercial parking lot the building inspector is correct and Section N does apply to it that is our official position.

Mr. Weymouth, This lot is not an outdoor display area.

Mr. Clapp, It is storage area.

Mr. Weymouth, This says apply to motor vehicle display or stored within outdoor display areas. This is not an outdoor display area it is not within an outdoor display area.

Mr. Clapp, It is storage/display.

Mr. Weymouth, But it is not within an outdoor display area.

Mr. Houle, That was my original question earlier is to how that applied storage and display.

Mr. Clapp, I think the way that section is written it equates storage or display.

Mr. Weymouth, Within outdoor display area.

Mr. Clapp, You can have display area without having people go onto it.

Mr. Weymouth, I just asked you if it would be considered an outdoor display area and you said no.

Mr. Clapp, We don't think it is.

Mr. Weymouth, Then it is not within an outdoor display are you're contradicting yourself are you not?

Mr. Clapp, We think that it is display or storage. If we're not a permitted use the building inspector will not permit us to go forward with the site plan. If you approve the site plan it is then our obligation to get building inspector to agree that what we're doing is permitted use. If we don't the neighbor can object to that and appeal it. If building inspector says no we can't do it we can appeal it. The question of whether we're permitted use is going to be decided ultimately by Zoning Board where the statute said this kind of decision should go.

Mr. Weymouth, I don't know about other board members but me I don't feel comfortable voting for site plan application when I don't know if the use is permitted. Other question I have if your argument is true then why didn't Section 14 under wholesale transportation industrial get modified to some degree. It sort of contradicts because it says open storage of raw material finished goods obviously cars are finished goods and it is strictly prohibited.

Mr. Clapp, That's an argument could be made to Zoning Board when building inspector's decision is appealed. I think there is good reason to believe that Zoning Board would uphold the building inspector's ruling and court would uphold that.

Mr. Houle, Based on that how do you think that?

Mr. Clapp, Based on what?

Mr. Houle, What he just said?

Mr. Clapp, There happens to be another use in industrial zone that has nothing to do with this. This is a permitted use that we fit under we might fit under other permitted uses.

Mr. Weymouth, To me the within outdoor display area component of Section N you said it yourself it is not an outdoor display area.

Mr. Clapp, If that is what the board feels then you will require us to have whatever comply with whatever those regulations are.

Mr. Weymouth, I don't know what rest of board members I'm giving you how I feel.

Mr. Clapp, It isn't question of whether it is permitted use or not.

Ms. Burgess, That being said you're prepared to provide a plan with 10 x 20 and 40ft. wide turning lanes and islands every 40 parking spaces?

Mr. Clapp, We don't agree with that.

Ms. Burgess, But you will provide it?

Mr. Clapp, If board makes that a condition of site plan approval we would have to do that or appeal that.

Mr. Alcock, One last point and I think I highlighted it in my January 20th. letter. Is if you determine that these regulations the off street parking and off street loading regulations apply. I'm not being told that off street loading regulations don't apply just parking regulations. If the building inspector is correct that this is commercial parking lot it is prohibition of using the lot to load vehicles to access another lot, which from what I understand is the precise use that is being proposed. In other words if you have a commercial parking lot your bylaw says that you can't use it to load or unload vehicles for another property. Again I think goes to the overall intent of you can't do this. They can propose a plan with 40ft. turning lanes and islands and all that good stuff but if you determine that those provisions apply then the use itself. I don't know how they would get the cars out of there it can be used to load to service another lot. That is Section VIA11 Section 6A11.

Mr. Clapp, Could I have copy of that January letter that Mr. Alcock refers to?

Ms. Burgess, Can you get it tomorrow.

Mr. Alcock, I believe it is right here I'll read it. I know that on the plans they reference the loading area there is like special place where they going to load the vehicles. It says " loading spaces required for uses listed in Schedule B shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the parking requirements" . In other words you can't use the loading space to satisfy parking but again it is for the lot intended to be served, which I think is major problem. Even if you give the building inspector's opinion its due and you say it is commercial parking lot you can't have it both ways in other words. You can't load vehicles onto that to serve the lot across the street.

Mr. Clapp, That is just illogical the truck delivers the cars that are stored on the Arns lot. You can't say that the truck is delivering the cars to Boch property across the street. It is just an illogical assumption that section prohibits this use. This is a parking lot the cars arrive at the parking lot by car carriers and they are delivered there. They are stored there until they are needed at site across the street and then they are moved acrossed one at a time and prepped and sold. The car carriers are not serving the lot across the street they are serving this lot the parking lot.

Ms. Burgess, So then it is not connection with it is not serving that lot?

Mr. Houle, I think that was what he was pointing it was not in the same.

Mr. Clapp, How far removed can you be? This is a delivery that goes to Arns lot. Are we saying that this truck is delivering property to ultimate buyer who buys the car at Boch Toyota I don't think so. It is one step removed and I don't think that is the intent of that section of the bylaw and I'm very confident that will not be what will decide this issue.

Mr. Weymouth, Curious you don't happen to know if Section 11 was amended at same time Section N was amended?

Mr. Clapp, I have done some research on this Section N was amended only 3 years ago by the town meeting. That was independent stand alone amendment proposed by David Manoogian who had represented Pride and had seen that the rulings that had occurred back in 98 were lost sometimes when building inspectors changed. He wanted to make sure that it didn't matter who the building inspector in NA was so that this would be memorialized in zoning bylaw that is why that was proposed.

Ms. Burgess, Actually his intent was when we had new building inspector 3 years ago he was requiring all of the dealerships to come in with site plan to show 10 x 20 spaces. Instead of having 10 x 20 spaces because those are basically useless when you're storing cars is to have a display area for the storage and display. You could have square footage instead of 10 x 20 number of lots.

Mr. Houle, On same site.

Ms. Burgess, Correct.

Mr. Weymouth, Let me go back to Pride so I understand this. Pride had their principle lot on one side.

Mr. Clapp, One side of Draper Ave.

Mr. Weymouth, And on flea market site they were storing. Where they also displaying?

Mr. Clapp, No customers were permitted.

Mr. Alcock, They definitely have display area. I drive by it everyday there are display areas and buildings on both.

Mr. Clapp, That was then this is now. At that time they put cars on Witchi property and they did not permit customers to go onto Witchi's property. The town council ruled that if they

weren't allowing customers to go onto Witchi property they didn't have to have Witchi property listed on their Class I license.

Mr. Weymouth, If that is true then why did this language include section within outdoor display areas? If this was amended because of situation at Pride why does it include the within outdoor display areas?

Mr. Houle, On the same lot.

Mr. Clapp, Maybe it was inept drafting but the intent of this was to permit display, storage not to have 10 x 20 parking spaces.

Mr. Weymouth, Did Pride then go on to use that Witchi lot for display and sales of motor vehicles?

Mr. Clapp, After they built their building and received Planned Business Development Permit and built their building they did but until that time they didn't. There was about 5 year period.

Mr. Weymouth, Until this language and then they could do it because then they were using it for outdoor display area.

Mr. Clapp, No the town adhered to rulings of building inspector for years as long as Paul DiChario was building inspector those rulings stood. When Al Spaulding came in he didn't have the history that Paul DiChario had with that issue and began redoing that and requiring all dealers to come in with site plan showing 10 x 20 spaces for each car they had on their lot. It was after that several appeals were filed to Mr. Spaulding's rulings. Zoning Board overturned Mr. Spaulding on one that I represented and one that Manoogian represented and then it was later that Manoogian proposed that amendment to the bylaw.

Mr. Houle, I think whether it was written incorrectly or not that is what it says. I will agree with you there Scott it does say that.

Michael Clemmy-Boch Toyota, We were confused on all of this that is why I've hired Steve Clapp. It is confusing I had Steve research all of this and he has been in town for many years. They way he explained it to me was when Jack Witchi went ahead and used that lot across the street it was just for storage. As years went on then he went and eventually built the building. For good 5 or 6 years he used it for the same purpose I want to use mine for. He kind of set precedence is how Steve explained to me with building inspector with town council and with the board approving that useage for that lot Jack Witchi. Then later when it was written in as bylaw. I don't know how bylaw is written obviously I hire attorney for all that. On that particular lot parking lot I'm looking or storage lot for cars get dropped there. Is that lot zoned could you put dealership at that lot? The way boards look at it could you put full fledged dealership there according to zoning?

Mr. Weymouth, On Arns Park property?

Mr. Clemmy, Yes.

Mr. Clapp, It is permitted use.

Mr. Houle, It is.

Mr. Weymouth, It would be same zoning as your property across the street.

Mr. Clemmy, Same zone as my property currently. I'm just asking that is zoned for full fledged dealership then that lot?

Mr. Houle, I'd have to check on that again but I believe it is but I would have to check on that.

Mr. Clemmy, All we want to do at this time is just put cars from Boch Toyota over there and that is why we asked Steve. Steve did all his research and he explained it to me using the Jack Witchi lot his assessment just using that for storage. I don't want customers going over there I want customers going across the street obviously with recall and everything going on we want to talk to all the customers. We want that for drop off, storage and that's it. There is not going

to be any fixing cars over there employees cars over there it is just going to be storage lot. That is all we're looking for and that is all we applied for. I'm not quite sure of zoning I can't figure it out that is why I hire attorney for that. I've talked to Mrs. Fish's lawyer we're willing to work with her any which way to make this happen. I was just down at B. of Selectmen setting up hours of operation for 24 hours with this Toyota recall, which is big problem. We're very sensitive to all the neighbors and on this project we would be sensitive to the neighbors. I know the Arn's sister Margeret and Pauline want to sell and we want to buy that is one of our objectives is to buy this lot but we want to get it approved before we purchase it obviously. It is in board's hands I guess.

Mr. Peterson, I guess one of the problems I'm having with this it seems very contradictory when you have a business. I'm sure you'll do everything you're supposed to do but it just seems very contradictory to me to have business set up on one lot and then a part of their business taking place on the other lot when they don't have any real relationship to each other except the fact that you have license to sell automobiles and henceforth allows you to use that other lot. If you had business say like Texas Instruments where you had more than one process going on and one building on one piece of property and another one down the street with multiple buildings. Say for instance as TI eventually did sold off their property and made it portioned it off and sold it. You'd have building that operates with parking and all the facilities it needs should Boch decide to change their mind or something happen kind of like what happen at Pride. You have piece of property now that you could sell off from your dealership and now you have big piece of property with vacant parking lot that is really of no use I don't know how you'd use it. I'm having hard time getting my head around how this is all going to work. It doesn't seem like its just not clear and it doesn't seem like it makes lot of I understand what you're trying to do business wise but I'm trying to think about in terms of land use. There is possibility you could end up with automobile dealership one side street and vacant lot with nothing in it on other side of street because you sold it off and you can't use it now the same way because property owner doesn't have automobile license. Do you see where I'm coming from?

Mr. Clemmy, To answer that in Norwood we do that currently. We have Boch Honda and Boch Toyota we have old Sal and Vinny's lot. We park all the employees there we shuttle them so we're off site for the employees and we bring them up there. At Toyota facility and Honda facility it is so busy we don't have car carriers come there at 277-279 Providence Highway. They're not allowed to come there and we drop them off at off site location. We drop them off we store them then we drive them up and bring them to Toyota and Honda dealership and we PDI them process them get ready for inspection for customers then they pick and choose their cars and then resell them. We're currently doing this right now and if for some crazy reason we don't need that property for our business and we were to sell it whoever was to buy it I can't foresee us selling it but if someone was going to buy it. They would have to go buy it whatever they use it for would have to come back in front of this board and ask permission. I'm not really worried about 20/30/40/50 years down the road if someone else is buying our property. We sell our property our dealerships we buy them, maintain them take lot of pride in them. Your question is for guy after us to use it I don't know what to tell you on that but he would have to come in front of this board.

Mr. Peterson, What I'm saying is I don't want to see down the line something could always happen and we've seen it around here. I don't want to see acres of property with grass growing up between cracks in asphalt because land was parceled off you didn't need it anymore.

Mr. Clemmy, If we were to own it we'd always maintain it.

Mr. Peterson, I know when you owned it but what I'm saying it isn't like owning one piece of property where one part of your business is relying on another part of piece of property. This piece of property stands on its own.

Mr. Clemmy, Right now we have building that is quite old built on it numerous times. I think I've told the board that in the service dept. right now when you put car on a lift I've got technicians going to sit in chair and work on transmission and work on the car. Lifts don't go all way up so I'm working right now with an architect to come back in front of this board for 88,000 square foot building. Way economy is and so forth we took that plan off table we're redesigning it for about 53,000 square foot building. We're going to put that across the street we've got it permitted from Zoning Board and from Conservation Commission. We're going ahead and ask them to amend the orders on those two permits for much smaller building less impact and we were one meeting away from this board voting on it and we pulled it off. I don't know if board was going to vote positive I can't say that but I'd like to think they would have. We're going to come back with that building on that side when that building gets build I'd like to think I could have additional room and this is why we're buying land across street for our parking it is for our use. I'll be in front of this board shortly with new building on that side there Rte.1. Also get our technicians so they can walk underneath the cars.

Mr. Houle, Why don't we stay focus on what we're talking about here. We can talk about other things later.

Mr. Weymouth, Want to get some specifics that say here. Building inspector...(inaudible) with an allowed use the opinion he rendered and I'm still looking for determination. The opinion he rendered was not VIN it was that it was commercial parking lot. What is definition of commercial parking lot? You earlier mentioned resources that you used first one is zoning ordinance there is no definition for commercial parking lot.

Mr. Clapp, There are four definitions concerning parking in zoning bylaws. None of them say commercial parking lot.

Mr. Weymouth, Our zoning bylaw does not define commercial parking. Second instrument used is?

Mr. Clapp, State building code it does not define commercial parking lot. Next is Webster dictionary it defines commercial.

Mr. Weymouth, Commerce there is no commerce going on here.

Mr. Clapp, Anything to do with commerce yes. I would really like to have you read my memo it is like 8 pages and it goes through all of this.

Mr. Weymouth, I've read it.

Mr. Clapp, Bylaw uses the word commercial probably 100 times in different context and I go through each way the bylaw uses it. I site case dealing with whether a dock in Chelsea was a commercial dock or was it industrial storage of raw materials. The court went through that and first determined that it was a dock. Then the question was it a commercial dock because owner of the dock was only storing its own materials at that dock it wasn't storing materials from other owners. They went through that and said a commercial dock is a commercial dock as long as it has something to do with commerce. That's what we say this parking lot has something to do with commerce because the vehicles that are parked here are in the stream of commerce because they are going to be sold by Class I license holder who leases the lot for the storage of those vehicles.

Mr. Weymouth, Let me go one step further what is definition of commerce?

Mr. Clapp, Webster's definition is sited in my memo definition is both occupied or engaged in commerce a work intended for commerce. That is what bylaw does it uses commerce in very expansive commercial in very expansive way. Anything that isn't residential essentially is

commercial in terms of the bylaw. That is way Webster defines it. I do believe the Chelsea case reinforces that reasoning.

Mr. Houle, Chelsea case just to vend on that little bit. That was one dock that was already conducting business correct?

Mr. Clapp, No it was a dock that wanted to conduct business.

Mr. Houle, I'm talking about before that.

Mr. Clapp, Building inspector ruled that it required variance or special permit. That ruling was appealed by Mr. Mahoney who owned the land that he wanted to make and operate the dock on to Zoning Board. Zoning Board made the determination and then the court ruled on that the Appeals Court.

Mr. Alcock, The way I look at it I assume the way you guys look at it even objective looked at it. In Section N you talk common sense and I think Section N is intended to exempt when you have a Boch Toyota across other side of the street, storing vehicles and not have to comply with as I think Mary said the traffic islands, 20ft. width because the business is selling cars. The common sense interpretation in Section N is that if you have car dealership we're going to give you a break from the everyday parking requirements that we would require for any other business because your business is cars. That is what Section N means if you read it any broader than that I think it sort of gets outside of its common sense intention meaning. It is just common sense that is what it is there for.

Ms. Burgess, I think everybody basically has said everything and has been said over and over.

Mr. Houle, When can you guys have what you need to get done you only have until 28th. for final action. Can you guys get everything done by the 28th. and can we get them into a meeting?

Mr. Clemmy, I talked to civil engineer he is working on it right now. We had some successful workshops with Mary and with Shannon and both peer review groups we had two different ideas. Everyone agrees on what we need to do out there and he is working on it. I can't say it is going to be done Monday he said maybe Tuesday or Wednesday so as soon as we get it done I'll get it to Mary and Mary can get it to the peer review to respond on. I'd like to think we could schedule this for next hearing I think is last Thursday of the month.

Mr. Houle, Rather than schedule it do you want to wait until you have it in hand Mary?

Ms. Burgess, Problem being is even if he gets it to us we're open to that.

Mr. Clemmy, I understand that so if you could just schedule this for next meeting and then we'll see where we're at next meeting.

Ms. Burgess, Problem being is that the board won't get it in time.

Mr. Clemmy, We're going to try our best at this time he's working to get it done so I'd like to think that we can get it done and get it to him. As we talked about in the peer review we addressed lot of the concerns there is only few open items left and once he get those hopefully Earthworks can review it. If we don't have it all done then I don't mind coming back here I think it is last Thursday of the month and hopefully we'll have the package. If not we can maybe continue it from there but I'd like to give it a shot to have it.

Mr. Houle, I think what Mary is saying you can't give it to Jeff a day or two before the meeting it is not going to do us any good for that meeting.

Mr. Clemmy, I understand that we're going to do our best to get it to him. If Jeff doesn't have his answers to you before that Friday before last meeting we'll have to do something at that meeting. We're working at our best to get it to Mary to get it to Jeff he gets his responses back and get it to the board before that Friday.

Mr. Houle, If it goes past that they're going to need continuation.

Ms. Burgess, I understand that. What I'm thinking is the board always talks about how we get 6 out of 12 items done, 8 out of 12 items done. I'd like to see all the items done correctly and not need any review. I'd say put them on for next meeting if I get the review by Monday.

Mr. Houle, With everything done.

Ms. Burgess, Then I still have to review Earthworks review and I offer comments to the board as well. There is still lot of other steps so if we have it by Monday you'll be on for the 25th. if not we're going to have to continue it out some more.

Mr. Clapp, Monday before the hearing.

Ms. Burgess, No this coming Monday the 8th. Earthworks get 2 weeks to review it and their review has to be to us by noon on Friday before the meeting then I have to do my review of their review.

Mr. Clemmy, If we get it to you Tuesday or Wednesday if they don't have it done for that Friday have their comments done there is 2 solid weeks. He can get it done you get it done that is 2 weeks.

Ms. Burgess, I understand that but they take 2 weeks we're not their only clients they have other things that they do we're not top priority that is why they get 2 weeks. What I'm saying is I don't want to take agenda space up.

Mr. Clemmy, We'll postpone if we don't have it all done.

Ms. Burgess, What I'm saying is I don't want to put you on the agenda if I'm not going to have anything else. We're already have a very big project on for that night.

Mr. Houle, Let me ask the board. Does the board first of all before all this takes place does the board have opinion as to whether or not this is an allowed use?

Mr. Weymouth, I'm conflicted you have opinion from town council that says we cannot deny site plan based upon its belief that it is not an allowed use.

Pauline Schafer, Wasn't the board going to ask town council his opinion?

Mr. Houle, I don't know if you were here for beginning of it. He is not going to render an opinion on this.

Mr. Clemmy, He is going to go with building inspector.

Mr. Houle, No that is not what he said for the record Mike absolutely not.

Ms. Burgess, He does not make decisions like this that is not his job to make the determination.

Mr. Weymouth, I want a determination from building inspector I don't want an opinion. I'd prefer to have a determination.

Mr. Houle, Can you get letter from building inspector Mary?

Pauline Schafer, Isn't the letter from building inspector go on to say that it is going to be used for storing cars in his determination?

Mr. Houle, He didn't give a determination he gave an opinion and he worded it just like that an opinion.

Mr. Weymouth, And he apined that it was commercial parking lot and not off street parking loading standard that Mr. Clapp is using in paragraph N.

Ms. Schafer, But he did say in his letter that it was going to use for storage.

Mr. Weymouth, In his opinion.

Mr. Houle, Right.

Mr. Weymouth, Which then gets to the loading of location of loading spaces.

Mr. Alcock, I don't want to tell the board what to do but if the board is seeking a determination. I think the board might want to say we want determination this is permitted use and that Section N applies. Maybe like dual saying or it doesn't apply.

Mr. Clapp, I would just like to make it clear that we sighted in our memo to town council case where building inspector gave an opinion to B. of Selectmen of another town that a particular use did not require special permit. Court ruled that was a determination that could be appealed to ZBA. Whether you call it an opinion or a determination is really immaterial I don't mind having building inspector say that his opinion was his determination. My point is legally it is the equivalent of a determination.

Mr. Weymouth, You know the next case that came down the line for that same determination could go the other way depending upon the facts of the case. You can cite case law and I respect that but next case that comes down the pike might have different decision based on facts of that case.

Mr. Clapp, Building inspector said that it was opinion but the court concluded that it was the equivalent of a determination.

Mr. Weymouth, I understand in that particular case.

Mr. Houle, We don't have any of that in front of us either so we can talk about these cases until we're blue in the face it is not going to get us anywhere. Mary do you want to put them on for next meeting?

Ms. Burgess, It is completely up to you guys. I would say that problem being is time frame and we've started to make it our policy to not have anymore extensions and to not be waiting around for everybody to do everything. We also don't want people to show up with 8 out of the 12 items done and say these are complete I forgot that it needs another review. We've seen that happen in the past. It is not just because it is Boch Toyota.

Mr. Houle, With everybody.

Mr. Clapp, I would like to point out that time is going by we have problem with the quorum I think Mr. Thimot is planning to go to Florida and Scott I think is running for re-election. We have all these complications that happen when the case is put out further and further. I would like at least the opportunity to take advantage of the next meeting if Jeff gets his review back in a timely manner so that it can be handled. If Jeff doesn't then there is no problem continuing out but I think we would really like to have the opportunity to take advantage of that next meeting if we have all our ducks lined up by that time.

Ms. Burgess, For the record I did make an effort to schedule workshop week earlier and on our end we were able to make it unfortunately Mr. Clemmy had prior commitments but I think that week is where we lost our momentum for the time frame.

Mr. Clemmy, We only got to meet once in December/November holidays came be fair with everybody. We'd like to make determination on this and see if we can buy it ladies behind me want to sell the land I want to buy it.

Mr. Houle, We understand that.

Mr. Clemmy, We're not in position to buy land without getting this approved. I talked to civil engineer and he's close on getting everything done there were only few issues. He wanted more information on it if I'm correct it was like 12 issues are open there are only couple issues and he is real close to getting those.

Mr. Peterson, If they had it in by certain date.

Ms. Burgess, Monday is the date unfortunately.

Mr. Houle, We need 2 weeks for Jeff.

Mr. Peterson, I was just wondering if they had it in by Wednesday and Jeff looked at it and said I can't have it. Their policy is 2 weeks period?

Ms. Burgess, Two weeks yes. It is up to the board however they want to handle it.

Mr. Clemmy, Economy is tough out there. I'm paying good amount of money and if he needs more money I'll pay him the money. He seems very reasonable to work with. I know he has

other work but he has on his table money is in the house with town of NA to pay him to do it. Lets see if he can do it we're all working here for the same goal we're trying to get this completed and try to get it worked on. He seemed very reasonable to work with lets give it to him if he doesn't have his information back by that Friday we're out.

Mr. Clapp, Difficult review work has been done not it is question of are we complying with what he asked us to do. It would seem that is something that might be something he could do before the 2 weeks and if he can't then so be it but he probably can.

Mr. Thimot, I believe it is doable.

Ms. Burgess, You have to understand that Jeff is not the principle at this firm it still has to be reviewed again as well. There are other people that review this after Jeff has reviewed it. That is why it goes for 2 weeks but it is completely up to the board if they want to put them on 25th. I'll put them on. That night is already going to be a long night we have Christina Estates. It is up to the board however they want to handle it I will see what I can do.

Mr. Houle, Or we can make determination tonight.

Ms. Burgess, We don't have all the information.

Mr. Houle, Only thing we can do is put them on for that date. We have to hope everything comes in and hopefully you guys are going to be right on the ball to get this stuff to us in time frame we need and go from there.

Mr. Weymouth, If this is considered commercial parking lot. How do you compute number of spaces? How do you deal with loading? Computing number of spaces you go back to off street parking regulations. There is nothing to compute.

Mr. Clapp, I'd like to respond to that. Off street parking regulations are or uses that require number of parking spaces. Whole section of the bylaw if you read it from the beginning of off street parking regulations it says that these regulations are for the parking that is required by the varies uses and they go through the different uses and say how many parking spaces are needed for off street parking.

Mr. Weymouth, Correct.

Mr. Clapp, This is not that kind of a use. Commercial parking lot does not trigger the need for parking spaces. It is a building or the use of the lot that triggers the need for off street parking spaces. Off street parking regulations are put there to define how you provide number of spaces that are required in the schedule of off street parking regulations. It has different use if it is building that is selling retail then it is so many per square foot of the building. If it's building and outdoor sales area it is so much square footage for the building and so much square footage for the sales area. Commercial parking lot doesn't trigger those uses so I don't think commercial parking regulations even apply to a commercial the off street parking regulations apply to commercial parking lot.

Mr. Weymouth, If this is commercial parking lot. Do we take that to mean that every commercial lot in NA could be paved for commercial parking lot?

Mr. Clapp, You could have commercial parking lot in C30 zone where it is permitted.

Mr. Weymouth, Every lot up and down Rte.1 that is C30 could have a commercial parking lot or C60?

Mr. Clapp, Sure just like every lot. It could have auto dealership or anything else that is permitted. I don't think you can say 2 auto dealers in 1 mile is too many.

Mr. Weymouth, Stever I honestly don't believe that the spirit and intent of this zoning ordinance was to allow people to build parking lots in every commercial property in town of NA.

Mr. Clapp, Then it should have been changed because it says C30 commercial parking lot is permitted use.

Ms. Burgess, I'll write new definition.

Mr. Houle, Given the time here I think we've spent enough time on this tonight. Mary we're going to put them on for that meeting. You will not be on the meeting if we don't get everything we need okay.

Mr. Peterson, Should we have something in there for Earthworks to get back to us.

Ms. Burgess, If I don't have information by Friday noon my packages are done Friday too so that is it if I don't have it I don't have it.

Mr. Houle, Then they will not be coming in.

Board is taking 10 minute break will reopen at 8:00 P.M.

Donald Cerrone returned to table at 8:00 P.M.

New Business:

Site Plan: T-Mobile Northeast, LLC, 346 Allen Avenue. Note: Final Action Due 3/3/10;

co location of antenna on existing cell tower

co location approved on January 12

Ms. Burgess reading in application.

Josh Delman, Behalf of applicant I'm with Centerline Communications in Canton, Mass. This is application to co locate on what is now an existing structure. If board likes I can give some background as to how we've been before the ZBA and how we are here tonight if that would be helpful. We applied to ZBA for special permit based on fact that site is now existing site based on judgement that was handed down from District Court on July 30, 2009. It is an approved use in R40 zone on existing structure and therefor application comply. The ZBA asked for determination from town council Roger Ferris I included that memo in you packet. Basically Mr. Ferris indicated that the ZBA should evaluate the application for special permit based on its applicability of the bylaw. ZBA did that and on January 25th. rendered decision that was filed with town clerk approving the proposed co location with two conditions. One was site plan approval from Planning Board acknowledging basically I think the letter that Mary had drafted to the board on November 16th. and then secondly that we post removal bond for removal of T-Mobile proposed antennas and its equipment on the ground should that equipment become obsolete or to be no longer in use. We've agreed to comply with those conditions and basically in the 20 day appeal at this point. Regarding the site itself the site is constructed what T-Mobile is proposing is to install 9 antennas on 150ft. mono pole 9 antennas at elevation of 137ft. so they will be below the existing top, which I believe would be metro PCS. Cable will come down interior of mono pole to equipment area that is existing as well there is 70" x 70" compound on ground at this point. T-Mobile is proposing to put 15' x 16' equipment area within that compound they will have their equipment cabinets that service the antennas. They will tap into existing power and telephone at the facility and at that point the site will become operational for T-Mobile to provide wireless services to coverage gap that exists in the area.

Mr. Houle, What is on top of the tower now?

Mr. Delman, The top a ray is the antenna rays of metro PCS and they were applicant at the time you received the application from SPA to construct the tower. Judgement that was rendered down from District Court included.

Mr. Houle, We've never seen a site plan and we never ruled on a site plan.

Mr. Delman, I understand that.

Mr. Houle, Actually to be honest with you once you told us last time you came was that you really didn't care what we were going to do.

Ms. Burgess, Different people. Different company.

Mr. Houle, That is what we were told.

Mr. Delman, I understand I know the history. Basically working through it as we can we're complying with the bylaw as it pertains to co locating on existing facility. We're complying with the decision that ZBA rendered on January 25th.

Mr. Houle, To do what?

Mr. Delman, To co locate on the structure. Structure has been constructed as per judgement, which granted the special permit use variance in R40 zone. We've applied for the special permit to co locate on existing structure in R40 zone, which is allowed in the bylaw and complying with decision of the ZBA to get site plan review from Planning Board.

Mr. Cerrone, That is not allowed in bylaw in R40.

Mr. Delman, Yes it is on existing structure it is.

Mr. Houle, Pole itself where it's located I think is what you're saying right?

Mr. Cerrone, Yes.

Mr. Houle, Residential land verses commercial land.

Mr. Delman, Correct judgement from District Court issued special permit and use variance. Our application is to co locate on existing structure in R40 zone, which is allowed under Schedule B of bylaw.

Mr. Peterson, Church tower you'd be able to put it on there.

Mr. Delman, Correct and understanding the history here that is basically I believe how town council also advised the ZBA to consider it based on its merit as it pertains to bylaw today.

Mr. Houle, What did ZBA say to you?

Mr. Delman, There were similar questions. They certainly voiced their concern over the history the lack of involvement in the process as which site was eventually approved between town manager and selectmen. They felt like to be quite honest they were ignored. But taking that under consideration in what we're trying to do and how bylaw reads they respected that we were complying with bylaw as it pertains to the site today and decided to approve it. They granted special permit with two conditions. Decision was recorded with town clerk on January 25th.

Mr. Houle, I have problem here you're asking us to come in and you're asking us to give you some sort of decision on this when this board has had absolutely nothing to do with the first part of this phase. We have had no site plan and I'm only one member on this board however we do have rules and regulations and everybody is subject to those. We're not capricious and arbitrary with anybody and my problem is I don't have site plan we've ever approved, we've never held an open hearing and now you're coming back to us. When you finally did come back to us you know what was said to us and you really don't care what we do and now you're back in front of us again. Granted you're different company and I understand that no problem there. I don't know and I'm only one member on this board how we can act on this. Mary I'll ask you as town planner how do you feel about this? We've never had anything to do with this prior.

Mr. Cerrone, It's like putting rubber stamp.

Ms. Burgess, They got their special permit from Zoning Board, which according to zoning regulations for R40 so they've already gone through the bylaw that way. I understand that we don't have on file as site plan but it is completely up to however you guys want to handle it.

Mr. Delman, ZBA had the identical concern basically what it came it down to in their decision is they had to recognize the judgement from District Court. They decided through a memo they initially wanted to get opinion from town council. I helped them to get that Mr. Ferris drafted the memo sent it to ZBA and I think at that point they had direction to make a decision. They have very similar concerns they ultimately recognized the decision of the District Court and on the advise of town council to review the application based on its merit as it pertains today. Site

is existing it is existing facility in R40 zone today and therefore the application is submitted to you based upon that fact.

Richard Thimot returned at 8:12 P.M.

Mr. Delman, In no way are we trying to throw this application in front of you based on the history. Basically we'd just like you to consider it based on how it pertains to bylaw today. Taking into consideration that site was approved through judgement from District Court not through ZBA or Planning Board.

Mr. Cerrone, Judge never heard the case right?

Mr. Houle, It was not litigated it was done out of court.

Mr. Delman, It was eventually settled and then mitigated.

Mr. Cerrone, There wasn't hearing the town verses the client right? Case was never heard right it went through the judge?

Mr. Delman, There is judgement written. I don't know details if it was ever heard or not. I know there was eventually settlement and site was built.

Ms. Burgess, For the record the decision is in your packet with other zoning decision.

Mr. Houle, As board member I just don't understand how now you can come back before the board. We've had absolutely nothing to do with this and now you're going to ask us to please put your and I'll use the word because I don't know any other word to use a rubber stamp on this.

Mr. Delman, I'm not asking at all. I'm going through the process that bylaw requires and I'm going on the direction of special permit decision that was written and filed with the clerk. It asked us to get site plan review we filed the application and here tonight to present it to you. I feel like we're be held to a previous applicants faults something we can really go back and change. Site exists we've got special permit we've now been asked to get site plan review and we're here to do that.

Mr. Weymouth, Everything is constructed now except what they want to do?

Ms. Burgess, Right.

Mr. Delman, I understand it is difficult position but respectfully requesting that you consider it based on its merits today.

Ms. Burgess, Every time you put antennas up do you put more branches on?

Mr. Delman, Branches are existing basically top to bottom those branches remove we'll install then put them back in.

Ms. Burgess, But every time someone co locates will more branches come up?

Mr. Delman, No I think those branches are there today.

Mr. Peterson, They won't add anymore on the bottom?

Mr. Delman, No.

Mr. Cerrone, It is like sore thumb out there.

Stacy Nassaney-106 Lorden Dr., I understand probably not best to address certain concerns that I have. I just wanted to stress that the way things proceeded and I know there is history when things were discussed with ZBA I feel like residence were heard our voices were heard. Then it went it went to court of law and then when settlement occurred and when certain people like elected officials in town, etc. When ZBA was not included in the talk that is when I feel like our voices in a sense were silent. Reason I'm here tonight is I really just want to now make sure that I'm fully informed of what is going to be going on exactly where I reside in the town. I've been resident of this town for many years actually my father was town council for 30 years. He retired just before Mr. Ferris took over everything. What was interesting in my conversation...(inaudible) he actually said he interprets the town bylaw differently. There are certain questions that I have about this for instance you talk about special permit decision. I

understand that there are certain bases involved in this whole process. I'm curious about what sort of appeals process or time line involved in certain decisions that have been made. These are certain questions I have as a resident where I feel like this impact the people that live in proximity to what this proposed plan is being discussed. I just have questions I'd like answered I don't feel like we're being heard.

Russell Labonte-Autumn Dr., I attended most of the meetings through the previous very first tower, which they were trying to put on almost corner of Springhill and Allen Ave. Because of this deal that was made my question right now is the judgement that was made mentions plaintiff; SPA Towers to LLC and Metro PCS collectively as plaintiffs. Do co locates on this because we went from 130ft. towers to 150ft. so not only did we make a deal we made deal to put two more co locators on there. At 130ft. you would have 3 that signal is no good to you nows any lower than 100ft. nobody wants to be on there that is well known. Now we make a deal not we the taxpayers had no idea about this. Now they give them another 20ft. and they move it. Now you have 5 co locators on there. My question is as Metro PCS or whatever anybody other than names mentioned with this deal it is in writing. Do they have permission to just walk in here basically say we have court order it is what it is. I don't see Metro PCS I mean I don't see every co locator that is going to try to come on this mono pole listed. What is their right to that?

Mr. Delman, It is good question. Each co locator other than Metro PCS would require special permit and memo from town council acknowledged that. We're acknowledging that as well and going through process to do that.

Mr. Labonte, We're getting blind sided here, board the town people.

Mr. Cerrone, The neighbors.

Mr. Labonte, It is only few of us that live in the area and I just happened to battle them all. I understand gap in coverage I understand that you can't stop the towers and the poles going up. We can't say it is health issue, Telecommunication Act with this little parcel in it really helped out the cell tower people obviously. There was little something in there that opened up the door for them and it becomes obviously money issue, which we can't fight. I know at previous meeting Metro just walked in and said here is our plan. We're just here to politely give you this plan we're putting up mono pole because of this deal. I don't think every co locator doesn't sound like they can I'm not trying to just say no to everybody but I mean at least we have a say in the co locators. It was upsetting that it went from 130ft. to 150ft. because that wasn't just because they wanted the pole to grow and we can see some more of those things taken out. That is two more companies that go on there that is lot more money that is everything else that we don't reap any benefits from other than Mr. Brask who lives in Texas.

Mr. Weymouth, You did receive special permit from ZBA?

Mr. Delman, Correct.

Ms. Burgess, ...(inaudible).

Mr. Delman, It was filed with town clerk on January 25th. so we're in the appeal right now 20 days.

Mr. Houle, Were you people all at the meeting?

Ms. Nassaney, No I wasn't at ZBA meeting but I was couple years ago when this started up I was definitely hopeful and everything. I was not aware that this had happen as it had and so reading articles in the paper otherwise I would have been more vocal. Personally in trying to rally people to come this is our first chance to talk yet there is very short notice of time. We have lot of families and residence that want to be heard and frustrated about it. We're just small sampling of that tonight but we're here to represent.

Mr. Cerrone, When they deal you guys were never notified of public hearing?

Mr. Labonte, No I sent auto tape up until the point where it was basically went behind close doors they made deal on town council's recommendation. Obviously we were left out of any kind of public hearing there wasn't any.

Mr. Houle, It went into close sessions is what it did.

Ms. Burgess, To let you guys know I didn't find out until the electric dept. said, " do you know anything about this"? He sent me over a copy of the settlement I read the settlement then I sent out very angry letter on behalf of the Planning Board to Town Council and Selectmen saying, " you just made an agreement without even consulting us. Even though we're not associated with the variance you put blanket on top of it and tied our hands as well". Planning Board has not been very happy about this but for another reason because they didn't consult anyone else.

Mr. Houle, No one this was surprise to everybody.

Mr. Cerrone, Talk about communication nobody gets along. I think it starts from the top they're the ones that don't communicate with everybody else so neighbors get left out.

Mr. Houle, It can't be very easy for you right now. In retrospect you're a new applicant and you weren't here back then I think we all understand that. However that doesn't take away everything that happen. As a board member I don't know how we vote on this.

Mr. Thimot, You don't.

Mr. Houle, I just don't understand Don you've been here 19 years.

Mr. Cerrone, I'm not going to vote on it I'll tell you right now I'm not signing the plan.

Mr. Thimot, We deny it period.

Mr. Delman, I would ask if it would assist you at all we could follow similar process to what we did with ZBA. They asked for someone to make the determination for them how they should act. They essentially asked for the selectmen or town council to tell them how to act.

Ms. Burgess, Unfortunately selectmen and town council are the ones that.

Mr. Houle, They don't tell us how to act.

Mr. Cerrone, We're elected they're appointed that is the difference.

Mr. Delman, It was obviously suggestion. That is what they relied on and town council provided the memo giving them direction they acted on it and decided to grant special permit.

Joan Marchitto-503 Hoppin Hill, I live in the same neighborhood as these residence on the west side. All land on west side is zoned R40 precinct 9 is R20. One of our concerns is that is out of your jurisdiction understand that. We're just wondering now that it has gone through and it is on R40 property we have concern of land that is not developed across the street from our house/development. We're concerned about other cell towers on west side being placed on residential land because now it's there.

Mr. Cerrone, Opened up can of worms.

Mr. Houle, Joan you bring up good point and it is too bad you didn't get chance.

Mrs. Marchitto, How can you stop it now?

Mr. Houle, I'm not so sure we can.

Ms. Burgess, Our zoning bylaw also allows for co location in residential area, which it shouldn't because then it encourages that. Even our bylaw shouldn't be written the way it is with regards to where a cell tower is allowed and co locations.

Mr. Delman, I think the bylaw is intending is trying to get consideration of residential areas by co locating on existing structures. It doesn't want towers, which are not permitted in R40 zone. SPA applied for special permit they applied for use variance to put tower in R40 zone. It was denied they appealed and then settlement took place. I think bylaw gives consideration to going on a church steeple, roof top.

Mr. Cerrone, Commercial zone.

Mr. Delman, No in residential it is trying to promote going on non traditional tele communication site. This happens to be tele communication site is there through judgement and settlement and it subsequently existing structure in R40 zone.

Catherine Hagberg-Allen Ave., Is there anything that discusses this kind of structure in location of elementary? Is there anything that discusses elementary school with children developing bodies, brains and all of that being so close to it?

Mr. Houle, Very good question.

Mr. Peterson, I don't either. My understanding when this was first brought to us and we were just dumbfounded that we were kind of put in a position where we were presented with this information we couldn't really really didn't matter what we said. All this is due to the fact that Federal Law/Federal Regulations trump whatever we want to do.

Mr. Thimot, I'm not sure it does.

Mr. Cerrone, I don't think so either.

Mr. Houle, I want to say something about that Rich. It seems to me that this never got to court to let that law come into play. This was settle out of court.

Mr. Peterson, But it's just like any time you take something to court there is law involved and if you can avoid going through a trial you settle out of court in judgement so there are still laws being considered. I think that is what the situation was.

Mr. Cerrone, How far away from commercial zone is that? How many feet approximately?

Mr. Peterson, No I'm not saying that it was right decision or anything but I'm just saying we're talking about things were taking out of our control is what my point is.

Mr. Thimot, Never should have been.

Ms. Burgess, Would the gap of service been any different if it was moved into commercial?

Mr. Cerrone, That's right.

Ms. Burgess, I don't know if they did any studies on that.

Mr. Weymouth, Can you answer ladie's question if we can?

Mr. Delman, In wireless communication section there is no required setback from elementary school.

Mr. Weymouth, What is the impact to her point about the children?

Mr. Houle, I'm sure there has been some studies done on that.

Mr. Delman, T-Mobile is licensed by Federal Communication Commission as part of that license they agreed to comply with the standards as it pertains to health. Typically the emissions there is standard of 100% of exposure studies are run that shows this type of radio frequency is 2 to 3% at maximum power of allowable standard. In whole rate of frequency world it is very low powered very low density fo signals so its held to that F standard on FCC.

Mr. Peterson, So you won't know until you're 54 years old when you're on the Planning Board and you have nervous twitches, etc.

Ms. Nassaney, I'm just trying to get up to speed and I apologize that we're doing it in this form. Knowing that special permit was filed by ZBA on January 25th. 2010 the 20 days is from that date for the appeal.

Mr. Houle, Yes.

Ms. Nassaney, 20 calendar days?

Mr. Houle, Right.

Ms. Nassaney, So we're still within that time frame?

Ms. Burgess, Yes to appeal it to court.

Mr. Weymouth, There seems to be discussion amongst board members. I think we have few options here. One is we deny it and it ends up coming back to us because its going to.

Ms. Burgess, Will get remanded back to us.

Mr. Weymouth, Or we don't act and it is deemed approved on March 3, 2010. Or we act on it tonight or coming weeks and we ensure that some conditions are met. Myself I'd like to ensure that conditions are met understand it do what we can to further protect the residences. Whether it is buffering whatever it is because to me that is best of three options. It doesn't mean I'm thrilled about how it came about in the first place. Mary those are kind of the three scenerios?

Ms. Burgess, They are. I'd like to take site visit I've never seen one of these mono pole/tree.

Mr. Cerrone, We're going out there Saturday we can look at it. I don't know where you're going to buffer it is in the woods people are looking at the pole.

Mr. Weymouth, Pole is one thing but above ground equipment and all that stuff there are things you can do. I don't know how other board members feel but that is how I feel.

Mr. Houle, Only thing that you're proposing is bottom part of that correct?

Ms. Burgess, Cabinet.

Mr. Delman, Proposing antennas and then the cabinets within existing compound. It is already fenced off 70ft. x 70ft. compound utilites are already brought in we're just proposing go inside that fence.

Ms. Burgess, Main reason why we have them coming here. I don't know if you remember couple years ago Westcott Cell Tower I received site plan and none of the things were there or in right spot there were like 4 or 5 extra co locators and no one ever came to us for co locations.

Mr. Thimot, They were supposed to.

Ms. Burgess, Exactly so now we're kind of even though the footprint is there we want to know how many cabinets are there, etc.

Mr. Weymouth, Are you going to be the first above ground equipement here in the 70 x 70?

Mr. Delman, No I believe Metro PCS has installed so their equipment is there.

Mr. Peterson, Mono pine right now is just way it is shown you're just going to add more antennas?

Mr. Delman, That is correct and ground equipment. It is 15ft. x 16ft. box.

Mr. Weymouth, I'm okay with site visit.

Mr. Houle, I don't have any problem going on site visit. I still have problem with looking at this knowing we never approved anything on here. It was not approved by zoning, which was the body that should have approved it in first place. I understand agreement was made to stop some financial hardship in going to court. I just have a problem and I'm going to be honest with the board with looking at this and doing anything with this since we had nothing to do with it to begin with. We never held open hearing on this never even saw a site plan this is the first plan we've seen. I have problem with that. There is nothing we can do about anything that is there.

Ms. Burgess, Well we could if there is not slats in fence we can require that just things that we've done with other ones. Like you did at Boro there wasn't slats in the fence and Don said he wanted green slats in the fence. It can be conditioned.

Mr. Houle, Do you want to go out there on Saturday? Happen to have site visit going on so if you want to do that we can do that.

Mr. Peterson, Yes.

Mr. Houle, Do you want to be there? Is it open for us to get into?

Mr. Delman, I can have it arranged so it will be open.

Ms. Burgess, We have 9:00 at Case.

Mr. Cerrone, We'll be there more than 1/2 hr. at Case. Make it 10:30 A.M. this Saturday.

Rod Palmer-building inspector, If you plan on going up to the towers you need 4 wheel drive vehicle. I've been out there few times.

Ms. Burgess, Would you like me to put this on for February 25th. meeting?

Mr. Houle, Yes.

Mr. Labonte, Pertain to the plan propane tank anybody know who is going to use that or why?

Mr. Delman, I do that is not part of our installation. Propane tank is being installed I don't believe Verizon has been before you but they are in discussions with tower owner I believe to possibly come before you. They would propose a propane tank to fuel their generator for backup power. We run off of battery backup system.

Mr. Houle, Would you like to see what he is proposing?

Mr. Delman, Generator they are proposing to be on interior it won't be outside.

Mr. Houle, We're going to have site walk through on Saturday at 10:30 if you folks would like to be there you're more than welcome. We will come back on 25th. of February.

Mr. Weymouth, How many co locators can you locate on there?

Mr. Delman, I submitted structural design Mary requested that.

Mr. Weymouth, 5 in total or 5 additional co locators?

Mr. Demlin, 5 total. We're the second down but potentially Verizon coming after us.

Mr. Houle, There could be room for 2 more?

Mr. Demlin, 2 more after that total of 5, which would cover license carrier.

Mr. Weymouth, In addition to you 2 more could be coming in front of us.

Mr. Demlin, 3 more after us, which would cover Sprint, ATT and there is also company called Clear Wireless.

Site Plan: Stebbings Associates, 427 John Dietsch Blvd. Note: Final Action Due 3/5/10;

Original site plan approved 1987

Proposed addition to rear of building

Town Planner Review provided

Ms. Burgess reading in application.

Mark Whalen-W.T. Whalen, With me is Dave Stebbing. Small addition 25 x 20 approximately. I think newspaper said 26 x 26 it is actually smaller. Where addition is proposed you can there is existing pavement and so basically they're removing pavement and adding more like a garage a door will take deliveries there. That is what they're looking to do. I think percentage of coverage is well below minimum requirements. Totally it is only changed by 2/10th. of 1 % like I said there is really no change. As far as runoff is exactly the same little of it comes off of pavement and it comes off the roof it is still impervious. They have ample parking.

Mr. Houle, Which way are the trucks coming in?

Dave Stebbing, UPS if you mean trucks. There is door presently on hard structure as it is drawn right now. Want to bring it up and put door out front.

Mr. Peterson, When they pull in are they going to back in?

Mr. Stebbing, Sometimes they back in.

Mr. Peterson, What is corner is that a parking spot?

Mr. Stebbing, Yes that is all paved. Sometimes they back in sometimes they just pull into the lot.

Ms. Burgess, Generally just box trucks?

Mr. Stebbing, It is all small stuff.

Ms. Burgess, What do you do there?

Mr. Stebbing, We do lot of digital photography that is really why we need more space. We're shooting lot of digital shots for catalogs and web sites.

Mr. Houle, Everything is digital there?

Mr. Stebbing, Yes. We were in downtown Attleboro for 25 years and we bought the building 8 years ago Precision Images was in there before us. They had chemistry but we don't do that everything is totally digital. We're shooting for Puma and Hasbro and CVS.

Mr. Houle, You doing larger stuff or stuff in brochures?

Mr. Stebbing, We have photographed one vehicle in 8 years we've been there, which we thought would be nice to have a doors so we could bring a vehicle in if we every wanted to but that is really not where we're at. It is apparel clothing, shoes, accessories all that kind of stuff. We are getting more and we need additional area to prep the product to steam it and get it nice and clean we need some more square footage.

Ms. Burgess, Only thing I found they were granted variance to be 55ft. off the road from the property line. Unfortunately that 55ft. was not taken off the property line it was actually taken off the roadway so technically the setback is 45ft.

Mr. Whalen, Original plan approved back in 86 it showed off set that was approved from gutter line of the street. The building has been there for well over 7 years they had a permit.

Mr. Cerrone, You have to go to zoning?

Ms. Burgess, There is the thing if it has gone more than 10 years then it is grandfathered. My concern was because it is on existing variance so they don't comply with existing variance that was my only concern.

Mr. Houle, Maybe we should have them go there first?

Mr. Cerrone, Maybe go to Zoning Board get a variance to cover yourself for finance later on.

Mr. Whalen, I know the Industrial Park it seems to me had been because it was quasi.

Mr. Cerrone, What is the setback 50?

Ms. Burgess, 75.

Mr. Cerrone, This was the first phase.

Mr. Thimot, Second phase.

Mr. Whalen, I don't know if Industrial Park itself it is NA Industrial Park was reviewing plans also.

Mr. Cerrone, Yes at the time.

Mr. Whalen, It was different process because it was Industrial Park. I won't claim to know the ins and outs of that whole setup but it seems that if that Commission or that board reviewed the plans and approved.

Mr. Cerrone, Planning Board approved it.

Mr. Whalen, Also the Park Development must have approved it also.

Mr. Cerrone, Yes they probably had to go to them too.

Mr. Whalen, There is something in there about 90 days after approval the setbacks of the setting of the building is by default accepted.

Ms. Burgess, It is more of when you go to sell it or refinance it you aren't in compliance with zoning.

Mr. Stebbing, But because it has been there for 30 years or whatever.

Mr. Cerrone, It is just procedure they will give it to you.

Mr. Houle, I don't think it would take long either.

Mr. Cerrone, This way make it easy for you down the road.

Mr. Stebbing, So it is legal and done.

Ms. Burgess, Clean and you don't have worry about anything. I did recommend if you did want to approve it with those conditions.

Mr. Houle, I wouldn't have problem with that.

Ms. Burgess, I know you have one sign on the building do you have ground sign too?

Mr. Stebbing, No. We are in process of getting some drawings done to resurface outside of our building and change our lot. We're all about brain and image and if you walk into our lot it doesn't look like it should. I'm having real problem with wood peckers 40 holes in past 2 1/2 years. It's cost me thousand of dollars to get it patched.

Mr. Peterson, Have you had building checked for insects?

Mr. Stebbing, There are insects.

Mr. Houle, They're pecking at something.

Ms. Burgess, Other thing I noticed is you put all the utilities on the road but you didn't put where utilities in the actual site. Where your water runs, where your lighting is, where all that is located it is not on plan or I didn't see it on the plan if you want to point it out. We usually like to have it on the plan lighting, snow, utilities where the water comes in, where electric comes in everything.

Mr. Stebbing, Water is coming straight up almost in center of the street.

Mr. Whalen, I think it is just because of the fact that this is off existing building and we're not proposing any bathrooms in there. He is not looking to change his hookups.

Ms. Burgess, But it is part of site plan review.

Mr. Houle, Mary what are the conditions exactly that you would suggest?

Ms. Burgess, That applicant amend their variance to reflect the current front yard setbacks prior to issuance of building permit. This was another thing I wasn't sure if the building inspector would deem this appropriate but applicant shall apply receive variance for lot depth prior to issuance of building permit. Lot does not meet requirements for lot depth. Applicant shall provide location of utilities within the site including location of lighting. I don't know if he would require variance for lot depth or not. Lot depth is suppose to be 300ft. This is existing structure and I wasn't able to speak with and it is existing lot is the real thing. It didn't meet the lot depth when it was applied for in 86 these are same dimensions as they were in 86. I'm not sure building inspector would deem that appropriate because lot has already been created. I believe it meets on Alice Agnew side you're frontage on Alice Agnew. Because it is corner lot you could take lot depth from Alice Agnew and it meets it but from John Dietsch it doesn't. I don't know how they reviewed it back then so it may not apply.

Mr. Whalen, I always had problem on our lot that we put our building on our lot existing for long time 1900's one of the older buildings on the site. Land was there width was there area as far as when the lot was created...(inaudible). We could change our requirements today to have 10 acres for a lot that doesn't invalidate the lot rights that somebody has on existing one that pre-dates zoning if this was an approved plan by subdivision. I don't know why he'd need a variance for area if we're changing regulations after the fact because it really is when the plan was approved.

Mr. Thimot, Make motion we approve presentation as presented.

Mr. Houle, With the conditions Mary stated?

Mr. Thimot, There already conditions attached when it was originally approved.

Mr. Houle, We would want to bring it up.

Mr. Cerrone, Variance at least frontage variance.

Ms. Burgess, Amended variance.

Mr. Peterson, Building wasn't built according to original variance.

Mr. Thimot, What are you going to do change lot change building?

Mr. Peterson, No we just want to have it on record that building was not built where it was originally.

Mr. Thimot, It is not our problem.

Mr. Peterson, Why isn't it?

Mr. Thimot, It has been there for 30 years been accepted by the town. Pays taxes on it everything else.

Mr. Houle, We have motion on the floor somebody want to second for discussion?

Mr. Cerrone, Second for discussion.

Mr. Houle, I wouldn't have problem personally with okaying this subject to Mary's variance that you need here. I don't think that is going to be big deal I really don't.

Ms. Burgess, It is just cleaning it up.

Mr. Whalen, I wouldn't expect that there would be a problem none of us can speak for the Zoning Board.

Ms. Burgess, We write letters to them.

Mr. Stebbing, Basically what they're saying is we complied and we've done what we're supposed to do right?

Mr. Whalen, I know we had to pay on our little lot. Like I say frontage has changed in of course the existing lot was always there has been yet we had to spend money for frontage. Why it existed?

Mr. Peterson, It isn't that we're just trying to do it for the building. Fact of matter is we're putting addition on building that is not in compliance.

Ms. Burgess and Mr. Houle, Correct.

Mr. Peterson, That is why we're doing it.

Ms. Burgess, Technically you're making it more non conforming.

Mr. Stebbing, We bought it 8 years and there was no asbuilts. Now we'll have asbuilts, have variance.

Mr. Cerrone, Have all the paperwork. Someday you might want to move out of there you can sell it everything is legal, etc. If you refinance everything is there for you.

Mr. Houle, Mary just to recap this. We're going to have setback variance that is needed.

Ms. Burgess, Yes if you look it is attached to application I put down conditions of approval. If you want to stipulate them as written. I did put if building inspector deemed it appropriate for lot depth.

Mr. Stebbing, Is this going to slow us down 2 months?

Ms. Burgess, Get in by 12th. If you get it by February 17th. you will be on for March 6th.

Mr. Whalen, Is it possible that building inspector I know the expanding on...(inaudible) I've heard it so I'm not going to argue that. Is it possible that the building inspector might have different opinion whether it needs it? If he waives it off or he sends letter saying that perhaps it doesn't need zoning?

Mr. Cerrone, It's up to him he is zoning enforcement.

Mr. Houle, If he wants to give us letter saying this isn't necessary.

Ms. Burgess, You might just want to do it to clean it up.

Mr. Weymouth, Is there mortgage on the property now?

Ms. Burgess, If you do your due diligence you might want to call Michelle tomorrow because they've been know to amend permits without public hearing.

Mr. Cerrone, This one I think they might go through public hearing.

Ms. Burgess, I'm just saying it doesn't hurt to ask.

Mr. Whalen, Is it possible you could approve it you're going to have it conditioned but could you have it conditioned if we get letter, which I don't know that you will or won't. His decision that it does not require variance of any kind.

Mr. Stebbing, That is leaving stuff unfinished.

Mr. Cerrone, For extra month or 6 weeks 2 years down the road you said to yourself I wish I would have done it now it takes me 3 months.

Mr. Houle, By time you're ready to build this I'm sure you will be done with this.

Mr. Stebbing, I understand what you're asking for.

Mr. Houle, What is your time table out of curiosity?

Mr. Stebbing, We're in situation where it would be really good to have.

Mr. Cerrone, Best thing to do tomorrow morning ask building inspector.

Mr. Houle, Mary how do you feel about that? If he writes the letter stating that none of these conditions need to be met?

Ms. Burgess, I just think it is cleaner to just amend existing variance because we do it for anyone else anyway. We're not holding up anything where as we're not granting it until, which we'd normally would. It is just cleaning up things and it is housekeeping and fact that it is not off property line it is off the road. It is up to you.

Mr. Stebbing, Legally I'm sure we could probably fight it say it has been there 30 years it is done.

Mr. Cerrone, It's up to him he's the zoning enforcement.

Mr. Whalen, I guess it is just way you write up. In other words if his time line changed became shorter getting variance wouldn't be issue for him if he gets letter from building inspector.

Mr. Houle, What if he doesn't?

Mr. Whalen, Then he's going normal way anyway he's getting the variance.

Mr. Houle, Have motion on the floor to approve this with the conditions. Does somebody want to make another motion to modify that or what? How does board feel?

Mr. Cerrone, Made motion subject to Mary's conditions.

Mr. Peterson, I'd go with that.

Mr. Cerrone, We can't keep changing every time somebody comes in.

Mr. Houle, If we do that we're really going to open up pandora's box to be honest with you.

Mr. Cerrone, If building inspector says he doesn't have to go to zoning fine I have no problem.

Mr. Thimot, Why does he have to go to zoning?

Mr. Cerrone, Frontage setback.

Mr. Thimot, Frontage setback has been there for 30 years that isn't going to change.

Mr. Cerrone, I understand that.

Mr. Houle, Just cleaning it up Dick should he ever go to sell the property and anything else it is just cleaning it up.

Ms. Burgess, It's been wrong for 30 years it is right?

Mr. Thimot, Yes.

Ms. Burgess, Is that what you're saying okay.

Mr. Houle, Have motion all in favor 5 to 0.

Other Business:

Mr. Cerrone, I know we had couple issues on couple subdivision road length 900ft. I think we should think about changing that to about 1200ft. like Dick said.

Mr. Houle, We are we picking this number out of?

Mr. Cerrone, There are not many roads in NA more than 2000ft. long deadend there is quite few of them. Long time ago when I first got on the board you did study on that.

Mr. Weymouth, This is maximum length?

Larry Tilton, That was long time ago.

Mr. Cerrone, You did study on this named all the roads in NA the lengths of the roads. You were trying to get Hawkins Rd. down there.

Mr. Tilton, Germain Dr.

Mr. Houle, We were just talking about this when another subdivision came up.

Mr. Cerrone, Weston Farms. I said change the rules not give a variance I said change the bylaw that is what I'm suggesting.

Mr. Weymouth, Why do you want increase the road length?

Mr. Cerrone, It used to be 600 we brought it up to 900 at one time.

Mr. Houle, Is every town that different?

Mr. Tilton, Yes some of them limit the number of lots on the streets before the cul-de-sac. Others give the length of street.

Mr. Peterson, Is 900 very common amount?

Mr. Tilton, I've seen it I've 600 had 1200 had 1500.

Mr. Cerrone, I wanted to get it 1200 at the time then we compromised at 900.

Mr. Tilton, Interpretation of the deadend street. Pumping those distances out to 1200 they'd probably get you the 600ft. deadend. That is what's happening.

Mr. Cerrone, We had couple of subdivision Weston was one of them and we had another one we did.

Mr. Houle, She was 75ft. past the 900 that is why I think we looked at the variance Don.

Mr. Cerrone, Don't give variance either change the law or stay at 900ft. that is what I'm saying.

Work Session for Assisted living bylaw;

Present Larry Tilton and Glen Ofcarcik from Tilton & Associates.

Ms. Burgess, I went into the GIS found as close to square lots as I could put the 50ft. buffer, put open space requirement, put in right of way in there and then remaining amount of land that would be able to hold a building or buildings. If you look at first GIS the 20 acre parcel you end up roughly with 8 acres that you can work with.

Mr. Cerrone, That is 20 acres if it was perfect land.

Ms. Burgess, Perfect land this is base case scenerio I think this is Boro, which will someday be a subdivision I'm sure. This kind of helped me be able to come up with some sort of math. For condo type townhouse if you did like 10 per acre in R20 you'd end with 65 to 70 units 20 acre unit. I don't know if that sounds excessive if it sounds high it sound very tight to me. Does it sound like a lot?

Glen Ofcarcik, 80 units on 20 acres that is only 4 units per acre.

Mr. Weymouth, To me that is low. This gets back to my argument that 10 per acre and 15 per. This is good exercise but I think it gets to my argument that 10 per acre 15 per acre is to low.

Mr. Ofcarcik, If you're taking out the all the open space.

Mr. Houle, You're going by the 65 to 70 units?

Ms. Burgess, On 20 acres on 15 acres.

Mr. Weymouth, Total units this wouldn't really promote a campus setting. 20 acre site is not going to promote campus setting for 80 units.

Mr. Ofcarcik, 20 acre site with 10 units per acre I can put 200 units there.

Mr. Houle, That was my thought there. What about the non-campus one?

Ms. Burgess, That was other thing I did it by percentage that you had left. If you went with say 60% of what you have left over and it came to 60% of the acreage. In R20 you had 6.75 acres times 43,000 comes out to 290= 175,000sq.ft. That is how big your building could be 175,000.

Mr. Tilton, Total of combination.

Ms. Burgess, Correct. I'm not recommending any of this it was just so we could come up with a calculation.

Mr. Tilton, It is great exercise you actually apply to a track of land.

Ms. Burgess, This is right off of 295.

Mr. Tilton, Over on Plain St. Boro.

Ms. Burgess, First one is Boro. Second one I can't remember now. I actually went through that list that we have all the parcels that are larger than 5 acres.

Mr. Cerrone, How many parcels over 5 acres?

Ms. Burgess, There is probably about 200 they may already be built on that is the thing but they are over 5 acres.

Mr. Peterson, I don't think we should take that into consideration. Anybody who wants to do something serious demo and buy a parcel.

Mr. Cerrone, No just trying to see how many. That is good because everybody says there is not enough land.

Ms. Burgess, There is lot of land after looking at the GIS there is lot of land out there.

Mr. Ofcarcik, If you're applying unit density after you take out open space, after you take out wetlands, then you're looking at a 5 acre lot.

Mr. Houle, Mary are we also looking at possibly counting some of the open space and everything else?

Ms. Burgess, I didn't get into any of that just because it was going to be too hard to quantify. If anything it would add to the number of dwelling units.

Mr. Peterson, Second one the R20 you're saying 175,000sq.ft. of lot coverage?

Ms. Burgess, No remaining after you take out all of the open space, right away provision you have to have one around the building, your buffer and everything. You end up with 290,000sq.ft. left over and then if you do 60% of that equals 175,000 sq.ft. building if you want to do home. That is footprint of the building.

Mr. Peterson, Say for instance we could have two story.

Ms. Burgess, Yes.

Mr. Peterson, We could have 350,000sq.ft.

Ms. Burgess, Technically but I don't want 350,000 footprint that would be huge.

Mr. Houle, But it could be two stories.

Mr. Ofcarcik, Rule of thumb if it is 10 units per acre doesn't matter what land is like I could get 200 units maximum. Now I have to take out buffer I'm only down to 5 acres of buildable land I can't put 200 units in that is going to control. I can't go through all the math first to find it out you have to know what your return is.

Mr. Weymouth, If you have 20 acre site and you want to promote campus setting you're not doing that with 80 units because that is basically one structure. 80 to 100 units is one structure that is all you're going to get.

Ms. Burgess, I was thinking like townhouse.

Mr. Tilton, 30 units per maximum per structure you can only put 30 units maximum. Multi unit structures can not contain more than 30 dwelling units. You have to put them into a campus. It's starting to look like you really have to crank this to 15 acres before you're going to have any kind.

Mr. Cerrone, What did I say that night?

Ms. Burgess, Now everybody can see it.

Mr. Tilton, You have to figure any track of land you're going to lose 20% of it just because either shape factor, resource areas.

Mr. Cerrone, Minimum 15 acres.

Mr. Weymouth, Do you think you're going to get somebody to build a 30 unit care facility?

Mr. Tilton, No.

Mr. Weymouth, Either do I.

Ms. Burgess, These are just so you can pick a number.

Mr. Peterson, If you said 20 acres using first.

Mr. Tilton, 30 is per unit per building. So you could build 3-30's.

Mr. Weymouth, My point is you're trying to create a multi use campus or multi structure campus?

Ms. Burgess, Mult structure.

Mr. Tilton, Not multi use it is all residential.

Mr. Weymouth, No between assisted living, nursing, alzheimer you're trying to create multi use.

Mr. Ofcarcik, Do you want multiple buildings or would you rather one bigger building? Most of the ones I've seen have about 80 units.

Mr. Weymouth, What I'm trying to say is if you have 30 unit maximum and you want to create those 3 uses that are all tied together. Not going to work because nobody is going to want to build just 30 unit congregate care facility.

Mr. Ofcarcik, Right to small.

Mr. Cerrone, Somebody might want to build just one type of thing.

Mr. Weymouth, 80 on low end and 120 probably on upper end.

Mr. Tilton, Nursing home fall under a unit that would be one unit they go under beds.

Ms. Burgess, That is why I went with footprint of the building verses how many beds you're going to have in the building. We can't control that.

Mr. Houle, Are we looking at this as one building structure or multiple buildings?

Ms. Burgess, If we put provision into this somehow I don't know if you want to have combined the uses. Like if you want to have assisted living and nursing home and convalesce.

Mr. Ofcarcik, Rest home, convalesce home, nursing home.

Ms. Burgess, If you want to make it like that maybe we can make provision in hter to make that more enticing. Is that what you're trying to do?

Mr. Weymouth, I'm trying to create the multi structure multi use campus I thought that was what this was.

Mr. Houle, That is what we said it was going to be.

Ms. Burgess, We first started out that we just wanted assisted living campus community so that they could dine together and everything like that. Then we added on the nursing home and everything like that afterwards. We want to make it all 3 stages I think there has to be some sort of amendment to bylaw to cater to that.

Mr. Peterson, If we gave them maximum of square footage that they could build period and then we break it down and say out of that you can only have. If you're going to have assisted living it has to be broken down into smaller. Once you've established how much you can actually build then we tell them how they have to build it, how we break it down.

Mr. Houle, You're talking about mulitple buildings?

Mr. Peterson, Yes I thought multiple buildings all long.

Mr. Houle, Otherwise it is not a campus.

Mr. Peterson, We tell them how much they can build and then we talk how to break it down.

Mr. Houle, It seems to me the 15 acres is really. Are we in agreement with that?

Mr. Cerrone, Minimum of 15.

Mr. Weymouth, But at 10 units per acre you're not creating campus you're creating one structure.

Ms. Burgess, This was just an exercise.

Mr. Cerrone, Someone might come in and buy 20 acres/30 acres. You might want someone who wants to do small complex.

Mr. Houle, How many acres are they not going to be able to build on if we go to big?

Mr. Weymouth, My comment was the density not the acreage.

Ms. Burgess, My concern would be if somebody comes in with 40 acre site and they want to build one huge building. We have to put cap on size of building as well okay.

Mr. Weymouth, Size of number of units.

Ms. Burgess, No if it is going to be nursing home then we'll put square footage maximum.

Mr. Cerrone, Or amount of beds.

Mr. Ofcarcik, What if you did a percentage that if you're going to have campus that 50% of it could be nursing home, 25 some square footage allotment or number of units or beds but you have to have a mix. Some of the multi family bylaws say you can have so many.

Mr. Tilton, Building code say about square foot required for bed in nursing home. They must have a state. You know if you're doing office per employee you have to have so many square feet.

Mr. Cerrone, Yes like the school when we designed the school.

Mr. Peterson, I don't think building code per say. I believe there is set of regulations just for nursing homes.

Mr. Tilton, There has to be I can look into it.

Mr. Houle, Does state have standards?

Ms. Burgess, Those are for state run homes though. If you can find out.

Mr. Tilton, When we had that architectural firm that is all they did was nursing homes. I can find the square foot requirement that is required for a bed.

Mr. Peterson, As you said state funded virtually they all take state money now anyway.

Mr. Tilton, That firm that is all they did nursing homes.

Mr. Ofcarcik, I think if you take saying you have to have 80 unit building per say and if you want a campus you have to have two 80 unit buildings you're going to need much more than 15 acres.

Mr. Cerrone, You're going to need 30.

Mr. Houle, Maybe 30 unit buildings couple of those.

Mr. Tilton, There is alzhiemer.

Mr. Weymouth, Nobody is going to build 30 unit assisted living condo facility.

Mr. Houle, If there were 2 or 3 of them on there? I don't know if I agree with that.

Mr. Ofcarcik, They're share amenities cost saving is they have one kitchen, one dining. Might have wings off the building.

Ms. Burgess, They're suppose to have dining hall, little store, laundry.

Mr. Houle, Like little living village is what it is.

Mr. Cerrone, I think minimum of 15 acres.

Mr. Weymouth, I don't disagree with that. I think density is more the issue than acreage.

Mr. Tilton, Let me get you some numbers.

Ms. Burgess, For beds for nursing home.

Mr. Peterson, I know there are I don't believe it is under building code another regulation.

Ms. Burgess, What about condos and stuff how many per acreage do you think? Obviously 80 units on 15 acres or 20 acres isn't going to be profitable.

Mr. Houle, If you go with 15 acres.

Ms. Burgess, These are just numbers so you can get an idea.

Mr. Houle, Lets keep looking at the 15 acre parcel.

Mr. Weymouth, Lets say you double the intensity to 20 units per acre.

Mr. Thimot, No. How many units do you have at Blackinton down the Falls?

Mr. Cerrone, 38 that is squished like sardines that is why I voted against it.

Mr. Thimot, I dam near voted against it too.

Mr. Cerrone, Most they should have got in there was 24. That was how many acres? I have to give credit to guy who did it the engineer he was able to get the permits.

Mr. Weymouth, You have 15 acre piece and if you did 20 units per acre.

Mr. Houle, You're going to lose 22 you have to have open space.

Mr. Weymouth, No. You have 15 acre parcel if there were 20 per acre you'd have 7 acres left over you'd have 140 units over 15 acres 10 units and acre. In effect you have 10 units an acre.

Mr. Peterson, We've already putting quite bit of perimeters on these sites in the first place and I think we said they have to meet zoning requirements for height in zone. Why do we even have to tell them how many units?

Ms. Burgess, We want to control the density.

Mr. Cerrone, Yes you have to.

Mr. Peterson, We already have.

Ms. Burgess, We told them how tall they have to be.

Mr. Peterson, We've already told them they can't use large percentage of the lot already with all these buffers and things.

Ms. Burgess, If they say they can 50 houses per acre you say have at it?

Mr. Peterson, No listen from designers point of view if I could come in here I bet I could do it and be nice project. You might get some other guy, which is probably what is going to happen. We could still do this we could still end up with hack job.

Mr. Cerrone, It depends on who does it.

Mr. Peterson, We have no control over that.

Mr. Houle, I think it is going to depend on engineer to.

Mr. Ofcarcik, I think if you take what Scott is saying if you go with buildable area you need higher density. Or if you're going to go 10 per acre we count all 15 acres that is maximum units we could get. Then we take out buffer zone, etc.

Mr. Cerrone, No keep it 15 acres.

Mr. Ofcarcik, It won't work you'd have to buy more land.

Mr. Cerrone, Count as part of 15 acres.

Mr. Houle, What if there were 20 acres?

Ms. Burgess, We're saying 15 as minimum.

Mr. Tilton, Under cluster bylaw we have clause you have to be able to you can only have number of units that you can legitimately put in there under standard subdivision control. By the time deduct you'd have to do standard footprint subdivision and prove you can put those units in there. You don't have to go through subdivision process but you have to prove that is number of units you can put in on the cluster.

Ms. Burgess, If that was R20 on cluster you could get on 15 acres you could get 20 units.

Mr. Tilton, If you could get legitimately put them in there.

Ms. Burgess, Yes.

Mr. Tilton, If you could do standard subdivision and get 30 units in there you could put it in.

Mr. Houle, If you do it that way how are you going to control the density?

Ms. Burgess, That is not going to be profitable.

Mr. Ofcarcik, Say R20 you're going to do 10 units per acre and I have 15 acre piece most I can put is ...(inaudible). Perfect land that is most I'll get. If it is half wet so much for wetlands.

Mr. Cerrone, Same math adds up the same.

Mr. Ofcarcik, I have to get 30 acres now so I could get 300 but maybe I'll only get 150 on 30 acres. We need to know up front maximum.

Mr. Cerrone, I think when you figure the units figure open space total amount not with the buffer you're open space. You can't include buffer. I think with the open space just deduct buffer that is how you come out with the units.

Mr. Weymouth, That theory 15 acres gets you 13 acres so 13×10 is 130 pretty equivalent to doubling the density.

Mr. Cerrone, How does that sound? Don't include the buffer include open space in acres on your calculations.

Mr. Houle, I don't understand why you're not including the buffer.

Mr. Peterson, I don't either.

Mr. Houle, I'm not saying its wrong I'm just saying I don't understand it.

Mr. Cerrone, That shouldn't be included I think.

Mr. Weymouth, Open space is 40%. Now you'd have 16 acres.

Mr. Cerrone, But you can open your 40% your buffer could be part of your open space.

Mr. Ofcarcik, It is the same thing.

Mr. Weymouth, Math works out to be exact same thing.

Mr. Houle, How do you figure that? If you don't include the buffer?

Mr. Weymouth, I said double the density you'd have 160 units on 20 acre piece.

Mr. Houle, I think you're talking about two different things I think.

Mr. Weymouth, Okay now lets go Don's way. You add back in open space, which is 40% that is 8 acres. $8 + 8$ is 16×10 is 160 it is the same math.

Ms. Burgess, It is cleaner to say 20 per acre.

Mr. Weymouth, No it could be easier to say you only include open space in your density calculations.

Mr. Houle, Buffer would include conservation land or any other type of land?

Mr. Ofcarcik, Yes for the initial calculation of maximum units only. You can't use it that is why I think Scott is saying it is cleaner you can say you can put twice as many units and you can use all the acres. You start deducting them out they won't fit. Two different methods to get to the same answer.

Mr. Tilton, R20 I'm going to be allowed to use 20 acres 20 units per acre. Now I have 50% wet then I start I trying to put these 20 acres down it just won't physically fit.

Mr. Peterson, We're just talking about units we have no idea. We're trying to use unit of measurement we don't know what unit of measurement is.

Ms. Burgess, That is why we're saying with accounting any of that if you just take 40% off the top of acreage without looking at wetlands, buffer, right of way anything. That can be your number of acres then you multiple that by how many acres you have. I'm sorry how many units that is essentially what we're saying it is like getting to same place. He's saying to do it that way, you're saying to do it the other way just double it.

Mr. Houle, Density is going to come out the same I agree with you there.

Ms. Burgess, Just how should we get to this?

Mr. Weymouth, Lets take the 20 acre piece and double density it is easier math that way. Now you have 20 acre piece and you have 8 acres now 160 units. That creates more than one structure if you're going to limit your structure to 80 units per structure. Nobody is going to build 30 unit assisted living condo facility. I've never seen one done they're all 80 to 120.

Mr. Ofcarcik, Yes dimishing returns if you go below 80 probably not go below 20.

Mr. Houle, What is it you don't agree with?

Mr. Peterson, We're just throwing out units per acre, which there is really no correlation to it. You could say 80 units because you've divided it up saying that is how many you could put on 20 acres right the way you have it right now. I could put 2,000 sq.ft. unit or 600 sq.ft.

Mr. Weymouth, Now you're talking square footage control.

Mr. Peterson, That is my point that is what I was getting to before. We've got all these perimeters on these lots to begin with and we only end up being able to develop 60% of the lot. We still have to figure in parking and access roads and service areas. Maybe we should be saying your minimum unit that you can develop after you've taken away all that land is 1,000sq.ft. or 600 sq.ft or whatever. That is what's going to determine how many units they can have on that particular parcel. That is all going to have to relate to how many parking spaces you put.

Ms. Burgess, You want to per acre?

Mr. Peterson, I'm just wondering once we end up giving them only 60% of the land to work with. Do we say all right now minimum unit size will be X amount and they'll have to factor in how many units they can get in on land they have left over? I'm trying to figure out density wise how to develop this and I just don't know whether just saying units.

Mr. Tilton, Anybody who is coming forward with assisted living has standard unit that they wish to build. Sunrise did.

Mr. Peterson, Exactly they all fall within the same perimeter of square footage.

Mr. Tilton, Nursing homes may have criteria that they work with and they're going to do 150 to 200 bed nursing home.

Mr. Peterson, When we get done with what we're telling them how to use this land they have 60% of it left.

Ms. Burgess, You're saying have at it put as many as you can cram on there?

Mr. Houle, I don't agree with that.

Mr. Peterson, No if you give them limit as to what minimum size of their units could be.

Mr. Tilton, Most of these assisted living programs are 1 or 2 bedroom unit.

Mr. Peterson, You're going to do the same thing here.

Mr. Tilton, What are they 1500 tops?

Mr. Peterson, Yes I would say.

Mr. Tilton, Have single car garage.

Mr. Peterson, Housing for the elderly used to be about 500/600sq.ft. that was like bare minimum for like one unit.

Mr. Tilton, One out on island that has condo or assisted living building and then they have separate individual stand alones.

Mr. Peterson, I think what I'm getting at maybe I'm approaching it from wrong direction. You're saying that you have to have certain amount of units on certain size piece of property may get financial work. All I'm saying is we're already starting to create that by limiting how much of the land they can use. Then if you tell them we expect per unit to be minimum of certain size. Whatever land is left there for them to develop they will do what they have to do to make project feasible.

Ms. Burgess, Do we want to get into per unit size? I think that gets too complicated.

Mr. Weymouth, What are you worried about Rich they they take 160 units and just whole 8 acre box is building?

Mr. Peterson, Could be. That is one thing. Also to like I said 80 units or 160 units. If you say 160 units at 1,000sq. ft. and 160 at 2,000sq.ft. building is going to be different size isn't it?

Mr. Weymouth, I agree.

Mr. Tilton, You physically maynot be able to put them on because you just don't have land around. Now you have to push yourself your boundaries out and go get some more land.

Mr. Houle, Mary correct me if I'm wrong. Are we getting away from the intent a campus style?

Mr. Peterson, You can have campus style with big buildings on it.

Mr. Weymouth, No if we go with 160 units on 20 acres and you limit number of units per structure you then have created a campus.

Mr. Houle, Or you're going to get someone come in with a very big building.

Mr. Weymouth, No we can only have so many units per structure.

Ms. Burgess, But if you want nursing home I'd put the percentage because if you just wanted to build a nursing home.

Mr. Weymouth, Okay I'm all right with that.

Ms. Burgess, Other thing too is you can also have a building that includes your retail store that includes your dining hall includes all other stuff. You can have a building stand alone building that does all that other stuff like gym and all that other stuff to add to campus style. I think I wrote that in there.

Mr. Houle, Campus style we heard proposed they want walking trail want everything else there.

Ms. Burgess, Yes that is what 50ft. buffer and open space is for.

Mr. Weymouth, I think unit size thing does get complicated and I think market dictates what that is.

Mr. Peterson, I think that is what I'm kind of getting at.

Mr. Weymouth, Nobody is going to build 5,000sq.ft. unit because there is no market for it.

Mr. Peterson, Right. You're worried about it becoming barracks if we tell them the minimum unit is going to be certain size and they can work from there.

Mr. Ofarcik, Make it 600 sq.ft. and you have all these other restraints and they have to get 80 units in there they're not going to be ablt to market it.

Mr. Cerrone, Yes I think you're better off just leaving it by units.

Mr. Weymouth, I understand what you're saying where your thought process is going and I'm trying to work with it.

Mr. Peterson, I haven't fully worked it out myself.

Mr. Ofarcik, Economics is going to dictate.

Mr. Cerrone, That is why you have to go by units I think.

Ms. Burgess, I think 20 per acre per R20 and 30 for R40 would be acceptable. On 15 acre that would give 140 units for 15 acre site. Is that reasonable?

Mr. Weymouth, 10 per acre on the overall bases it is 10 per acre.

Ms. Burgess, You could normally get 2 per acre so you're still all ready making out on it.

Mr. Weymouth, Is there anything around here that has 10 per acre on it?

Mr. Cerrone, Yes Blackinton I bet that is 2 acre parcel it has 30 something units.

Mr. Weymouth, How many units on that project?

Mr. Tilton, 38.

Mr. Weymouth, How many acres?

Mr. Cerrone, About 2 to 2 1/2 the most. I bet not even 2 acres.

Mr. Weymouth, That is 20 units an acre.

Mr. Tilton, We gave up some.

Mr. Cerrone, That is why I voted against it.

Mr. Weymouth, We're not talking 20 units an acre here.

Mr. Ofarcik, You're talking 20 units an acre on the 60% build out.

Mr. Weymouth, Exactly.

Mr. Ofarcik, So you're only talking 10 units.

Ms. Burgess, Overall.

Mr. Tilton, On the 60%.

Mr. Weymouth, On overall land bases you're still at 10 per acre.

Mr. Houle, But he said it right on 60% that is buildable.

Ms. Burgess, No your 10.

Mr. Cerrone, You have to have 40% open space whatever you have to meet.

Ms. Burgess, It has to be contiguous.

Mr. Weymouth, It's going to be dispersed.

Mr. Tilton, Side yards.

Mr. Ofcarcik, It is not going to be big block.

Mr. Cerrone, Yes buffer.

Mr. Weymouth, Is doubling these numbers to much or should it be in between? I don't want it to come out looking like Blackinton. Blackinton is more structures that this would be. How many structures in Blackinton?

Mr. Tilton, Four maybe five.

Mr. Weymouth, That is lot of structures.

Mr. Peterson, We're not going to have townhouses.

Mr. Houle, That is what its going to be.

Mr. Weymouth, No you're going to have 3 story structure most likely. What is height limit here?

Mr. Ofcarcik, 2 1/2- 30ft.

Mr. Weymouth, You'll only have 2 story structure.

Mr. Tilton, Most all your newer assisted living and nursing home have 2 story. They don't want to go up 3, 4 and 5 anymore. It is 2 story and usually long wings working out of central corridor. Many of them like Y's they have alzheimer wing, etc.

Mr. Ofcarcik, I think it is just over 3 acres Blackinton. We had 40 units then we talked down to 38.

Mr. Peterson, What is assisted living complex in Attleboro?

Ms. Burgess, You're saying it is about 3 and change.

Mr. Weymouth, So it is 12 units an acre give or take.

Mr. Ofcarcik, That was a factory building.

Mr. Cerrone, Yes that came under conversion.

Ms. Burgess, What I have so far minimum of 15 acres are we all agreeable?

Yes.

Ms. Burgess, 80 units per building are we all agreeable?

Mr. Weymouth, Minimum.

Ms. Burgess, Maximum.

Yes.

Ms. Burgess, What I have for the condo type style is 20 per acre in R20, 30 per acre in R40.

Mr. Cerrone, Go to 15 and 25.

Ms. Burgess, You're going to get bed restriction?

Mr. Tilton, If Glen reminds me in the morning.

Mr. Weymouth, Are you counting the open space in that 15 per acre?

Mr. Cerrone, Yes.

Mr. Weymouth, 6 and 6 is 12 acres and you want to do it now to 15 per acre that is 120 and 60 is 180 units.

Ms. Burgess, In R20?

Mr. Weymouth, R15. Remember I made the comment about going in between. I'm on 15 acre parcel doing 15 units. I have 6 acres of open space, 6 acres of leftover or buildable however you want to look at it so that is 12 acres time 15 is 180 units.

Ms. Burgess, Now we're taking the 15 acre as a whole multiplying it per acre and if they can cram all those in 6 acres that they have after they cut out the open space.

Mr. Weymouth, Now you're saying you have to put 180 units over 6 remaining acres?

Ms. Burgess, Yes.

Mr. Tilton, Because you have to maintain 40% open space.

Mr. Weymouth, That is pretty dense.

Ms. Burgess, Exactly. If we do it the way you're thinking but we say you have 15 acres minus your 6 acres of open space so then you have 9 acres.

Mr. Weymouth, This isn't a cluster you're not clustering all this and then putting the open space aside are you?

Ms. Burgess, I know but you're still going to be made to preserve that though in square footage.

Mr. Weymouth, So 180 units over 15 acre is not a lot.

Mr. Cerrone, They could fit it.

Ms. Burgess, But we're saying that the open space has to contiguous too.

Mr. Weymouth, Contiguous could mean strips of land 5ft. wide theoretically right?

Ms. Burgess, You still need 50ft. buffer it can be counted in your open space. Buffers can be counted and buffer can be waived if you are up against conservation area.

Mr. Weymouth, If you're waiving the buffer then you're going to do more than 180 units on 15 acres.

Ms. Burgess, Only if you bump up against conservation area or something like that not another residential area.

Mr. Cerrone, If you go by 20 number we want what do you get?

Mr. Weymouth, 240.

Mr. Houle, That is lot of density.

Mr. Peterson, 180 units just say we had 2 stories that is 90 units per floor. Say they were even 1000sq.ft. units, which they're not going to be that is 90,000 sq.ft. of the lot not even 2 acres out of 15. Did I do it right?

Mr. Weymouth, You have common areas you have to add 20 to 30% for common area.

Mr. Peterson, All I'm saying is that is 90,000 we're no where near 60% of 15,000 is 90,000.

Mr. Weymouth, You lost me.

Mr. Ofcarcik, Even 3 acres you have 3 acres of lot coverage on 15 acre lot using math.

Mr. Peterson, That's not much even if you doubled it for all the other stuff. I'm just saying I don't know if 180 is all that bad.

Mr. Weymouth, It isn't it sounds bad but its not.

Ms. Burgess, You're saying instead of doing 20 we're doing 25?

Mr. Weymouth, No I think we keep 20 and 30.

Mr. Ofcarcik, Take out the buffer then it is 20 units per acre.

Mr. Cerrone, That is fine.

Ms. Burgess, How are we calculating?

Mr. Ofcarcik, Lot size minus buffer.

Mr. Cerrone, You can't include buffer in unit amount.

Mr. Weymouth, Just the open space.

Mr. Cerrone, But you can use your buffer

Ms. Burgess, Lot size minus buffer equals per acre amount.

Mr. Cerrone, We can change those numbers right now we're discussing. I say go with 15 and 25 that is my opinion.

Ms. Burgess, Let me put together another chart see what I can come up with how much buffer usually comes out to be stuff like that. I'll see what I can do.

Mr. Cerrone, Yes for next meeting.

Ms. Burgess, Yes.

Mr. Weymouth, Think of it the way Rich was just going through. Net scenerio you have 180 units over 15 acres each unit. Even if it is 2000 go 2000 sq.ft. per unit that is 360 1000sq.ft. right?

Mr. Peterson, Yes we're not going to build one story building.

Mr. Weymouth, 180,000sq.ft. of footprint now you're going to add 25% for open space.

Ms. Burgess, 45

Mr. Weymouth, 180,000 times 1.25 is 225,000sq.ft. of building area.

Mr. Cerrone, How big footprint do you need for that?

Ms. Burgess, Look at my percentages it comes out to that too.

Mr. Weymouth, 225,000sq.ft. of footprint divided by 43.560 you have 5 acres of footprint over 15 acre parcel nothing wrong with that.

Mr. Ofcarcik, Some of it is going to be parking and walking trails.

Mr. Weymouth, I don't think there is anything wrong with that.

Mr. Houle, You need open space.

Mr. Weymouth, That was using 2,000sq.ft. a unit.

Mr. Houle, Which they won't be.

Mr. Cerrone, Probably a 1,000.

Mr. Houle, Might not even be that.

Mr. Cerrone, Sardine can.

Ms. Burgess, I'm going to change minimum lot requirement maximum units.

Mr. Cerrone, We agree on 15 acres?

Ms. Burgess and Mr. Houle, Yes.

Ms. Burgess, I have my calculations on how you get to maximum lot I have calculation now.

Mr. Cerrone, That is minimum.

Ms. Burgess, I'll put something together for the 25th.

Mr. Tilton, I'll get you that number for the beds.

Annual Report;

Mr. Cerrone, What is it compared to 2009, 2008?

Ms. Burgess, I didn't honestly look I didn't compare it.

Mr. Cerrone, Can you get copy of 2008 for Saturday I want to look at it.

Ms. Burgess, Yes. There is thing going to be added to annual report regarding Pat Redding passing. Linda came up with two nice sentences saying "as pages turn another memory".

Mr. Houle, That's fine.

Neponsett Valley Survey;

Ms. Burgess, That is letter from engineer saying that it meets Bally Heather.

Mr. Cerrone, If you read the letter it doesn't say meets.

Ms. Burgess, It says it can handle the amount or it appears it can.

Mr. Cerrone, How did we do on Windchime how is drainage over there?

Ms. Burgess, It appears to be working fine. That is how that letter says appears too.

Mr. Cerrone, The other one Bessett's place Queen's Grant.

Ms. Burgess, Wait until you see that letter.

Mr. Cerrone, How do you know this is not the same?

Ms. Burgess, That letter says that detention basins are off a foot, etc.

Mr. Cerrone, He didn't say everything is according to design. He says it appears that means little different according to design and appears. He just looked at it.

Ms. Burgess, Well it has a stamp on it.

Mr. Cerrone, It says view asbuilt drainage system indicates site pipe and infrastructure appears to have been installed general performance with the design plan. It doesn't say it is according to the plan.

Mr. Houle, It does say with the endorsed plans it does say it on the bottom.

Mr. Cerrone, But it doesn't say if it is right elevations all that.

Ms. Burgess, But he can't get into drainage structures.

Mr. Cerrone, Inverts he can get in lift the covers up.

Ms. Burgess, We didn't ask him for that.

Mr. Cerrone, I know but you don't know if they're right elevations. I'd look at it and say yes that is right pipe you have in there that is 12" pipe that plan calls for. Is it right elevation I don't know.

Ms. Burgess, That is what we asked for and that is what we got.

Mr. Cerrone, Right inverts I don't know I didn't shoot the grades. I just went in and took look at it.

Ms. Burgess, They compared the asbuilts they did.

Mr. Weymouth, Then they go down below and say basin is we feel drainage system has been installed in substantial compliance with endorsed plans.

Ms. Burgess, I know they put their stamp on it.

Mr. Houle, General performance with the designing.

Mr. Weymouth, Then they go down here and say has been installed in substantial compliance.

Ms. Burgess, Show me a subdivision that has been built in complete compliance.

Action Needed;

Ms. Burgess, That was with regards to changing the name. I put in little stuff about Sarazin.

Classified advertising;

Ms. Burgess, That is zoning.

Zoning Letters Drafted;

375 E. Washington St. that is the limo company across street from Mad Mikes.

Ms. Burgess, Their site plan is just plan showing 3 parking spaces and area that delineates quote unquote display area. They don't provide us with size of automobile, how many they have, etc. Plan doesn't tell us anything that was my comment on that. Big stretch limos.

Mr. Houle, Letter is fine with me.

Ms. Burgess, Basically it just says that he doesn't meet any of the requirements and he doesn't have existing site plan.

1320 E. Washington Case Materials;

Ms. Burgess, I didn't know exactly what you wanted me to write about this.

Mr. Houle, What is this letter supposed to do?

Ms. Burgess, They're in front of Zoning Board for variance for coveralls things that go over the bins.

Mr. Weymouth, They need variance for those?

Ms. Burgess, Yes because they are considered structures. I pointed out that the site plan doesn't coincided with the site currently for parking, open space, area for moving vehicles and parking lot. We continued our review until the 25th. for site walk to determine feasible to provide 10ft. vegetated buffer between, etc. I just said it would not cause substantial detriment to the public nor would it degenerate all the zoning bylaws.

Mr. Houle, That is fine there is nothing wrong with that.

Mr. Weymouth, I would want the 10ft. buffer.

Ms. Burgess, Yes and he can't meet any of the other requirements.

215 Plain St;

Ms. Burgess, This is Carol Lewicki's property with the storage units. Basically she is appealing decision of building inspector because he says it is not an allowed use and she is also applying for a variance so if they uphold the building inspector she is covered with the variance as well. I didn't get into much of the variance stuff because I just wanted to state that it is not allowed in Aquifer Protection District. I got the specs for all the chemicals that they will be housing there and they are all cosimengins and they all have spec on them that says cannot get into storm drains they are all hazardous materials. First one in Aquifer Protection District it says it prohibits storage of hazardous materials.

Mr. Peterson, That is not how it reads for list of stuff that they're going to store there.

Ms. Burgess, No they said they were storing Tide and eco friendly. It is bleach they are storing bleach. I wanted to let them know that even though if they get variance it doesn't mean they're going to be allow there because they still have to come back for special permit through Planning Board and let them know these are considered hazardous materials.

Mr. Houle, You explained it very well this is fine.

Ms. Burgess, I told her and she called Mr. Rhyno. These are just the applications.

Mr. Houle, Do you want to give him copy of the book?

Ms. Burgess, Well Mark Fisher said it is allowed use.

Mr. Houle, In Aquifer Protection Zone?

Mr. Thimot, He doesn't know anything about that.

Zoning Applications;

One was for front yard setback for emergency exit stairs.

Ms. Burgess, I didn't think that was worth a letter it is usually allowed by right.

Lewicki

Onterage

Adams;

Wants in law apartment didn't write anything for that.

Nancy Holden;

Want front yard setback for farmers porch. I didn't do anything we don't get involved in residential.

Road Acceptance Project;

Ms. Burgess, We're up to 34 roads. You guys remember Depot Estates James Foley Dr. They were supposed to donate money to park and rec in ieu of sidewalks. I can't find any documentation. Do you remember anything about it?

Mr. Cerrone, Who did those?

Ms. Burgess, Shawn Jorde.

Mr. Cerrone, Do we still have a bond?

Ms. Burgess, Yes it is surety though \$312,000. I can't find any documentation that has been donated to park and rec per conditions of approval.

Mr. Weymouth, How long has that subdivision been done?

Ms. Burgess, They were supposed to do trees over there I think.

Mr. Cerrone, Was an amount set?

Ms. Burgess, No and I can't find anything in the folder I've gone through it like 4 times.

Mr. Cerrone, You'll have to go back to the minutes.

Ms. Burgess, Yes I was just hoping you would remember.

Mr. Peterson, Can I ask why inquiry about it now?

Ms. Burgess, Because that is one of the roads that is going to come up for road acceptance and I'm making sure everybody is complying with their conditions of approval.

Mr. Cerrone, Did he get the article in for road acceptance?

Ms. Burgess, No I'm just trying to get everybody together right now trying to get all the information so that I can say okay Jorde I need this and this from you. Just so we can get all these wrapped up.

Mr. Peterson, Do we have same problem we had with Walmart?

Ms. Burgess, This is going to be gift to park and rec they can accept gifts.

Mr. Peterson, We can't hold him to it.

Ms. Burgess, Yes we can he'll do it I'm sure.

Hickory Woods;

Ms. Burgess, I met with Bill McDowall and Jeff Kane today regarding getting bid package together. We did establish a start point, which would involve getting quotes for them to establish center line a base line and put in stakes for how road was supposed to be design so we can determine whether road is actually in right place. Then we can work from there. I'm going to ask for quotes from 3 surveyors and obviously just go with lowest one. I just wanted to let you know about that.

Mini Fenway;

Mr. Houle, Can you give us update on meeting you attended?

Ms. Burgess, I won't over to park and rec and basically just talked about how Aquifer Protection District works and how site plan review works. I gave them copies of the bylaws I gave them GIS map of the Aquifer Protection District. What it means, what zone 2 is everything like that just so they can have all the information. They wanted to make sure that you guys know that line of communication are open if you have any questions you can call any of them and they're just looking forward to coming in front of us.

Mr. Weymouth, When are they submitting?

Ms. Burgess, They were thinking about March and then having hearing in April after the election.

Mr. Cerrone, Who is submitting?

Ms. Burgess, Park and rec.

Mr. Cerrone, They the ones who are going to hire engineering firm?

Ms. Burgess, Yes through the town. Park and rec is building Mini Fenway.

Mr. Houle, They're the ones who presented it to us too.

Mr. Peterson, They're going to actually build it and other people are going to pay for it is that it?

Ms. Burgess, Yes well they're not going to physically build it. The MLB people have come up with a design and everything and it has been approved by park and rec and everything like that. But essentially it is park and rec project.

Mr. Peterson, So town through park and rec is going to handle the bidding and construction and everything?

Ms. Burgess, Yes.

Mr. Peterson, And they're going to get reimbursed by Mini Fenway people?

Ms. Burgess, No. I'm not sure about all of that because I don't want to be. It has absolutely nothing to do with and I don't know any of that.

Mr. Peterson, That is not way I didn't think that was way it was presented.

Mr. Cerrone, No that's right. That was way it was presented at meeting that we went to.

Mr. Peterson, Yes that is why I'm making these faces.

Mr. Cerrone, That is why I'm asking Park Dept. is presenting that they said they were going to do it.

Mr. Weymouth, I haven't seen the project yet.

Mr. Cerrone, You have to continue this to Saturday.

Ms. Burgess, Yes I have Saturday's meeting posted.
Mr. Cerrone, If you didn't he'd continue this until Saturday.
Mr. Thimot, Make motion to adjourn, seconded by Rich Peterson.
All in favor 5 to 0 adjourn at 10:15 P.M.

Respectfully Submitted,