

**Pembroke Planning Board  
Minutes of Meeting  
(Adopted)  
Tuesday, August 25, 2009**

**MEMBERS PRESENT:** Robert Bourque, Chairman; Cindy Lewis, Selectmen's Representative; Kathy Cruson; Mark Zydel; Kevin Krebs; Brian Seaworth

**ALTERNATES PRESENT:** Larry Young, Sr.; Jeff White

**EXCUSED:** Alan Topliff, Vice Chairman

**STAFF PRESENT:** David Jodoin, Town Administrator, and Jocelyn Carlucci, Recording Secretary

Chairman Bourque called the meeting to order at 7:00 p.m. He noted that Brian Seaworth is now a member of the Board. He appointed Alternate Member White to vote in place of Vice Chairman Topliff.

In the hopes of moving the meeting along, the Board agreed to change the agenda lineup slightly and begin with the LTC Properties case.

- 1. Major Subdivision. LTC Properties. Case #09-02.** Map 565, Lot 193-3 at 245 Pembroke Hill Road in the Medium-Density Residential (R1) District and the Wetlands Protection (WP) Overlay District. The applicant, LTC Properties Inc, proposes a five-lot residential subdivision on 14.595 acres which includes a new road and a detention pond. *Applicant requests a 65-day extension and a continuation until the September 22 meeting. Application continued from previous meeting.*

**MOTION:** Selectmen's Rep. Lewis moved to grant the 65-day extension to LTC Properties. Seconded by Member Zydel.

**VOTE:**

Robert B. – Y	Cindy L. – Y	Brian S. – Y	
Kevin K. – Y	Kathy C. – Y	Jeff W. – Y	Mark Z. – Y

**MOTION TO GRANT THE 65-DAY EXTENSION TO LTC PROPERTIES PASSED ON A 7-0 VOTE.**

**Conceptual Consultation**

- 2. SE Slark Custom Interiors Minor Site Plan.** Board and applicant to discuss whether the existing carpet business's changes warrant a change of use or expansion of use. Use type for the property assessment is listed as warehouse/service.

Chairman Bourque announced that the presentors would limit to 10 minutes.

A representative from SE Slark Custom Interiors was not present. Ms. Carlucci informed Chairman Bourque that, in anticipation of the lengthy agenda, Interim Planner Stephanie Alexander informed Mr. Slark that he would probably be heard after 8:00 p.m. Chairman Bourque agreed to hear from SE Slark upon the representative's arrival.

**3. Green Mountain Communications Minor Site Plan. Board and applicant to discuss project. Board suggested at last meeting that the site plan should be classified as minor.**

Present: Jennifer McCourt, P. E. of McCourt Engineering Associates, PLLC representing Green Mountain Communications and Victor Drouin, President of Green Mountain Communications.

Ms. McCourt announced that the building formerly occupied by Great Northern Video is located at the corner of Riverwood Drive and Rt. 106. The property is located in the C1, commercial/light industrial zone and the aquifer conservation overlay district. The proposed business, Green Mountain Communications, is a similar business to Great Northern Video. Company vehicles will be parked overnight onsite. They are proposing 9 parking spaces (25' x 10'), 3 dumpsters (1 trash and 2 recyclables), a parking area to accommodate a full, extended cab pickup truck along with a few employee parking spaces. There will also be a 13' Redi-Rock retaining wall. Additional landscaping will be added to buffer the front parking from the road. There will be an infiltration basin to collect any increase in the flow that is caused by the changes. The pavement increase is 6,821 sq. ft. (7.6% increase). The total impervious site area upon completion will be 51%.

Ms. McCourt asked that the project be considered a minor site plan. They are also requesting that the plans be allowed to be submitted on Friday, August 28, 2009. Chairman Bourque said that the Board had already discussed and agreed to such at a previous meeting.

The chain-linked fence will be locked. There will also be a 7' vinyl fence constructed in order to block site of the overnight trucks.

Mr. Drouin said that there are 50 employees consisting of 28 field crew employees traveling throughout New England, 22 engineers, draftmen, and administrative employees in the office. The building is large enough to provide Green Mountain Communications an additional 20-25% expansion. Mr. Drouin said that there are 8-10 office cubicles that will be unoccupied. The facility has 4 bathrooms.

Selectmen's Rep. Lewis said that the parking is more than adequate for the facility. Ms. McCourt said that there are 2 existing handicapped parking spaces.

**MOTION:** Member Zydel moved to accept Green Mountain Communications as a minor site plan. Seconded by Member Seaworth.

**VOTE:**            Robert B. – Y            Cindy L. – Y            Brian S. – Y  
                         Kevin K. – Y            Kathy C. – Y            Jeff W. – Y            Mark Z. – Y

**MOTION TO ACCEPT GREEN MOUNTAIN COMMUNICATIONS AS A MINOR SITE PLAN PASSED ON A 7-0 VOTE.**

**4. Air Gas Site Plan.** *Board to determine whether application is minor or major and to discuss the project.*

Present: Tim Bernier of T.F. Bernier, Inc. representing Air Gas-East Inc. and Dale Gray, of Air Gas East Incorporated.

Mr. Bernier explained that the location of the site to be discussed is the former Meriam Graves building on Route 106. Air Gas-East Inc. would like to add a 20 x 40 two-sided shed with a steel roof at the rear of the property. It will be surrounded by a chain-linked fence around site for security purposes. Mr. Bernier said that the shed is standard for all Air Gas' facilities throughout New England. The shed will consist of 2 concrete sides with a concrete wall separating the stalls containing the gas cylinders. There will be no changes in grade. It is a flat gravel area. There will be no other changes to the site. Presently the cylinders are stored outside of the facility. A photo of a similar building as that which is being proposed was given to the Board. Mr. Bernier said that there will no changes in the operation of business.

Mr. Gray said that they would house welding gases, medical gases, etc. They do not carry any toxic gases.

The chain-linked fence will not have privacy slats but will have 3 chains of barbed wire along the top. The fence will run well inside of the property line and will connect to the back corner of the building. It will have a gate at the entrance that connects to the building.

Mr. Gray said that the bottles will be "nested" in a stable holding position which is an approved way to store the cylinders. At Chairman Bourque's request, Mr. Gray agreed to submit photos of the cylinders in a "nested" position at their other facilities.

Mr. Bernier stated that a minor subdivision site plan was submitted that evening to the Town for review. Said minor site plan to be submitted to staff.

Mr. Bernier stated that the applicant is also requesting a waiver of the \$500 engineering escrow fee. There will be no engineering involved because the applicant is merely proposing a shed and fence over an existing area. It will use the existing driveway access. The roof will shed to the back. 85% of the site is wooded open space. Drainage for the site presently travels to a retention basin. No new lighting is proposed. There will be no electricity in the shed. All the gases presently stored outside will be stored inside the proposed shed which will be safer. Air Gas-East Inc. has recently purchased the facility from Merriam Graves.

Since the Board was unfamiliar with gas storage regulations, they were reluctant to not have the Town engineer review the plans.

Mr. Bernier said that he has not spoken with the Pembroke Water Works. They have requested a Special Use Permit because of the Aquifer Protection District.

Mr. Gray did not know if there was fire suppression equipment inside the existing building.

**MOTION:** Selectmen's Rep. Lewis moved to request that the Pembroke Code Enforcement Officer speak with the NH Fire Marshall's Office regarding regulations pertaining to gas storage. If the Code Enforcement Officer finds that there are engineering regulations pertaining to gas storage, the engineering escrow fee waiver is not granted. If the Code Enforcement Officer finds that there are no engineering regulations pertaining to gas storage, the engineering escrow waiver is granted.

**VOTE:**            Robert B. – Y            Cindy L. – Y            Brian S. – Y  
                         Kevin K. – Y            Kathy C. – Y            Jeff W. – Y            Mark Z. – Y

**MOTION TO REQUEST THAT THE PEMBROKE CODE ENFORCEMENT OFFICER SPEAK WITH THE NH FIRE MARSHALL'S OFFICE REGARDING REGULATIONS PERTAINING TO GAS STORAGE. IF THE CODE ENFORCEMENT OFFICER FINDS THAT THERE ARE ENGINEERING REGULATIONS PERTAINING TO GAS STORAGE, THE ENGINEERING ESCROW FEE WAIVER IS NOT GRANTED. IF THE CODE ENFORCEMENT OFFICER FINDS THAT THERE ARE NO ENGINEERING REGULATIONS PERTAINING TO GAS STORAGE, THE ENGINEERING ESCROW WAIVER IS GRANTED PASSED ON A 7-0 VOTE.**

**MOTION:** Selectmen's Rep. Lewis moved to accept Air Gas-East Inc. as a minor site plan. Seconded by Member Cruson.

**VOTE:**            Robert B. – Y            Cindy L. – Y            Brian S. – Y  
                         Kevin K. – Y            Kathy C. – Y            Jeff W. – Y            Mark Z. – Y

**MOTION TO ACCEPT AIR GAS-EAST INC. AS A MINOR SITE PLAN PASSED ON A 7-0 VOTE.**

**Old Business**

**5. Condominium Site Plan Revocation. Chickering Meadow. Case #03-104, #03-105, and #07-104.** Map 266, Lot 58-10-38 at 214C Cardigan Drive, Lots 58-11-57 and 58-11-60 at 226A and 226D Liberty Drive respectively, Lots 58-11-61 and 58-11-64 at 228A and 228D Liberty Drive respectively, Lots 58-11-65, 58-11-66, and 58-11-68 at 230A, 230B, and 230D Liberty Drive respectively, and Lots 58-11-69 and 58-11-70 at 232A and 232B Liberty Drive respectively in the Medium Density-Residential (R1) District. The Planning Board will consider revoking the condominium site plan approval granted on October 28, 2003 and its amendment on November 27, 2007 on the basis of non-completion of site improvements. *Continued from previous meeting. Thirty-day deadline to complete improvements is August 27.*

A representative of Chickering Meadows was not present. The Board agreed to hear the next case and proceed with the Chickering Meadows case once a representative is present.

- 6. Major Subdivision. Silver Hills Business Park. Case #09-06.** Map 559, Lots 12 and 12-1 at 830 North Pembroke Road in the Rural/Agricultural Residential (R3) District, Aquifer Conservation (AC) Overlay District, Flood Development Overlay District (FD), Shoreland Protection Overlay District (SP), and Wetlands Protection (WP) Overlay District. The applicant, TF Bernier Inc, on behalf of owner Silver Hill Development Corporation, is proposing a five-lot subdivision on two lots totaling 116.1 acres which includes the construction of a new road to be dedicated to the Town. *Application accepted as complete. Public hearing concluded. Application continued from previous meeting.*

Present: Tim Bernier of T.F. Bernier, Inc. representing Silver Hills Business Park.

Mr. Bernier said that the Alteration of Terrain Permit application is pending and should be submitted by September. All comments from Ms. Alexander and the engineering hinge on that application. The new criteria require the redesign of a number of aspects on the plan. The Wetlands Permit was submitted last week. The State Subdivision Approval was granted subject to the Wetlands Permit. The applicant will meet with the Roads Committee on September 1, 2009 and the Board of Selectmen on September 7, 2009.

Mr. Bernier will respond to the letter from the Concord Planning Board and send a copy to the Pembroke Planning Board.

**MOTION:** Selectmen's Rep. Lewis moved to continue the application to the September 22, 2009 meeting. Seconded by Chairman Bourque. Unanimously Approved.

- 7. Condominium Site Plan Revocation. Chickering Meadow. Case #03-104, #03-105, and #07-104.** Map 266, Lot 58-10-38 at 214C Cardigan Drive, Lots 58-11-57 and 58-11-60 at 226A and 226D Liberty Drive respectively, Lots 58-11-61 and 58-11-64 at 228A and 228D Liberty Drive respectively, Lots 58-11-65, 58-11-66, and 58-11-68 at 230A, 230B, and 230D Liberty Drive respectively, and Lots 58-11-69 and 58-11-70 at 232A and 232B Liberty Drive respectively in the Medium Density-Residential (R1) District. The Planning Board will consider revoking the condominium site plan approval granted on October 28, 2003 and its amendment on November 27, 2007 on the basis of non-completion of site improvements. *Continued from previous meeting. Thirty-day deadline to complete improvements is August 27.*

Present: Bob Pace, owner of Chickering Meadow Development, and Steven Chabot of Keach-Nordstrom Associates, Inc.

Mr. Pace said that he received a revised punchlist from Mr. Chabot in the last hour. Mr. Pace explained that most of the work is presently concentrated on Phase 3B. He would like a signoff on Phases 1 & 2.

Mr. Pace noted:

1. There is a question as to who should maintain the detention ponds
2. The recent punch list from Mr. Chabot notes that when the catch basins were cleaned, the contractor missed 2 because they were in the back yard and not in the roadway.
3. He would like until Monday, August 31, 2009 to work through the new punch list and establish a timeframe for each item.
4. A letter from Brown Engineering was submitted to Mr. Chabot regarding the swales and grass. They agree that grass should be planted in the next 3 weeks.

Mr. Chabot said that progress has been made although the punchlist may not demonstrate the progress because if one item, in its entirety, has not been completed, then Mr. Chabot cannot sign off on it. Most of the items on the list, in Mr. Chabot's opinion, are nuisance items in that, if they were completed, no one would be able to tell.

Mr. Chabot said that the sewer signoff is a separate issue. Most of the items on the list are maintenance deficiencies and workmanship. One sewer manhole never received a sewer invert but, since it is at the end of the line, it is not crucial.

To date 25% of the new punchlist items are completed. Some of the remaining items are partially completed.

Mr. Bourque opened the public hearing at 7:40 p.m.

Roland Lemoine, 222D Belknap Drive, President of the Chickering Meadow Association said that he would agree with signing off on Phase I if: (1) the Pembroke Sewer Department signs off on Phase I; (2) the electrical box is removed, and (3) a sign is installed.

Mr. Chabot clarified that:

- Phase 1 and 2 consists of Cardigan Drive, Tecumsah Drive, Belknap Drive, and Kearsarge Drive. Liberty Drive is in Phase 3.
- Cardigan Drive: 10 trees were planted. One was removed at the stump by a plow, and has since started to grow shoots. Who is responsible for replacing the tree is still undecided, therefore, it is still on the list. Also a tree in front of 210A and 210B was planted in the wrong place.

Mr. Pace suggested that the site walk occur 3 weeks from now which will allow for most of the punchlist to be completed.

Constance Catanese, 214B Cardigan Drive asked what the outcome was of the bonding issue that was brought up at the July 28, 2009 meeting. Chairman Bourque could not comment.

Bill Rossignol, 218A Kearsarge Drive, suggested that the punchlist be created into a spreadsheet in order to make it easier to see, at a glance, what has been completed.

There being no comments from the Board or the public, Chairman Bourque closed the public hearing at 7:44 p.m.

**MOTION:** Member Zydel moved to complete the punchlist items on Phase 1 and 2 by September 18, 2009 and the items on Phase 3 be completed within 30 days, except for those items pertaining to established vegetation growth. Seconded by Chairman Bourque.

**VOTE:**            Robert B. – Y            Cindy L. – Y            Brian S. – Y  
                         Kevin K. – Y            Kathy C. – Y            Jeff W. – Y            Mark Z. – Y

**MOTION TO COMPLETE THE PUNCHLIST ITEMS ON PHASE 1 AND 2 BY SEPTEMBER 18, 2009 AND THE ITEMS ON PHASE 3 BE COMPLETED WITHIN 30 DAYS, EXCEPT FOR THOSE ITEMS PERTAINING TO ESTABLISHED VEGETATION GROWTH, PASSED ON A 7-0 VOTE.**

It was agreed that the Board would perform a site walk at 6 p.m. on September 22, 2009 prior to the 7:00 p.m meeting. All members will meet at the site.

Mr. Jodoin suggested that he attend a site walk with Messrs. Chabot, Pace, and Lemoine on September 18, 2009. Chairman Bourque agreed. The Board will perform a site walk on September 22, 2009. Mr. Jodoin said that escrow payment issues have been resolved.

**8. Approved Minor Site Plan Discussion. New England Flower Farms. Case #08-105.** Map 559, Lot 14 located in the Rural/Agricultural Residential (R3), Aquifer Conservation (AC) District Overlay, Wetland Protection (WP) District Overlay, Shoreland Protection (SP) District Overlay, and Floodplain Development (FD) District Overlay at 830 North Pembroke Road.  
*Discussion about approved temporary greenhouse and placement location.*

Present: Henry Huntington, Owner of Pleasant View Gardens and Tim Bernier of T.F. Bernier, Inc. representing Pleasant View Gardens.

Mr. Huntington explained the difference between the site plan and the actual changes that were made:

- The newly built greenhouse is considered a “temporary” greenhouse because it can be taken down in a few days. It has electricity. It is presently used for wholesale distribution and will be used as a holding greenhouse during the winter.

- The temporary greenhouse dimensions were changed – it is presently 15’ wider and 34’ longer than originally presented on the original plan. They also turned the greenhouse 90 degrees. Mr. Huntington said that the change in location of the temporary greenhouse was made to make the lot neater by matching up the greenhouse with the others on the property.
- Because Silver Hills Development was performing major excavation in the area, and the temporary greenhouse was constructed in the winter, the Applicant lost track of the boundary line which resulted in the greenhouse being set within the setback. An Equitable Waiver was granted by the Zoning Board of Adjustment (ZBA) a few months ago.
- Pleasant View Gardens’ sign was affixed to the already-existing Silver Hill Business Park sign post. The ZBA granted a variance for the sign. There is no light on the sign.

Mr. Huntington said that he did not feel that the changes made were major when considering the larger scheme of the project. Future plans are to continue to expand the site. Mr. Bernier noted that the property lines are defined by the material that Pembroke Sand and Gravel removes from the site. The intent is for Pleasant View Gardens to enlarge into the cleared areas.

Chairman Bourque stated that, in the future, if any changes to the site are made, the applicant must return to the Planning Board.

**MOTION:** Chairman Bourque moved to allow the “Asbuilt” plan as the amended site plan and, if any expansion to the “temporary” greenhouse located at the North end of the property is made, the “temporary” greenhouse must be moved out of the setback or a lot line adjustment must be made. Seconded by Member Zydel.

**VOTE:**            Robert B. – Y            Cindy L. – Y            Brian S. – Y  
                          Kevin K. – Y            Kathy C. – Y            Jeff W. – Y            Mark Z. – Y

**MOTION TO ALLOW THE “ASBUILT” PLAN AS THE AMENDED SITE PLAN AND, IF ANY EXPANSION TO THE “TEMPORARY” GREENHOUSE LOCATED AT THE NORTH END OF THE PROPERTY IS MADE, THE “TEMPORARY” GREENHOUSE MUST BE MOVED OUT OF THE SETBACK OR A LOT LINE ADJUSTMENT MUST BE MADE PASSED ON A 7-0 VOTE.**

**New Business**

- 9. Special Use Permit. Nicole’s Greenhouse. Case #09-SUP-10AC.** Map 561, Lot 6-1 at 91 Sheep Davis Road in the Commercial/Light Industrial (C1) District and Aquifer Conservation (AC) Overlay District. The applicant, Lisa Mills dba Nicole’s Greenhouse, on behalf of owner Real Estate Unlimited Inc., requests a Special Use Permit from Article 143-68.E, Aquifer Conservation District, which is required for any activity taking place in the District. A related major site plan will be considered under application #09-103. *Application advertised as a public hearing.*

**10. Major Site Plan. Nicole's Greenhouse. Case #09-103.** Map 561, Lot 6-1 at 91 Sheep Davis Road in the Commercial/Light Industrial (C1) District and Aquifer Conservation (AC) Overlay District. The applicant, Lisa Mills dba Nicole's Greenhouse, on behalf of owner Real Estate Unlimited Inc., proposes the construction of four greenhouses for the sale of horticulture, floriculture, and garden supplies. *Application advertised as a public hearing.*

Present: R. Jeffrey Burd, Engineer; Lisa and Ernie Mills of Nicole's Greenhouse.

Mr. Burd explained that:

- The property is located on the corner of Route 106 and Borough Road consisting of approximately 2 acres with a combined frontage of 600 ft.
- It is in the central business district and the Aquifer Conservation Overlay.
- The existing building has septic and town water.
- It has been used as an office building for real estate and a retail space.
- The Applicant is proposing to add 4 greenhouses to the site (approximately 11,640 sq. ft.).
- It will be a commercial retail greenhouse/nursery facility.
- There will be approximately 10,000 sq. ft. of outside display area between the greenhouses, the existing building, and outside storage area reserved for bulk items such as bark mulch.
- The site has 3 points of access consisting of 2 driveways on Rt. 106 and 1 on Borough Road.
- The present gravel parking area will be paved. There will be gravel overflow parking for peak weekends.
- The existing septic system will be eliminated. They will be connecting to Town sewer.
- They will be enhancing the site with landscaping and lighting.
- The Zoning Board of Adjustment (ZBA) issued a Special Exception with conditions.
- There will be no fuel tanks on the property. The property will be heated by natural gas.
- The Applicant applied to the Department of Transportation (DOT) for 2 driveway permits on Rt. 106. A copy of an e-mail from DOT which conceptually approves the driveway, will be provided to the Board.
- A driveway permit for Borough Road will be applied for.
- The total impervious area on the entire site is approximately 45,000 sq. ft (51.5% of the lot area).
- 6 trees around the existing building (3 on each side) will remain. Landscaping will change with the season. All other trees on the site will be removed.

Mr. Burd said that the requirements for the special use permits address that if there are petroleum products, chemicals, road salt, or other materials which have potential for contaminating ground water, it shall be stored above ground water level within a fully enclosed structure designed to contain any spill within the structure. He said that none of the noted chemicals will be used by the Applicant. They will be using fertilizers but will not be using any pesticides.

The ZBA required that they not use fertilizers on the site. Ms. Mills explained that the fertilizers are applied to each individual plant by a drip tube system and does not drain onto the ground under the hanging plants.

Mr. Burd explained that, although the Applicant consented to not using fertilizers, they would like to revisit the subject with the ZBA at a later date. At the present time, the Applicant is before the Planning Board knowing that they are not allowed to use fertilizers per the ZBA conditions.

Chairman Bourque advised the Applicant to approach the ZBA as soon as possible to revisit the condition on fertilizer use because the Planning Board cannot give final approval until the issue is settled. At the present time, all Planning Board's decisions must be based on the ZBA's decision that no fertilizers will be used.

It was the consensus of the Board that the Special Use Permit would not be ruled on tonight.

Chairman Bourque clarified that the ZBA is a judicial board and once they make a decision, the Planning Board must base their decisions on the ZBA's criteria.

Chairman Bourque asked Dana Carlucci (in the audience) about the Zoning Board notification process. Mr. Carlucci said that he is not familiar with the notification process but suggested that the Applicant contact the Code Enforcement Officer. His understanding of the ZBA's decision was that §143-68 would provide the necessary guidance and did not recollect specifically restricting fertilizers.

With regard to the parking waiver, Mr. Burd said that the Applicant is asking for a waiver on the number of parking spaces that must be paved. The parking calculations are based on the greenhouse area, building, and outdoor display area. It is based on 1 parking space per 1,000 sq. ft. The calculation results in 24 parking spaces, which they have on site. Only during peak weekends would all 24 spaces be used, therefore, they would like to pave only 14 spaces.

Selectmen's Rep. Lewis was in favor of not paving the entire parking area. She advised the Applicant to show a parking layout of the gravel area to ensure that, during the busy season, no cars would be parked on Rt. 106. Mr. Burd said that there is a total of 33 parking spaces on site. Mr. Burd said that the Code Enforcement Officer would be sending a letter to the Board in favor of the waiver.

Ms. Mills said that they will be applying for a sign. Future plans are to add a message board portion to the sign when it is affordable. Chairman Bourque will check with the Code Enforcement Officer regarding the number of changes permitted on the message board within 24 hours.

Selectmen's Rep. Lewis asked that the Applicant provide the Board with information regarding screening along the tree line/storage units.

**MOTION:** Selectmen's Rep. Lewis moved to approve the waiver request to reduce the number of paved parking spaces from 24 spaces to 14 spaces. Seconded by Member Cruson

**VOTE:**            Robert B. – Y            Cindy L. – Y            Brian S. – Y  
                         Kevin K. – Y            Kathy C. – Y            Jeff W. – Y            Mark Z. – Y

**MOTION TO APPROVE THE WAIVER REQUEST TO REDUCE THE NUMBER OF PAVED PARKING SPACES FROM 24 SPACES TO 14 SPACES PASSED ON A 7-0 VOTE.**

**MOTION:** Alternative Member White moved to accept the major site plan as complete. Seconded by Chairman Bourque.

**VOTE:**            Robert B. – Y            Cindy L. – Y            Brian S. – Y            Mark Z. – Y  
                         Kevin K. – Y            Jeff W. – Y            Kathy C. – Abstained

**MOTION TO ACCEPT THE MAJOR SITE PLAN AS COMPLETE PASSED ON A 6-1 VOTE WITH 1 ABSTENTION.**

Chairman Bourque opened the public hearing at 9:05 p.m.

Ms. Mills said that she paid \$750 when she filed the application.

There being no further questions from the Board or the public, Chairman Bourque closed the public hearing at 9:07 p.m.

The consensus of the Board is that the case is not a Development of Regional Impact.

**MOTION:** Chairman Bourque moved to continued the application to the September 22, 2009 Planning Board meeting. Seconded by Member Zydel

**VOTE:**            Robert B. – Y            Cindy L. – Y            Brian S. – Y  
                         Kevin K. – Y            Kathy C. – Y            Jeff W. – Y            Mark Z. – Y

**MOTION TO CONTINUE THE APPLICATION TO THE SEPTEMBER 22, 2009 PLANNING BOARD MEETING PASSED ON A 7-0 VOTE.**

Chairman Bourque recessed the meeting at 9:09 p.m.

Chairman Bourque called the meeting to order at 9:14 p.m.

**11. Voluntary Merger. Fleury, et. al. Case #09-08.** Map 266, Lots 161 and 162 at 189 and 187 Buck Street, respectively. The owner, Laurence C. Fleury et. al., wants to merge both parcels into Map 266, Lot 161 at 189 Buck Street. *Hearing not required. Board to approve merger.*

Present: David R. Noyes, Land Surveyor

Mr. Noyes said that the merger would combine Lots 161 and 162 which would result in the disappearance of Lot 162.

**MOTION:** Selectmen's Rep. Lewis moved to approve the merger. Seconded by Member Zydel.

**VOTE:**            Robert B. – Y            Cindy L. – Y            Brian S. – Y  
                         Kevin K. – Y            Kathy C. – Y            Jeff W. – Y            Mark Z. – Y

**MOTION TO APPROVE THE MERGER PASSED ON A 7-0 VOTE.**

**12. Minor Subdivision Lot Line Adjustment. Young-Fleury et al. Case #09-07.** Map 266, Lots 160 and 161 at 193 and 189 Buck Street, respectively, in the Medium Density-Residential (R1) District, Aquifer Conservation (AC) Overlay District, and Floodplain Development (FP) District. The applicants, Michael and Lorraine Young and Lawrence C. Fleury et. al., respectively, propose a lot line adjustment between the two properties to increase Lot 160 to 1.63 acres and to decrease Lot 161 to 6.2+/- acres. *Application advertised as a public hearing.*

Mr. Noyes said that the iron rods were set yesterday (August 24, 2009) and the new plan reflects the change. He then reviewed the plans with the Board.

With regard to Interim Planner Stephanie Alexander's request for a notarized letter of authorization from all owners permitting the Applicant representative to represent them before the Board, Mr. Noyes said that he understood that the person in charge of the heirs of Lot 161 could sign but later discovered that all the heirs were required to sign. All the owners were present and have agreed to sign but a Notary was not available. Chairman Bourque said that the Board could grant a conditional approval.

With regard to the request to show the setbacks, Mr. Noyes said that the Registry of Deeds requires that no lines on the plan cross. He placed the existing setbacks at the closest corner of the boundary lines showing that they are within the setback requirements except in one place - on Lot 161 where the setback on the frontage does not meet 30 ft. This is a pre-existing condition. The plan is so crowded that it would be impossible to read if the lines were added.

With regard to the waivers for items H through X of the Status Report of Review and Comment Items, Mr. Noyes said that each of those items pertain to new lot subdivisions where there would be

utilities involved, not a lot line adjustment.

**MOTION:** Chairman Bourque moved to waive the following checklist items listed in the Status Report of Review and Comment Items for Applications at the August 25, 2009 Meeting: H – use, total area, buildable area; I – topography; M – surface water collection, erosion and sedimentation control; N – soils; O – soil test pits, etc.; P – blocks; Q – class of abutting roads; R – Easement descriptions and locations; S – open space descriptions and locations; T – phased development schedule; U – NH Heritage Inventory species disclosure; V – prime agricultural land disclosure; W – cluster development; X – other town & state approvals provided. The Motion was not seconded.

Chairman Bourque said that he would like to see underground utilities noted on the plan for future reference. Mr. Noyes said that he is a land surveyor, not an engineer. He shows only existing things. The plan is not an engineering plan, it is merely a boundary line plan. He has no knowledge of the utility locations. If any excavation in the area were to occur, they would be required to call Dig Safe anyway. Mr. Noyes stressed that utility dimensions and locations of shutoffs do not affect the existing buildings or the lot line adjustment. His plan will meet the Registry of Deeds requirements.

All the septic are located well within the existing lots.

**MOTION:** Member Zydel moved to waive the following checklist items listed in the Status Report of Review and Comment Items for Applications at the August 25, 2009 Meeting: H – use, total area, buildable area; I – topography; J – dimensions of streets, row, wetlands, floodplain, setbacks, treelines, etc.; K – utilities, water & sewer lines; L – water and sewer connections, locations; M – surface water collection, erosion and sedimentation control; N – soils; O – soil test pits, etc.; P – blocks; Q – class of abutting roads; R – Easement descriptions and locations; S – open space descriptions and locations; T – phased development schedule; U – NH Heritage Inventory species disclosure; V – prime agricultural land disclosure; W – cluster development; X – other town & state approvals provided. Seconded by Chairman Bourque.

<b>VOTE:</b>	Robert B. – N	Cindy L. – Y	Brian S. – Y	
	Kevin K. – Y	Kathy C. – Y	Jeff W. – Y	Mark Z. – Y

**MOTION TO WAIVE THE FOLLOWING CHECKLIST ITEMS LISTED IN THE STATUS REPORT OF REVIEW AND COMMENT ITEMS FOR APPLICATIONS AT THE AUGUST 25, 2009 MEETING: H – USE, TOTAL AREA, BUILDABLE AREA; I – TOPOGRAPHY; J – DIMENSIONS OF STREETS, ROW, WETLANDS, FLOODPLAIN, SETBACKS, TREELINES, ETC.; K – UTILITIES, WATER & SEWER LINES; L – WATER AND SEWER CONNECTIONS, LOCATIONS; M – SURFACE WATER COLLECTION, EROSION AND SEDIMENTATION CONTROL; N – SOILS; O – SOIL TEST PITS, ETC.; P – BLOCKS; Q – CLASS OF ABUTTING ROADS; R – EASEMENT DESCRIPTIONS AND LOCATIONS; S – OPEN SPACE DESCRIPTIONS AND**

**LOCATIONS; T – PHASED DEVELOPMENT SCHEDULE; U – NH HERITAGE INVENTORY SPECIES DISCLOSURE; V – PRIME AGRICULTURAL LAND DISCLOSURE; W – CLUSTER DEVELOPMENT; X – OTHER TOWN & STATE APPROVALS PROVIDED PASSED ON A 6-1 VOTE.**

Mr. Noyes said that all typographical errors and line crossings on the plan will be corrected.

**MOTION:** Chairman Bourque moved to approve the Minor Subdivision Lot Line Adjustment with the following conditions: (1) Provide signatures (and signature boxes) of all the owners on the plan; (2) Provide a notarized letter of authorization from all four owners permitting the applicant representative to represent them before the Board; (3) Format the plan for recording at the Merrimack County Registry of Deeds; (4) Add the mailing address of surveyors and the street addresses of Lots 160 and 161 to the title block, and the telephone number of the owners; (5) Locate and label the zoning setback dimensions on the plan and add the minimum lot requirements in the R1 district as a plan Note; (6) Add the street (travel) width of Buck Street; (7) Add the zoning district lines to the location map; (8) Correct the typographical errors of “lot” in large plan label for Lot 161 and “&” in Note 5; (9) Any cost associated with lot line changes affecting the tax map will be the responsibility of the Applicant; (10) Add a plan Note that the Board determined on 07/28/09 that a Special Use Permit was not required since there will be no impact to the aquifer because of this lot line adjustment, and that this project will abide by Zoning Ordinance 143-68 Aquifer Protection District for all activities on Lots 160 and 161; (11) Add a plan Note that all provisions of Zoning Ordinance 143-71 Shoreland Protection District will be followed in addition to the Comprehensive Shoreland Protection Act (CSPA) and that when there is a conflict, the more stringent of the provisions shall be followed; (12) Add true north to the magnetic north arrow; (13) Provide the location of the zoning district boundaries on the location map. Seconded by Member Zydel.

**VOTE:**            Robert B. – Y            Cindy L. – Y            Brian S. – Y  
                         Kevin K. – Y            Kathy C. – Y            Jeff W. – Y            Mark Z. – Y

**MOTION TO APPROVE THE MINOR SUBDIVISION LOT LINE ADJUSTMENT WITH THE FOLLOWING CONDITIONS: (1) PROVIDE SIGNATURES (AND SIGNATURE BOXES) OF ALL THE OWNERS ON THE PLAN; (2) PROVIDE A NOTARIZED LETTER OF AUTHORIZATION FROM ALL FOUR OWNERS PERMITTING THE APPLICANT REPRESENTATIVE TO REPRESENT THEM BEFORE THE BOARD; (3) FORMAT THE PLAN FOR RECORDING AT THE MERRIMACK COUNTY REGISTRY OF DEEDS; (4) ADD THE MAILING ADDRESS OF SURVEYORS AND THE STREET ADDRESSES OF LOTS 160 AND 161 TO THE TITLE BLOCK, AND THE TELEPHONE NUMBER OF THE OWNERS; (5) LOCATE AND LABEL THE ZONING SETBACK DIMENSIONS ON THE PLAN AND ADD THE MINIMUM LOT REQUIREMENTS IN THE R1 DISTRICT AS A PLAN NOTE; (6) ADD THE STREET (TRAVEL) WIDTH OF BUCK STREET; (7) ADD THE ZONING DISTRICT LINES TO THE LOCATION MAP; (8) CORRECT THE**

**TYPOGRAPHICAL ERRORS OF “LOT” IN LARGE PLAN LABEL FOR LOT 161 AND “&” IN NOTE 5; (9) ANY COST ASSOCIATED WITH LOT LINE CHANGES AFFECTING THE TAX MAP WILL BE THE RESPONSIBILITY OF THE APPLICANT; (10) ADD A PLAN NOTE THAT THE BOARD DETERMINED ON 07/28/09 THAT A SPECIAL USE PERMIT WAS NOT REQUIRED SINCE THERE WILL BE NO IMPACT TO THE AQUIFER BECAUSE OF THIS LOT LINE ADJUSTMENT, AND THAT THIS PROJECT WILL ABIDE BY ZONING ORDINANCE 143-68 AQUIFER PROTECTION DISTRICT FOR ALL ACTIVITIES ON LOTS 160 AND 161; (11) ADD A PLAN NOTE THAT ALL PROVISIONS OF ZONING ORDINANCE 143-71 SHORELAND PROTECTION DISTRICT WILL BE FOLLOWED IN ADDITION TO THE COMPREHENSIVE SHORELAND PROTECTION ACT (CSPA) AND THAT WHEN THERE IS A CONFLICT, THE MORE STRINGENT OF THE PROVISIONS SHALL BE FOLLOWED; (12) ADD TRUE NORTH TO THE MAGNETIC NORTH ARROW; (13) PROVIDE THE LOCATION OF THE ZONING DISTRICT BOUNDARIES ON THE LOCATION MAP PASSED ON A 7-0 VOTE.**

**13. SE Slark Custom Interiors Minor Site Plan.** *Board and applicant to discuss whether the existing carpet business’s changes warrant a change of use or expansion of use. Use type for the property assessment is listed as warehouse/service.*

Present: Sid Slark, owner of SE Slark Custom Interiors and Dana Carlucci, building owner.

Mr. Slark said he placed a small plastic “sandwich” sign in front of his building at 35 Pleasant Street for advertising which resulted in the Building Inspector asking that he appear before the Planning Board. His business has been at the same location for approximately 17 years. He sells to both contractors and the public. He is not changing his business in any way. Since business has slowed down, the intent of the sign was to capture new business. He gave the Board a diagram of the area. He is renting a room in the rear of the building to increase his showroom area and create a better presentation area for his samples which, at the present time, share a small space also used as an office. His intent is to periodically place the small sign in front of the building when he is at the property to let the public know that they can stop by and purchase flooring.

Chairman Bourque said that his note from the Code Enforcement Officer states that there has been 5 ZBA cases from 1974 to 1981. Each time the use changed for the business, they came before the ZBA for a Special Exception which one of the decisions stated retail use. The last decision was to warehouse, display and distribute logging supplies, general office, and possible addition of warehouse space.

The “Use Type” on the property assessment card lists the property as “warehouse/service.” Chairman Bourque noted that Mr. Slark seems to be changing the use to retail sales.

Mr. Carlucci said that the tax cards do not always reflect the specific uses of a property. For example, 40 Sheep Davis Road is listed as shop service and may not reflect the other uses on that property. He spoke with Mr. Hodge today who checked with Elaine Wesson in the Planning Department and Ms. Wesson said that the tax card reflects a general description of one of the uses on the property and that the uses change. Mr. Carlucci stressed that the tax cards are not meant to note the specific use of the building but one of the general uses of the building.

Mr. Carlucci said that he does not know about the Special Exceptions that were applied for prior to his purchasing the building in 1981. Since his ownership, it has had many uses such as screen printing, carpentry/workshop, sale of wood supplies, flooring installation and sales, and masonry. The businesses have always been exposed to the public and the Town. Mr. Slark's former partner, Robert Daneault, also sold flooring out of the building and performed contract work.

Member Cruson stated that she has no interest in making it difficult for people who have businesses in Town to keep up with describing their businesses within Town Hall or anywhere else. Since Mr. Slark's business has been at the same location for a long period of time, and the building has been used for the same types of businesses for many years, she did not feel that a Change of Use was justified. She said that doing this to people in Town will only make it difficult for the business owners and become an aggravation to them. If the change of use changes the needs in terms of services or infrastructure, then it should come before the Board. Members Zydell and White agreed.

Selectmen's Rep. Lewis said that she was aware that Mr. Slark's operation is very small but the Board's concern would be if the business became larger and parking became an issue.

Mr. Slark said that the sign did not indicate business hours.

**MOTION:** Member Cruson moved that the Board not ask SE Slark Custom Interiors to request a Change of Use Permit or Expansion of Use Permit. Seconded by Member Seaworth.

When asked by Chairman Bourque if his business was only a wholesale business, Mr. Slark said that he always sold to people who would stop and want to purchase flooring. He said it was never through advertising – only word-of-mouth. People would usually stop on their way to the dump to purchase flooring or look at samples. Mr. Slark said that his walk-in business has never been on a large scale (continuous traffic), but he has always sold to the public onsite and offsite. He said that he is merely trying to adjust to the market place by periodically placing a small portable sign in front of the building when he is there.

Selectmen's Rep. Lewis said that she is aware of the small amount of business that he is performing and does not feel that it is an issue but, should he begin to have a large number of people coming in every day, he would have to come before the Board so that parking could be evaluated.

**VOTE:**            Robert B. – Y            Cindy L. – Y            Brian S. – Y  
                         Kevin K. – Y            Kathy C. – Y            Jeff W. – Y            Mark Z. – Y

**MOTION TO NOT ASK SE SLARK CUSTOM INTERIORS TO REQUEST A CHANGE OF USE PERMIT OR EXPANSION OF USE PERMIT PASSED ON A 7-0 VOTE.**

**MOTION:** Chairman Bourque moved to waive any other items on the agenda until the September meeting and to adjourn. Seconded by Member Cruson. Unanimously approved.

The meeting adjourned at 9:58 p.m.

Respectfully submitted,  
Jocelyn D. Carlucci, Recording Secretary