

**PUBLIC HEARING AND BUSINESS MEETING
FINAL**

- A. CALL TO ORDER:** C. Brown called the meeting to order at 7:00 p.m.
- B. ROLL CALL:** C. Brown, Chairman; L. Smith, Vice Chairman; A. Tonry, B. Mutrie, R. McDermott, J. Shaw, Members; S. Hanson, Selectmen's Representative; M. Garavaglia, R. Spoerry, Alternate Members; L. Ruest, Administrative Assistant; D. Smith, Circuit Rider Planner; K. Kelley, Building Inspector

C. PUBLIC HEARINGS

1. **Case # 08-03-01:** Application by **James Rogers** for a **Scenic Road Alteration Permit** to re-model an existing stone wall and pillars on property located at 124 Drinkwater Road (Map 4, Lot 5-3)

James Rogers was present. C. Brown stated that this hearing is continued from last month as no one was present. J. Rogers apologized for his absence as well as not being aware of the laws of the town.

J. Rogers reported that the stone wall that runs across the front of his property has been falling down more and more. Attempts have been made to repair. J. Rogers spoke with Mr. Morgado who indicated he could reconstruct the wall. Construction was started before the knowledge of a need for a Scenic Road Alteration Permit. The wall is currently dismantled awaiting answer to the request for permit. Photographs of the current status of the wall as well as the look of the proposed wall were reviewed by Board members.

C. Brown stated that this wall is a boundary wall and stated concern that the boundary line remains as identified by deed. J. Rogers stated they newly constructed wall will be placed in the same location as the original wall, running along the same line as neighboring stone walls.

A. Tonry inquired as to whether the wall will be constructed on both sides of the driveway and whether the walls will abut the neighboring stone walls. J. Rogers stated that the wall will be constructed on both sides, but that there is a slight break in one area. In response to A. Tonry, J. Rogers stated that he has not measured from the center of the road and restated that the wall is to be reconstructed in the same location as the original wall. B. Mutrie inquired as to the percentages of existing stone versus new stone that will be used and asked that the original stones be used in the front of the wall to retain the current look. J. Rogers stated it is planned to use all of the existing/old stone and approximately 10 or 15 percent new.

Discussion took place with regard to the resulting height of the new wall. It was determined that the new wall will be 3.5 feet tall with pillars of 5 feet at the driveway entrance; no higher than the neighboring walls. The Board disapproved of the lights on the pillars and J. Rogers agreed to not include them. Board members expressed their concern that the stone wall continue to retain its look of an old style country stone wall and requested the applicant not change the character of the look. R. McDermott asked whether the wall could be repaired to retain the wall as is without

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mortar. J. Rogers reported that run-off from the road causes erosion which causes problems. R. McDermott suggested a drain be considered to address this problem and expressed discontent with the commercial look of the new wall.

C. Brown opened discussion to abutters. No comments were heard. Member of the public J. McInnis stated that a wall has been constructed in the Town of Kensington, built of field stone, which meets the sentiment of the Board. No further comments were heard. C. Brown closed the public hearing.

MOTION: To approve the applicant's request for Scenic Road Alteration Permit for property located at 124 Drinkwater Road, Map 4, Lot 5-3, subject to the following conditions:

1. That no trees are removed.
2. That those stones removed be used to upgrade or add to the remainder of the existing stone wall or other stone wall on the property.
3. That the wall be no taller than 3.5 feet above grade, or comparable to neighboring walls, with columns no more than 18" higher than the wall.

MOTION: L. SMITH
SECOND: S. HANSON
5 IN FAVOR, 2 OPPOSED, PASSES

2. **Case # 08-04-01:** Application by **John P. McInnis** for a **Wetlands Special Use Permit** to build a 400'(+/-) driveway to access a proposed single family dwelling on property located on Kensington Road (Map 1, Lot 52-1)

John McInnis and Henry Boyd of Millenium Engineering were present. L. Smith stepped down from the Board due to a conflict with a past relationship on this property with regard to his membership on the Conservation Commission. A. Tonry stepped down as her mother is an abutter. J. Shaw stepped down as he was a previous owner of the abutting property and was also involved in the Conservation Commission matter. M. Garavaglia was designated a voting member in A. Tonry's seat and R. Spoerry in J. Shaw's seat. Six voting Planning Board members remained.

H. Boyd presented the plan to allow the construction of a new 400 +/- foot long, 14 foot wide, driveway to access one new proposed home on this 66 acre lot. He noted that the State wetland permit, septic permit, dredge and fill permit and Department of Transportation permit have all been obtained. The final permit to be obtained is a Wetland Special Use Permit from the Town of Hampton Falls.

Referring to the plan, H. Boyd identified the existing conditions with the proposed house location, driveway, septic system and well radius shown. Discussion of the well radius and well head location took place. It was determined that the well head is too close to the wetland buffer line. H. Boyd will move the well head location by 25 feet, thus reducing the well radius to the required 75 feet, in order to keep sludge and equipment from disturbing the wetland buffer area.

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H. Boyd identified the impact area totaling 9,349 square feet; this includes the area impacted by activity but not actually being filled. C. Brown noted that the turnaround area for the driveway at the house location is within the wetland buffer. H. Boyd will re-draw this so that it is out of the buffer. Discussion of what the driveway is to be constructed of took place. Board members noted their desire for the surface to remain pervious. J. McInnis stated that, in speaking with one abutter, there is a request to keep dust down and paving has been requested. Other alternatives to paving were discussed at this time. K. Ayers, Chair of the Conservation Commission, requested that the surface remain pervious given the number of crossings requested. She also stated that this project may now require State review with respect to Prime Wetlands. H. Boyd stated he spoke with Mark West with regard to Prime Wetlands and learned that the parcel is not within the Prime Wetland boundary and that information was provided to the State in conjunction with the request for State approval that has been granted.

In response to S. Hanson, H. Boyd reported that this parcel is a lot of record. Of the 66 acres, 59.5 are located in Hampton Falls. C. Brown noted that the parcel has been test pitted and proven to be buildable.

Discussion was opened to abutters. Richard Foley, 219 Kensington Road, stated that this driveway will go along the side of his property and that he is concerned with the dust impact to his screen porch and pool. He requested efforts be made to reduce the amount of dust that will potentially be generated. Paul Melanson, 217 Kensington Road, inquired as to the impact of the wetland filling and its impact to backing up water to his property. H. Boyd reported that the culverts have been sized to equalize the flow of water so that there is no cause to restrictions up stream. The driveway is 3.5 feet above natural ground at its highest point and includes a slope to limit the impact to wetland.

Discussion was opened to members of the public. J. Shaw stated concern with the amount of runoff and provided history of water problems in this area in the past. He stated he felt any interruption would have an affect with regard to water problems. H. Boyd stated that, if acceptable, the applicant could place infiltration units to reduce the runoff from the roof and place pervious pavers. Discussion of the options for pervious surface took place at this time. Hearing no further comments, C. Brown closed the public hearing.

C. Brown reviewed the criteria for Special Use Permit in conjunction with the engineer's findings as follows:

8.5 *Special Use Permits for Wetlands Conservation District*

8.5.1 *A special use permit may be granted by the Planning Board for the construction of roads and other access ways, pipelines, power lines, and other transmission lines within the District, provided that **all** of the following conditions are found to exist:*

8.5.1.1 To make a finding that the proposed construction is essential to the productive use of land not within the wetlands. *Supporting/non-supporting comments: The*

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applicant cannot reach the upland portion of his land from the road except in this location and by this driveway.

VOTE: To accept the findings for 8.5.1.1. MOTION: R. McDermott, SECOND: S. Hanson, UNANIMOUS

- 8.5.1.2 To make a finding that the design and construction methods will be such as to minimize detrimental impact upon the wetland and will include restoration of the site as nearly as possible to its original grade and condition; *Supporting/non-supporting comments: The construction of the driveway must be in accordance with the permit issued by the NHDES Wetlands Bureau. The Permit is explicit with regard to these concerns and addresses them accordingly. The Wetland permit plans also offer guidance and instruction to the builder of the driveway that mirror the concerns of 8.5.1.2. There is no other point to cross; this is the shortest point.*

VOTE: To accept the findings for 8.5.1.2. MOTION: R. McDermott, SECOND: B. Mutrie, UNANIMOUS

- 8.5.1.3 To make a finding that no alternative route which does not cross a wetland or has less detrimental impact on the wetland is feasible; and *Supporting/non-supporting comments: The driveway's location as shown on the plan is as determined by the NHDOT and designed in accordance with the requirements of the NHDES Wetlands Bureau as having the least impact possible to the wetland. The applicant is not proposing subdivision. This 66 acre lot is for one house with driveway to make use of a buildable lot.*

VOTE: To accept the findings for 8.5.1.3. MOTION: R. McDermott, SECOND: R. Spoerry, UNANIMOUS

- 8.5.1.4 To make a finding that economic advantage alone is not reason for the proposed construction.

Supporting/non-supporting comments: The reason for the construction is so the applicant can build a new home for him and his wife.

VOTE: To accept the findings for 8.5.1.4. MOTION: R. McDermott, SECOND: M. Garavaglia, UNANIMOUS

It was suggested to obtain a copy of M. West's findings with regard to the issue of Prime Wetlands as a condition of approval. M. Garavaglia reported with regard to the Conservation Commission's site walk and its recommendation not to exceed 10,000 square feet of wetland fill area. D. Smith recommended this plan be reviewed by an engineer on behalf of the Board.

MOTION: To accept the application as complete.

MOTION: R. MCDERMOTT
SECOND: B. MUTRIE
UNANIMOUS

MOTION: To approve the applicant's request for Wetland Special Use Permit relating to Map 1, Lot 52-1, in accordance with the plan by Millenium Engineering, dated

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10/22/06, revised to 2/28/08, for property located on Kensington Road subject to the following conditions:

1. That the mylar be recorded at the Rockingham County Registry of Deeds.
2. That any and all fees due the Town of Hampton Falls be paid,
3. That the posting of a bond, as approved by the Town Engineer, be filed with the Board of Selectmen.
4. That approval of the findings to Section 8.5 is made.
5. That pervious surfaces (such as paver block or porous pavers that will minimize dust) for the driveway construction be used and that installation be supervised by the Town Engineer.
6. That the turn around area by the garage be moved outside the wetland buffer boundary.
7. That no portion of this project impact the Prime Wetland area.
8. That the wetland impact areas not exceed a total of 9,349 square feet.
9. That infiltration units be utilized for run-off from the roof.
10. That the Town Engineer review the plan (drainage).
11. That the well head be moved 25' so as to allow equipment to install without going into the buffer (keeping equipment away from all wetland boundaries).
12. That engineer review funds be posted with the Administrative Assistant prior to sending to the engineer for review.
13. That a wetland soil scientist stamp be placed on the final mylar.
14. That a copy of M. West's findings with regard to the issue of Prime Wetlands be obtained.

**MOTION: S. HANSON
SECOND: R. MCDERMOTT
UNANIMOUS**

A. Tonry, L. Smith and J. Shaw resumed their seats on the Board.

3. **Case # 08-04-02:** Application by **Maria Elias** for a Final Public Hearing for **Site Plan Review** to construct a 1,344 square foot fish marketplace on property located at 115 Lafayette Road (Map 8, Lot 60-1)

Wayne Morrill of Jones and Beach Engineers was present on behalf of the applicant. A letter of authorization is part of the file. R. McDermott stepped down as an abutter. R. Spoerry was designated a voting member in his place. C. Brown acknowledged for the record that L. Ruest is also an abutter and asked whether anyone had objection to her taking minutes. No objections were heard. W. Morrill reviewed the history of this parcel, its prior Planning Board approvals and the proposal for a fish marketplace. He stated that the parcel is 10.14 acres in total. The rear portion of this parcel includes 9.1 acres and is under conservation easement with the Rockingham County Land Trust. The one acre at the front is the usable portion.

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The applicant is proposing to construct a 1,344 square foot building with a paved parking area as well as a gravel parking area. A Department of Transportation driveway permit and subsurface permit were granted as part of the previous approval and have been reapplied for with regard to this project. W. Morrill reported that there is no change to anything on the plan other than the proposed use. The parking, septic, driveway access, curb cut, grading, landscaping and lighting remain the same. A grease trap has been added to the septic plan. The well location and radius as noted on the plan serves this parcel only. It is deed restricted with an easement done in 2002. W. Morrill requested a waiver to the requirement of engineering review as there is no change to the plans at this time.

L. Smith inquired as to the proposed lighting and requested that lighting be down-shielded so as to limit light pollution. W. Morrill reviewed the proposed lighting for the site. It was noted that the hours of operation need to be addressed as they still reflect those approved with the prior approval for a different use. At this time, the Board discussed the proposed use as presented by this application. It was noticed that in addition to selling seafood as indicated in the application, it is planned to have a 40-seat sit down restaurant with take out service as well. W. Morrill confirmed this is the proposal. C. Brown stated that the conditions of approval for the previously approved use need to go away and be replaced with conditions relating to this proposal. Board members also felt that full site plan review is needed for this proposal as the prior approvals have lapsed. Concern was raised with the fact that the application only represented a fish marketplace and does not describe retail sales of seafood as well as a restaurant/take out use. It was agreed that full site plan review is needed. C. Brown indicated that in fairness to all, this application should be re-noticed to allow for proper understanding of what is being presented to the Board. Board members did not interpret "fish marketplace" as a restaurant and it was felt that the application was not posted correctly. W. Morrill referred the Board to Sheet C2 where it addresses a proposed 40 seat restaurant. D. Smith added that the conservation easement holder is required to be noticed as well.

MOTION: To continue this application to the May 27 meeting to allow for proper posting to reflect both a seafood market and seafood restaurant.

MOTION: L. SMITH
SECOND: B. MUTRIE
UNANIMOUS

R. McDermott resumed his seat on the Board.

4. **Case # 08-04-03:** Application by **Hampton Falls Business Commons** for a Final Public Hearing for **Site Plan Review** to confirm existing uses and structures as built on property located at 97 Lafayette Road (Map 8 Lot 64)

Owners Don Rozzella and Laurance Anderson, Sr. and Henry Boyd of Millenium Engineering were present. H. Boyd referred to a plan showing existing conditions of this property using information from an as-built plan dated 11/1987 and recorded as D-17401 on December 14, 1987 (without signature of the Planning Board). He identified differences from the as-built to what is

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present today noting an added entrance location and storage trailers. He also noted that no wetland delineation has been done and asked whether the Board would like one done. He added that sideline setbacks are not shown but that he could do so by way of a second sheet to the plan. One storage trailer falls within the rear setback and will need to be moved should the Board determine to allow the trailers to remain. C. Brown asked why the trailers are needed if they were not part of the original plan. L. Anderson, Sr. stated he can have the trailers moved out and that the Board should consider them gone. C. Brown noted that should the trailers stay, this would become an amended plan that would need to be brought to today's standards.

L. Smith asked whether the detention pond was used for the recent fire at this location. Fire Chief J. Lord stated it was not as it was discovered that the pond does not hold water. He stated that the way in which it was designed is more of a retention pond. He added that the dry hydrant is not designed correctly and suggested it be cut off. He confirmed that a fire truck can drive around the buildings.

C. Brown inquired as to the required number of parking spaces. It was determined that the proper number is available; however, some are not striped. H. Boyd stated he would work out the parking requirements for the best placement and show required striping. J. Lord stated that as long as he has access around the building parking layout does not matter to him. C. Brown asked H. Boyd to work with the Building Inspector and Fire Chief with regard to the best placement locations of parking spaces to include the number and type of spaces needed for the restaurant use. H. Boyd suggested relocating the two dumpsters to allow for better placement of parking spaces.

A. Tonry asked whether bollards are required around the propane tanks where chain link fencing is at present. K. Kelley stated he felt the fencing is sufficient to slow down a vehicle, but that he and the Fire Chief will review this matter as well. L. Smith requested that all lighting be down-shielded in order to prevent light pollution. He was assured all are directed down at present.

K. Kelley stated that one tenant has applied to conduct State inspections of motorcycles from one of the units (Unit 2). This is intensification over what is there now, sales and repairs, and should be part of the Board's approval. The Board approved this slight intensification. K. Kelley also informed the Board of concern with outside storage displays and signage (specifically the signs on the building(s) and A-frame style signs along the front) and requested these be addressed as part of approval. Discussion of the requirements for signage as part of the condo documents took place. It was determined that the Association is not reviewing signage before the Town but that the bylaws require a certain size with one permitted per business. K. Kelley inquired as to the signs on windows, doors and A-frames. D. Rozzella stated that interior signs are not governed and stated that the Building Inspector has the right to tell a business owner that signs need to be removed. J. Shaw noted that these do not conform to the town sign ordinance. R. McDermott requested that the Association address the problem as well. J. Shaw asked whether the condo documents address outside storage, overnight parking or other restrictions. The applicant indicated that there is a restriction to overnight parking of lettered/advertising vehicles.

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J. Shaw requested that these restrictions be part of the site plan rather than just the condo documents.

Discussion was opened to abutters. No comments or questions were heard. C. Brown closed the public hearing. D. Smith referred the Board to Comment #3 of his review memo with regard to non-conformance. The applicant was reminded that a structure damaged by fire is allowed to be reconstructed within one year in accordance with Section 6.4. C. Brown suggested repairs be done as soon as possible.

MOTION: To accept the application as complete.

MOTION: L. SMITH
SECOND: R. MCDERMOTT
UNANIMOUS

MOTION: To approve the applicant's request for site plan to confirm existing uses and structures as built on property located at 97 Lafayette Road (Map 8 Lot 64) subject to the following **conditions:**

1. That any and all fees due the Town of Hampton Falls and its consultants be paid before the mylar is signed and recorded.
2. That the hours of operation be 7 a.m. - 10 p.m., Monday through Sunday.
3. That the building height and sightless objects (pipes, stacks, air conditioners, etc) not exceed 35 feet.
4. That a note reading "No additional use or change of use shall be permitted unless approved by the Planning Board." be added to the final plan.
5. That approval is for a multi-business mall.
6. That no changes to the approved plan(s) can be made without appearing before the Planning Board.
7. That all outdoor lighting be down shielded.
8. That storage trailers be removed.
9. That the dry hydrant be removed and capped.
10. That the 14 parking spaces be located with the approval of the Fire Chief and Building Inspector and be striped.
11. That dumpsters be moved and located in front of the drainage pond.
12. That the detention pond be reworked to eliminate ponding.
13. That the Fire Chief and Building Inspector determine if bollards are required around the propane tanks.

MOTION: L. SMITH
SECOND: A. TONRY
UNANIMOUS

5. **Case # 08-04-04:** Application by **Newbury North Development** for a Final Public Hearing for a Five (5) lot **Subdivision** (Four (4) lots on Nason Road and One (1) lot on

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Kensington Road). Two of the proposed lots will require a **Scenic Road Permit** to allow relocating a total of 40 feet of existing stone wall to facilitate construction of two driveways. (Map 1 Lot 53 & 53A, and Map 4 Lot 5-1)

6. **Case # 08-04-05:** Application by **Newbury North Development** for a Final Public Hearing for a Thirteen (13) lot **Subdivision**. A **Wetlands Special Use Permit** is required for 23,929 square feet of 100 foot wetland buffer impact to facilitate 2,300 feet of road construction located on property at 203 Kensington Road (Map 1 Lot 53)

C. Brown called the above two applications together. J. Shaw stepped down and M. Garavaglia was designated a voting member. H. Boyd of Millenium Engineering informed the Board that his firm has been hired to conduct a peer review with regard to this project. Mark Johnson introduced himself as attorney for Newbury North Development. He also introduced the representatives of Newbury North Development as Joe Falzone and Joe Calatona. Engineer Christian Smith of Beals Associates, Bill Doucet of Doucet Survey, Larry Morse and Jamie Long of NH Soil Consultants and Sergio Panella and Leslie Carey, Assistant to Attorney Johnson, were present.

Attorney Johnson stated the applicant is looking for the Board to accept jurisdiction tonight and send the plan for review to the Town engineer before the next meeting. C. Brown stated that the applications would not be accepted tonight and listed the following concerns and requests.

1. It is requested that the subdivision of the entire parcel be presented on one plan (development in two phases is acceptable).
2. With reference to the plan set for the first phase, it is requested that all well heads be checked and verified so that they do not fall on the wetland buffer boundaries for lots 1, 2, and 3. C. Smith noted that the scale in which they are presented represents 15' in diameter. C. Brown asked that enough room be provided to ensure equipment can access the area without disturbing any wetland buffer. C. Smith added that erosion controls can also be set up to keep the work area out of the wetland buffer.
3. The well head on Lot 5 that is to be removed should be labeled accordingly.
4. With regard to Phase II, the same concern with wells applies to Lots 8, 9, 10, 11 and 13. C. Brown emphasized the need of the Board to be convinced the well heads are outside the wetland buffer area; 15 to 25 feet away from the buffer line would be appreciated.
5. Lot 10 shows two test pits outside of the 5,000 square foot reserve area.
6. Detention ponds and level spreaders and lot acreages should be shown on Sheet 5 of 13.
7. Concern was identified with the request for Wetland Special Use Permit as it is felt that the site can be developed without building a road in the wetland buffer. It was suggested that the land could be better used added to other lots.
8. A portion of the 5,000 square foot reserve area on Lot 13 falls within the sideline setback.
9. The well radius on Lot 15 falls over the property line.
10. It is requested that the deceleration lane be shown on Sheet 5 of 13.

C. Smith requested copies of Circuit Rider Planner D. Smith's review memos. A. Tonry stated it is sad to see this property subdivided. She noted that road names fall within the jurisdiction of

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the Board of Selectmen and inquired as to the location where the barn is proposed to be moved. It was indicated that the barn will be removed from town. Board members expressed their discontent with doing so. B. Mutrie requested that the barn be documented before anything happens to it.

MOTION: To continue this hearing to the Board's May 27 meeting.

MOTION: L. SMITH
SECOND: R. MCDERMOTT
UNANIMOUS

C. Brown informed abutters present that no further notification will be forthcoming and that this application will continue month to month. She reminded Board members to bring documentation forward to each meeting. J. Shaw resumed his seat on the Board. D. Smith noted that this project is ideal for a conservation subdivision and recommended discussion by the Board in this regard.

D. REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES

L. Smith requested a revision to page two as follows:

- NH Wood Biomass Heating Project (With reference to this subject, L. Smith stated that wood boilers might increase in popularity as the cost of fuel increases. He noted that these can be somewhat polluting *and that there are low polluting wood boilers available* and suggested that the Town put something in place to address a requirement of reducing or limiting pollution. C. Brown stated she was aware of something concerning this matter being addressed at the state level and asked the Ordinance and Regulations Review Committee to review this when time allows.

MOTION: To approve the minutes of the March meeting as amended.

MOTION: R. MCDERMOTT
SECOND: L. SMITH
UNANIMOUS

E. OTHER BUSINESS

1. Committee Reports

Road Committee – 4/8/08: L. Smith referred the Board to the discussion regarding lighting. It is request that the Planning Board have a policy that all outdoor lighting be down-shielded. It was suggested that site plan review regulations be amended under the section entitled "Illumination." D. Smith will bring a proposal to the full Board in May. Concern was expressed

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with the limited warranty for the cistern at Hardy Lane. This will be reviewed with the Fire Chief at an upcoming Road Committee meeting.

Ordinance and Regulations Review Committee minutes of 4/3/08 and Conservation Commission minutes of 4/10/08 were provided to the Board.

2. IZIP Grant: C. Brown acknowledged the work done by M. Garavaglia with regard to drafting support for this application. This matter will be on the Selectmen's agenda for May 7. C. Brown plans to attend to request a letter of support from the Selectmen. It is anticipated to have this grant application in the mail in advance of the May 15 deadline. It was suggested to include a copy of the Planning Board minutes where support was documented.

3. Planning Board Goals 08/09: C. Brown reviewed the following goals with the Board.

1. To review thoroughly, prior to each meeting, all material received for that meeting in order to be prepared to address agenda items.
2. To review and become knowledgeable about the contents of the updated Master Plan.
3. To present the CIP recommendations and report in November so that an accepted CIP report with recommendations can be forwarded to the selectmen in December.
4. To refine/expand the Elderly/Multi-Family Housing Ordinance in order to provide more viable and sustainable workforce housing.
5. To complete the process of bringing any ordinances/amendments that are to go onto the Town Warrant to a public hearing by November.

F. COMMUNICATIONS TO BOARD MEMBERS

- Planning Board and ZBA Decision Letters – Case #08-01-01 – Maureen Carey
- Form for use of applicants when requesting waivers to regulations. This form will be added to the Planning Board application packet.

G. ADJOURNMENT

MOTION: To adjourn the meeting at 10:45 p.m.

MOTION: L. SMITH
SECOND: R. MCDERMOTT
UNANIMOUS