

PRESENT: Mack, Chairman; Hawkins; Dever, Haley; Pelczar; Edney, Code Enforcement Officer; Tivnan, Clerk

Haley moved, Dever seconded, THAT WE APPROVE THE MINUTES OF OCTOBER 13, 2005 AND OCTOBER 27, 2005, AS PRESENTED.

PUBLIC HEARING

2684: MICHAEL CASEY FOR CASEY, CASEY, HOFFMAN DBA/ POLLARD SHORES ASSOCIATES: An appeal for a VARIANCE to construct a storage building with a 28' 5" rear setback, 30' required, Tax Map No. U4, Lot No. 16, located at Pollard Shores Road in the Shoreline District. CONTINUED FROM OCTOBER 13, 2005.

John Mack stepped down. Fred Hawkins acting Chairman. Jan Joslin sat in.

Casey – We are asking for a variance for an existing storage building that's located off of Pollard Shores Road. The building was built with the front corner only 28'5" back from the 30' setback line. This was an error on our part. The forms got moved forward. This was not discovered till after the building was built. We have a 30' pine that was marked by the surveyor at the request of the Planning Board. It is now 7' from the building. There is some root structure above ground. Without the variance the alternative would be to move the building. We looked at two aspects for moving the building. One is that vegetation will be destroyed. The price we got for having the building moved would be \$8500.00 that does not include the pouring of the slab. That would be about \$700. So the total cost would be \$9200.00 to move it back 20". Because of the disturbance, we feel the town is better off if we don't have to do clearing or excavation close to the tree. This could kill the tree. We also looked at cutting 20" off of the building and that would cost about \$5800.00. This does not include electrical work, which would be about \$300.00 and another \$500.00 for the removal of demolition material, with a total of about \$6,480.00. Dever – When you first discovered the foundation was moved, did you come to the Town and say that you had an issue? Casey – We discovered this after the as-built plan was done. Thought we were in the 30'. Dever – You didn't answer my question? The site plan said it had to go there, so you moved it. Casey – It was always meant to be in that location, it was just meant to be 31' back from the road. Dever – Somewhere in the process, it got moved. Casey – It did. I think when the forms guy was doing the slab; he was trying to square it off. Not realizing we had this close proximity that we had to adhere to. We didn't intend to have this happen. Dever – So your surveyor didn't set the pins for the footing? Casey – No, he did not. That was a mistake on our part. Dever – I am looking at your application and it says " however, in digging up the area for the concrete slab it was discovered the roots of this large pine were running above ground level and it would be damaged by the construction activity. The building

placement was pushed slightly forward to save the tree. Casey- I'm talking inches. Dever – It was moved beyond what was approved by the Planning Board. Casey - Yes it was, but within the location of the site. Dever – When you got ready to build that building, you had been in front of the Planning Board a number of times. Casey – Correct. Dever - You knew how interested they were on everything that was happening on that property. Casey – Yes, the Planning Board wanted us to save the pine tree. Dever – You didn't think you needed to come back to the Planning Board and say we had an issue? Casey - No, we thought we had it covered. Dever - If you had, we wouldn't be here tonight. Casey – We didn't have pins. Dever – You had a surveyor set the pins for all the cottages, right? Casey – Yes, because we wanted to make sure we were 65' back, we didn't want any problems with the lake setback. Dever – But you didn't feel it was necessary for the shed? Casey – We thought we were in the location. Dever - What would be the problem with reducing the building, besides the cost? Casey – The storage building has three overhead garage doors and the shrinking of the building would impact that and this is storage for rental units, so loss of space is an issue. Dever – So all of those units are rental units, there is no permanent occupancy of any of those units? Casey - These are all rental units. Hearing closed at 7:20PM

2709: NORMANDIN, CHENEY & O' NEIL, PLLC FOR LAKE WICWAS ASSOCIATION, INC.: An appeal of an ADMINISTRATIVE DECISION of the Code Enforcement Officer to issue a Building Permit with conditions to Henmor Development, LLC, Tax Map R10, Lot No. 22, located on Bryant Island in the Shoreline District. CONTINUED FROM OCTOBER 13, 2005.

2710: BROOKS BANKER FOR MARY ANN MORSE: An appeal of an ADMINISTRATIVE DECISION of the Code Enforcement Officer to issue a Building Permit with conditions to Henmor Development, LLC, Tax Map R10, Lot No. 22, located on Bryant Island in the Shoreline District. CONTINUED FROM OCTOBER 13, 2005.

2712: DEAN DEXTER: An appeal of an ADMINISTRATIVE DECISION of the Code Enforcement Officer to issue a Building Permit with conditions to Henmor Development, LLC, Tax Map R10, Lot No. 22, located on Bryant Island in the Shoreline District.

John Mack returned to the Board.

Mack – As discussed at the last hearing, we will listen to all three arguments at the same time and will make judgments on each one. The presentations are continued on just jurisdiction of the Board. This is what will be accepted tonight. Kennedy – At the last hearing the Board heard our appeal of the Building Inspector's decision based upon it's belief that it didn't have jurisdiction to hear

the appeal because there was nothing in the Meredith Zoning Ordinance that allowed it to interpret RSA 674:41, which is the access way requirement for all lots in the State of New Hampshire. Article 3, Section I, titled "Access ways" in the Meredith Zoning Ordinance states "accessways shall be adequate and safe for intended use". At that hearing I argued to the Board that this issue is less restrictive than RSA 674:41 and therefore RSA674:41 supersedes this provision. Therefore, the Board has the jurisdictional authority to interpret RSA 674:41. Following that argument, I sent a memorandum to the Board. In that argument, I pointed to Article VIII which defines "Lot" and in that definition the Zoning Ordinance provides that "such lots shall have frontage on an improved public street or an improved private street" This is an example of the Meredith Zoning Ordinance being less restrictive than RSA 674:41, thereby giving the Board jurisdiction to interpret what that statute says. In the first memorandum that I provided to the Board, Section III, it says, "this section shall supersede any less stringent local ordinance, code or regulation and no existing lot or tract of land shall be exempted from the provisions of this section except in accordance with the procedures expressly set forth in this section". Lake Wicwas Association argues that this Board has jurisdiction to interpret RSA674: 41. I was at a hearing at the Zoning Board in which the Board said on the record that it has jurisdictional authority to hear denials based on RSA 674:41 but not the jurisdictional authority to hear the challenge of an approval of a building permit. Based upon that presentation, we state that the ZBA has the jurisdictional authority to interpret RSA 674:41 and to do exactly what it says to do before any lot is granted a building permit. There is nothing in the Meredith Zoning Ordinance that grants the Building Inspector the authority to grant a conditional permit or otherwise to build on an island lot, that does not on its face meet the requirements of the statute. Mack – The Zoning Ordinance, not the RSA's. Kennedy – The Zoning Ordinance needs to comply with State Law. Banker – In support of my contention that the ZBA has jurisdiction, I refer to Vachon v. New Durham. Your law partner, Walter L. Mitchell, argued that the ZBA was entitled. Mr. Mitchell argued to the Superior Court and the Supreme Court that RSA 674:41 applies to all building permits. Every lot must have road frontage, and the Town must insure that the road law is followed. Supreme Court road law applies to every lot. The ZBA has the jurisdiction and must apply that. Mr. Kennedy was here on Mr. Tremblay's hearing and the ZBA indicated that RSA 674:41 was central to the appeal and that the ZBA intends to determine that appeal under jurisdiction. Mack – If the law has been broken, why is he not in jail? Banker - I believe he made an honest mistake. You have jurisdiction to hear a denial of a building permit but not granting of a permit? Mack - RSA 674:41 specifically says if a permit is denied, you can ask for an appeal with the ZBA but it doesn't say anything about an appeal if a permit is issued. Banker- The Meredith Zoning Ordinance says under lot frontage "no lot shall have frontage of less than 50'. Minimum 50'. If there is not 50' road frontage on Bryant Island, then looking solely at the Meredith Zoning Ordinance, you cannot issue a building permit. So ignoring the road rule, looking only at the ordinance, this decision has to be revoked because there is not 50'. Where is the road frontage? Mack – Now you

are arguing a point that is not part of the argument against the appeal for the building permit. Banker – No, I wrote that to opposing counsel and to Tim Bates two weeks ago. Where is the 50'? Show me where the 50' are. If there is not 50', then it does not qualify as a buildable lot and to the extent that you are acting outside the Zoning Ordinance. Dever – So what you are saying is everyone that owns island property that is not built upon, his or her property is valueless. Banker – No, just as I would say that a house built here in 1785 that doesn't comply with zoning regulations is valueless. It's grandfathered in. It's already there. It is fine. Dever – The lot is already grandfathered? Banker – No, the lot is not. Dever – So you are saying, if there is a lot with no house on it, then he cannot issue a building permit. So his lot is valueless. Banker – No, that is not it at all. The statute says you can build on it but you have to go through very special steps. If you don't go through those steps, then the lot is worthless. The law says you have to follow it. We don't have to look at the law. Just look at the Meredith Zoning Ordinance, 50' of road frontage. Mack – You can stop right there. I just read your application. RSA 674:41 is what you are basing your appeal on? Banker- Yes Mack – You can't change the rules after you based an appeal. Banker – No, well yes I can because Mack – No you can't. Banker – Because you raised the issue about the jurisdiction and I pointed out what it is and that's the jurisdiction. If you feel it's inconsistent, then I ask that my petition be amended. I gave opposing counsel notice 10 days ago and I gave the Town notice. I spoke to the Town and they were all fully aware of it. So there is no surprise there. Dexter – I yield to the comments of the two previous speakers. Kennedy – Just to follow up on what Mr. Banker said is that the Town raised the jurisdiction argument two days prior to our last hearing. So to the extent that the Town is saying that we can't amend our petition under it's decision that it had no jurisdiction on RSA674:41 simply does not follow. It was the Town that said it did not have jurisdiction. Gartrell (Rep. Henmor Development) –(Memorandum was handed to the Board) I will attempt to summarize what appears in this memorandum and address the issues that have been touched upon by the previous presenter. The conditions of the building permit have been satisfied. We have an agreement with the Board of Selectmen. I was unaware that Mr. Dexter's appeal was on the docket. But everything I say about the pending appeal is equally applicable. I will point out one distinction in Mr. Dexter's appeal. The dismissal of these appeals is warranted for at least three reasons. The appellants lack standing to appeal the issuance of the building permit in question; the issuance of the building permit is justified under the express provisions of the Meredith Zoning Ordinance; and the Zoning Board of Adjustment (hereinafter "the Board") has no jurisdiction to construe the statute upon which the appeals are founded. The first issue of standing. You have before you three applications. In their applications to the Board, the applicants identify themselves by name and address in Meredith, one as a corporate association and the others as individuals, none of the appellants have asserted or demonstrated that they are "persons aggrieved" by the issuance of the building permit. RSA 676:5 and Article VII, Section D, of the Ordinance each invoke the requirement that to be entitled to take an appeal to the Board one must have a sufficient

interest in the permit and must have sustained the requisite "injury in fact" by reason of proximity or a direct pecuniary interest in the issuance of the permit in question. It is not sufficient that a prospective appellant own property within the Town or that they have concern over the proper application of the Zoning Ordinance. It is evident from their applications to the Board that the appellants list no abutters to the subject property, with one exception, Mr. Dexter's appeal. He claims to be an abutter but does not accord that status to anybody else. What would make his case any different than the others in terms of claiming to be an abutter? If he is an abutter to the Bryant Island property, then who isn't? They don't accord abutter status to anybody else who is entitled to seek Board review of an administrative decision interpreting and applying the Ordinance. Henmor Development, LLC, the only true party in interest, was not even afforded notice of the appeals as required by law. Reference is made to our prior Objection on the matter of Notice. The permit is justified by the Ordinance. Each of the appeal Applications recites that, under Section 3, it relates to an Appeal From An Administrative Decision - "Relating to the interpretation and enforcement of the provisions of the Zoning Ordinance." The pivotal thrust of each appeal, however, is that the permit should not have been issued because it was forbidden by the appellants' tortured interpretation of RSA 674:41 (discussed hereinafter), rather than any provision or requirement of the Ordinance. Faced with the legitimate objection that it is not the province of the Board, but rather of the Courts, to interpret the meaning of statutes, the appellants have belatedly combed through the Zoning Ordinance to try and find some way to connect the dots between the statute and the Zoning Ordinance. In doing so, they have misconstrued the meaning of Ordinance provisions to invalidate the Building Inspector's decision to grant the building permit. The belated argument is that Article III, Section I of the Ordinance provides that "accessways shall be adequate and safe for intended use." Overlooking the Ordinance definition of Accessways ("Any right-of-way, easement or fee-owned portion of land used for purposes of passing to and from a parcel of land, residence or commercial use, from any recognized public way"), Accessway to Bryant Island is not over any portion of land from a recognized public way. In talking about grandfathered lots, I would submit that Bryant Island has been grandfathered since Noah's flood. It does not have land access; therefore the concept of land access does not apply to that island. Yet the appellants suggest that the term accessways as used in the Ordinance "is clarified and defined in (the Ordinance) in the definition of "Lot" contained in Article VIII of the Ordinance, which states, among other things, that "Such lot shall have frontage on an improved public street or an improved private street ". Now based upon taking that particular definition out of context from the rest of the ordinance, the appellants urge the Board to conclude that the RSA 674:41 supersedes the Ordinance because the Ordinance is "less stringent" than the statute, which therefore takes precedence. That conclusion rests upon two critical assumptions: first, that RSA 674:41 applies to the case at hand and requires a different result; and second, that the one isolated term in the Ordinance has been misinterpreted in the context of the Ordinance as a whole. As to the Ordinance, the appellants would have the Board conclude that no subdivision on an island without a public street, and no island without a street even if it is comprised of only one lot, meets the requirements for the issuance of a building permit for a single family dwelling. You have islands in this

town and in others that have dwellings on them. Many of those islands, if not most of those islands, don't have streets. Are all of those invalid? That conclusion totally disregards the provisions of Article V, establishing the zoning districts and district regulations, which with regard to Shorefront Lots define a frontage requirement only with regard to shore frontage. More importantly, it overlooks the fundamental purposes and permitted uses for the Shoreline District as set forth in Article V, Section D-4. The General Purpose clause begins with the statement: "This District provides housing and recreation for a substantial number of seasonal and year-round residents who prefer to live in single-family detached housing with access to lake waters." It goes on to state that the District includes shoreline frontage on Lake Wicwas and all the islands in the Town of Meredith." It also states that it replaces the Island District. At the top of the list of permitted uses is single-family detached dwelling with a minimum on ground of 500 sq. ft. In the Meredith Planning Board Staff Review Summary regarding the Henmor subdivision plan, dated October 25, 2005, it was expressly stated that: "The zoning ordinance does not require deeded mainland access to island property." No non-conformity to the Town's Ordinance was cited to the Planning Board. Indeed, because none exists. Without standing to appeal, and without any valid premise that the decision to issue the building permit was based upon a misinterpretation of the Town's Ordinance, the two prerequisites to invoke the Board's power of review over that decision have not been met, and the appeals should be dismissed. Finally, I would address the statute which they try to use as the lynch pin in their scenario. Despite all of the appellants' efforts to distort its plain meaning, RSA 674:41 has no bearing on island property on islands that are not served by public streets, particularly one like Bryant Island which is incapable of supporting a public street. The meaning and purpose of the statute is defined in its own terms, in the title of the statute... Mack - Can I stop you for a second. You are going into the interpretation of RSA 674:41 and the argument is whether we have jurisdiction, not what the interpretation of RSA 674:41 is. Gartrell- Let me go to the heart of this. An argument has been made to this Board time and time again that RSA 674:41 has direct application to this situation. I think we have to understand that that premise itself is false. Mack – But that's not the argument we are hearing. We are hearing if we have jurisdiction over RSA 674:41. It doesn't matter what it means. Do we have the legal right to hear this case? Gartrell - I would like to say one thing then. One thing that they have not chosen to draw any attention to is language in Section III of that statute. They have drawn attention to superseding powers and so on, which they say imposes an obligation on you to act under that statute. A critical term is a street giving access to the lot on which the building is proposed to be placed. Section III of the statute says: "For purposes of paragraph I, "the street giving access to the lot means a street or way abutting the lot and upon which the lot has frontage." Thus it becomes obvious by the defined terms of the statute, it only applies if there is a street or way abutting the lot and upon which the lot has frontage. For that reason, the whole issue about RSA 674:41 fails. If they seek to review that question, they have to go to the Superior Court. I would submit that if they do that, the appellants would also have to demonstrate that they have standing to raise such an appeal to the Court, and that any such appeal was timely filed. Thank –you. Kennedy – Just a quick rebuttal. Lake Wicwas Association is made up of owners around Lake Wicwas who do have a direct pecuniary interest in the issuance of

this permit. Under the definition of lot, it's required such lots shall have frontage on an improved public street or an improved private street and that every lot, as Mr. Banker has indicated, shall have 50' of frontage. It's our contention since this Board has required something in the Meredith Zoning Ordinance that shows that it has jurisdictional authority, that this is less restrictive and therefore if you follow the black and white language in Section III, RSA 674:41 supersedes and is now the Zoning Ordinance for the Town of Meredith. With respect to his argument that Bryant Island does not fall within the purview of RSA 674:41 all you need to do is look at Section IIa. There is a specific section for islands because islands do not have road access; therefore it's presumed that all building permits initially will be denied. The property is not valueless, but one seeking to build must go through the procedural requirements outlined in the statute. We hope that the Board will find that it has the jurisdictional authority. Banker – I would like to thank Mr. Gartrell for reminding me that the ZBA application for appeal that I filed did not specifically refer to RSA674: 41 but it referred to the Zoning Ordinance, so indeed, in response to your earlier question, where did I put anyone on notice, its right there on the form. As to Mr. Gartrell's comments about the abutters, I should say that the form that I used was the one that came from the ZBA's office. I asked the ZBA office how many abutters there are and they said just one. I said how do I notify them? They said we do that. That is the procedure I followed. I followed the direction of the ZBA office to the extent that if there is any argument that this surprised Mr. Gartrell, it did not fall upon me as a layman. I followed procedure. As to whether we have sufficient interest, Mr. Gartrell speaks out of both sides of his mouth. We have all appeared many times in front of the Planning Board and the Selectmen. At no time was there any question by Mr. Gartrell as to our standing as abutters. The land for which I based this application on is 700' from the island. The law of New Hampshire presumes that when you are the closest lot, then we are damaged. We don't have to prove any damage. Mr. Gartrell spoke at length about issues that went well beyond jurisdiction following the instruction you gave us, but I won't respond. I would respectfully ask the Board that you disregard those arguments. My application, if you look at it, says its based upon violation of the Zoning Ordinance. You need to have road frontage of 50' or more. Crane - I just want to speak quickly to the standing issue. I am a member of the Lake Wicwas Association. At the Planning Boards meeting which tentatively approved the subdivision. Mack - Let me stop you for a second. First off, the standing issue has nothing to do with our jurisdiction issue. I was out of turn in letting him even speak about it. I apologize. We are not considering standing. Mr. Gartrell - Standing is an issue on any appeal to this Board. Mack – No, we are discussing the jurisdiction of us to hear the case. Mr.Gartrell – Please understand, what I am saying is, that you have to have standing, for you to have jurisdiction. It's a jurisdictional issue. Mack – Ok, that's enough. You can sit down now. Thank-you. Hearing closed at 8:15PM

2713: EDWARD AND STEPHANIE McDONALD: An appeal for a VARIANCE to construct an 8' X'10 shed with an 8' rear setback, 40' required and a 2' side setback, 20' required, Tax Map U39-1, Lot No. 17, located at 5 Brookhurst Lane West in the Shoreline District. McDonald – I assume the Board is familiar with the Sands of Brookhurst. Most lots are all very small. Ours in particular is less than ¼ of an acre. The house itself is already 10' from the back setback. The shed we would like to construct would be 8' from the back line. The back lot line is all trees. None of our neighbors have any problem with it. The Board has granted variances to most of the people in my neighborhood. This will not obstruct anyone's view and it is not overwhelming in size. It will match the existing house. We do not have storage space. We are not a year round resident. We need a place to store summer furniture, beach equipment, etc. We store everything along the side of the house with a tarp over it. It would be safer for us to lock up our items. This is the only location to put this on our property. If you look at our land, it has a pretty significant slope on one side and a slope on the other side. This is the only level spot on our property. We can't interfere with our septic system. Our septic system is 40+ years old. We do have a new septic system design if this one should fail, which is on the opposite side of the front of the house, so we have to stay away from that area. Mack – Read a letter for the record in opposition of this application from Richard L. Ivey who is an abutter. McDonald – We can't build on the other side because the slope is too severe. You can't put anything over there. It is heavy with trees also. Haley - Is there a deck missing from this print? McDonald – Yes, there is. Haley – There is a boat underneath it? McDonald – That is correct. Haley – That stretches out towards what is marked on this print marked Lot 17. McDonald – Yes. Haley – How far back on the house does that go? Does it go the whole side? McDonald – No, about ½. Haley – On the side where the stump is, there is no grass? McDonald - No. Haley – So you are going to cart everything all of the way to the back end of the property that you use in the front of the property? McDonald – This is a very wet piece of property and because of the slope, there is run off. Pelczar – You said this septic system is old and you have a new design? McDonald - This house was rebuilt four years ago and at that time, the Town required a new septic design before they could build the house. Pelczar - If you were to build a new one it would be over where on the plan it says Lot 17? McDonald – In the front of the house. Hearing closed at 8:25PM

2714: JAMES MILLER FOR EDWARD AND DONNA CASELDEN: (Rep. Jim Miller) An appeal for a VARIANCE to construct a single- family dwelling with a 34.53' front setback, 65' required; an appeal for a SPECIAL EXCEPTION to expand a non-conforming structure by more than 400 sq. ft., and an appeal for a SPECIAL EXCEPTION to construct a single-family dwelling within the protective buffer of a non-designated wetland, Tax Map No. U23, Lot No. 51, located at 53 Spindle Point in the Shoreline District.

Miller - There is right now a small seasonal cottage on the property, which is within the 65' setback from the lake. We are asking to replace this with a new structure. It will sit back about a foot further from the lake. We will be moving a septic tank back about 10' from where it is now. There are two runoffs on each side of the lot and those create wetland setbacks, which overlap the entire lot. There are two sheds within the wetlands that have been there prior to regulations and they will be removed along with a drying rack. Dever - There is no other way to accomplish what you would like, without a variance being granted? Miller - I suppose you could build a new front wall to retain the setback and then just come in for a special exception, but it makes more sense to be straightforward about it and come in and request a variance and do it right up front. Dan McCafferty - I am here as part of the Spindle Point Association. He read a letter (copies in file of the letter, Deed and Spindle Point Assoc. by-laws) stating their position. They oppose this application. They ask for the Board to continue the matter until a more complete and better understanding of the total project can be achieved. Miller - Spindle Point Association is not an abutter to this property. The owner does own another lot across the road that does back up to Spindle Point Association but that is not part of this application. This also requires approval from the State. The Shoreline Protection Act is very stringent in terms of how vegetation is dealt with on the property. There is no vegetation that comes under the act that will be affected by this property. There is a patio existing on the shorefront. The patio will be removed and replaced with natural vegetation. There will be no negative impact on surrounding properties. McCafferty - We are absolutely abutters. I have given you a copy of a Spindle Point deed. Mack - The ZBA doesn't have anything to do with Spindle Point Association and their deed restrictions. We interpret the Zoning Ordinance. If the Town of Meredith considers those two separate lots, it is a separate lot. It does not matter what you write in your deed. That is a legal matter. McCafferty - I disagree, just because the Town considers them two lots for taxes and billing purposes, from the conception of Spindle Point, all of these lots have deed restrictions. Mack - This is not an argument that I am going to get into. Your deed restrictions have nothing to do with the ZBA. This is a separate lot of record. McCafferty - What about the lack of detail in this plan for work on the back lot for the septic system? Dever - He's not asking for anything on the back lot. McCafferty - How many bedrooms does this house have? Caselden - Four or five. McCafferty - So clearly this is an expansion of the building. You are issuing a building permit without looking at impact. Mack - We don't issue building permits from the Zoning Board of Adjustment. Bill Edney issues building permits and they are required to show proof that they have a septic system that will satisfy the requirements of the Town and State. Haley - You are not going to invade the 25' setback from the lake and you are pushing the house 1' further from the lake. Miller - Yes. Haley - You will be putting in a new septic system on another lot? Miller - There is an approval for a new septic system. It will be up to the Code Enforcement Officer as to whether it needs to be installed. Haley - Is there going to be a new septic system in the new house plan? Miller - One has been designed if necessary. The system that is there is only a few years old and

it was designed for a larger capacity than the existing cottage with the idea that the previous owner had intended to do something similar on this property. Haley - Where is the new system now? Miller – Across the road. Haley – What about parking? Is there to be a garage under the new house? Miller – No. Haley - So where will parking take place? Caselden – It will be between the house and the road. There is no room for a garage. I sent copies to the abutters explaining what I was going to do. One neighbor had no problem and I have not heard from the other one. Miller – The Conservation Commission has reviewed this and has no objection as long as the two sheds are removed. Pam Coburn – I am surprised that the leachfield would be adequate for a building that size. I saw that go in and I submit that the back lot would be part of this plan. Mack – The State and the Code Enforcement Officer will determine the septic system capacity. They do not require any variances or special exceptions in order to construct a leachfield whether it's a new one or whatever. The Zoning Board has no jurisdiction over that lot. Dever - When you tear down a house the State does not require a new septic system to be installed. They require a new design be done to show that a new system can be installed in case of failure. Hearing closed at 8:55PM.

2715: SHERING ASSOCIATES, LLC FOR BRADFORD AND KAREN ROST: (Rep. Steve Hering) An appeal for a SPECIAL EXCEPTION to construct a driveway and utility access, crossing an intermittent stream and associated non-designated wetland, Tax Map S25, Lot No. 24, located on Robin Way in the Residential District.

What we have now is a vacant undeveloped lot. It is located off the cul-de-sac at the end of Robin Way. Shortly after you come off the cul-de-sac, there is an intermittent stream running in a northerly direction. It fans out into a wetter area as it runs and extends northerly to the boundary line of the abutters. The narrowest point of the crossing that we are looking to set up is off the cul-de-sac and we are looking to install one 25' culvert for the driveway to access the building lot. Mack – It looks like the stone headwall is going over the property line. Hering – Those are hay bales for sedimentation and erosion control. Elizabeth Baird – I live next door. Where is the property line? We have water problems and I get concerned that we might have more. I would like you to be aware of that. Hearing closed at 9:00 PM

DELIBERATIVE SESSION

2684: MICHAEL CASEY FOR CASEY, CASEY, HOFFMAN DBA/ POLLARD SHORES ASSOCIATES:

Hawkins – We have all the information that we asked for in regards to moving or adjusting the building. Dever – I think we should go over each one. The variance will not be contrary to the public interest. We do take into consideration

now the financial burden, so denial would result in unnecessary hardship. It is consistent with the spirit of the ordinance. The spirit of the ordinance provides for setbacks, however, we are talking about a foot and a half. I don't think the spirit of the ordinance will be violated. I don't see any problems with substantial justice and it's not going to diminish surrounding property.

Dever moved, Haley seconded, IN CASE # 2684, MICHAEL CASEY FOR CASEY, CASEY, HOFFMAN DBA/ POLLARD SHORES ASSOCIATES, I MOVE AN APPEAL FOR A VARIANCE TO CONSTRUCT A STORAGE BUILDING WITH A 28' 5" REAR SETBACK, 30' REQUIRED, TAX MAP NO. U4, LOT NO. 16, LOCATED AT POLLARD SHORES ROAD IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE REQUIREMENTS FOR A VARIANCE. Voted 5-0 in favor.

2709: NORMANDIN, CHENEY` & O' NEIL, PLLC FOR LAKE WICWAS ASSOCIATION, INC.:

2710: BROOKS BANKER FOR MARY ANN MORSE:

2712: DEAN DEXTER:

Mack – We have had a lot of information presented to us. I still think that we do not have jurisdiction. RSA 674:41 supercedes the Zoning Ordinance. We do not interpret RSA 674:41.

Dever moved, Haley seconded, IN CASES # 2709, NORMANDIN, CHENEY` & O' NEIL, PLLC FOR LAKE WICWAS ASSOCIATION, INC., #2710 BROOKS BANKER FOR MARY ANN MORSE, AND #2712 DEAN DEXTER, I MOVE THIS BOARD DOES NOT HAVE THE AUTHORITY TO HEAR THESE CASES AND THESE THREE APPEALS ARE DISMISSED. Voted 5-0 denied.

2713: EDWARD AND STEPHANIE McDONALD:

Mack – I didn't have a chance to go out and look at this property. The question I have is why was the stump not removed and move the shed to where the stump is? Haley – The stump is huge. However, I do have trouble with the layout. Even with the added testimony about a new leaching system, there is a large powerboat sitting under the deck. The grade area is not as bad as portrayed. It's not going on a foundation. It can easily be moved. It could be down on the other corner or up on the other side, away from the lines. We are supposed to come up with the smallest variance. Mack – You're saying there is an alternate location? Haley - I say there are alternatives, even to the point of no variance. Mack – My other concern is the 2' side setback. If the boat is over there, the slope can't be that bad. They have more property than most of Brookhurst.

Haley moved, Hawkins seconded, IN CASE # 2713, EDWARD AND STEPHANIE McDONALD, I MOVE AN APPEAL FOR A VARIANCE TO CONSTRUCT AN 8' X'10 SHED WITH AN 8' REAR SETBACK, 40' REQUIRED AND A 2' SIDE SETBACK, 20' REQUIRED, TAX MAP U39-1, LOT NO.17, LOCATED AT 5 BROOKHURST LANE WEST IN THE SHORELINE DISTRICT BE DENIED, AS THERE IS MORE THAN ONE ALTERNATIVE TO ACHIEVE WHAT THEY ARE TRYING TO DO AND THIS WOULD NOT RESULT IN UNNECESSARY HARDSHIP. Voted 5-0 denied.

2714: JAMES MILLER FOR EDWARD AND DONNA CASELDEN:

Haley – I spent some time walking this property and after last night's storm. it was a good day to see where the water went. As we go up and down Spindle Point Road, we have been seeing summer cottages being replaced. This house appears to need quite a bit of work. It does not make sense to do this piecemeal just to get around the ordinances. They are moving it back, not asking for a deck on the front and removing sheds. This is an improvement.

Hawkins moved, Dever seconded, IN CASE # 2714, JAMES MILLER FOR EDWARD AND DONNA CASELDEN, I MOVE AN APPEAL FOR A VARIANCE TO CONSTRUCT A SINGLE- FAMILY DWELLING WITH A 34.53' FRONT SETBACK, 65' REQUIRED, BE GRANTED, AS IT IS A VAST IMPROVEMENT OVER WHAT IS THERE NOW, THEY ARE LIMITED IN WHAT THEY CAN DO AND IT MEETS ALL THE OTHER CRITERIA FOR A VARIANCE. THIS IS ALSO CONTINGENT UPON DES WETLAND APPROVAL, REMOVAL OF THE SHEDS AND THE PATIO NEAR THE SHORELINE. THIS IS A SEPARATE LOT OF RECORD AND THERE WAS NO ERROR IN NOTIFICATION OF ABUTTERS. Voted 5-0 in favor.

Hawkins moved, Dever seconded, IN CASE # 2714, JAMES MILLER FOR EDWARD AND DONNA CASELDEN, I MOVE AN APPEAL FOR A SPECIAL EXCEPTION TO EXPAND A NON-CONFORMING STRUCTURE BY MORE THAN 400 SQ. FT., TAX MAP NO. U23, LOT NO. 51, LOCATED AT 53 SPINDLE POINT IN THE SHORELINE DISTRICT, BE GRANTED, AS IT MEETS THE CRITERIA. Voted 5-0 in favor.

Hawkins moved, Dever seconded, IN CASE # 2714, JAMES MILLER FOR EDWARD AND DONNA CASELDEN, I MOVE AN APPEAL FOR A SPECIAL EXCEPTION TO CONSTRUCT A SINGLE-FAMILY DWELLING WITHIN THE PROTECTIVE BUFFER OF A NON-DESIGNATED WETLAND, TAX MAP NO. U23, LOT NO. 51, LOCATED AT 53 SPINDLE POINT IN THE SHORELINE DISTRICT, BE GRANTED, AS IT MEETS THE CRITERIA FOR A SPECIAL EXCEPTION. Voted 5-0 in favor.

2715: SHERING ASSOCIATES, LLC FOR BRADFORD AND KAREN ROST:

Haley - I also visited this property. The way they have this laid out, I see no reason not to approve it.

Haley moved, Hawkins seconded, IN CASE # 2715, SHERING ASSOCIATES, LLC FOR BRADFORD AND KAREN ROST, I MOVE AN APPEAL FOR A SPECIAL EXCEPTION TO CONSTRUCT A DRIVEWAY AND UTILITY ACCESS, CROSSING AN INTERMITTENT STREAM AND ASSOCIATED NON-DESIGNATED WETLAND, TAX MAP S25, LOT NO. 24, LOCATED ON ROBIN WAY IN THE RESIDENTIAL DISTRICT BE GRANTED, AS PORTRAYED ON THE PLAN BY SHERING ASSOCIATES, DATED 9/15/05, AS IT MEETS THE CRITERIA FOR A SPECIAL EXCEPTION. Voted 5-0 in favor.

Meeting adjourned at 9:30 P.M.

Respectfully submitted,

Christine Tivnan
Planning/Zoning Clerk

Approved by the Meredith Zoning Board on _____, 2005.

John Mack, Chairman