

PRESENT: Hawkins, Acting Chairman; Dever; Pelczar; Joslin; Edney, Code Enforcement Officer; Tivnan, Clerk

Joslin moved, Pelczar seconded, THAT WE APPROVE THE MINUTES OF February 8, 2006, AS PRESENTED. Voted unanimously.

### PUBLIC HEARING

**2781: LON AND KIM MIYAHIRA: (Rep. Lon Miyahira)** An appeal for a SPECIAL EXCEPTION to construct a barn within the 75' protective buffer to a non-designated brook or stream, Tax Map No. S18, Lot No. 64, located at 51 Tracy Way in the Forestry / Rural District.

Miyahira – We purchased this property last year and there was a pre-existing pad from the previous owner, who is a licensed contractor in Meredith. We did not think there was a problem. We received a permit for the barn. After the barn was completed, it was brought to our attention that we were in violation of the 75' buffer. We contacted a certified wetland scientist who defined the waterway as an intermittent drainage, not a stream or a brook. My understanding of the ordinance is that it applies to a stream or a brook, but not to drainage. What I would like to propose is to allow us to put in a culvert to divert the drainage. This would alleviate the potential of any contamination. I feel we took the appropriate steps and we want to do the right thing. To make us tear down the barn and start over again after we have invested \$50,000. in the building seems a little excessive.

Dever – What is it used for? Miyahira – A barn to house approximately 6 miniature horses. Pisapia (Conservation Commission) You have a letter from us and hopefully you have had an opportunity to read it. This application is not in compliance with the ordinance. One question we did address in the letter is a need for a manure management plan and we did not see one. A barn of this nature should be outside the 75' buffer zone. The purpose of the buffer zone and the ordinance is to prevent pollution of a stream, being intermittent or not. We do cite in our letter the rationale as to why we do not think this is in compliance with the ordinance. Gabrielle Niffka (56 Tracy Way) I have seen the barn. If he puts a culvert in and has a manure management plan in place, I don't think this would be a problem. The horses are only as big as a large dog. Chris Haskell (Builder) – When I first saw the pad, there were woods to the left. When Bill first came over, it looked good, until he saw the wetland on that side of the barn. The pad was done by a licensed contractor so we never considered there would be an issue with wetlands. We got the permit and it did not ask on the permit for any setbacks from wetlands so we never considered that. Joslin – Do we have anything from the engineer? Hawkins -Just the site plan. Joslin – Are they saying it is an intermittent drainage? Dever – Right. It is an intermittent drainage; however, it is covered in the ordinance. Hawkins – The ordinance covers it as a regular stream. Pisapia – (Conservation Commission). We don't take it lightly that we are asking them to move the barn, but we believe there are alternatives and the barn should

be moved so it would be in compliance with the ordinance. Hearing closed at 7:20PM

**2782: R.A. DUVARNEY BUILDERS, LLC FOR DRS. CARL AND BARBARA CIAK: ( Rep. Dr. Ciak)** An appeal for a SPECIAL EXCEPTION to expand a non-conforming structure by more than 400 sq. ft., Tax Map U24, Lot No. 10, located at 32 Observatory Road in the Shoreline District.

Ciak - The current home is small and we plan on moving here permanently. We would like to expand the family room and kitchen by taking over one of the bedrooms, raise the roof and add on a second story. The footprint will stay the same. We have the State permit. Hawkins –You have an elevation here of 30'. Is that measured from the lowest point of grade? Ciak – There is a walk out and it is 30' from that point. Hearing closed at 7:25PM

**2785: DAVID M. DOLAN, LLS. FOR NDN 2005 REALTY TRUST: (Rep. Dave Dolan)**An appeal for a VARIANCE to allow construction of a building with a front setback of 32.', 50' required, Tax Map S17, Lot No.17D, located on Northview Drive in the Commercial Route 3 South District.

Dolan – This property is located at the end of Northview Drive. The property is highlighted in yellow. This is a vacant lot. It adjoins property that is owned by Northview Drive Trust which has an existing office and parking. The owners wish to expand the facility. To do that, they would like to incorporate the abutting lot and construct a building which is shown in red, the parking in gray, and the blue is the setback. We are seeking a variance for encroachment into the setback, including the eaves, to a reduction of about 32.9', the request stated 32'. We have been before the Planning Board for Design Review. Based on recommendations from the engineer, we have shown on the plan a storm water infiltration retention system beneath the parking. In order to incorporate those drainage facilities, outlets, and storm line swells at the discharge areas, the grading is such that it requires the building to be pushed towards Northview Drive. It is about 200 sq. ft. that encroaches into the setback. Hearing closed at 7:30PM

**2786: DAVID M. DOLAN, LLS. FOR NDN 2005 REALTY TRUST: (Rep Dave Dolan)** An appeal for a SPECIAL EXCEPTION to allow the reconfiguration of existing parking and construction of additional parking within the front setback, Tax Map S17, Lot No.17D, located on Northview Drive in the Commercial Route 3 South District.

Dolan –This is a request for a special exception to allow proposed parking that is shown on the plan that was just discussed and it falls within the front setback. We're ranging from 16'-20' from the front property line. We are about 16' from the edge of the ROW here (points to plan) and just over 20' here. (points to plan) The lots are to be merged. The existing parking on the abutting lot is about 25' from the edge of the ROW. Hearing closed at 7:32 PM

**2787: FLANDERS ENTERPRISES, LLC FOR JUSTIN, JOHN PAUL AND SANDRA GAIL VANETTEN: (Rep. Mark Flanders)** An appeal for a VARIANCE to allow construction of a single-family dwelling with a front setback of 51.2', 65' required.; and an appeal for a SPECIAL EXCEPTION to replace an existing non-conforming structure within the 75' protective buffer to a non-designated brook, Tax Map U18, Lot No. 5, located at 22 Wagon Wheel Trail in the Shoreline District.

Flanders – When the VanEtten's purchased this property, there were two large garages on it. There was a 6 bay garage, 22' x 58', and a 5 bay garage that was 51' x 48'. Both of these were torn down. Last year we completed construction on a 2 car garage with an attached guest house. Our proposal is to tear down the existing house, construct a new house that we will pull back approximately 51' from the lake and 51' from the closest point to the brook. We have tried to pull the house back as much as we could without setting it directly in front of the other building that is currently there. We feel this is a better product for the owner and also a better project for the neighborhood. The height of the house will be 37' and about a foot higher than the building that is there now. The footprint will be 2,328 sq. ft. I have provided you with some comparisons that are on Wagon Wheel and Pinnacle Park that are in the neighborhood. We feel this meets the spirit of the ordinance. VanEtten – We currently live here. We bought this house with my parents 4 years ago as a vacation house and we would rent it out in the summer time. I recently got married and moved back to Meredith to raise a family here. The existing structure has problems. It is really not a year round home. I want you to know that we take the environmental impact very seriously.

Jean Knowlton – (26C Wagon Wheel Trail) The following letter was read into the record.

To Whom it May Concern,

We live at 26C Wagon Wheel Trail in Meredith, the property adjacent to the VanEtten's property at 22 Wagon Wheel Trail. We received a registered letter last week informing us that they would be meeting with the Meredith Zoning Board on 8 March 2007 concerning a new apartment and house that they planned on building on their property. I have had only a few days to research what is happening, and would like to use this letter to express our concerns about the proposed construction. I hope that the board will take a long view of what we allow to happen in this beautiful area and not allow the desire to turn a residential area into a money making business that will violate established buffers and inconvenience many to sway the decision that they make.

We have owned the property on Wagon Wheel Trail for over 40 years. It is a beautiful area that has been a haven for families and children. We have peacefully coexisted with the owners of the adjacent property for many years. When the Harpers (the owners prior to the VanEttens) initially purchased the land, that peaceful coexistence continued. At some point in their ownership, they came to this board and proposed and had approved a massive eight (or more) car garage that they constructed over the winter and spring that became our view from the front of our house for the next 10+ years. It was an eyesore

that truly ruined the visual aspects of the area, and we lived with this monstrosity as our view until the VanEttens purchased the land and removed the garage. We were excited about the improvement, but it was short lived. In the place of the garage, they built a 2 car garage. They also built an apartment that we were told was not an apartment because it did not have a sink (yet!). It was obvious to everyone that the sink was coming, and the apartment would be an apartment soon! The VanEttens also began to rent their house. This meant that every week we were treated to several new families that would be there for a week, had no concerns about peacefully coexisting, and oftentimes spread out beyond the VanEttens property limits. The renters brought boats, pets, lots of people and tried to fit as much excitement into their week as they could. For us it meant that we had people on our docks, pets running around not on a leash, loud parties until late at night (and early into the next morning), fireworks, motorcycles, and many other events that completely disrupted the tranquility that had been Lake Winnepesaukee for the last 40 years. As we all know, renters come for a week. They do not respect the property or the people that own it like owners do. This is what we have been treated to the past summer, and if this new construction is approved with a house that is over 1200 square feet larger, the disruption will increase proportionally.

The construction that is proposed appears to be a way to build a new, larger home, and also legitimize the apartment that already exists (without the sink – although in paperwork we read from the town it is already being called a garage/apartment complex). This will mean that in addition to the many more renters that we will see, we will have an additional family living in the apartment to compound the problem further. The apartment that will now be available to rent and, in my humble opinion, was never part of the Zoning Boards understanding when the two car garage was proposed (although we clearly understand that no one but the owner should be allowed to use the apartment based on applicable Meredith rules) will further magnify the overcrowding problem. This goes against the “it is not an apartment because it does not have a sink” line that we were originally told. We also know that the new construction violates the criteria for this type construction and will clearly be more objectionable to the area. It will be extremely detrimental to the neighborhood, and will cause more overcrowding and traffic congestion than we already experienced with the smaller house that existed this year. And although it is being constructed under the guise of a single family residence, based on our experience this year, it is obvious that it will not be used as such.

As important for us, the future of the Meredith and Lakes Region area is being attacked each year. The citizens of Meredith have developed rules to protect the streams and lakes of the region, and each year more and more “special exceptions” are approved which ultimately violate what the citizens have asked their elected officials to protect. In this situation, the VanEttens are trying to build a new structure that violates the 75’ protected buffer zone of the Batchelder Brook and also violates the 65’ protected setback from Lake Winnepesaukee. We read the reasons that the board and the Meredith Conservation Committee gave justifying accepting the new plans, and find it hard to believe that we would not be trying to make things better (by following the buffer zones and protected areas) rather than continuing to encroach on areas that are pressed more and more by the increased construction and people. At some point in time, the board is going to have to stand up and be counted or the beautiful Lakes Region will no longer be what we all grew up knowing it as. There have to be alternative building plans that would allow a smaller house to be situated on this beautiful lot without violating both the brook and the lake. Someone has to “just say no” and force the architect/builder to come up with something that works. Bigger is not always better, especially when it violates what

the citizens of Meredith want for the environmental protection of their wetlands, streams and associated areas.

I feel confident that the Zoning Board and Meredith Conservation Committee will do the right thing. As an officer in the US Army, I have been faced with many challenges - some have involved life and death decisions. I have always tried to choose the harder right than the easier wrong, and it has served me well during my 25 year career to this point. I am hoping you will do the same before you further encroach on Batchelder Brook and Lake Winnepesaukee.

Please feel free to give me a call at 845-446-2205 if you have questions or concerns about this. I would be happy to further discuss any of my concerns above.

Sincerely,

COL Jim Knowlton

Hawkins – Letter from Conservation Commission was read into the record.

To: Meredith Zoning Board of Adjustment

From: Meredith Conservation Commission

Date: February 25, 2007

Subject: Justin VanEtten et. al, 22 Wagon Wheel Trail, Meredith, New Hampshire  
-Application for a Special Exception - Tax Map U18, Lot 5

The applicant requests a special exception to construct a new residence within the 75 foot protective buffer zone from Batchelder Brook, a non-designated stream. We also note that the applicant requests a variance to construct within the 65 foot protective setback from Lake Winnepesaukee. Members of the Conservation Commission visited the property on February 20, 2007 to meet with the applicant and his representative.

Batchelder Brook enters Lake Winnepesaukee adjacent to this property. Prior owners of this property made landscape modifications that the current owner appears willing to correct to some degree. Additionally, the Zoning Board of Adjustment previously authorized intrusion into the protective buffer to construct the existing apartment garage. We strongly believe in the importance of the buffer-zones established by the citizens of Meredith to protect our streams and lakes.

It appears a new house of a different size or configuration could be constructed without violating the established protective buffer zone. We do recognize that the applicant could have applied for a new structure to be placed on the existing footprint which would not bring the property into compliance with the current regulations.

The application for a special exception has not demonstrated that the proposal is consistent with D-9 C (Purpose and Intent) as required at D-9 H.5.a. It also has not demonstrated as required at D-9 1-1.5.b., that "alternative proposals have

been considered (e.g. a redesigned house) and that the submitted proposal represents the minimum amount of reasonable, unavoidable environmental impact to wetlands, streams and/or associated areas." Although the Meredith Conservation Commission does not believe the request meets the criteria of the ordinance, we do believe the proposal is an improvement on existing conditions.

We appreciate the opportunity to provide these recommendations. Commission member Ralph Pisapia is available to provide clarification or answer any questions you may have regarding this memorandum.

For the Commission

Flanders – The VanEtten’s have made the property look better. This is not a house for rent. They are not trying to draw in more renters. This is so they can live in the home. In your packet is a letter of support from another abutter who is in the same Condo Association. Letter read into the record.

March 6<sup>th</sup>, 2007  
Zoning Board of Adjustment  
Town of Meredith, New Hampshire

Reference: Property on 22 Wagon Wheel Trail/Shoreline/Tax Map # U18/Lot #5

To whom it may concern,

We Janet Sienko and Bruce Mazzochi, owners of property on 26E Wagon Wheel Trail, are the closest property owners to the proposed plans for the construction of a single family dwelling; we give our consent with no objections to this project. Knowing Justin VanEtten and his past efforts to improve his current property, this will only enhance and add value to the surrounding properties and area. If there is anything that is needed from us to further this project, please feel free to contact us.

Sincerely,

Janet Sienko

VanEtten – I would like to point out that the Officer who wrote the letter, his property is a cottage colony. There are 5 homes on less than ½ acre. There are 7 boat slips on less than 100’ of shore front. That is a crowded section that doesn’t conform to anything. This is going to be my primary residence and I plan on living here. Flanders – Regarding the Conservation Commission letter: 1. In the second paragraph it says “the Zoning Board of Adjustment previously authorized intrusion

into the protective buffer to construct the existing apartment garage.” That is not the case. Approval was not required because we replaced it with a smaller structure. 2. I believe we have demonstrated that this is the best alternative. This will have the least amount of impact. Joslin –The VanEttens will reside in the proposed house and the existing guest house is going to stay. Flanders- The existing guest house will stay. We will discuss the accessory apartment in the next application. We want to add cooking facilities into the existing guest house and attach it to the new dwelling. Hearing closed at 8:05 PM

**2788: FLANDERS ENTERPRISES, LLC FOR JUSTIN, JOHN PAUL AND SANDRA GAIL VANETTEN:** An appeal for a SPECIAL EXCEPTION to create an attached accessory apartment to a single family dwelling, Tax Map U18, Lot No. 5, located at 22 Wagon Wheel Trail in the Shoreline District.

Flanders – We are proposing to alter the driveway. We will be pulling it away from the neighboring condominiums. We have the required 3 parking spaces plus more in the garage bays. The sq. footage of the existing guest house is 792 sq. ft. and the main house is 3,200.sq ft. The accessory apartment will be about 20%. The accessory apartment will be attached by a breezeway. Knowlton – Why a kitchen if you plan on not renting? VanEtten – We don’t have any intention of renting. This will allow my parent’s to stay in the apartment with the convenience of a kitchen. Dever – Mark, are you aware of the 30% lot coverage? Flanders – Yes. I believe we are good. That applies to the structures? Dever – It applies to structures, paving, parking and all impervious areas. Make sure you run the calculations. Flanders – I will. Hearing closed at 8:10 PM.

## DELIBERATIONS

**2781: LON AND KIM MIYAHIRA:**

Hawkins- This is a tough situation. For what its worth, the applicant has offered to do whatever they can, especially in regard to animal and manure management. My feel is if they are willing to go the extra mile on that kind of stuff, I can live with that. Dever – I go with the Conservation Commissions problems, but I feel moving the barn is not what we are all about. He has agreed to come up with a manure management plan. As far as doing a culvert, I think it would be wise to stay away from that. It is a seasonal runoff. You would have to go to the Wetlands Board and you should avoid that at all costs. Pelczar – I would be more inclined to see them fence it off.

Pelczar moved Joslin seconded, In case # 2781, LON AND KIM MIYAHIRA, I MOVE THE APPEAL FOR A SPECIAL EXCEPTION TO CONSTRUCT A BARN WITHIN THE 75’ PROTECTIVE BUFFER TO A NON-DESIGNATED BROOK OR STREAM BE APPROVED, WITH THE CONDITION OF A MANURE PROTECTIVE PLAN APPROVED BY BILL EDNEY. Voted 4-0 in favor.

**2782: R.A. DUVARNEY BUILDERS, LLC FOR DRS. CARL AND BARBARA CIAK:**

Hawkins- This is pretty straightforward. They are not expanding the footprint; they are just going up one story. Dever – This is a small lot.

Dever moved, Joslin seconded, In case # 2782, R.A. DUVARNEY BUILDERS, LLC FOR DRS. CARL AND BARBARA CIAK, I MOVE THE APPEAL FOR A SPECIAL EXCEPTION TO EXPAND A NON-CONFORMING STRUCTURE BY MORE THAN 400 SQ. FT. BE APPROVED, AS IT MEETS THE REQUIREMENTS FOR A SPECIAL EXCEPTION. Voted 4-0 in favor.

**2785: DAVID M. DOLAN, LLS. FOR NDN 2005 REALTY TRUST:**

Hawkins- This is another straightforward one and it is consistent with the area.

Pelczar Joslin moved, seconded, In case # 2785, DAVID M. DOLAN, LLS. FOR NDN 2005 REALTY TRUST, I MOVE THE APPEAL FOR A VARIANCE TO ALLOW CONSTRUCTION OF A BUILDING WITH A FRONT SETBACK OF 32.' 50' REQUIRED BE APPROVED, AS IT MEETS THE CRITERIA FOR A VARIANCE. Voted 4-0 in favor.

**2786: DAVID M. DOLAN, LLS. FOR NDN 2005 REALTY TRUST:**

Pelczar moved, Dever seconded, In case # 2786, DAVID M. DOLAN, LLS. FOR NDN 2005 REALTY TRUST, I MOVE THE APPEAL FOR A SPECIAL EXCEPTION TO ALLOW THE RECONFIGURATION OF EXISTING PARKING AND CONSTRUCTION OF ADDITIONAL PARKING WITHIN THE FRONT SETBACK BE APPROVED, AS IT MEETS THE CRITERIA FOR A SPECIAL EXCEPTION. Voted 4-0 in favor.

**2787: FLANDERS ENTERPRISES, LLC FOR JUSTIN, JOHN PAUL AND SANDRA GAIL VANETTEN:**

Dever - I feel what is being proposed is a vast improvement to what is there now and they have demonstrated they are trying to control the area as much as possible. The Conservation Commission said that although it does violate the provisions on the special exception rule, they feel it is a good use also. This cannot be achieved by any other method. Hawkins – I realize they are looking for 51.2' ft, where 65' is required, but I feel they have demonstrated why they can't meet the requirement.

Dever moved, Joslin seconded, In case # 2787, FLANDERS ENTERPRISES, LLC FOR JUSTIN, JOHN PAUL AND SANDRA GAIL VANETTEN, I MOVE THE APPEAL FOR A VARIANCE TO ALLOW CONSTRUCTION OF A SINGLE-FAMILY DWELLING WITH A FRONT SETBACK OF 51.2', 65' REQUIRED BE

APPROVED, AS IT MEETS THE REQUIREMENTS OF A VARIANCE AS OUTLINED IN THE BOCCIA ELEMENTS. Voted 4-0 in favor.

Dever moved, Pelczar seconded, In case # 2787, FLANDERS ENTERPRISES, LLC FOR JUSTIN, JOHN PAUL AND SANDRA GAIL VANETTEN, I MOVE THE APPEAL FOR A SPECIAL EXCEPTION TO REPLACE AN EXISTING NON-CONFORMING STRUCTURE WITHIN THE 75' PROTECTIVE BUFFER TO A NON-DESIGNATED BROOK BE APPROVED, AS THEY HAVE DEMONSTRATED THEY HAVE DONE THE BEST THEY CAN WITHOUT REDUCING THE SIZE OF THE HOUSE AND IT MEETS THE REQUIREMENTS FOR A SPECIAL EXCEPTION . Voted 4-0 in favor.

**2788: FLANDERS ENTERPRISES, LLC FOR JUSTIN, JOHN PAUL AND SANDRA GAIL VANETTEN:**

Pelczar moved, Joslin seconded, In case # 2788, FLANDERS ENTERPRISES, LLC FOR JUSTIN, JOHN PAUL AND SANDRA GAIL VANETTEN, I MOVE THE APPEAL FOR A SPECIAL EXCEPTION TO CREATE AN ATTACHED ACCESSORY APARTMENT TO A SINGLE FAMILY DWELLING BE GRANTED AS IT MEETS THE CRITERIA FOR A SPECIAL EXCEPTION. Voted 4-0 in favor.

**MOTION FOR REHEARING**

**2766: VLL TRUST:** An appeal for a VARIANCE to allow three (3) residential units on a pre-existing non-conforming lot within the existing dwelling, 10,000 sq. ft. net density per unit required, Tax Map U06, Lot No. 4, located at 147 Main Street in the Central/Business. CONTINUED TO APRIL 12, 2007.

Meeting adjourned at 8:45 pm

Respectfully submitted,

Christine Tivnan  
Planning/Zoning Clerk

Approved by the Meredith Zoning Board on \_\_\_\_\_, 2007.

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John Mack, Chairman