

PRESENT: Pelczar, Vice-Chairman; Thorpe, Reichlen, Clark, Flanders, Goodheart, Tivnan, Clerk

Thorpe moved, Clark seconded, THAT WE APPROVE THE MINUTES OF SEPTEMBER 8, 2011 as presented.

PUBLIC HEARING

2960: LAWRENCE SULLIVAN: An appeal for a VARIANCE (ARTICLE V, SECTION D- 2B) to construct a deck with an 11'4" side setback, 30' required, Tax Map W04, Lot No.IE, located at 35 Black Brook Road in the Forestry/Rural District. **(Continued from September 8, 2011)**

Kevin Sullivan – I would like to extend an apology to the Board. We had started construction and have since stopped. There has been a change in the health situation of Lawrence since we purchased the property three years ago. It has been difficult to access the property up the stairs. There is an 8' elevation out the back, behind the driveway and there is a limited area on the perimeter of the building to build an access deck and eventually a handicap ramp for my parents to access the property. You have letters of support for this application from some abutters. This is the only location to put this deck to provide safe access. Flanders – How is he going to access this deck? (Showed pictures to the Board on a computer.) Hearing closed at 7:12 PM

2961: JOHN & DONNA ROETHEL: An appeal for a VARIANCE (ARTICLE IV, SECTION 6D-1) to expand a non-conforming structure by more than 400 sq. ft., in excess of 16' or 50% of the length of the plane being expanded, Tax Map U31, Lot. No.15, located at 21 Tommy's Cove Road in the Shoreline District. **(New hearing - Deficiency of notice to abutters)**

Carl Johnson – (Advanced Land Surveying Consultants) - We were before this Board 30 days ago for this exact same variance request. During that application process, abutters were incorrectly noticed. Old addresses were used. There is no change to the proposal and no change to what the presentation was at that point. This property is long and skinny. Tommy's Cove Road, which is a private road, crosses right through the property. Tommy's Cove Road is the only access to a property located to the north, owned by Widener and Ciriello. They have a deeded right to go across the driveway(Tommy's Cove Road) and in terms of relocating that portion of the private road to gain some area to go backwards, the topography is such, just to the south of the road, it gets very steep. The property goes up steeply from the southerly portion of Tommy's Cove Road up to Gard Road. Because of those constraints, this is the only area this structure could be expanded reasonably. We are not going the full length of the house because the town's 25' setback runs through the front portion of the house. There was an application made to the State and one of the things that were accomplished in that approval was a reduction in the actual percentage of impervious surface. There are proposed vegetative

buffers, a stepping stone path to the dock, and a new pervious paver patio which replaces the existing impervious patio. The existing structure is fairly small. This addition would allow them to have a much more significant living area in the downstairs and an additional bedroom upstairs. We contacted DES and they have an approved four bedroom septic system. The reason we are here for a variance is because the ordinance allows expansions of non-conforming structures under certain limitations. One limitation is 16' or up to 50%, of the existing linear footage of the existing non-conforming structure. This restriction falls hard on existing non-conforming structures that are small. That is why we are here asking for a variance. The closest abutters are the Coleman's. Their house is one of the biggest in the neighborhood. The house to the west is 150' to 175' beyond the lot line. We believe this moderate expansion is a reasonable use and granting the variance would not diminish the values of surrounding properties. It would not be contrary to the public interest because a residence is permitted in this zone and the expansion poses no threat to the public health or safety. Granting the variance would do substantial justice because it will increase the enjoyment of the property and step were taken to make the rest of the property more conforming. Granting the variance would not be contrary to the spirit of the ordinance because the use proposed is consistent with the uses permitted in the shoreline zone and consistent with what is in the neighborhood. Given those conditions, we believe this proposal meets the criteria for a variance. Clark – What is the age of the septic system and why should we believe it is functioning properly? Johnson – There is no evidence to the contrary that it's not functioning properly. Part of the condition of State approval was when the property was expanded; there would be an upgrade of the septic system. Clark – Is that something that is going to be done? Johnson – That is a condition upon construction beginning. It doesn't have to happen first but has to happen prior to a Certificate of Occupancy. It is going to be upgraded to the satisfaction of the State. Burt Widener – I am the abutter to the west. I have still never been notified but a neighbor alerted me. My only concern is, I don't know how close this expansion is going to be to the access to my driveway. I have no flexibility on that location. I can see now, looking at the plan, it won't be too bad. Am I going to have a problem getting a truck of any size down there? Maybe you could reassure me that I will have access for trucks. I have no problem with this expansion along as it does not infringe on my driveway. Johnson – We did clarify with the Town on the addresses and we have 60 Charles Chase Way. Widener – That is correct but I never received it. Johnson – Because it's a gravel situation, there really isn't a line on a paved driveway. There is probably about 15' total in width between what would be the corner of the Roethel's new addition and the far side of Mr. Widener's current driveway. There was supposed to be a roadway constructed where these lots would be accessed from. That roadway never got built. I don't believe this will be an issue for Mr. Widener. Thorpe – I assume you have pretty well surveyed this lot and you are sure the location of the road and this gentlemen's driveway are where you depicted them to be on this drawing. Johnson – They are located correctly. This is a private roadway and it is what's called an unbounded roadway. This is more or less a ROW than a Town road. A person has the ability to widen and improve it when a ROW goes across their property and make it better. Mr. Widener could be in contact with Mr. Roethel if they choose to widen it on that side. I believe Mr. Widener would have that ability to do that. Widener - There are wetlands on the other side so I don't think I would ever get permission to fill in there to move the driveway. I wish it was staked out so I could look and see. Johnson – If you look at the plan, there is no constraint immediately to the left, driving into Mr. Wideners driveway. It is all gravel that would facilitate a wider turn going around that corner.

Clark – You have a deeded ROW through this property? Widener – Yes I do. Clark – I think you might want to ask them to stake it out so the ROW is not being violated and if it is, you have recourse. Does that make sense? Johnson – No, because there is no width to the ROW. Flanders – Do you know how wide it is right now? Johnson – I would say based on the line about 10' -12'. He would have at least that to go around Roethal's. Clark – I move we continue this to the next meeting so this property can be staked out and we can get the right information. Johnson – I can tell you on the existing conditions plan, there is a railroad tie barrier that extends from the corner of the existing house along what would be the projected face of the proposal. The proposed expansion is essentially in that same area. Widener – Is it the same length as the existing railroad tie? If it is, I don't have a problem. Johnson – Let me compare that for a second. It is essentially the same distance as the railroad tie expansion that's there. Widener – In which case, I don't have a problem because I know I am well clear of that. Reichlen – Is there a mechanism for us to do a continuance? Pelczar – We would have to vote on it. Reichlen – I second what Warren said. Flanders – I don't think we have an objection at this point. Pelczar – We no longer have an objection. Johnson – There is physical evidence out there that Mr. Widener is now aware of and the expansion is not going beyond that. That gives him the comfort he was looking for. Widener – I do not have an objection. Clark – I withdraw my motion. Reichlen – I withdraw my second. Hearing closed at 7:40 PM

2962: CAROLYN A. PARKER FOR CUMBERLAND FARMS: An appeal for a VARIANCE (ARTICLE III, SECTION G-5) to allow a 4' x 6' LED price changer sign on an existing pylon sign, Tax Map U07, Lot. No.86, located at 332 D.W. Highway in the Central Business District.

Carolyn Parker - They currently have an existing pylon sign that is approximately 48 sf. They have a 4' x 6' panel sign and a 4' x 6' price panel. Cumberland Farms is going around to all of their gas stations and upgrading their price sign to have LED price signs. The LED sign allows them to change the prices from within the building. Should I read the variance criteria?

Pelczar – Yes.

1. There would be no decrease in the value of the surrounding properties since the existing pylon sign is already in existence and is currently internally illuminated. The LED price changers do not increase the existing illumination level emitted by the pylon sign. The change over to LED price changers will not have any adverse impact on the surrounding properties. We only wish to change the way in which the prices are displayed.
2. Granting the variance would not be contrary to the public interest because the signs in question are not the signs in which the ordinance intended to prohibit. Basically the signs that you do not want are flashing, blinking, spinning, and turning. These price signs will only change once or twice a day. The proposed LED digits will differ from traditional digits only in their ability to automatically change rather than be manually changed.
3. Granting the variance would do substantial justice because the LED price changers (a fairly new technology) would have minimal impact to the site and surrounding properties based on their size and intensity. The LED price changers will help to improve both day and night visibility and will eliminate several safety concerns associated with manually changing the prices.

Electronic LED signs are also an aesthetic enhancement over manual changeable copy signs. Where copy letters often become cracked, yellowed or lost in a matter of months, electronic LED signs' copy will look new for many years.

4. If the variance were granted, the spirit of the ordinance would be observed because the current use, a gas station and convenience store is an allowed use in the Central Business District. Manual changeable copy signs, which are permitted within Meredith, require personnel to physically change their copy, often involving the use of a large pole, or climbing a ladder to do so. In rainy, icy or windy conditions, this can be a dangerous feat. The installation of an electronic LED sign reduces liability, as they can be changed with a click of a button from inside a business.

5. Unnecessary Hardship:

1. The proposed use is a reasonable one because the subject convenience store opened on January 20, 1972. The Board of Adjustment has on several occasions over the intervening years reviewed Cumberland's plans to upgrade its facility and toward that end, has granted special permits and variances for other site improvements. The subject variance does not conflict with the general public purposes of the zoning ordinance and continues to permit a reasonable use, i.e., a fuel price sign. The granting of the requested variances poses no adverse impact to the health, safety, and general welfare of the community. As indicated herein, relief is required solely to provide for the substitution of an existing 4' x 6' fuel panel on an existing pylon sign structure. The proposed 4' x 6' LED price sign offers the safety of being able to change the fuel price remotely and offers a more aesthetically pleasing image. No dimensional relief is required and no other on-site changes are proposed. The use remains as existing, i.e. providing notice of fuel pricing, and has no adverse impact upon the site.

A lot of by-laws seem to just say electronic signs and they don't leave much leeway on that. On my way in here, I did see an electronic time and temperature sign at a car wash and also one at a bank. Clark – I noticed there is an LED sign at the Cumberland in the Weirs. Is this similar? Parker – I don't know that property? Clark - You're suggesting then that based on the content of the sign, the fact it is simply a gasoline price, this is something we should let go because it's only a gasoline price change? Parker – No, not at all. Clark – You think it's different from what you think is prohibited by our zoning ordinance because it's not changing? Parker – Your zoning ordinance says no electronic signs. That leaves it wide open. All signs are electronic if you want to put it that way. Reichlen – According to these two pictures, the new sign looks like it is taller than the existing one. Parker – That is just a sample. Reichlen – So you are proposing it at the same height? Parker – Everything is staying the same. Reichlen – How tall are the numbers off the ground? Parker – I can do a this is to that, as that is to that. Reichlen – Well you mentioned it was a safety issue changing this. Has anybody ever been hurt changing this? Parker – I don't know. I'm just saying in general, some sign are 20' off the ground. This sign actually isn't that tall but if they hired a guy in a wheelchair and he's using a pole, it's about 8'. You can't reach them with your arm. Clark – When you say it won't be brighter than the existing sign? Do you have some mathematical or scientific way of measuring it? Parker – As it gets darker at night, the sign dims. It's brighter during the day. Reichlen – I am going to be candid

with you. When this was brought to the Town for a vote to change the zoning ordinance to say no electronic signs it passed by an overwhelming majority. Parker – How did the other signs get in town? Reichlen – They predate the change in the ordinance. Parker – So you didn't like them so... Reichlen – The two signs you mention are grandfathered. Parker – Normally when I go to hearings, you hear me, we talk and then I get approved or denied. I notice everyone is staying and sitting down. Pelczar – We hear all the applications and then close the public portion and then we deliberate. Hearing closed at 7:50 PM

2963: JOHN & KELLY BELVISO: An appeal for a VARIANCE (ARTICLE V-D-4B) to remove and expand an existing single-family dwelling by 160sf. with a front setback of 17.8', 65' required, and a side setback of 9.6', 20' required, Tax Map R07, Lot. No.45, located at 11 Sanctuary Lane in the Shoreline District.

2964: JOHN & KELLY BELVISO: An appeal for a VARIANCE (ARTICLE IV, SECTION 6-D2) to construct a deck on a single-family dwelling within the 25' natural woodland buffer, Tax Map R07, Lot. No.45, located at 11 Sanctuary Lane in the Shoreline District.

2965: JOHN & KELLY BELVISO: An appeal for a SPECIAL EXCEPTION (ARTICLE V, SECTION D-9 G) to construct a driveway and a bridge, crossing a non-designated wetland and to construct a single-family dwelling within 50' of a non-designated wetland, Tax Map R07, Lot. No.45, located at 11 Sanctuary Lane in the Shoreline District.

Belviso – We have owned this building since 1996. It is a cottage that was built in the 1960's. We are here tonight because we would like to expand and upgrade this cottage. This is a non-conforming structure. We are expanding it 160 sf. at the back which is beyond the 65'. We plan to raze the cottage and add a second floor. The side setback will stay the same and we are expanding the deck which is within the 25' woodland buffer. We feel this would improve surrounding property values. We eventually plan to move here. We are moving the parking back away from the lake up behind the cottage so it will not be visible from the lake. We are removing 530 sf. of impervious tar that was put down as a patio on one point. Granting the variance would observe the spirit of the ordinance because this small expansion would have no impact on the environment or surrounding properties. This is the only location for this expansion. It is a unique lot that has a seasonal runoff that goes through it; there are wetlands and a steep elevation towards the back. The special exception is to construct a driveway and a bridge. There was an easement on the property. We came down through Sanctuary Lane behind the Vaal properties and then we parked on the south side of the cottage where the easement is. This easement is to be removed, loamed and seeded. That was our parking area. We purchased some property behind ours from the Vaal's to give us access out of the property without having to use the easement behind his house. We have State approval for this project and we went to the Conservation Commission also. Clark – Is there going to be a culvert in the wetland for the driveway. Belviso - It's my understanding we are going to use a bridge over that area. Thorpe – Do you have the existing impervious surface coverage? Belviso – The existing impervious surface is 530 sf. and that is what is going to be removed. I don't recall what the additional impervious surface is. I believe it is in one of the footnotes on the plan. Thorpe- I am looking for the percentages of the existing and proposed impervious surface. Belviso – I can assure we are reducing the impervious.

Clark – What about the current status of the septic system. The plan shows an area for a proposed future replacement of septic field if needed. How will you know if it is needed? Belvisio - This septic system was replaced when we bought the cottage. The septic system has been functioning without trouble. Clark – Is that a leaching field? Belvisio – It is like a vertical leaching field. It's a huge tank that leaches down. This was designed and approved by the State. We only use the cottage about four weeks and we rent it for two. There has not been a lot of use. We have the tank regularly cleaned and serviced. Clark – Bill, do you have any thoughts on this. Edney – It is an approved system and no evidence of failure. The reserved area is for future if needed. This type of expansion does not require any upgrades or improvements of the system. Clark – You are expanding the house? So instead of having two bedrooms it will have how many? Belvisio – It is still only going to have two. Chris Volpe – I am an abutter on the southern edge. We are pleased to see there are plans to improve the abutting property but we are concerned about access issues and how the change will affect our access to our own property. This will increase traffic and lights. There was a boundary line adjustment. You have Vaal on the northern most edge, Belvisio in the center and Volpe on the southern most side. The boundary line adjustment was approved to make way for this expansion. The Belvisio property is lake locked. The Volpe property currently enjoys a partially shared but also partial solely used by Volpe ROW across the Vaal property. The existing proposal appears to allow for a sharing of that ROW which we currently use. The redirection of the traffic could potentially cause problems with headlights for our property. We are not certain of that. In the past it has primarily been used as a rental property with non-owner occupancy that generally doesn't follow the neighborly norms. We are concerned about the current parking area. It is a major problem for us. What we had was basically a gully that provided physical separation between the properties. Over the course of time and I can't say when it occurred, fill was placed in the gully with a culvert underneath. It has water in it year round. Years ago the gully was filled with sand and eventually it has migrated into a parking area. That has presented some serious privacy issues for us. The tenants of the camp seem to think the properties are connected. So we are glad this plan incorporates a component to discontinue use of that space. Pat Wood (Attorney for Volpe) – On the plan presented this evening there is a reference to an easement being discontinued. There is no easement that goes on the Volpe property. The Belvisio property had an easement across the Vaal property. The parking area is only on the Belvisio property. The parking area that is proposed to be loamed and seeded is not an easement. It is land that the Belvisio's owned that got filled in. The septic tank is to the north of the existing house. Around 1996 the septic system failed and they received a special exception and a variance to replace the system. This was a two bedroom design and approved by the State. The proposal is to change the cottage from one story to two and a half. The Belvisio's plan is to eventually move up here. So instead of the six to seven weeks of use in the summer, we are talking year round use. That tank isn't going to be sufficient. We would request that whatever approvals are granted, be granted with a condition that the leachfield be built first. There are vegetative buffers on the north side of the property but as Mr. Volpe said, people wander onto his property so we would like some buffers on the southerly side as well, so there is protection for both parties. (Pointed to location of Volpe's well) - It is downhill from that leaching system. That is why we need a proper leachfield. (Presented to the Board a plan approved by the Planning Board.) Access to the Belvisio property is over Sanctuary Lane which is a private drive coming off of Collins Brook Road. It was originally down through the Vaal property into the Belvisio

property. The Volpe property is a separate lot. It originally had a ROW along Sanctuary Lane and then what is shown as the Woods Road on the Belviso plan, is just a path, not a road. We have concerns about that. From a legal point of view, who is responsible for the shared access? From a construction point of view, how are they going to get there? Are they going to come down that path? That path can't handle construction vehicles. We believe lights coming down this driveway are going to shine into the Volpe house. We don't know that for sure. Perhaps we can answer that if we continue this meeting to November and before the meeting we meet at the Volpe house and see where the lights actually come in. Since this has been their private access for about 50 years they are giving something up substantially by allowing other people to come in there. Another issue is there is a power line that comes up from Collins Brook Road, goes across Volpe property, cuts across to a pole and an overhead line goes to the Belviso house. That line serves only the Belviso property. At one point it served the Volpe property but when Volpe did renovations to his property he brought the electricity underground. We would like to have the power line come through Vaal or come down the Woods Road rather than across the Volpe property. The conditions we would like is the leachfield should be built before anything is built. The second is a vegetative buffer along the southerly side of the property. The third thing we would ask you to consider is to continue the meeting to allow us to see if the lights coming down the Woods Road will interfere with the Volpe house and the fourth thing is the possibility of getting construction vehicles over that path. Is that something we need to be worried about? Flanders – What's preventing you (Volpe) from putting a vegetative buffer on your side? Wood - We already have done that. Flanders – We need two buffers? Wood – It hasn't seemed to stop people from walking across. That's our concern. It they are putting a buffer up north, why can't we get the double buffer down here. Volpe – Are you referring to the vegetative buffer which is near the current parking area or the requested vegetative buffer upon the new proposed driveway? Flanders – I am talking about the buffer you are requesting him to put in to prevent people from walking on your property. It seems you could do that on your side of the lawn as effectively as he could. Volpe – That would be the current parking area. We have placed eight evergreens that have the potential to grow 12 ft. They are now about 4 ft. However, what was a natural separation has now been eliminated. We can't eliminate people standing there now by placing a buffer on our side. Clark – I was at the property and it appeared to be a ROW. I thought that was how you got to your property. It looks like a road and I did not see a vegetative buffer across that road that would appear to be your property line. Volpe – Mr. Flanders is referring to a vegetative buffer down by the water line. Clark- Could you show me where you want him to put the buffer? Volpe – We have put 8 evergreens on our boundary line that you can't miss. Clark – It goes across that road? Volpe- It's not a road. If you look at the proposal you will see an access road onto Vaal which forks. Clark – I remember standing looking at the wetland, looking down at one end of the pipe and by the way, my memory , given I have such a clear vision of it, I don't think it's going to be explained. I would have to see it again. Thorpe – Is there a plan of record for the septic system on file that shows it was designed properly for a two bedroom home. Belviso – Yes, there is. It is only 13 years old. Thorpe – If he was to produce a State approved septic design for a septic system capable of the capacity that it needs to be for a two bedroom home, what more do you need?. Wood – There is a plan at the Community Development office but my concern is that plan is not adequate for the size of the house that is being proposed. This is a much larger house and is going to be more than two bedrooms. Edney – These systems are

designed based on number of bedrooms. On the redevelopment of this property there is no net change in the number of bedrooms, therefore; there is not a need, unless the current system is in failure, to change the system. Wood – Again, because of the proximity to my clients well, my concern is to be proactive about it. Edney – The protective well radius is 75' from any well to any septic system. I can assure you that it is well over 75'. Wood – I am not sure it is. Edney – It would have to be laid out that way --- Wood – There was a variance to allow it to be within 45' of a wetland. Edney – That's a wetland issue. If the requirements aren't met, a waiver is required and there was no waiver granted on this system. Since the system is not in failure and there is no net increase in the number of bedrooms in this plan, there is no need to change the system and no requirement of Mr. Belviso to do so. Wood – For the record, we are concerned. Clark – Who owns Wood Road? Volpe - That is owned by Vaal. The proposal is for Belviso to be moved off the Vaal portion and onto the Volpe portion. When I say the Volpe portion, it is Vaal's property; it is a ROW for us. Clark – When somebody is going to rebuild their house, which they have a legal right to do, there are changes that occur to the neighbors. You have some concerns and my question is, besides rebuilding their house, they are asking for variances for certain aspects of that rebuilding. They are not asking for a variance to move the driveway, it just has to be with the permeable surface and the increased size of the house. My question to you is, can you tie your concerns to the variances? How does the granting of this variance affect their property as opposed to simply the rebuilding of the house? Wood – The primary concern is with the septic system. We are concerned the expansion of the house will have a negative affect on the health and welfare of my client unless the leachfield is designed and built. Volpe – The link we feel that could be established here is we are talking about the use being a primary home now. The use is going to substantially increase. Pelczar – In relation to your property, should it fail, how long would it take you to notice it? Volpe – It would be pretty immediate. Pelczar – Mr. Belviso, if it failed immediately, in your plan, do you have a design for a new system? You either have a design or property set aside, correct? Belviso – Correct. We did not do a new septic design because it is working, but we did, should in the future we need to move the leachfield or Pelczar – Has that section been perked out? Belviso – I am not sure but Mr. Vaal who owned the property and who owns the road, has given us the ROW to enter our property, which is not owned by Volpe, has done that sometime in the past. But we can do that and I can assure you if there is any chance it could fail, it is going to affect our property as well. Pelczar – Should it fail, it would be picked up immediately and there are provisions down the line to construct a new one. I think we have gone over this enough. Those are the two points. Clark – Are there other points that tie to the variance? I don't see the link between the lights or the road being used by construction vehicles having anything to do with the variances. Wood – Again, we feel the expansion will have an impact on the environment. Clark – Not the expansion but the fact that the expansion is closer to the water. How does it make any difference if we give him the variance or not? Wood – I think it does have an impact. It is a much larger house. The visual impact is substantial. It is changing the character of the neighborhood. We are not objecting to that but we have other concerns and one of the other concerns is the drainage from the roof. The roof is going to be bigger than it is now. Pelczar – Mr. Belviso, may we have some rebuttal. Belviso – I appreciate your concerns but there are inaccuracies in what has been presented. The gravel and fill they talked about was there prior to us purchasing the property. Everything we have done is in conjunction with working with the Town and State. As far as the concern about construction

vehicles, we are going to continue to use the easement that we have through the Vaal property for construction, so there won't be a concern coming down the Vaal road at the north end of the property. I'd like to address the headlight issue. Currently, the cars face right into the Volpe home until Volpe's put up some vegetative buffers. He decided it was time to separate the properties. The parking that we currently have is separated by almost 100' of vegetative buffer and so is the road from where the driveway begins to where the Volpe house is. It is unlikely there will be any lights shining into Volpe's residence. The size of the cottage is increasing only 160 sf. The roof is not going to be much bigger. The drainage is not going to be much different. These are old properties and the ROW and easements are unclear. We are eliminating the easement through the Vaal property and not addressing what maybe could be an easement on the Volpe side. I think that addresses most of the concerns. Wood – I have some written comments on what I have talked about tonight and I would like to submit those. Volpe – Our intent was not to block the development of this property. We just have some concerns on the redirection of traffic towards our property onto a ROW which currently we solely enjoy which will impact us. We have issues that will impact us. I think these can be addressed by simple measures. Pelczar -Mr. Belviso, do you have any problem addressing any of these concerns you have heard tonight? Belviso – When they mention moving utilities so they are under ground. Pelczar – That's not a part of this. Belviso – Well, Volpe brought it up. The vegetative buffer is already there and we can check the septic on an annual basis. Hearing closed at 8:45 PM

2966: PETER & CHRISTINE GAGNON: An appeal for a VARIANCE (ARTICLE V-D-4B) to construct a deck with a front setback of 56', 65' required, Tax Map R14, Lot No.21, located at 23 Wicwood Shores Road in the Shoreline District.

Peter Gagnon – We are in the process of constructing a new home. The house is being constructed by Mike Browher. We wanted it to blend in with the neighborhood and to try and meet all the setbacks. This is a very steep lot. We went back as far as we could before we were encumbered by the rear setback. We have moved the new house further back than the original house. This variance was our last resort.

1. Granting the variance would not diminish the values of surrounding properties because the new deck sits further away from the lake than the original one.
2. Granting the variance would not be contrary to the public interest because the deck is only visible from the lake.
3. Granting the variance would do substantial justice because it allows construction of a deck that is architecturally suited for new construction. It allows for outside use. We designed a house that was suitable to the lot shape.
4. Granting the variance would observe the spirit of the ordinance because all other means to avoid this variance were undertaken.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because the lot is steep and not very deep. A lakeside deck is a reasonable use.

Mike Browher – I am the builder. The house is already partially built. The deck is what does not meet the front setback. We have State approval. You can only see the house from the lake. Hearing closed at 8:55 PM

2967: LAKE WICWAS LOT 3 REALTY TRUST: An appeal for a VARIANCE (ARTICLE V-D-4B) to construct a new garage with a rear setback of 5.1', 30' required, Tax Map R14, Lot. No.23, located at 19 Wicwood Shores Road in the Shoreline District.

2968: LAKE WICWAS LOT 3 REALTY TRUST: An appeal for a SPECIAL EXCEPTION (ARTICLE IV-C (2)) to expand an existing non-conforming dwelling more than 400 sf., Tax Map R14, Lot. No.23, located at 19 Wicwood Shores Road in the Shoreline District.

Dan Ellis (Ames Associates) – This lot is steep and small. It is 80' deep from the water and 130' wide. The existing residence, at the closest point, which is the corner of the deck, is 24.3' from the shore and from the roof overhang; it is 18.9' to the rear setback. The existing driveway is very steep. It is about a 12% grade. It is hazardous during winter months and that is one reason for this proposal. The lot is served by a shared leachfield located across the road. I did submit some photos. There are about 40 stairs you take to get to the lake. The reason for the variance is we would like to add a garage that matches the orientation of the existing driveway and place it at an elevation that would allow reconfiguration of the driveway so we go from a 12% grade to a flat driveway. In order to accomplish this, we are coming closer to the rear setback. The rear setback would be reduced to 5.1' to the closet corner of the garage. None of the other setbacks are getting worse. This proposal is fairly consistent with the neighborhood. Clark – How old is the septic system and how well is it working? Ellis – This was designed for several houses to use. It's probably 20 yrs. old and some of the houses have not tied into it at this point. It is functioning very well. Goodheart – Are you going to be putting in some kind of retaining wall? Ellis – The retaining wall you see on the plan is supporting the driveway fill. The second application is a Special Exception for an expansion of an existing non-conforming dwelling more than 400 sf. This is all part of the same project. The Special Exception is for a second floor addition. Goodheart – When it rains hard and it's flat at the garage, where is the water going? Ellis – We plan on having a **permeable** surface at this point. If that changes, it would pitch generally easterly and over the retaining wall.

1. Granting the variance would not diminish the values of surrounding properties because the expanded residence will be of greater value than the existing house.
2. Granting the variance would not be contrary to the public interest because the proposed distance to the rear setback is consistent with the neighborhood due to the steepness of the lots.
3. Granting the variance would do substantial justice because the steepness and small size of the lot limits the possible house and garage configuration; there is no other area on the lot that meets all setbacks. Denying this would prevent the owner from improving access to his property with no outweighing benefit to the public.
4. Granting the variance would observe the spirit of the ordinance because the project seeks to improve access and is a reasonable use of this lot.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. To show unnecessary hardship, you must provide facts that establish either (A) or (B) below:

B. Owing to special conditions of the property that distinguish it from other properties in the area: Access to the site by vehicle is currently dangerous during the winter. The slope of the driveway is very steep. There is no land remaining for building purposes when you apply the front and rear setbacks to this lot. A variance is necessary to enable the expansion of the existing, non-conforming residence by addition of a garage, which is a reasonable use of the property. Hearing closed at 8:10 PM.

2969: DS COWLES FAMILY TRUST: An appeal for a VARIANCE (ARTICLE V – D-9) to fill 2485 sq. ft. of poorly drained non-designated wetland to construct a single family dwelling, Tax Map S17, Lot No. 18K, located on Upper Mile Point Drive in the Shoreline District.

Nicol Roseberry (Ames Associates) – We have a State permit approved from DES and the Conservation Commission did review the application and they have no objections. This property is located in the Upper Mile Point Subdivision. The wetlands were delineated as required for the subdivision. (Pointed on the plan to the natural wetland and the 50' buffer setback) The 50' buffer setback largely falls along the required building setbacks to the lot lines. Currently this lot is one of the few that has not been developed. During field work to develop the site plan, we came across a 4" drain out pipe. This pipe is releasing water that is coming from the crushed stone drainage around the sewer main coming down through the road. From January to June there was water flowing at a consistent flow from that pipe. This has resulted in a wetland that was not there originally. A 50' buffer from the boundary of this new wetland extends completely across portions of the lot, so this will require Town approval in order to get any type of building permit. Our proposed project, if this wetland were not in place, had this project gone into play before the influence of the water creating this wetland, we could have done this same project, meeting the buffer setback to the natural wetland and also meeting the side setbacks. However; with the development of this wetland, now we are requesting filling of 2485 sf. The wetland is a little over 7000 sf. so about 5000 sf. of wetland will remain. The other decision to make was how to deal with this water running off. We decided to extend the pipe closer to the point where the wetland already exists, create a shallow detention basin where it can gradually spill over into the wetland and try to minimize the amount of fill. We will not be eliminating the wetland. It will act as a water retention area and sediment and nutrient trapping. Clark – It says it is going to be vegetated. Does that mean lawn or bushes or what's there now? What is going to be maintained fertilized lawn when you are done? Jason Drouin – (General Contractor) We will have a low retaining wall that will keep the water in the wetlands all in the same area that it is now. The lawn is only going to come about 14' across the front and then turn back to natural vegetation. Roseberry - I will go through the criteria.

1. Granting the variance would not diminish the values of surrounding properties because the lot was created as a buildable property during the original subdivision. Currently, the area is overgrown, has wood debris and an unfinished gravel driveway. Granting the variance will allow for a reasonable and attractive home.

2. Granting the variance would not be contrary to the public interest because the development of this wetland was due to human influence, so the variance is not requesting impact to the "naturally occurring" wetland system or its buffer. The existing 4" drain outlet will be extended to the westerly point of the new wetland.
3. Granting the variance would do substantial justice because the property was created during the 2004 subdivision. A 50' buffer from the boundary of this new wetland extends completely across portions of the lot, therefore; any construction within the property will require Meredith ZBA approval. Granting this variance will allow construction of an attractive home that is in-keeping and reasonable for this neighborhood, as was intended by the design of the original subdivision.
4. Granting the variance would observe the spirit of the ordinance because the ordinance serves to protect wetlands and their functions and values and we have tried to avoid impact to the natural wetland and its 50' buffer. Proposed impact will be limited to 2485 sf. with 5000 sf. of existing wetland remaining just within this property.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. B. Owing to special conditions of the property that distinguish it from other properties in the area: The property was created upon subdivision approvals obtained approximately seven years ago, and this is one of a few lots remaining in the neighborhood that does not yet have a residence constructed. If a residence had been constructed prior to the 4" drain pipe water influence, which caused a wetland to form, no variance would have been necessary. Hearing closed at 9:30 PM

DELIBERATIONS

2960: LAWRENCE SULLIVAN:

Clark – I think the applicant has a narrow piece of property and has come up with a solution to a problem which is to put a deck on the house. I know it comes close to the road but across the street is a parking area, so I don't think this will bother anyone. I think the applicant has met all five criteria for a variance. The Board all agreed.

Clark moved, Thorpe seconded, IN CASE # 2960, LAWRENCE SULLIVAN, I MOVE THE APPEAL FOR A VARIANCE (ARTICLE V, SECTION D- 2B) TO CONSTRUCT A DECK WITH AN 11'4" SIDE SETBACK, 30' REQUIRED, TAX MAP W04, LOT NO.IE, LOCATED AT 35 BLACK BROOK ROAD IN THE FORESTRY/RURAL DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A VARIANCE . Voted 5-0 in favor.

2961: JOHN & DONNA ROETHEL:

Thorpe – I think the question the neighbor had concerning his ability to access his property appears to have been settled. I feel this application has met the criteria. It is a difficult lot. The Board all agreed.

Flanders moved, Clark seconded, IN CASE # 2961 AN APPEAL FOR A VARIANCE (ARTICLE IV, SECTION 6D-1) TO EXPAND A NON-CONFORMING STRUCTURE BY MORE THAN 400 SQ. FT., IN EXCESS OF 16' OR 50% OF THE LENGTH OF THE PLANE BEING EXPANDED, TAX MAP U31, LOT NO.15, LOCATED AT 21 TOMMY'S COVE ROAD IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A VARIANCE. Voted 5-0 in favor.

2962: CAROLYN A. PARKER FOR CUMBERLAND FARMS:

Thorpe- Given the work the Planning Board did prior to the passing of the sign ordinance not allowing electronic signs, and the extent of the public hearing prior to the special town meeting, and the significant turnout for the town meeting with a 73% vote in favor of the motion which prohibited all electronic signs, it is my opinion that they have not met the criteria for a variance and this should be denied. Clark – After looking over the history of this, I agree with Dave and I would like to add that the applicant stated this is not the type of sign the zoning ordinance was intended to prevent. That is absolutely incorrect. It is exactly the type of signs the zoning ordinance intended to prevent. The deliberations on the zoning ordinance on the part of the Planning Board specifically addressed LED signs that do not change and determined this would be detrimental to the overall character the town and its citizens are trying to maintain for the town. I visited the Cumberland Farms in the Weir's and I found that sign to be very much in your face and contrary to what was intended by the zoning ordinance and what we want in this town. The two signs she cited as being present in the town are signs that are grandfathered. I'd like to address if there is a hardship. I see no hardship except for the fact the applicant has chosen to erect a sign which requires a ladder for someone to change manually. There is no prohibition to putting up a sign that is low enough so they don't require a ladder. I feel the applicant has failed to meet the criteria for a variance. Reichlen- Being specific to the criteria, I think this does not meet criteria #1 (Granting the variance would not diminish the values of surrounding properties) It was the feeling of the town in that special meeting that it does diminish the value of the town in general. I think it is contrary to #2 (Granting the variance would not be contrary to the public interest) The meeting was very clear, the public interest in this town was to not have these signs. Pelczar - Let's run down the 5 criteria.

1. Granting the variance would not diminish the values of surrounding properties: All agreed it would.
2. Granting the variance would not be contrary to the public interest. Thorpe – Based on the results of the Town meeting, it would be. All agreed it would.
3. Granting the variance would do substantial justice. This would be an injustice to everyone who came out for the special meeting. Flanders – We can't control the content of an electronic sign. Clark - The town thought a great deal about this. All agreed it would not.
4. Granting the variance would observe the spirit of the ordinance. Thorpe – No. Clearly it

would be in violation of the spirit of the ordinance. All agreed.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Clark – I see nothing special or unique about the property and I think they have failed to meet this criterion as well. All agreed it would not.

Clark moved, Thorpe seconded, IN CASE # 2962, CAROLYN A. PARKER FOR CUMBERLAND FARMS, I MOVE THE APPEAL FOR A VARIANCE (ARTICLE III, SECTION G-5) TO ALLOW A 4' X 6' LED PRICE CHANGER SIGN ON AN EXISTING PYLON SIGN, TAX MAP U07, LOT NO.86, LOCATED AT 332 D.W. HIGHWAY IN THE CENTRAL BUSINESS DISTRICT BE DENIED GIVEN THAT THEY HAVE FAILED TO MEET ANY OF THE FIVE CRITERIA Voted 5-0 in favor.

Pelczar - Thirty day appeal period

2963: JOHN & KELLY BELVISO:

Pelczar – We will discuss all three applications together but vote on them separately. Clark – I feel the concerns that were introduced are valid but I don't think they have much to do with the variance. The concerns have to do with the fact the neighbor is expanding his house. He is not adding bedrooms. According to the criteria, he is not increasing the load on the septic system. There is a system in place if it turns out the septic system does get overloaded. If anybody notices a failed system and the person with the concerns indicated he would be capable of knowing this, it could be reported to the Health Officer and he could then take action. So their one concern does have a way of mitigation. I think this is a small property and the criteria have been satisfied. Reichlen – I agree with Warren. I heard nothing in the arguments that addressed the five criteria we use for consideration. Flanders – Their main concern was the septic system and he is relying on his lawyer for professional advice and legally we rely on licensed Septic Designers and State approval. Pelczar- What about the deck? Clark – Relative to the deck, it is a reasonable thing to do. They have State approval. They are getting rid of a large paved area. This is a small property and I think people who have lakefront property, it is a reasonable thing to have a deck. This is the only place they could put it. Pelczar – The driveway and the bridge? Clark – This is a Special Exception and the criteria are a little different. I don't think this will be detrimental to the character or enjoyment of the neighborhood. It is not going to be noxious or offensive. I think they have done what they could to preserve the wetland. I think they have met the criteria for a Special Exception. Flanders – He is completely on his property and a Special Exception has approved uses as long as they meet the criteria. Reichlen – As far as coming out on a different road, he is getting a ROW from the person who owns the road, who has every right to extend his ROW to more people.

Reichlen moved, Clark seconded, IN CASE # 2963, JOHN & KELLY BELVISO, I MOVE THE APPEAL FOR A VARIANCE (ARTICLE V-D-4B) TO REMOVE AND EXPAND AN EXISTING SINGLE-FAMILY DWELLING BY 160SF. WITH A FRONT SETBACK OF 17.8', 65' REQUIRED, AND A SIDE SETBACK OF 9.6', 20' REQUIRED, TAX MAP R07, LOT NO.45, LOCATED AT 11 SANCTUARY LANE IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A VARIANCE. Voted 5-0 in favor.

Pelczar - Thirty day appeal period

2964: JOHN & KELLY BELVISO:

Flanders move, Thorpe seconded, IN CASE # 2964, JOHN & KELLY BELVISO, I MOVE THE APPEAL FOR A VARIANCE (ARTICLE IV, SECTION 6-D2) TO CONSTRUCT A DECK ON A SINGLE-FAMILY DWELLING WITHIN THE 25' NATURAL WOODLAND BUFFER, TAX MAP R07, LOT NO.45, LOCATED AT 11 SANCTUARY LANE IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A VARIANCE. Voted 5-0 in favor.

Pelczar - Thirty day appeal period.

2965: JOHN & KELLY BELVISO:

Reichlen moved, Flanders seconded, IN CASE # 2965, JOHN & KELLY BELVISO, I MOVE THE APPEAL FOR A SPECIAL EXCEPTION (ARTICLE V, SECTION D-9 G) TO CONSTRUCT A DRIVEWAY AND A BRIDGE, CROSSING A NON-DESIGNATED WETLAND AND TO CONSTRUCT A SINGLE-FAMILY DWELLING WITHIN 50' OF A NON-DESIGNATED WETLAND, TAX MAP R07, LOT NO.45, LOCATED AT 11 SANCTUARY LANE IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A SPECIAL EXCEPTION. Voted 5-0 in favor.

Pelczar - Thirty day appeal period.

2966: PETER & CHRISTINE GAGNON:

Clark – This property is very unique and certainly meets the hardship criteria. I think the applicant has done everything reasonably possible to mitigate the degree to which they are asking for a variance. I'm satisfied that it meets the criteria for a variance. The Board all agreed.

Clark moved, Flanders seconded, IN CASE # 2966, PETER & CHRISTINE GAGNON, I MOVE THE APPEAL FOR A VARIANCE (ARTICLE V-D-4B) TO CONSTRUCT A DECK WITH A FRONT SETBACK OF 56', 65' REQUIRED, TAX MAP R14, LOT NO. 21, LOCATED AT 23 WICWOOD SHORES ROAD IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A VARIANCE. Voted 5-0 in favor.

Pelczar - Thirty day appeal period.

2967: LAKE WICWAS LOT 3 REALTY TRUST:

Clark – This is another case where it is a difficult property and the applicant has done a good job fitting a reasonable building into the property. There is definitely a hardship and this will enhance the neighborhood. I believe the variance meets the criteria and also meets the criteria for a Special Exception. The Board all agreed.

Goodheart moved, Clark seconded, IN CASE # 2967, LAKE WICWAS LOT 3 REALTY TRUST, I MOVE THE APPEAL FOR A VARIANCE (ARTICLE V-D-4B) TO CONSTRUCT A NEW GARAGE WITH A REAR SETBACK OF 5.1', 30' REQUIRED, TAX MAP R14, LOT.NO. 23, LOCATED AT 19 WICWOOD SHORES ROAD IN THE SHORELINE DISTRICT BE GRANTED, HAVING REVIEWED ALL VARIANCE CRITERIA, THE DEGREE OF DIFFICULTY ON THE SITE AND HOW IT'S DETAILED AND LAID OUT, IT MEETS THE CRITERIA FOR A VARIANCE. Voted 5-0 in favor.

Pelczar - Thirty day appeal period.

2968: LAKE WICWAS LOT 3 REALTY TRUST:

Flanders moved, Goodheart seconded, IN CASE # 2968, LAKE WICWAS LOT 3 REALTY TRUST, I MOVE THE APPEAL FOR A SPECIAL EXCEPTION (ARTICLE IV-C (2)) TO EXPAND AN EXISTING NON-CONFORMING DWELLING MORE THAN 400 SF., TAX MAP R14, LOT NO. 23, LOCATED AT 19 WICWOOD SHORES ROAD IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A SPECIAL EXCEPTION. Voted 5-0 in favor.

Pelczar - Thirty day appeal period.

2969: DS COWLES FAMILY TRUST:

Reichlen – I think they have submitted a good appeal for filling in the wetlands. Clark – When I first looked at this it looked like they took the wetland and put that in one parcel so they would have to get a variance to do it and then Nicole immediately shot that down. So I am now out of problems with this application. Pelczar – This was created over time. Clark- They are committed to minimizing the lawn area and maximizing the vegetative buffer.

Clark moved, Goodheart seconded, IN CASE #2969, DS COWLES FAMILY TRUST, I MOVE THE APPEAL FOR A VARIANCE (ARTICLE V – D-9) TO FILL 2485 SQ. FT. OF POORLY DRAINED NON-DESIGNATED WETLAND TO CONSTRUCT A SINGLE FAMILY DWELLING, TAX MAP S17, LOT NO. 18K LOCATED ON UPPER MILE POINT DRIVE IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A VARIANCE. Voted 5-0 in favor.

Pelczar - Thirty day appeal period

Meeting adjourned at 10:20 PM
Respectfully submitted,

Christine Tivnan
Planning/Zoning Clerk

Approved by the Meredith Zoning Board on November 10, 2011

Mike Pelczar –Vice -Chairman