

Town of Scarborough

Planning Board

December 8, 2003

AGENDA

1. Call to Order
2. Roll Call
3. Approval of Minutes (November 17, 2003)
4. Windward Heights Phase I, Normand Berube Builders requests review of final conditions for approved site off Cumberland Way and Meetinghouse Road
5. 49-51 Spring Street Realty Associates request extension of approval for MRI trailer through June 2004
6. Great Island Acquisitions LLC requests sketch plan review and set public hearing date for proposed zone change from Industrial to B-2 in area of Spring Street and Mussey Road
7. Direct Mail of Maine requests site plan amendment approval for parking at existing site on Lot 19A of the Scarborough Industrial Park
8. Hampstead Associates LLC requests site plan amendment approval for parking at 25 Spring Street
9. Mike Payeur, Inc. requests sketch plan review for 16 lot subdivision off Payne Road
10. Coulthard Farms Subdivision, ALC Development requests amended subdivision plan for site off Pleasant Hill Road
11. Classic Eyewear requests site plan amendment for signage at 192 U. S. Route One
12. Arlington Heights Subdivision, Grondin Properties LLC requests amended subdivision plan for site off Holmes Road
13. Lender's Network requests site plan amendment approval for existing site at 250 U. S. Route One
14. Town Planner's Report
15. Correspondence
16. Planning Board Comments
17. Upcoming Subcommittee Meetings
18. Adjournment

NO NEW ITEMS SHALL BE TAKEN UP AFTER 10:30 P. M.

Town of Scarborough

Planning Board

December 8, 2003

MINUTES

Members Present

Staff

Ms. Auglis  
Mr. Callahan  
Mr. Farnkoff  
Mr. Hanson  
Mr. Porada  
Mr. Shinay  
Mr. Wood

Ms. Logan, Recording Secretary  
Mr. Wendel, Town Engineer & Asst. Planner  
Mr. Ziepniewski, Town Planner

1. Call to Order

Mr. Shinay called the meeting to order at 7:00 P. M.

2. Roll Call

The Recording Secretary called the roll; all members were present.

3. Approval of Minutes – (November 17, 2003)

Mr. Hanson moved to approve the minutes for November 17, 2003 as written; Ms. Auglis seconded.

Voted 5-0

4. Windward Heights Phase I, Normand Berube Builders requests review of final conditions for approved site off Cumberland Way and Meetinghouse Road

Mr. Shinay recused himself from this item.

Mr. Ziepniewski stated that Phase 1 had received final approval on October 27, 2003, with the condition that the applicant reach an agreement with the Frecceros or return to the Board with a plan that restricts construction of the road within the right of way. He stated that there were memos from the Frecherros and from their attorney.

Mr. Dan Riley, of Sebago Technics, stated that, at the request of the Town, they were pursuing a grading easement for a cut for Meetinghouse Road without a retaining wall. He showed the road which rose above a ridge and stated that the existing grade was about 7.1% and they had measured it over the ridge. Mr. Riley stated that they had looked at options to address the slope and approached the abutters for a grading easement, but no agreement could be made so they had revised the plan and come to the Board. Mr. Riley stated that they had raised the grade on the Windward Heights side that would raise the elevation of the road one to one and a half feet, effectively lowering the height of the wall. He stated that he had submitted the plans and the revised design maintained a wall height of two to five and a half feet with an increase to six feet at the top of the ridge. Mr. Riley stated that there would be a fence along the top of the wall for safety; he stated that the Public Works Department had chosen a vinyl fencing product that would be easy to maintain.

To a question from Mr. Wood, Mr. Riley replied that he had seen the two letters from the Frecceros and would be happy to address some of their points. He noted that the Freccero's engineer indicated that the wall could not be built within the right of way; however, some of his assumptions were not applicable to what the applicant proposed. He stated that the most significant differences were different materials and a different wall and soils; he stated that there would be no weight on top of the wall. Mr. Riley stated that the Town had the geotechnical report and there were technical and safety issues noted that were not appropriate. Mr. Wood confirmed that the wall as designed could be built wholly in the right of way; he asked whether there were any other precautions. Mr. Wendel replied that a maximum of 25 foot sections were recommended during construction so the face of the embankment would be minimized. He stated that he expected enough stakes would be used so they would know exactly where the right of way boundary was.

Mr. Riley stated that there were stakes with flags marking the Frecceros' property, but the tree cutter, who was clearing trees for the road and stormwater drain, somehow used the wrong line of cutting and removed three or four of the Frecceros' trees. Mr. Riley stated that they offered to replace the three hardwood trees and add some evergreen screening, but the Frecceros preferred that the Berubes not do the planting, but pay for it to be done by someone else. He stated that the Frecceros were consulting with their attorney and he had not heard further from them. Mr. Wood stated that, with all the attention this had gotten, he was more than disappointed that this mistake had been made and the abutter's trees had been cut.

Ms. Auglis stated that the Frecceros had called her and it appeared that they had not reached an agreement because of issues of safety and remuneration, as well as the landscaping plan and their legal costs. She stated that the Frecceros were willing to continue negotiations, but said the applicant was not willing to continue. Ms. Auglis stated that she felt there should be mediation to help reach an agreement. Mr. Wood stated that it would be nice if an agreement were reached, but that was not a role of the Planning Board, and the applicant came back with an alternative plan as noted in the condition of approval.

Mr. Brian Freccero read a written statement indicating that they had met with Mr. Riley regarding designs that would help this project and return his land back to normal, but the applicant had not offered adequate compensation. Mr. Freccero stated that he wanted alternate plans for the easement, but never saw them; he stated that his engineer indicated the plan could not be done within the right of way. He stated that this project would take place about 40 feet from their front door and he was asking for them to make sure it would be done right. Mr. Freccero stated that he met with Susan Berube, whom he told his concern was for adequate compensation; he stated that the trees that were lost would have been a buffer. He stated that large holes were left on his property when soil testing was done. Mr. Freccero stated that he had shown patience and felt an agreement could be reached. He stated that he had not seen the final plan and would like to have 60 days to look it over; he stated that he had spent several thousand dollars and taken six vacation days on this issue and was looking to maintain an attractive exterior to his house. To a question from Mr. Wood, Mr. Freccero replied that he had not seen the plan the Board had this evening.

Mr. Porada stated that he was appalled by the treatment of this abutter by the applicant and it was totally understandable that the Frecceros wanted to have their own trees planted. He stated that they deserved the time and opportunity to look at the latest plan and to have some input; he stated that it was not right for the Board to make any decision tonight. Mr. Farnkoff agreed and stated that he approved the plan with the understanding that the applicant would work with the abutter; he stated that the Board should not sign the plan until the agreement was reached. Mr. Callahan agreed.

Mr. Wood stated that the condition was that the plan provide a method of holding back the earth in agreement with the abutter or provide an alternative plan and the applicant was asking the Board to consider a plan within the right of way because they could not reach an agreement. Mr. Hanson noted that if the

abutter had 60 days to consider the plan, planting could not be done during the winter. Ms. Auglis stated that this work affected the abutter more than anyone else and she thought the item should be tabled to give the Frecceros more time. Mr. Freccero stated that he was trying to be reasonable but wanted fairness; he stated that the applicant was on his property illegally three separate days. He stated that it was in the best interest of all parties for them to reach an agreement. Mr. Wood stated that he echoed all the opinions but felt it necessary to follow the procedure of the condition, which was for the applicant to reach an agreement or return with a plan that could be done within the right of way; he stated that he was not convinced the plan could be accomplished within the right of way and could delay the approval.

Mr. Ziepniewski stated that this had been back and forth for several months; he recommended that the Board table the item until the next meeting and have a peer review done by SYTDesign on the engineering proposal and then the Board could make its decision.

To a question from Mr. Callahan, Mr. Riley replied that, based on their investigations, the grades could be done within the right of way. Mr. Riley stated that they agreed the trees should not have been cut but they had twice offered to replant them. He stated that, prior to the October 27 meeting, they met with the abutters at least six times and always talked about a wall within the right of way; he stated that the wall would cause some disturbance in order to flatten the abutter's steep driveway. Mr. Riley stated that they offered three very clear alternatives, but the only feedback was from the Freccero's attorney. Mr. Riley stated that he also talked with the Freccero's landscape designer who had an alternate plan for a flat area; he stated that the cost would have been \$7,900.00 for an area of 3,000 square feet. He stated that on Thursday, the abutters were not interested in pursuing the plan and wanted the Berubes to buy their house and they would build elsewhere. Mr. Riley stated that he did not think the applicant should take a loss when they had followed the requirements of the conditions; he stated that they agreed to pay for the additional wall and for the landscaping and would cut down any tree that might be damaged during construction. Mr. Riley stated that the applicant agreed to pay \$8,000.00 for the landscaping and \$500.00 for their attorney fees plus the fees of the landscape designer; he stated that they had gotten no response since November 22, 2003, so proceeded with the plan shown to the Board tonight.

Mr. Riley stated that the statement that they had not negotiated with the abutter was not correct but they had not gotten a response from them and it was frustrating to hear that the applicant had not pursued an agreement and that the project might again be tabled when they had done what the Board asked. He stated that some area of the abutter's land had been disturbed but he believed it was done by the tree cutters and not by the soils scientist; he stated that they were willing to repair that damage.

Mr. Wood stated that he did not think there was enough evidence to show that the construction could be done within the right of way and he agreed with Mr. Ziepniewski's suggestion that there be peer review. Mr. Wood stated that he was not suggesting the applicants had not tried to negotiate and all he wanted was to create a situation that would minimize the impact on the neighborhood. Mr. Wood reiterated that he did not have a good sense of this being contained in the right of way and the easier job of cutting the trees was not done correctly. Mr. Riley stated that the offer they had delivered was still on the table. Mr. Wood stated that tabling the project would give more time to reach an agreement and the Board would evaluate that plan.

Mr. Wood moved to table the item to require more detailed data, drawings, landscaping and any other material that would support the fact that the design would work wholly in the right of way. Mr. Ziepniewski stated that he believed the peer review could be completed by the next meeting. To a question from Mr. Riley, Mr. Wood replied that he would like to see what the fencing would look like and some computer modeling of the landscaping; he stated that the applicant should also show how they would ensure that the boundary would be secure from any encroachment. Ms. Auglis seconded.

Voted 5-0 to table.

Mr. John Chudzik, of 4 Meetinghouse Road, stated that Mr. Riley asked him to be the lead person in the neighborhood and he would like to be kept up to date on the project. He noted that the tree cutter had come from the rear and did not see the stake that showed the property line.

5. 49-51 Spring Street Realty Associates request extension of approval for MRI trailer through June 2004

Mr. Ziepniewski stated that he understood there were permitting issues with the State and the staff recommended approval. Ms. Ann Callendar, architect, stated that there was a State moratorium on certificates of need and the applicant was trying to get through the process with a hearing. She stated that the trailer had been critical to this medical office and they hoped to get the MRI inside the building as soon as possible.

Mr. Hanson moved to approve the six month extension; Mr. Wood seconded.

Voted 5-0

6. Great Island Acquisitions LLC requests sketch plan review and set public hearing date for proposed zone change from Industrial to B-2 in area of Spring Street and Mussey Road

Mr. Ziepniewski stated that the nature of this request was very extensive and he thought it best to have a brief discussion prior to setting a date for a public hearing.

Mr. Kerry Anderson showed the 65 acre, mostly wooded site behind Spring Street extending to the South Portland line; he stated that the site was now zoned Industrial and he wanted to move the B-2 Zone line from Spring Street to Mussey Road. He stated that he had letters in support of the request from the abutters. Mr. Anderson displayed a layout of the road network with possible retail buildings and stated that the inner road would connect from Mussey Road to Spring Street to Payne Road with signalized intersections, which would alleviate traffic in the area.

Mr. Wood noted that the land use implications were what concerned him and he saw a lot of wetlands and wondered whether they could be developed. Mr. Anderson stated that the project was now in the concept stage and they had to look at many issues, but they were comfortable enough to move forward. Mr. Wood stated that it was important for him to know that the applicant believed the opportunity existed. Mr. Anderson stated that he believed this was the right use for the property and did not think the Town would get any attractive industrial development there.

At the request of Mr. Wood, Mr. Anderson replied that he was not suggesting the road end at Spring Street and Payne Road but this would be a new access to Payne Road very near the WalMart exit. Mr. Ralph Norwood, of Gorrill-Palmer, stated that they expected all the roads to work as a coordinated system and PACTS would change all the signals on Payne Road. He stated that this development would generate 1,532 trip ends at PM peak and 2,100 trip ends on Saturday. Mr. Anderson stated that there was a residence on Spring Street that was currently in the B-2 Zone and was the only residence left on the street.

To a question from Ms. Auglis, Ms. Nancy St. Clair, of Sebago Technics, replied that the plans showed the affect the project might have on the WalMart parking lot; she stated that part of the process was to develop a plan that would accommodate what is existing. Ms. Auglis stated that she hoped the site would remain a campus environment. Ms. St. Clair noted that this site was also in the Exit 6 Overlay District so the Board would also have to address the criteria of that zone. Mr. Hanson asked about the truck route; Ms. St. Clair replied that the inner boulevard would create new traffic circulation in the whole area and would help to remove trucks from the parking area. Ms. St. Clair stated that the driveway would line up across the street from the mini-mall across Payne Road; she stated that there would be a no-left-turn exit

from the present intersection of Spring Street and Payne Road. She stated that this link would provide access to South Portland without using the Eight Corners area. She stated that the inner road would have a center median and two lanes in each direction and all intersections would be signalized. Mr. Porada asked about closing the present Spring Street access so no one could turn left; Ms. St. Clair replied that the intersection gave access to two existing businesses at the end of Spring Street and to the private turnpike access to the tollbooth. Mr. Porada encouraged the applicant to preserve the trees on the boundaries and stated that he would not like to see a sea of asphalt in the parking lot. Mr. Callahan agreed that the change made sense; he noted that this would add another traffic light to Payne Road. Ms. St. Clair stated that there would be a full traffic movement study with the DOT.

Mr. Farnkoff asked whether there was any plan to widen Mussey Road in the future to match the road in South Portland; Mr. Ziepniewski replied that the base was poor and needed reconstruction but there were no specific plans at this time. Mr. Farnkoff noted that the truck route would interfere with shoppers going to the mall and trucks should use the wider boulevard. To a question from Mr. Farnkoff, Mr. Anderson replied that 60 acres of industrial land would be rezoned. Mr. Shinay noted that two businesses on Spring Street would be affected if the end of Spring Street were closed. To a question from Mr. Ziepniewski, Ms. St. Clair replied that the island between the streets was owned by WalMart and could be accessed by the small piece of Spring Street.

To a question from Mr. Porada, Mr. Anderson replied that there would be a visual buffer of trees for the neighborhoods. Mr. Anderson stated that the doctors at the end of Spring Street supported the zone change and were aware of the project.

A public hearing was scheduled for January 5, 2004. Mr. Ziepniewski asked that the Planning Board keep the paperwork they had received.

#### 7. Direct Mail of Maine requests site plan amendment approval for parking at existing site on Lot 19A of the Scarborough Industrial Park

Mr. Ziepniewski stated that this needed a site location amendment and stormwater permit from the DEP, as well as the curbing being coordinated with the Public Works Department; he stated that the staff recommended approval.

Mr. Steve Bushey, of DeLuca Hoffman, stated that the applicant proposed a small parking lot expansion to allow them to ship from their existing lot at Washington and Libby Streets; he stated that they would consolidate their office into the warehouse building and wanted to expand the parking to be able to shift their employees. He stated that there would be a total of 75 parking spaces with 9,500 square feet of additional impervious surface; he stated that the driveway would be widened a little to provide better circulation and they would add a raised, curbed island with landscaping. Mr. Bushey stated that there were existing drainage easements and swales; he noted that the standards had increased since the drainage was built and they would add Vortech for further runoff filtration. He stated that there would be no building or utility changes and the uses were within the requirements of the Ordinance. Mr. Bushey stated that they had applied to the DEP for modification and would like approval conditioned on DEP approval.

To a question from Mr. Hanson, Mr. Bushey replied that the applicant was moving out of its small office building and had no tenant yet so did not know the trip generation for that building. To a question from Mr. Callahan, Mr. Bushey replied that the rear of the large building was leased as ware-house space. Mr. Wood confirmed that the buildings were conforming on the lots. Mr. Ziepniewski noted that the applicant would add 49 parking spaces.

Mr. Bushey showed the parking at the front of the site and stated that they would rely on the existing lighting. He showed the regrading of the drainage ditch and some of the drainage area; he stated that the drainage had not been maintained over the last 20 years and they would work with the Public Works Department to improve it. Mr. Wood stated that the Planning Department should determine whether the numbers on the plan, such as building coverage, were correct. To a question from Mr. Farnkoff, Mr. Bushey replied that the parking would be asphalt as it is now. Mr. Porada thanked the applicant for the landscaping plan.

Mr. Shinay moved to approve the amended plan with the following conditions:

1. That the site location amendment and stormwater permits be received;
2. That the stormwater and curbing be coordinated with the Public Works Department;

Mr. Hanson seconded.

Voted – 4-0-1 – Ms. Auglis was out of the room.

8. Hampstead Associates LLC requests site plan amendment approval for parking at 25 Spring Street

Mr. Ziepniewski stated that one of the issues was that the site was tight when the original plan was approved; he stated that the parking aisle width was inadequate.

Mr. Jim Thibideau stated that this site was permitted for stormwater and they would need an amendment from the DEP; he stated that he wanted the Board's general consent on the landscaping. He stated that there were issues with the dumpster and two parking spaces. Mr. Thibideau stated that it was important to leave the dumpster where it was so trucks could access it. He stated that they proposed additional parking spaces with a landscaping retaining wall which would bring up the grade and create a visual barrier. He stated that a landscape architect would design some landscaping for the top of the embankment.

Mr. Thibideau stated that the tenant did not usually use all the parking but when all the agents were there at once, usually once per week, there were not enough spaces and the tenant would leave if they could not get ten additional parking spaces. Ms. Auglis stated that the spaces near the building should be eliminated because that was the only area available for landscaping and she would like more creative landscaping in front of the building and would like to see a photo of the retaining wall. Ms. Auglis asked why the applicant was asking for 20 spaces if they needed only 10; she stated that she would be interested in the bottom line number of spaces the tenant could get away with.

Mr. Porada stated that the design guidelines required that 15% of the parking lot be used for landscaping. Mr. Thibideau stated that large trees could be put on the islands. To a question from Mr. Callahan, Mr. Thibideau replied that the aisles were wide enough for two way traffic. Mr. Wood stated that this was a better attempt than the previous plan and he appreciated removing the parking from the front row. Mr. Thibideau stated that he would come back with all the information the Board required.

9. Mike Payeur, Inc. requests sketch plan review for 16 lot subdivision off Payne Road

Mr. Ziepniewski stated that the applicant had changed the plan to reflect the comments of the Board regarding the access points and this was a much improved plan. He read comments from the Conservation Commission.

Ms. Danielle Betts, of Sebago Technics, stated that there would be 15 lots which would meet the net residential density calculation. She stated that they had removed the driveway from Payne Road and the shared driveway. She stated that there would be under 13,000 square feet of impacts on the wetlands; she

stated that there would be 13 acres of open space, or 45%, much of it in the front of the site along Payne Road. Ms. Betts noted the drainage easement in the rear and stated that it was not a stream, but they would make sure it fell in the open space area.

To a question from Ms. Auglis, Mr. Ziepniewski replied that the Haigis Parkway Zone was to the north of this site and there would be buffers on the business side for lots 1 and 2 which were very close to Haigis Parkway. Ms. Betts noted that the zone line was the property line. Ms. Auglis stated that her other concerns echoed those of the Conservation Commission. Mr. Hanson asked about the shared driveways; Mr. Ziepniewski stated that sharing driveways was a way to minimize impacts on the wetlands. Ms. Betts stated that there would be a homeowners' association that would maintain the shared driveways; she noted that this project was for people over 55 years of age.

To a question from Mr. Wood, Ms. Betts stated that she was not sure what lot they would eliminate, but they would do a topographic study, which would help make that decision. To a question from Mr. Wood, Mr. Payeur replied that the homeowners' association would probably own the open space. Mr. Wood stated that he appreciated the efforts and the open space at Payne Road. Mr. Wood stated that there could be a pedestrian access for the open space. Mr. Callahan confirmed that there would be public water and sewer. Mr. Payeur noted that soil conditions were a concern and he would determine whether he would put the houses on slabs or have full basements; he stated that he had been to the Sanitary District.

Mr. Porada stated that he liked the large buffer along Payne Road and thought there should be access to the open space. Mr. Payeur stated that he may plant a garden and put benches in that space. To a question from Mr. Porada, Ms. Betts replied that the former lot along Payne Road was now part of the open space. To a question from Mr. Shinay, Ms. Betts replied that they would reconfigure the lot lines a little.

10. Coulthard Farms Subdivision, ALC Development requests amended subdivision plan for site off Pleasant Hill Road

Mr. Ziepniewski stated that this was a minor amendment and the staff recommended approval. Shawn Frank, of Sebago Technics, stated that this was a mistake made by Sebago Technics; he stated that the original pump station had a 50 by 50 foot easement to the Sanitary District which was to be used for the whole watershed and the District wanted control and acquired the lot from ALC Development. Mr. Frank stated that they had moved property lines on Lots 31, 32 and 33.

Mr. Shinay moved to approve the amended plan as presented; Mr. Hanson seconded.

Voted 5-0

11. Classic Eyewear requests site plan amendment for signage at 192 U. S. Route One

Mr. Ziepniewski stated that this was the former Foodzie.com building; he stated that this was an appropriate use for this site and the staff recommended approval.

Mr. Rocco Risbara III stated that the applicants, Steve and Paulette Thibideau, had the property under contract and wanted the Board's input as to whether Classic Eyewear would be an appropriate use for this site and to get the signs approved. He stated that one parking space would be lost to a granite sign post; he stated that two spot lights would light the sign from the ground. Mr. Risbara stated that the Board had received the detail of the wording to be used on the side of the build; he stated that the panel sign at Dunkin' Donuts would be changed to reflect the new business. To a question from Ms. Auglis, Mr. Risbara replied that there would be overhang lights on the building sign. Mr. Risbara noted that Mr. Bray had written a letter regarding traffic, which was reviewed by Mr. Gorrill.

To a question from Mr. Shinay, Mr. Ziepniewski replied that as part of the site plan approval, a condition was imposed that required any change of use to return to the Board. To a question from Mr. Shinay, Mr. Risbara replied that there would be no changes other than losing one parking space and some work inside the building. Mr. Wood stated that he was pleased that this building would be in use and wanted to hear from Mr. Bray regarding traffic. Mr. William Bray stated that there would be six trips during the AM peak hour and 13 during the PM peak hour; he stated that there could not be a project with fewer trips for this site and the traffic was well below the trips approved in the beginning and would not interfere with Dunkin' Donuts. Mr. Wood stated that he shared the enthusiasm that this would generate less traffic; he asked about internal circulation. Mr. Bray stated that he had not looked at circulation but it should work as a one way loop. Mr. Wood noted that there was adequate directional signage at the original approval. Mr. Risbara stated that they would use the original signs but change the wording. To a question from Ms. Auglis, Mr. Thibideau replied that there was an arrow sign at Dunkin' Donuts directing drivers around the building. Ms. Auglis noted that the queueing sign was never put back up.

Mr. Hanson stated that this business would enhance the location. To a question from Mr. Callahan, Mr. Bray replied that the peak traffic times did not overlap too much with those of Dunkin' Donuts.

Mr. Shinay moved to approve the amended site plan as presented; Mr. Hanson seconded.

Voted 5-0

12. Arlington Heights Subdivision, Grondin Properties LLC requests amended subdivision plan for site off Holmes Road

Mr. Ziepniewski noted that this subdivision had big problems and there were stop work orders on two houses; he stated that the houses did not comply with the setbacks from the wetlands. He stated that the builders wanted to cap off the foundations because of the weather and, though it was beyond the Board's 10:30 cutoff time, he felt this item should be dealt with tonight. Ms. Auglis moved to consider Item 12 only; Mr. Hanson seconded. Voted 5-0

Mr. Ziepniewski explained that this was clearly the engineer's liability because the plan did not show what was on the ground and it was not a minor two foot error. He stated that the staff overlaid the mylar with this plan and saw differences in the size of the wetlands so did not know where to begin; he stated that this was beyond minor and to let it ride would give the wrong message in terms of enforcement. Mr. Ziepniewski recommended that the foundation locations be denied and that certificates be required to show that other foundations were in the right place. He stated that the differences on the site plan should be reconciled and he would put stop orders on the whole project until the entire site was reconciled. He stated that the foundation on Lot 10 was 69 feet from the wetlands when it should have been 75 feet and on Lot 3 was 32 feet from the wetland when it should have been 50 feet.

Mr. Shawn Frank, of Sebago Technics, stated that he did not expect approval; he stated that they had identified the wetlands and when the GPS information was added to the base sheet, mathematical errors were made. He stated that they were not aware of this problem until Lot 3 was visited by the DEP and the Code Enforcement Officer. Mr. Ziepniewski stated that he did not want to hold the builders up for months; he stated that he wanted the Board to be aware that there should be an independent review of the plan and that a new plan be drawn. Mr. Shinay stated that if the Board would not have approved the original plan as it is now, it should not be amended just because mistakes were made. He stated that he did not think the Board had the authority to negate setbacks required by the DEP. Mr. Ziepniewski stated that he did not know what there was with this mixed up plan. Mr. Wood stated that he agreed with Mr. Ziepniewski that there was not enough information and maybe there was an unsold lot that could be given to mitigate some setback reductions for additional buffering elsewhere.

Ms. Auglis stated that her concern was consistency and fairness; she stated that this was a big deal because of the wetlands. She stated that there should be no more foundations poured until the existing ones were removed or until Mr. Wood's suggestion was considered. She stated that she did not think leaving the foundations in place was an option. To a question from Mr. Farnkoff, Mr. Ziepniewski replied that the 75 foot setbacks were a buffer to keep the stream cold in the summer and a filter strip from runoff, as well as a wildlife corridor to protect the resources. To a question from Mr. Farnkoff, Mr. Frank replied that there were two stream crossings. Mr. Farnkoff noted that the stream crossings violated the 75 foot setback and the road did as much damage as the foundations. Mr. Farnkoff asked whether the staff felt the foundations should be removed; Mr. Ziepniewski replied that he did not know the full extent of the errors because the plan was not complete and the whole configuration changed on the new plan.

Mr. Shinay stated that a third party review was needed to get an accurate plan of the site; he stated that he hated to require taking out the foundations at a high price, if they were okay as they were. Mr. Ziepniewski stated that he would put stop orders on any foundations and stop all other work. He stated that the applicant would need a new plan.

13. Lender's Network requests site plan amendment approval for existing site at 250 U. S. Route One

This item was tabled to the January 5, 2004 meeting because of the late hour.

14. Town Planner's Report

There was no report.

15. Correspondence

There was no correspondence.

16. Planning Board Comments

Mr. Wood noted that the Board would need to elect new officers at the January meeting; he thanked Mr. Shinay for his service and stated that he had learned a lot from him. Mr. Wood stated that he would stay on the Board for three more years if the Town Council so decided.

17. Upcoming Subcommittee Meetings

Ms. Auglis stated that the Board had received information regarding the changes to the sign ordinance; she stated that there would be a meeting at 12:00 noon on December 22, 2003.

Mr. Hanson gave Mr. Shinay a going away gift from the Board. Mr. Shinay stated that he appreciated the gift and stated that he was very emotional about leaving the Board after nine years. He stated that his service on the Board had taught him a lot in his practice as a real estate attorney and had taught him humility. He stated that he had enjoyed working with everyone and would miss the process; he stated that this was rewarding service to the public and encouraged others to give something to the Town.

18. Adjournment

The meeting was adjourned at 11:10 P. M.