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**Litchfield Planning Board**  
**September 16, 2008**  
Minutes approved 11/11/08

**Members present:**

- Steve Perry, Chairman (arrived at 7:30 p.m.)
- Alison Douglas (Acting Chairman until 7:30 p.m.)
- Leon Barry
- Marc Ducharme
- Frank A. Byron, Selectmen’s Representative
- Edward Almeida, Alternate
- Carlos Fuertes, Alternate

**Members not present:**

- Jayson Brennen, Vice Chairman
- Mary Anne Geist

**Also present:**

- Joan McKibben, Administrative Assistant
- Steve Wagner, Nashua Regional Planning Commission, Circuit Rider
- Lou Caron, L.C. Engineer, LLC

**Agenda:**

- 1. Per NHRSA 675: A public hearing for the annual review of the Public Capital Facilities and Public School Facilities Impact Fee Schedule.**
- 2. Rene Theroux Tax Map 15 Lot 6, 315 Charles Bancroft Highway. The Board will continue consideration of an application to subdivide one lot into three lots. Application continued from 7/22/08, 8/19/08 motion to continue to 9/16/08. There was no Planning Board meeting on 9/2/08.**
- 3. Any Other Business:**
  - Bond Reduction – Blackbird Lane**
  - Discuss potential zoning and subdivision changes**
  - Approve Minutes: 6/17/08, 7/8/08, 7/22/08, 8/19/08**

Acting Chairman Alison Douglas called the meeting to order at 7:07 p.m. Mrs. Douglas appointed Edward Almeida and Carlos Fuertes as voting members.

**1. Hearing – Impact Fee Schedule**

Mr. Wagner explained that the Impact Fee Schedule is an annual review and an escalator clause was instituted to correct for inflation about a year ago. Each year the numbers are

1 reviewed and if necessary, there is a fee adjustment. There is an adjustment this year.  
2 “The building cost index factor for last year running to August is 1.2751 and with the  
3 increase in cost, the factor this year is 1.3375. We take the 2000 index and the difference  
4 between this year’s value and 2000 and multiply them...the construction cost index was  
5 1.287 and now it is 1.3441. If you look at the schedule for 2008, Table 1, using the  
6 1.3375, Table 2 rose 1.3441 in value. The only impact fee not adjusted is the Campbell  
7 High because it is already built. That factor stays at 1.0 and there is no increase in cost.  
8 So, what we would do is to adopt these and refer them to the Board of Selectmen”. Mr.  
9 Wagner has prepared a letter to be sent to the Selectmen.

10  
11 Mr. Wagner said the CIP (Capital Improvements Plan) is completed and it has been  
12 adopted by the Planning Board. The Planning Board is planning to hire a consultant to  
13 look at the impact fees and make adjustments to better fit the economy and what is going  
14 on with the projects in Town. He recommends that the Selectmen review the status, audit  
15 the impact fees and make sure the bookkeeping is up to snuff. Cecile Durocher has done  
16 a good job but we want to make sure we look at where we stand with respect to the  
17 impact fees from 2000 and see how many units are left to be charged impact fees.

18  
19 Acting Chairman Douglas opened the meeting to public comment. There was no public  
20 comment. Public comment closed.

21  
22 Mr. Barry **MOTIONED** in reference to NHRSA675:7 that we accept the Impact  
23 Schedule for Public Capital Facilities and Public School Facilities Year 2008-2009. Mr.  
24 Fuertes seconded. Motion carried 6-0-0. This will be forwarded along with the letter to  
25 the Board of Selectmen. It will then be filed with the Town Clerk’s Office.

26  
27 **3. Any Other Business**

28  
29 **Minutes of Meeting** - The Board reviewed the minutes awaiting Chairman Perry’s  
30 arrival. There was no objection.

31  
32 Mr. Barry **MOTIONED** to accept the June 17, 2008, Planning Board minutes as  
33 corrected. Mr. Ducharme seconded. Motion carried 5-0-1. Mr. Barry point of order that  
34 Mr. Ducharme seconded the motion but he was not present at the meeting.

35  
36 New Motion: Mr. Barry **MOTIONED** to accept the minutes of June 17, 2008 planning  
37 board minutes as corrected. Mrs. Douglas seconded. Motion carried 4-0-2.

38  
39 Mr. Barry **MOTIONED** to accept the July 8, 2008, Planning Board minutes as corrected.  
40 Mr. Byron seconded. Motion carried 4-0-2.

41  
42 **2. Theroux Subdivision Tax Map 15 Lot 6, 315 Charles Bancroft Highway**

43  
44 Chairman Steve Perry entered the meeting at 7:30 p.m. and took over chairmanship of the  
45 meeting.

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Mr. Tobin Farwell, Farwell Engineering, representing the applicant came forward. Abutters Edward Stokes, Arthur Morin and Thomas Levesque, Sr. (Conservation Commission member) were also present.

Mr. Farwell: This property we are proposing to subdivide into two house lots. There is an old railroad right-of-way that went through the middle of the property creating sort of a high point. So, you have Charles Bancroft Highway as the low point, high point of the railroad sloped back to a large wetlands to the east of the property. It is part of the storm water mitigation. We had started off with a catch basin and we went with the Board's recommendation and input from the town's engineer to go with a swale to direct the storm water to the east of the site directing storm water to the large wetlands out back. We have also included infiltration trenches that collect roof runoff from the roofs of the two proposed houses and that will allow infiltration of the roof runoff reducing the amount of runoff from the site. The drainage calculations show this will reduce the runoff from the site; post will be less than pre-development conditions. We have also obtained State Subdivision Approval for this site for the two lots. We are getting an update for the DOT driveway permit and are in the process of updating that as well. The Town Engineer has reviewed it and had no additional comments. We did receive comments from the Conservation Commission on September 15, 2008.

Conservation Commission comments: 1. What will be the interaction between the new swale and Lot 6-2 and wetlands to the east? The concern is the elevation 128 at the wetlands and the 128 elevation near the east end of the swale. This is the large wetlands to the east which has an elevation of 128. There is a localized elevation of 128 which is where we intend to discharge the swale to for a better term. Again, we are utilizing that existing divot for additional storm water detention volume but still I cannot foresee that it will back up. I think that is what they are applying, that they are concerned that it may backup into the swale.

Mr. Ducharme: How far is the outlet to the swale to the wetlands?

Mr. Farwell: 200 feet roughly.

2. We are concerned about how you can tell the interaction of the two areas without a hydrologic study as the wetlands area is full as flooded storage under the power lines will it backflow towards the lot and 3A with post rating elevations?

Mr. Farwell: It seems that the flooding elevations are really the power lines are even further over...this is the wetlands at elevation 128, the road is at elevation 130 and the high point in the middle is about 129 and 129 ½ is the absolute highest point. Through historical anecdotal we have always known that there is an island there. This island cannot be over topped I think is what they are looking for, the interaction between the two areas. It sounds to me they are concerned that it will spill over Route 3A. We are still saying it is going to be 128 here but the swale is going uphill from here obviously

1 directing storm water in this direction. The high point will always remain but the road we  
2 are obviously building this up considerably. This is the wetlands at 128, so, therefore  
3 there should not be any backing up of the flooding elevation.  
4

5 3. If water is flowing into the wetlands, can we expect salt, heavy metals from the  
6 driveway and Route 3A to migrate to the wetlands?  
7

8 Mr. Farwell: I am sure the Planning Board has seen many projects where you had a road  
9 off of a road. We are using best management practices by utilizing the swale. We have  
10 velocity at less than one foot per second. It is a very small silt catching area so not talking  
11 a lot of flow here. Best management practices of the swale are reducing the velocity to  
12 less than 1 foot per second which allows the vegetation to remove the minerals and  
13 pollutants we want to get rid of. Also, there will be infiltration from the trench once  
14 again removes pollutants, this is common practice and this is the standard method of  
15 dealing with it.  
16

17 4. Part of the 75 foot protective well radius...encompasses the proposed drainage swale.  
18 This seems to be counter-productive to a protective area to a well.  
19

20 Mr. Farwell: Again, I am sure you have seen through the planning board process of  
21 subdivisions where they do have swales go through protective well radius. It is common  
22 practice, it is allowed by State regulations. My concern is from the highway which I am  
23 sure they do salt, so, you want to maintain a good buffer from the highway and again this  
24 watershed area.  
25

26 Mr. Caron asked what was meant with the word interaction in Items 1 and 2. Mrs.  
27 McKibben, Chairman Conservation Commission, said that it is meant above ground.  
28

29 Mr. Caron: Okay, surface water flow. The study they have done as documented pre and  
30 post development flow so from a hydrological study there essentially has been done. I  
31 think our issue had focused on what to do with the water that collects parallel to Route  
32 3A and because of the history with the abutter and the flooding, we did not want to direct  
33 any more water to the south to that abutter's property. So, then the discussion became  
34 how do we move that water from Route 3A side of the lot to the backside of the lot and  
35 that is where the swale came up because there had been the dry well option that was first  
36 submitted that we agreed would be no more than like a dug well. The groundwater table  
37 would not be that effective so that was eliminated from the project. So, what I would  
38 expect to see it is an extraordinarily flat swale because the grade elevations are not that  
39 great from the existing driveway to the north all the way along the front edge and back  
40 along the south property line. It is really a flat ditch. It is flatter than what you would  
41 normally see for a site specific swale as part of the water quality alteration and terrain to  
42 get rid of the pollutants...and this swale is even flatter than what you would normally see.  
43 I think water moving from the front to the back would be extraordinarily slow. As I read  
44 this letter, the only concern I came up with because it is slow there is a possibility that  
45 water might flow through the berm through the soil, south. That was about the only thing

1 I could come up with that I could see would be any kind of an issue but there is not much  
2 water flow to begin with. We are really talking small quantities because the lots are not  
3 that big and they are reducing the flow post development compared to pre-development. I  
4 think you will go out there sometimes in the year in the springtime and it will look like  
5 there is water in the swale. It will build up four or five inches deep and hopefully it won't  
6 leach through the swale to the south.

7

8 Mr. Ducharme: Do you think it would be worthwhile to specify impervious materials?

9

10 Mr. Caron: It is overkill but as I mentioned to Tobin we probably do not have a normal  
11 situation here and I would not be opposed to throwing in a clay barrier once you strip the  
12 top soil and put in a little clay to prevent the water flowing to the south.

13

14 Mr. Ducharme: Of course it would decrease the infiltration.

15

16 Mr. Caron: Not really because the infiltration is going to happen vertically. My concern is  
17 the horizontal flow not the vertical flow. So, it would not affect the ability of this swale to  
18 infiltrate into the ground and it should infiltrate. I would guess that most of it will  
19 infiltrate except when it is frozen only because it is so flat. It is about 12 or 13 minutes to  
20 get from Route 3A to the back of the property line. It is slow; it is very flat.

21

22 Mr. Caron further stated as to Item 3 of the Conservation comments: As far as the back  
23 water any flooding in the wetlands area, you would have that with or without the  
24 development project and I think what I mentioned to you earlier the only negative I could  
25 envision of the two lots would be filling up to build a mound to build a house on of at  
26 least an elevation of 130 you are filling in possibly flood storage. Once it is 130, the  
27 water is going to be going over Route 3A which I do not think it ever has to my  
28 knowledge...my observation, casual anecdotal, having driven through here for 20 years  
29 now is that the water is probably on the abutting property maybe a foot lower than Route  
30 3A. It is up around the house but compared to 3A but it is probably a foot lower which  
31 may put it at 128 ½ maybe 129 which means the water would back up into this area after  
32 development as it would prior to development but in the overall flooding, I cannot see  
33 that eating up that volume would have an impact.

34

35 As to Item 4, Mr. Caron: I do not know of any issues that you would have of having the  
36 swale there any different than having the low spots; maybe worse having the low spots  
37 you have today that would fill with water and never drain because then your pollutants or  
38 whatever is in there would consolidate in this low spot like a little pond and you probably  
39 would still see a little pond down in the corner because that still will be a low spot but the  
40 contributing area will be very small.

41

42 Mr. Perry: So, all the water that collects there now, that won't happen?

43 Mr. Caron: On the abutter? Mr. Perry: No, right now that happens on that lot.

44 Mr. Caron: You will have a pond. Mr. Perry: There is still water there from two and a  
45 half to three weeks ago.

1 Mr. Caron: The lower part, you will still have water; there is no where for it to drain out.

2 Mr. Perry: But you are telling us it is going to infiltrate.

3 Mr. Caron: They are going to be stripping the topsoil to some degree. The swale itself,  
4 the elevation will probably be a little higher than the ground is today.

5

6 Talk ensued. Mr. Barry: I have a concern about the corner, at 130, it comes down to 129  
7 by what you are saying Lou they are going to build some of that up but I am concerned  
8 about coming down the road and we spoke about the salt from the road and there is a well  
9 right there, the potential of that salt getting into the well is there. I am also concerned  
10 with water going over the road. Mr. Caron: The road is actually 130; the elevation of  
11 129.8 is probably a spot elevation in the driveway. There is no history that I know of  
12 of the water overflowing over 3A. Mr. Barry: As it is now. Mr. Caron: The only way  
13 you would have flow going over 3A would be water building up in the wetlands and  
14 backing up and over the top of 3A. That is the only way it would happen.

15

16 As to the issue with the well, Mr. Caron said that surface water runoff has more impact  
17 on dug wells than drilled wells and most residential wells are drilled wells. They are  
18 down 200 to 300 feet. The surface runoff is not that much of a risk to a drilled well; to a  
19 surface well, definitely.

20

21 Mr. Barry asked if the berm is going to be higher. Mr. Farwell: Yes, the berm will be  
22 built 130 at its highest. It will drop off at the rear and it will drop off a little 130 here and  
23 129.8 at the driveway.

24

25 Mr. Perry: The berm is at 130. Now, the other side basically the front yard what is  
26 holding the water in? Mr. Tobin: The water runs like this and enters the swale. Mr.  
27 Perry: It is not actually a swale, it is like a berm and the rest of the yard is going to flow  
28 in that direction. Mr. Tobin: It is a very gentle 6:1, swale is how I would describe it.  
29 Mr. Perry: It is all going to gradually go down and then there will be a bump at the end.  
30 Mr. Tobin: It definitely will go down.

31

32 Talk ensued. Mr. Perry: If we have a flooding situation, that front corner is going to be a  
33 pond? Mr. Farwell: Yes.

34

35 Mr. Perry: Because the berm from the fence and the berm you are building is going to  
36 hold water right there? Mr. Farwell: Yes. Mr. Ducharme: Even during a heavy storm  
37 probably.

38

39 Mr. Farwell: This will be the line and any rain that runs here goes into the swale and any  
40 rain here will go into that depression area and any rain that goes here is beyond it, it is a  
41 very small area.

42

43 Mr. Barry: It is a small area but a lot of water.

44 Mr. Farwell: I guess what I am trying to say the contributing area is going down by  
45 considerably...now we are diverting 80% away and leaving 20%.

1 Mr. Perry: When we see the water collect out there, like a couple of weeks ago the water  
2 appears to collect 75 feet from the road. Does it go beyond that because the wetlands are  
3 way in the back and where you have the railroad bed, does it go past that or is that pretty  
4 much what holds it up? Mr. Farwell: Not to my knowledge. Now we are talking  
5 anecdotal.

6  
7 Chairman Perry opened the meeting to public comment. Mr. Ed Stokes, an abutter, asked  
8 where will the water pond. Mr. Farwell: This is the low point, here is your fence, we are  
9 leaving this area as still a low point.

10  
11 Mr. Stokes: That low point, that water goes into my septic and I have to have my septic  
12 pumped out a couple times a year because of that water. It not only goes into my septic, it  
13 goes into my cellar and also this swale, it is going to come down, the water is just going  
14 to stir around and come back in. There is no way that water is going to leave. You have  
15 pictures that show all the water that is in the back where they want to run it, it is already  
16 flooded. Nobody comes to talk to us and we are left in the dark.

17  
18 Mr. Levesque said that most of the Conservation Commission members believe this is an  
19 unengineered piece of land. He showed pictures of the site and puddles. He does not  
20 believe the water will be decreased. He also showed pictures of Mr. Ferren's property  
21 taken a week ago and "you can see the water flowing across". One picture shows the  
22 applicant's driveway with water. Talk ensued.

23  
24 Mr. Perry: You calculated the water that is on the property in a normal storm, correct?

25 Mr. Farwell: Pre-development, yes.

26 Mr. Perry: Now post development, how much have you reduced that number?

27 Mr. Farwell: We analyzed the two 10 and 25 year storm by peak flow. We went from  
28 pre-development which was 1.72 to 1.06 cubic feet per second.

29  
30 Mr. Caron: If there is a high spot to the east side of the lot, if it does not permit water to  
31 flow to the wetlands to the east, then the water will back up into that ditch until it gets  
32 high enough that there will be some place where it will flow out. Doing contour  
33 elevations at 2 foot contours does not give you enough detail to tell that. What I do see is  
34 this little pocket at the southeast corner at elevation 128 which is a foot lower than the  
35 ditch line or closer to the ditch line at 128. So, he has it going to the lowest surveyed  
36 point. If there is another mound beyond that which some of the pictures indicate there  
37 may be, then the water won't go over the mound. There is not enough detail in the  
38 topography to evaluate it.

39  
40 Mr. Levesque showed pictures taken from the back and the main puddle that we always  
41 keep seeing by the fence and this is the area I was telling you I could not see from the  
42 road that I could not get out to...this is the puddle which Mr. Tobin has referred to the  
43 fact that the back, this section here this puddling here will take affect. This is the  
44 puddling affect that is taken place.

45

1 Mr. Farwell: That is incorrect, this puddle right here because I've sat on this puddle  
2 because it is very near there is two hub sets, this is what I used as my control points.  
3 There is an opening in the hedge to Mr. Stokes' land. See that opening that is that  
4 opening there, so, this is right before the high point. That is the opening and this is  
5 showing the puddle and there is the high point and the puddle is on the other side.

6  
7 Mr. Ducharme: So, that shows during these flooding events that everybody is talking  
8 about, the railroad bed is creating a high point and stopping the water from flowing.

9  
10 Mr. Farwell: There is a low point and there is a high point over here.

11  
12 Mr. Ducharme: There are no pictures of that high point being flooded that anybody has.  
13 You are planning on making a cut where the trolley tracks were.

14 Mr. Farwell: Right.

15 Mr. Ducharme: How deep is that?

16 Mr. Farwell: The trolley track is 129, we are about 128.

17 Mr. Stokes: That water sitting there is about a foot deep in some spots.

18  
19 Mr. Perry: If this water is there from a storm three weeks ago, or a week and a half, and  
20 that water is there now, they are not doing anything to modify this. So, is that going to  
21 cause a problem? If we have a puddle of water sitting there after all this is done and that  
22 is like a collection area, let's say you get another normal rainstorm after that?

23  
24 Mr. Caron: You will probably still see puddles there. The holes are not going away.

25  
26 Mr. Ducharme: That is why I kept asking the question what this drainage area is.  
27 If we get a 6 inch rainstorm, how deep do you think the puddle would be here and do you  
28 think it would stay on their property?

29 Mr. Farwell: That is a tough...that is why I was hoping you had the drainage area to it  
30 and if you had an approximate size of the bowl, does the water stay in the bowl?

31  
32 Mr. Caron: Part of the challenge here is you have 2 foot contours. So, we are talking  
33 about a foot of water and we are looking at 2 foot contours. I almost need a point file to  
34 be able to look at individual points that we use to generate the topo lines.

35 Mr. Ducharme: And everybody says the water is 1 ½ ft. deep today during a rainstorm.

36  
37 Mr. Caron: Which tells me there is probably an elevation of 129, 129 ½ around the  
38 railroad tracks, the old railroad bed.

39  
40 Mr. Wagner: We have a parcel here we are trying to develop, there are conditions that  
41 exists before development and conditions that will exist after development. To me, Mr.  
42 Stokes, and I sympathize with him, has experienced whatever effects from the high water  
43 pre-development and will experience whatever affects post development. It sounds like  
44 we are going to reduce the amount of water going off the site. I do not think we can  
45 possibly feel we are going to stop it completely from affecting his property but we cannot

1 make it worse. We can't develop the land if we are going to make it worse. We talked  
2 about a low area up towards 3A in the corner. We talked about the swale and Lou had  
3 mentioned a clay barrier will keep any weeping because of the slow water. The question I  
4 have along the whole boundary line will a clay barrier help him any more? Will it do  
5 anything to reduce infiltration into his leachfield and keep all the water directing to the  
6 back?

7

8 Mr. Caron: It will prevent the north to south flow. Again it is so flat I expect to see water  
9 in this little area.

10

11 Mr. Wagner: I am just thinking without a terrible expense on the applicant, is there any  
12 way we can maximize the reduction in infiltration and impact on his land?

13

14 Mr. Caron: That clay barrier will do it. Mr. Wagner: I do not think it is an argument to  
15 develop or not develop because there is still going to have water in there if we can make  
16 it less and the situation improves. Now, if we could stop it completely by building one  
17 house versus two and he would have to contribute to whatever remedy there was...

18

19 Mr. Caron: The way the numbers on the runoff work developing only half of the lot  
20 would have a worse impact than developing both and leaving it as cornfields because it  
21 has a higher rate of run off. I do not make the numbers up; they are published by the Soils  
22 Conservation Service.

23

24 Talk ensued. Mr. Wagner suggested a contingency in case there is some issue that arises,  
25 there has to be some adjustment to grant whatever easement might be necessary,  
26 something we might not see now as far as the water not being able to pass.

27

28 Mr. Caron: I do not know where an easement would fit in. The only thing I can think of  
29 if there is a blockage because of the topography of having a provision to go dig a ditch  
30 through there because it has to be lower, the further east you go where the brook is. If  
31 there is a little high point off the edge of the lot what will be your back lot now, along the  
32 new property line. If there is a high spot in there that prevents the water from flowing  
33 then a provision would be to get a tractor out there and cut a little ditch and eliminate the  
34 high spot. M. Farwell: I guess the other option if we wanted to build that up, fill it in and  
35 create a second ditch and that makes it flatter and try to prevent any ponding water at all.

36

Mr. Caron: I was thinking dig a hole and let it pond.

37

Mr. Perry: I was thinking that myself, it is another safety net.

38

Mr. Farwell: I thought so, too.

39

40 Talk ensued. Mr. Ducharme: I am saying that this stays a puddle when it rains more than  
41 a two year storm and make sure it stays in that hole.

42

43 Mr. Caron: It is like a natural retention basin. The one difference in pre and post  
44 development is the contributing area to that natural retention basin will be significantly  
45 reduced by that diversion swale.

1 It was said that the homeowner would have to maintain the swale, etc.

2

3 Mrs. McKibben: Looking at the existing topo lines that go over the property line and  
4 continues on at 128, I am not sure how much water will end up in that after the swale. It  
5 looks like it would go onto the next property unless we do not have the grade where the  
6 fence is but 128 does continue on to the next property but you are saying there will be  
7 less water after post development.

8

9 Talk ensued. Mr. Perry: There is a huge surface back there that the water can dissipate  
10 on? Mr. Caron: Yes. Mr. Perry: The wetlands water flows south. Mr. Farwell: There is a  
11 break somewhere, some flows north and some flows south.

12

13 Mr. Perry: So, Lou, by looking at that, what are the odds that the water say we have 6  
14 inches of rain, what are the odds that the water is going to reach the wetlands? It almost  
15 seems as if it gets to the wetlands, it is going to be a lot better than we are now.

16

17 Mr. Perry said he spoke with Mr. Ferren who said if the water could get to the wetlands,  
18 it would save a lot of problems because the water would run into a ditch, or brook or a  
19 pond that ends up behind his house. In his theory, that would be the way to go.

20

21 Mr. Caron: There is some spot elevations back in here that come down to 127.7 and with  
22 the slow amount of water, you may not ever see that water. There may be enough storage  
23 capacity in here to hold it.

24

25 Mr. Perry: This lot being built up, the water is going to be directed in more than one  
26 direction and right now it flows to the front corner.

27

28 Mr. Farwell: Yes.

29

30 Mr. Caron further stated that this proposal wouldn't make the water situation worse.

31

32 Chairman Perry Closed Public Comment. Mr. Barry mentioned Mr. Stokes had stated  
33 that he had not been approached about what is happening. To this, Mr. Farwell said they  
34 had contacted Mr. Stokes and Rene (Theroux) did meet with Mr. Stokes. Mr. Stokes also  
35 came to the site walk.

36

37 Mr. Almeida wants to see some sort of bond for two years in case something goes wrong.  
38 It was said that there is a statement on the plan to the effect the area will be grassed and  
39 loamed, a bond for 3 years and the amount of bond to be determined by the Town. That is  
40 Note 10. There is also a note no alteration of the swale without Town of Litchfield  
41 Planning Board approval and no CO (Certificate of Occupancy) until swale is  
42 constructed. The three (3) year bond starts at issuance of the CO.

43

44 A letter dated January 2008 from Donald Ferren was read aloud. The Board reviewed his  
45 letter. All of the concerns had been addressed. The Ferrrens' stated in their letter that they

1 are against the proposal. They feel these lots are not buildable lots. Mr. Byron also had  
2 reservations about the proposal: 1. Water moving towards the wetlands he is not certain it  
3 is not going to go onto the abutters' property. The pictures indicate that there are low  
4 spots in the areas that could flood over. It appears to be doing that or close to doing that.  
5 He is also concerned about the water being stranded between the berm and the abutter's  
6 lot line. That water is going to potentially build up and potentially cross the boundary  
7 where it is going go, I do not know. The other issue it is a health hazard created for  
8 mosquito breeding area.

9  
10 Mr. Wagner said the applicant has addressed the issues listed in the minutes. The  
11 homeowner will go into it with eyes wide open because there is going to be water there  
12 when they buy the lots. Mr. Perry asked for Mr. Wagner's opinion. Mr. Wagner said it  
13 will improve the situation for Mr. Stokes slightly. He has no concern with the new houses  
14 because they will be raised but he does not know if it will all work in the end. As to the  
15 mosquito issue, there is standing water there now.

16  
17 Chairman Perry opened the meeting to public comment. Mr. Stokes: I see no reason why  
18 you can't build houses except for two things. What if he sells the house and somebody  
19 fills the swale...say 10 years down the line the swale is filled in and the water that has  
20 been sitting in the corner is my concern. I am going to get water, I can live with that. I  
21 would like to see the water in the corner gone because my septic is there and it has to be  
22 pumped three to four times during the winter. Mr. Perry: Now in a severe storm, what  
23 were you thinking that would hold?

24  
25 Mr. Farwell: Going off by rough calculations, by Marc's word it was a foot deep at the 25  
26 year storm event.

27  
28 Mr. Ducharme: It would be a foot deep, 40x40...I am kind of confused why no one has a  
29 problem with the fact that it floods today and we are going to have a smaller puddle  
30 tomorrow. Mosquito breeding, not a concern, unfortunately it is today. Without doing  
31 work on Mr. Stokes' property and digging into the wetlands out back, I do not think we  
32 can drain the entire thing, or crossing 3A with a pipe. You are not going to get a drainage  
33 easement to the other side. I am sure the State would allow you to put the culvert in if  
34 you asked but not the abutter to get the water dumped in there and you would be  
35 increasing flow to that property and changing the hydrology of the area.

36  
37 Mr. Byron: Why are we not concerned about today, there is nothing I can do one way or  
38 the other with the condition it is today, is the condition it is. What we are discussing is the  
39 proposed engineering changes to this lot which does create ponded areas for water and  
40 the concern we have there is a mosquito breeding area. I am not here to engineer the  
41 project for these people; my job is to evaluate the project as it is presented to us.

42  
43 Talk continued about mosquito breeding. Mr. Perry: The only way to prevent a mosquito  
44 breeding ground is to completely get rid of the water. Mr. Ducharme: Which I do not  
45 think is practical. Mr. Caron they could do it to a certain extent on their lot, and we had

1 talked about this briefly in the field is to shift the berm parallel to the property line.

2

3 Mr. Levesque said he still wants to see some kind of bond in case there is water in the  
4 basements, a \$10,000 bond on each home for three years after CO is issued.

5

6 Abutter Arthur Morin: If this goes through where the water goes to the back and you  
7 talked about a ditch all the way to the wetlands, could you be sure that you put that in  
8 there so that it is done so the water does not sit there, it can try to leave?

9

10 Mr. Perry: What are the odds of that happening. Mr. Farwell: Very Good. That can  
11 happen.

12 Mrs. McKibben: Clarify that. What can happen?

13 Mr. Farwell: Right now we are directing it to an existing low point on the third lot and  
14 the concern is that it does not quite reach the wetlands. It is uncertain it will build up in  
15 this area. We can provide direction that continues the swale to the wetlands.

16 Mr. Perry: How would you do that?

17

18 Mr. Farwell: With a general note. Again, it is difficult to do contouring because the guy  
19 with the rod is sitting on grass and you guys are looking for 6 inch contouring so I would  
20 say to be verified by the building inspector that he can see it flows in the downhill  
21 direction, some sort of check once they build the swale then you can put a level on it and  
22 say yes the water does in fact head in that direction.

23

24 Mr. Perry: So, you are saying you would build sidewalls to the back of that? Mr. Farwell:  
25 I was envisioning more of creating a trench because we are only talking about 6 inches  
26 deep type of action so a backfill would create a trench in the soil that is there now but I  
27 do not think you would penetrate the loam, so you keep the loam there and create a swale  
28 with the backhoe to insure that it pitches in that direction.

29

30 Mr. Perry asked Mr. Caron's opinion.

31 Mr. Caron: Based on his spot elevations, I am not sure you will be able to get across  
32 there...I see a 128 contour along the edge of the wetlands and there is 128 contour in the  
33 little hole he is dumping the water into and you have 200 feet between them. There is not  
34 quite enough information to really evaluate.

35

36 Mr. Farwell: I guess it is a possibility that it could go over the property line soon after it  
37 leaves that swale.

38

39 Mr. Perry: We are going to call it the wall for the swale. Could you continue that along  
40 until you get within 50 feet of the wetlands?

41

42 Mr. Caron: With the clay? Mr. Farwell: Yes, we could continue the swale as we are  
43 proposing. So, extend the swale, keep the 130, well we can drop it to 129 for the last  
44 portion of it because that is well above the property line. Sure.

1 Mr. Perry: Because what that would do then is maybe we would have a reverse reaction  
2 and maybe we would kick a little bit of water back towards the front in a flooding event  
3 but kick less water to the south in a normal event.  
4

5 Mr. Farwell: That makes sense. What it tells me is the test grades are longer flow path  
6 once it gets into the wetlands where does it go? Obviously, there is a connection to the  
7 Stokes' property so we are trying to create as long as a flow path as we can and a berm  
8 will do that.  
9

10 Mr. Caron: One other possibility which has not been discussed, yet, there is an existing  
11 low spot next to the existing driveway to the north which I heard ices in the winter, why  
12 not shift the direction of the swale along 3A, force it to flow from south to north and put  
13 this drain swale in the remainder lot? This is elevation 128, this is elevation 128 and right  
14 now the flow has been graded to come in this direction so it would not take a whole lot  
15 because it is so flat to make it go this way...and grade something from this 128 to the  
16 wetlands and gets the 3A flow going away from the Stokes' property.  
17

18 Mr. Farwell: I have a problem because I think our choke point is right here. So, this drop  
19 of water has to go all the way. Mr. Caron: No what I am suggesting is something say this  
20 driveway, call it the high point, get this to flow this way so going to get 2/3 of the new  
21 lots that will flow this way and you will still have some flowing but you are eliminating  
22 2/3 of the contributing area but at the same time it eliminates the problem he has today.  
23 You can grade it. We are looking at something that is 8 to 12 inches deep. You can grade  
24 it so you can hardly tell there is a swale here and you can continue to farm it.

25 Mr. Farwell: He has to fill this in and rebuild his driveway.  
26

27 Mr. Caron: You still have the 128 in here, it is the same challenge. As I look at it, I see  
28 128 here, 128 here, 128 here, it is not a different problem but by shifting this lot and half  
29 of this lot to go this way maybe we can help with this problem and take the flow away  
30 from the Stokes' property.  
31

32 Mr. Farwell: Away from the tail, I see you want to split it so now not all of this is going  
33 to this point. Mr. Caron: You got it.  
34

35 Mr. Perry: I think now it is coming back on you guys.  
36

37 Mr. Farwell: Sure, we will do it. I feel like we are throwing mud against the wall to see  
38 what sticks but if that is the direction the Board wants to go in. We are talking about such  
39 a small impact area. We have reduced this storm water runoff.  
40

41 Mr. Ducharme: Before we get into those new swale ideas with the puddle staying there,  
42 would you agree there is no way to get rid of that puddle all together? Mr. Farewell: Yes,  
43 there is no way to get rid of that puddle.  
44

45 Mr. Ducharme: With that said, would we even have the votes to pass this regardless of

1 the rest of the project? I do not think we do.

2

3 Mr. Byron: Mr. Chair, I think it is incumbent and I said this a couple of moments ago, on  
4 the applicant to propose their engineering solutions to us not for us to propose the  
5 engineering solutions to us. I think we are having people spin their wheels...spend all  
6 types of money for ideas that may work, may not work. It is incumbent upon the  
7 applicant to propose how they want to engineer to their best skills to meet the Litchfield  
8 zoning ordinances, it is not the Planning Board's job.

9

10 Mr. Farwell: What we have proposed meets the zoning regulations. The zoning  
11 ordinances states less storm water impact to the abutters, we provided calculations which  
12 your engineer has approved. We have the proper area for the lots, the proper uplands; we  
13 are meeting the regulations. There are no waivers that we are asking for, the State has  
14 approved, the DOT has approved, there is no wetlands permit and we are improving an  
15 existing situation, lowering the flow. I do not say it will solve the situation.

16

17 Mr. Barry asked how to appease the situation with Mr. Stokes' septic system and well.

18 Mr. Farwell: Raising his house.

19

20 Mr. Ducharme: You read some elevations there. The low point in the fence is that higher  
21 than the house? Doesn't it slope from the fence to the house? Mr. Stokes: It goes towards  
22 the house, yes. Mr. Ducharme: So, it sounds like you are even creating your own pond.

23

24 Mr. Stokes: The pond on the other side of the fence goes down so when the water goes up  
25 there, it really does not go over too often but it has. There is a puddle there even when it  
26 rains but it has no place to go. That goes into the ground into the septic. I even have that  
27 pumped out sometimes when I have the septic guy, pump around the house. The main  
28 concern is the water that sits in that corner.

29

30 Mr. Perry: If the swale was brought down closer to your property line, you would be  
31 happy? Mr. Stokes: I do not know if bringing the swale closer to the line is going to do  
32 anything. I would say leave the swale where it is and maybe come up by the fence maybe  
33 6 inches.

34

35 Mr. Ducharme: The problem is you couldn't make it flow from the existing fence to a  
36 swale to the wetlands out back. Mr. Caron: Right, you can't get the water to go up over a  
37 little berm we are building. The purpose of the berm is to contain the flow and redirect it  
38 so the top of the berm is 130. We have elevations along his property line as low 127.1 on  
39 his property. The spot elevations that I have here, the lowest is 127.1, there is a 126.85 on  
40 your property and the height of the berm is 130, 3 1/2 feet higher. You can't get it to flow  
41 up hill.

42

43 Mr. Stokes: There is nowhere for it to flow. I realize that but you see any water that I get,  
44 is my water, I will deal with it myself. I just do not want any existing water coming. I am  
45 going to get water no matter what but I will deal with it.

1 Mr. Perry: I look at this a little differently...I am looking at 4/5ths of that puddle gone  
2 that you see next to your house in a major rain event. To me, that is a big improvement.  
3

4 Mr. Stokes: I am not saying that. I am just saying if you get 2 feet of water there,  
5 hypothetically speaking, you get a foot and a half, it is coming over. The swale is going  
6 to fill. I do not care what anybody says. What if you have a major storm afterwards? If  
7 we can do something with the little bit of water in the front, it does not have to be gone  
8 completely. I am just saying bringing it down a little bit. I will deal with the water on my  
9 side.

10  
11 Chairman Perry closed public comment. Mr. Farwell: Three things we were kicking  
12 around: Bond for grading of the swale. The 3 year starts at CO and the other thing would  
13 be to extend the swale further to the east, extend the berm 50 feet of the wetlands. Mr.  
14 Ducharme asked if an easement is needed on the plan? It was said Mr. Theroux would  
15 have to maintain that portion of it. It was agreed to have an easement. The easement note  
16 will be added to the plan to be recorded.

17  
18 Mr. Barry **MOTIONED** to conditionally approve Tax Map 15 Lot 6, 315 Charles  
19 Bancroft Highway, with the following conditions: That we add grading as part of the  
20 bond (Note 10 on the Plan) that is on your map; that there be an easement on the third lot;  
21 a clay liner along the swale; bond for 3 years from CO; extend berm further to the east 50  
22 feet from wetlands; plan to be recorded; all State approvals have been met; easement  
23 approved by Town Counsel; plan and copies with professional seal and signatures;  
24 original mylar with professional seal and signatures; electronic submission per regulation;  
25 bond estimates; and all fees paid and escrows maintained as required. Mr. Almeida  
26 seconded. The abutters were re-notified on 9/5/08 for this meeting. Motion carried 5-2-0.  
27

28 **3. Any Other Business**

29  
30 **Minutes of Meeting - July 22, 2008** - Mrs. Douglas **MOTIONED** that we accept the  
31 minutes of July 22, 2008 as corrected. Mr. Fuertes seconded. Motion carried 6-0-1.  
32

33 **August 19, 2008** - Mrs. Douglas **MOTIONED** to accept the August 19, 2008, minutes as  
34 corrected. Mr. Byron seconded. Motion carried 6-0-1.  
35

36 **Bond Reduction – Blackbird Lane**

37  
38 Mr. Barry read aloud the bond estimate from Lou Caron. It was said that the subdivision  
39 is now owned by Sanborn Development and not Moheban.  
40

41 Mr. Barry **MOTIONED** to accept the bond reduction of \$35,000 (was \$39,500). Mrs.  
42 Douglas seconded. Motion 7-0-0.  
43

44 **Escrow Accounts** – Sanborn Development is looking Appendix F Fee Schedule they put  
45 up a \$10,000 bond for three lots or more. They have submitted a letter requesting that the

1 escrow account be reduced. The Board discussed the escrow regulations. It was agreed  
2 according to the regulations the bond had to be maintained at \$10,000 because the  
3 development is not completed.

4  
5 **2009 Budget**

6  
7 **Impact Fee** - A copy of Bruce Mayberry's proposal was handed out. There is only  
8 \$6,000 appropriated for the study. Mr. Mayberry's quote is \$7,500. This will be reviewed  
9 at the next meeting. The Board needs to find out what it can accomplish for \$6,000.

10  
11 **Administrative Assistant** – Chairman Perry announced that Mrs. McKibben has been  
12 approved for a grade effective next year and to be put on the pay step schedule in April at  
13 grade 9 step 6 of the Litchfield wage schedule.

14  
15 **2008 Budget** - Chairman Perry read a letter from the Board of Selectmen regarding  
16 unnecessary spending.

17  
18  
19 There being no further business, a **MOTION** was made to adjourn the meeting. It was  
20 seconded. Motion carried 7-0-0.

21  
22  
23  
24 Lorraine Dogopoulos  
25 Recording Secretary  
26 (transcribed from tapes)