

Town of Warren
Development Review Board
Minutes of Meeting
Wednesday May 25, 2005

Members Present: Peter Monte, David Markolf, Chris Behn, Virginia Roth, Lenord Robinson

Others Present: Ted Joslin, Jeff Hoffer, John Donaldson, Don Swain, Joan Foster, Neil Johnson, Dottie Kyle, Eric Brattstrom, Belinda Norris, Michael Walsh, Melna Hall, Peter Hall, Ken Friedman, Phil Huffman, Cindy Carr, Karin Ware, Erin Cozzi, Zeke Church, Justin Kenney, Paula Nye, Barrie Fisher, Jim Caffrey, Chris Rodgers, Miron Malboeuf, Ruth Robbins

Agenda:

- 1- Call the meeting to order, 7:00pm
- 2- Ward Properties/Lincoln Ridge LLC, Final Plan approval of #2005-05-SD & #2005-05-CU, Article 6, Sec. 6.4 and Conditional Use - Recreation Use in Forest Reserve District, Article 2, Table 2.1 & Article 5. Continued from April 13, 2005.
- 3- Blair/Cozzi, Sketch Plan Review, #2005-02-SD, 3-lot subdivision located at 1761 Brook Road, 23.94 acres. Sketch Plan review in the Rural Residential District requiring review under Article 6, Subdivision Review and Article 7, Subdivision Standards.
- 4- Rogers/Rogers 2-lot subdivision, Sketch Plan Review, #2005-03-SD. Property is located off VT Route 100 and consists of 190 acres located in the Rural Residential District.
- 5- The Maples, #2003-05-PRD, 18 Unit PRD located at 64 Golf Course Road. Approval needed for modification to Condition #13, location of Circuit Boxes, as per WWFD agreement.
- 6- OTHER BUSINESS:
 - a) Review and approve Minutes from May 4, 2005
 - b) Review and sign Chisel Tooth Decision
 - c) Review and sign Austin Boundary Line Adjustment

TOWN OF WARREN, VT

Received for Record June 24 2005
at 2:30 o'clock P.M. and Received in
Vol 174 Page 801-810
Celine E. Fuller
Assistant TOWN CLERK

- 1- The meeting was called to order by Mr. Monte at 7:04pm.
- 2- Mr. Monte opened the meeting with consideration of agenda item #5, requested approval for an amendment to condition #13 of the approval for **The Maples**. The electrical panels had been installed in a location other than what had been designated in their permit. A letter, dated May 4, 2005 from the Warren Fire Department stated that the current location was satisfactory to them. MOTION by Mr. Monte to approve the relocation of the electrical panel. SECOND by Mr. Markolf. VOTE: all in favor, the motion passed. MOTION by Mr. Monte to recess discussion on others matters regarding The Maples, i.e. Condo Documents, until later. SECOND by Mr. Markolf. VOTE: all in favor, the motion passed.
- 3- **Ward Properties/Lincoln Ridge LLC, Final Plan approval of #2005-05-SD & #2005-05-CU.** The following documents were submitted:
 - a) Main Road Profile drawing showing elevations submitted by LandPlan for the applicant, dated 5/16/05.
 - b) Letter sent to Mr. Monte from Stephen P. Endlar, of 103 Rumble Road, expressing concern about water supply and the proposed road off of Inferno Road, dated April 15, 2005.

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- c) Letter from George and Barbara Price of West Hill Road Extension expressing their support for a "breakaway" gate at the top of West Hill Road Extension, dated May 25, 2005 and addressed to Ken.
- d) Letter signed by the residents of West Hill Road Extension (George Price, Karin Ware, Joan Foster, Dorothy Kyle, Kenneth Friedman and Patricia Weston) in support of the project but only with the inclusion of a breakaway gate at the top of West Hill Road Extension, dated May 25, 2005 and addressed to the DRB.

Mr. Monte asked if any of the neighbors of the project had employed a hydrologist that might be presenting any testimony. As a group, the neighbors had not, but the Halls stated that they were having their own well evaluated prior to the commencement of the project so that if any changes occurred they would have a baseline.

Mr. Monte then asked the applicant if there was anything new regarding the road. Mr. Swain replied that the Select Board had scheduled a hearing about "throwing up" the road (upper end of West Hill Extension) for June 7th. Mr. Donaldson added that the project was going to go forward with the Select Board's approved road cut on Inferno Road (across from Coleman).

The Chairman also asked if the applicant had sorted out any and all issues with the wetlands authorities. Mr. Swain replied that the State had come out and taken a look and were deferring to the Army Corp. of Engineers. He did not anticipate any problems with the proposed culverts but was informed that there would be an "archeological review" of the area.

In reviewing any other outstanding issues, Mr. Monte noted that there was still the issue of the gate at the top of the class four road (West Hill Road Extension) which the Fire Dept. opposed, the applicant had proposed but was not insistent on, and that the neighbors would like to see. He also mentioned that the application for a Conditional Use Permit still needed to be reviewed and asked about whether or not an agreement had been reached with Sugarbush. Mr. Swain stated that they had a verbal agreement with Sugarbush, and that a signed agreement was pending as they were still working on the specific language.

The applicant had asked their hydrologist to attend the meeting to answer any questions regarding the report he had prepared (submitted March 9, 2005). Mr. Hoffer reviewed his report findings stating that his goal was to investigate the available groundwater in the project area for individual single family home wells. He used existing well logs for the area and found that the average yield was seven gallons per minute and that the range of yields for these types of bedrock wells was from zero to 30 gallons per minute. He also stated that a communal well that might serve ten or more homes would be pumping a lot more than an individual homeowner well would. He said he could conclude by the results of the typical well data that the wells drilled would yield enough water for the proposed project. He went on to say that the degree of influence on neighboring wells would be low in his opinion, as these individual wells would be pumping at a low rate.

Mr. Swain asked Mr. Hoffer if he had any documentation regarding the South Village wells and their zone of influence. Mr. Hoffer replied that in the report of the well they did the tests on, the pumping cone of depression didn't extend that far away from the well site. Mr. Monte asked for clarification of "that far away" – how many feet. Mr. Hoffer replied that it was somewhere between 500 and 1,000 feet. He went on to say that in the tests he reviewed there were very tight drawdown cones, thus a small zone of influence.

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Mr. Brattstrom brought up the idea of a community well located further up on the property that would then be of greater distance away from the neighbors. Mr. Hoffer replied that it would be an issue of distance, as the stress on the aquifer from a community well would be greater than twenty individual wells if they tapped the same fracture in the bedrock.

Mr. Robinson commented that though he wasn't a hydrologist that he did deal in water. It was his feeling that it totally depended on how and where the veins ran as to whom they would affect. He believed that if it was determined where the veins were coming from, that twenty wells could be added without hurting anyone.

Ms. Kyle suggested that those that are concerned about their well, get it tested so that they have a baseline, then have an agreement with the developer that should the new wells affect theirs, that they would have something on record. Mr. Monte pointed out that those getting their wells tested was a good thing, but that the DRB needed to make a decision based on the evidence heard to date as to whether the project posed an unreasonable risk to the adjoining wells.

Mr. Swain added that the State required a 200-foot distance between wells as the typical single-family use well's zone of influence didn't extend beyond that distance. Mr. Hoffer echoed that comment, and added that what typically causes one's well to go dry is when water is being pumped out of an aquifer faster than the aquifer is being replenished, over the long term, and is more often experienced in areas out West. Another situation is when a community well, in meeting its high demand, is drawing the water down and in turn radiating out and possibly affecting neighboring wells, especially if the neighboring well is of a low yield to begin with. Mr. Hoffer also added that the data he had on the wells in South Village showed that the pumping cone of depression did not extend very far and that their wells would go dry before reaching or impacting any neighboring wells. Mr. Monte asked how large the cone of influence could be expected to be on a well with an average yield of seven gallons per minute. Mr. Hoffer couldn't be precise, but the potential for interference on the lot sizes in this project is very minimal.

Mr. Monte then asked for an update as to where the Catamount Trail Association (CTA) stood with coming to an agreement with the applicant about crossing their property. Mr. Huffman spoke for the CTA as trail chief. He stated that the CTA had been looking at the Ward Property as a potential site to re-route the lower part of their trail to minimize the amount of walking on the road that currently was the case. Mr. Huffman went on to say that the two parties had a tentative agreement about a possible route. He also stated that the CTA had agreements from three of four of the abutters coming off of the Ward Property. Mr. Huffman said that the net result desired in relocating the trail was to eliminate or lessen the road walk section and trickier parts of the existing trail.

Mr. Monte stated that the DRB had to either approve or disapprove and asked if it were assumed that they included a provision in the decision to include accommodating the CTA would the applicant be opposed? Mr. Donaldson replied, yes, as he felt there was still too much uncertainty, the CTA hadn't explored all possibilities, and that he didn't believe that the DRB had the authority to take private property in approving a subdivision development. He went on to say that they couldn't find a provision in the zoning that permits the DRB to take access for a cross country ski trail, though zoning does speak to pedestrian trails. Mr. Donaldson went on to say that potential buyers of the Ward Property might see this as a significant encumbrance. He did add that in discussions with some of the possible buyers that the response was that the CTA was a positive aspect, and that the applicant was committed to working out something with the CTA, but that having a condition forced upon them by the DRB was not the right environment to work things out.

Mr. Monte felt that Article 7; Section 7.7 (N) (1), Roads & Pedestrian Access gave the Board the authority to condition the permit to provide for the CTA. Mr. Donaldson disagreed, as it felt it spoke more to the pedestrian access from a subdivision to a school, playground or park. Mr.

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Monte agreed. Mr. Donaldson said that ultimately it would take the two parties to hammer out an agreement, and that to have a condition attached to the property was an unreasonable stipulation. Mr. Monte said that it was his thought to see the trail located along the boundary lines between properties that would only involve a ten-foot encroachment. Mr. Donaldson said he could accept that thought but didn't see it as that simple, as there were a number of adjoining properties that have yet to agree to continue the connection of the trail. Mr. Monte replied that that was a valid point and he would certainly want part of the requirement to be that the trail is connected to the overall network and not be isolated. Mr. Huffman reminded them that they did have agreements from three out of the four adjoining property owners and that he felt confident that the fourth would be agreeable as well.

Mr. Markolf brought up that Article 7, Section 7.6 (C), Parks & Playgrounds, also added to the Board's authority in having the applicant allow the CTA access. Mr. Donaldson once again disagreed saying he did not believe it allowed the DRB to dedicate access for public use, but rather for the internal use of the subdivision. Mr. Donaldson said that he had a hard time understanding how a public body such as the DRB had the right to take private property from someone and say you have to let the public use your property.

In looking at possible routes, Mr. Monte commented that having the trail come too close to the road might invite parking on the road which will aggravate the road situation on West Hill Road Ext. further. Mr. Donaldson said that was one of the significant items being discussed with CTA and whether they could make assurances about how parking was going to be addressed. Ms. Kyle added that that area was located at the middle of the trail and didn't feel users would be accessing the trail at that point.

Mrs. Roth spoke up and said that she didn't feel this issue was in the Board's purview, and that she felt confident that CTA and Lincoln Ridge LLC could come to an agreement instead of the Board having to put together what she thought was a difficult condition. Mr. Swain tried to put the issue in perspective by stating that he thought it was a matter of timing. He reiterated that the developers were in favor of the CTA but at the same time wanted to protect the privacy of the individual property owners. He asked the Board to consider to forcing the two parties to come to an agreement. Mr. Monte then said what if the two parties don't come to an agreement, say in two years time? Then what? They could never come to an agreement. Within a particular time frame you would then come back and the trail would be designated for the record. Mr. Behn spoke up and said that he couldn't understand why the applicant couldn't just say, "This is where you can go". If at some point CTA wanted to make a change, then the two parties could negotiate for a change.

After spending some time reviewing the maps, Mr. Monte suggested they take a straw poll to see how the members felt about condition the approval for the applicant to provide access to the CTA, and if the member(s) even felt the Board had the authority to do so. Mr. Markolf stated that he thought the DRB did have the authority and he wanted to see an area allocated to the CTA. Mr. Behn concurred with Mr. Markolf. Ms. Roth did not agree that the Board had the authority and felt the two parties could work it out between themselves. Mr. Robinson thought that they had been issuing this kind of condition for some time. Mr. Monte also stated he felt they had the authority but also expressed concern for running the trail through the middle of the property which would affect privacy, but was in favor of designating the area along the edge of the property lines (an "L" shape). It avoided the Mirabel Property, and from cutting between two proposed home sites.

Mr. Donaldson spoke up and requested that before the Board finalized their decision that he be allowed to get a legal opinion as to whether or not the DRB could in fact place such a condition on a subdivision request. He felt very strongly that the Board may be misinterpreting their statutes. Mr. Monte replied that they were going forward with their votes that night but would not be looking at and signing the actual decision for a couple weeks at which time they would be glad to accept any legal positions submitted. Mr. Markolf stated that he was inclined to disagree and

that if the applicant wanted to continue the proceedings, then lets continue. Mr. Monte noted that every hour they continue turns into six hours and he just as soon keep moving forward. Mr. Monte also said they could alter the decision before they signed it.

Mr. Monte then changed topics and asked what more could they learn about the gate at the top of the West Hill Road Ext. Mr. Friedman brought to the Board's attention the letter he had submitted which had been signed by six out of the seven residents on West Hill Road advocating the use of a gate. He spoke for the group and stated that they felt it would change the character of their small community with the additional traffic. He went on to share that he had done some research and that the means of a second access requested by the fire department is an issue that has come up in many communities across the country. Mr. Friedman said he had found where some fire departments had approved the use of breakaway gates that could operate many different ways.

Mr. Friedman also said he had spoken to Adam Cook of the Fire Department and shared the information he had and yet Mr. Cook came back and said the Fire Department still opposed the use of a gate. Mr. Friedman then added that Mr. Cook also indicated that they felt the proposed intersection at Inferno Road was potentially dangerous and that they didn't want all the traffic coming and going at that one access point. Mr. Friedman expressed that he felt it was not under the Fire Department's realm to be commenting on traffic and in turn basing their decision on the gate for that reason. He went on to say that he thought there were ways to handle the access so that the Fire Dept. could get what they needed and that the residents of West Hill Road Ext. could get what they wanted.

Mr. Markolf added clarification by stating that what the Fire Dept is saying is not that the Inferno Road intersection is unsafe, but that the ideal situation is to have two accesses. That is what the issue is about. Mr. Monte read directly from the Fire Department's letter of 3/8/05 stating that "West Hill Road Extension to be upgraded to Town specifications as to provide a second means of access and egress to the subdivision. There shall be no gate to restrict emergency equipment access." Mr. Monte then went on to say that as long as the gate was non-restrictive, such as a breakaway gate, that that would meet the requirement. However, he went on, will the snow plowing, or lack there of, make any breakaway gate truly "breakaway"? Mr. Friedman said that in discussions with Lincoln Ridge, that they along with the four homeowners on the class three section of road would be responsible for the plowing.

Mr. Markolf asked if the Price parcel had any houses on it. Mr. Friedman replied no. Mr. Markolf also asked Mr. Friedman if he had any plans of subdividing his land. Mr. Friedman replied not at the moment. Mr. Markolf went on to explain that the DRB had to look ahead at the potential development of surrounding properties.

MOTION by Mr. Monte that they allow the use of a breakaway gate at the top of West Hill Road Extension at the entrance to the Ward Property, unless the Zoning Administrator notifies the owner of Lot 13 on three occurrences within any 90-day period or more that the gate is not plowed so that access is maintained, then the gate shall be removed. **SECOND** by Ms. Roth. **VOTE:** YEA (Mr. Monte, Mr. Robinson, Ms. Roth) NAY (Mr. Markolf, Mr. Behn) the motion carried, three to two.

Discussion ensued regarding the proposed improvements/modifications to the intersection of West Hill Road and West Hill Road Extension, of which it was determined there were no changes and that it had the blessing of the Select Board to make the proposed improvements. Mr. Swain also informed the Board that the Select Board had warned a hearing for the "throwing up" of the class three section of West Hill Road Extension on June 7, 2005.

Mr. Monte then suggested that the Board start reviewing the various criteria.

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Article 7 Subdivision Standards
§ 7.2 General Standards

MOTION by Mr. Monte that § 7.2, (A) through (D), is satisfied. **SECOND** by Mr. Robinson. **VOTE:** all in favor, the motion carried.

MOTION by Mr. Monte that the areas designated on the plat that allows for clearing that a minimum of twenty-five trees, of six inches at breast height, remain per acre. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion carried.

A brief discussion took place confirming that the applicant had modified his drawings to reflect all building envelopes as being outside of any 25% slopes. Mr. Swain confirmed that his current drawings reflected such.

MOTION by Mr. Monte that they find the requirements of § 7.2, (E) through (H) to be satisfied. **SECOND** by Mr. Robinson. **VOTE:** all in favor, the motion carried.

§ 7.3 Protection of Primary & Secondary Conservation Areas

MOTION by Mr. Behn that § 7.3 is satisfied. **SECOND** by Mr. Monte. **VOTE:** all in favor, the motion carried.

§ 7.4 Open Space & Common Land

MOTION by Mr. Behn that § 7.4 is satisfied. **SECOND** by Mr. Markolf. **VOTE:** all in favor, the motion carried.

§ 7.5 Stormwater Management & Erosion Control

DISCUSSION: Mr. Monte asked if the Board had seen an erosion control plan. Mr. Swain replied and said that they had seen the specifications in the plan that is about to be submitted to the State. **MOTION** by Mr. Markolf that relying on the pending State approval, the Board finds this standard satisfied. **SECOND** by Mr. Monte. **VOTE:** all in favor, the motion carried.

§ 7.6 Community Services & Facilities

DISCUSSION: Mr. Behn asked about the location of hydrants and water sources for emergency purposes. (1 hydrant proposed by the applicant) Mr. Monte also asked about sprinkler systems in the proposed homes. Mr. Swain pointed out on the map the location of a proposed 30,000-gallon holding tank and where the hydrants were going to go. Mr. Monte inquired about the fire department's recommendation to have any habitable space of 2500 sq. ft. or greater equipped with a sprinkler system rated at 13 D minimum or greater.

MOTION by Mr. Monte that any dwelling house excluding detached accessory structures that exceed 4,000 square feet including garage would be required to have a sprinkler system rated 13-D as a minimum or the equivalent. **SECOND** by Mr. Behn. **DISCUSSION:** Mr. Behn stated that he thought the 4,000 square feet should include garage space in addition to living space. Mr. Markolf added that detached garages need not be sprinkled. However, an attached garage should be considered as part of the exposure. Mr. Malboeuf stated that "detached" versus "attached" was a pretty clear

determination to be able to make. Mr. Brattstrom added that the 13-D system was a system that was more life saving versus structure saving. **VOTE:** all in favor, the motion carried.

MOTION by Mr. Markolf that the applicant grant irrevocable written permission to the Catamount Trail Association (CTA) for a trail 20 feet in width along the western border of Lot 11 and the common area from the northeasterly corner of the Mirabel Property and continuing southerly to the southwest corner of lot 11 and then in an easterly direction along the external boundaries of lots 11, 10 and 12; subject to the CTA having written permission from the adjoining property owners to extend this designated segment to the existing CTA network to provide a continuous trail, within two years. **SECOND** by Mr. Monte. **VOTE:** YEA: Mr. Monte, Mr. Markolf, Mr. Behn, Mr. Robinson. NAY: Mrs. Roth. The motion carried four to one.

MOTION by Mr. Monte that the requirements of § 7.6 have been satisfied. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion carried.

§ 7.7 Roads & Pedestrian Access

DISCUSSION: Mr. Monte asked Mr. Friedman to get any information he had on specific breakaway gates he had to Mr. Malboeuf or Ms. Robbins. Mr. Monte also stated that they had confirmed the improvements to the road and the final decision on the road cut. **MOTION** by Mr. Monte that the requirements of § 7.7 have been satisfied. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion carried.

Discussion ensued regarding signs. Mr. Swain did state that they would be applying for a sign permit. Mr. Monte suggested that they might want a sign indicating no blocking/no parking in front of the breakaway gate. Mr. Monte also expressed that he thought they should have a condition that requires all roads to be maintained. Mr. Behn brought up whether or not swimming pools might be part of the development, with concern to the well water supply.

MOTION by Mr. Behn that any swimming pools are filled with water supplied from outside of the premises. **SECOND** by Mr. Monte. **VOTE:** all in favor the motion carried.

MOTION by Mr. Monte that item #6 and #11 of the Warren Fire Department Letter of March 8, 2005 are a requirement of the permit. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion carried.

Mr. Behn asked if they could discuss the issue of a limit of the square footage of the proposed dwellings. Mr. Swain spoke up and stated that the applicant was very much opposed to any such restriction. Mr. Monte said he thought it was a "taste" or "style" thing and shouldn't be imposed since it was a more personal standard. Mr. Swain added that he couldn't find where the Board had the authority to impose such a condition, and that with less density than the property could actually be developed, that building size shouldn't come into play. It was also noted that the covenants of the homeowners association called for architectural review so that the character of the neighborhood would be consistent. Mr. Monte asked if the Board felt compelled to impose any sort of size restriction and the members said no.

MOTION by Mr. Behn that the requirements of **§ 7.8, Water Supply & Wastewater Disposal, § 7.9, Utilities, and § 7.10, Signs**, are satisfied. **SECOND** by Mr. Robinson. **VOTE:** all in favor, the motion carried.

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MOTION by Mr. Behn that signage be installed on both sides of the West Hill Road Ext. gate that states, "emergency access, no parking". **SECOND** by Mr. Monte. **VOTE:** YEA: Mr. Monte, Mr. Behn, Ms. Roth, Mr. Robinson. NAY: Mr. Markolf. The motion carried, four to one.

MOTION by Mr. Monte that the application be approved subject to the recent decided conditions and the standard conditions. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion carried.

Mr. Monte called to order the review and hearing of the conditional use application # 2005-05-CU, the request by LandPlan & Lincoln Ridge LLC on behalf of Ward Properties, to use approx. 39 acres in the Forest Reserve for outdoor recreation. Mr. Swain explained that they were looking at either a snow mobile or snow cat expressly for the purpose of taking Lincoln Ridge residents up to and back from a point of entry to Sugarbush Ski Area. There was a draft of an agreement with Sugarbush, the association would operate the motorized transport, and the proposed ski shed was to be less than 125 square feet in size.

MOTION by Mr. Monte to approve the conditional use of the motorized ski access and ski storage. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion carried.

4- Blair/Cozzi, Sketch Plan Review, #2005-02-SD, 3-lot Subdivision located on Brook Road

Mr. Monte asked for an overview of the proposed subdivision. Mr. Malboeuf spoke and told the Board that this was property owned by the Blairs and that the Cozzis, who an option to purchase the property, were trying to structure a small subdivision with the existing house and two additional house sites. One of the challenges to the property is the large piece of it that is designated meadowland. Ms. Cozzi also brought up that one of the other main issues was that of driveway options/roadcuts. Due to a stream that runs through the property, two new roadcuts have been proposed. The Board members reviewed the Sketch Plan and Mr. Markolf **Moved** that they get feedback from the Select Board regarding the roadcut possibilities, after which the DRB would schedule a site visit and that the road, house sites, and septic systems be marked/flagged prior to any site visit. **SECOND** by Mr. Robinson. **VOTE:** all in favor, the motion carried.

5- Rodgers/Rodgers 2-lot Subdivision. #2005-03-SD, located off VT Rte 100 and consisting of 190 acres.

(Mrs. Roth recused herself as her husband had done the survey that was included in this application)

Mr. Caffrey, representing Chris and Danyela Rodgers, explained the purpose of their application. His clients, the Rodgers, are under contract to purchase the Voorhees property (parcel ID # 001002-400) which is adjacent to theirs. In doing a title search, going back to 1917, Mr. Caffrey found a title defect that inadvertently eliminated an easement that provided access from the Voorhees property to a public road (Rte 100). A small piece of land (less than 1 acre) that currently is owned by Mary Rodgers, (no relationship to the applicants) needs to be re-attached to the Voorhees property. Though it is a title defect, Mary Rodgers is not giving the easement freely, and the applicants have agreed to purchase the property necessary to include the easement.

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Mr. Caffrey went on to say that it would be merged back to where it came from, and that no construction is being proposed. Mr. Malboeuf asked if there would be any subsequent development, and Mr. Caffrey said no. Mr. Caffrey summarized by stating that the final result will be the boundary lines as depicted as per the survey recorded May 2, 1963. Mr. Malboeuf brought up that the Town had an interest in having access to the river for the purpose of monitoring for the Town wastewater system. Mr. Monte asked how the Town's access would be affected by this transaction. Mr. Caffrey said it would have no effect, and Mr. Malboeuf did say the Town Attorney, Paul Giuliani rendered an opinion that stated the Town would have statutory access without the property owners granting a specific easement. Mr. Malboeuf added that despite Mr. Giuliani's legal opinion, he thought that the Select Board might be looking for something in addition.

Mr. Caffrey also requested that the application be considered a Boundary Line Adjustment and that the DRB waive preliminary plat review under Article 6.1 (E), though the application had been warned as an initial Sketch Plan Review under Article 6.2.

MOTION by Mr. Behn that the Board waive the requirements for a subdivision plat and approve the application as a boundary line adjustment. The result will be 1-acre +/- from Rodgers Trust to Rodgers Trust, and then 10+/- acres from Rodgers Trust to Voorhees. Transactions to be completely deeded and merged as depicted on the survey recorded May 2, 1963. **SECOND** by Mr. Markolf. **VOTE:** YEA: Mr. Markolf, Mr. Behn, Mr. Robinson, NAY: Mr. Monte, the motion carried three to one.

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6. Other Business

The Board members reviewed and signed the minutes from May 4th, the Chisel Tooth Decision, and the Austin Boundary Line Adjustment Decision. Correction was made to the Chisel Tooth Decision to include as documentation a copy of the April 13, 2005 DRB Minutes.

The meeting was adjourned at 11:12 pm.

Respectfully submitted,

Ruth V. Robbins
DRB/PC Assistant

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Peter Monte 6/22/05
Peter Monte date

David Markolf 6/22/05
David Markolf date

Chris Behn date

Virginia Roth 6/22/05
Virginia Roth date

Lenord Robinson 6/22/05
Lenord Robinson date