

Zoning Board of Appeals Minutes
May 10, 2007
7:00pm
Sunderland Elementary School

Present: Steve Krol, Chair; Tom Herrick, Clerk; Jim Bernotas; Barre Tozloski; Jim Williams; Todd Nuerminger, Associate and Steve Schneider, Associate.

Town Counsel: Jason Taleran

VHB Consultant: Matt Chase, Traffic; John Furman, Civil Engineer

Applicant: Joel Kahn; Consultant, Lou Levine; Counsel, Scott Nielsen; Applicant, Bruce Hillson; Traffic Consultant, Mark Durand; Civil Engineer

Steve Krol reopened hearing for continuation of comprehensive permit hearing for Sugarbush Meadows, LLC at 7:09pm.

Mr. Krol: First of all I'm going to ask if there is any old business left over from the March 20th hearing that needs to be discussed. About the only thing I can think of is that Joel you sent us a document related to the land transfer from the non profit to the ...

Mr. Kahn: EHC who is the seller of the land to the entity the applicant.

Mr. Krol: I just want to acknowledge that that document has been submitted to us. Jason's taken a look at it and will probably defer any discussion of that later on during the hearing. I wanted to acknowledge that. Unless there's any other old business I would suggest that we reopen and try to complete tonight the traffic peer review.

Mr. Kahn: Mr. Chairman, I would like to make a couple comments when convenient to you.

Mr. Krol: Go ahead.

Mr. Kahn: Number one I'd also like to point out and I know that members of the Board I hopefully received a copy, that there's been a lot of transmittal of information that has been shared between the peer reviewers and us to the Board and to help facilitate it. The suggestion of Jason this morning at 6:15 my copy machine whizzing away so you should all have a copy of what I thought were all the documents that have taken place between the last time we met and now. So, hopefully to make it easier to review. Relative to traffic before the peer review and our consultant start to discuss. I would like to just make a couple comments to it. Is that I thought in the transmittals that went back and forth that there was a lot of progress made in terms of requesting information and response to that information to the point where if I understood correctly the issue now comes down to a couple things. One is to what mediations might the applicant provide relative to it and I'd like to make this statement clear for the Board, that the applicant recognizes

that there's some form of mitigation that will need to take place, however that until we've reached a point in our deliberations where all the issues of concern to the Board have been expressed and that we're discussing what might be terms and conditions you know we'll be at that point of time and we'll gladly discuss the specifics. We do recognize, we understand it there are things in here that are certainly of interest and comments made by your consultant to the effect that we understand are valid and we expect to deal with. Another thing to note in here though. I'm sure it will be brought up again is that while it appears that the consultants have concluded that some point in the future a traffic signal is warranted for one of the turning movements at Plumtree. It's interesting to note that's the requirement in need based on I believe even VHB's report that says regardless of whether or not we build that's an issue so you know I understand the problem and we look forward to those kinds of discussions between the parties. We sincerely hope tonight because of one of the other things noted in all these reports and again will be discussed I'm sure in a greater length is that we need to obviously further a line of discussion with Mass. Highway we also want to make it very clear we understand that but Mass. Highway reported to us very clearly that until a driveway permit is applied for which is not anywhere soon because we don't have a definitive even project yet approved and it's something that will probably have to come subsequent to a potentially to a MEPA permit being issued...conditions of order. They had no interest in further discussing what might be acceptable to them and in what format so that no matter what we may or may not do and we are certainly prepared to have that discussion. That we're still at the whim of when we all come to an agreement or what those might be if applying to Mass. Highway and beginning our discussion with them in earnest and so with that I hopefully would like to turn it over to our consultant who has some additional comments he would like to make.

Mr. Krol: Before you do, I'd like to just acknowledge that yes there's been a lot of documents that have been issued...gone back and forth and I have shared those documents ahead of time with my Board members so they were able to review those documents and be at least somewhat familiar with them prior to this hearing. There are some limited amount of some copies up here available but I did want to acknowledge there was a lot of correspondence back and forth between the last hearing and this hearing and I think substantial progress certainly was made and I did want to acknowledge that those documents had been shared with the members of the Board.

Mr. Talerman: I noticed that Joel put in a draft memorandum from VHB on some more of the civil engineering issues. I just wanted to point out for the Board that I think, and I don't want to speak for VHB but I think it was a work in progress at that point. I don't want the Board to conclude that that was their final memo.

Mr. Furman: That's correct.

Mr. Talerman: That's my understanding. I think that there's more from VHB on some of these points. It's helpful to have that progress draft in there but I don't think that's the definitive of what their conclusions are. On the traffic thing, I appreciate Joel's comments on that. I think that the fact that I know Mr. Chase has brought this up too. The fact that there may be some and we don't know how much review at the State level doesn't mean it's off limits for the Board. I don't want to spend a lot of time talking here today I'd rather hear the technical issues but I don't think it's an issue that the Board washes their hands of.

Mr. Krol: Yes, I will also say for the record that there has been some early correspondence going back and forth on civil engineering matters which time permitting today maybe well even get to. Joel you asked that your applicant...consultant...

Mr. Kahn: I asked that Bruce make some additional comments.

Mr. Krol: Okay, go ahead.

Mr. Hillson: Good evening, my name is Bruce Hillson I'm with Traffic Engineering Solutions. We've traveled a long road together these last 6 months or so. We've made presentations. You folks have had a number of comments. You've hired a peer reviewer who's had additional comments. We've responded back and forth and I think at the conclusion of the previous public hearing which was held on March 20th there were several comments or a few comments raised by your peer reviewer and we prepared a March 30th letter responding to those comments and forwarding those to VHB for their consideration. What I would like to do is summarize what those comments were. The responses we made and also the reaction as we read them in VHB's April 24th memorandum.

See attached March 30, 2007 letter to Matt Chase VHB.

All of this information was reviewed by VHB and their conclusion is that they were satisfied with our response. I'd like to reiterate one finding that we had. Joel touched upon this and I'll mention it again and that is based upon our analysis and pretty much agreed with by VHB. With or without this particular development it would appear that the intersection of 116 and Plumtree Rd. would require a signalization in the year 2011. I believe as I indicated we've gone down a long road together. The Commission has provided some very interesting questions and your peer review has provided us some questions that we also answered and I think that at this point in time we have reached a point where we've analyzed everything in the area, every way we could imagine and the conclusions that we've presented are as is presented in our original report and amended with the various memos and letters that we've provided. As Joel has indicated there will be an opportunity sometime down the road where we will gather and talk about mitigation: All of the items that are discussed in the various letters and memos and communications between the Commission and your peer reviewer to us will be items for discussion and ultimately we will need to go through a further process which includes MEPA and ultimately through the Mass. Highway Department and ultimately Mass. Highway will make the final decisions on the items that are incorporated for mitigation for this project. That concludes my presentation. I think Mr. Chairman if you were to ask your peer reviewer if he believes that we've responded properly and completely to his comments and that we've reached a point where there really is no further investigation to be done, I think he would probably answer in the affirmative. Thank you.

Mr. Krol: Okay, first of all I need questions from the Board okay Matt if you could maybe give your final report or comments.

Mr. Chase: Sure, again my name is Matt Chase. I'm with VHB in Springfield. We were hired by the Town to conduct a peer review for this project. As Bruce had mentioned there have been several rounds of the traffic review to date. The first round was the initial study on Jan. 5th from that was another...a response from the applicant on March 14th in which it was discussed on the

March 20th hearing and then another letter which was issued on March 30th which I think I provided to the own via e mail. I had scanned and sent that to you prior to this meeting. Bruce and I had several conversations prior to tonight's meeting and worked through a lot of technical questions that have arose over the last few months. Bruce's presentation just about describes his March 30th letter that I received. My April 24th letter to the Town overall summarized kind of the three studies that were reviewed to date, including the March 20th. Bruce had touched a little bit on a few of the items we've kind of worked out the details. One of the things and...I'll just quickly run through my memorandum. I won't go through it in detail because a lot of it Bruce had covered as well.

See April 24, 2007 memo from VHB with letter.

If this project moves forward and there is no MEPA review or you're anticipating a MEPA review and there is no MEPA review regarding traffic that could be the case, again. I don't have all the details on the traffic thresholds or all the thresholds or jurisdictions of MEPA on all this project, but I would encourage the applicant to share that information with you so that you are aware just in fact how much review will be conducted by the State at the next level. I'd be happy to answer and questions of there is any questions on the letter I prepared, or anything that was brought up.

Mr. Krol: Thank you for your report and Bruce thank you for yours as well. Does the Board have any questions to either of the experts here?

Mr. Schneider: I just wanted to clarify on thing I think you said. Somebody asked earlier about if eluded access from Plumtree Road just for emergency. So you're saying it would immediately trigger the need of a light if all traffic was going out to Route 116 directly?

Mr. Chase: Right now I think in the future. Bruce had looked some numbers of projecting existing traffic volumes out with out this project and the intersection of Plumtree at Rt. 116 does in fact meet a warrant analysis for volumes with out this project. If for some reason the applicant went to Mass. Highway and Mass. Highway said "no we do not want you to put a full access curb cut to Route 116 "and limited to a right in, right out that would put an additional 20% of the site generated traffic at that intersection of Plumtree which I believe is....I have the number in here, I think it's 8 or 10 vehicles that might be traveling north bound, if I have that correct, I don't have the number in front of me. It would add a certain number during the peak hour certainly more throughout the day. Making a left turn going north. That could also result in people traveling Route 47. Route 47 which as we know people may be avoiding the Plumtree Road intersection to seek other routes to the north so if Mass. Highway did in fact come back and say no full access at the new driveway then that would cause some shift in traffic and would require a traffic signal more so than even what the numbers are showing today.

Mr. Krol: One thing is certainly true, that this project has generated a ton of documentation that's been going back and forth. I remember some reference made that... were there some drawings showing interior sidewalks and other things. Or is that more of a civil engineering? I could be mistaken.

Mr. Kahn: Circulation has been added to plans and delineation of sidewalks. They were presented to the Board at our last meeting, and I know that there's to be further discussion to take place tonight.

Mr. Krol: So those drawings are yet to come forward?

Mr. Kahn: They were submitted last time and then revisions as part of the peer review on civil there's been some further discussions I think these other experts will touch upon shortly.

Mr. Krol: Okay, I think this.....Jason

Mr. Talerman: Sure, Matt I have a few questions on some of your comments here. Just so I understand the whole breadth of them. On that last issue first if it gets down to the point whether the Board thinks they should have limited or no access to 116 or Mass. Highway does or the applicant chooses to go that route and things go out just through Plumtree either to 47 or over to 116. What would that do to the level of service there? We talk about the warrant.

Mr. Chase: I actually, I honestly didn't look and see what that would do the level of service.

Mr. Talerman: Could it bump it into a lower.....

Mr. Chase: I'd have to go back and quickly I can take a look and see if that...that's probably a few years ago Bruce. That we might have looked at that intersection. Actually, right now I can answer that actually fairly easily. Route 116 and Plumtree Road based on Bruce's study back in March 14th is his full built analysis and keeping in mind that there were some changing in shifts in traffic and what not but I think he wasn't assigning lot of traffic at that intersection and that westbound approach without the project will operate at an F. With the project it will operate at an F as well. It will increase in the level of delay at about 1.3 seconds or so in the am peak and a couple of seconds in the pm peak. It's not necessarily because he's adding traffic in the westbound approach out of Plumtree but it's the traffic that's being added on the main line on Rt. 116. If he was to add more traffic to that approach that westbound approach on Plumtree. You're at an F now which basically as high as your going to go. Your F will be an F and one thing, with the analysis is once you reach an F and you add traffic to it sometimes the delay just takes off and it's a little bit unrealistic when you get to a certain level. So, I would say it would still stay at a level service F...

Mr. Talerman: It would be a worse F.

Mr. Chase: It would be a worse F. I don't know exactly how many seconds it would increase; you would have to run the analysis to see but it would probably be more than a two second jump in delay, because it would be adding movements directly to that approach.

Mr. Talerman: When looking at your recommendations, I apologize for jumping around a little bit. Compartmentalize a few different things. You talk about conflicts with 7-11 and Bubs and you talk about other circulation issues or some other traffic issues. Are your ultimate recommendations kind of viewing them all in the aggregate? It comes down towards the end here where you have some potential recommendations of either limiting direction of flow out of the access to 116. Is that taking into account everything together?

Mr. Chase: It's been by experience that when you have a State highway such as 116 with such a high traveled speed with the existing conditions that are out there today, you want to minimize the amount of curb cuts that are out there. I've done, not in this area but I've done a number of access management studies in my time that to understand adding another curb cut. A full access curb cut would definitely increase the amount of conflicts on 116 regardless of how close it was or if it was directly across from another intersection. As I stated in my memorandum within that 750 feet there were potentially four curb cuts that I saw as being kind of on the same page so to speak with the same amount of traffic within reason. I realize there's some driveways that might be in there as well. To me that just kind of adding full access to have to have left in left out, rights in just adds more of a conflict in an area where I think there'sWe've heard some issues from some of the people in the Town that's been an issue today. I'm not 100% confident that Mass. Highway will just sign off on a full access driveway on 116. That's where the applicant is going to have to meet with Mass. Highway, discuss the results of their traffic study and then state their intentions and then discuss that with the District 2 engineer to get his opinion. I've worked in the past on several projects with Mass. Highway and District 2 and other districts in the area and they don't usually like to issue a full access curb cut in an area that might be highly sensitive of an issue like this. I realize there is a curb cut there today but because there is a change in use I think they might look at it a little more closely.

Mr. Talerman: The last thing I wanted to ask you about was this and I know you had mentioned another time too but I wanted to focus on it a little bit. You say that when they go the Mass. Highway for the curb cut that Mass. Highway won't perk up and say you need to do this, this and that for pedestrians they would expect an applicant to present that to them.

Mr. Chase: Yes, typically and I can speak from experience on how I would...what I would do when I do a traffic study. Just before I get to the point and if I need any kind of coordination with Mass. Highway I meet with them before I get that final conclusion page. Review the study with them. Make sure we're all on the same page. Make sure they're agreeable to what I prepared and then talk with them about potentially what I want to do and get some feedback and if I find that's it's going to be an issue I might start thinking about another resolution. I know they've said they met with them but we haven't gotten any feedback from Mass. Highway. I actually called the district engineer to just to talk with him, the district traffic engineer just to talk with him briefly about this project just quickly an overview of understanding that they had met. He had not seen any traffic study any numbers or anything like that. For him to make a decision on potentially what should be there, he's not going to make a decision now, he doesn't have all the facts in front of him. He basically will be looking for a traffic study and a discussion of what the applicant would like to have and would like to do and what the impacts will be and then the District usually just either signs off and says "Okay, this is great. This should be no problem" or, if they have concerns they will mention them at that point. But, they won't come up with recommendations on their own. Mass. Highway doesn't work that way.

Mr. Talerman: This may sound a little bit like I'm being an advocate but I'm going to put you on the spot a little bit as if you were the one presenting this proposal. Knowing that Mass. Highway wasn't going to suggest it to you, that you would have to bring it to them and knowing that your before a Board that has real concerns about say that pedestrian crossing or where the bus stop is or what that conflict could be and how that all works together to eliminate concerns for bikes and pedestrians or other multi-module access concerns. Would it make more sense to you to be

discussing those things now so that we don't go to Mass. Highway and then maybe come back here because it changes the scope of what that access is? How would you approach that if you were in an applicant's shoes?

Mr. Chase: As I stated I would have had a meeting with Mass. Highway just to review the project and go over what my intentions were and what I was proposing. If I received any negative feedback from Mass. Highway, from the district, I would at least know that in advance and plan accordingly. If I was doing the local process before any State level process I would still coordinate with the State to make sure that when I reached that point I didn't have to go back again and recreate something. In this particular case I think there is some coordination that could occur with Mass. Highway to get them to kind of understand a little more about the situation and get them to get a little bit more feedback from them as this process moves forward.

Mr. Hillson: Mr. Chairman

Mr. Talerma: Just let me finish my point, Bruce. I guess my only thought here isn't that to tell the applicant that they don't have good plans for pedestrian access I'm sure that they'll propose something, or I certainly hope so. I'm assuming the Board will make them do that if this results in an approval. My point is that it would seem to me to make more sense to show you something now rather than just wait for that process. I have confidence that their going to try to address that at the State level but you guys don't even have it in your minds eye. The concern for me isn't that the applicant is going to sweep it under the rug. The concern to me is the Board may have an idea of what they want to see based upon the comments we hear out there. Mass. Highway may have an idea, the applicant may have an idea and then you go to the Mass. Highway and then their going to bounce back here because it's not what you guys wanted. That's why I like to think of more things all at once.

Mr. Chase: I do know the applicant has, when they did meet with Mass. Highway they did review and say this is what we're intending this is what we want go through and this is what we are considering. A while it was a more broad discussion I think to date Mass. Highway was still looking for more detailed information. To date they haven't received the traffic study but again they haven't started the State process either. I think there can be some coordination moving forward. I realize that the Board would probably want to see some sort of recommendation or at least something a little bit more definitive in what their going in front of Mass. Highway. I can't speak to the applicant and what their process is going to be but there are different routes that you can take to reach the same goal.

Mr. Hillson: Mr. Chairman, under ideal circumstances I would agree whole heartedly that if we could sit down with Mass. Highway and discuss various options and so forth it might be appropriate however when we did meet with them talked about the development, talked about different issues that were raised by the Commission and by your peer reviewer. The response we got from them was that until we make the formal access permit application that they will not consider anything or give us any definitive answers. So the discussions we had with them, granted, were broad and general they did include a lot of the issues that have been brought up by this Board by VHB. They did indicate to us that they would take them under consideration and the appropriate time but this was not that time. Once we got to the point where we were making a formal application that would be when they would review the various recommendations. That we would take them and act upon.

Mr. Talerman: My concern here and it's not my concern it's the Boards concern ultimately that you have to get to a comfort level. That we're in kind of a chicken and egg analysis here which concerns me, I guess again Matt I'm sorry to give you loaded questions but it may be helpful to the Board even just a picture of what that pedestrian accommodation would be. If we had an idea maybe we'll just have to reach to our own consultant to do it. None of us are traffic engineers. If you were designing pedestrian accommodations. What would you propose to Mass. Highway? What would you propose to do? I'm not saying to do it right now and draw a picture on a board. If this Board has to impose conditions on an approval here my guess they're going to want to have at least a broad something that can be colored in a little bit at the Mass. Highway stage. A broad picture of what they would condition that type of crossing for. They can't substitute their judgment for Mass. Highway but they may have an idea or they should have an idea in my opinion of what that may be in a very broad sense. I think maybe the Board should look to you to help us with the design of those types of conditions.

Mr. Chase: I would love to but obviously there's been a lot that's happened behind the scenes. I know the applicant has met with PVTA which would be a big player as part of moving some of these bus stops. They have met with Mass. Highway and have received some feedback from them. I think for me to provide a concept for this, I can most certainly do that but I think if that's something we can discuss what might be appropriate but I don't know if that's something that applicant would be considered....I think in my last meeting I had said just identifying potential improvements is not necessarily stating that the applicant is on the hook to fund everything but at least identifying the issues that are out there. What the potential solution might be. Whether it's just a list saying moving the bus stop to here, put the crosswalk across Route 116, signaling Route 116, putting signs up on 116 that reduce the speed limit and such. Just identifying those I think would go a long way to sit and meet with Mass. Highway and understand that. I think just kind of list of your understanding what the applicant is potentially is going be looking at. Again it gets the Town, the applicant and Mass. Highway on the same page and I'm not saying this project is going to be....there's obviously something that are going out there today.....that are happening today that are going to happen in the future without this project. I think some sort of point here where either Mass. Highway, the Town and the applicant have work to see what the overall improvement plan is for this section of the corridor. I know there's been a lot of studies that have happened at the condos to the north and I know Mass. Highway conducted their own studies so it might be applying some of those techniques down here. So I mean its kind of...it seems like its more of a real discussion with Mass. Highway with the applicant with the Town to develop some sort of plan for this area and again it could be a plan that phased out over X number of years were the applicant says we'll do x, y and z. The State will come in and do this and this. If there's funding available or if the Town has money, I don't know. It's trying to establish a plan that has all the stakeholders involved and coming up with that plan. So for me to come up with something by myself...I can certainly keep do that but I think it's more working with the applicant, address his needs for his project and working with the Town to the address needs there, working with the highway department to address their needs as well.

Mr. Talerman: Looking forward to the Board to the extent that the Boards ultimately charged with designing a condition of approval that addresses those issues around the 116 intersection there as well as other ones obviously. Perhaps that's one possible design of a condition that a post permit

meeting that addresses x,y, and z at the very least has to happen rather than having you design something that Bruce might not design.

Mr. Chase: Right.

Mr. Talerman: There is some discretion obviously in what the design looks like.

Mr. Chase: Right, I think there's that coordination is definitely necessary moving forward. I've attended several meetings Zoning Boards, Planning Boards where it ultimately reaches this point and while there might not be a full agreement at least there's an action plan that's set. There always can be a condition or an approval to come back sending any kind of Mass. Highway review. I think we talked about that a little bit last time as well at the last meeting.

Mr. Levine: Mr. Chairman, if we can just move on. I would just for the record, there's a letter of March 8th that the Board has a copy I believe from Bruce, Traffic Engineering Solutions to Mass. Highway outlining what was discussed at their meeting, previously provided. So we have already documented...the applicant has attempted to document what was discussed the issues in terms of what might be considered or what should be considered when a permit is applied for. I think that's in the record and for the Board's to review and reference for any decision that they might render. I think Jason has previously indicated that the Board has a right to indicate what concerns they have in their permit and make requests for various improvements to the State Highway. I think we also agree that the State highway is subject to the jurisdictions of the State. We discussed this at a previous hearing either the last hearing or the prior hearing. We have no problem if in your decision subject to State approval you indicate that you want to see A,B,C,and D. I think that's what Jason was talking about your concerns. In terms of getting approved or what it ultimately is going to look like and we can pick on anything a pedestrian path, a speed limit, you can recommend a speed limit if you wish to. I'm not telling you to I'm just using that as an example you can say we think it should be 25 mph and that can be in your decision. I think Matt would tell you at the end of the day you're going to be subject to what the State wants to approve for various reasons. So, again, we don't have a problem if you have identified issues that you're concerned with, to address them in your permit or to address them in your correspondence to Mass. Highway or to address them in the curb cut process or address them in the MEPA process, but particularly in a comprehensive permit but we can't do them without Mass. Highways approval, that's all we're trying to say. If you have issues and I think Matt and Bruce have identified the universe of the issues. Then I think the letter that was mailed to Mass. Highway substantiating what was discussed at the meeting pretty much again outlines that universe. Then to the extent the Board has any particular issues beyond that, then they want to identify with the help of counsel, do that in the permit or do that in the process, but the design part of it, it is the cart before the horse at this point and as much as Matt was backing off doing it for the Board which we don't have any objections to if he wants to give you something he liked to see. We're just suggesting for the same reason that we're not in the process to be able to do it. Any recommendations that you want to make understanding they're only recommendations even if we wanted to we couldn't agree them. They are subject to Mass. Highway's approval. Any list of things that you'd like to see are subject to Mass. Highway's approval. Please put in the process I think these two traffic engineers have identified the issue for your consideration you can make reference in your decision to various memo's and then list the litany of conditions you'd like to see Mass. Highway consider. That's only

in this permit not alone MEPA not alone in the curb cut process none of which the Town is going to be extricated from, okay.

Mr. Kahn: The letter Mr. Levine was referring to was distributed prior to the last Board meeting. That's why it's not in the packet tonight.

Mr. Talerman: I've read it, it doesn't exactly say what you're going to do it kind of says what a range of possible concerns are out there. It does provide a template of what the Board may be wanting to implement for conditions. My point is that throughout this process the Board has looked for more pictures. None of us are traffic engineers sitting here. We have two traffic engineers here and it's just unfortunate, that in my opinion that you didn't even give an opinion shown on a plan of what you might want to see as a responsible engineer and applicant out there and say "hey we agree with you there's concerns there, we'll propose something like this option A option B option C to Mass. Highway and this is what we're committed to trying and do here, we can't promise you Mass. Highway is going to like it but we're operating in a void and we've been operating in a void for a long time.

Mr. Levine: We don't...

Mr. Talerman: Let me finish Lou. You talk about some concepts but no one sitting here in this room right now knows what you're committed to do in there and no one has seen a picture of what it can be over there. That's where we've been for now four months on this. That's a bit of concern for me and someone who's seen numerous applicants say: "We don't know if we can sell this to Mass. Highway but we think this would address your concerns... That to me is something I think we've been lacking throughout this whole process.

Mr. Levine: Again if we.....

Mr. Talerman: I'm obviously...I'm expressing some of the frustration I've heard from the Board on this, but this is kind of where I stand. I review projects three nights a week and I see a lot more effort than I've seen here on these issues.

Mr. Levine: Look, I would just like to move on from the traffic. Several meetings ago we had a conversation about the Board didn't have jurisdiction in this area but we were willing for the Board to make any recommendations. We can do this whole thing. I think Joel will speak to the issue about cooperation. There's seven members of the Board, and I'm not saying Jason is or isn't speaking for you but nobody articulated anything before tonight in terms of traffic review, in terms of your consultants about seeing pictures of anything or not seeing pictures of anything. The net result of traffic review between VHB and our traffic consultant is that the parameters of the traffic are controllable can be mitigated, etc. and I think we've met that. We've met that over several months. No one prior to tonight any Board member in any correspondence and Jason have never asked us, Mr. Hillson or your own traffic engineer except for Jason's comments tonight have never asked us to design pedestrian path or any other suggestions. We had this discussion a meeting ago where we said just what you're hearing now at the tail end after the two traffic guys agree. We went to the State they said they wouldn't commit. We gave you his letter and to say tonight that we're not being cooperative because all of a sudden someone's requesting us for issues that

Board hasn't even talked about and we don't know if Mass Highway.... That's not really fair. So I'd like to move on beyond the traffic okay. I'd really like to move on.

Mr. Talerman: I really think that's kind of revisionist, Lou. They've been talking about crosswalks for four months.

Mr. Levine: Has anybody asked us for crosswalks before tonight?

Mr. Krol: We talked about pedestrian safety....

Mr. Levine: Anybody ask us to design a crosswalk?

Mr. Talerman: Don't interrupt the Chair Lou.

Mr. Krol: We didn't get into specifics about crosswalks, how wide they've got to be, any of that stuff. We're dealing with what you presented us and what Jason has said is true and I had some comments that I wrote and I'm going to deliver as a closing note to the traffic study and my opinion on how things have flowed. I'm talking about exactly about the issue that you have not come before us with a proposal to mitigate the problems on 116. You've talked about it and you keep deferring to 116 and that the State is going to be doing this. I'll tell you this Town has not been pleased. We haven't been served well by the State with prior issues on 116. We're working in an area where the traffic and safety and the speed of traffic there is much higher, we've encountered deaths. To turn around and saying that Jason's is acting like a member of Board well. You haven't heard anything from the Board. You're going to hear something from me now. I am disappointed that at least a tangible proposal about what you intend to do about traffic and how you're going to deal with what's an existing unsafe condition now. I took offense to what you said there Lou, I really do.

Mr. Kahn: Mr. Chairman, can I interject please. I started off tonight's comments with a very specific statement that the applicant recognizes that they will be due providing some form of mitigation. I started off that statement did I not?

Mr. Krol: Yes you did.

Mr. Kahn: Okay, the statement was made for no political grandstanding not for any purpose but a sincere recognition, that in fact that needs to take place. However I to have been around the block a couple times and you know the issues of how you approach solving the problem. I am not at all suggesting that the applicant skirt his responsibilities or do anything less. However it is not in my opinion, it's unfair to the applicant okay at this moment at this very moment go ahead and tell us what your willing to do because in all fairness there may be a litany of other issues that this Board may have about other aspects of the project that may influence the package that will be therefore proposed when we get to that stage where at deliberations so I want to be very clear about this we recognize some form of mitigation. When we get to that point where we sit down and have a discussion and make sure we know all the issues if the Fire Chief has an issue, you have an issue about some other internal thing and we look at the entire thing and then we say okay now what. We will be prepared to make a formal proposal and looking in a package. I just don't want to do this in pieces.

Mr. Talerman: The time's now. We've been talking about traffic for 4 months.

Mr. Kahn: We've been talking about traffic Jason but we haven't talked about other aspects of the project. All I've asked was that we like to continue through the peer review of all the other aspects. Get down to what your issues are and I've got them very clear; pedestrian safety, speed and turning movement's safety are key. I heard it. I recognized it. We will propose something, okay, absolutely. But I also don't know what else. I know we have another issue about 42' of height of building, okay. If your condition says to me go buy me a hook and ladder although I will get into this discussion at another moment. I don't want to debate that issue now. Well then that issue influence how much one could do someplace else. So why propose out a series of things that we may not be able to do until we hear all the issues and that's really my point. It's not to skirt the issues, I'm just asking that we go through and finish through all of the review and identify what the 4, 5, 6, 8, 10. Whatever they are and then we come back and we say now let's talk about how we can address them in total. I don't think that's unreasonable.

Mr. Levine: Just one last thing Mr. Chairman. No offense but I recall Mr. Hillson at the last meeting or the prior meeting when we were going to have a conversation with VHB. We asked if we could discuss solutions with VHB and through Mr. Talerman and the Board, Mr. Hillson and VHB were instructed not to do that, but specifically only to exchange technical information.

Mr. Krol: My recollection of that is that.... It's a little different.

Mr. Levine: They were specifically told not to discuss solutions, just give the technical information and not have a dialogue, that's what the Board asked them to do.

Mr. Nielson: Mr. Krol, I wanted to echo that. We do want to cooperate. That's why we offered to get together and actually talk about possible solutions. Mr. Talerman said he did not think at this point and time that was appropriate for the two engineers to do such but and you had a discussion with him about that it was important for them to share technical information which they have done fully and as Mr. Talerman noted. Not only has he not seen a picture from our engineer, he has not seen a picture from your engineer. So Mr. Krol, we are more than willing to sit down with your professional because Mass. Highway will decide on science we share some of your concerns. We do not want to jeopardize the safety of our residents. We don't know exactly what will be required or what will be permitted. We do understand as Mr. Talerman was saying as a condition of approval and he repeated that phrase a number of times and we are more than willing as a condition of approval to follow through on these things and work jointly with your peer reviewer to create solutions for safety because we share those concerns.

Mr. Krol: My understanding sir of a peer review and this is really the first peer review this Board has done, is not that the two sides get together and design a solution. My understanding of a peer review is that we have an engineering expert that's able to look at your reports, your work and be able to report to the Board about the validity and the credibility of those reports. We did say we that weren't going to have workshops at this point. We weren't going to have one on one with one member of the Board or whatever we are not there. We don't know if we'll get there. Maybe we will down the road. We didn't want to go there. As far as saying that our engineer gets together with your engineer and we collaboratively design this intersection, that's not part of the peer review as I understand it. Correct me if I'm wrong.

Mr. Levine: I respectfully suggest that, that necessarily isn't the way the process always works. In fact when Jay asked you're... if you're trying to reach a solution and especially when you're getting art and science melded in other words now these gentlemen have reached factual conclusions. These are the levels of operation; these are the traffic counts etc. If we want to move the process efficiently to the benefit of everyone in particularly the Town then to get direction between the two traffic consultants in this instance as to what you... Bruce would say I would design this and hypothetically he would say and I'm making something up "a crosswalk" at this location and it would be 20 feet wide and Matt might say "na". I think it should be at that location 22 feet wide. So before we just get into the hunt and peck. Give a plan and then Matt comments on it. That's the efficient way that I've learned okay that maybe what Bruce would suggest is completely unacceptable to your consultant. And Then Bruce would have to make a decision as to whether or not what Matt is saying etc. But if there's generally closure it's not just a conducive plan have Matt make changes to it. Go back and forth and go back and forth. These two gentlemen can state for relatively short period of time on all these issues and come to an agreement if they can as to what can be done and Bruce or someone like him can implement it. The same process is going to occur and I think Matt told you that with Mass Highway. Before Bruce is going to go in and design pedestrian mitigation he's going to have a discussion with Mass Highway and say, "This is what I'm thinking about are you in general agreement?" General agreement doesn't mean they signed off but they've given his thoughts, his ideas, etc. It's not let me give you a plan, see if you get 100% on the test. Until you get a 100% on the test we keeps it in the plan. That's just no the way it is. We're looking for your input. We're willing to have your input. We try to move the process ahead and again we can't go back to what people told us to do or not do but we asked specifically if we could discuss the solution. I think what the Board was concerned about is they didn't want the two traffic engineers reaching a decision on traffic that the Board ultimately should make and I can respect that. It's not the consultants decision it's the Boards decision. Okay, but they've shared information. They've come to the same basis. Your own counsel is suggesting he liked to see the picture. We've offered this before. We're willing to offer it again. We have to have some discourse with your consultant and I think we're making a mountain out of a mole hill because I have a feeling these two gentlemen in a very short period of time will be able to identify what dates the two of them would like to see. I think there's a reasonable expectation that if the two of them think this is what they'd like to see they're both going to consider what they expect Mass Highway to approve. Doesn't mean that either consultant is going to hit it on the mark and that Mass Highway won't change their position, the way they seemingly do it you know from year to year to month to month but I think you have two competent traffic people. They want to discuss it. We're more than happy to show you a general proposal and again with all due respect it's your decision so if you look at what these two gentlemen have discussed and you want to adopt it, that's great. If you have some other ideas you can ask your consultant or our consultant about them but we just want to... but we have been cooperative and asked this a month ago.

Mr. Talerman: Lou, a couple things. One your burden shifting a little bit. Second I have notes here where Bruce specifically said he wasn't designing anything until he got to Mass Highway but there's economy here, you guys have to pay for our consultant. This Board has to make decisions. The way it works is you give us your designs, Matt reviews them. All you've have given is technical detail and Matt's reviewed it. That's fine. There's never been an attempt or and offer to design anything. In fact there is notes that indicate "We're going to wait to design that." You've spoken about a few things and that's terrific. If you would design it, Matt will review it. The Board will listen

to his comments and we can move on but my notes are specific on March 20th where you say you're not designing it. So I don't know what it is but you can't shift the burden to us, to design something or to do it for you. You have to design it, we have to review it. We don't sit here to review your proposals and the Housing Appeals Committee cases are clear on this. We're stuck with your design. Matt doesn't design it. Bruce designs it, your engineer designs it, we review it. To date we have no design. For the issues we've been talking about for four months.

Mr. Hillson: Mr. Chairman if I might, I think it might be premature to talk about design of anything at this stage of the game. For instance, a lot of the discussion for the first half hour has been on suggestions for mitigation and why haven't we come up with them and so forth. I think Joel made a comment earlier on this evening about the time for discussing mitigation and specifics would be at the end of the day after the site plan has been reviewed and all the comments are on the table and let me give you a for instance on why I think it's appropriate to go in that direction. In the April 24th memorandum from VHB, on the last page they talk about two potential alternatives, thoughts. One of them is to restrict the Route 116 access drive to allow right turns in and right turns out. The second is to eliminate that access entirely and to have full access onto Plumtree Road which would then further support the implementation of a traffic signal. Well at this stage is this the Commission's desire to do one or either of these and if so depending on what you decide that is then going to dictate the remedy that we are going to suggest for access to the site. If you decide that you want no access on 116, that that should be used as an emergency access only then all of our traffic would come on to Plumtree and we would then look at signalization of Plumtree and 116 as a possibility. If you say you want no access onto Plumtree and everyone has to come out to 116, then we're going to look at something completely different so it depends on what this Commission desires and determines as conditions of approval or through discussions with the applicant and our design team. That will dictate the remedies and the mediation that we are then going to recommend to the Board and also to the Mass Highway but until we get to that point, where we know, where we fine tune the site plan and the access, it doesn't make any sense for us to come up with ideas and remedies that may be way off base when the ultimate direction is determined.

Mr. Krol: One thing I will say is that in course of this heated discussion but as a comment it's interesting that you picked on that section of VHB's report. I somewhat find it ironic that it was our consultant that suggested it rather than coming from you. Be it as it may that offers an option. I don't know if the proper response would be to dig deeper into both... I don't know which one of those is a better solution. I don't know if they both have fatal flaws. I think they both have positive and detriment. It's like anything else. It's probably going to be either one of them. Matt you were going to suggest something.

Mr. Chase: I just wanted to point out again that I think we have reached the point where the technical aspect of the review has been finalized and it's kind of identifying what improvements along 116 want to be seen and shown. Again, I know Bruce was saying "what does this Commission want to see?" I think it goes to even coordinating even further with Mass Highway and given the history of 116 and what has happened in the past up at the other apartment complexes to the north of the pedestrian crossing. You might grab Mass Highway's ear if there's some early coordination and discussion about how to further enhance this corridor and it might not only be in front of this proposed project but it might also extend further up and there are and I mentioned this I think in the last couple meetings that Mass Highway does have funding that is allocated for... a

certain amount of funding that is appropriated to the district for improvements for roadway and highway improvements. Some of these projects have been presented to Mass Highway. If there's something that is to the Town's liking the Town can inquire for some funding from Mass Highway that might ultimately enhance this corridor to provide better access to this facility and to other areas along the corridor as well. I just see it as more that's the next step. It might not be just identifying the improvements that are specifically to this project. It's not my jurisdiction to say, "That if you build this, that percentage is going to be this applicants." There is some sort of collaboration that needs to occur and if there is the opportunity to tap into some State funding and get. To get some of this funding earmarked for improvements on 116 that could accommodate this project. It might help move everything along more easily and get some improvements everybody is satisfied with.

Mr. Krol: I'm wondering. Go ahead Steve.

Mr. Schneider: Changing the subject if we're ready to change the subject.

Mr. Krol: Changing from traffic?

Mr. Schneider: No, I had a question.

Mr. Krol: Go ahead.

Mr. Schneider: I just wanted a point of clarification. We keep talking about the access to 116. In one document that there was some question about the ownership, it said that the strip of land from the property out to 116 is owned by the applicant. I was wondering are there easements because currently that is used by the former Pioneer Auction so I just wanted to know what the parameters were for that piece of land.

Mr. Nielsen: Yes, good question. There is an easement to the Pioneer Auction. The laboratory next door has accessed their property from that, I believe with out a formal easement but the Pioneer Barn there does have a formal easement over the property.

Mr. Schneider: Are there any limits on their use because there is talk about potentially a much heavier use of that building?

Mr. Nielsen: Yes, so for example they could not utilize it for parking.

Mr. Krol: Could you state clearly. Could not be utilized.

Mr. Nielsen: Right. It is an access ingress and egress but it doesn't give them the right to park on that piece of property and I do think that is a good question. Again as I've got the mic. We are more than willing to cooperate with the Board's expert on this and it seems like that's the appropriate way to go and as Joel has said if the Board has a list of specific concerns you know it seems to me that if those are generated in through your engineer and our engineer we'll be happy to address them and again you know we agree with Mr. Talerman as a condition of approval we think that it's certainly reasonable to investigate those things, but we're all trying to figure out how to go forward on this process so... and I do believe that your traffic engineer has said and I don't want to put words in his mouth but I thought I heard that it would be reasonable for the two scientists,

technicians, to do some work together on these and it's perfectly appropriate if you want to give us a list as Lou said we'll be happy to respond to those but we have proposed a plan that basically shows ingress and egress out of 116, in and out of Plumtree. There has been talk about limited Plumtree access. If you have other ideas please give us specifics we'll respond.

Mr. Kahn: I may have a suggestion to help us Mr. Chairman if I may. It's been suggested here continuous that further dialogue with Mass Highway is appropriate. I was at the meeting and I know I can only report to you what I said to them, "The Town if interested in us putting a cross walk, how do you feel" kind of stuff. Everything you had I promise you but you weren't there so here's an idea. May we empower the two consultants to go have a meeting with Mass Highway and they can report back to this Board the results of that meeting. And they can take forth all science and things they discussed and they two together can sit in there and represent both our interest. I won't go. I know you guys are busy and you may not go. Let them just go and have a conversation and see what Mass Highway is willing to proclaim or advise or suggest or what you have at this point in the process.

Mr. Williams: I would like to say something about the whole proposal here. We have a proposal before us that's essentially a preliminary plan. Typically much information goes into a preliminary plan for review by us. We don't see anything about safety we see nothing about what might go on at 116. What might be proposed, I think that's what we're eluding to here, is that we need to see something. We can talk to Mass all we want but what if Mass Highway says we don't need a crosswalk. We're not going to buy that. We need to see something that you would propose to us that would be a safe and reasonable proposal. Something to review versus Mass Highway says this and it goes back and forth and we see nothing. Typically a preliminary plan would let us do that. It's not a final plan it's just something to go by to set a starting point for discussion.

Mr. Levine: Just two issues and I'm not here to upset you or argue with you and again speak to Matt don't listen to me. I'm just a goofy lawyer but if it's something to do with 116 it's subject to Mass Highway's... Okay so we can show a pedestrian whatever we can agree to do it. If Mass Highway doesn't allow us to do it, we can't do it.

Mr. Williams: Right

Mr. Levine: To the extent that Mass Highway is neutral if I can use that term Matt. In other words they wouldn't require it but they wouldn't object to it. As part of a mitigation package we can agree to do it. I think Matt might say to you well they might not require it but they won't object to it. So if that's what you're concerned about as part of the mitigation package okay where Mass Highway is willing to let us do it but the bottom line is if Mass Highway says we don't want whatever we're talking about on 116, we can't do it. The Board can't make them do it. We can't tell them because the Board told us to do it. You got to do it. You're going to have to switch. Going back to Joel's initial comments. We're willing to discuss... when we took the mitigation package we're willing to discuss those things that the State may not recommend or require in addition to what they're going to require, so tonight offered both. We've offered to discuss a mitigation package when we know what all the issues are. We've also discussed and Joel made a very good recommendation for your two experts and we're paying for yours to go to Mass Highway so the Board can get a feel of what Mass Highway may require, may be willing to let happen even though they won't require it or what

they will never approve. I think that's beneficial to the Board for mitigation or to know what you can get even if we say we never do it.

Mr. Williams: I would agree to that if it would show up on a plan. Something we could see.

Mr. Krol: I think to elaborate on what I believe what I heard you were saying is what I would like to see is Bruce to draw up a plan or maybe some options that can be reviewed by Matt and perhaps and maybe come back to the Board if we have to cut down options. If we have to pick an option or one or the other, then Bruce and Matt together go to Mass. Highway. But I really do think that the first step has to be taken by the applicants. Matt?

Mr. Chase: Just so that we're all kind of on the same page and we're all expecting the same output here, I don't think it's an elaborate plan, a detail plan saying this is what we'd do. It's more take an aerial map saying move the bus stop to here, put a crosswalk here, put speed limit signs here that reduce...whatever things like that and identify them on what. At least you're on the same page with what the action items are. I don't think Mass Highway at this level is going to want to say how wide is your driveway and what the radius of your curb. I think they want to know the location and some of the general details of what you would want to see in the future. I don't think that's unreasonable.

Mr. Krol: I think an approach like that would work. I think it would give the Board something to look at. Give the very interested public something to look at and comment on and move the process forward.

Mr. Kahn: Mr. Chairman, I'm struggling. I hope you understand over the months that we've spent together that my role and we all have roles in this thing and I try to stay nice and level and you know. Not because I'm not trying to cooperate and everything else. I'm just trying to make sure we have a plan and we're moving forward. I mean I think where we're going with this and what makes it hard and please understand my job in life outside of these hearings is I'm paid to negotiate. That's what I get paid to do. Okay. Whether I negotiate a contract for sale, I'm really paid to try to breach people who have different points of views to some point where they call it win, win although I'm not quite sure where ever that expression came from. The issue we have here is that we have a traffic study here that says sometime in the future in a no build scenario a traffic light is warranted for one of the intersections at Plumtree, not East Plumtree but Plumtree. Okay, so the answer to your question is very simple. Sure I guess what's going to happen here we're going to have discussion about putting in a traffic light, okay. The issue of course from an applicants stand point when I negotiate and I'm going to be honest and up front about it is then you go who's going to pay for it well the scenario says the traffic light needs to go in whether or not we build, so of course the applicant is going to say I'm going to contribute to a traffic light. I'm going to tell you right now the applicant is going to contribute something towards a traffic light. Now I don't know what this is. There has to be discussion, who knows. The point is that I'm talking okay, you have this situation. If you put a traffic light in, will guess what that creates. That creates a safe passage across the road. Well then maybe no crosswalks are warranted at that point because not they can go through the traffic light and cross the road. If there's a lot of things but the truth of the matter is it's just there are other things that you have in you're litany of desires and wants as a town. We respect those and it's all about ultimately and it boils down to a Performa eventually as to what can the applicant perform... afford to do. It all bubbles down and so to do this in one... I'm still having a problem with it. We can resolve it. I don't know how many times I could tell you. We know that there's some form

of mitigation that has to be provided. It has to address the issues of pedestrian crossing, bus and traffic flow. It has to. I agree with you, but we're not at a point in my view to show you a picture today. I'm not suggesting that we don't come back to this point but what I'm suggesting again and I really look to the Board to the support is let's go through the remaining other reviews and issues of the site. You want to talk about water there's an idea bantering...you want to talk about civil, there are issues about circulation, there's talks about fire protection. There are all sorts of other issues. All I ask is lets do that and then we can circle around the corral because at that point we'll come back and give you a suggestion on how best we feel based on what we can afford to do to address the whole total package. I can't tell you. We're bantering and arguing for no reason. We don't disagree, we just disagree that it's not this moment and that if you are asking us to offer you a suggestion on how to address the problems. Let us do so when we get to the proper point in this process and that's all I'm asking. It's not to be confrontational and it's not to be...it's not to cooperate to this Boards wishes. We understand you want it. We'll get there. We agree.

Mr. Krol: I think we've taken some bumps and bruises here but we're trying to point to a solution or at least way to move the process forward. Jason did you want to...

Mr. Talerma. Yes, Joel I understand what you're saying. I just think actually would be worse for your client to do it that way because what I think you're suggesting would make for a situation where we would be looking at it, raising concerns and three months from now after we get some other concerns together, we'll then do some redesign work and then we'll be back in peer review again. My experience with these big complex projects, it's better to do it in a building process. You obviously have the confidence, as you have to because it's your burden, to present the proposal in terms of density and everything else that you want. You have to have the confidence to do it. We don't design it for you. You design it. I think it works best and most frequently this is how it happens in Massachusetts I don't know about where else you do work and I don't know how much residential work you do either. It makes the most sense to do it one chunk of it at a time and it's a building process. One of the major concerns, if not the major concern of this project has been traffic. I think it makes the most sense for you to resolve this now and move on to something else. If you have another, don't see how what you're doing outside of the project on 116 or at Plumtree Road has any bearing on your water situation, on your drainage situation on the building height issues or anything else. You've expressed a desire to do a certain type of project; it has certain impacts out there. I think you'll be wasting unfortunately your clients time if we put aside traffic now address a bunch of other issues because we'll be spending another two months on it later. I think it makes the most sense to deal with it now while it's fresh in our minds. Get through with it and then move on. I'm not saying that we can't do some other aspect of the project at the same time but it would be highly unusual in Massachusetts for these complex 40B projects to do something and then just have a whole list of concerns and then have you design it at the end. The idea also with Performa review is that if you satisfy us and I spoke to Lou about this this morning. If you satisfy us with all the concerns sewer, water everything else and the Boards happy with the project and that point we'll never look at the Performa. We'll get a chance to review the project at the audit stage anyway. The idea is to get to project where we don't have to do that because we all know any of us that do 40B that can be a loser for every party. I think it's a building process. We've spent a long time on traffic. I think we should finish it and get it to a point where we're ready to design something and then take the next step. That's my feeling.

Mr. Kahn: If in that fact and I have to look to my client here in a minute to make a statement as to how he feels about it but if in fact that's what you want to do. There are several issues that this Board should vote on in piece right now. Number one, Okay we've already recognized that in fact the 116/Plumtree Road is going to be an F sometime in the future so let's cut to the chase. Somebody is going to want to talk about activating a signalized intersection to whatever extent traffic flow is going out to come whether it comes out onto Plumtree or 116. I'm not here suggesting who's burdening the full cost of that. I'm just suggesting... Let's cut the chase, we know that okay but now as to other improvements though so I proclaim there you go. Now the question comes in to be well this Board needs to vote on our two access points. What do you want to see happen with the two access points? Number one is Plumtree a limited access because maybe other people here in the audience sit there and say "Hey I don't want any traffic coming out Plumtree and we want it all on 116." 116 alright... I need some guidance because other than that the traffic lighting itself, solves pedestrian speed because they have to slow up for a traffic light. Solves pedestrian because crosswalks go with traffic lights and all that stuff happens but there's other things you have to tell me.

Mr. Krol: I think rather than pressuring the Board to make a vote on something we haven't even seen, I believe that there's only a few options here that seem reasonable. The options if I may list them and my Board may jump on me if I miss something here. Is to pretty much funnel all the traffic out to 116 access way and make the Plumtree Road emergency access only, vice versa put all the traffic out on Plumtree Road and make 116 limited access and maybe "C" is the other on I think that might be feasible make Plumtree Road the main access in and out and only allow right hand turns in and off of 116 and right hand turns out heading south out onto 116. I'm not ready to say which of those might be better without seeing something.

Mr. Kahn: You can very easily choose from those three choices.

Mr. Krol: Maybe you can but I'm having trouble.

Mr. Talerman: Each one of them has very different relationships with cross walks and other accommodations. It would be helpful to see it and again Matt suggested at the concept stage. We're not talking about having something finally engineered. You've got other variables besides where the cars are coming in and out. You've got bus locations. You've got pedestrian access which obviously would change from one option to the other. You have these various concepts that exist. You have signalization or no signalization. It really helps. Joel you've done it for a long time. I've done it for a long time. There's no substitute for putting it down in a plan. Letting the two applicants talk about it and letting the Board see it. Seeing it is so helpful.

Mr. Kahn: Just clear so if I sit there and say tomorrow I'm going to give a plan that's going to show a traffic light there, I'm going to leave everything else alone. What's going to happen?

Mr. Krol: Where's the traffic light? Where's the...Where's the... I mean you haven't addressed...

Mr. Kahn: 116. What if I just said I'm going to put a traffic light there?

Mr. Krol: I don't think the issue of having a traffic light on 116... I don't know where you want to put it. Do you want to put it on Plumtree Road? Do you want to put at you own?

Mr. Nielsen: There's only one place that qualifies, and that's at Plumtree Road.

Mr. Krol: I think different scenarios if you limit access in and out on 116 that may warrant a traffic light. I don't know...

Mr. Nielsen: So this is going to be the last word from our team on this issue. I want to return to a couple things Mr. Talerman said. One he repeated numerous times that as a condition of approval the Board would request certain items. We concur with that.

Mr. Talerman: You misquoted me.

Mr. Nielson: We have offered... My turn to finish, Mr. Talerman.

Mr. Talerman: You have already misquoted me.

Mr. Nielson: No you said it numerous times so it's my turn to finish. Secondly I actually do real estate development and construction for business and Mr. Talerman is in incorrect about how these things proceed. You do not have to read the mind of Boards. Boards tell you what to do and what the limited conditions are. You have started that and Jim Williams made a specific suggestion that was the first clear suggestion from the Board and we frankly think that's appreciated. Matt Chase made a set of conditions about parameters of what might be discussed by Mass Highway. In other conditions both in this State and other States the Boards set those limited conditions and the other part here is that neither the applicant nor the Zoning Board of Appeals controls what the outcome is going to be on 116. What you may desire is not in your hands and it's not in our hands. We have heard two pieces of what you desire. Joel has said we'll look at a traffic light. We're once again saying we'll take an aerial like Matt Chase outlined, identify those particular issues but it frankly makes no sense to me only in the adversarial approach that Mr. Talerman has chosen to take does it make sense to go back and forth. A cooperative approach says you hired this professional after much debate. Let them go to Mass Highway and do this, because 116... what the ultimate outcome of 116 with all due respect can't be a condition of your approval. So we would like to now move on to the next situation. We have offered a number of solutions through Joel. We concur with what Matt Chase has said and recommend that you take your suggestions, Jim Williams' suggestions and we put them on the plans and go meet with Mass Highway. Thank you.

Mr. Krol: What specifically are those plans? I outlined three options are you going to take those three options?

Mr. Kahn: Absolutely we'll just take the three options. Let the two consultants go to Mass Highway and let them report to us.

Mr. Nielson: We'd like to take Jim Williams' suggestion which is exceedingly clear.

Mr. Krol: Okay.

Mr. Nielsen: It's the first time we heard it anywhere near that clarity. So we are more than happy to and comply with that request.

Mr. Krol: So you're going to present four options to us?

Mr. Kahn: What we're recommending is the three options you suggested.

Mr. Krol: Okay.

Mr. Kahn: Put on a plan.

Mr. Krol: Okay.

Mr. Kahn: The two consultants take that to Mass Highway and then they come back and report to the Board both the plans and as well as the suggestions at the same time. They might as well get the feedback and bring you back the feedback simultaneously.

Mr. Krol: Conceptual.

Mr. Nielson: At the conceptual level. It really makes no sense to have Bruce Hillson report to Matt Chase at a meeting that Matt Chase was not at. It's our nickel. We want him there first hand so it's not received in a letter.

Mr. Krol: After you meet with Mass Highway you'll come back to us?

Mr. Kahn: We will come back with Mass Highway and the two consultants will report both on and show you what they presented and as well as to report back on to what Mass Highway's words of wisdom might be concerning those issues.

Mr. Levine: Mr. Chairman, I would think at that point the Board would have to vote as to which configuration of access, not necessarily mitigation.

Mr. Kahn: Right because at a certain point in time obviously we can go back around in circles so we get to this point and bring it back. You'll have Mass Highway's input. You'll have input from the two consultants and at that point we're not asking for that point... I'd love to get the comprehensive permit but we're asking specifically on traffic as to which option at that point this Board wishes us to then put on a plan that will at that point be part of the plan set.

Mr. Nielson: And the offer still stands...

Mr. Krol: So for clarity the three options are...

Mr. Kahn: Do you want me to repeat them so we make sure?

Mr. Krol: I can do it or you can do it.

Mr. Kahn: Go for it.

Mr. Krol: The three options are that:

- A. 116 is the main bioproduct for traffic in and out. Plumtree Road is emergency access only. That's option A.
- B. Plumtree Road is the main access in and out. With emergency access only via 116.
- C. Plumtree Road is the main access with southbound traffic on 116 exit out onto 116 heading right and allowing right hand turns from 116 heading south into... No left hand turns either in or out onto 116.

Those are the three options. Are those reasonable options, Board?

Mr. Nielson: Mr. Chairman, the other option that we talked about was full access in both sides. Just to cover the basis.

Mr. Krol: No problem.

Mr. Nielson: Well actually we're talking about...

Mr. Talerman: You're right, that's the fourth.

Mr. Krol. Then there are four options.

Mr. Kahn: Mr. Chairman, thank you it's agreeable. Mr. Hillson has indicated that he can prepare something to present in a matter of days. He said he doesn't really need sleep.

Mr. Krol: To be clear the process is going to be... Bruce is going to draw up those options on a conceptual scale; in an amount of detail. You're going to link up with Matt and you're going to go to Mass Highway with all four options?

Mr. Kahn: All four options. The two of them will go alone. Correct.

Mr. Krol: Receive their feedback from Mass. Highway and then report back to us with your findings.

Mr. Kahn: That's correct.

Mr. Kahn: Until you have the access question answered. The access question leads appropriate location of a crosswalk so if the access is determined limited in one respect it may influence where the bus goes, where the crosswalks goes. So what I would ask is... I ask that these two gentlemen talk about that with Mass. Highway but I think you're going to find that the experts would tell you that this is a cause and effect. We recognize a crosswalk is required. I think once the access point is determined that will also then lead to the next...

Mr. Krol: I would like to see some attention given to the bus stops. That's not a Mass. Highway issue, I think it's probably someone else's issue.

Mr. Kahn: The bus stop question is no problem. We will I think pursue that. As to where we cross safely that will just develop itself over time.

Mr. Krol: One thing that I think that should be mentioned here is that at least as I understand it, this is beyond what the scope of VHB's bid on doing peer review on traffic. My understanding is that Matt pretty much as of the end of today...you've tapped out the amount of money that was allocated.

Mr. Chase: Yes (nod)

Mr. Krol: Like you said this is on your dime.

Mr. Nielsen: Nickel I said.

Mr. Krol: Nickel, okay.

Mr. Kahn: Mr. Chairman, we recognize that this will cause us to go over contract. We recognize and hope VHB will treat this in a time material fashion and be respectful of that and we will acknowledge for the record that he may proceed forward at this at point with the understanding that we will fund obviously the difference and we however will not pay him extra for his loss of sleep anymore than we'll pay Bruce.

Mr. Krol: Is it reasonable to put maybe a quote together?

Mr. Chase: What'll I do is just....I won't let this hold up as you discussed. I'll prepare a revised amendment to our original scope.

Mr. Krol: yes

Mr. Chase: so we can work out the details Joel as we move forward.

Mr. Kahn: That's certainly very acceptable and we appreciate that.

Mr. Krol: There was a hand up in back.

Mr. Reed: Scott Reed. I wonder if there is any data in the traffic report for pedestrian circulation, for pedestrians walking over to Bub's from the development. It doesn't seem like they'll want to go up to Plumtree and cross. They'll want to cross by the auction building.

Mr. Hillson: There are no specific pedestrian counts for projected pedestrian traffic. We did do traffic or pedestrian counts for existing conditions and found the pedestrian foot traffic to be minimal. We would expect foot traffic to increase with this development. To what degree we're not certain and we will be discussing those things with Mass. Highway. With the concept plans depending on the access that is ultimately selected by the Commission. There will be a pedestrian crossing either at the intersection of Plumtree with a signalization or it could be down at the access road on 116. It all depends on...the ultimate decision on where...which access concept the Commission desires to go with so we will have general discussions with Mass. Highway about pedestrian crossings. Similar to what is further to the north pretty near here but specifically until we get the desired access determined we are not able to identify where that crossing will be.

Mr. Reed: I would think that no matter where the access was that the pedestrians are going to cross right out from the development.

Mr. Hillson: A lot depends on where the bus stops are and things of that nature. There are a lot of items that need to be considered here and depending on where certain things are dictate where other things are.

Mr. Reed: Do you have any idea what the traffic will be between the apartments and Bub's? That's going to pull people down. They're not going to want to go up to that. They're going to want to cross and just jaywalk if there's not a crossing.

Mr. Kahn: Sir, we certainly will continue to address it. We need to really get some feedback from Mass. Housing, I mean Mass. Highway. That may sit there and say okay we'll support the idea a traffic light however we're not going to put a crossing flashing light and you can do whatever the heck you want because it's so close to it. The truth of the matter is we don't know until we talk to them. So we will deal with pedestrian safety as a concern and we will not put it on the back burner and as we learn more information and to determine it we will certainly be specific as to what will be proposed and what we believe they will accept.

Mr. Reed: How do you project the amount of foot traffic between Bub's and the apartments?

Mr. Kahn: You know it's a very interesting question. I had this the other day. I'm going to side track for just one second and talk about the fact that if you live in New York City and you want to go someplace and you have a fifteen minute walk to get there. You don't take your car out of the lot. You walk the fifteen minutes and yet we all and I am just as guilty too. If I have ten minutes to walk down to the convenience store half the time if not more. I'll get in my car so the answer is we can do that but it's very difficult to determine because we're creatures who don't necessarily....can be lazy sometimes in our efforts. We know that people especially in relation to the bus stops which is the key. We'll have an inclination to want to want cross the highway, agreed so from there we will present that to Mass. Highway and see what they have to say about what they will allow. They may just say paint the line across and you know at that point traffic if they're approaching a traffic light will slow up plus traffic lights create a break in the traffic. That's a natural event that occurs and they may say, "Okay that's it." So let us go do that and I think the Board will be better informed then.

Mr. Reed: I guess I'm just concerned. It seemed like Mass. Highway might have a better idea of how much crosswalk...where a crosswalk would be if they had some idea what the traffic might be, foot traffic.

Mr. Kahn: We asked Mass. Highway when we were there. The issue of what they created up the street closer to here and they promised to give us a copy of the study. I don't remember that... we have it.

Mr. Reed: If you had that study you would use those numbers rather than doing your own?

Mr. Kahn: Well you can't really quite use those because the population density is different but the idea is that it may provide some guidance but they did have some information. We will examine that and ask these consultants to take a look at it.

Mr. Reed: Thank you

Cris Carl: Just two questions. You talked about the traffic light. Who determined that designation that by 2011? I just wondered if it came by the engineers or from Mass. Highway. How did that come about? That's question one.

Mr. Kahn: The answer is that two consultants concluded that. The data was there. As a matter of fact when we asked the question if the Mass. Highway had the intention to put a traffic light there their answer was we have no plans as of this date, So that's all I can tell you from their effort.

Ms. Carl: Okay, the other question is and I'm sorry to push this question along but do you have an idea of when you'll be meeting again? When you're going to have these folks present again?

Mr. Krol: We've got other hearings to schedule. We're going to talk about that, it's probably going to be towards the end of June. Dana?

Dana Roscoe: I just had a question about this. Mr. Hillson you projected that it would be a 20% volume exiting and traveling north and an additional 10% of northbound traffic going out the side so my question is in the event that we look at option A where 100% of the traffic exits out through your 116 egress. I think that's what Matt did. I just want to be sure I have this right. I think you said there would be a morning peak hour northbound trip would operate at level service C and the evening trip northbound would operate at a level of service D with a twenty percent number and if we went to Matt's 30% number. I think Matt I heard you that it would operate at a level of service E. Do I have that right?

Mr. Chase: Actually in Bruce's report he has 20% going northbound. It's both D's in the morning and the evening turning left and then my analysis if everything was going out at the left would make it an E.

Mr. Roscoe: If when we're talking about the Option A that the chairman proposed we're talking about your level of service E, right?

Mr. Chase: Correct

Mr. Roscoe: Thank you.

Mr. Krol: Okay, I think we probably pretty much flogged traffic to death today. I had some thoughts that I had written prior to tonight's hearing I was going to read. I think I'll read selected parts of what I had written. I'm not trying to be inflammatory or whatever. I did have some thoughts. These are just ideas I'd written up this evening just before the hearing. Like I said I received a large volume of documents. I've been following this very closely. It's been occupying a lot of my time. As we leave the traffic peer review. Granted we will not be leaving traffic itself. As we leave to traffic review I would just like to make some closing comments. Looking back at the traffic and

safety issue, I feel that many important issues raised by the Town, by the public and the ZBA were not taken as seriously as I had hoped by the applicants. I was disappointed that the applicant chose to challenge the validity of some of the issues we raised on the Board and argued instead that they were beyond the authority of the ZBA under Chapter 40B, rather than addressing them in a true spirit of partnership. Bruce, not Bruce Lou these are my words by the way and the next point talks about the whole traffic situation. I was disappointed that the applicant didn't offer a single improvement or tangible recommendation how to deal with...to address the existing unsafe traffic conditions that would only be aggravated by the additional traffic that would be generated by this project. Washing your hands of the issue and deferring the crucial task until a later review by the State I thought was irresponsible. Granted the discussion that we've had today and what Joel said I think we're probably in a better place than that. That was my feeling coming into this hearing. One thing that hasn't been talked about is the... we still got the issue of we have a three story structure with no fire apparatus that can reach it. That's a safety issue that will probably carry into the civil engineering review. Joel you had stated in communications that you've had with me, that you wanted to make this project a win win proposition for the Town and the developer. Some of the stances, approaches that you've taken to the traffic and safety seem contrary to that goal. I trust that we're in a better place now. I do want to say that maybe as a result of some of the fur that flew today I think that maybe we're in a better place and a better understanding because cooperatively we're going to have to move this thing forward. Those are thoughts coming in. I said those not to inflame a situation but I felt that it had to be said. This Board by nature tends to be quiet. I felt I had to speak to the things that have been bothering me and I do think to a large extent they've been addressed today. So don't forget that. Please don't go away with a bitter pill that I've got an axe to grind but I had to say some of these things and I think we've plotted the path to move forward and I hope we learn from this. The next issues we encounter won't be as painful and arduous as this has been. Unless my Board members have anything to say lets move on from the traffic peer review and move onto the next topic which is to have a brief discussion on water supply.

Mr. Kahn: Mr. Chairman would like me to make some comments regarding this?

Mr. Krol: Let me get my stack of water documents. Okay as a bit of a preface let me to the water situation.

Margaret Nartowicz: The Water Commissioner's were unable stay and had to leave due to the hour.

Mr. Krol: Okay. Can I at least Jay, talk about it superficially. Then we'll just table this...

Mr. Levine: Seeing how the Water Commissioners have left and to the extent you wanted input. I bet I can give like a four sentence overview of where we are. You got materials that were submitted. I think the issue....we can just frame the issue not....and the Water Commissioner's can you know come back the next meeting or correspond or whatever. We understand or everyone understands....we believe at least in the present information we have that the permit that the Water District has together with what is expected to be the demand for this project exceeds their permit requirements.

Mr. Krol: Okay

Mr. Levine: We also believe the wells may have additional capacity. Putting that aside the applicant submitted materials to you that agree to and Joel will address this in very brief form, agree to provide a public water, a private public community water supply, to provide the water on a daily basis.

Mr. Kahn: Domestic water

Mr. Levine: yea, domestic water for the project. That was the decision that applicant made rather than to push the issue of the District having to supply water for the entire use of the project. So where we are now is for your consideration. The district...it may not be an issue, it may be an issue. That's why I think we should hold it until the district returns. As to whether or not fire flows, fire protection that's all we're talking about. Will be A. an issue for the District. The assumption we're not making any demands on their domestic water and if it's not then there's not issue I guess. Except when I spoke to Jason he indicated that the Board would like some baseline information as to the feasibility of the domestic water....community, private community but we don't have a problem providing that. I guess if they have an issue. Then we need to find out what that issue is and the various ways to address it. That can go from working with the District and the Board to just being upfront with each other, okay. Saying they should, Board, do something but I don't think we need to address that tonight because we may be debating a question that has an answer already. If you could just....

Mr. Kahn: I just got one more thing to add because I think Lou did a great job in summarizing. We have already taken steps and hired a firm who's doing our studies for us. Wells are down. I will like, like the example of the information provide on Mass. Health's waster water treatment fields. I will also prepare a memo as soon as we have some initial results from those wells. By the way are wonderful but that's besides the point. We have a comfort level but we will show you where the wells were dropped, the relationship to the buildings, the radius and the primary and the preliminary results that we received from those. To show you that in fact that as we go through the process we are subject to huge D.E.P. regulations on this. That we in fact can provide the domestic water and believe that the question or the idea that came up regarding using just the existing system that's out to for public for only fire protection may be a reasonable way to insure the best of both worlds where we do not tap and burden the Town in anyway but at the same time get to benefit just from the pressure that exist in the pipes out there in the slim chance that a sprinkler system was to go off and that's where we are and I will gladly provide information as it becomes available.

Mr. Levine: If the ZBA can communicate to the Commissioners where we stand with this water right now so they can think about it.

Mr. Krol: I believe they....

Mr. Talerma: Already been done.

Mr. Kahn: Great and then maybe we can exchange where we both are when we get together next time on this issue.

Mr. Krol: Do you have any idea what the draw would be for the fire protection?

Mr. Kahn: It's about 36,000 gallons a day if I remember correctly, 38,000 gallons a day.

Mr. Krol: That would only be in the event of a fire right?

Mr. Kahn: Yes, no you're asking me what the draw is to the town's system?

Mr. Krol: No

Mr. Kahn: The domestic water usage calculations indicate that on the configuration of the project that's proposed we would need 38,000 gallons per day.

Mr. Krol: Oh

Mr. Kahn: For domestic water. Relative to fire we have not addressed it in terms of a well system as we are seeking what we think is a better alternative for the safety of the residents and better I think from the Town's prospective as well too use what might be pressure existing systems for that rare moment.

Mr. Krol: Okay, I misunderstood it. I thought you were going to supply all the drinking water from on site wells and only use the Town's water for fire.

Mr. Tozloski: That's what they're going to use.

Mr. Krol: They're talking about daily.

Mr. Tozloski: You misunderstood him.

Mr. Krol: Okay

Mr. Levine: Daily requirements, drinking, sanitization

Mr. Krol: Yes

Mr. Levine: The only thing we're asking from the District and the Board is to be able to hook up for fire protection which would come down to two things the sprinkler system to be hooked up to it.

Mr. Krol: Okay

Mr. Levine: And obviously the fire truck connecting into it.

Mr. Kahn: And that would be limited and of course a flow test would have to be done at the appropriate time to the pipe that's closest to determine whether or not in fact you need any additional you know pump systems or whatever to increase it so you know. That's all down the road. We've got to get past the first part.

Mr. Levine: We're not talking about that. We're not talking about infrastructure. We're talking water supply. As Joel said if you need something to connect to like a pump or whatever to make an infrastructure, we're just talking about the ability to connect it, alright.

Mr. Krol: So we'll forward any water discussion to another hearing. If we're ready we can at least start the civil engineering peer review.

Mr. Kahn: Thank you Mr. Chairman and again I'm going to turn it over to the good folks at Berkshire Design that are here today. Mark is representing the firm on the work that has been done to date but as you note from the package of information provided there was preliminary comments that I understand is preliminary. That I understand were preliminary nature relative concerns expressed in VHB. Our consultants responded to those preliminary concerns and made modification to the plans and to certain notes within the plans to address those. It may be at this point we can either review the preliminary comments or in fact it may be better to turn it over to VHB and let them explain where they believe they are now in terms of their comments review to the plans that have been provided to date.

Mr. Krol: It's your mic.

Mr. Kahn: I was suggesting that VHB preliminary and review came back from Berkshire that maybe tonight for this particular hearing its best to start off with VHB and its view of the plan and the responses so far to take place at this point. Just because I know we're getting near the end of the night here.

Mr. Krol: Is that a little backwards or is that normal?

Mr. Talerman: I think it is.

Mr. Kahn: If you'd like us to make a presentation we certainly will change.

Mr. Krol: I saw there were some new drawings that were part of the package of information that came since the last hearing.

Mr. Kahn: They came as a result of receiving VHB's comments and in making modifications to the plan, had both reflected VHB's comments to them and that's why those plans were provided. They really were in response to amending the plans to address those specific concerns. So if you'd like us to make a presentation of the VHB comments and our response to them, I certainly will turn it over to Mark here and be glad to do so.

Mr. Krol: I would prefer that.

Mr. Darnold: Yea, I'm Mark Darnold from Berkshire Design Civil Engineer. Steve did a lot of the work but I'm here to give the presentation to talk about the changes. I think the best way to probably do it is do a real quick overview of the project. I'm sure you're familiar with the project. I just wanted to highlight some of the changes that were made to plan as part of the review process by VHB. I think the easiest way probably go to step through their comments.

See VHB report dated May 4, 2007.

A real quick overview again, you can go over some of the aspects of a design. I'll turn it over to the Board and the peer review engineer.

Mr. Krol: Any questions from the Board?

Mr. Nuerminger: I just have a question about some of the buffers that actually go on the buildings. They cross over the buildings, like on the lower one. In a couple of the corners it seems that the building are within the 100 buffer.

Mr. Darnold: In the buffer zone in general. Again this is regarding the Mass Wetland Regulations the only aspect of the buffer zone. If you're working outside of the buffer zone then you do not need to go to the Conservation Commission or outside of the jurisdiction. The only aspect about crossing that 100 buffer zone at that point and time, you need to go and take your application to the Conservation Commission at that point and time. There is no prohibition from working in the buffer zone.

Mr. Talerman: We have a more stringent local wetland protection by-law in town. It provides if I recall correctly some enhance protection like most local wetland by-laws of the buffer. Under 40B obviously this Board is the Conservation Committee. Activities in the buffer although it looks like you're largely staying out of the 0-50, with the exception of the crossing there. There is going to need to be some review of some performance standards for the buffer and what the local Conservation Committee would want it to be. We'll obviously work with the local Conservation Committee to see what concerns they may have over it and have them provide a report on it. We've got to know obviously under the State is a lesser threshold. You'll have to deal with them on the ConnCom side so we're going to have to look at it on this side. I did have a question. The ORAD that went up to the State and the State resolved. It left an uncertainty on one part of the delineation. There was one part of it where it was unresolved. I'm not exactly sure where that is. I'm wondering if you know where it is. It came back from the State mostly resolved but one part.

Mr. Kahn: Jason, it's all resolved.

Mr. Nielsen: There was an area. This is a partial map it doesn't include the whole area. There was a small question and that was added as part of that superseding order of conditions. We were essentially required to add wetlands mapping there and you may know that we went through an extensive review process with the local Conservation Committee and they had revised this line and they had revised...

Mr. Talerman: I understand that but my recollection was that the State gave you mostly what you wanted but left something kind of ambivalent or ambiguous on the way out.

Mr. Nielsen: We did not read that as ambiguous. We read it as we were required.

Mr. Talerman: Okay.

Mr. Nielsen: To expand the wetland boundaries and we did exactly that. It is right in that little pocket, right there.

Mr. Talerman: Okay, good. The next question I had on the wetlands is... where there's a culvert there appears that there are two ditches and I'm wondering if those serving as intermittent streams or if they're just more of a bordering vegetative wetland?

Mr. Nielsen: By definition any ditch that connects and flows anywhere is an intermittent stream. There are other terms for lesser ones called a femoral streams but these are intermittent streams as opposed to...

Mr. Talerman: I wasn't aware that they flowed anywhere. I just saw ditches and wetland flags there.

Mr. Nielsen: They are intermittent streams. They have gone through...

Mr. Talerman: I'm not questioning what they are.

Mr. Nielsen: I'm just trying to provide information for the Board actually. What they are not are perennial streams.

Mr. Talerman: I imagine they aren't because this plan would look very different if they were.

Mr. Nielson: That is absolutely correct and the two crossings that you referenced were installed under a previous plan and so for example one is broad enough to accommodate the road and the other one may well accommodate the sidewalk.

Mr. Talerman: Okay.

Mr. Nielson: That's what we expect one will be the road, one will be the sidewalk. Those are there as part of a previous plan.

Mr. Talerman: I'm on my own Conservation Committee so I have some familiarity with some of this. I think we may need some detail as we go on as to how... whether or not your expanding on the foot... because it looks like you're actually, I don't know what the green is there. I don't know if that's sidewalk or what actually touching the ditch on one side. Maybe just a memorandum on exactly that area. That's obviously an area of concern, where it crosses that area and then travels, that whole area where it goes through the buffer including the zero to fifty obviously. Is probably an area that this Board now serving as the Conservation Committee has some idea. Mostly and the rest of it here in the 50-100. It's probably not as big a concern but may be a little heightened memoranda on exactly what's going on in that area so the Board can decide if there has to be some mitigation or what have you on the wetlands front there.

Mr. Kahn: You're just looking to see more detail of the protection that's being provided in the crossing. We have the right to cross it so.

Mr. Talerman: No one has the right to do anything unless the Board says.

Mr. Kahn: I understand.

Mr. Talerman: I think the long story short is that if this Board is the Conservation Committee and you would have to come in and show you're protecting the interest under the Act. I have no preconceived notion as to whether you can or you can't. You would do here, what you would do there and have an engineer saying, "We're protecting the interest protected under the Act by doing the following: here's what the area looks like, here's why it's okay to let us go right through, essentially abutting that wetland. Do what you would do as if this was the Conservation Committee. That's all I'm suggesting. I don't know if that's good or bad for that wetland.

Mr. Nielsen: We hear that clearly, we will address that under the State Act which is what we are required to comply with.

Mr. Talerman: Here too.

Mr. Nielsen: We are required as you know Mr. Talerman to comply with the State Act.

Mr. Talerman: You're required to comply with the local too, because you don't waive it unless that want you to... the idea is that your asking for them to waive portions of that so you have to demonstrate you're not doing anything so wrong to those wetlands that you deserve that waiver. Maybe you do maybe you don't, I'm just not sitting here saying what that is but you have to earn that waiver. You have to do here what you'd normally do with the Conservation Committee do it under the local and justify the request for the waiver.

Mr. Nielsen: Yes.

Mr. Talerman: Good, excellent.

Mr. Krol: Okay.

Mr. Hawkowl: Hi I'm Davis Hawkowl. I believe the question about the DEP review of the appeal. I was one of the people involved with it. Involved that piece of land right around where the crossing is at the ditch. The DEP decided that they had inefficient information to rule on whether that was an isolated or connected to the bordering vegetative wetland at that point. I've been searching for... so what's the next step?

Mr. Talerman: Could you point to it?

Mr. Hawkowl: Sure.

Mr. Nielsen: It's the area that you just referred to.

Mr. Talerman: Where the crossing is.

Mr. Hawkowl: One of the questions of the appeal was whether that was really an isolated vegetative wetland which would be covered only by town by-law or whether it was actually connected to the ditch, which is a bordering vegetative wetland with difficulties that there is spoils

from digging the ditch that provide a mound that separates those two. One of the questions that we had for the DEP, is this actually connected or not?

Mr. Talerman: Which is more germane to the State jurisdiction than the local.

Mr. Hawkowl: Right.

Mr. Talerman: The local is protected.

Mr. Hawkowl: Right. If it was connected then it would also be involved with State jurisdiction as well.

Mr. Talerman: It doesn't affect this Board's jurisdiction because it's protected under the local.

Mr. Hawkowl: Only if it were a 40B.

Mr. Talerman: It's a waiver question.

Mr. Hawkowl: That was the area that was left in my opinion undefined.

Talerman: Okay.

Hawkowl: Thank you.

Mr. Furman: Good evening, my name is John Furman. I am a project manager and a professional engineer with VHB. I was the project manager for the civil review portion of this project. VHB has looked at the initial documents we received from the Town as part of the submittal. Our professional engineer in the office, Richard Dudley was the one that performed the review prepared the memo. We reviewed it in house and then we issued it to the Board. Our initial memo is dated April 6, 2007. That memo actually had a listing of the documents that were reviewed. After discussions internally with the Board we released it as a draft memo to Berkshire Design Group. They in turn issued a response and some updated documents. From that we had issued another draft review memo which was dated May 4th. As we were reviewing these documents there are additional questions that we have and we're looking for information for. We have just gone through the basic intent of our review here as we go through here. There are a couple things I want to go over quickly following this as a guideline. Not to go over every comment because some of them are very cut and dry. Stamps on the plans don't really need to debate that. If we go through what I want to do is elaborate on some of the other items that we're looking at as part of these reviews, which will be coming out as part of a secondary memo. Item number two which is on the second page regarding the sidewalks on the roadway. This is kind of tying in... we focused the comment itself on basically tying into the traffic study and the bus stop along 116. If someone were to use the bus how would they get to and from the development? We thought it was prudent to have sidewalks in the roadway which have been complied to. The other remaining issue right now is where those sidewalks connect to and what happens within the roadway. There's a second piece to this which I'm sure as part of the traffic review goes forward that will be answered as part of that. One clarification on the original set of plans, which is item number three. We had asked that there was a label that said not part of 40B application. If you look at the original plans the label is actually

located up near Plumtree Road. I think it was just mistakenly put there. What happened on the revised plans it actually got moved to the parcel located right inside a lot. It was just a clarification and we were wondering why the note was there. It just actually got slid over. Again that was just for clarification. We had requested the one hundred foot wetland buffer be added to the plans, only because we needed to know exactly what the impact is. As we were going through the actual application we noticed that the applicant has requested waivers of the local by-law and I was happy to hear that that was being discussed tonight. We had some questions regarding that and how that was going to proceed forward. As that proceeds we will have some additional comments with respect to that. Item number five which is basically related to the parking and the dead end on the southern building. Again, it's very clear cut as you come into the parking lot you hit the end. You had no where to go. You had to back out. As we were looking at that we noticed it didn't make it into the review memo that all the buildings except for one. There are emergency access roads that go around each side of the building but they don't connect. I believe that question was asked on why they don't connect at a previous meetings for traffic review. We find it very on the surface from the concept plan it seems very easy to connect those versus having a fire truck or some apparatus pulling in and then backing out again. As an additional comment to that we'd like to see that they be addressed. If it can't be connected we'd like to know why because it seems very easy on this plan that you can be. Abutters on the plans, that is pretty straight forward as well as the clarification of the parcel size. I'm on page three now. We start to get into some of the questions on the storm water management. The applicant had provided a revised operation and maintenance plan which basically provided some information on some of the requirements that they're complying to with the Storm Water Management Policy as well as the looking at the standards, the performance standards for the policy and how they apply to that. The information that we received although helpful is not comprehensive. I realize it is at a conceptual level but there are certain things that are being requested as part of the BMP process or the Best Manager Practice that are being used. At this point I think we need a little more information on it. In order to verify that storm water systems that are being proposed actually work. One of the questions that we find is that one of the components being used is a for lack of a better word a storm water treatment unit. Basically water comes in and there's a mechanism in there whether by gravity or surd able force or whatever that pull the solids water out and lets the clean water in. Those are only good up to a certain flow rate. Usually what we see in applications is that an applicant will come in and says "We're using this, it says 80% TES removal of this thing alone will meet the requirements of the plan." Then they're on their way. When we start diving into the design information on those plans, we find that they provide 80% case removal for a very small flow rate. Something like 1-2 cubic feet per second. If you look at ... to add on to that is at this point conceptually. They're not identified on plans. We don't know where they are. We have to assume at this point they're located somewhere near the areas of the other retention basins. If you look at the drainage areas that are going to these retention basins they look quite large. When a larger storm or even a smaller storm the flow rates coming off of these derringers may exceed what those treatment units are for. So we won't be complying with those. We're requesting additional information on that. Also as part of the Storm Water Management Policy there are certain things you have to comply to and prove that you're complying with the intent of the policy. One of them is water quality. You have to treat so much water. That is a calculation based on depth of water over the area of pavement. At this point we don't have any calculations other that what the policy says. We're treating this much water. We're complying with this standard. We would just like some verification. It's a pretty simple thing to do. Put it in a spreadsheet and just provide it for us so we can see what's being complied for. One of the other things that we'd like to see is that. We'd like to see is that we'd like to have those

calculations done for each drainage area and not as the site as a whole. Another thing we find when looking at sites is that the intent of the policy is very vague. It basically just says that the flows coming from a site after development can't exceed the flows before development. What happens is a lot of the time just by the way the site is graded or by the way the detention basins are located that you may have one area which has no flow coming out of it because of a detention basin. Then flow on another part of the site. Which may be going into an abutter's yard has more flow than was going there existing. It meets the intent of the policy but that side has an impact that wasn't there before. We'd like to see that broken down. Again, not a big deal. The Storm Water Management and the O and M plan references a hydro cat calc's. Hydro cat is a software used to model storm water. Hydro cat's calc's are performed with this. It sounds like the information's out there. We would just like to have it submitted to us for us to review. Going to number two the catch basins were added. There was a long run coming in some the access roads. We felt it little to long to have water flowing out of the sides of the curb line. Especially in winter conditions we could get freezing. The catch basins were added. As a point of clarification I might add to, I think we mentioned there were two detention basins. There is three. I just wanted to clarify that there is three. One that was missed is actually in the center of the site. Not a big deal that there was three. The underground electric, cable, telephones, were provided. The line work is very tough to read. The sidewalks that we added and everything else, it takes a little bit of studying to actually look at it and actually see where they are. When you have a plan of this small scale it's actually tough to do anything with line weights and then have anything be legible. That information is on there. It's very tough to see. The last two items, 4 and item 5, deal with the soil information regarding both the Storm Water Management and I'll dive into the leach field for the septic treatment area. Some information that we had just received indicated that some soil testing was done. Our first question would be is that we'd like to see it and have it submitted to us. The second piece of information with that at this point in what the information that's been submitted we don't know whether the detention basins are actually complying with the Storm Water Management Policy. The reason is because there's no grading. We don't know the depths of the basin. The Storm Water Management Policy requires a two foot separation between the bottom of the basin and ground water, natural ground water. We don't have any grading so we don't know where the bottom of the basins are. We don't have the soil testing so we don't know where the ground water is although it did say wherever they did the test it exceeded 10 feet. I think a very simple solution is to give some additional information on all the basins so that we can see where the bottoms are. Compare that to the Storm Water Management Policy of the two foot separation and compare that sole borings that were done so we can see if these basins actually will work and are of adequate size. The other item I know that one of the comments diving into the leach field for the septic treatment area. I really think that we need to look into that a little bit more. Just from the area of placement. It would be nice to have some preliminary details on how that is to be constructed. To give you a little bit of information, we looked at it very cursory review on my part. I looked at the area that's identified for the leach field itself. The area that's shown there is actually in excess of what the reports that they have provided say that they need for area. When I look at the area there's 8 foot of vertical difference between on corner and the other alright so if you look at how a septic leach field have to be designed. The pipes have to be laid at a very slow slope. Usually a 1/2 of percent to Title V. Looking at the piping coming from the treatment area on the side of the building you can infer that the connection going into treatment facility is located near the roadway. As the embankment goes up the leaching system is going down, meaning that the excavation as you get further in are going to get deeper. I just did some quick calculations. If the systems were placed at grade right now, right next to the roadway and it was laid out at 1/2 of a percent for the full length of it. Even though

half of it is reserved for leach or reserve area. The back corner has a 7 ½ -8 foot cut and the test pits that we had referred to. Say the depth up to 10 feet didn't have any ground water. Septic systems depending on the perc rate require anywhere between 4 to 5 feet separation between bottom of the leach field system and ground water. Potentially in that corner you'd have to go down to a depth of 15-16 feet with no ground water to make sure that area works. Again I don't whether the perc tests or the deep holes were performed, having a plan showing those would be extremely helpful. If one was not done in the area of the deepest cut of that leach field. It would be advisable to have one just so we can prepare ground water to what would potentially be the depth of that leach field if we come up with anything less than the requisite amount. We would have to look at the sighting of it just to make sure it was adequate. As far as going on page four, now which is the sight distance calculations looking to it again. This is tying in with the traffic study that we had. One concern that we had we would like to see the sight triangles added to the plan. The reason for that is that we'd like to see if a car is sitting at the intersection of the roadway and the driveway, where a driver would be. What that sight distance is. What we want to confirm, it has been mentioned that we have to do some clearing in order to maintain those sight distances. We want to make sure that the land or the areas that need to be cleared actually have the ability to be cleared and they're not on someone's private property. If they are on private property in order to maintain that. Then we should investigate whether we have the right to or agreements are in place to actually do that clearing. Again a very simple thing but it would be great to have those sight triangles added to the driveways showing what is required and what is provided. The parking requirements, I'm at the bottom there which is basically the rate of 1.8 and again the answer was that's been increased. It's in compliance with the town by-law. Again going through the list of waivers that's going to negate one of the lists of the waivers that's being requested. Alright so that kind of simplifies one thing on that issue. We look at that issue that seems to be, there's actually kind of two issues. The first is, is that is a two parking spaces per unit adequate? Looking through some of the correspondence it's been inferred that there may be some college students rented here to, although it hasn't been confirmed. The applicant has been asked to go through and do additional counts at some other units, particularly on Friday and Saturday to see how the parking relates at those. I think that needs to remain an open issue. If there's information that's been provided that I have missed it. I'll go back and look at it but I think we need to review that. The other issue is with the club house. We're providing 12 spaces and the inference was here was that we have 12 spaces for either coming off site or people that are in the far units driving there. When they referenced that to the water study that was provided. Again I haven't gone deep into that. It's been said that in order to do the comparison that there's 50 chairs or lockers in the community center that would be used. You look at the potential for having space for 50 people to use that community room and providing them with 12 spaces, two of which are handicap. I believe is right or 14 spaces. Then there's an inference that the difference between a full club house of 50 and that 12 are all those people that are walking from these units or from other spaces. Again I don't know how we prove that but it just seems that we have a basketball court right there and look at how many people play basketball. If we had ½ the people driving to play basketball game versus the space that we have there that parking lot is filled up. I think that area needs a little bit more attention. I think we need to evaluate the club house and now many spaces that we actually provide. On the surface it looks like it was adequate but when we got the water study today and started looking at it. We're kind of adding on to the comment when we said it seems adequate. I don't think that's valid anymore. I actually jumped into on page 5 the parking requirements for the club house. We just talked about that. Item E on the site lighting which is kind of the last two areas. There was a waiver in the application to exceed the height of the parking lot lighting over 16 feet. The answer for our issues was that we'll comply with

that 16 feet there again. There's another waiver that we can just cross of that doesn't have to be addressed. However when we look at it 16 feet is a fairly small pole. What we find is a couple things is that you just want to get some insurances that the base that the pole is on. If the height... if the maximum height of a pole is 16 feet and then you have a base and the base sticks out of the ground 4 feet, you're providing a 20 foot pole. You're not providing a 16 foot pole. The base for this design has to be set flush so that the pole is 16 feet. If you look at the approximate spacing of lighting that's on here, I think it's just a little too far spread. They're space scaling wise at about 150 feet on center, which is what a municipal light is for and those lights are on a 35 height pole. I guess you need to look at this. There's a balance that needs to be weighed here. If you provide more lighting then you get into the aspect of having more light shining out. There's a balance that has to be made to provide adequate light versus lighting that is needed for security. I throw that out as a comment. I think that needs just a little bit more analysis, but I think for the most part some assurances that the pole will remain at 16 feet. Lastly, just closing off. We did receive some information today regarding some of the information on the sewage system design. The water study and the conversion of the project going from a municipal water supply to a private water supply. One thing I would just throw out. I know we're not talking about the water supply here because of the Commissioners but if a public or a private water supply is going here, I think a strong look at has to be taken from a hydrological aspect. A unit of this size with 32,000 gallons per day not peaked. At a peak with all these residences get up at 7:30 or 8:00 and they all hit the showers. Some of the correspondence says that with a 3x multiplier which is standard practice. You're looking at anywhere from 60-65 gallons of water during that peak period, which is a lot of water. That could have an impact with so many wetlands around I think a study has to be done to look at that to make sure if a public or private supply is looked at that there's no impact on the wetlands. We have had studies where an applicant has come in on another projects and they propose this. We require a study and it's come to find that the water level and the wetland has drawn down because the well is drawing down that much more water. I'm not saying that isn't a valid solution. I'm just saying what needs to happen if needs to be documented at this point, if it's going to be an issue for discussion in front of the Board. That's basically what I have prepared tonight.

Mr. Krol: Thank you, any questions from the Board members.

Mr. Williams: What about the relationship about on site septic and on site well? Is there concern there and obviously a separation?

Mr. Furman: For a Title V design it normally requires 100% separation from a well to the edge of a septic system. There's also a permit because this is would discharging the ground water there's an actual discharge to ground water permit that will be needed for D.E.P. I think its 314 CMR. That itself my have some requirements as far as set backs. I'm not familiar exactly with that policy. I clearly if we're going to require a hydrologic study. It doesn't have to be an elaborate study. We have **sole** borings that were down and presumably the ground water in these borings were recorded so we can create a ground water model for this site so we can tell which way ground water is flowing. If we have the well located 100 feet down grading of the septic system. We may want to consider a better spot for the well. Those are very simple things to do, they're not very elaborate and they would provide a wealth of knowledge for you.

Mr. Krol: Any one else? Go ahead Jay.

Mr. Talerman: The first question on the loops around the buildings. Whether or not they're connected or not. Are those proposed to be paved?

Mr. Kahn: Something that would be adequate for its intended use. Absolutely.

Mr. Talerman: Okay so we can add like delineated areas and obviously with covenant to keep them just so we have less impervious surface.

Mr. Kahn: Absolutely, that's the intention.

Mr. Talerman: Are they detention basins, infiltration basins. What are they?

Mr. Durand: Well currently in the preliminary design the design is detention basins. I'm sure they'll be infiltration taking place at the same time. I'm sure they have 7-4 bays so they will be providing recharge as well as infiltration. They're currently conceptually designed as detention basins.

Mr. Talerman: I was involved in a case and even the people at D.E.P. were conflicted on this. One thing they were clear on is that when you have that type of basin within 100 feet of an intermittent stream. That may or may not; I look to the engineers on this. I've heard different engineers say different things on this. That there has to be 100 feet of separation from any feature like that to a surface water. While the jury's out on whether or not a surface water is a bordering vegetative wetland, they certainly consider intermittent streams to be surface water. I am wondering if between now and whenever we can get some assessment on that, only because I've just face the issue and we had to push all the basins out 100 feet away to comply. I would be interested in some thoughts on that.

Mr. Durand: I don't have an answer for you right now on that, but I can easily look it up.

Mr. Talerman: Okay.

Mr. Durand: It becomes point source discharge if you're within an area.

Mr. Talerman: I know no more about it then what I hear and what D.E.P. said get it 100 feet away.

Mr. Nielsen: I've been involved in numerous of these recently with the Western Region Department of Environmental Protection recently. In fact the water needs to go where the water wants to go, which is downhill, which is usually where the other water is so we will certainly investigate that but these things are routinely even by the most severe standards placed well within those buffer zones. We will provide you comfort that is allowable by Western Region D.E.P.

Mr. Talerman: I think the issue there is to where the West Region D.E.P. here too. We want to be sure that's so. That's why I asked whether they were detention or infiltration because the context it came up in was in infiltration. Detention was okay because there was a clear definition of the structure and an outlet. With infiltration you obviously have an impact to that resource area. That's why the question came up and it was fairly definitive. I don't know if the Western Region talks to the Central Region which is where this was and talks to Northeast. We can resolve that because if

we have to push that, there's two basins that touch. You might want to check. I'm sure you can put them somewhere else. That's all I have for now.

Mr. Krol: Certainly the first pass of the civil review has touched on some things that are highly important to this project, specifically the drinking water supply, the waste water treatment system, and the storm and drainage system. Those are clearly hot button especially in a project that has such a large close proximity of wetland and stuff. In such a close proximity of wetlands that is certainly something we're going to want to dive in deeper and make sure we have a firm understanding of the interrelationship. Is this going to work? Also you did touch on the parking issue which is a carry over from traffic, but it's still parking. Those are issues that we're going to need to follow further up on and get clarification on.

Mr. Kahn: Mr. Chairman if we could before we finish. I just have a couple of comments.

Mr. Krol: Sure.

Mr. Kahn: First off I appreciate the thorough work done by VHB and its comments. I certainly and in the spirit of making sure we leave on a positive note today and certainly I'm instructing my consultant to continue efforts to address the points that were raised here in progression, you know, what I would like to do tonight is there were a couple comments that were made tonight that we are going to need to discuss a little further. Rather than to leave tonight on any issue of, are we not cooperating. I'm going to say I'm going to put those off. We'll deal with those and discuss those next time we meet. We know that we have stringent requirements at D.E.P. to adhere to. We certainly respect your desire to have some baseline information to review the general parameters, of course we would like to keep some of the discussions and issues regarding wastewater and water system to provide those baseline information but at the same time you know we're going to go through a very thorough D.E.P. review of which the Town will have of course it's commentary and permitting process itself by obviously the appropriate boards throughout the Town at that time. I'd also just like to add that I know that a lot of the times folks in heat of each trying to protect their interest or what have you. Sometimes words are said and sometimes wrong impressions are given. I work very hard at trying to make sure that it's clearly understood that we never want to be portrayed as really not being cooperating. I'm just going to give you one story. Not to be confrontation just sort of make a point. We turned to our guru Bruce and I don't think anybody said he did a terrible study or what have you and he provided us information that said based on his assumptions as an example a traffic light was not needed initially. Further study after working with Matt, they revised some assumptions and he was the first to include in his report, he did and as a result of that new information the first comment I made in the opening tonight was the fact that we recognized mitigation was going to necessary. It wasn't skirting. It wasn't trying to put it on the back burner. It wasn't to hide from it. We truly are and I know that again in the way these hearings work and the way communication exist that sometimes we can get off track and sometimes believe that people really are not acting in a sincere nature. While I appreciate the comments made tonight. I want to just leave that is not the case and that we approached tonight's hearing directly on point and while we may sometimes not agree to how to get to the end results I do hope that we'll continue to work together and towards that end goal so that's all I have. I'd like to then again, of course, then discuss hearing dates of course.

Mr. Krol: Okay. Just to put an exclamation point on what you just said. I think we have some heated discussions today but I think out of that came a better understanding and a way to move forward. I do think we did gain some traction tonight. I look forward to the spirit of cooperation that we're ending off on to carry forward.

Mr. Kahn: Let's meet next week and keep going.

Mr. Krol: Let's talk about that. One thing the Zoning Board members don't know is that we have three cases, three applications pending. Not only that my employer's decided to send me to Asia for a week, when I was going to pick the first one. I had already talked to Tom and we had talked about picking May 30th. I'm not going to be in the country on May 30th. We're in a position where we're going to probably be looking at three hearings.

The Board discussed dates for the three. June 6th was decided for the first hearing.

Mr. Kahn: Any of those dates are fine for us.

Mr. Krol: No, those are for ...then we get to you guys.

Mr. Kahn: Sorry, I was thinking those were the dates you were free.

Board continued to discuss dates for the three pending hearings.

Mr. Kahn: We know this is a long hearing. I certainly have the greatest interest in making sure that we move this along. As a matter of fact I think there was a comment made having big absences is not necessarily helpful to keep the traction as we want. I'm also going to suggest we come up with a July date or end of June date to follow. I like to seek a date which this entire Board can continue it's deliberations.

Mr. Krol: You're also in part of the process here.

The Board continued to discuss dates for three pending hearings. Dates were set for June 6th, June 13th and June 20th, 7:30pm at the Sunderland Town Offices.

Mr. Kahn: I'm sorry that we take up the whole night. Hopefully those will each be short hearings and then we can get back together.

Mr. Krol: You're a dreamer.

Mr. Kahn: I once went to a hearing in Manchester, NH. They had fifty-nine items and I was number fifty-nine, 1:45am.

Mr. Krol: That's well past my bedtime...the restrictions on hearings here. You know what I'm going to suggest is that...today we had a conflict with a major band and string event at Frontier. In fact my son's there and I'm in deep hot water with the family for not being to see him play his cello. I'm going to suggest we do one more time...we do here and if our crowd continues to dwindle we may look at relocating these hearings to more comfortable digs. Let's talk about dates. How much

time is needed to....you guys need to do traffic stuff on the side so we may not be talking about Option A, Option B, Option C....

Mr. Kahn: In discussion with Bruce before he left for the evening. He was going to have that done within the next 72 hours to send to Matt. He intends to jump right on it so that they can try to work into Mass. Highway's schedule. I would anticipate that they will be able to come back here at the next meeting and report.

Mr. Krol: Wow, that's encouraging okay.

Mr. Kahn: I'm also going to instruct this gentleman over here, tomorrow to give up all his other work and jump right on this as well too.

The Board discussed possible dates.

Mr. Kahn: Mr. Chairman, I only remain concerned because in our efforts for traction that's 6-7 weeks out again. I appreciate the dilemma that's facing you please I do with open heart but again I am concerned.

Mr. Krol: I have to consider the workload of this Board and on me personally. Four hearings in four weeks, we've gone two months without having a hearing or three months depending on other circumstance. I'm not talking about us. I think to have four hearing in four weeks is pretty big... This takes a lot of my time. I've taken...everyone one of these hearings just to get prepared I've taken a day off from work and this is not much of a vacation time.

Mr. Kahn: Agreed, Steve so if 26th and 28th so be it. The next question would be I would just ask maybe in response because we've has a couple gaps during the winter months and stuff. Can we then do a rapid success of meetings to follow that so we can continue along that then and make up for it on the other...

Mr. Krol: I would be receptive to trying to accommodate something like that.

Mr. Kahn: By the way the 28th is really not...problematic. If we like we would like to do it on the 26th.

Mr. Talerman: I can't do the 28th either.

Mr. Krol: So the 26th, Tuesday the 26th, are all five of my members available? All critical members of your party available?

Mr. Kahn: The 26th is fine and again we hope that maybe we can turn around with a quick July date to follow.

Mr. Krol: The 26th we going to do it here and if we continue to have sparse showing like we've seen here I'll certainly consider. We have to do some rearranging to accommodate the applicants. That would be better then working out here. Going once, going twice, Tuesday, June 26th here.

Mr. Kahn: How about Mr. Chair we look at a July date early on so we can at least have something to follow and again I know it hard to fathom by everybody talking about meetings come July but...

Mr. Krol: I won't commit to a date but we can talk about maybe.... the next week is July 4th. Are people available the week of July 9th? Two weeks after that.

Mr. Kahn: 9th, 10th, 11th is okay on our side.

Mr. Krol: I'm not going to commit to that date but you can pencil in that date.

Mr. Kahn: Which date?

Mr. Krol: Stick with Tuesdays that would be the 10th then. That's tentative and we will firm that up obviously at the next meeting.

Mr. Kahn: I would appreciate that and again as we go in the next few weeks we'll transmit by email if any documents become available. We'll send them to you. Mr. Chairman and members of the Board we appreciate your patience tonight.

At 10:10pm meeting adjourned to continue on Tuesday, June 26, 2007, 7:30pm at the Sunderland Elementary School.