

**BOARD OF ADJUSTMENT**

**OCTOBER 6, 2009**

**MEMORIAL BUILDING**

**7:00 P.M.**

*The following are to be considered draft minutes only until approved by the Board at their next meeting.*

Present: Cynthia Hayes, Barbara Dunlap, Katherine Richardson, and Alternate Gene Hayes. Selectman John Chiarella was also present. Kevin Waite and Bill Sullivan were absent.

Also in attendance: John Trachy, Andy D'Amico, Steven Berkeley, Michael Hummel, Rick Cole and Tim Julian.

Cynthia called the meeting to order at 7:00 p.m.

Minutes: Minutes of September 1, 2009. Kathy noted on page 2; paragraph 5 *"It is the use that is being changed, not the structures."* It was her understanding that the Board was reviewing both. The Board agreed to change the sentence to *"It is the proposed use that is being changed."* Gene moved to accept the minutes as amended, seconded by Kathy and unanimously approved.

September 12, 2009 Site Walk. Gene moved to accept the minutes as written, seconded by Kathy and unanimously approved.

Literature and Correspondence: Cynthia reported that the Denison's have removed the shed.

Kathy, Barb and Cynthia have signed up for the law lectures. No one has signed up for the OEP Annual Conference.

Cynthia reminded Board members of the October 14 meeting at 7:00 p.m. on the proposed highway shed

G.H. Evarts: At 7:10 p.m. Cynthia opened the Continued Public Hearing for G.H. Evarts & Co. Inc., for a Special Exception of the Springfield Ordinance.

Present representing G. H. Evarts: George Evarts, Attorney Barry Schuster, Engineer Dan Dash, and Wetlands Scientist Peter Spear.

Cynthia reported that following the last hearing, there was a question as to whether the Zoning Board should be doing a Special Exception. The Local Government Center attorney advised the following: *"A preexisting non-conforming business use seeks to expand by adding facilities, such as new buildings. A Special Exception is needed, because there will be new and expanded facilities. While the use may be the same, the scope of the use is expanding."*

Cynthia circulated pieces of the Zoning Ordinance that explains the Board's responsibilities for a Special Exception. The Board will review each piece and make their explanation.

Cynthia reviewed the terms of Article VIII Non-Conforming Uses.

Cynthia welcomed anyone to speak to the articles.

Article I. Purpose and Authority:

Barry Schuster stated these are the general purposes of the ordinance. There is no evidence their proposal would adversely affect any of these. There is no evidence that the operation being run

as it is now or with the addition of a saw mill and more logs, would be in violation of the ordinance. There is a good civic design for development and use of an existing business lot. There is no evidence that this would have any impact on the value of surrounding land. This could improve property values with stabilization of the business and jobs in the community. There are no public funds or utilities required. Route 4A is a State Highway. Mr. Schuster referred to State Statute 672:1 III C referring to the forestry industry as a traditional business activity in NH.

Mike Hummel, asked to respond to Article I. (reading from a letter presented to the Board on September 1, 2009)

*The values of properties which will be subject to the increased noise level from the proposed new saw mill complex will be reduced. An important component of property value in rural residentially zoned areas, and to an even greater extent in the Forest Conservation district is peace and quiet. If you diminish the quality of the acoustic environment, you will reduce the value of the property. The noise will not stop at the property line, and will extend and impact other properties as well as physical abutters."*

Steve Berkely, neighbor to the North, has a piece of land for sale which has been on the market for about a month now. His real estate agent has voiced that the expansion of the business could be a substantial impact on the value of that piece of land. The property has been shown a couple of times, and questions are asked about what is going on there. This proposal is to the value of property in that area.

John Trachy asked if RSA 672: I as being wide open for forestry and agriculture purposes, couldn't that argument be used for something like Hannaford's in New London a market of produce, if they wanted to expand.

Mr. Schuster read from a letter from the Springfield Board of Selectmen from January 24, 2001  
"The Board of Selectmen unanimously made the decision that the noise generated by your mill is not obnoxious as it relates to the Zoning Regulations." He stated there is no evidence that noise that is going to be generated by adding a sawing facility and log storage, other than trucks that are coming and going now anyway, will generate any more noise than what exists. Every development has an impact. Is this a reasonable impact that balances Mr. Evarts right to use his property versus the right of someone else. George is doing his best to run his business in a respectful way.

Cynthia asked for the parties to describe the noise they find distasteful.

Mike Hummel reported that there is not much going on right now. When it is in full operation during the day, starting as early as 6:30 a.m. he hears backup beepers, Monday through Friday and on Saturdays. The noise from the kilns runs 24 hours a day. The acoustic noise at night is rumbling and fans running continuously.

Steve Berkeley stated he hears the backup beepers and the trucks coming down the hill with the engine brakes. When the wind is just right he can hear loud talk. He is located  $\frac{3}{4}$  of a mile away from the existing driveway and will be  $\frac{4}{10}$  of a mile from the proposed new driveway.

Mr. Schuster pointed out that this is existing noise.

John Trachy stated there has been much discussion about the amount of noise. There is intensity of noise based on the time of day and the operations taking place, but another issue is the frequency of the noise. At times now the noise is continuous and at other times intermittent. Are the intermittent times going to be filled in so there are now more times of continuous noise. There has not been any discussion as to the frequency of the sound waves, knowing that lower frequency sound waves tend to travel longer distances. He noted his concern with noise in respect to the effects of sound in disorientating wildlife.

Cynthia questioned the hours of sawmill operation. Mr. Evarts responded it would depend on market conditions. In regards to the noise issue, that is part of the industry, the business is in a rural area, at his personal expense and the town's expense this has been visited once. If there were strict guidelines as to what could be operated in the town, it would solve a lot. The saw mill will be in a modern facility. The backup beepers are OSHA regulated. The traffic that comes and goes is dependent upon the general economy. Cynthia stated the noise from the kilns is a done deal and does not impact this application. She questioned what hours the saw mill would operate. George stated it would probably run between 6:30 am and 5:00 pm, but he would like to go on record that if there are going to be any restrictions this would impact the scale. He needs to know that he can operate outside this scope if market conditions warrant it. He stated it is difficult to maintain a full crew and when there were times when he needed to catch up, he might need to run more than one shift. Mr. Schuster, stated it was reasonable to have some limit placed on operation times, but with some flexibility when conditions show a need.

John Chiarella stated that there is some precedent set by Durgin & Crowell. They do run multiple shifts at times, but they have enclosed most of the operation for the benefit of neighbors, and efficiency, but the Board could set some restrictions.

Gene Hayes questioned how many current and additional employees would there be with the new saw operation. George stated there are currently 11 employees on site, and in Lebanon there were 16. Prior to the decline in the economy he had 28 employees. Gene speculated there could be 25 to 44 employees on site, and Mr. Evarts agreed. Presently there are 4 Springfield residents employed on site, with the rest coming from Newport, New London, and Lebanon. Gene asked what type of logs are being sawed. Mr. Evarts stated that he saws hardwood. Logs come from a

60 to 95 mile radius depending on market pricing. Logs come from NH and VT. They buy State and Federal Timber, and they own land in timber.

Cynthia questioned if the building that houses the saw mill would stop the noise, and wondered how much noise a sawmill makes. John Chiarella stated it has been established that OSHA standards need to be met inside the building. George stated this is a fully insulated building. The debarker makes the loudest noise, but the debarker will be set in its own separate building. The chipper is located in a room in the basement.

Steve Berkeley questioned where the bathroom facilities would be for the employees. George stated there is a bathroom in the office and one in the yard. Mr. Nash explained the loading

requirements for septic systems for residential versus employee use. George stated he has also used portable toilets and would probably do so in the new facility due to the distance from the office.

Article III. Zoning Districts: Cynthia indicated that these would be dealt with as the Board moved through the Ordinance.

Article VI. General Provisions:

6.10 Obnoxious Use: Cynthia stated this has been pretty well covered.

Rick Cole asked if the kilns would be used more if sawing was done on site. George stated that there is no more capacity in the kilns.

6.20 Off Street Loading and Parking:

George stated increased parking is not an issue. Employees park in the yard down by the stacking shed. There is room for 25-30 cars.

6.40 Removal of Natural Materials:

Cynthia stated this may come up when they discuss the log landing. The Planning Board may cover this with Site Plan Review. Dan Nash stated that this does not apply in this use. Material would not be removed from the site.

Article XI. Conditions to be Met. Dan Nash indicated that he has addressed all the conditions in his letter to the Board dated September 1, 2009. Cynthia asked if he would read his comments into the minutes.

**11.42 A. That the use will not be detrimental to the character of enjoyment of the neighborhood by reason of undue variation from the character of appearance of the neighborhood.**

*“The G. H. Evarts operation has been in place and a part of the neighborhood since 1988. The operations proposed are consistent with current operations and do not alter the character or appearance of the neighborhood. The Evarts parcel is in an area indicated on the Town plan for future*

*commercial land use. The parcel is located on Route 4A, a major collector highway, maintained by the State of NH DOT.”*

Mike Hummel wished to point out that the area where he lives has been designated a Forest Conservation area. He is concerned that fumes, or sounds that spill over in that area will be detrimental. If that area is supposed to be protected then perhaps a higher standard should apply. Mr. Nash responded that he addressed this in his letter of September 21. There is a difference between sounds and noise. This facility will make sounds that people recognize such as back up beepers, saws, and trucks. The sounds rise to the level that they are considered noise when injurious or obnoxious to somebody. The Zoning Ordinance does not guarantee silence or absolute peace and quiet. It may be sounds that are unattractive or undesirable but are within limits and not injuring the community’s welfare. There is no evidence the noise exceeds State limits.

Mr. Shuster stated that the character of the neighborhood includes the existing Evarts operation. This is a pre-existing non-conforming use. This proposal does not change the character of the operation all ready in the neighborhood.

Steve Berkeley stated he is concerned if the business goes back to full operation there will be more offensive noise. Day in and day out continuous sound can become noise.

Cynthia stated that what is not clear to her, is what noise the addition of the saw mill or the addition of the vehicles will generate. There is not a number on that to see if the noise will increase. There will probably be more consistent noise, but the noise level is not known.

Mike Hummel stated that a little bit more noise could become a lot more noise when added to what is there now and be a more significant impact to the neighbors.

**B. That the use will not be injurious, noxious, or offensive, and thus detrimental to the neighborhood.**

*“The proposed use will expand the facility's ability to process lumber. The operation has been in place since 1988 and not been injurious, noxious, or offensive to the neighborhood. The expanded use will not differ from the existing use.”*

B. has been covered above.

**C. That the use will not be contrary to the public health, safety or welfare by reason of undue traffic congestion or hazards, undue risk to life and property, unsanitary or unhealthful emissions or waste disposal, or similar adverse causes or conditions.**

*“The proposed use will not be contrary to the public health, safety or welfare. Traffic will not be adversely affected. Route 4A is a state highway with current traffic well under its capacity. An*

*NHDOT drive permit will be obtained for the new access. A permit is only issued when the NHDOT is convinced that the access point is safe. The operation does not represent any risk to life or property of the community. There will be no unsanitary or unhealthful emissions. The site has existing sanitary facilities (bathrooms). Site generated waste is fed to the boilers to operate the kilns.”*

Cynthia questioned whether the use of engine brakes was required. Are there some places that ask people not to do that. Mr. Nash stated there are some towns that regulate the use of engine brakes in a village area, but they are a safety device and save wear and tear on the brakes on a truck. Mr. Schuster indicated drivers could be asked to start slowing down in advance of the driveway to avoid possible use of the brakes. The numbers of daily deliveries to the site is not excessive.

**D. The location and size of the use, the nature and intensity of the operation involved, the size of the site in relation to the proposed use and the location of the site with respect to the existing or future street giving access to it shall be such that it will be in harmony with the orderly development of the District. The location, nature and height of building, walls, and fences shall not discourage the appropriate development and use of the adjacent land and buildings or impair the value thereof.**

*“The Evarts parcel is in an area indicated on the Town plan for future commercial land use. The site fronts on a major state highway, Route 4A. The proposed expansion of use will not discourage the development or use of adjacent land. The site is located below Route 4A and has limited visibility from adjacent parcels.”*

Cynthia reported the height of the building was discussed at the Site Walk, the Town height limit is 35'. There were questions raised about the buffer between the road and the log storage area. Mr. Evarts stated that there would be a curtain of natural vegetation there, but if it gets to the point where some of the trees become compromised from excavation he is would be willing to plant a hemlock buffer if that became an issue. This would be something that the Planning Board would address, and he would work with them. He prefers to leave a vegetated buffer there.

Mr. Nash stated that the September 21 memo he wrote mentions there is roughly 10 to 20 feet in the right of way of the slope of the road which will not be disturbed. To try to keep out of the wetland, they had to push the storage area as close to the right of way as they could. About 1/3 of the natural vegetation will remain. Some of the areas that are disturbed can be replanted on the stabilized slopes.

**E. Operations in connection with such a use shall not be more objectionable to nearby properties by reason of noise, fumes, odor, or vibration, than would be the operation of any permitted uses in this District which are not subject to special exception procedures.**

*“The proposed operation will not produce adverse noise, fumes, odor, or vibration.”*

Cynthia felt that E has been covered pretty well.

Mike Hummel, in speaking to E. stated that consideration needs to be given that this is a rural residential area on the edge of a Forest Conservation District, and a 7,000 acre State Forest. People did not move there to be

impacted by the intrusion of industrial type noise. Any more unnatural noise is going to significantly impact the area.

Cynthia asked Mr. Nash to read the contents of his letter dated September 21 regarding noise and visual impact.

*“Noise. The term noise applies to sounds that rise above a regulatory limit. As testified to at the 1 September 2009 meeting, there is no specific noise standard for the town. Additionally, the proposed facility will have a variety of sounds associated with processing timber, similar to those sounds currently generated on site. The sounds which exist now and will exist with the addition include a saw, diesel engines on trucks and loaders, and back up warnings on trucks and loaders. The operations on site now involve these sounds and the additions will not materially change the sounds nor will they rise to a level to be considered adverse noise.*

*Visual Impact. The log storage area is approximately 160' wide. In order to minimize impacts on the wetlands to the west, the storage area was located as far to the east as possible. The result of this shift is that some screening will be removed along the easterly property line and westerly of the Route 4A right-of-way. The ROW will, nevertheless, contain 10-20 feet of remaining wooded growth.*

*The visibility of some of the timber storage is, in itself, actually appropriate for New Hampshire, which prides itself on its agricultural and forestry heritage. In fact, RSA 672:1 declares that "forestry ... constitutes a beneficial and desirable use of New Hampshire's forest resources... Therefore, forestry activities, including the harvest and transport of forest products, shall not be unreasonably limited by municipal planning and zoning powers or by the unreasonable interpretation of such powers." Any visibility of log piles will reflect this heritage.*

*The mill building will be about 20 feet tall, from floor to ceiling. The roof peak will extend another 15 feet, so that the ceiling line will be roughly level with the road. Again, a mill building is part of New Hampshire forestry heritage and the proposed project does not exceed any visibility or appearance standard contained in the ordinance.”*

Steve Berkely stated this is not dealing with harvesting of timber but is dealing with milling and debarking and the heavy industrial use that is going to take place on this site.

Kathy Richardson asked if the noise could be measured before and after. Gene reported the Board required this of Hemphill and the noise was measured before the scrubber was added and then after so that if the noise level exceeded a certain level it could be enforced.

Mr. Nash said that current operations this year, are only 25% of what it was a year ago. It would be an unfair restriction of the business to measure it now. Mr. Schuster stated that noise studies were done 9 years ago with readings taken from a number of locations when the mill was in full operation. There is baseline information available.

John Chiarella stated the State statute says 70 decibels at the lot line is the standard the Town goes by at this time.

Mr. Hummel reported on the noise levels taken at his house from testing that he had done.

Mr. Schuster says they recognize that noise exists. The question is what is going to occur with the addition of the log storage area and the other wood processing that occurs within the insulated building. It is their testimony that there will not be an adverse change

Mr. Hummel asked if there were some way to regulate the noise and what action would be taken if there were a problem. John Chiarella stated a complaint would have to be made and documented. Under current regulations, diagnostic testing would be run, the landowner would be notified, and the Selectmen would work with the property owner to come to resolution. If the owner were not willing to work this out, there would be court action.

Cynthia encouraged those present to attend the planning board's work sessions, as a noise ordinance is being considered.

#### Article IV. Conservation Overlay District

The area contains greater than 10,000 square feet of wetlands. Therefore the Board needs to take into consideration the effects of this proposal.

4.10, 4.11 & 4.12. Peter Spear, Wetlands Scientist from Natural Resource Consulting Services reviewed the wetlands mapping and the wetlands buffer with the Board. The wetlands buffer 100' setback has been shown. Mr. Evarts is not contesting the wetlands. Mr. Spear reported the areas they are asking to fill are little feeder swales that are seasonally wet, not streams. In most times of the year these areas could be walked through with low shoes. The permanence of the water is not as great. These areas only have water in the spring and the early part of the summer, and then pretty much dry out. They are jurisdictional wetlands, but the functions these small areas perform are not as significant in value as the larger wetland.

Kathy Richardson questioned future fill and grade areas of impact. Mr. Spear stated that the large stone retaining walls keep the wetlands from being filled, you just build the fill area to it. Kathy asked for clarification of the wetlands buffer area being shown on the map. Kathy asked how to determine the separation between existing wetlands and what, in Dan's letter is referred to as drainage wetlands created by the State culverts. Mr. Spear explained physical type of vegetation changes, indicates soil types and hydrology changes, and those particular points are where the State's statutory functions change. The State defines these as jurisdictional wetlands. Mr. Spear stated that basically there is a 5,000 or 10,000 square foot area that is useable in the entire upland area.

Mr. Schuster stated that there is the delineation and the protection of wetlands on one side, and then there is the use shown. Article 4.15 of the ordinance prohibits things that you just cannot do in the

wetlands. Under 4.14 permitted uses allows the alteration or improvement of existing non-conforming structures and buildings, etc. Because this is an alteration of an existing non-conforming use this is where their argument begins.

Kathy stated it is her feeling that they are asking for expansion of an existing, non-conforming use. 4.14 wording says alteration or improvement of existing non-conforming structures and buildings, not the use. There is no existing structure there and they would be altering the natural surface configuration. Mr. Schuster says if they were not doing that they would be permitted. It is his belief that Article VIII deals with this for non-conforming uses.

Kathy asked if the proposal was the alteration of an existing structure? Mr. Schuster reported that the log storage area is not. Kathy – is this proposal an expansion of an existing structure? Mr. Schuster stated that all of the buildings are non-conforming structures and buildings. They are improving, altering and expanding the buildings by adding the mill building. Kathy stated that it was her understanding that this was a proposal for a newly constructed building and log storage yard. Discussion followed regarding the provision of Article IV. and VIII.

Cynthia stated this is a new building and a new use for this land, and the land is in a wetland buffer zone. The Board has to look at how the buffer zone is going to be affected by the use of the land. Mr. Schuster stated that the entire site is a non-conforming use, Article VIII says that the ordinance does not apply to structures or uses. It shall apply to alteration of a building for a substantially different use which is not the case here because it is the same type of forestry business. Cynthia stated that it has been established that this was a different use and that is why there is a need for a Special Exception. This is a new business and new use for this property as a log yard with the building. Mr. Schuster stated he thought they were getting a special exception because they were not a permitted use under the terms of the Ordinance.

Cynthia stated concern with impact to the wetlands with the road in buffer, excavation soil, cutting trees and the loading and unloading of logs in the buffer area. If the buffer is not being left in a natural state what is the adverse impact to the wetlands. Mr. Spear responded that through engineering the log yard would be designed so that it will not have direct drainage into the wetlands. It will have safeguards to protect water quality, surface waters and that type of thing. Some of the vegetative plants along the buffer will be removed, but an engineered facility will be designed to remove particles before it reaches the natural water of the wetlands. Wetlands do their own nutrient removal. There will be an engineered silt basin, protective swales, berms, and spreaders that will slow water down and allow it to recharge, and be contained so it will not rush off the log handling area. There is no stream or existing erosive capacity. Water will be discharged through these features that will slow the water down and prevent erosion into the upland or wetlands areas.

Cynthia asked what would happen to drainage from the culverts from 4A which currently drain into the buffer but would then empty directly into the wetlands. Mr. Spear stated there is not jurisdictional wetlands between the outlet of the culverts and the areas where the wetlands are delineated. Cynthia discussed her concerns with road salt emptying directly into the wetlands and not leaching through the buffer. Mr. Spear stated that road salt sits in roadside areas, on trees, and things are not moving too

much. In the spring with a thaw, the salt is soluble and diluted and goes through the drainage systems but it doesn't sit very long. He explained there could be petroleum distillates but they believe the amount would be minimal and the existing wetland would be able to accommodate that. The facility would not add any additional distillates or chemicals to this. Log trucks are clean and have to follow strict State highway inspection. The aquatic life in the wetland won't be adversely affected by the culverts going into the wetlands. There is not much aquatic wildlife in the buffer area. There is no permanent water, spawning areas, permanent life or vernal pools. The wildlife would not be harmed by the direct flow of water to it.

Kathy stated she would feel better about having another opinion and questioned whether that was an option the Board might consider.

John Trachy stated some in attendance were fortunate to have been present for the presentation of the science behind the requirement of the 100 foot buffer, when the wetlands overlay district was established. Ignoring slopes and soils, about 80 to 85% of pollutants, sediments, and other things that can be picked up by moving water, are filtered through 100' of buffer. The purpose of the Ordinance was based on scientific studies. John stated that he took issue with the map prepared by Mr. Nash and Mr. Spear regarding the wetland buffer. John presented a map of how he has drawn the wetland buffer using a compass and the line of the jurisdictional wetland. The wetland buffer is supposed to provide protection. He discussed his concerns with the impact to the wetlands.

Dan Nash stated that one of the things they will need to provide for the Planning Board is erosion control measures. A stone berm will be used along the down side edge of the log storage area that will act as a filter. There will be a permanent silt fence along the toe of the slope as an additional control measure. On the longer slopes, there will be measures taken to stop or slow down the flow of water to keep it from causing erosion. The wetlands have functions and values and one of them is to treat water so it is unreasonable to expect the water to be clean before it gets to the wetlands. The buffer supplements the functions of the wetlands. It is their feeling that Evarts use of this buffer doesn't harm the wetlands that it is intended to protect, and engineered measures can be taken to make sure there is no adverse impact on the wetlands.

Mr. Schuster stated that one of the questions that was asked earlier was what is Evarts applying for. In 2001 the letter from the Selectmen to George, which he has read part of which said there was no obnoxious noise. *"The next issue to be resolved was building permits. It was our decision that any building permits which indicate expansion of use will be referred to the Zoning Board for Special Exception."* Mr. Schuster said it was in that spirit that they are here because there is certainly one side of the ordinance which was adopted and voted on by the town in good faith which says the zoning ordinance shall not apply to existing structures or an existing use of land. (Article VIII., first paragraph). There is an argument that could be made that Mr. Evarts does not need to be here. He does not want to push that. He wants to have a discussion that brings in a better project with the collaboration of the Town.

Discussion continued involving the terms of articles IV and VIII regarding structures and uses.

Mr. Evarts stated that he has come to the Board in the best interest of his business as well as the Town. He could have put a mill in one of those buildings and run it. It is not for him to decide it is for the Board to decide. He has put a lot into this proposal and paid a lot of money in the past to deal with noise issues. This is a pre-existing business. He is trying to figure out whether he is going to be able to do this. He has explained why he wants to do this and has looked at the best options. He understands the buffer, but disagrees with the discharge of two State culverts. This is the option that he has and the Board needs to move forward and come back with a decision. All the mitigation can be put in place but that won't change the people's concerns about noise. A silent sawmill won't change any ordinance about the wetland buffer

Cynthia explained that the Board needs to make their decision based on the Ordinance. They can't make a decision because they think it is a great idea. They have to make sure that the answer comes from the Ordinance. The Planning Board has more leeway to waive certain things if they think they are in the best interest of the Town. The Board needs to decide if what he is proposing is in the best interest of Springfield based on the Zoning Ordinance.

Gene Hayes stated it is his understanding that this is an expansion of a non-conforming use and asked if George if he is willing to absorb the cost of an independent engineer chosen by the town. If that professional concurs with the impact on the wetland than that my sway the Board in one direction or another. The Town engineer would look at the property and evaluate the plan and come back to the Board with recommendations or assessment of the situation.

Mr. Nash stated this would be asking for an engineering standard which has not been completed yet. This doesn't happen until there is a Site Plan Review. The Board's point is to look at the land's use.

The Board discussed what parameters the Board would like to have other professionals look into. The Board needs to determine what the impact is and whether mitigation measures are acceptable. Cynthia stated she believes that most things can be mitigated. The Board needs to determine whether there can be a balance to protect the community's wetlands, or can mitigation measures be taken so they are still being protected. Cynthia asked for a poll from the Board regarding whether to have the wetlands reviewed by another wetlands scientist. The Board discussed whether another opinion would alter what is shown as the impact to the wetlands. The Board ultimately decided not to seek another wetlands review.

Mr. Evarts stated there is 24 acres of property, 7300 square feet or less than a quarter acre will be filled. That is the impact on the property. The Board has to follow the Ordinance, but at the same time they are given authority to adjust things too. There will still be 9 or 10 acres of solid true wetlands remaining.

Cynthia made a motion to deliberate on the information that the Board has been given and to come up with a decision. The motion was seconded by Kathy and unanimously approved.

Cynthia closed the public hearing and explained the Board would now enter into deliberations. Given the hour she felt it was best for the Board to all go home and review all the information that has been given and review the pros and cons. If the Special Exception is granted, there needs to be some basis for granting that, and if there are conditions that need to be met to be passed on to the Planning Board for Site Plan, they need to be determined. If the Special Exception is denied there needs to be very clear reasons as to why.

The Board agreed to schedule a special meeting for deliberations. The Board voted unanimously to reconvene on Tuesday, October 20, 2009 at 7:00 p.m.

Cynthia explained that the public may attend the Board's deliberation process, but there is no longer an opportunity for public comment. A decision will be made on the 20<sup>th</sup> and then posted. The applicant than has 30 days to apply for a motion for a rehearing.

The Board voted unanimously to adjourn at 10:00 p.m.

Respectfully Submitted,

Janet Roberts,  
Recording Secretary