

1 Planning Board Meeting and Hearing

2 April 23, 2024, Meeting House, FINAL Minutes

3 (longer version using video of meeting)

4 Members Present

5 Greg Meeh (Chair), John Schneider (Vice Chair), Joshua Gordon, Rich Marcou,
6 Logan Snyder, Megan Portnoy, Kent Ruesswick (BOS rep): Alternates Brendan
7 O'Donnell and Ben Stonebraker.

8 Members Absent

9 Alternates Hillary Nelson and Jonas Sanborn

10 Others Present

11 Michael Courtney, (town attorney: Kal McCay (Administrative Assistant): Cathy
12 Viau and Alfred Nash (applicants); Webster Stout, (Surveyor); Attorney Ruth Hall
13 (applicant attorney); Calvin Todd; Aaron Portnoy; Clifton Mathieu; Scott Doherty
14 (Chair Select Board); Beth Blair, (Selectman); Ken Folsom (Town Administrator);
15 Sam Papps (Town Clerk); Tom Andrew; Ruth Heath; Jen Jackson-Baro; Denise
16 Luneau (abutters).

17 1. Call to Order

18 Greg Meeh called the meeting to order at 7.32 pm. He indicated that typically
19 the Board will conduct hearings before dealing with previous Minutes.

20 Greg recused himself from the hearing and handed it over to John Schneider,
21 Vice Chair.

22 2. Alfred Nash, proposed subdivision application on Wyven Road, continuation
23 of hearing, presented by Web Stout

24 John introduced the continuation of the Nash application which had been tabled
25 at the hearing on September 26, 2024. Since then, the Board had become
26 aware of RSA 674.41.(Video starts here). It states the Select Board has to
27 approve or deny an application and the Planning Board can only make a
28 recommendation to the Select Board. Additionally, the application had been
29 found complete in the hearing in September.

30 John invited the applicants to speak first, then the abutters present then others,
31 and then the Board would begin discussion.

32 Megan Portnoy asked if item 2 was being moved. Joshua said the Chair had
33 said item 2 was being moved to after number 3.

34 Logan Snyder moved to seat Alternate Brendan O'Donnell. Joshua Gordon
35 seconded. All members were in favor.

36 *Surveyor Web Stout presents plats*

37 Web Stout handed out plats to the Board members. One was larger, an overall
38 to show Mr. Nash's property. It was approximately 85 acres in size. It showed
39 where the lots were in relation to the oversized lot. The second sheet was more
40 detailed, showing the 2 lots themselves. They had reconfigured the lots, and
41 they were long because they were in 2 zones, Aggi and Rural. One was 3-acres
42 and the other was 5-acres. They had received state subdivision approval, only
43 for the lot that was under 5 acres. The other one they didn't as it was over 5
44 acres.

45 Web asked for questions from the Board.

46 Brendan asked about the presence of wetlands on the lot and on the access to
47 the lots. Web pointed to the wetlands up in the corner of the plat, in a sien
48 color, at the top at the side of the wall, and there was another wetland in the
49 back of that, actually a couple of them in that 5-acre lot. These have been
50 delineated by a soil scientist, Josh Brien. There is also a wetland to the rear of
51 the 3 acre lot, and a little wetland (inaudible). As far as any access to the lot,
52 there would be no impact to the wetlands. For the state he had to show a 4000
53 sq ft area for the leach field. The test pit was dug on the 3 acre lot, the state
54 requires that, and he also shows the protected well area.

55 Beth Blair asked to take a picture so she could see what he was talking about.
56 There was a spare plat to use.

57 Web clarified he did not have to dig a test pit on the larger lot.

58 Brendan asked what the wetlands scientists had looked at within the bounds
59 of the two subdivisions and if it was directly abutting this. Web said no. Web
60 pointed out the rectangle that has to be included and must fit in the lot. Web

61 added he had included ground topography on the 5-acre lot and the rest was
62 from Lidar which is accurate and comes from satellites.

63 Brenda noted that the plat had different configurations and asked if there were
64 any notes on it from the original plan. No.

65 There were no further questions from the Board. Rich recalled that they had
66 discussed many issues last time. Web said the only thing he could add was that
67 was discussion last time that the Shakers do have the right for this lot and
68 other lots going towards the Village to draw water from Lyford ponds. The
69 actual canals were drawn on the larger plat. Web said they were still visible and
70 there were some pretty impressive bridges built.

71 John thanked Web.

72 *Abutters Testimony*

73 He invited abutters present who might like to speak, asking them to limit what
74 they said to something that had not already been said.

75 Tom Andrew, 413 Shaker Road, said he was wondering if he was an abutter,
76 because he got a letter from the Attorney stating he would be part of a lawsuit
77 if he was, and if he was, he had not received any notification of the first
78 application back in August. If he was an abutter and he was not notified, then
79 technically the application was not complete.

80 Attorney Hall stated they did not just send out letters to the abutters. They just
81 kind of looked at the map and said who might be interested in this information.
82 So, in an effort to be as transparent as possible, they wanted to share what
83 they found through their research as widely as possible, so it doesn't mean you
84 are an abutter just because you got the letter. They chose to send it to a whole
85 bunch of people who they thought might be interested, and if he wasn't that
86 was fine. Tom Andrew questioned why he was included not in the August letter
87 but then he was in the nasty letter about going to court, so is he included in
88 this if they go to court? Attorney Hall said she just said they did not say he was
89 an abutter, but they thought he might be interested.

90 John asked them to address the Chair.

91 Attorney Hall said their effort was just to give the information to anyone who
92 might be interested. Let's say you are an abutter or you're not an abutter, if
93 you are interested because you live in the town, that's great, if you're not, that's
94 fine too.

95 John asked if there was anyone else.

96 Joshua asked if there was a copy of the 'nasty letter'. It was dated April 1.
97 Joshua said he had read it but wondered if it was in their materials. Logan said
98 they had not seen the attorney letter. Megan responded to Logan (almost
99 inaudible but maybe 'email' and maybe 'send'?)

100 Ruth Heath addressed the issue of access, on behalf of the Soft Path
101 Association. She asked what part of the plan they could respond to. There was
102 an issue of access and that had not been addressed today. Brendan said it was
103 the entire application. She stated they were not opposed to the subdivision but
104 were opposed to the use of their private road as access to that subdivision as
105 there is another way out on Nash's own property.

106 Denise Luneau, abutter, agreed with Ruth Heath in that they are not opposed
107 to the subdivision but to the use of their end of the road when the other end
108 has started to be developed.

109 Jennifer Jackson Buro, abutter, stated they are in the same position. They do
110 not want to see increased traffic and maintenance on the road.

111 Joshua had a question for Web. Where did he propose the access would come
112 from?

113 Web responded that the applicants propose access at either end of the road as
114 their research shows it is a Class VI Road. Joshua asked Web if the abutter
115 concerns were unwarranted because they were coming in the north end. Or the
116 south end, Web added. Joshua clarified that meant access from the north end
117 and the south end. Correct.

118 Brendan asked if the applicant would voluntarily agree to the condition that
119 they come in from the north end of Wyven Road and not the south end of
120 Wyven Road. Attorney Hall said no.

121 John invited any other comment or questions. Ruth Heath asked if they could
122 ask questions. John asked for them to be directed to the Board.

123 Ruth Heath asked if the Board had considered that the road has been marked
124 a private road on the north end. How can it be considered private at one end
125 but not on the other. The town maps say it is private. John thanked her and
126 noted that comment. John said it can't be both, he didn't think.

127 *Board Discussion about Wyven Road status, Class VI or private and possible*
128 *conditions*

129 Joshua raised a question and was not sure he had an answer to it. He read in
130 note #7 that the applicant's taking a position that this is a Class VI Road. He
131 noticed several things that cast doubt on that. One is the neighbors and their
132 deeds which indicate that it's a private road; Mr Messier came in before and
133 claimed that because it's a private road he believes he owns half of the portion
134 of Wyven Road so you'd drive with just your left wheels going south; there is
135 the town road map that Jim Bassett signed in 1990 something that indicates
136 this is a private road, and that it was discontinued in 1941; there is another
137 map that I've seen that Mr Stout had ---, it concerns one of these other owners,
138 that indicates it is a private road: there is the signage, and they had a picture
139 of that which he took, that shows it is a private road; he did not agree, his
140 understanding was that – probably the road was correctly discontinued though
141 some people may disagree with that; and the Subdivision Regulations, he would
142 summarize them, there has to be access and ownership has to be on the plat.

143 So, he had a lot of doubt that this is a Class VI Road and he did not care what
144 the answer to that was, it was not their decision to make. But he finds it
145 troubling, and he would have a hard time voting on something that includes
146 note #7 claiming this is a Class VI Road when there so much other evidence
147 indicating that it is a private road. There are a couple ways to resolve it, but
148 the Board does not resolve it, the Superior Court does. That issue is out there,
149 and it felt to him it was the elephant in the room to be addressed before the
150 Board could move forward one way or the other.

151 Megan said she had a question for Attorney Hall. Attorney Hall referred to
152 Select Board Minutes for November 2019 where it was decided by the Select
153 Board here in Canterbury, that any road that was discontinued would revert to

154 being a Class VI Road as of 2019. That is there in those minutes. That was not
155 in her letter, she was continuing to do more research. Kal Mckay said she could
156 find it if they wanted.

157 Joshua repeated it is not the Planning Board's business to resolve that
158 question. It was not their business, but it was unresolved.

159 Attorney Hall requested that the Board either vote it up or vote it down. They
160 just wanted to proceed. If they denied it, they denied it, and they had to give
161 them a written explanation of why they were denying it, that's fine, and they
162 could go on. They had been in limbo here for several months, and they can't in
163 good conscience agree with something they believe to be incorrect. So that is
164 something that the court needs to resolve, and if they need to go up against a
165 subdivision in order to do that, they understand, but they would like either a
166 positive vote or a negative vote.

167 Joshua floated a suggestion, that the Board could grant the subdivision on
168 condition that matter be resolved, and it would have to be resolved with the
169 Selectmen anyway, either they give you a RSA 41 c, or 41 d, waiver for a private
170 road or a Class VI road, one way or the other it would be resolved. So how
171 about a grant with the condition that it be resolved by the appropriate
172 authorities that are above our pay grade.

173 Attorney Hall asked Web his opinion. Web asked Joshua, you're asking for a
174 conditional approval based on the determination by the appropriate members
175 as to whether this is private or Class VI. Rich: it was not their purview. Web: no,
176 he said appropriate, not this Board. Rich: what they would do is give them
177 conditional approval based on obtaining the waiver from the Selectmen.
178 Attorney Hall: that was a different wording. Web: did this Board want to know
179 if it is private or Class VI.

180 Logan stated that the paperwork they would file would have to accurately
181 describe the road. This sheet says Class VI but there is a lot of argument that
182 it is a private road.

183 Brendan addressed Attorney Hall. He read from RSA 674:41, sections 1. c and
184 1. d. There were the same 3 conditions. Attorney Hall asked him to repeat, he
185 read it so quickly. Brendan said 674:41, section 1. c. for Class VI highway had

186 the same set of conditions and d. is for a private road, same 3 conditions, there
187 is no difference between them other than one is a private road and one is a
188 Class VI road. But this plan specifically calls out that they believe Wyven Road
189 is a Class VI road, and in your letter you specifically take the time to say this is
190 a Class VI road.

191 Attorney Hall: yes. Brendan: for their purposes, why did she believe it was
192 significant that Wyven Road was a Class VI road and not a private road.

193 Attorney Hall: their position was that the lots that would be sold were closer
194 to the southern end of the road, so they think that should be something, that
195 is not something that the applicant is going to decide because he is selling the
196 lots, so they just want the people who buy the lots to be able to have the
197 freedom to use that access and be able to do that. It is much closer for them
198 to do that. She understood the middle part of the road was bad to drive on,
199 the northern part was ok, so was the southern part, so any buyer of those lots
200 would want to use the southern access. That is why it was important for them
201 to have it (inaudible).

202 Brendan: for the purposes of RSA 764:41, it does not matter to the Planning
203 Board whether it is a Class VI or a private road, so then would she be willing
204 to voluntarily change the notes in the conditions here, so they are not
205 describing whether Wyven Road is a Class VI or a private road.

206 Attorney Hall: she thought that was something the Board had requested.
207 Megan: that was the first condition.

208 Web: normally when they do subdivisions most boards do like to have the
209 designation of the road, whether it is Class 1,2,3 4,or 5, so they always put the
210 designation of the roads.

211 Joshua: it is kind of required by the subdivision regulations. He reiterated he
212 had a hard time voting on this, he had nothing against their subdivision, he did
213 not want to deny, but would like either the issue of the road status resolved,
214 Note 7 be changed or eliminated, so that there is not an allegation or claim
215 that it is probably something that it isn't or maybe isn't or whatever. He knew
216 it mattered to a potential buyer where they would be driving in, he felt he had

217 a duty to resolve this whether by condition or denial and a condition might be
218 better.

219 Web: they were willing to hear the condition. Joshua: speaking for himself,
220 suggested “grant on condition that the status of the road be resolved by the
221 appropriate authority and Note 7 and the road designation be amended
222 accordingly.”

223 John: who would be the proper authority and Joshua said it would be the
224 Superior Court.

225 Megan: as far as she could see their Regulations did not require the
226 classification of a road, on the site plan, just required to name the road to be
227 on the site plan.

228 Brendan: in a normal situation that would be so but this case has special
229 circumstances, there is open question and dispute from the public comment
230 with the applicants about the status of this road, (inaudible -) they could
231 request changes, they don't want to be seen as deciding what the road is if
232 either alternative under 674:41 is fine, it was not something they had to
233 resolve.

234 Megan: the Board was demanding the applicants reclassify the road from what
235 it was prior, we are telling them, we are making that determination. Brendan: I
236 was not suggesting -. Megan: it was condition 1 in the – that was already set.
237 Brendan: I understand that.

238 Joshua turned to the Subdivision Regulations, data required for submission to
239 the Board, 6, B, #7 - this plan is required to have tracked boundary lines in all
240 existing easements, and #11 says all lot lines are supposed to be on this as
241 well, and if this is a private road then the lot line probably goes down the
242 middle of Wyven Road, then this track line is not accurate. What was catching
243 him up was that the Subdivision Regulations sort of require that boundaries be
244 on this and Nash is claiming this is a Class VI Road, then if he is right this track
245 is accurate, if he is wrong then his track line is inaccurate, then they would be
246 voting on an inaccurate map.

247 Brendan: he had no reason to think these boundaries were inaccurate because
248 of the metes and bounds cited at the top of the plan. Joshua recalled that they

249 had Messier saying his line went down the middle of the road – ultimately he
250 did not believe this track line was accurate, or he had a lot of doubt.

251 Web made one comment – if they were to look to the Soft Path subdivision,
252 the property lines are on the outside of the road, they don't go down the
253 middle. And that's "private land". Joshua: he didn't know, maybe the
254 homeowners association owned the road – Soft Path had nothing to do with
255 this portion of the road. Web: I was just saying that. Joshua: he thought
256 Messier's land was on the other side. Web: his deed (inaudible, wall?) it does
257 not go down the side of the road.

258 Joshua: would they accept a condition precedent that the status of the road be
259 resolved by the appropriate authority and Note #7 on the plat be amended
260 accordingly. Web: there are 2 issues here, this gentleman here is bringing up
261 another issue.

262 Web to applicants: I don't know which one you would prefer to do. Attorney
263 Hall asked what the question was. Web: this gentleman here was just saying
264 get rid of Note 7. Attorney Hall: that was ok with the Board she did not think
265 that's a problem, but she thought that their Subdivision Regulations kind of
266 required one or the other.

267 Brendan: there is a distinction between what information is needed for a
268 completed application and what is ultimately approved in a plat. Joshua: would
269 you clarify. Brendan: if there is a difference between what information is
270 required for an application and what information that is ultimately required for
271 the plat, then requiring it in an initial application does not preclude them in a
272 circumstance like this from asking that the plan not (inaudible) something to
273 this effect. He said part of why he goes there, if you look at 674:41 c. and d.,
274 it doesn't matter if it is a private road or a Class VI highway, it seems it is one
275 of the two, and if it is one of the two, they have to go through these steps
276 regardless, and regardless of whether they have the right to use Wyven Road
277 to the south or Wyven Road to the north, that is not an issue the Board has to
278 decide because it is located on Wyven Road. It is either private or Class VI and
279 they follow the procedure for getting approval from the Selectboard for
280 building, regardless of which it is, it is potentially a civil matter for them. They

281 would be trespassing on the southern end if they don't have that right, but
282 then it is accurate to our analysis of 674:41.

283 Joshua: would he suggest striking Note 7 or amending it. Brendan looked at
284 Note 6, and read it (inaudible) and suggested replacing note 7 with words that
285 said Wyven Road is either a Class VI or private road, something to that effect.
286 And then if there is any civil dispute over who gets to use the southern portion,
287 no one can say the Planning Board made a determination as to what that road
288 is. It would be a title issue. Joshua: read Note 7 again, it said "it was the opinion
289 of the owner that Wyven Road was a Class VI Road and not a private road",
290 that's not – Brendan understood that – he said they should avoid endorsing
291 that opinion – it gets them round this issue which shouldn't be an issue under
292 674:41. Brendan: I am suggesting striking Note #7 in its entirety. And
293 wherever it says Class VI on the plan with Wyven Road, anywhere it is
294 mentioned.

295 *Discussion turns to Wetlands*

296 Brendan: asked to pivot the discussion to the wetlands. Regardless of
297 whichever way they ultimately approach, there is going to be a section of Wyven
298 Road that is going to need to be improved, either the whole northern approach
299 or just the ground in front of these two lots, he proposed, where the wetlands
300 scientists have not looked at the road, a condition for either DES approval for
301 any road upgrades that are performed, or a letter from DES stating that no
302 approval is required. And Board of Selectmen, Joshua said. Do that as a
303 separate one, Brendan said.

304 Megan had a question for Web. He presented something about state approval
305 to the Select Board for the material for use on the road, was that from the DES?
306 Web: no, that was from ESMI.

307 Joshua: that's the dirt problem, yes? Is that before us for review? Rich: no, it is
308 not. Megan explained, if there was a condition to get approval from the DES
309 she was confirming that that was not an approval letter. She was at a Select
310 Board meeting when they were shown a letter from the state.

311 Joshua asked Brendan: in talking about the DES letter, was he talking about
312 classification or the improvement. Brendan said it was about any improvement

313 to Wyven Road to provide access, the condition be to get DES permits or a
314 letter saying it was not required.

315 Web asked a question: As long as there's no wetlands, as far as the upgrades
316 of Wyven Road, as long as no wetlands are filled, then (inaudible) you would
317 not get approval from the DES. Brendan: he was not an expert on DES permits
318 nor everything about road construction but he understood it could have
319 impacts on – if you were widening it and there are wetlands next to it, and
320 based on this application where Web had said they did not look at whether
321 there were wetlands on either side of Wyven Road, but focused on the 2 lots,
322 he would rather have that condition to make sure – and if it is not required,
323 then, it is fine.

324 Joshua suggested the same condition for the Board of Selectmen. His
325 understanding from the Conservation Commission is that, sorry to call it dirty
326 dirt, - Web corrected, “recycled material” – Joshua continued, recycled material
327 is an obnoxious use because there is a wetland right there – and if you are
328 going to build it up, and it is a residential zone and kids are going to be digging
329 next to the road or whatever, it seems to him an obnoxious use regardless of
330 what DES says, so he would want a condition of the Board of Selectmen, the
331 ones to determine obnoxious uses, he would want a condition that the Board
332 of Selectmen say they are ok with this obnoxious use or whatever they decide.
333 Web: is that a condition. Yes. A letter from the Selectmen to say this is not an
334 obnoxious use.

335 Megan to Joshua: is that a matter under their purview before the Board right
336 now? Could they really put that condition on if it is not the Board's
337 determination to make?

338 Rich: they were trying to determine access, and whether it is north end or south
339 end.

340 Brendan: he understood that, for 41. d., ultimately if road is being built you
341 need access but if they were going through all the Subdivision requirements in
342 the ordinance, then this includes protection of natural features, driveway access
343 which incorporates the state standard but also talks about (inaudible) public –
344 and at a minimum, there's going to need to be improvements to Wyven Road,
345 and to the extent there are already improvements to Wyven Road, regardless

346 of which way they come, there will be that, it is within the Board's authority to
347 require them to take whatever steps are necessary to protect (?) the wetlands
348 and the person who does that, if they have a DES permit, they (inaudible) and
349 if they don't have a DES permit, then (inaudible).

350 Logan said unless they were mistaken, the parcel looks like it is about one third
351 of the way down Wyven Road from the north so it's significantly closer to the
352 north end than the south. Johsua showed her where the gate is. It was very
353 close.

354 John asked if anyone knew the town's position if a private citizen does
355 something with a town road. If it was a Class VI Road, and somebody wants to
356 change it, what's the town's position on that. Joshua: the Board of Selectmen
357 are in charge of roads. John: does someone needed permission or could they
358 just take it on themselves to do it. Joshua: you need permission. Others in the
359 room laughed to acknowledge that permission was necessary. John asked if
360 you could dump material on it. Logan: no.

361 *Abutters past subdivisions and access*

362 Ruth Heath spoke. When a subdivision is granted, you have to ensure the
363 person has access. She was not sure they could say it did not make a difference
364 if they went through the north or south end. Unless they thought that whoever
365 decides, decides the south end is private property then it would have to go
366 through the north end. Then they wouldn't have to come back to you. They
367 were in a funny place, not only when you come, there is a road, or you are
368 going to built a road to it, so she was not clear why they did not assume that
369 they would just built a road to it. They had to build a road, for them to be able
370 to use it, and the town told them they had to widen it in order for fire trucks
371 to get in there and turn around. So they did all that on their end. And it could
372 be done on the other end.

373 Denise Luneau stated that for the subdivision their house sits on, in order for
374 that to be approved, not that they were the ones that did it, they bought it
375 already subdivided, they had an easement required in order for the subdivision
376 to be approved. So to her, that should be required of a new subdivision, that
377 the easement would be in place to travel the road. There have been different
378 requirements for different things, yet they are all in the same thing, but it's like

379 the requirements are now different, so its like – how can you approve
380 something if one requirement was made back in 2017, when the subdivision
381 plat was created, but that was required to be able to travel the road.

382 Joshua said in order to build or subdivide on a Class VI or private road, the
383 Board of Selectmen have to provide a road maintenance waiver. Whether this
384 is a Class VI road or a private road the Nash's or whoever have access to this
385 along the north end of Wyven Road and presumably if the Board of Selectmen
386 are going to require a road maintenance agreement and upgrade status and all
387 that, in order to give access to the road, to the property, he thought it came
388 down to the same thing. Logan (inaudible) and Joshua replied the requirements
389 are under 674:41. Someone: are we moving forward here.

390 *Subdivision Regulations standards and check list discussion*

391 Brendan suggested the Board go through the subdivision standards, talk about
392 them and make sure they were focused on some of the other things.

393 Rich: that was already done in September last year and the 5 conditions were
394 set then.

395 Brendan: the purpose of that initial review was to see if they have at least the
396 minimum amount of information to see if when the Board deliberates on it,
397 ultimately after you have accepted the application, that's a check to see if they
398 have everything that is required. Now is the time that we go through each of
399 those and decide if they have met each of those requirements.

400 Megan asked if that had already been determined, and if it hadn't that would
401 be in the (inaudible) letter? Brendan said, for instance, if lot boundaries is one
402 of the requirements and they don't provide lot boundaries, they cannot make
403 a determination because they don't have the information to even look at that.

404 Brendan: the initial check on an application is to see if there is enough
405 information to make a decision. And if yes, then you hold this hearing, which is
406 when you decide has the applicant met their burden of proof in each of those
407 conditions. Joshua: there were requirements in the Regulations that they take
408 into account things like disturbing the environment in conformance with our
409 ordinance, and perpetuate a problem with disturbing the environment, so they
410 should go through all of them. Logan mentioned the issue of time.

411 Brendan started on page 5 of the Subdivision regulations. Joshua read them.
412 Number 1 was easily met, about benchmarks etc. Number 2, substandard
413 streets did not apply. Number 3 Lot boundaries, Brendan said it showed the
414 bounds to be set on the new plan. Number 4 – State approvals, copies of all
415 state of NH approvals, that did not apply as there is no municipal water or
416 sewer, but it did apply to the DES and putting in a condition to figure out if a
417 permit was required. Conveyances to the town - they do not require any open
418 spaces, or public parks or anything like that. Number 6, professional standards
419 stamped, this is from a licensed surveyor so it is not an issue. Number 7,
420 protection of natural features, due regard shall be shown for all natural features
421 such as trees, water courses, scenic points, plant or animal species, and similar
422 community assets which if preserved will add to this subdivision and preserve
423 natural and historic resources in town and where appropriate the Board can
424 require an applicant to create easement- they were not doing that but the first
425 half of that, in so far as the subdivision includes recycled dirt --- Brendan asked
426 where in the application itself does it refer to the use of this dirt? John: it does
427 not. Joshua: he was looking to Web to figure out if this was part of this
428 application or not.

429 Web: it was mentioned because it was something they were looking to do, for
430 an upgrade for the road, but that was it. John said it was his recollection as
431 well, during the request for an extension. Brendan: it will be clear from the
432 minutes that they were not approving a particular material for the roads as part
433 of this study.

434 Continuing with the requirements from the regulations: Driveway access had
435 been talked about. Scattered or premature subdivisions, do not apply. Number
436 10, conformance with plans and ordinances, if the subdivision were to be
437 contrary to the harmonious and coordinated development of the town. Number
438 11, disturbing the environment, that was before you get an approval, Brendan
439 said. Joshua skipped some that did not matter. Compliance with regulations,
440 number 17, in so far as the dirt matters, but it is not in the application.

441 Brendan mentioned traffic impact. Logan: there was a kind of traffic impact
442 issue. Joshua read from the regulations, that was more about large scale
443 development. Brendan: It was more for things like a hundred-unit subdivision.
444 He asked if there were any other questions related to the criteria?

445 Brendan noted the one condition that was flagged prior was about the lot size
446 and shape and he did not see any concerns with the adjustments to the with
447 the new lots 16.1 and 16.2.

448 Rich expressed concern relating to the Soft Path testimony and past
449 requirement that they had to obtain an easement. It is still the access issue.
450 Regardless of whether they want to go south or they go north, we need to
451 determine which way they go. If they go south, there is precedent. The town
452 has required a homeowner to get an easement – Brendan: he did not follow
453 that – who was the easement from and who was it to? Joshua: the testimony
454 may have been slightly inaccurate in terms of whether it was an easement or a
455 road waiver. Was it a maintenance agreement or a waiver from the Selectmen?
456 Joshua: it was either for the Selectmen or for the parties to the sale. If this lot
457 wants to use another's land, they have to buy it or something.

458 Logan: those in the southern end have an understanding it is a private road
459 and they effectively have the Association owning it, so they say stop using this
460 road, put a gate up and everyone in the north has to use the north end.

461 Rich: Or buy into the association or find other resolutions. Brendan: Or bring a
462 title action to say it is a Class VI they have the right to use. They can resolve
463 that piece. But for purposes of 41, in both cases, they can get a building permit
464 from the Board of Selectmen as long as they can comply with 674:41.

465 Rich: it still brings them to the issue of access. His inclination would be to
466 approve this plan with a condition precedent of 674:41. Brendan agreed they
467 could make that a condition precedent, they can say they have to get that
468 approval from the Select Board. Rich: we are going round and round and it still
469 came down to access, and that access would be granted by the Board of
470 Selectmen. Logan: regardless of whether they could access the lots from the
471 south or not, they would still have to improve the road directly in front of them
472 in order to have access to the lots. Rich: to do that they are going to dump fill
473 or something to improve the road and will need Board of Selectmen's approval.

474 Joshua: the Board had to assume they are using legal material and if they are
475 not then someone will file, in fact it has already been filed, a complaint against
476 a nuisance, for an investigation with the Select Board and/ or the DES. That
477 was totally outside of the Board, it is not part of the Board's purview, but access

478 is still a problem. John: they cannot go north. Rich: they can, but they have to
479 improve the road, they could if they got a road waiver. Brendan: agreed they
480 will need a road waiver from the BOS, that is perfectly appropriate, and then
481 they have the right to access whichever way this works out.

482 *Board discussion regarding conditions*

483 Joshua: they had not proposed a motion yet, but he wanted to know if his
484 motion language was what they were intending. His language was to grant the
485 subdivision on condition precedent that the status be resolved by the
486 appropriate authority and Note #7 and the road designation on the plat be
487 amended accordingly.

488 Brendan did not see it that way, they don't have to resolve it, they just need to
489 get approval from the Board of Selectmen, the local governing body, under
490 674:41, (comment from Megan over inaudible), so all required approvals from
491 the Board of Selectmen regarding having access to lot 16.1 and 16.2 including
492 under RSA 674:41. Joshua invited him to recite the amendment. Logan: they
493 were disinclined to approve this with Note 7 because it was opening a can of
494 worms. Megan: that was part of the condition, to strike 7.

495 Brendan read the current one was to strike all of Note 7 on page 2 of the plan
496 and other references to Wyven Road being a Class VI highway on the plans.
497 The third one is before any upgrades to any portion of Wyven Road, they should
498 provide either a copy of the DES permit approving the upgrades or a letter
499 proving that DES permit is not required for those upgrades.

500 John was not sure about the upgrades. Joshua: the dirty dirt was not part of
501 their application. Brendan: he was not saying that, the protection of natural
502 features is, and there are wetlands on both (Logan says something over) so
503 rather than have them get a new wetlands scientist to show those on Wyven
504 Road, the Board can condition it on them getting (inaudible). The wetlands is a
505 required approval, and it is for the DES in his opinion. Joshua: it should be the
506 Board of Selectmen. Rich: that condition was not in their purview. It was not
507 about substitution, but it came down to access again. The Board did not have
508 purview over the access, so any conditions they might want to put on the road,
509 which is access, would be the Selectmen.

510 Brendan proposed a compromise. Just say ‘obtain all other required state and
511 local approvals’. Joshua: yes. Rich did not disagree with the DES part but he
512 did not think it was a Planning Board issue. It was a Select Board issue under
513 674:41. Brendan: separately, going with his approach, they can require them
514 to obtain all state approvals under the Subdivision Regulations, so a blanket
515 requirement that you are going to obtain all required state and local approvals
516 – and if that becomes an issue and someone brings it to their attention later
517 that it is a violation of the Subdivision approval, then that is Code Enforcement.
518 They don’t have to figure that out right now.

519 Web responded he had no problems with that.

520 Attorney Hall: Attorney Gordon’s suggested language was much cleaner, and
521 gets them to the same place where they want – roads are not something you
522 guys can decide, that’s why they were asking for – she thought that his (JG)
523 language was very clear, and it says ok, go get it figured out with the
524 appropriate authority. And they could do that but not while they were stuck
525 here, they needed to get one step beyond. So, either a conditional approval or
526 a denial with an explanation, either one of those was fine for them because
527 they were going to take the same next step as they had to get this resolved.
528 So simple, clean, clear language, I think that is what you’re (JG) suggesting and
529 that is a good idea.

530 Joshua: he did not want to deny it as they would sue the Board, but if they
531 approved with conditions, then they would go seek declaratory judgement and
532 that’s your business. Attorney Hall: right. Logan asked if they had a motion.
533 Rich asked Brendan if he could clarify or simplify his motion.

534 Brendan read ‘all required approvals from the Board of Selectmen allowing
535 access to the lot 16-1, and 16-2, including under 674:41. It was putting on
536 them to comply with 674:41, in going to the Select Board. Brendan: there was
537 something ambiguous in Joshua’s language for ‘resolving the issue’, what
538 would it entail and at what point would the applicants have to come back to
539 the Planning Board, but if the Select Board approves it, that’s fine and then its
540 -if there is a civil issue and a declaratory judgement, that’s --. Joshua: it was
541 more than that because of Note 7. Brendan: the third condition was to strike

542 Note 7 and all the references. Logan: would Brendan make the motion with all
543 3 conditions.

544 **Brendan O'Donnell made a motion to approve the subdivision application**
545 **subject to 3 conditions precedent:**

546 **Condition 1. That the applicant obtains all required approvals from the Select**
547 **Board to provide access to proposed lots 16-1 and 16-2 including pursuant**
548 **to RSA 674:41.**

549 **Condition 2. That the applicant amends the plan to strike current plan note #**
550 **7 and all other references to Wyven Road being a Class VI Road.**

551 **Condition 3. That the applicant obtains all required state and local approvals.**

552 **Rich Marcou seconded. John invited discussion.**

553 Ruth Heath asked a clarifying question. By saying you have to go to the Select
554 Board to obtain all state and local approvals, if Select Board say this is a private
555 road, will that force them to go to north end or do they come back to you or
556 what did this mean for them at the south end of the road. What would the
557 Select Board be telling them?

558 Johsua: the problem with the motion is that it did not resolve this, and they
559 should condition approval upon resolution otherwise they were just creating
560 dissension in the community. The Selectmen could say they have to improve in
561 a little spot and then they don't resolve the issue of access.

562 Rich: if they go to the north end, they have to get Selectmen waiver and if they
563 go to the south end, they have to buy in to the road agreement in existence.

564 Brendan: for the purposes of 674:41 it did not matter which way they go.

565 Rich: there was precedence from testimony from a previous subdivision for
566 buying in and getting access, it still boils down to those choices. Brendan: it
567 was not clear to him from that testimony as to – they could only look at the
568 application in front of them – he did not know all the details of what happened
569 then – Rich: there was testimony back in the September minutes, at the first
570 look at the application, there were a lot of people from Wyven Road, there was
571 a majority of them, they all had to pay lots of money to buy into that they spent
572 a lot of money for the upgrading of that road and maintaining of that road and

573 plowing that road, so whether they go north of south, they have to buy in and
574 make peace with their southern residents on the southern end, or they have to
575 get a Board of Selectmen waiver that --.

576 Logan: the applicants were trying to declare Wyven Road a Class VI Road, in its
577 totality, which would (inaudible) a can of worms in the first place. If that
578 argument wasn't being made then it would be like, you want access from the
579 south end, then you get in with the Soft Path people and become part of the
580 road maintenance agreement, or if you want to come in the north end you have
581 to improve the road, so either way the Planning Board does not particularly
582 care.

583 Rich: he had seconded Brendan's initial motion which goes either (inaudible)
584 regarding access under 674, or and there is a condition for them to strike this
585 and obtain any state and local so it covers all the bases.

586 Joshua: not quite, because we have a duty to make sure there is harmonious
587 and coordinated development. And if this issue is not resolved, it's going to be
588 dysfunctional and uncoordinated. He felt it was setting everything up to fail.
589 Logan: they were punting the issue to someone else.

590 Brendan: one thing that comes up fairly often in subdivision applications and
591 site plan review, this is a little bit different, but typically a land use board isn't
592 supposed to look at civil or private limitations between parties, and to the
593 extent there are limits on how they can use the portion of private road that
594 does go by their property whether it is north or south, that's between them
595 and those people and their agreement on that road. In an ideal world they
596 could resolve everything but it is a mistake to get involved in that where the
597 two parties whose interests at stake are the landowners at the southern part
598 of Wyven Road and to the extent the applicants ultimately decide they want to
599 try get through the south they have ways to resolve that, either through
600 declaratory court judgement action or through making peace with their
601 neighbors at the south end and entering into a voluntary agreement for terms
602 as to how they can use the southern part of the road, but that is between them.

603 Logan: (inaudible). Rich: correct, they were striking off the erroneous language
604 off the plan. Brendan: correct, they were not taking a position over that, but
605 separate from that, that seems to be undisputed, is one way or another it is

606 either a Class VI or it is a private road, and either one would be sufficient for a
607 subdivision.

608 Megan: they had a duty to ensure that things were harmonious with their plans
609 for development, but they could not promise harmony among neighbors. That's
610 just not (inaudible as people laughed). Someone said, add that to the Master
611 Plan.

612 Logan: they had a motion on the floor. Rich: he had seconded it and there was
613 discussion. John asked if they were ready for a vote. Joshua wanted to hear the
614 motion one more time. John asked Lois to read it back. It was agreed that all
615 the conditions were precedent.

616 **The Chair called for a vote. All members present voted in favor of the motion**
617 **to approve the subdivision with conditions. The motion passes.**

618 Web thanked the Board. There were several minutes of people leaving and
619 members chatting before the meeting resumed.

620 **3. Previous Minutes from April 9, 2024**

621 Greg: they had postponed the minutes. Joshua: asked if there was a copy of
622 those Minutes. Megan: she had printed out those Minutes.

623 Greg: checked that Joshua had something stapled with Megan Portnoy on the
624 top. Logan: they would abstain from this discussion because of absence.

625 Greg: Megan had certain issues with the Minutes and the way they do minutes
626 as well, so they should talk about all of that. There was no secret about the
627 way they have done minutes, at least since he was on the Chair and it was his
628 understanding it was the way they were done before that. If the Board wanted
629 to change how they were done, that was fine. It had always been a kind of
630 executive summary, they were not trying to do a verbatim transcript of the
631 minutes. Some boards in town do, some boards do much more sparse version
632 of minutes, so its easier to do a complete transcription but it takes a lot longer.
633 The Board talked a couple times in the last 2 years, about how to do minutes
634 more efficiently, we had talked about how we do them and the process of
635 sending them out and getting response from board members. It seemed to be
636 efficient but town attorney tells us that part of it is not legal, so members cannot

637 return their draft comments they can only do that in the actual meeting like this
638 where we discuss them. The town attorney also said that he didn't have any
639 problem with the secretary and Chair working together to develop the first draft
640 of the Minutes, but that is something the Board can decide. He was not sure
641 the best way to proceed. He addressed Megan, you have a number of issues
642 you want to change in the minutes, so why didn't they go down those and get
643 them done.

644 Megan: she would like to read a statement first. This was sent to the town
645 administrator, the Chair of the Selectmen on April 21. Joshua asked by whom.
646 Megan: by me.

647 "Dear Town of Canterbury, Town Administrator, and Chair of the Board of
648 Selectmen,

649 As an elected member of the Canterbury Planning Board, it is with a sense of
650 duty and responsibility that I bring to your attention a matter of concern
651 regarding the improper handling of public meeting minutes.

652 Draft minutes for the Board's public meeting on April 9, 2024, were
653 disseminated to the Board for review on April 14, 2024. Upon cursory review,
654 I noticed inaccuracies according to my recollection of events, including things I
655 said or did not say. I then noticed that the document was titled "20230309 ,
656 sorry that should say 2024 04, Draft (gm edit 2). GM are the initials for
657 Planning Board Chair, Greg Meeh. While at the town office on April 18, 2024,
658 I asked the Planning Board Secretary for more information about both the
659 Board's procedures and NH Right to Know requirements, for handling of
660 minutes. I also requested that both the original draft minutes and the Chair's
661 first round of edits be sent to my email. These were sent to me without delay
662 and are titled "20240409 Draft" and same date, (gm edit 1 plus LS added last
663 section), respectively.

664 After completing a more thorough review of "20230309 (gm edit 2), I detailed
665 a list of 19 corrections for accuracy. Those you have printed. On April 19, 2024,
666 I emailed the board to request time on the next agenda to discuss these
667 corrections, and that request was granted. This is to discuss corrections to the
668 draft we all received. I then used the 'Compare Documents' feature in Microsoft
669 Word to differentiate "20240409 Draft" and "20240909 (gm edit 1 plus LS

670 added last section)” to reveal the edits. I discovered inaccurately recorded items
671 and edits that raise questions about transparency and compliance. These
672 include changing of names, factual inaccuracies, omissions, inaccurate
673 reflections of Board discussions and Member statements, changing of context
674 to support a point of view, inclusion of information that was not discussed in
675 the meeting, and failure to accurately reflect highlighted Board action items.
676 The most concerning edits are made on a matter in which the Chair is recused.

677 As stewards of our community’s planning process and transparent and fair
678 governance, it is imperative that elected and appointed Board members uphold
679 the principles of openness and accountability. Supported by my oath of office
680 and commitment to maintain the integrity of the Board and the trust of the
681 Canterbury community, I feel compelled to report these findings.”

682 Megan: she had two concerns, the handling of the minutes, which Greg had
683 discussed, and the changing of the Minutes to things that are inaccurate. Those
684 are two separate issues. One is a matter, as Greg said, that we (the Board) can
685 decide on changing or not, the other is an ethical concern. So, with that we can
686 – and stapled to that is the differentiated document that shows all of the edits,
687 and I can also send the original draft edits digitally but hadn’t wanted to print
688 with more paper.

689 Joshua: you have 2 issues, one is the details of these particular Minutes were
690 inaccurate, and second is how that is sent around, being a violation of the Right
691 to Know law, was he right in understanding the 2 issues she raised?

692 Megan: according to the Right to Know law, the draft minutes, the original draft,
693 that Lois takes, are to be made available to the public within 5 days. What was
694 made available to us, and presumably anyone who requested them, are the
695 Minutes that were twice edited.

696 Joshua: by Lois and the Chair. Megan: by the Chair. Greg: which is how we have
697 basically done it ever since he started being Chair.

698 Joshua: to Megan, in her opinion, the fact it went back and forth, from Lois to
699 Greg a few times, is that a problem? Megan: one of the problems, particularly
700 when it is demonstrated that these were changed from the original draft, that
701 were correct, and were made inaccurate.

702 Rich: are there examples of those in here (the print out) and the back of the
703 letter with the deleted comments and revisions – he did not know what all that
704 stuff was –

705 Megan: yes, in printing out two more sets of these (held up) she can send
706 digitally the original draft, and the first round of edits, so you can compare
707 them, this is the comparisons made by Compare Documents, that includes all
708 the things read in the letter. Her other document was separate, it was
709 everything she would like to change.

710 Greg: So that might be a way to proceed, to go through all of them and then
711 everybody will know what the changes were.

712 Joshua: he was thinking just to be kind to their secretary, whoever that is, the
713 secretary puts together a first draft, and wants to share it with somebody, in
714 order to make sure, just double-check me here, and that seems like it makes
715 sense that it's the Chair, and that results in a what I guess you would consider
716 a second draft, and that second draft is what gets distributed, to us.

717 Megan: we have the third draft. There were two rounds of those edits.

718 Joshua: one, he makes some errors, Greg said he sends it back to Lois, Lois
719 makes some changes, it goes back and forth.

720 Megan: said there are two GM edits. Joshua said, one step at a time, is there a
721 problem with that process? Megan: typically no, actually, when she discussed
722 that with Lois, Kal said she does that with Ken but its about missing a last
723 name, question marks about something specific, misheard a name or how do
724 you spell this, what is the RSA number, very specific things, not entire changing
725 of context, inclusion of new sections, changing of peoples names. That isn't
726 typical.

727 Greg: he works with Lois trying to get a draft as accurate as we recall for the
728 minutes, and he does add new information sometimes like Chair has a note to
729 add or Chairman has contacted regional planning, something like that.

730 Rich: maybe if we address these specifically then we can see how flagrant they
731 are.

732 Logan: she was abstaining from discussion of those actual minutes but was
733 happy to discuss minutes procedures.

734 Greg: that would be the document titled Revisions for Discussion: Planning
735 Board Minutes for April 9, 2024. Megan: she had printed those draft minutes
736 for comparison.

737 Greg: read line 80, Megan asked about noise from firearms being discharged
738 in town. Megan has said that was Hillary's question. Line 95 would need
739 subsequent revision as she could not have asked 'again' about noise. Joshua
740 asked to clarify which document they were reading from.

741 Members looked at documents. Greg repeated: Hillary asked about firearms.

742 Joshua: is that a problem? Megan: Hilary asked about firearms and it was
743 changed to my name. Members looked at line 79 and 80. Megan: she did not
744 ask about firearms. Logan: she is looking at line 80. Greg: regarding the Loudon
745 Speedway Megan asked about the noise from, that is line 80.

746 Megan: that was changed to firearms being discharged, and I did not ask
747 anything about firearms. Joshua: did Hillary ask about firearms? Correct, so line
748 80 should be Hillary rather than Megan. Secretary: that was a simple hearing
749 error, she could not hear which was speaking. Megan: she was not qualifying
750 why, she is just stating what is incorrect.

751 Joshua: he did not mean to be (inaudible) when we come here to the
752 subsequent meeting, you could raise your hand and say line 80, that wasn't
753 me, it was somebody else, and we say oh **** that was Hillary, so what's the
754 problem.

755 Megan: what's the problem – Brendan: (inaudible word) meeting is context.
756 Rich: if we see what the changes are, you can consider for yourself how flagrant
757 and see the problem for yourself. They turned to line 162, then 95.

758 Logan: Guys, we've got 3 separate sets of minutes here, we have got actual
759 edits to the actual minutes – as they will be officially recorded – we always have
760 edits to the actual minutes, so we should absolutely address all those, and the
761 other issue is that Megan has concerns about how the official draft gets out to

762 all members, and those really need to be resolved as separate issues, not least
763 because I can only talk about one of them.

764 Greg: so now we're going down the changes that Megan suggests. Joshua: and
765 then we talk about process later.

766 Brendan: presumably in the middle there will be a motion, to move the minutes.

767 Rich: this is the process we should be going through. Megan has issues with
768 the Minutes so we should be going through correcting them. Brendan: and in
769 every public body across the state, you – it is really common where so and so
770 moved and so and so seconded, those get wrong all the time.

771 Rich: So at line 95 it should be Hillary asked again about noise. Greg agreed.
772 Megan: if they could keep going through they could address that when they
773 got to it.

774 Greg: next one, Line 162, "Greg had sent members a document summarizing
775 policy for alternates based on the Planning Board Handbook for NH". Megan
776 response was: "This is misrepresented. Greg sent email with his opinion and
777 suggestions for a change of policy for alternate participation based on the
778 recommendations based on the recommendations in the Planning Board
779 Handbook in NH. The Planning Board Handbook is not a policy document.
780 Specifically, he noted his opinion that they participate in working sessions and
781 be seated at the table with the board." That part is correct. I had no intention
782 to misrepresent what—

783 Megan: I am not speaking to intention here at all, I did not say Greg intended
784 to misrepresent, I just said it a misrepresentation of what was said. I am not
785 qualifying in this one.

786 Greg: how do you propose that this sentence be revised? Megan: I would say
787 this to be accurate. "Greg sent members a document with his opinion for
788 alternates based on guidance in the Planning Board Handbook.

789 Greg: I did say it was a document from the Planning Board Handbook of NH.
790 Megan: you didn't, you sent an email, there was no attachment to it, and you
791 pointed to the direction if you wanted us to follow but you had said, actually
792 in that email, that our policy is they are in working session with us, which is

793 actually not the 2011 policy, they are to be seated at the back according to
794 the --:

795 Greg: I stand corrected about that, I thought I was: Megan: yes. Greg: I was
796 saying it was the way they had been handling it recently – and that is a problem
797 because it was not in alliance with our handbook, our procedures, which is
798 again what Rich pointed out, right?

799 Megan: (the correction would be) “sent us an email with your suggestions for
800 alternate participation based on what you read in the Planning Board
801 Handbook of NH.”

802 Joshua: perhaps it meant that Greg sent members a summary of a document,
803 summarizing, rather than document summarizing, and its just the two words.

804 Megan: we weren't sent a document. Joshua: but we were sent an email
805 summarizing policy, that works for me.

806 Rich: without getting into the details, we need documentation, the proofs, that
807 isn't here. That isn't described accurately here. So, you're making an accusation
808 – Joshua: she's not making – Rich: no, and I apologize, but your statement is
809 trying to change multiple pieces in the body of the paragraph or – his intention
810 was –

811 Megan: I am not speaking to intention. I am just saying we didn't see the
812 document summarizing policy received. We received an email with the
813 suggestions based on the document.

814 Joshua: Can I suggest changing the sentence to, “Greg had sent members a
815 summary of a policy document for alternates.” Megan: yes. Line 170 should be
816 fairly – sorry Josh if this is bothering you but transparency is very important.

817 Joshua: it is not bothering me at all, but, reading “Jonas is the President of the
818 Sherwood Forest Association’, the way it was stated is not inaccurate. Megan:
819 no, it is a matter of respect. Greg: I didn't say he was president of Sherwood
820 Forest, but he is. So, are we changing it to say something we didn't say? I don't
821 think we should be doing that. Joshua: I cannot remember if he introduced
822 himself as working with or president. Greg: actually, I don't believe he is

823 president any longer. Kent agreed. Megan: I am fine with leaving it as it is. I
824 just wanted to be mindful of being respectful to community members.

825 Greg: line 186-189. "Megan asked if the town had a policy about Alternates.
826 Rich noted there is a section in the Bylaws and Procedures document from
827 2011 though it does need modifying to include all the aspects regarding the
828 usefulness of alternates that Greg described this evening." And Megan, you're
829 saying you asked for Planning Board rules and procedures for alternate
830 participation, that Rich read verbatim part of article VI-5 of the current bylaws,
831 this includes that 'recused members and alternates not designated as acting in
832 a member's place shall sit back from the table," which is not aligned with Greg's
833 stated preferences for alternate participation. I am not sure where we are going
834 with this and what you want it to say. Joshua: me neither.

835 Megan: that's not clear? Ok.

836 Greg: reading, "Rich noted that the document was from 2011 and we should
837 probably update it. There was no mention of updating to include of all of Greg's
838 recommendations, as stated in the minutes, just that it was due for an update."

839 Megan: this to me is not an accurate representation of what was said. It is
840 changing of context to support a point of view, saying that you're intending the
841 modify to include all aspects of the usefulness of the alternates that Greg
842 described this evening. We have not made a decision about that or a vote on
843 that, so we can't put that in the Minutes that that's our intention. Greg: well if
844 that's what Rich said. Megan: that's not what Rich said. He read the statement
845 verbatim. Greg: ok so we cross out 'although it does need modifying' from there
846 on you want removed, 'all the aspects regarding the usefulness of alternates
847 that Greg described this evening.' Megan: Correct.

848 Secretary: I am honestly not sure what I should be doing, should I be correcting
849 the minutes using what's in the quotation marks here, or -. Greg: so we decided
850 on some of them. Secretary: ok I guess I am waiting to see what you would
851 prefer to have there. Greg: are you good on line 80, 162, 170. Secretary: I
852 think so. And for lines 186-9 we are going to delete 'from 2011 on'.

853 Rich: but I did say that. Logan: kill the sentence after the word modifying,
854 modifying period. Rich: thank you. Greg: is that ok Megan? Megan: yes, you're

855 saying it needs modifying because it is from 2011 not because we need to
856 include everything Greg suggested. Rich: I said because it is 2011 it probably
857 does need modifying.

858 Greg: we are down to line 192 now. “Megan added she had concerns about
859 there being a couple involved with one of the alternates.” Megan’s response, ‘I
860 was very specific in my words, as this is not a personal concern. I said there is
861 an ethical concern, based on the legal standard of disqualifying bias, with the
862 Chair being the sole appointer of alternates, considering the Chair is married
863 to an alternate.’

864 Greg: I don’t remember that exact language, but if that’s what you said – what
865 do other people recall? Joshua: I remember the issue being raised and I didn’t
866 agree with Megan when she said it, because I didn’t think marriage is a
867 disqualifying bias as proved by her, Supreme Court justice - . Megan: but now
868 you’re saying I did say disqualifying bias. Joshua: but I thought it was accurate,
869 Megan said she had concerns about there being a couple involved with one of
870 the alternates’. Megan: I am saying on behalf of transparency it could be more
871 accurate, this isn’t a personal concern, this is an ethical concern based on that
872 standard. Greg: I don’t recall hearing ‘personal concern’. Brendan wrote an
873 alternative: would that work, cross out everything until I said, and replace
874 Megan with an ‘I’ --. Greg: did you get that Lois? Rich: no because I didn’t get
875 it. Greg: top of page 2 a, strike the first sentence, completely, replace the word
876 I with the word Megan.

877 Joshua: to change the subject slightly to the process. I think because of the
878 minutiae of these changes, this is the reason the draft gets sent to us, so you
879 can say by the way it wasn’t me that said it, - Megan: that is what we are doing
880 now.

881 Brendan: that part has to be done in a public meeting. Someone prepares a
882 draft – Logan: my understanding from the attorney was we just could not be
883 replying all. Each of us could reply to Lois with issues, but we could not reply
884 all. Rich: then we would each have inaccurate minutes if you allowed that to
885 continue. Logan: no, Lois would take all the edits. Greg: Lois would compile
886 them into a final and that’s what considered final minutes.

887 Rich: if I don't know what you have emailed privately to Lois, and it comes in a
888 draft here before me and Kent takes it as a motion to accept the minutes, we
889 don't have any context for the changes. Greg: that's why that is not permitted.

890 Megan: according to Right to Know, within 5 days the draft minutes needs to
891 be done and people need to be able to request them so we can't be emailing
892 Lois edits outside of that. It has to be done in a public session, so we all have
893 the same set of minutes.

894 Members talk over each other. Greg: that is not the final draft. Rich held up a
895 document (from NHMA, from Megan to be distributed). Joshua: that's not the
896 law. Rich: but it's guidance.

897 Brendan: minutes have to be available within 5 days and that's not possible
898 with a public body. So as a practical matter, all public bodies that meet like
899 planning boards, designate a member, so it is not a quorum, to prepare draft
900 minutes. They circulate it for discussion purposes, which is allowed under 91A
901 2, about open meetings, and at the next public meeting, anyone can flag any
902 issues they have, they vote on final and both the final and the draft remain
903 public records.

904 Joshua: and then where is the 5 day requirement? Kal said the RSA was here if
905 anyone wanted to look at it. Joshua: the 5 days is from what, the date of the
906 meeting? And which thing has to be available after 5 days? Brendan: the draft.
907 It just says minutes, and that is why NHMA says that can't happen, for approved
908 minutes, so as a practical matter, it's just what all boards across the state have
909 done. Joshua: so the 5 days is 5 days from today. Brendan: Correct. It would
910 be Saturday by when minutes, something called minutes, shall be available. It
911 can only be drafted, it can't be approved, so that's why someone, in this case
912 the Chairman, will circulate a draft and if someone was to make a RTK request
913 you would give them that draft, because any changes made in a public meeting,
914 they can figure out what changes are made and why.

915 Rich: my recollection is those minutes, they should be titled somewhere on that
916 document, that they are 'draft minutes' and they haven't been approved so then
917 this email back and forth should not happen, it should be brought to the next
918 meeting, and then there would be discussion and make motions and make
919 changes.

920 Joshua: I have been to the Supreme Court a half dozen times on the Right to
921 Know law, and it is still mind boggling. Brendan: it is every little piece.

922 Greg: in conversation with Michael (town attorney) he made clear that Board
923 members replying with their changes was not acceptable, but Lois and Greg
924 working together to develop the initial draft is acceptable, but the Board can
925 change that. It does make this process go faster but -and another thing that
926 makes the minutes go faster is doing them in a narrative style.

927 Megan: when we get to process discussion there is so much technology that
928 can make this so much easier, but I think we can get through my corrections.

929 Greg: so we are onto number 6. After line 197, missing from the summary. He
930 read “after noting that Greg does not always appoint Hillary’ – no, what I said
931 is I never appoint Hillary if Ben is available –‘he said we needed to move on to
932 the next agenda item, (as we were on item 4, “Alternates Policy and Alternates
933 Nomination and Vote”) and table the discussion of alternate policy until agenda
934 item ‘Rules of Procedures and Bylaws”. This is missing entirely from the
935 minutes.

936 Megan: and its important because we get to Procedures and Bylaws and I have
937 to remind you that to move onto the next agenda item and we didn’t talk about
938 the thing you said we would talk about. Greg: meaning Rules and Procedures
939 and Bylaws? Megan: Correct. You said my concern would be discussed, you
940 said move it out of item 4 and move it into Rules of Procedures and Bylaws,
941 and it’s very relevant when we get to Rules of Procedure and Bylaws. Greg: Do
942 we want to put something like that in here?

943 Joshua: after the word Procedures and before the word Joshua, it would say
944 after noting that Greg does not always appoint Hillary etc. Megan: yes,
945 (inaudible) the part about – Greg is saying he said something different and
946 that’s fine, but this was Greg, the Chair, said we will table this discussion until
947 Rules and Procedures and Bylaws. Joshua: ok, between the words Procedure
948 and Joshua, what do you propose we put in there? Megan:” The Chair said that
949 we would table the discussion of alternate policy”.

950 Greg: does this still make sense when we look at it? Megan: I would say this
951 can all be (inaudible) in Rules and Procedures, the Chair said we would table

952 the discussion of alternate policy until agenda item Rules of Procedures and
953 Bylaws. Secretary: said she had that and would add it.

954 Greg: moving on, Line 201, 'Megan asked about this again in the meeting and
955 Greg requested that Alternate policy be put on the next work session agenda.'

956 Megan: this one is a matter that we can decide if we want to, it's not appropriate
957 to me, the summary is supposed to be of what the discussion is at that point
958 in time, not revising it to say in that section things that were discussed later.

959 Logan: so you want us to strike most of 201-3. Megan: yes, that was not in the
960 original, that was added by Greg later. Joshua: ok so you're suggesting that the
961 bold stuff didn't occur. Logan: no, she's saying it didn't occur then. Greg: well
962 where does it go then? Megan: in this document it says after line 244 it is
963 missing. Greg: so we're moving that to --. Logan: I think she is going to add it
964 back in later. Megan: inaudible – red spot.

965 Greg: Line 229, 'Greg stated this document should be in the Handbook' and
966 Megan's says, "The document the Chair was referring to is the Town of
967 Canterbury Planning Board Rules of Procedures and Bylaws. He said this should
968 be in our binders and on the website, not 'in the Handbook'. The 'Handbook'
969 that has been referred to throughout this meeting is the Planning Board
970 Handbook for NH, which is not a Canterbury Planning Board Document.'

971 Megan: this is just confusing, we are referring to the Handbook throughout this
972 entire meeting as if it was one thing then we're using the word 'handbook' to
973 mean binder. Greg: yes, I did mean the binder. Joshua: so on 229, we replace
974 the word Handbook with binder? Megan: yes.

975 Greg: read Agenda Item 8, Rules and Procedures, Missing from summary; after
976 line 244 in the minutes. Megan wrote a. "At this point in the meeting I noted
977 that we had not revisited the discussion of alternate procedures per out
978 Planning Board Bylaws and Procedures document –"

979 Joshua: do you want to add there 'Megan asked and Greg requested that
980 alternate policy be on the next work session?' Megan: nope. This is what we
981 changed when Greg stated that we would talk about this in the Bylaws item on
982 the agenda and we didn't. And at the end of that, as he was moving onto the
983 next item, I interjected and said I'm sorry, you said we would talk about

984 alternate procedures in this section and we're not discussing it and that was all
985 left entirely off the minutes.

986 Greg: and you want it to say -. Megan: yes I should have put proposals in here
987 that would have been more helpful, let's see, line 244, so literally right before
988 the Nash application: "Megan asked if we would revisit the discussion on
989 alternate procedures, as the Chair noted we were moving that from item 4 to
990 a.n.e. (inaudible). And it has not been discussed. This is where you
991 recommended it could be done in the subcommittee – Greg: yes and reading
992 up that's not allowed. Megan: and then the tenor of the board, and body
993 language, implying we should do it together, I suggested it should be done
994 with the entire board, and then you put it on the agenda for tonight. Greg: so
995 where (inaudible) ?

996 Logan: asked for that word for word again.

997 Rich: would it be improper, and it's just a comment, would it be proper to
998 maybe table these Minutes, and I understand you have a lot, but I'm tired, it's
999 almost 10 o'clock. I'm thinking that if you came in with a draft with your
1000 preferred words, I cannot keep up with your verbiage, maybe you come in, to
1001 the next meeting, with a revised Minutes, that you feel, and maybe you could
1002 bold the words that you want to change, or something like that, so we can look
1003 at them and look at the context.

1004 Joshua: like the Legislature, you put lines through the ones you're deleting and
1005 bold the ones you're adding.

1006 Megan: I can do that. How does that delay, the law? Rich: we have tabled the
1007 Minutes, you've got 3 or 4 more pages to go and my brain is just –

1008 Joshua asked about his one little change.

1009 Rich, to Megan: would that be acceptable to you? Megan: I would actually just
1010 request that we talk about one that I think is very important, and that from my
1011 recollection, I noticed it was put under New Business. I'm looking at number
1012 16. I think this is really important that we address today and I'm happy to
1013 provide my recommendation about what it should say. From my recollection,
1014 from my digital notes, I use this thing, that takes notes every meeting, and I
1015 noted the time we adjourned, the items that were added, as New Business,

1016 which was the discussion of the map that Greg presented, happened after
1017 adjournment. And I was quite shocked when – it happened after we adjourned
1018 – and I was shocked to see them added to the Minutes.

1019 Brendan said it was at 308 in the minutes. Greg: it happened after adjournment
1020 so it should not be in the Minutes. So, we should probably strike that.

1021 Joshua: ok so I had my small change that you're all dissing me, and I want to
1022 get that – in a summary way -- and -. Secretary: I already put that in. Joshua:
1023 without a lot of (inaudible). Logan: one small change is not a big issue to deal
1024 with in the meeting but 3 or 4 pages, would probably go faster if she suggests
1025 them. Joshua: so, similarly, I should send my change to Lois? Megan: no don't
1026 send anything, it has to be done in the public meeting, during discussion, and
1027 approval of minutes, you request your changes. It has to be done on a public
1028 hearing.

1029 Rich: so you can make your change to the Minutes. Joshua: so if I am sitting at
1030 my desk and reading the minutes, and think that's wrong, I can't send an email
1031 to her, I have to make a note somewhere so I will remember it, which I won't,
1032 then it's gone. It seems ridiculous. Greg: that is my understanding.

1033 Megan: it would actually be helpful, we can talk about this in process, but to
1034 have the secretary send us any document on Word.doc and we can read it and
1035 make our own comments, and then bring that in so we don't have to remember.
1036 Joshua: pdf or word is irrelevant. Megan: well, you can't comment. (Members
1037 talk over each other.) Logan: it is totally doable; you print it out so you can
1038 scribble on it. Joshua: so, I have to keep track if there is a small error on line
1039 291. Megan: it is not my rule, it is the law. Joshua: I don't think it is.

1040 Brendan: How some towns do it, everyone sends, here are my proposed
1041 changes, and send it to Lois, not for her to make them, but for her to show up
1042 at the next meeting and say I have a request for a change at this line from, from
1043 member blank, and then everyone can reply, and there would be a list, point
1044 is, she is not making changes based on everyone sending it, she is just
1045 collecting it for the meeting.

1046 Rich to Joshua: so you send her your note and she will bring it to the meeting.
1047 Logan: if they have an edit on line 10, and Greg has an edit on line 10, and

1048 Josh has an edit on line 10, she could go, line 10, 3 people suggested these
1049 things.

1050 Secretary: would that list be attached to the draft. Brendan: bring it separately.
1051 And when you are going to do minutes, you can either read them in or
1052 distribute copies. But don't put it on the draft. Secretary: I guess I am wondering
1053 about the hard copies – we always had some members who wanted to see hard
1054 copy and some who preferred to do it digitally. Is it easier just to have that list
1055 on a separate piece of paper? Logan: depending on how long the list is.

1056 Greg: some of this depends on what works for Lois. This is another task that
1057 you need to accomplish. Logan: frankly once we have that system it should go
1058 a lot faster.

1059 Megan: there is a technological solution that would make it so corrections are
1060 very minimal. Greg: which is? Megan: a talk to text transcript, into a single AI
1061 that will summarize these things for us. Rich: I have a problem with AI.

1062 Members talked over each other. Joshua said he used talk-to-text a lot and
1063 there are problems.

1064 Rich, engaging with 2 members of the public opposite: you're intimidating a
1065 board member. One responded: I do not appreciate that accusation. Rich: I
1066 don't appreciate the interaction. Megan: Greg, what's going on. Greg: what's
1067 the problem here? Rich: I made a comment and they're laughing round
1068 (inaudible). Greg: Its nothing to do with -- . Rich: I will ignore it. Greg: thank you
1069 Rich.

1070 Greg: we have struck the part about the discussion about the map. Megan: we
1071 will come to the rest (?). Greg: Joshua will you – Rich: they are staring me down.
1072 Greg: who? I'm – Rich: I am very uncomfortable here. I'm tired, man. Greg: we
1073 are all tired. Logan speaking to Megan across the table – Mike Tardiff's name–
1074 throw that correction in with any other changes.

1075 Joshua had a change, line 281, it said Joshua asked if work on the CIP would
1076 jeopardize the Board's grant's support. I got no idea about grant support. My
1077 concern was that it would mess up our growth cap, because the CIP is
1078 connected to the growth cap. So I think the words grant support is supposed

1079 to be growth cap, and you just misheard me. Secretary: she had changed it,
1080 that was what was on the website.

1081 Megan: I have one last question before we move on, and this is a question of
1082 intent, why in the world would we put something that we all know was spoken
1083 about after adjournment, show up in the minutes? Joshua: that is an error that
1084 someone made. Megan: I am asking the person who made it. Greg: you're
1085 asking me? Megan; I am asking the Chair. Greg: I didn't catch that there was a
1086 problem. Thank you for pointing it out. So, are we tabling minutes? Motion to
1087 table the Minutes, Joshua made it, Logan seconded. All voted in favor.

1088 4. Rules and Procedures

1089 Greg: had sent around a document on this. We can't vote on this tonight, it has
1090 to have a 10 day notice. Have people looked at this, are there comments?
1091 Some of this has come because of Megan's concern about appointing the
1092 alternates, designating the alternates. Joshua: whose comments were MC1 and
1093 MC2. Greg: that is our legal attorney. Brendan: it was Michael Courtney.

1094 Logan: it is practically speaking 10 o'clock, I don't know how long you intend
1095 this discussion to take, but it was not clear any of us have this discussion left
1096 in us now. Greg: I don't have a problem with that.

1097 Joshua, same thing with the Master Plan? Greg: that is something we do need
1098 – do we have any objection to moving to the Master Plan issue, which is – Rich
1099 pointed out the agenda for Kal and email addresses.

1100 5. New Board Email Addresses

1101 Kal had attended a recent Right to Know Law training and was going to work
1102 with all the boards and committees in town to have .gov email addresses for
1103 their committee work. They should not be using personal email addresses.

1104 Kal distributed a handout and also the new email addresses and passwords to
1105 members. Kal will help members get these into their computers. Logan wished
1106 the Board could vote Kal a raise. Joshua's name was misspelled. Joshua talked
1107 about running his law firm, and integrating this, he was not sure how to get it
1108 on his computer. Kal would help. Kal asked if it could be on the agenda for the
1109 next meeting. Members talked and observers talked. Further discussion of this

1110 process was tabled, for May 14. Members were asked to read the document,
1111 Right to Know Email Changes, that Kal distributed.

1112 6. Master Plan and May 14 meeting

1113 Greg laid out some of the items for the May 14 meeting. For the Master Plan,
1114 the draft chapters to be presented will be Land Use and Housing and he asked
1115 for volunteers to help present these to the public. Greg would participate in
1116 the Housing one, but would like somebody else to work with him. Logan
1117 agreed. Rich volunteered Megan for land use. She does not have the time. Rich
1118 volunteered and also John will help.

1119 Greg expected that CNHRPC will do what they did last time, bring the draft
1120 chapters.

1121 Among other items for May 14 will be the tabled Rules and Procedures and
1122 also the draft Minutes from April 9.

1123 The Site Plan and Subdivision Regs (Land Use) Subcommittee is meeting on
1124 Tuesday May 7 at 6 pm in the Meeting House.

1125 7. Adjournment

1126 Logan made a motion to adjourn. Megan seconded. All voted in favor. It was
1127 10pm.

1128 Respectfully submitted,

1129 Lois Scribner, secretary

1130