

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2011 Meetings**

September 27, 2011

1

1 The meeting was called to order at 6:30 p.m. by Vice Chair Peter Hogan in Chairman Stu
2 Lewin's absence. Present were regular members Mark Suennen and Don Duhaime, Alternate
3 Member David Litwinovich, and Ex-officio Dwight Lovejoy. Also present were Planning
4 Coordinator Nic Strong, Planning Assistant Shannon Silver and Recording Clerk Valerie Diaz.

5
6 Present in the audience for all or part of the meeting were Vinnie Iacozzi, Dave Ely,
7 Denise Ingrando, Bo Strong, Jon Strong, Steve Elliott, Dave Elliott, Willard Dodge, Kimberley
8 Martin, Sean McGann, Margaret McGann, Shiv Shrestha, and Clay Savoy.

9
10 **Discussion, re: Potential Zoning Ordinance Amendments for 2012 and Status of 2011**
11 **Planning Board Goals**

12
13 Present in the audience was Vinnie Iacozzi.

14 The Coordinator pointed out that one of the Planning Board goals was to discuss and
15 update the Master Plan. She asked if the Board was interested in updating the Master Plan
16 utilizing the Southern New Hampshire Planning Commission, (SNHPC), as had been discussed
17 last year. She also noted that the Water Resources Management Plan, (WRMP), needed to be
18 updated. She continued that the Board had anticipated assistance with the update from the
19 Conservation Commission but that assistance had not taken place. She explained that the
20 aforementioned matters needed to be discussed and considered in order to be placed in the
21 budget and/or on the ballot.

22 Mark Suennen asked if the assistance from the Conservation Commission relative to the
23 WRMP had been tabled. The Coordinator answered that she had not heard from the
24 Conservation Commission regarding this matter in quite some time. She stated that it had
25 originally been decided that the Chairman would discuss the update with the Vice Chair of the
26 Conservation, noting that the Vice Chair no longer served on the Commission. She stated that
27 the last time she had spoke with Burr Tupper, Chairman of the Conservation Commission, he
28 had relayed that he was unsure where the Commission stood on this matter.

29 Peter Hogan commented that he cared the least about the WRMP. He went on to say that
30 when he thought of WRMPs he thought of the City of Nashua or the City of Manchester,
31 pointing out that New Boston was made up of private lots. He questioned the applicability of a
32 WRMP for New Boston. He added that each water system was approved to be a stand alone
33 system and be safe for the environment. Don Duhaime pointed out that a lot of people did not
34 test their water for safety. He believed that water should be tested every five years but did not
35 believe people should be mandated to do so. He went on to say that people should be aware of
36 the arsenic and bacteria levels in their water. Peter Hogan asked Don Duhaime if there was
37 anything contained in the WRMP that would address his concerns. Don Duhaime answered no.
38 Peter Hogan stated that he was inclined to pass on the update of the WRMP at this time as it was
39 not applicable and was costly.

40 The Coordinator pointed out that the WRMP had not been updated since its adoption as
41 part of the Master Plan in 1989. She explained that the WRMP split the Town into many
42 separate watersheds and suggested the best way to develop specific areas based on the nature of
43 the streams and rivers. She noted that the WRMP was helpful relative to zoning issues, i.e.,

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1 **2011 GOALS AND POTENTIAL ZONING ORDINANCE AMENDMENTS, cont.**

2
3 density issues and aquifer locations. She stated that the WRMP encompassed how to keep Town
4 wide water supplies protected, while allowing development to take place by the Zoning
5 Ordinance and did not get down to the level of detail with regard to testing individual wells.
6 Peter Hogan commented that the Coordinator had solidified his previous point.

7 Peter Hogan asked if the provided 2011 Planning Board goals were listed in order of
8 priority. The Coordinator answered that the goals were listed in no particular order.

9 Peter Hogan asked was meant by "Mixed Use in the Village District". The Coordinator
10 explained it addressed a combination of goals and objectives from the Master Plan that looked at
11 different zoning for the Village District as opposed to the same Residential and/or Commercial
12 that existed in the rest of the Town. She added that the "Mixed Use District" attempted to work
13 with the existing characteristics of the village area rather than trying to make everything fit
14 across the entire scope of the municipality. Peter Hogan stated that with the recent closure of
15 Dodge's Store it had become blatantly obvious to him that residences should be allowed within
16 the Commercial Village area. He questioned if there were particular concerns with allowing a
17 residence as a secondary use in the Commercial District. He stated that having a residence as a
18 secondary use would be the opposite of a home business where the residence was the primary
19 use and the business was the secondary use. The Coordinator answered that the Town could
20 allow for residences in the Commercial District. She explained that the Town's Zoning
21 Ordinance was traditional and separated its uses. She further explained that this could be
22 changed to create the residential and commercial use in the Village District and/or other pockets
23 around Town.

24 Peter Hogan believed that the Board needed to get started on Mixed Use in the Village
25 District. Don Duhaime stated that he thought the Mixed Use was a good idea.

26 Peter Hogan indicated that he had been speaking with Steve Young, owner of New
27 Boston Hardware, and informed the Board that Mr. Young had been unsuccessful in his attempts
28 to rent office space above the hardware store. He continued that Mr. Young believed he could
29 rent the space as residential space and lighten the burden of trying to run a business out of the
30 center of New Boston. Dwight Lovejoy questioned that Mr. Young had had no luck in renting
31 the existing space above the hardware store. Peter Hogan advised that Mr. Young had not been
32 able to rent the space as office space; however, he noted that inquiries had been made into
33 renting the space as residential space.

34 Peter Hogan asked what was necessary to create the "Mixed Use District" and what
35 currently defined the "Village District". The Coordinator answered that a definition of the
36 "Village District" did not currently exist. Peter Hogan asked how far from the center of Town
37 the existing Commercial District extended. The Coordinator answered the Commercial District
38 extended up Route 77 to Daniel's Barn, the Apple Barn, two properties on River Road, and TD
39 Bank. Peter Hogan asked what the Board needed to do to define that as "the Village". The
40 Coordinator answered that a new district could be created and subsequently each parcel would be
41 rezoned to be part of that district or an overlay district could be created.

42 Peter Hogan asked for thoughts on this matter from the Board. Dwight Lovejoy believed
43 that the closure of Dodge's store was not due to lack of profit. Peter Hogan agreed that lack of

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2011 GOALS AND POTENTIAL ZONING ORDINANCE AMENDMENTS, cont.

profit was not the reason for the closure of Dodge's Store and indicated that he had not meant for the previous owner to move into the store. He explained that allowing someone to live at the store while operating it would remove a tremendous amount of mortgage burden. Don Duhaime asked if the area was currently zoned to have a residence above Dodge's Store. Peter Hogan answered no. David Litwinovich commented that it seemed that Goffstown allowed for residential space above the businesses in their downtown area. Dwight Lovejoy stated that those residences existed prior to zoning. David Litwinovich asked if Goffstown had run into problems with allowing residences in the Commercial District. Dwight Lovejoy answered that he was unsure. Peter Hogan stated that problems occurred with mixed Industrial/Residential Use. He explained that the residents in these districts typically complained that the businesses generated too much noise and/or traffic. He continued that the district could have to be created where the business was the primary use and it would be clear that protections to residents in Residential District would not be afforded to those in the "Mixed Use Village District".

Peter Hogan believed that the "Mixed Use Village District" should be moved up in priority; he asked if others agreed. Dwight Lovejoy asked if moving forward with the "Mixed Use Village District" was worth the work involved as it only affected one or two establishments. Don Duhaime commented that the Board needed to start somewhere and suggested creating an overlay district. Peter Hogan stated that an overlay district could be implemented over the current center of Town and the Board could choose to extend the area if needed.

Peter Hogan asked how much was involved in creating an overlay district over the current Commercial District in the center of Town. The Coordinator noted that adding a residential layer may not be too difficult. She added that the last time the idea of adding a "Mixed Use District" had been proposed during 1999/2000 the Fire Department were strongly against the idea because of separation issues and safety. She stated that it would be worthwhile to obtain input from the Fire Department. She also noted that Dodge's Store had lead paint issues and the upstairs was not currently useable. She stated that the building could be updated but it would be expensive. Peter Hogan indicated that the updating older buildings was an issue for the property owner. The Coordinator stated that there was no point rezoning the area if it was never going to be done. Mark Suennen suggested creating a non-binding Warrant Article that would state, "We the people of New Boston are in favor of developing a Mixed Use or a Residential Overlay Commercial District". Peter Hogan stated that a Warrant Article could be created but asked why the Board would do so. Mark Suennen answered that the purpose of the Warrant Article would be to identify a value for the effort of moving forward with a Mixed Use or Overlay District. Peter Hogan believed that there would be little effort involved and the effort would return a great value. He added that currently the effort may only benefit one person in Town but that one person owned a giant portion of the center of Town. He indicated that if Steve Young had not inquired yet at the Town Hall about this matter he would be within the next two weeks. He added that he did not see the harm in the request for residential use in a Commercial District.

Peter Hogan asked for further questions or comments; there were no questions or comments.

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1 **2011 GOALS AND POTENTIAL ZONING ORDINANCE AMENDMENTS, cont.**

2
3 Don Duhaime moved to the next item listed on the 2011 Planning Board Goals relative to
4 cul-de-sacs and asked where the Board stood on this matter. The Coordinator advised that the
5 Board had not had any discussion regarding the cul-de-sac issue recently and noted that no
6 decisions had ever been reached. Mark Suennen stated that the Regulations that address cul-de-
7 sac length had not changed. Don Duhaime asked if the Board wanted to change the Regulations
8 and if the Highway Department had expressed any interest in changing the Regulations. Peter
9 Hogan commented that the Highway Department had provided an example where it would be
10 troublesome to have a cul-de-sac, i.e., repairs to culverts that required two to three days of road
11 closures due to their depth below ground. Peter Hogan stated that he had asked the Highway
12 Department if cul-de-sacs should not be allowed or should a specific type of culvert be required
13 in those situations. He continued that it was the Highway Department's opinion that if the
14 culvert was that deep then a cul-de-sac should not be permitted. Don Duhaime stated that if the
15 Highway Department did not have expertise with the culvert replacement issue, outside
16 assistance should be sought by way of a contractor. He continued that work that may take the
17 Highway Department two or three days may only take a contractor one to one and one half days.

18 Don Duhaime asked if this was the end of the cul-de-sac issue. Peter Hogan answered
19 that it was the end of the issue with regard to the Highway Department but the Fire and Police
20 Departments still had issues with cul-de-sacs. The Coordinator noted that the depth of the
21 culvert was not included in the regulations. She stated that Tom Miller had said that he would
22 review all of the Road Regulations, meet with the Town Engineer and provide proposed changes.
23 She noted that the proposed changes had not been provided and the only change to culverts last
24 year was the requirement that road crossing culverts be concrete; no depths had been changed.

25 Mark Suennen noted that the Planning Board Assistant had been investigating letter of
26 credit/performance bond language changes and asked if she was satisfied with the changes. The
27 Planning Board Assistant answered that she had collected information from other Towns and it
28 appeared to be standard language. She indicated that she was still working on this matter.

29 Discussion was suspended to move onto the next scheduled hearing.

30
31 **VISTA ROAD, LLC**

32 Public Hearing/Major Subdivision/2 Lots

33 Location: Byam Road and River Road (Route 13)

34 Tax Map/Lot #6/40-2

35 Residential-Agricultural "R-A" District

36
37 Present in the audience were Vinnie Iacozzi, Denise Ingrand and Dave Ely.

38 Peter Hogan read the public hearing notice. Peter Hogan stated that the last sentence in
39 the conclusion of the stormwater management report caught his attention and he read the
40 following, "So it can be concluded that the small increase in impervious and developed area will
41 not impact downstream properties". He asked if there would be an increase in flow. Vinnie
42 Iacozzi answered that there would be no increase in flow because there would not be a paved
43 surface. Mark Suennen asked if the applicant was willing to certify that the driveway would

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1 **VISTA ROAD, LLC, cont.**

2
3 never be paved. Vinnie Iacozzi stated that he was unsure if a paved driveway would ever exist
4 and pointed out that he would need to come before the Board again for that decision as this
5 subdivision did not have a site plan.

6 Mark Suennen stated that the Drainage Summary provided by the applicant showed a
7 control point with an increased flow. Vinnie Iacozzi asked if Mark Suennen was referring to a
8 control point from the original subdivision calculations. Mark Suennen answered yes. He went
9 on to say that he had asked at the last meeting what percentage of the entire property would be
10 affected by the driveway and the response provided by Mr. Mitchell did not answer that
11 question. He continued that the response indicated that the runoff entered the stream, flowed
12 into the river and the increase to the impervious area would not impact downstream properties.
13 He pointed out that the impact he was referring to was not downstream property but the State
14 right-of-way. Vinnie Iacozzi stated that the Town regulations did not require drainage
15 calculations to be made if less than 20,000 s.f. of disturbance was proposed. HE noted that was
16 the case on this site. Mark Suennen stated that the original report implied that there was an
17 increase of flow off the property due to the installation of a culvert. Vinnie Iacozzi agreed with
18 Mark Suennen's interpretation and pointed out that the subdivision design contained detention
19 ponds and catchment areas that existed on the sides of the road. Mark Suennen stated that there
20 were no proposed detention and/or catchment areas near the driveway where the culvert would
21 exist. Vinnie Iacozzi stated that there were numerous catchment areas in place before River
22 Road. Mark Suennen stated that the flow was moving in the opposite direction of the catchment
23 areas, west into the stream. Vinnie Iacozzi stated that the areas along the river on both sides
24 were catchment areas that would hold a 100 year storm.

25 Dwight Lovejoy asked if a plan existed that showed the proposed length of the driveway.
26 Vinnie Iacozzi stated that the proposed driveway was 140'.

27 Peter Hogan asked for the distance between the lot and the nearest fire cistern. Vinnie
28 Iacozzi stated that he was unsure if the distance had ever been measured and stated that the lot
29 was less than 200' from the Piscataquog River. The Coordinator stated that the lot was within
30 the required distance if measured on Byam Road but the frontage was on River Road so there
31 was a requirement for sprinklers. Peter Hogan commented that the Board could no longer
32 require sprinkler systems. The Coordinator stated that the sprinkler requirement had not been
33 clarified.

34 Don Duhaime stated that he agreed with Mark Suennen's earlier concern regarding flow
35 from the property crossing River Road. Mark Suennen commented that he was going by what
36 the applicant presented and that the runoff would not flow to the stream but instead to a
37 catchment area. He added that if what the applicant represented was true, he did not have any
38 other concerns.

39 Peter Hogan asked for comments or questions from the Board; there were no comments
40 or questions.

41 Peter Hogan asked if Mark Suennen's concern relative to the runoff had been adequately
42 addressed. Mark Suennen answered yes.

43 Peter Hogan seated Alternate Member David Litwinovich as a full voting member in Stu

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1 **VISTA ROAD, LLC, cont.**

2
3 Lewin's absence.

4
5 Mark Suennen **MOVED** to approve the Major Subdivision Plan of Land of Vista Road,
6 LLC, Tax Map/Lot #6/40-2, 2 Lots, Byam Road and N.H. Route 13 a/k/a River Road,
7 subject to:

8
9 **CONDITION(S) PRECEDENT:**

- 10 1. Submission of a minimum of five (5) blue/blackline copies of the revised plat,
11 including all checklist corrections, notes of waivers granted and any corrections as
12 noted at this hearing and including the Individual Stormwater Management Plans,
13 revised as noted.
14 2. Submission of a suitable mylar for recording at the HCRD.
15 3. Digital plat data shall be submitted per Subdivision Regulations Section IV-F, 3.
16 4. Execution of a Subdivision Agreement regarding the conditions subsequent.
17 5. Submission of executed Declaration of Covenants and Restrictions with regard to
18 sprinkler systems, and other executed legal documents as necessary.
19 6. Payment of any outstanding fees related to the subdivision application and/or the
20 recording of documents with the HCRD (if necessary).
21 7. Upon completion of the conditions precedent, the final plans and mylar shall be
22 signed by the Board and forwarded for recording at the HCRD.

23 The deadline date for compliance with the conditions precedent shall be **November 27,**
24 **2011**, the confirmation of which shall be an administrative act, not requiring further
25 action by the Board. Should compliance not be confirmed by the deadline date and a
26 written request for extension is not submitted by that date, the applicant is hereby put on
27 notice that the Planning Board may convene a hearing under RSA 676:4-a to revoke the
28 approval.
29

30 **CONDITION(S) SUBSEQUENT:**

- 31 1. Sprinkler systems shall be installed, inspected, tested and approved by the New
32 Boston Board of Fire Wards or their designee before the occupancy of any
33 dwelling in the approved subdivision.
34

35 **ACTIVE AND SUBSTANTIAL DEVELOPMENT OR BUILDING AND**
36 **SUBSTANTIAL COMPLETION OF IMPROVEMENTS:**

- 37 1. Within 12 months after the date of approval, the following items must be
38 completed in order to constitute "active and substantial development or building"
39 pursuant to RSA 674:39,I, relative to the 4-year exemption to regulation/
40 ordinance changes:
41 the cut for the second driveway
42
43 2. The following items must be completed in order to constitute "substantial

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1 **VISTA ROAD, LLC, cont.**

2
3 completion of the improvements" pursuant to RSA 674:39,II, relative to final
4 vesting:
5 installation of the culvert

6 Dwight Lovejoy seconded the motion and it **PASSED** unanimously.
7

8 **INGRANDO, STEPHEN C. & DENISE M.**

9 Submission of Application/Public Hearing/NRSPR/Home Business

10 Location: 56 Woodbury Road

11 Tax Map/Lot #2/52

12 Residential-Agricultural "R-A" District
13

14 Present in the audience was Denise Ingrando, Dave Ely, an unidentified abutter, Bo
15 Strong and Jon Strong.

16 Peter Hogan read the public hearing notice. He asked the applicant if she was currently
17 practicing as a chiropractor. Denise Ingrando answered that she had her license but was not
18 currently practicing as she waited the arrival of her second child.

19 Peter Hogan asked why the applicant chose to only have two parking spaces for her
20 Home Business. Denise Ingrando stated that she had a 2 ½ year old son, was expecting another
21 child and was planning on being a stay at home mom. She continued that she was hoping to be
22 approved so that she could work out of her home and earn an income. She noted that the Home
23 Business would allow her to be at home with her children as well as serve the community. Peter
24 Hogan asked if the applicant had the ability to have more than two parking spaces. Denise
25 Ingrando answered yes but noted that it was not her goal to see many patients/clients. Peter
26 Hogan advised that the applicant could come back to the Board if in the future she wished to
27 expand the parking. Denise Ingrando stated that if her business grew she would try to relocate to
28 the center of Town or some other location that was more visible. She noted that she would see
29 patients/clients by appointment only and there was no need for additional parking at this time.
30

31 Mark Suennen asked for the applicant's anticipated hours of operation. Denise Ingrando
32 answered that she hoped to work Tuesday and Thursday mornings from 7:00 a.m. – 12:00 p.m.
33 and Monday, Wednesday and Friday evenings from 3:30 p.m. – 7:00 p.m. with the possibility of
34 a Saturday or Sunday schedule. She noted that on the plan she had listed the hours of operation
35 as 7:00 a.m. -12:00 p.m. and 1:00 p.m. – 7:00 p.m. for the purposes of flexibility with the arrival
36 of her baby. Peter Hogan suggested that the applicant could amend the plan to say Monday
37 through Friday 7:00 a.m. – 7:00 p.m.

38 Mark Suennen asked if lighting existed at the entrance on the deck. Dave Ely indicated
39 that a wall sconce existed. Mark Suennen advised that the lighting on the deck needed to be
40 added to the plan.

41 Dwight Lovejoy asked if the home was a split level design. Dave Ely answered that the
42 home was a colonial with a walk-out basement.

43 Denise Ingrando indicated that the lighting for the walkway would be supplied from a
light on the side of the garage, a light on the back of the house and the light next to the entrance.

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1 **INGRANDO, STEPHEN AND DENISE, cont.**

2
3 Peter Hogan stated that the Board was not asking the applicant to “light the world”. Dave Ely
4 noted that the lighting along the pathway would be small, low profile downlights.

5 Denise Ingrando stated that with regard to parking she would be the only person working
6 out of the home, i.e., no receptionist.

7 It was the consensus of the Board that a site walk was not necessary.
8

9 Mark Suennen **MOVED** to accept the application as complete for the Non-Residential
10 Site Plan Home Business Chiropractic Office of Denise and Stephen Ingrando, Location:
11 56 Woodbury Road, Tax Map/Lot #2/52, Residential-Agricultural “R-A” District.
12 Dwight Lovejoy seconded the motion and it **PASSED** unanimously.
13

14 Peter Hogan asked if everything that was on the plan existed as it was shown at the
15 property. Denise Ingrando answered yes. Peter Hogan stated that a compliance site walk could
16 be scheduled. Dave Ely indicated that the only thing being added to the plan was the installation
17 of a more formal walkway over an existing dirt pathway. Peter Hogan advised the applicant to
18 contact the Planning Office when the walkway was completed so a compliance walk could be
19 scheduled.
20

21 Mark Suennen **MOVED** to approve the site plan for Stephen C. & Denise M. Ingrando,
22 to operate a chiropractic office home business from 500 s.f. of the existing house at 56
23 Woodbury Road, Tax Map/Lot #2/52, subject to:
24

25 **CONDITION(S) PRECEDENT:**

- 26 1. Submission of a minimum of three (3) copies of the revised site plan that include
27 all checklist corrections and any agreed-upon conditions from this hearing;
28 2. Execution of a Site Review Agreement regarding the condition(s) subsequent;
29 The deadline for complying with the condition(s) precedent shall be **December 27, 2011**,
30 the confirmation of which shall be an administrative act, not requiring further action by
31 the Board. Should compliance not be confirmed by the deadline date, and a written
32 request for extension is not submitted prior to that date, the applicant is hereby put on
33 notice that the Planning Board may convene a hearing pursuant to RSA 676:4-a to revoke
34 the approval.
35

36 **CONDITION(S) SUBSEQUENT:**

- 37 1. All of the site improvements are to be completed per the approved site plan;
38 2. The Town of New Boston Planning Department shall be notified by the applicant
39 that all improvements have been completed, and are ready for final inspection,
40 prior to scheduling a compliance hearing on those improvements, a minimum of
41 three (3) weeks prior to the anticipated date of compliance hearing and the
42 opening of the business on the site;
43 3. Any outstanding fees related to the site plan application compliance shall be

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1 **INGRANDO, STEPHEN AND DENISE, cont.**

2
3 submitted prior to the compliance hearing;

- 4 4. A compliance hearing shall be held to determine that the site improvements have
5 been satisfactorily completed, prior to releasing the hold on the issuance of Permit
6 to Operate or Certificate of Occupancy, or both. No occupancy/use of the
7 chiropractic office home business shall be permitted until the site improvements
8 as noted have been completed, and a site inspection and compliance hearing held.

9 The deadline for complying with the Conditions Subsequent shall be **December 27,**
10 **2011**, the confirmation of which shall be determined at a compliance hearing on same as
11 described in item 4 above.

12 Don Duhaime seconded the motion and it **PASSED** unanimously.

13
14 **Discussion, re: Potential Zoning Ordinance Amendments for 2012 and Status of 2011**
15 **Planning Board Goals, Cont.**

16
17 Present in the audience were Bo Strong and Jon Strong.

18 The Coordinator stated that Ed Hunter, Building Inspector/Code Enforcement Officer,
19 had advised that a lot in Town had frontage on a Class VI road as well as Class V road, Bedford
20 Road and Old County Road. She explained that during past Planning Board discussions it had
21 been determined that only one front yard would be required to have a 50' setback. She continued
22 that an abutter had questioned the measurement of the setback from the Class VI road that had
23 been taken for a shed that the property owner wanted to build.

24 The Coordinator informed the Board that it was required that a driveway exist over
25 frontage and as such that would be the frontage with the 50' setback and the remaining front yard
26 would only need a side setback. She pointed out that her previous explanation was not clearly
27 stated in the Zoning Ordinance Sections 208.2, 307, and 309 and asked the Board if they were
28 interested in tidying up the sections to make the matter clearer.

29 Peter Hogan suggested that Section 307, be referenced in Section 208.2. Mark Suennen
30 questioned the value in keeping A. The Coordinator answered that there was value in keeping A
31 as Section 208.2, described the lot line rather than the setback, whereas, Section 307, described
32 the setback.

33 Peter Hogan asked if Ed Hunter, Building Inspector/Code Enforcement, had made any
34 suggestions. The Coordinator answered no and noted that he had only pointed out the conflicts
35 between the sections.

36 Mark Suennen suggested the following language be used for Section 208.2, A, "Any lot
37 line contiguous to a street or Class VI road is deemed to be a front lot line. A lot fronting on two
38 streets shall be deemed to have one front lot line on the higher class road, except in cases when
39 the driveway is off the lower class roadway".

40 Peter Hogan asked if the Regulations currently required two 200' squares on corner lots.
41 The Coordinator answered that only one 200' square was required, since the change that was
42 made to the Zoning Ordinance to require only one front lot line on a corner lot.

43 Mark Suennen asked if the driveway defined the frontage or if the frontage defined the

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1 **2011 GOALS AND POTENTIAL ZONING ORDINANCE AMENDMENTS, cont.**

2
3 driveway. The Coordinator replied that it would be determined through the design of the lot.

4 Peter Hogan asked for Mark Suennen's previous language suggestion to be stated again;
5 the Coordinator restated the statement. Peter Hogan stated that proposed language seemed to
6 add a different level of confusion as the frontage for a lot was determined through the design
7 stage of a project. He suggested that the proposed language be reviewed by Ed Hunter, Building
8 Inspector/Code Enforcement Officer who should also be asked for alternative suggestions.
9

10 **MISCELLANEOUS BUSINESS AND CORRESPONDENCE FOR THE MEETING OF**
11 **SEPTEMBER 27, 2011.**

- 12
13 1. Approval of the August 9, 2011, minutes, distributed by email.

14
15 Mark Suennen **MOVED** to approve the minutes of August 9, 2011, as written. Don
16 Duhaime seconded the motion and it **PASSED** unanimously.

- 17
18 2. Faxed letter received September 23, 2011, from Lynn O. Strong, Strong Beginnings
19 Learning Center, LLC, to the New Boston Planning Board, re: request for an extension to
20 the conditions subsequent deadline of September 30, 2011, to September 30, 2016, for
21 the Board's action.
22

23 Peter Hogan stated that the above-referenced applicant was seeking an extension of their
24 conditions subsequent deadline. Mark Suennen asked what had been approved for the applicant.
25 The Coordinator stated that the applicant was looking to extend the conditions subsequent for
26 Phase II of the daycare center. She explained that a trailer was utilized behind the main building
27 and the applicant wished to continue that use and make the approved additions to the building at
28 a later date.

29 Peter Hogan commented that he did not have an issue with granting the extension. Mark
30 Suennen questioned how vesting would be affected. The Coordinator pointed out that there was
31 no condition for vesting established at the time of approval.
32

33 Mark Suennen **MOVED** to extend the conditions subsequent deadline of September 30,
34 2011, to September 30, 2016. Don Duhaime seconded the motion and it **PASSED**
35 unanimously.
36

- 37 3a. Letter received September 12, 2011, from Chris Ialuna, Supervisor, Division of Motor
38 Vehicles, Bureau of Registration, to New Boston Planning Board, re: Capron Auto Sales,
39 for the Board's information.
40

- 41 3b. Acknowledgement for Capron Auto Sales to abide by all the listed condition of the
42 existing approved site plan of 662 North Mast Road, Tax Map/Lot #3/66, for the Board's
43 information.

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1 **MISCELLANEOUS BUSINESS, cont.**

2
3 Peter Hogan asked for an explanation of these items. The Coordinator stated that the
4 owners of the business noted here and in item 4a & b, had changed that the new owners were
5 agreeing by these letters to abide by the terms and conditions of the previously approved site
6 plans. This would allow them to get inspection and/or dealer licenses from the State.

7
8 4a. Letter received September 12, 2011, from Chris Ialuna, Supervisor, Division of Motor
9 Vehicles, Bureau of Registration, to New Boston Planning Board, re: Surefire
10 Automotive, for the Board's information.

11
12 4b. Acknowledgement for Surefire Automotive to abide by all the listed condition of the
13 existing approved site plan of 644 North Mast Road, Tax Map/Lot #3/67, for the Board's
14 information.

15
16 See above explanation for item 3a and b.

17
18 5. LGC Annual Conference, November 16-17, 2011, Radisson Hotel, Manchester, Preview
19 Guide and Registration Form, for the Board's information.

20
21 Peter Hogan acknowledged receipt of the above-referenced matter; no discussion
22 occurred.

23
24 6. Copy of article, titled; "Legislature Douses Local Fire Sprinkler Requirements", By
25 Cordell A. Johnston, published in New Hampshire Town and City, September 2011 issue.

26
27 The Coordinator advised that the article suggested that towns contact their town counsel
28 to review and receive their interpretation on what recent law changes meant to requiring
29 sprinklers and enforcing existing regulations. She asked if the Board wanted her to submit the
30 questions to Town Counsel or if they would like her to ask the Board of Selectmen if the
31 requirements could be reviewed by Town Counsel.

32 Peter Hogan asked Dwight Lovejoy for his thoughts on the changed sprinkler
33 requirements and if he believed an interpretation of the requirements should be obtained from
34 Town Counsel. Dwight Lovejoy indicated that he would speak with the Board of Selectmen
35 regarding this issue.

36 Peter Hogan believed that a debate could take place on previously approved sprinkler
37 conditions; however, he did not believe moving forward the Planning Board could require that
38 applicants install sprinkler systems. The Coordinator noted that the article indicated that SB91
39 might mean that existing requirements were most likely enforceable and existing regulations may
40 or may not be affected and that was the issue that needed to be clarified.

41
42
43

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
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12

1 **STRONG, HAROLD C. & JACKSON & GEORGE & ELSIE (OWNERS)**

2 **HJG STRONG BROTHERS GRAVEL CORP. (APPLICANT)**

3 Submission of an Earth Removal Application/Public Hearing

4 Location: Riverdale Road

5 Tax Map/Lot #3/137

6 Residential-Agricultural "R-A" District

7
8 Present in the audience were Bo Strong, Jon Strong, Steve Elliott, Dave Elliott, Mr.
9 Hunzeker and Willard Dodge.

10 Peter Hogan read the public hearing notice. He stated that this was an active gravel pit
11 with no complaints and the applicants were present before the Board on a voluntary basis. Peter
12 Hogan asked the applicant if any operational procedures had changed. Bo Strong answered no
13 and added that he had surveyed the entire 100 acres and received approval from the State for his
14 AoT permit. He pointed out the existing forest line and property line on the AoT plan. He
15 indicated that he was hoping to have 35-40 acres of flat field [when the pit was done]. He noted
16 that the ending elevation for the area he was pointing to would be 425'.

17 Bo Strong advised that he would be submitting a new AoT application to the State in
18 September of 2012 and he would provide the Town with all of the information that would be
19 provided to the State. Peter Hogan asked the Board if they had issues with the applicant
20 providing the previously stated information. Mark Suennen commented that it appeared that the
21 applicant was requesting that the Board grant interim approval in order to get him to a new
22 permit for September 2012. Bo Strong agreed with Mark Suennen's interpretation. Mark
23 Suennen stated that the Board could consider granting a one year permit and then be provided the
24 DES information next year and reconsider the gravel pit from a long-term perspective at that
25 point. Bo Strong indicated that he was agreeable to Mark Suennen's suggestion on a one year
26 permit. Peter Hogan asked what would change during the one year period. Jon Strong indicated
27 that the only anticipated changes were the locations of stockpiles.

28 Mr. Hunzeker of 19 First Settlement Lane identified himself as an abutter and asked if the
29 forest line would be changing. Peter Hogan explained that the applicant was not actually
30 changing anything and was before the Board this evening because of procedural changes with
31 permits in Town. He continued that the approval process had moved from the Board of
32 Selectman to the Planning Board. He went on to say that the Board was meeting with all of the
33 gravel pit owners and updating records to be in compliance with new State regulations. Jon
34 Strong noted that the wood line would eventually move back as more gravel was removed. He
35 explained that when two acres were opened up to be part of the pit, two acres would be
36 reclaimed. Mr. Hunzeker asked how close the clearing would come to his property line. Jon
37 Strong answered that they were maintaining a 50' buffer between the gravel operation and the
38 property lines.

39 Peter Hogan asked for comments or questions. Mark Suennen suggested that the
40 applicant could submit the DES materials as a condition of approval.

41 Mark Suennen pointed out that there had been past discussions with regard to the
42 applicant's use of Howe Bridge for hauling. Dwight Lovejoy noted that the Board of Selectmen
43 had wanted the big tractor trailer trucks to get to a State road as quickly as possible which meant

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
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13

1 **HJG STRONG BROTHERS, cont.**

2
3 using Howe Bridge to access Route 13 rather than using Parker Road. He noted that to his
4 knowledge no trailer dumps came out of Bo Strong's pit and the trucks could use Parker Road.
5 Mark Suennen asked if Howe Bridge was the responsibility of the Town. Dwight Lovejoy
6 answered yes. Bo Strong stated that there were quite a few trips leaving the pit currently because
7 of hauling being done by John Neville. Mark Suennen asked if the maximum expected trips
8 were 80 per day. Bo Strong answered that he would most likely not be making 80 trips per day
9 but believed it was a reasonable amount to ensure that they would not go over 80 trips. Mark
10 Suennen stated that he did not have a problem waiving the Traffic and Environmental Impact
11 Studies.

12
13 Mark Suennen **MOVED** to approve the Environmental and Traffic Impact Study waivers
14 for Harold C. & Jackson Strong & George & Elsie(Owners), HJG Strong Brothers Gravel
15 Corp., Location: Riverdale Road, Tax Map/Lot #3/137, Residential-Agricultural "R-A"
16 District and that the waiver was in the spirit and intent of the Regulations based on the
17 expected amount of traffic from the gravel pit. Don Duhaime seconded the motion and it
18 **PASSED** unanimously.

19
20 Mark Suennen added that the waiver was in the spirit and intent of the Regulations based
21 on the expected amount of traffic from the gravel pit.

22 Peter Hogan asked if the Board would accept the proposal by Earl Sandford, PE, to
23 provide DES information next year when the applicant filed an updated AoT application with the
24 State. Mark Suennen stated that he was willing to accept the plan addendum letter, provided that
25 a condition of approval be that the applicant submit the updated plan referenced in the DES 2012
26 Permit.

27 Peter Hogan asked if there were driveway permits associated with the gravel pit. Bo
28 Strong indicated that he did not have a driveway permit. Jon Strong added that driveway permits
29 were not required at the time the gravel pit became an active pit. Peter Hogan asked the
30 applicant to fill out a driveway permit and noted that there would not be a fee associated with the
31 filing of the permit. Bo Strong agreed to complete a driveway permit.

32 Mark Suennen asked how many acres were currently open. Bo Strong answered that
33 there were about five or six acres open. He explained that John Neville had been using the open
34 acreage for stockpiling. Mark Suennen noted that the bond needed to be updated. Peter Hogan
35 asked what the bond estimate was for the gravel pit. The Coordinator answered that the
36 applicant had provided an estimate of \$2,500.00 per acre in 2003. Peter Hogan asked the
37 applicant for the current amount of his reclamation bond. Bo Strong answered \$5,000.00 and
38 noted that it was the original bond and had never been changed. Peter Hogan stated that the
39 Board was considering changing the bond and wanted to make sure that the amount of the bond
40 was realistic. He continued that if the bond was for \$3,000 per acre and the applicant had 7 acres
41 open than the bond should be \$21,000.00. Jon Strong believed that there was less than 7 acres
42 open. The Coordinator added that the AOT permit did not allow for more than 5 acres open. Jon
43 Strong stated that he would like to check on the number of acres open as he believed there were

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14

1 **HJG STRONG BROTHERS, cont.**

2
3 only 4 acres open. Peter Hogan suggested that the bond be in the amount of \$12,000.00.
4 Dwight Lovejoy believed the current bond should not change based on the fact that the pit was
5 flat and stockpiling of loam was done on site, Mark Suennen agreed with Dwight Lovejoy that
6 the \$5,000.00 bond amount was sufficient.

7
8 Mark Suennen **MOVED** in light of the plan addendum letter from Earl Sandford, PE, to
9 accept the Earth Removal Application as complete, provided that upon receipt of the DES
10 permit in 2012, the applicant forwards the information to the Board. Don Duhaime
11 seconded the motion and it **PASSED** unanimously.

12
13 Peter Hogan asked for an end date for the gravel pit. Mark Suennen stated that the
14 application showed about 800,000 cubic yards remained in the pit. Bo Strong stated that about
15 40,000 yards was removed annually from the pit. Mark Suennen stated that the pit would most
16 likely end in 20 years. Bo Strong agreed with the Mark Suennen.

17 The Coordinator asked the Board to discuss if a Groundwater Resources Conservation
18 District Permit was needed for the pit. Mark Suennen asked the applicant if the roads into the pit
19 would be paved. Bo Strong answered that the road from the Town road to the gate of the pit
20 would be paved but there would be no paving inside of the pit. Mark Suennen asked if
21 everything drained naturally within the pit. Bo Strong answered yes and noted that water did not
22 drain in or out of the pit. Mark Suennen asked if hazardous materials were contained within the
23 pit. Bo Strong answered no.

24
25 Mark Suennen **MOVED** that in light of the applicant's statement that they were not
26 violating any of the Groundwater Resources Conservation District's rules and because
27 there was no impervious area in the pit the applicant did not need to submit a
28 Groundwater Resources Conservation District CUP application. Don Duhaime seconded
29 the motion and it **PASSED** unanimously.

30
31 David Litwinovich **MOVED** to approve the Earth Removal Application with associated
32 plans entitled "Gravel Excavation and Restoration Plan Tax Map 3/Lot 137 HJG Strong
33 Brothers Gravel Corporation Riverdale Road Town of New Boston Hillsborough County,
34 New Hampshire", 3 sheets, dated March 23, 2007, most recently revised September 4,
35 2007, along with the supplemental information provided in a one page letter entitled
36 "Earth Removal Application - Plan Addendum", by Earl Sandford, PE, dated July 25,
37 2011, said additional information to be attached to and considered part of the approved
38 plans, and to grant an Earth Removal Permit, to include the site specific items discussed
39 at this hearing, subject to:

40
41 **CONDITION(S) PRECEDENT:**

- 42 1. Submission of any outstanding fees.
43 2. Submission of a driveway permit application.

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15

1 **HJG STRONG BROTHERS, cont.**

2
3 The deadline for complying with the conditions precedent shall be **December 27, 2011**,
4 the confirmation of which shall be an administrative act, not requiring further action by
5 the Board. Should compliance not be confirmed by the deadline date, and a written
6 request for extension is not submitted prior to that date, the applicant is hereby put on
7 notice that the Planning Board may convene a hearing pursuant to RSA 676:4-a to revoke
8 the approval.
9

10 **CONDITIONS SUBSEQUENT AND ONGOING:**

- 11 1. Prior to the granting of any permit, or to the removal of any topsoil or other
12 overburden material from a new area within an existing excavation site, the
13 Applicant shall submit to the Regulator an acceptable bond with sufficient surety
14 as determined by the Regulator. The purposes of the bond are to guarantee
15 reclamation of the area and compliance with the permit. The surety must be
16 phased to coincide with the phasing of work, in an amount sufficient to guarantee
17 reclamation of the applicable section, to be released as sections are completed.
18 Prior to a new section being opened, new securities shall be posted. The surety
19 shall not be released until the Regulator is satisfied that all conditions of the site
20 reclamation plan have been complied with. This shall be determined at a final site
21 walk by the Regulator and/or its designee. Additionally, if a bond or security is
22 already in place, the applicant is responsible for keeping said security up-to-
23 date and submitting riders, renewals, or other documentation to the Planning
24 Board as proof that the bond or security is in place.
- 25 2. Amendments and Renewals
26 Permit holders wishing to alter the size or location of the excavation, the rate of
27 removal or the plan for reclamation shall apply for a renewal or amendment,
28 following the same procedures as those required for the original excavation
29 permit.
- 30 3. The Earth Removal permit is not transferable without the prior written consent of
31 the Regulator.
- 32 4. A copy of the Earth Removal permit shall be prominently displayed at the site or
33 the principal access to the site.
- 34 5. Inspections
35 The Regulator or its designee may make periodic inspections, minimally on an
36 annual basis, of all excavation sites, both permitted and exempt, to determine if
37 the operations are in conformance with the New Boston Earth Removal
38 Regulations and the approved plans.
- 39 6. Hours of operation
40 Start up time for all machinery associated with an Earth Removal Operation shall
41 be no earlier than 6:45 a.m. in cold weather only; in warm weather start up time
42 for machinery shall be no earlier than 7:00 a.m.; activity of any kind, including
43 loading and removal of material from the site shall begin no earlier than 7:00

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16

HJG STRONG BROTHERS, cont.

a.m.; termination of removal of material from the site shall be no later than 5:00 p.m.; processing of materials shall begin no earlier than 7:00 a.m. and must be shut down by 5:00 p.m. These operating hours shall be for Monday through Saturday. No operation shall take place on Sundays and major Federal holidays, as follows: New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving and Christmas; provided, however, that access on Sundays and holidays is permitted in the event of a town-wide emergency situation requiring use of material or equipment, for example, flooding situations, ice storms, major blizzards.

7. **Maximum Excavation Limit**

Final excavation grade shall be not less than four feet to documented seasonal high water table, provided, however, that pursuant to RSA 155-E:11,II, an exception shall be granted if the application demonstrates to the Regulator's satisfaction that excavation below this height will not adversely affect water quality. The Regulator reserves the right to have an outside review of the information submitted as part of any proposal to excavate within four feet of the documented seasonal high water table, at the Applicant's expense. Written notice of such an exception shall be recorded in the Hillsborough County Registry of Deeds at the Applicant's expense, and one copy shall be filed with the New Hampshire Department of Environmental Services.

8. **Waste Disposal**

No disposal of any waste material, including solid and/or hazardous waste, septage, dredge spoils, or refuse shall be undertaken on the site without appropriate State approval under RSA 149:M, or other appropriate State regulations.

9. **Tree cutting**

The applicable state statutes pertaining to forestry practice and timber harvesting shall apply to the removal of vegetative cover at excavation sites.

10. **Stopping of Removal/Excavation Operations**

If removal/excavation operations stop for more than one year with no notice thereof provided to the Regulator and said stoppage is not in accordance with the approved excavation plan or due to bad weather, the excavation permit may be revoked and the performance bond forfeited with its proceeds used for reclaiming the land in accordance with the approved reclamation plan.

11. **Applicant shall submit one copy of any plans or reports that are approved by the NH DES Alteration of Terrain Bureau within 30 days of said approval.**

12. **Submission of revised plans that include all checklist corrections and any corrections as noted at this hearing when the Alteration of Terrain Permit and Plans are updated with NH DES in 2012.**

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17

1 **HJG STRONG BROTHERS, cont.**

2
3 **SITE SPECIFIC PERMIT CONDITIONS:**

4 A. Approved routes for transportation of material

5
6 Riverdale to Parker, Parker to Rte 13 & 114 - occasionally Riverdale Road
7 (gravel) to Rte 114.

8
9 B. Number and type of vehicles to be used to transport material

10
11 5-10 wheelers and 1- 18 wheeler.

12
13 C. Equipment to be used for material removal

14
15 Crusher, screener, loader and water truck.

16
17 D. Requirements for material processing

18
19 Screening material, crushing and processing rock for drainage use. Operation in
20 areas shielded by stockpiles and embankments. Daily.

21
22 E. Requirements for temporary stockpiling of offsite materials

23
24 As shown on the existing gravel excavation plan (for locations of stockpiles and
25 erosion control methods) sand, gravel and rock.

26
27 F. Required plantings for reclamation

28
29 Plans show typical details for loam and seeding.

30
31 G. Other requirements

32
33 None

34
35 The Earth Removal Permit is valid until such time as the Regulator determines the Earth
36 Removal Operation is no longer in compliance with the New Boston Earth Removal
37 Regulations; or, until such time as the operation shall be deemed to be abandoned as
38 defined in the Earth Removal Regulations; or, until such time as the owner informs the
39 Regulator that they will no longer be running the Earth Removal Operation; or, until such
40 time as the operation is depleted; or, until the completion date as determined by the
41 Regulator in the regulatory process, in accordance with RSA 155-E:8, in this case
42 **September 27, 2031**, whichever first occurs.

43 Don Duhaime seconded the motion and it **PASSED** unanimously.

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NEW BOSTON PLANNING BOARD
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September 27, 2011

18

1 **MIDDLE BRANCH ASSOCIATES, LLC**

2 Submission of Earth Removal Application

3 Location: Middle Branch Road

4 Tax Map/Lot #4/16

5 Residential-Agricultural "R-A" District

6
7 Present in the audience was Steve Elliott, Dave Elliott and Willard Dodge.

8 Peter Hogan asked the applicants how much material was removed from the gravel pit on
9 an annual basis. Steve Elliott answered that less than 5,000 yards was removed annually. Peter
10 Hogan asked how long it would take to empty the gravel pit. Dave Elliott answered that it would
11 take about 15 years to empty the gravel pit. Steve Elliott answered that it may take up to 20
12 years to empty the gravel pit and noted that there was approximately 35,000 yards of material
13 left to remove.

14 Peter Hogan stated that the Board needed to assess the need for a CUP as the gravel pit
15 existed in the Groundwater Resources Conservation District. Mark Suennen asked how much of
16 the gravel pit was open. Steve Elliott answered that approximately two acres were currently
17 open. Mark Suennen questioned the condition of the site. Steve Elliott indicated that the gravel
18 pit was essentially a flat, bowled out area.

19 Peter Hogan asked the current amount of the reclamation bond. Steve Elliott answered
20 that the bond was in the amount of \$7,000.00. Peter Hogan asked if the applicants wanted the
21 bond to remain at \$7,000.00. Steve Elliott answered yes. Peter Hogan commented that he did
22 not have a problem leaving the bond at \$7,000.00.

23
24 Mark Suennen **MOVED** to accept the Earth Removal Application as complete for
25 Middle Branch Associates, LLC, Location: Middle Branch Road, Tax Map/Lot # 4/16,
26 Residential-Agricultural "R-A" District. David Litwinovich seconded the motion and it
27 **PASSED** unanimously.

28
29 The Planning Board Assistant noted that she had would send the applicants a bill for the
30 notice of hearing in the newspaper once she received a bill from the Union Leader.

31 Peter Hogan asked for comments or questions from the Board and/or abutters.

32 Mark Suennen noted that the applicants had listed a maximum number of trips in and out
33 the gravel pit as 100, he asked if that number was reasonable. Dave Elliott noted that the number
34 of trips was sporadic. He explained that currently they operated out of 1/5 of the pit and it was
35 typically used for work in the direction of Francestown. He further noted that in recent history
36 not much work had been occurring in Francestown. He stated that hauling may not take place
37 for six months and then trucks may be entering and exiting for three consecutive days. Mark
38 Suennen stated that he had no problem approving the waiver request for the Traffic and
39 Environmental Impact Studies based on the low traffic, the vehicles described and the haul
40 routes.

41
42 Mark Suennen **MOVED** to approve the Environmental and Traffic Impact Study waivers
43 for Middle Branch Associates, LLC, Location: Middle Branch Road, Tax Map/Lot #

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19

1 **MIDDLE BRANCH ASSOCIATES, LLC, cont.**

2
3 4/16, Residential-Agricultural "R-A" District. Don Duhaime seconded the motion and it
4 **PASSED** unanimously.

5
6 Mark Suennen asked the applicant if there were impervious areas within the gravel pit.
7 Steve Elliott answered no. Mark Suennen asked if hazardous materials were stored on site, i.e.,
8 oil tanks. Dave Elliott indicated that an existing empty oil tank was being removed from the site
9 immediately.

10
11 Mark Suennen **MOVED** to that a CUP in the Groundwater Resources Conservation
12 District was not needed, based on the applicant's statement that there were no long term
13 hazardous materials within the pit, that an existing empty oil tank was being removed and
14 that there were no impervious areas. Don Duhaime seconded the motion and it **PASSED**
15 unanimously.

16
17 David Litwinovich **MOVED** to approve the Earth Removal Application with associated
18 plans entitled "Excavation Plan for Middle Branch Associates", dated 7/28/11, 5 sheets
19 altogether, including one sheet entitled "Reclamation Plan Completion Status and
20 Proposed Topography", dated 9/20/06, most recently revised 9/26/11, and to grant an
21 Earth Removal Permit, to include the site specific items discussed at this hearing, subject
22 to:

23
24 **CONDITION(S) PRECEDENT:**

25 1. Submission of any outstanding fees.
26 The deadline for complying with the conditions precedent shall be **November 27,**
27 **2011**, the confirmation of which shall be an administrative act, not requiring
28 further action by the Board. Should compliance not be confirmed by the deadline
29 date, and a written request for extension is not submitted prior to that date, the
30 applicant is hereby put on notice that the Planning Board may convene a hearing
31 pursuant to RSA 676:4-a to revoke the approval.

32
33 **CONDITIONS SUBSEQUENT AND ONGOING:**

34 1. Prior to the granting of any permit, or to the removal of any topsoil or other
35 overburden material from a new area within an existing excavation site, the
36 Applicant shall submit to the Regulator an acceptable bond with sufficient surety
37 as determined by the Regulator. The purposes of the bond are to guarantee
38 reclamation of the area and compliance with the permit. The surety must be
39 phased to coincide with the phasing of work, in an amount sufficient to guarantee
40 reclamation of the applicable section, to be released as sections are completed.
41 Prior to a new section being opened, new securities shall be posted. The surety
42 shall not be released until the Regulator is satisfied that all conditions of the site
43 reclamation plan have been complied with. This shall be determined at a final site

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20

1 **MIDDLE BRANCH ASSOCIATES, LLC, cont.**

2
3 walk by the Regulator and/or its designee. Additionally, if a bond or security is
4 already in place, the applicant is responsible for keeping said security up-to-date
5 and submitting riders, renewals, or other documentation to the Planning Board as
6 proof that the bond or security is in place.

7 2. Amendments and Renewals

8 Permit holders wishing to alter the size or location of the excavation, the rate of
9 removal or the plan for reclamation shall apply for a renewal or amendment,
10 following the same procedures as those required for the original excavation
11 permit.

12 3. The Earth Removal permit is not transferable without the prior written consent of
13 the Regulator.

14 4. A copy of the Earth Removal permit shall be prominently displayed at the site or
15 the principal access to the site.

16 5. Inspections

17 The Regulator or its designee may make periodic inspections, minimally on an
18 annual basis, of all excavation sites, both permitted and exempt, to determine if
19 the operations are in conformance with the New Boston Earth Removal
20 Regulations and the approved plans.

21 6. Hours of operation

22 Start up time for all machinery associated with an Earth Removal Operation shall
23 be no earlier than 6:45 a.m. in cold weather only; in warm weather start up time
24 for machinery shall be no earlier than 7:00 a.m.; activity of any kind, including
25 loading and removal of material from the site shall begin no earlier than 7:00
26 a.m.; termination of removal of material from the site shall be no later than 5:00
27 p.m.; processing of materials shall begin no earlier than 7:00 a.m. and must be
28 shut down by 5:00 p.m. These operating hours shall be for Monday through
29 Saturday. No operation shall take place on Sundays and major Federal holidays,
30 as follows: New Year's Day, Memorial Day, 4th of July, Labor Day,
31 Thanksgiving and Christmas; provided, however, that access on Sundays and
32 holidays is permitted in the event of a town-wide emergency situation requiring
33 use of material or equipment, for example, flooding situations, ice storms, major
34 blizzards.

35 7. Maximum Excavation Limit

36 Final excavation grade shall be not less than four feet to documented seasonal
37 high water table, provided, however, that pursuant to RSA 155-E:11,II, an
38 exception shall be granted if the application demonstrates to the Regulator's
39 satisfaction that excavation below this height will not adversely affect water
40 quality. The Regulator reserves the right to have an outside review of the
41 information submitted as part of any proposal to excavate within four feet of the
42 documented seasonal high water table, at the Applicant's expense. Written notice
43 of such an exception shall be recorded in the Hillsborough County Registry of

**TOWN OF NEW BOSTON
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21

1 **MIDDLE BRANCH ASSOCIATES, LLC, cont.**

- 2
- 3 Deeds at the Applicant's expense, and one copy shall be filed with the New
4 Hampshire Department of Environmental Services.
- 5 8. Waste Disposal
6 No disposal of any waste material, including solid and/or hazardous waste,
7 septage, dredge spoils, or refuse shall be undertaken on the site without
8 appropriate State approval under RSA 149:M, or other appropriate State
9 regulations.
- 10 9. Tree cutting
11 The applicable state statutes pertaining to forestry practice and timber harvesting
12 shall apply to the removal of vegetative cover at excavation sites.
- 13 10. Stopping of Removal/Excavation Operations
14 If removal/excavation operations stop for more than one year with no notice
15 thereof provided to the Regulator and said stoppage is not in accordance with the
16 approved excavation plan or due to bad weather, the excavation permit may be
17 revoked and the performance bond forfeited with its proceeds used for reclaiming
18 the land in accordance with the approved reclamation plan.
- 19 11. Applicant shall submit one copy of any plans or reports that are approved by the
20 NH DES Alteration of Terrain Bureau within 30 days of said approval.

21
22 **SITE SPECIFIC PERMIT CONDITIONS:**

- 23 A. Approved routes for transportation of material
24
25 South on Middle Branch to East Colburn Road to NH Route 136.
- 26
27 B. Number and type of vehicles to be used to transport material
28
29 Dump trucks, trailer dumps as needed.
- 30
31 C. Equipment to be used for material removal
32
33 Front-end loaders, excavators, bulldozers, portable crusher and screener.
- 34
35 D. Requirements for material processing
36
37 Material will be screened or crushed at various times during the spring, summer
38 and fall to maintain adequate stockpiles for consumer demand. The activity will
39 typically take place at one of the existing stockpiles or at the active face of the pit.
- 40
41 E. Requirements for temporary stockpiling of offsite materials
42
43 Typical materials to be stockpiled would include rocks, fieldstones, crude loam,

**TOWN OF NEW BOSTON
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22

1 **MIDDLE BRANCH ASSOCIATES, LLC, cont.**

2
3 subsoil, sand, gravel, rubble, old asphalt and wood chips. Erosion control would
4 be by silt fence or direct seeding as necessary.

5
6 F. Required plantings for reclamation

7
8 Plans show typical details for loam and seeding.

9
10 G. Other requirements

11
12 None

13
14 The Earth Removal Permit is valid until such time as the Regulator determines the Earth
15 Removal Operation is no longer in compliance with the New Boston Earth Removal
16 Regulations; or, until such time as the operation shall be deemed to be abandoned as
17 defined in the Earth Removal Regulations; or, until such time as the owner informs the
18 Regulator that they will no longer be running the Earth Removal Operation; or, until such
19 time as the operation is depleted; or, until the completion date as determined by the
20 Regulator in the regulatory process, in accordance with RSA 155-E:8, in this case
21 **September 27, 2031**, whichever first occurs.

22
23 Willard Dodge stated that he was aware that Earth Removal Applications had been
24 approved at the previous hearing and that he had listened to two hearings that were approved this
25 evening. He continued that he had spoken with Earl Sandford, P.E., earlier in the day and it had
26 been recommended that he not revise the plans that every pit owner had completed in 2007. He
27 stated that most pit owners would have to revise their plans in 2012 and that was the reason that
28 Bo Strong had requested to waive the submission of revised plans until 2012.

29 The Coordinator advised that two or three applicants had chosen to have Ed Colburn
30 complete a new plan for this process. She explained that four or five applicants had come into
31 the Planning Office and met with the Planning Board Assistant or herself to review the existing
32 AOT Plan and go through the checklists. She continued that after review of the AOT Plan and
33 checklist the plans were submitted with addendum sheets that contained everything that was not
34 included on the plan. She added that the package was approved together as the new application
35 and plan for the new permitting process. She explained that a condition of the approval was that
36 once the AOT Permit was approved the information needed to be submitted, simply as a copy, to
37 the Planning Office. She pointed out that anyone who has had a plan prepared for these Planning
38 Board hearings had done so by their own choice as the Planning Board had not required that they
39 do so. Willard Dodge commented that people who had new plans completed had done so
40 because they thought they had to do so. The Coordinator disagreed and explained that anyone
41 who had contacted the Planning Office had been given an explanation of the process.

42
43

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2011 Meetings**

September 27, 2011

23

1 **STRONG, CAROLYN J., NATHAN P. & NICOLA**

2 Submission of an Earth Removal Application/Public Hearing

3 Location: 42 Lyndeborough Road

4 Tax Map/Lot #11/1

5 Residential-Agricultural "R-A" District

6
7 Present in the audience was Nicola Strong, Willard Dodge, Clay Savoy and Kim Martin.

8 Peter Hogan asked for confirmation that the driveway into the gravel pit was dirt. Nicola
9 Strong confirmed that the driveway of the pit was dirt. Peter Hogan commented that the CUP for
10 the Groundwater Resources Conservation District could be waived.

11 Peter Hogan indicated that the applicant had submitted a waiver request for the Traffic
12 and Environmental Impact Studies. He asked if the gravel pit was a low, light use pit. Nicola
13 Strong answered yes and indicated that she hoped to end use of the pit within the next two years.

14 Mark Suennen calculated that the permit could be approved for five years as 10,000 yards
15 of material were removed on an annual basis and there were only 50,000 yards of material
16 remaining in the pit. Nicola Strong answered yes and noted that the 10,000 yards was the
17 maximum amount and it would probably be a lot less than that.

18 Clay Savoy of 394 Lyndeborough Road asked if the applicant was coming closer to his
19 property. Nicola Strong answered no and noted that all the areas around the property lines had
20 been reclaimed. She further noted that the only work being done was in the area near her home.
21 She explained that the open face that existed needed to be knocked down and stock piled so
22 reclamation could take place.

23 Mark Suennen asked how much of the pit was currently open. Nicola Strong answered
24 that about one acre was open. Mark Suennen asked for the shape of the pit. Nicola Strong
25 described that the pit was a bowl shape with a flat bottom and the elevation at the base of the pit
26 was 505'. Mark Suennen asked how the applicant was reclaiming. Nicola Strong indicated that
27 all the loam was stock piled, then spread on the slopes with cow manure, seeded, tracked with a
28 bulldozer and red pine trees were planted.

29
30 Mark Suennen **MOVED** that a CUP in the Groundwater Resources Conservation District
31 was not needed based on the applicant's statement that no impervious surfaces or
32 hazardous materials existed on the site and that the reclamation process was occurring.
33 Don Duhaime seconded the motion and it **PASSED** unanimously.

34
35 Clay Savoy asked if the pits in Town were ever reviewed. Mark Suennen answered yes.
36 Clay Savoy inquired how often the pits were reviewed. Mark Suennen stated that the pits were
37 reviewed upon receipt of complaints. The Planning Board Assistant clarified that the Building
38 Inspector/Code Enforcement Officer inspected the pits and filed a report annually. Clay Savoy
39 stated that he owned two pits previously owned by Thibeault Corp. and Skip Gomes. He
40 questioned if the pits would be inspected. The Planning Board Assistant explained that only
41 active pits were inspected.

42 Mark Suennen commented that a low volume of traffic was traveling in and out of the
43 gravel pit. He asked if six/ten-wheeler and trailer dump trucks were used in the pit. Nicola

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24

1 **STRONG, CAROLYN, NATHAN AND NICOLA, cont.**

2
3 Strong answered that it was possible to have six/ten-wheeler and dump trucks in the pit;
4 however, it had not been typical in recent history.

5
6 Mark Suennen **MOVED** to grant the Environmental and Traffic Impact Study waivers
7 for Carolyn J. Strong, Nathan P. & Nicola Strong, Location: 42 Lyndeborough Road, Tax
8 Map/Lot #11/1, Residential-Agricultural "R-A" District. Don Duhaime seconded the
9 motion and it **PASSED** unanimously.

10
11 Mark Suennen asked if the applicant had obtained a driveway permit. Nicola Strong
12 answered that she did have a driveway permit for the lot that she had received in 1995 when the
13 house was built.

14
15 David Litwinovich **MOVED** to approve the Earth Removal Application with associated
16 plans entitled "Gravel Site Plan per RSA 155-E:3 for Nathan, Nicola and Carolyn Strong
17 42 Lyndeborough Road Tax Map 11 Lot 1 New Boston NH", dated May 2, 2007, most
18 recently revised July 30, 2011, and to grant an Earth Removal Permit, to include the site
19 specific items discussed at this hearing, subject to:

20
21 **CONDITION(S) PRECEDENT:**

- 22 1. Submission of revised plans that include all checklist corrections and any
23 corrections as noted at this hearing.
24 2. Submission of any outstanding fees, including share of newspaper notice.
25 The deadline for complying with the conditions precedent shall be **November 27, 2011**,
26 the confirmation of which shall be an administrative act, not requiring further action by
27 the Board. Should compliance not be confirmed by the deadline date, and a written
28 request for extension is not submitted prior to that date, the applicant is hereby put on
29 notice that the Planning Board may convene a hearing pursuant to RSA 676:4-a to revoke
30 the approval.

31
32 **CONDITIONS SUBSEQUENT AND ONGOING:**

- 33 1. Prior to the granting of any permit, or to the removal of any topsoil or other
34 overburden material from a new area within an existing excavation site, the
35 Applicant shall submit to the Regulator an acceptable bond with sufficient surety
36 as determined by the Regulator. The purposes of the bond are to guarantee
37 reclamation of the area and compliance with the permit. The surety must be
38 phased to coincide with the phasing of work, in an amount sufficient to guarantee
39 reclamation of the applicable section, to be released as sections are completed.
40 Prior to a new section being opened, new securities shall be posted. The surety
41 shall not be released until the Regulator is satisfied that all conditions of the site
42 reclamation plan have been complied with. This shall be determined at a final site
43 walk by the Regulator and/or its designee. Additionally, if a bond or security is

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
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25

1 **STRONG, CAROLYN, NATHAN AND NICOLA, cont.**

2
3 already in place, the applicant is responsible for keeping said security up-to-date
4 and submitting riders, renewals, or other documentation to the Planning Board as
5 proof that the bond or security is in place.

6 2. Amendments and Renewals

7 Permit holders wishing to alter the size or location of the excavation, the
8 rate of removal or the plan for reclamation shall apply for a renewal or
9 amendment, following the same procedures as those required for the
10 original excavation permit.

11 3. The Earth Removal permit is not transferable without the prior written
12 consent of the Regulator.

13 4. A copy of the Earth Removal permit shall be prominently displayed at the
14 site or the principal access to the site.

15 5. Inspections

16 The Regulator or its designee may make periodic inspections, minimally
17 on an annual basis, of all excavation sites, both permitted and exempt, to
18 determine if the operations are in conformance with the New Boston Earth
19 Removal Regulations and the approved plans.

20 6. Hours of operation

21 Start up time for all machinery associated with an Earth Removal Operation shall
22 be no earlier than 6:45 a.m. in cold weather only; in warm weather start up time
23 for machinery shall be no earlier than 7:00 a.m.; activity of any kind, including
24 loading and removal of material from the site shall begin no earlier than 7:00
25 a.m.; termination of removal of material from the site shall be no later than 5:00
26 p.m.; processing of materials shall begin no earlier than 7:00 a.m. and must be
27 shut down by 5:00 p.m. These operating hours shall be for Monday through
28 Saturday. No operation shall take place on Sundays and major Federal holidays,
29 as follows: New Year's Day, Memorial Day, 4th of July, Labor Day,
30 Thanksgiving and Christmas; provided, however, that access on Sundays and
31 holidays is permitted in the event of a town-wide emergency situation requiring
32 use of material or equipment, for example, flooding situations, ice storms, major
33 blizzards.

34 7. Maximum Excavation Limit

35 Final excavation grade shall be not less than four feet to documented seasonal
36 high water table, provided, however, that pursuant to RSA 155-E:11,II, an
37 exception shall be granted if the application demonstrates to the Regulator's
38 satisfaction that excavation below this height will not adversely affect water
39 quality. The Regulator reserves the right to have an outside review of the
40 information submitted as part of any proposal to excavate within four feet of the
41 documented seasonal high water table, at the Applicant's expense. Written notice
42 of such an exception shall be recorded in the Hillsborough County Registry of
43 Deeds at the Applicant's expense, and one copy shall be filed with the New

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
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26

1 **STRONG, CAROLYN, NATHAN AND NICOLA, cont.**

- 2
- 3 Hampshire Department of Environmental Services.
- 4 8. Waste Disposal
- 5 No disposal of any waste material, including solid and/or hazardous waste,
- 6 septage, dredge spoils, or refuse shall be undertaken on the site without
- 7 appropriate State approval under RSA 149:M, or other appropriate State
- 8 regulations.
- 9 9. Tree cutting
- 10 The applicable state statutes pertaining to forestry practice and timber harvesting
- 11 shall apply to the removal of vegetative cover at excavation sites.
- 12 10. Stopping of Removal/Excavation Operations
- 13 If removal/excavation operations stop for more than one year with no notice
- 14 thereof provided to the Regulator and said stoppage is not in accordance with the
- 15 approved excavation plan or due to bad weather, the excavation permit may be
- 16 revoked and the performance bond forfeited with its proceeds used for reclaiming
- 17 the land in accordance with the approved reclamation plan.
- 18

19 **SITE SPECIFIC PERMIT CONDITIONS:**

- 20 A. Approved routes for transportation of material
- 21
- 22 Lyndeborough Road to NH Route 13 North and South. Local deliveries use
- 23 Lyndeborough Road both ways.
- 24
- 25 B. Number and type of vehicles to be used to transport material
- 26
- 27 2-3 6 or 10 wheelers, 2-3 18 wheelers.
- 28
- 29 C. Equipment to be used for material removal
- 30
- 31 Loader, excavator, bulldozer.
- 32
- 33 D. Requirements for material processing
- 34
- 35 Screening and crushing to make suitable select material. Takes place on
- 36 floor of pit to make stockpiles, as needed.
- 37
- 38 E. Requirements for temporary stockpiling of offsite materials
- 39
- 40 None N/A
- 41
- 42 F. Required plantings for reclamation
- 43

**TOWN OF NEW BOSTON
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27

1 **STRONG, CAROLYN, NATHAN AND NICOLA, cont.**

2
3 Plans show typical details for loam and seeding.

4
5 G. Other requirements

6
7 None

8
9 The Earth Removal Permit is valid until such time as the Regulator
10 determines the Earth Removal Operation is no longer in compliance with
11 the New Boston Earth Removal Regulations; or, until such time as the
12 operation shall be deemed to be abandoned as defined in the Earth
13 Removal Regulations; or, until such time as the owner informs the
14 Regulator that they will no longer be running the Earth Removal
15 Operation; or, until such time as the operation is depleted; or, until the
16 completion date as determined by the Regulator in the regulatory process,
17 in accordance with RSA 155-E:8, in this case **September 27, 2016**,
18 whichever first occurs.

19
20 Don Duhaime seconded the motion and it **PASSED** unanimously.

21
22 **MISCELLANEOUS BUSINESS AND CORRESPONDENCE FOR THE MEETING OF**
23 **SEPTEMBER 27, 2011, Cont.**

24
25 8a. Memorandum received September 26, 2011, from Peter Flynn, Town Administrator, to
26 All Department Managers and Committee and Board Chairs, re: Draft Minutes, for the
27 Board's information.

28
29 Peter Hogan acknowledged receipt of the above-referenced matter; no discussion
30 occurred.

31
32 8b. Copy of September 6th Selectmen Meeting Minutes and September 19th, 2011,
33 Selectmen's Meeting Draft Minutes, for the Board's information.

34
35 The Coordinator informed the Board that the Town Administrator had started a new
36 procedure of producing the Selectmen meeting minutes to all departments and boards. Peter
37 Hogan suggested that the minutes be provided electronically to save paper.

38
39 9. Copy of articles titled; "Changes to the Comprehensive Shoreland Protection Act
40 Effective July 1, 2011", and "New Do-It Yourself Tools to Manage Stormwater",
41 published in the Fall 2011, Supply Lines with the Source, for the Board's information.

42
43 Peter Hogan acknowledged receipt of the above-referenced matter; no discussion

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
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September 27, 2011

28

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 occurred.

4
5 10. September 13, 2011, meeting minutes distributed by email for approval at the next
6 meeting.

7
8 Peter Hogan acknowledged receipt of the above-referenced matter; no discussion
9 occurred.

10
11 The Board took a 5 minute recess.

12
13 **MCGANN, MARGARET**

14 Submission of Application/Public Hearing/NRSPR/Gift –Antique Shop Home Business

15 Location: 1 Old Coach Road

16 Tax Map/Lot #19/3

17 Residential-Agricultural “R-A” District

18
19 Present in the audience were Kimberley Martin, Sean McGann and Margaret McGann.

20 Peter Hogan noted that a site walk had taken place on Saturday, September 24, 2011, and
21 it had been determined that the applicant was not in compliance. Mark Suennen stated that he
22 and the Chairman had been present for the site walk. He explained that several items had not
23 been completed and the applicant had requested that the Board approve the site plan on “good
24 faith” that the items would be completed.

25 Peter Hogan asked specifically which items had not been completed. Mark Suennen
26 indicated that a sign that was to be hung on the front of the building was missing. Peter Hogan
27 noted that a sign was hanging in the location illustrated on the plan. Mark Suennen stated that
28 the sign on the plan did not match the sign that was currently on the building. He continued that
29 the proposed lighting had not been installed as the order was from California and had been
30 backordered. He stated that a demonstration of the proposed parking maneuver did not occur
31 due to a trailer being parked in the parking space.

32 Peter Hogan pointed out that it was the responsibility of the Board to approve the location
33 of the sign and it was the Building Inspector/Code Enforcement Officer’s responsibility to
34 approve the contents of the sign. Mark Suennen stated that a sign was hanging in the proposed
35 location but was not lit. Peter Hogan stated that the sign had been lit earlier this evening when
36 he drove by the property. He also noted that he had pulled into a parking space, backed up,
37 staying on the gravel parking area, and exited the site forwards.

38 Peter Hogan asked for any further information obtained from the site walk. Mark
39 Suennen indicated that Chairman had pointed out that the plan needed to be updated to show the
40 retaining wall and that the pine tree had been removed. Sean McGann provided the Board with
41 updated plans.

42 Peter Hogan asked what lighting was illustrated on the plan. Sean McGann pointed out
43 the lighting on the plan. Peter Hogan commented that the lighting shown on the plan appeared to

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NEW BOSTON PLANNING BOARD
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29

1 **MCGANN, MARGARET, cont.**

2
3 match the lighting that had been installed. Sean McGann confirmed that the installed lighting
4 matched the plan.

5 Sean McGann produced a sign of the recommended exiting procedures for the parking
6 area that would be displayed inside the store. He stated that he had executed the parking
7 maneuver with success earlier in the evening. He pointed out the location of parking signs that
8 would be installed in the parking area. Dwight Lovejoy asked the applicant how customers
9 would exit the parking area if three cars were parked. Sean McGann answered that he was
10 unsure. Dwight Lovejoy stated that the cars would need to back out of the parking area onto Old
11 Coach Road. He stated that the recent presence of people working at the property had been a
12 nightmare for people traveling on the Old Coach to go to and from the dump. Sean McGann
13 stated that Old Coach Road was a busy road. Dwight Lovejoy commented that the parking area
14 was located at an intersection. Sean McGann clarified that parking was located 200' from the
15 intersection.

16 Peter Hogan asked for further comments or questions. Sean McGann asked if the Board
17 members had seen the installed lights and sign. Peter Hogan said that he had seen the lights and
18 sign and had also successfully tried the parking maneuver.

19 Mark Suennen asked if the applicant intended on switching the current sign with the one
20 shown on the plan. Sean McGann answered yes and noted that it had taken longer than expected
21 for the oil-enamel on the sign to dry.

22
23 Mark Suennen **MOVED** to confirm that Margaret McGann has complied with the
24 conditions subsequent to the approval of the site plan to operate a gift/antique shop home
25 business from 720 s.f. of the existing barn located at 1 Old Coach Road, Tax Map/Lot
26 #19/3, and to release the hold on the Permit to Operate/Certificate of Occupancy to be
27 issued by the Building Department. It is the applicant's responsibility to apply to the
28 Building Department for a Permit to Operate/Certificate of Occupancy. Don Duhaime
29 seconded the motion and it **PASSED** unanimously.

30
31 **MARTIN, KENNETH A. & KIMBERLEY G.**

32 Compliance Hearing/Public Hearing/NRSPR/Gift Shop Home Business

33 Location: 70 South Hill Road

34 Tax Map/Lot #10/76

35 Residential-Agricultural "R-A" District

36
37 Present in the audience was Kimberley Martin.

38 Peter Hogan read the public hearing notice. He stated that after reviewing the
39 Chairman's notes it appeared that everything had been completed.

40 Mark Suennen stated that they had not asked the applicant to turn the lights on and
41 inquired if they worked. Kimberley Martin answered that the lights were on; however, one of
42 the lights was a motion light and it was light outside during the compliance walk.

43 Peter Hogan asked for questions or comments from the Board; there were no further

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30

1 **MARTIN, KIMBERLEY AND KENNETH, cont.**

2
3 questions or comments.

4
5 Mark Suennen **MOVED** to confirm that Kimberley and Kenneth Martin have complied
6 with the conditions subsequent to the approval of the site plan to operate a gift shop home
7 business from 288 s.f. of the existing garage located at 70 South Hill Road, Tax Map/Lot
8 #10/76, and to release the hold on the Permit to Operate/Certificate of Occupancy to be
9 issued by the Building Department. It is the applicant's responsibility to apply to the
10 Building Department for a Permit to Operate/Certificate of Occupancy. Don Duhaime
11 seconded the motion and it **PASSED** unanimously.

12
13 **MISCELLANEOUS BUSINESS AND CORRESPONDENCE FOR THE MEETING OF**
14 **SEPTEMBER 27, 2011, Cont.**

- 15
16 7a. Email received September 26, 2011, from Shiv Shrestha, re: release of bond for Forest
17 View, II, for the Board's discussion. (Shiv Shrestha to be present)
- 18
19 7b. Email dated Monday, September 26, 2011, from Nic Strong, Planning Coordinator, to
20 Shiv Shrestha, re: Email to the Planning Board, re: Release of Bond.
- 21
22 7c. Copy of Subdivision Regulations, Section VIII, Performance Bond, for the Board's
23 information.

24
25 Present in the audience was Shiv Shrestha. Peter Hogan addressed the above items, 7a,
26 7b and 7c together, as they were related. Mark Suennen asked if it was the intent of the applicant
27 to have the road bond released, use the money to build the road and then bond the road with new
28 money. The Coordinator confirmed that Mark Suennen's interpretation of the bond matter was
29 accurate. She stated that a subdivision road could always be built without a bond but no building
30 permits would be issued. Mark Suennen noted that a road would not be accepted by the Town
31 unless it was bonded. The Coordinator pointed out that the road could also be accepted without a
32 bond if it was signed off by the Town's consulting engineer and it was completely finished.

33 Mark Suennen asked the applicant to explain what he was requesting. Shiv Shrestha
34 stated that he had approval to build a 1,000' cul-de-sac with a bond in place. He noted that he
35 was unsure of when Mr. Bussiere was going to complete the construction of Indian Falls and
36 Susan Roads. He stated that he could not obtain a CO without the road being completed. He
37 continued that he had considered getting the bond back and building the road at his convenience
38 and at that time he would provide a maintenance bond. He asked if the Board would entertain
39 the idea of releasing the bond. Mark Suennen asked for the amount of the bond. Shiv Shrestha
40 stated that the bond was in the amount of \$590,000.00.

41 Peter Hogan asked for confirmation that the applicant wanted the bond released until he
42 was ready to build the road and at that time the bond would be reposted. Shiv Shrestha answered
43 that he would begin construction of the road at his convenience without a bond in place as it was

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
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31

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 not required and prior to obtaining the building permit or CO he would post the maintenance
4 bond. The Coordinator pointed out that a performance bond and not a maintenance bond would
5 be required.

6 Mark Suennen clarified that if the Board released the bond or letter of credit for this
7 project, the applicant was proposing he would build the road when convenient knowing that he
8 could not get a building permit even for a foundation nor a CO until either Indian Falls and
9 Susan Roads were completed through binder, or all of Lorden Road was completed and accepted,
10 or a bond posted to cover the remaining items on the 1,000' road. Shiv Shrestha said that was his
11 understanding.

12 Shiv Shrestha asked if there would be any implications from changing the bond to the
13 road frontage lots on McCurdy Road. Mark Suennen believed that the two lots the applicant
14 referred to were independent as they did not have the same restrictions as the proposed lots on
15 the new road. Peter Hogan agreed with Mark Suennen's statement.

16 Peter Hogan asked if there was a downside to the applicant's request. The Coordinator
17 stated that the applicant should consider the four year vesting requirement because the longer it
18 took to start the project the more likely it would be the regulations could change. Shiv Shrestha
19 asked if the vesting applied with or without the bond in place. The Coordinator answered that
20 the vesting applied either way.

21 Mark Suennen stated that he was comfortable releasing the bond. The Coordinator
22 advised that because the bond was part of the conditions for approval it was required that a
23 public hearing be scheduled.

24 Shiv Shrestha asked if it was necessary to bring his attorney for the public hearing. Peter
25 Hogan stated that it was not necessary and commented that the applicant had done a fine job this
26 evening. Mark Suennen added that he would be comfortable with the applicant presenting the
27 information at a public hearing.

28 Shiv Shrestha asked if he needed to address the matter of the public hearing in writing.
29 The Coordinator answered yes and asked that the applicant send the Planning Office a letter
30 requesting a public hearing.

31
32 Mark Suennen **MOVED** to adjourn the meeting at 9:30 p.m. Don Duhaime seconded the
33 motion and it **PASSED** unanimously.

34
35 Respectfully Submitted,
36 Valerie Diaz, Recording Clerk

Minutes Approved:
10/25/2011