

**TOWN OF NEW BOSTON**

**NEW BOSTON PLANNING BOARD**

**Minutes of 2021 - Meeting conducted virtually, using ZOOM due to COVID-19 pandemic.**

4/27/2021

The virtual meeting was called to order at 6:30 p.m. by Planning Board Chairman Peter Hogan. Present virtually at the opening of the meeting were Planning Board Vice Chairman Mark Suennen, Ex-Officio David Litwinovich, regular Board members Ed Carroll and Amy Sanders and alternate member Cahli Carothers.

Also present virtually were Planning Coordinator Shannon Silver, Planning Board Assistant Nadine Scholes and Planning Consultant Mark Fougere.

Present in the audience for all or part of the virtual meeting were Kenneth Clinton, Peter Shellenburger, Nick Golon, Zane Merva, Josh Merva, John Merva, Chris and Anne Dodge, Andrea Couture and Tracey Flanders, and Will Lambert.

Peter Hogan read the meeting preamble as follows,

**'MEETING PREAMBLE DURING COVID-19 EMERGENCY**

Good evening, as the Chairman of the Town of New Boston Planning Board, I am invoking the provisions of RSA 91-A:2, III (b) during the current State of Emergency. Governor Sununu has issued Emergency Order #12, pursuant to Executive Order 2020-04, that allows local government and this public body to meet virtually. I am declaring that conducting this meeting is imperative and required in order to continue vital Town government, services and operations.

We have utilized the Zoom platform to conduct the meeting and all Board members will have the ability to communicate concurrently and the public has access to concurrently listen and if necessary, will be given the opportunity to participate in the meeting when opened for public comment.

If anyone has an issue connecting, they should contact Nadine Scholes [REDACTED]

Property owners, applicant and direct abutters were given proper notice of this hearing, along with the instructions of how to access the meeting. Public Notice and Zoom access instructions were also posted for public view on Town website.

To help minimize background noise and provide privacy to everyone, we have started this meeting with all microphones muted and video cameras off. You do not need to turn on your camera to participate in the meeting and we ask that everyone keep their microphones muted unless you would like to speak. Any public comment will need to wait until the meeting is opened to the public and will need full name and address stated for the record.

If anyone accessing this meeting is disruptive, they will be asked to cease the disruptive behavior. Should the disruption continue thereafter, that person will be automatically removed from the meeting.

Please be aware all votes taken during this meeting will be done by Roll Call vote. Let's start the meeting by taking a Roll Call attendance. When each member states their name, please also state if there is anyone else in the room with you during this meeting, under the provisions of the Right-to-know law.'

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Roll Call attendance, Peter Hogan present and alone, Mark Suennen present and alone, Amy Sanders present and alone, Ed Carroll present and alone, David Litwinovich present and alone, Mark Fougere, Planning Consultant, present and alone, Shannon Silver, Planning Coordinator, present and alone and Nadine Scholes, Planning Assistant, present and alone.

**SHELLENBERGER, PETER & SUSAN, TRUSTEES (OWNER/APPLICANT)**

**MERIDIAN LAND SERVICES, INC. (AGENT)**

**Adjourned from March 23, 2021**

Public Hearing/Major/NRSPR/Warehouse Expansion

Location: 11 Byam Road

Tax Map/Lot #6/40-1-1

Small Scale Planned Commercial "COM" District

Ken Clinton, Meridian Land Services, Inc., presented the ECOSMITH warehouse site expansion, located on Tax Map/Lot #6/40-1-1, owned by Peter and Susan Shellenberger. He noted that at the site walk, he explained to the Board that he intended to make plan revisions based on the items discussed, as follows:

- 1 - Sediment forebay added to the southwest catch basin.
- 2 - Length increased of the down ramp in front of the new loading dock and adjusted the pavement angle point.
- 3 - Reduced some extra width at the easterly end of truck turnout, removing some unnecessary paving of impervious surface.
- 4 - Shifted the septic tank and leach field about 15' south.
- 5 - An abutter had submitted a letter with concerns regarding visual impact, and it had been suggested adding two (2) more white pine trees to the five (5) mature white pines that exist now for added buffer.

Ken Clinton noted the revisions were made to the plan and the plans were sent to Northpoint for peer review. Northpoint review letter dated April 16, 2021, was reviewed by the Meridian design team and he could explain the comments they had if the Board would like him too. Peter Hogan replied yes, please do.

Ken Clinton noted under General Comments #1., Northpoint mentioned the importance of checking and cleaning out the check dams. Ken Clinton explained that the owner, Peter Shellenberger knew the importance of cleaning out sediment, as he has been cleaning the existing stormwater structure on the property since 2012.

Ken Clinton noted under Plan Comments, Item #2a., he thought that maybe Northpoint does not understand there would not be any grading in the area specified for the dry well, the five (5) mature white pine trees would need to be removed, he felt it would be best to keep these existing trees in place as the runoff would be insignificant. Ken Clinton opined that Meridian's calculations are appropriate for the site. Ken Clinton continued that item #2a, 2b, 2c and 2d had to do more with the drywell details and some changes are agreeable and the plan would be

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**SHELLENBERGER, PETER & SUSAN, cont.**

modified as suggested. Ken Clinton mentioned that Item #3, regarding the break in the check dam, Northpoint felt the check dam should be connected to assure that no sediment would come through the gap and that revision would also be made.

Ken Clinton noted that Item #4, specific to the height of the check dam / free board of the berm. Meridian had double checked and found that although lower than typically designed, it meets/exceeds design requirements, adjustments would be unnecessary.

Ken Clinton moved on to Item #5, Stormwater Report, and he noted that the 2012 Stormwater Report had been used to compare and the calculations at the tenths place are consistent with the National Engineering Handbook. The calculations show there would be no increase of runoff and no further review by Meridian would be needed.

Ken Clinton noted that Item #6, stated the plan was missing the identified location for Pond 2P, TP6, but had been identified on the plan in the location of the new leach field. Test pit data would not need to be submitted because that was part of the septic design.

Ken Clinton noted that Meridian disagreed with Item #7, the storage capacity is not exaggerated and was modeled correctly.

Ken Clinton noted that Item #8, covered what is appropriate for perk rates as inches per hour of infiltration and he stated that Northpoint may not be aware that in 2012, a test pit was not done in the southwest basin by default, the SCS Soil type was used, which resulted in an overly large basin and a value of 50% of perk rate would be entirely reasonable for this design. Ken Clinton also shared that Meridian thought the reduced basin would still be larger than what would be necessary, but that was what the built-in factors of safety would yield, so that is what is being shown.

Ken Clinton noted that specifically to Item #9, Meridian does not believe there is a need for recalculations on any of the southwest values, the drainage report and the stormwater basin itself, certainly does not need revisions. Where the suggested changes make sense, they would modify the design.

Peter Hogan noted that it was not so common to have such a difference of opinion between the Town Consulting Engineer and the design Engineer. He asked if any Board members had comments in regards to the Town Engineer review and the feedback presented by Meridian.

Amy Sanders said that Meridian should at least respond back to Northpoint, and she agreed with going to a tenth is more reasonable, under Item #5, but disagreed with using such a high value.

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**SHELLENBERGER, PETER & SUSAN, cont.**

Peter Shellenberger said he does not believe the proposed expansion would have impacts and opined the Town was looking to over engineer the expansion and cost him more money for this double engineer review. Ken Clinton responded to Amy Sanders that his engineer has confirmed the calculations and he stands by the design and calculations.

Peter Hogan explained that if there are discrepancies or questions between the Town Engineer and Meridian, they should be able to handle those items administratively.

Peter Shellenberger disagreed with the Town Engineer reviewing designs done by Professional Engineers that are hired by the applicant.

The Planning Coordinator, Shannon Silver explained that in previous similar situations, where there were disagreements between the Town Consulting Engineer and the design engineer, the Planning Board would advise them to directly contact Northpoint to work out the issues together. Amy Sanders confirmed that would still require Meridian to respond to Northpoint. Shannon Silver said yes, but the Board could approve the application with a condition to finalize review of plan with the Town Consulting Engineer.

Peter Shellenberger noted that it seemed like the Planning Board doubted the Engineer he hired to design the site appropriately and cost more to review by a second engineer.

Peter Hogan clarified that the Town Consulting Engineer review was part of a normal process for site development and the engineers should be able to weed out the issues.

Mark Suennen asked if the abutter that had concerns was in attendance on the Zoom meeting. The Planning Assistant, Nadine Scholes said they had not joined the meeting. Peter Shellenberger noted that they decided to sell their house.

Mark Suennen noted that the conversation at the site walk included discussions of adding two (2) trees to maximize the buffer and felt that would be adequate for additional screening to the abutter.

Mark Suennen reviewed the precedent and subsequent conditions. He asked Kenneth Clinton and Peter Shellenberger how long would be needed to complete the items. They requested 30 days for conditions precedent, May 27, 2021, and November 30, 2022, for subsequent conditions.

There were no other items outstanding.

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**SHELLENBERGER, PETER & SUSAN, cont.**

Mark Suennen **MOVED** to approve the Non-Residential Site Plan Application by Peter M. and Susan L. Shellenberger, to construct a warehouse addition on property located on Byam Road and NH Route 13 a/k/a River Road, Tax Map/Lot #6/40-1-1, subject to:

**CONDITIONS PRECEDENT:**

1. Submission of a minimum of four (4) revised site plans that include all of the checklist corrections and any corrections as noted at this hearing;
2. Execution of a Site Review Agreement;
3. Submission of any outstanding fees;
4. Submission of response to Northpoint Engineering, Inc., re: 1st Technical Review, dated April 16, 2021, to satisfy outstanding review comments, and the submission of a Final Review letter from Northpoint Engineering, Inc., once the final plans are submitted.

The deadline for complying with the condition's precedent shall be **MAY 27, 2021**, the confirmation of which shall be an administrative act, not requiring further action by the Board. Should compliance not be confirmed by the deadline date, and a written request for extension is not submitted prior to that date, the applicant is hereby put on notice that the Planning Board may convene a hearing pursuant to RSA 676:4-a to revoke the approval.

**CONDITIONS SUBSEQUENT:**

1. All site improvements are to be completed as per the approved site plans;
2. The Town of New Boston Planning Department shall be notified by the applicant that all improvements have been completed, and are ready for final inspection, prior to scheduling a compliance hearing on those improvements, a minimum of three (3) weeks prior to the anticipated date of compliance hearing;
3. Submission of as-built plans and a statement from an engineer, preferably the design engineer, certifying that the improvements were constructed in accordance with the approved plans;
4. Any outstanding fees related to the site plan application compliance shall be submitted;
5. A compliance hearing shall be held to determine that the site improvements have been satisfactorily completed, prior to releasing the hold on the issuance of any Permit to Operate/Certificate of Occupancy, or both. No occupancy/use of the warehouse shall be permitted until the site improvements as noted have been completed, and a site inspection and compliance hearing held.

The deadline for complying with the Conditions Subsequent shall be **NOVEMBER 30, 2022**, the confirmation of which shall be determined at a compliance hearing as noted in item #5 above.

Ed Carroll seconded the motion. All were in favor and the motion **PASSED**. 5-0, Roll Call Vote: Peter Hogan-yes, David Litwinovich-yes, Ed Carroll-yes, Amy Sanders-yes, Mark Suennen-yes.

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**Continued Discussion, re: Updates to Non-Residential Site Plan Review Regulations.**

Mark Fougere noted that the Planning Board was asked to review the Non-Residential Site Plan Review Regulations (NRSPR) and discuss any issues they found. The Planning Coordinator, Shannon Silver noted that unlike the Subdivision Regulations that were revised in 2020, the NRSPR Regulations are much more user friendly. The Board had mentioned what could be added for enforcement, which she provided the Board with the State Statue and reminded them that the Board has a Non-Public with the Building and Code Enforcement Official and Town Counsel, scheduled on May 11, 2021, to discuss what options are available to handle site violations. She noted that if anyone on the Board had any general items to include in the NRSPR Regulations that they felt should be reviewed to let her know.

Mark Suennen asked to have the section specific to Personal Wireless Facilities reviewed to be sure those include 5G modifications. The Planning Coordinator, Shannon Silver replied that she would have that section reviewed for any necessary updates.

Amy Sanders asked about including a reference to the Stormwater Regulations in the NRSPR Regulations.

The Board would continue the discussion and the items discussed would be reviewed.

**Continued Discussion, re: Amendments to New Boston Road Construction Inspection Procedures.**

The Planning Coordinator, Shannon Silver noted that the Board was provided the revised document and asked the Board to review. The amended document would need to be adopted and that could be scheduled for the May 25, 2021, Planning Board meeting. The Board agreed with the changes made and to schedule the amended document be adopted at the May 25, 2021, Planning Board meeting.

**MOK, GLORIA SUK YEE (OWNER)**  
**MERVA PROPERTIES, LLC (APPLICANT)**  
**TFMORAN, INC. (AGENT)**

**Adjourned from March 23, 2021**

Submission of Application/Public Hearing/Major/NRSPR/General Office Building

Location: Chestnut Hill Road

Tax Map/Lot #15/32-1

Small Scale Planned Commercial "COM" District

Nick Golon, TFMoran, Inc., presented the application for Merva Properties, LLC, and noted that the Board had conducted the site walk and items that were reviewed were as follows:

- Commercial Driveway Regulations - site distance;
- natural buffer between the site and residential abutters;
- consideration of an area dedicated on the site plan for additional parking, if needed in the future.

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**MERVA PROPERTIES, LLC, cont.**

Nick Golon noted that the parking calculations for 'retail' use required one (1) parking space for every 250 sq. ft. to be sure that the site could accommodate additional future parking and fifteen (15) parking spaces were added and shown on plan as 'future parking' if that were to be necessary in the future.

Nick Golon noted that Northpoint Engineering reviewed the plans submitted and there were some items that had to be verified and updated. He believed that Northpoint is satisfied with the changes made and finalized the plan review. An item Northpoint had pointed out within the plan note is it should be consistent and remove sumps from the drainage structures because of the site location and potential threat to endangered species.

Peter Hogan asked how the driveway issue was addressed. Nick Golon noted that the Planning Coordinator, Shannon Silver had found the driveway regulations in regards to common driveways would pertain only to residential properties. Peter Hogan asked if the applicants would own both properties that would share the common access. Nick Golon stated that there is a P&S Agreement for all three (3) vacant properties, Tax Map/Lot #15/32-1, 32-2, and 32-3, which the common access would serve all three (3) of these lots and that was part of the original subdivision done back in 1978. Peter Hogan asked if one of the lots were sold, would the same access be used. Nick Golon said yes, the common access for all three (3) lots, was approved by NH DOT as part of the original subdivision, Chestnut Hill is a State Road.

Peter Hogan explained that he had questioned why the bay doors would be needed for every unit in the back of the building if the applicants were not proposing auto services and he had done some research and found that most office/commercial buildings do have bays in the back. Peter Hogan noted he would take back his concerns on this matter. Mark Fougere agreed, there are many office buildings in Milford with bay doors in the back of the building, it is very common.

Amy Sanders asked if the abutters concerns were addressed and were the plans revised. Nick Golon conveyed that the Merva's were in contact with the abutters to work out a solution and once they come to a mutual agreement the plans would be revised. Zane Merva explained that they had changed the color of the bay doors in the back to match the color of the siding to blend in with the environment.

Cahli Carothers asked if both Zane and Josh Merva were in attendance. Both were in attendance. She questioned if the Zoning Board approval was updated with permitted uses. Zane Merva explained that they had withdrew the Special Exception application with the Zoning Board based on the uses requested not requiring a Special Exception for their business.

Cahli Carothers opined that the Merva's website appeared that they get amusement out of not following the law, she explained that this had nothing to do with the Site Plan but rather concern of the way they would operate the business. The Planning Coordinator, Shannon Silver

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**MERVA PROPERTIES, LLC, cont.**

asked Cahli Carothers to be more specific as to what operations she believes would not follow the letter of the law. Cahli Carothers noted that on the Merva's website they docked themselves as being 'faster than a speeding ticket', and she felt that should be concerning when bringing a new business to New Boston. Shannon Silver explained the applicant's timeline with the Zoning Board, Building Inspector and the Planning Board applications. During the discussions with the Zoning Board and Building Inspector, they found that their business use would fall under 'newspaper' and that use does not require a Special Exception and as such they withdrew the application with the Zoning Board for the Special Exception. If they have a potential tenant come forward with a use that requires a Special Exception, they will have to go through the Zoning Board Special Exception process before coming to the Planning Board for the Site Plan updates. Shannon Silver noted that it would not be the Planning Board's purview to investigate something posted on their public website.

Zane Merva clarified that neither he or Josh have had a speeding ticket or any traffic violation within the last 20 years. Any automaker that lends them vehicles, has checked their driving records and license for driving violations, some of the vehicles they are lent cost over \$100k. Zane Merva said he does not know what exactly Cahli Carothers was referring to but if there was something posted on the website in regard to speeding, it most likely was intended to be joke or sarcastic. They do not operate illegally nor treat the vehicles lent poorly, that would hurt their business and relationships with the automakers. Peter Hogan noted that the Merva's would also have difficulty getting insurance coverage if they had a poor driving history. Peter Hogan believed that Cahli Carothers was only making the applicants aware that this may look poorly on the business. Cahli Carothers said that she thought the Planning Board should be aware of the additional evidence that would concern the way the business operates and create some enforcement issues. Zane Merva said he was unsure of exactly what Cahli Carothers was referring too but stated they do not and would not operate the business in any illegal manor.

Cahli Carothers said that she does not want to upset Shannon again, she can tell her to stop at any point, and stated that with the applicants purchasing the other 2 lots, she thought they may use that land for off roading and potentially the Town could have difficulty dealing with code enforcement violations. She noticed they have a Polaris in their forever fleet and have videos posted online of them off roading. Zane Merva stated that they are working closely with the neighbors to be in a harmonious relationship with them, he said he was offended by the stated allegations.

Peter Hogan asked the applicants what is planned for the other 2 lots. Zane Merva noted that they were currently only before the Board to propose development on Tax Map/Lot #15/32-1, at this time.

Nick Golon noted that his clients were in front of the Board for an application to propose the 2 office buildings on Tax Map/Lot #15/32-1 and the Merva's should understand they would need to uphold all the regulations put in place by the Town. If there were to be an enforcement



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**MERVA PROPERTIES, LLC, cont.**

issue in the future the Code Enforcement Officer would need to handle the situation. He stated they are here with an application for development of Tax Map/Lot #15/32-1, and would need to follow the rules for operating.

Mark Fougere said that the applicants would need to submit applications for use of the other lots that may be purchased. If a tenant proposed a use not permitted in the COM district that would require Zoning Board granting a Special Exception for that use first and then another application for the site operations with the Planning Board.

Peter Hogan added that any proposed use on the property that is verified to not be consistent with the use(s) presented with this application would require additional approvals, most likely first from the Zoning Board to permit that use and then another application with the Planning Board to revise the site plan.

Peter Hogan opened for public comment.

Chris (and Anne) Dodge, 366 Chestnut Hill Road, noted that they had not attended the site walk but understood that the fence had been discussed with Andrea Couture and Tracey Flanders, and decided that the fence would not be necessary. Chris Dodge asked the Merva's to reconsider adding a fence between the properties for screening.

The Board discussed the location of the fence and where it would be feasible for the abutters and the applicants because there is minimal space behind the building that is required for trucks and turn radius, if the fence is pushed back, it would be within the easement.

Anne Dodge pleaded that the applicants consider the impacts on their livelihood and how drastically this development would be for the residential abutters. She explained that they can see in plain view from their living room the blue/orange flags that were placed on the site.

Nick Golon showed the birds eye view from Google and pointed out the natural buffer that would remain between the properties. They had offered additional plantings on the other side of the easement along the residential property. The Merva's are willing to work with the neighbors and would get in touch with the Dodge's to discuss the solution.

Peter Hogan explained that it would be the Merva's responsibility to provide appropriate screening between the property and the residential abutters. Nick Golon understood and explained that the building was tastefully designed to fit well in the area.

Mark Fougere pointed out a flat plateau within the easement that the applicant could inquire with PSNH-Eversource, to see if a fence would be allowed within the easement along the backside of the site. Nick Golon said that could be a very reasonable solution. He noted that Eversource had already reviewed and approved the site plan, but he would reopen the review to

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**MERVA PROPERTIES, LLC, cont.**

ask if Eversource could allow a fence within the easement. If the fence is allowed, that would only need an encroachment agreement between the Merva's and Eversource.

Tracey Flanders, 364 Chestnut Hill Road, stated that he and Andrea Couture would like to thank the Merva's for opening communications and working together to accommodate the best options for screening.

Chris and Anne Dodge also appreciated the Planning Board's efforts in being mindful of the residential abutters' situation. They would be happy to speak with the Merva's and come up with the best solution for all parties involved.

Peter Hogan closed for public comment.

Nick Golon asked the Board if there were any other items besides the screening that Board had concerns with that should be addressed.

Amy Sanders asked if the exterior lighting would remain lit overnight. Nick Golon noted that the security lighting would be downcast, and the lighting plan submitted shows 0.0-footcandles at the easement boundary. Zane Merva said he would be willing to dim/reduce the exterior lighting at night, but he was unsure if the lights chosen have that option. Mark Suennen encouraged that the applicants look into dark skies compliant lighting fixtures. Nick Golon clarified that was the only lighting TFMoran specifies for commercial development and is identified on the plan. Peter Hogan asked if the lighting could be assessed after installation to be sure the lighting meets the plan. He does not expect the site to ever be in complete darkness, but the lights should not be shining into the homes of the residential abutters.

Nick Golon reviewed the items that he still had to address as follows:

- additional screening to abutters.

- would submit more detail for the building design.

Mark Suennen noted that the Traffic Impact Study that was submitted would be acceptable for this application but with a notation that a revised Traffic Study may be required as other businesses/tenants populate the other units.

Mark Suennen noted that a waiver was submitted for the Fiscal Impact Study and asked if Nick Golon would like to speak on the waiver request. Nick Golon said that the waiver requested was based on the proposed development not having impacts on the school, police and/or other municipal services.

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**MERVA PROPERTIES, LLC, cont.**

Mark Suennen **MOVED** to grant the waiver for Fiscal Study beyond the letter submitted. Amy Sanders seconded the motion. All were in favor and the motion **PASSED**. 5-0, Roll Call Vote: Peter Hogan-yes, David Litwinovich-yes, Ed Carroll-yes, Amy Sanders-yes, Mark Suennen-yes.

Mark Suennen **MOVED** to accept the application as complete. Ed Carroll seconded the motion. All were in favor and the motion **PASSED**. 5-0, Roll Call Vote: Peter Hogan-yes, David Litwinovich-yes, Ed Carroll-yes, Amy Sanders-yes, Mark Suennen-yes.

Mark Suennen confirmed that the requested changes identified in Northpoint's review letter would be made to the plan regarding the catch basins shall be without sumps and questioned how that would be addressed to the contractor. Nick Golon said yes, the revision was made and the construction plans, along with the permit approval from Fish & Game would include notation that no sumps are to be included in the catch basins.

Amy Sanders asked if the catch basin detail plan had been updated. Nick Golon replied that the detail was updated but still needs to delete the note on C-10 indicating that the owners are responsible for cleaning out sumps.

The Planning Coordinator, Shannon Silver noted that the Board may want to discuss bonding with the applicant and that would only be required at the Board's discretion. Mark Suennen read the section from the regulations regarding bonding and stated that with the significant landscape and site development, he believed it to be appropriate for the Board to require a performance bond be submitted for site development. Mark Suennen asked Nick Golon to prepare an estimate for site development/landscaping and the Board would review.

Mark Suennen asked if it was confirmed that there would not be a road sign to highlight the business entrance. Nick Golon would need to discuss this item with the design team. He asked if a sign permit could be applied for at a later date if desired. Mark Suennen replied that the Board would only be interested in the location of the sign and that be identified on the plan. The sign details/verbiage could be decided on before applying for the sign permit.

Mark Suennen **MOVED** to adjourn the hearing to May 25, 2021, at +/- 7:15 p.m. A Sanders seconded the motion. Motion **PASSED**. 5-0, Roll Call Vote: Peter Hogan-yes, Mark Suennen-yes, Ed Carroll-yes, David Litwinovich-yes, Amy Sanders-yes.

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**Miscellaneous Business and correspondence for the meeting of April 27, 2021, including, but not limited to:**

1. Approval of the February 9, 2021, meeting minutes, with or without changes. (distributed by email)

Mark Suennen **MOVED** to approve the February 9, 2021, meeting minutes, as written. Ed Carroll seconded the motion. Motion **PASSED**. 5-0, Roll Call Vote: Peter Hogan-yes, Mark Suennen-yes, Ed Carroll-yes, David Litwinovich-yes, Amy Sanders-yes.

2. Distribution of the March 23, 2021, meeting minutes, for approval at the May 25, 2021, meeting, with or without changes. (to be distributed by email)
3. Endorsement of Revised Driveway Permit(s), for S&R Holding Co., LLC, c/o Shiv Shrestha, Tax Map/Lot #(s) 12/19-45 & 12/19-46, Lorden Road, by the Planning Board Chairman.
4. Discussion with Will Lambert, re: Tax Map/Lot #3/150, 636 North Mast Road, Proline Powersports, Updated Site Plan & Abutting Property Owner Complaints.

The Planning Assistant, Nadine Scholes noted that a video clip was provided for the Board to view and the Planning Coordinator, Shannon Silver went over some history regarding Proline, the Special Exception granted for sales and the abutters complaints. She noted that Will Lambert planned to come before the Board with a revised site plan to combine all three (3) units into one (1) and add a display area for sales then COVID delayed the discussion with the Planning Board, however, since that time, the Code Enforcement Officer has received abutter complaints from Police Chief, Jim Brace, in regards to the business operations. Chief Brace provided the Code Enforcement Officer, Dan Kramer, with the items he received that the abutter submitted, including a video clip. Ed Carroll asked if anyone else on the Board had issues downloading/opening the video that was provided. Nadine Scholes explained that she assumed the link had expired but she was able to download and save the video before the link expired and tried to email the video download, but the file was too large. Nadine Scholes pulled up the video and shared with the Board. Ed Carroll asked if the video included a time stamp. Nadine Scholes replied yes, March 23, 2021, at 9:06 p.m.

The Planning Coordinator, Shannon Silver noted that when she spoke to Will Lambert, he had said that he cannot control if a customer picks up or drops off after hours, but he attested that there is no possible way this happened consistently. She noted that Will Lambert is concerned about the complaints being harmful to his business. The Code Enforcement Officer has sent Will Lambert a letter stating that if the activity continues, he will be forced to issue a cease-and-desist order. Peter Hogan opined that the video did not provide enough evidence of a violations that would constitute a cease and desist be issued to Proline.

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**Miscellaneous Business and correspondence, cont.**

Mark Suennen noted that the Special Exception approval in November 2019, was granted with conditions and he specifically read item '5. *The applicant shall demonstrate that no headlights from any vehicle can reach the abutting residential home and if this would occur, the applicant will need to install an additional suitable buffer.*' as one of the conditions noted on the Zoning Board, Notice of Decision, would suggest this activity would be a violation based on the strict language of the conditions for the Special Exception.

The Planning Coordinator, Shannon Silver explained that the abutter has called the Police and the Chief has visited the property to discuss the situation with Will Lambert, but the Police Chief is not the Code Enforcement Officer and there is no noise ordinance in the Town or anything that legally he violated.

The Board discussed the situation and updating the site plan with Will Lambert. Will Lambert went over the items he had made changes to since he took over ownership of the building, including exterior lighting, the three (3) units were combined into one (1) unit occupied by Proline Powersports and adding a display area for sales.

The Board suggested that Will Lambert come before the Board for an Informational Session/Prelim application to go over the site and plan details.

5. Letter copy, dated April 16, 2021, from Kevin Leonard, PE, Northpoint Engineering, Inc., to Shannon Silver, re: 2018 Forest View II, 2<sup>nd</sup> Construction Phase (Phase II & III), Field Change Photos as requested by the New Boston Planning Board, for the Board's review.

The Planning Coordinator, Shannon Silver noted that Mark Suennen had requested photos be submitted to show the field changes.

Mark Suennen noted he was satisfied with the photos showing the aesthetics.

6. NH Municipal Association Notice, re: Registration Open: 2021 Code Enforcement Virtual Workshop, on Thursday, May 20, 2021 - 9:00am to 12:00pm, for the Board's information.

David Litwinovich noted he had already registered for the workshop. The Planning Coordinator, Shannon Silver noted that she also registered and will remind the Code Enforcement Officer, Dan Kramer about this workshop.

7. Letter copy dated April 20, 2021, from Planning Coordinator, Shannon Silver, to Danny Leclair, re: Expansion of Existing Business, Tax Map/Lot #3/68, 614 North Mast Road, for the Board's information.

**TOWN OF NEW BOSTON**

**NEW BOSTON PLANNING BOARD**

**Minutes of 2021 - Meeting conducted virtually, using ZOOM due to COVID-19 pandemic.**

4/27/2021

**Miscellaneous Business and correspondence, cont.**

The Planning Coordinator, Shannon Silver noted that a building permit was issued for a garage expansion, and she sent a notice letter to inform Danny Leclair that a revision to the site plan would be necessary if the garage addition would be included in the business use.

8. Invoice received April 13, 2021, and Construction Reports\*, for services rendered from March 1, 2021 to March 28, 2021, from Northpoint Engineering, LLC, for Forest View II, Phase II & III, Ongoing Construction Monitoring, for the Board's information. (\*see separate attachment 'Construction Reports, March.2021' for details)
9. Invoice received April 1, 2021, for services rendered from March 1, 2021, to March 31, 2021, from ConTest Consultants, Inc., for Forest View II, Phase II & III, Field Tests and Analysis, for the Board's information.
10. Endorsement of a Notice of Merger for the Jason E. Devine and Melissa A. Devine Living Trust, Tax Map/Lot #'s 9/16 & 9/18-2, by the Planning Board Chairman and Secretary.

The next Planning Board meeting is scheduled for May 11, 2021, via ZOOM, and will be Non-Public to discuss Code Enforcement with Legal Counsel and the Code Enforcement Officer, Dan Kramer.

There were no other items to be discussed.

Mark Suennen **MOVED** to adjourn the meeting at 9:45 p.m.

Ed Carroll seconded the motion and it **PASSED** unanimously.

Respectfully submitted,  
Nadine Scholes, Planning Board Assistant

Minutes Approved: 06/22/21