

**TOWN OF NEW BOSTON  
NEW BOSTON PLANNING BOARD**

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

5/25/21

The virtual meeting was called to order at 6:30 p.m. by Planning Board Vice Chairman Mark Suennen. Present virtually at the opening of the meeting were Planning Board Chairman Peter Hogan, 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 Theresa and Mark Elliott, Nick Golon, Zane Merva, Josh Merva, John Merva, Chris and Anne Dodge, Andrea Couture and Tracey Flanders.

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,

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1 please also state if there is anyone else in the room with you during this meeting, under the  
2 provisions of the Right-to-know law.'

3  
4 Roll Call attendance, Peter Hogan present and alone, Mark Suennen present and alone,  
5 Amy Sanders present and alone, Ed Carroll present and alone, David Litwinovich present and  
6 alone, Mark Fougere, Planning Consultant, present and alone, Shannon Silver, Planning Coordi-  
7 nator, present and alone and Nadine Scholes, Planning Assistant, present and alone.  
8

9 **Adoption of Amendments to New Boston Road Construction Inspection Procedures**

10  
11 The Planning Board Assistant, Nadine Scholes noted that she added some additional  
12 language that is included in the Subdivision Regulations that is specific to paving. Mark Foug-  
13 ere noted that he would predict that many waivers will be requested to go beyond the one (1)  
14 year allotted time for the application of the topcoat after the binder.  
15

16 Ed Carroll **MOVED** to approve and adopt the amended Road  
17 Construction Inspection Procedures as presented. Amy Sanders  
18 seconded the motion. The motion **PASSED**. 4-0, Roll Call Vote:  
19 (Chairman, Peter Hogan, not present for this vote) Ed Carroll-  
20 yes, David Litwinovich-yes, Amy Sanders-yes, Mark Suennen-  
21 yes.  
22

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

24  
25 Mark Fougere noted that the Board had mentioned that Stormwater Regulations may  
26 need to be included in the Non-Residential Site Plan 'NRSPR' Regulations. He pointed out in  
27 the NRSPR, that on page 4, Section E-1, stated '*A stormwater management plan as specified in*  
28 *section V-U of the subdivision regulations including plans for retention and slow release of*  
29 *storm water where necessary.*' Mark Fougere explained that any section of the subdivision  
30 regulations referenced in the NRSPR will need to be updated to reflect the new section num-  
31 bers of the recently revised subdivision regulations.  
32

33 Mark Fougere explained that the changes to the sections referenced in the NRSPR are  
34 only bookkeeping revisions and may not need a public hearing in order to approve the revi-  
35 sions to the regulations. Mark Suennen said the Board could offer consensus that the  
36 bookkeeping editorial changes could be approved without requiring a public hearing, subject  
37 to verification. The Board agreed. Amy Sanders asked if the Board would be able to review  
38 the regulations once updated. Mark Fougere replied yes, definitely.  
39

40 Mark Suennen noted that the Board was through the first scheduled agenda items  
41 early and should review Miscellaneous Business and wait until +/- 7:05p.m. to open the sched-  
42 uled application hearing for the Merva's.

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**Miscellaneous Business and correspondence for the meeting of May 25, 2021, including, but not limited to:**

1. Approval of the March 23, 2021, meeting minutes, with or without changes. (distributed by email)

Amy Sanders **MOVED** to approve the March 23, 2021, meeting minutes, as amended. Ed Carroll seconded the motion. Motion **PASSED**. 4-0, Roll Call Vote: (Chairman, Peter Hogan, not present for this vote) Ed Carroll-yes, David Litwinovich-yes, Amy Sanders-yes, Mark Suennen-yes.

2. Distribution of the April 27, 2021, meeting minutes, for approval at the June 22, 2021, meeting, with or without changes. (to be distributed by email)

3. Email received May 17, 2021, from Shiv Shrestha, re: request to extend condition subsequent deadlines for Forest View, Phase I, from 05/31/2021, to 05/31/2022, for the Board's action.

Mark Suennen asked how many items remain to be completed on Phase I. The Planning Coordinator, Shannon Silver said they have some items remaining and she would need to clarify the open items for Phase I to be completed.

Mark Suennen suggested that this extension should be the last extension allowed for Phase I. The Board agreed this will be the last extension granted.

Amy Sanders **MOVED** to grant the extension for Phase I, from May 31, 2021, to May 31, 2022, and this would be the last extension allowed for this Phase. Ed Carroll seconded the motion. All were in favor and the motion **PASSED**. 4-0, Roll Call Vote: (Chairman, Peter Hogan, not present for this vote) Ed Carroll-yes, David Litwinovich-yes, Amy Sanders-yes, Mark Suennen-yes.

4. Email received May 17, 2021, from Theresa Elliott, re: Little People's Depot, 20 River Road, Tax Map/Lot #18/20, proposed amendment to hours of operation, for the Board's review and action.

The Planning Assistant, Nadine Scholes stated that Theresa Elliott was planning on joining the meeting for this discussion, the Board postponed discussion.

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**Miscellaneous Business and correspondence, cont.**

5. Amended Site Plan, received May 3, 2021, Danny's Garage, re: Expansion of Existing Business, Tax Map/Lot #3/68, 614 North Mast Road, for the Board's review and action.

Peter Hogan asked if he remembered correctly that this property was zoned 'R-A' and was rezoned to 'COM'. The Planning Coordinator, Shannon Silver replied that she can confirm the property is currently zoned commercial but unsure of the properties zoning history.

Peter Hogan asked if a site plan had been submitted for the garage. The Planning Coordinator, Shannon Silver said yes, the site plan on file is dated 1988, but had changed over the years. Peter Hogan asked what the amendment dated 2017, had changed. Shannon Silver explained that Danny Leclair had submitted the 2017, site plan when he took over the garage space. She explained that Danny Leclair had applied for a building permit, which was issued by the Building Inspector and is in the process of constructing an addition to the garage. Shannon Silver noted that she told Danny Leclair that a revision would be required to the site plan to show the addition if that space would be utilized by the business.

Peter Hogan said that the hours of operation seem a bit restrictive, especially if a customer were to drop off or pick up a vehicle after hours. He recommended adding an hour to the 8:00 a.m. opening time and adding an hour after closing at 5:00 p.m. for pick up and drop offs. He noted that he had no issues with the building expansion but highly recommended the hours be extended for an hour before and an hour after closing for his protection.

Mark Suennen **MOVED** to approve the site plan amendment with garage expansion. Ed Carroll seconded the motion.

Discussion: Amy Sanders asked if the Board was approving the generic sketch submitted to show the garage expansion, which does not show lot lines, setbacks, edge of pavement, etc., she noted that she preferred to see the full site layout before deciding on an approval for the garage addition.

Mark Suennen noted that the motion would only cover the 26'x40' garage addition that was being shown on the 2017 plan. The Planning Coordinator, Shannon Silver noted that the 2017 site plan sketch had been section copied from the 1988 site plan to show the existing buildings. Mark Suennen clarified that the 1988 plan had the information and details required for site plans. The Planning Coordinator, Shannon Silver replied yes. Mark Suennen said the Board could accept an amended sketch as there was a site plan on file from 1988.

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**Miscellaneous Business and correspondence, cont.**

The motion was amended as follows:

Mark Suennen **MOVED** to accept the plan sketch as an amendment to the original 1988 site plan, showing the addition to the garage. David Litwinovich seconded the amended motion. Roll Call Vote: Peter Hogan-yes, Ed Carroll-yes, David Litwinovich-yes, Mark Suennen-yes, Amy Sanders-no. 4-1, the motion

**PASSED.**

Mark Suennen noted that if the addition included exterior lighting, that would need to be shown on the sketched plan and the amendment would need to be resubmitted for the Board's approval.

6. Discussion, re: return to in-person Planning Board meetings at the Town Hall.

The Planning Assistant, Nadine Scholes explained that the Town Hall is now open for all business, and face coverings are highly recommended but optional.

The Board agreed to return to meeting in-person at the Town Hall for the June 22, 2021, meeting. The Planning Assistant, Nadine Scholes will be sure to setup the conference room according to the social distance guidelines.

Theresa Elliott joined the meeting, and the Board would return to discuss Misc. Item #4.

4. Email received May 17, 2021, from Theresa Elliott, re: Little People's Depot, 20 River Road, Tax Map/Lot #18/20, proposed amendment to hours of operation, for the Board's review and action.

Theresa Elliott noted that her husband Mark Elliott was with her to discuss the proposed amendments. She noted that she was in the process of getting the State approvals for a daycare and would be utilizing the location where 'Little People's Depot' had operated for many years and has reviewed the site plan on file. The only changes she would propose to the site plan would be the hours of operation, adding after school care. The hours she would propose would be 7:00 a.m. to 5:30 p.m.

Peter Hogan asked how long Little People's Depot had been closed. Theresa Elliott responded that they closed after the 2019-2020, school year ended. Peter Hogan noted that the use was active and had not been closed longer than the limited time for the use to expire.

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**Miscellaneous Business and correspondence, cont.**

Amy Sanders asked if 5:30 p.m. would be late enough for parents to get to New Boston in time to pick up their children. Theresa Elliott replied that 5:30 p.m. was the latest she would like to be open, that is a long enough day for children. The Board recommended adding one (1) hour in the morning for opening and in the evening closing time, operation to allow time for drop off and pick up. Theresa Elliott said that was a good recommendation for her to consider.

Mark Suennen asked if the pending State Licensing Board application and site inspections could require additional parameters for the day care operation. Theresa Elliott said the preliminary consultation with the State should give her a better idea as to what the State may require. Mark Suennen asked if Theresa Elliott planned to open the day care for the next school year starting September 2021. She said yes, that was the plan.

The Board discussed with Theresa Elliott how to best move forward with the amended site plan. They decided that Theresa should wait for the State to complete the licensing and permitting as they could require some amendments. Then once the State approvals are obtained, the site plan revisions be finalized and submitted to the Board to review.

Theresa Elliott asked if it would be an issue if a tree that is shown on the current site plan be removed, it was looking a bit unhealthy and wanted to remove it before it caused damage. The Board replied that removal of tree would not be a concern.

**7. Discussion with Planning Coordinator, re: Site Plan Submittal, for Proline Powersports, Tax Map/Lot #3/150, 636 North Mast Road.**

The Planning Coordinator, Shannon Silver noted that after the May 11, 2021, Non-public Planning Board discussion with Town Counsel, she contacted Will Lambert to discuss what amendments are needed to the site plan. The original plan had three (3) separate units that would be combined into one (1) unit that would be utilized by Proline Powersports and delineate a display area for sales. She explained that she would like the Board's position on allowing a sketch amendment attached to the original commercial site plan to identify these minor changes or would the Board prefer a new commercial site plan be created and submitted. Amy Sanders asked if the original site plan was available to view. Shannon Silver said no, the site plan is large and difficult to scan.

Peter Hogan noted that he would like to make sure the site adheres to the standards for operations and the exterior lights added are compliant with regulations, etc.

The Board recommended an informational session be scheduled to discuss what would be acceptable for the amendments to the site plan. Mark Suennen mentioned that the Board

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**Miscellaneous Business and correspondence, cont.**

had planned to schedule an informational session in March of 2020, but then COVID pandemic prevented that from happening and had been postponed until now.

The Board agreed that the informational session would be necessary to discuss with Will Lambert the amendments that are needed to the site plan.

The Board noted that the Board would discuss the application that was scheduled for +/- 7:15 p.m. for Merva's would be reviewed next.

**MOK, GLORIA SUK YEE (OWNER)**

**Adjourned from April 27, 2021**

**MERVA PROPERTIES, LLC (APPLICANT)**

**TFMORAN, INC. (AGENT)**

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 for Merva Properties, LLC. He noted the items that were requested to be updated or provided as follows:

- on Sheet C-10, removed mention of sumps in catch basins in two (2) locations.

- a performance bond worksheet be submitted with estimated cost.

- location identified on the plan for site signage.

- screening option as discussed, for a 6' vinyl fence was added to the site plan, just beyond the easement boundary on the backside of the proposed buildings; the updated plan sent to Eversource, review is pending.

Nick Golon noted that if Eversource accepted the fence as shown, a joint use agreement would be drafted to allow/permit the fence within the easement. Once that agreement is recorded, the Town will be sent a copy for the file.

Ed Carroll asked to clarify what color would the fence be. Nick Golon replied a 6' white vinyl fence is proposed.

Peter Hogan noted the shielding was one item he had that needed to be finalized. He explained that it should not be expected that the fence would completely shield the buildings to the abutters, and no one should expect the site be completely invisible to the abutters but would be sufficient screening.

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**MERVA PROPERTIES, LLC, cont.**

Mark Suennen asked if NH DES was still reviewing the AoT permit application. Nick Golon replied yes, they are reviewing the 'Wildlife & Endangered Species Assessment and should be able to approve the permit once the review is complete. Mark Suennen asked if Nick Golon had received any feedback, good and/or bad, from AoT. Nick Golon replied that they had some minor comments that appear to be addressable.

Mark Suennen clarified with the Planning Coordinator, Shannon Silver, that the applicants had submitted the waiver for the fiscal impact study requirement. Shannon Silver noted that a waiver was submitted, and the Board previously addressed that waiver request.

Zane Merva noted that he would like to thank the abutters for working with them to come to an agreement that accommodates everyone, and he was not aware of the abutters having any additional concerns.

Peter Hogan opened for public comment.

Chris and Anne Dodge, 344 Chestnut Hill Road, confirmed that the Merva's had contacted them. He said he was grateful to see the fence was in fact added to the plan, although he had concerns with the color of the fence being white, but he understood that Eversource would also have input because the fence would encroach on their easement.

Mark Suennen mentioned that the applicant would need to identify what would be completed as part of the active and substantial improvements in order to vest the property from future regulation and ordinance changes. The applicants suggested that a foundation for the item completed for the active improvements and notice of termination be filed with EPA for the substantial improvements. The Board agreed with the suggestions.

Chris Dodge asked if the hours allowed for construction activity could be restricted by the Board, and recommended hours to be 7:00 a.m. to 5:00 p.m. The Board discussed limited hours for gravel pits, which were generally from 7:00 a.m. to 5:00 p.m., and construction is never limited for residential homes. The Board agreed that restricting hours of the site construction was not something they were comfortable doing and could make the site construction go on longer. The Board asked the Merva's to be considerate to the abutters during construction and keep construction operations to reasonable hours. Zane Merva said that they would be eager to complete site construction as quickly as reasonably possible but agreed that construction would not be happening on the site at unreasonable times.

Peter Hogan closed for public comment.



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**MERVA PROPERTIES, LLC, cont.**

Mark Suennen asked Nick Golon if he had been provided the few editorial plan corrections. Nick Golon replied no.

Mark Suennen read off the plan corrections, as follows:

-adding the Building Inspector's name and a note added to the plan for the waivers that the Board granted.

Mark Suennen asked the applicants if they knew what form the performance bond would be submitted, the Town accepts cash, letter of credit or performance bond. Zane Merva noted that they are doing some research for how to obtain a bond or a letter of credit but most likely would go with one of these options instead of cash.

The Board discussed the conditions precedent and subsequent deadlines and agreed on the deadline of November 1, 2021, for conditions precedent, and June 1, 2024, for the conditions subsequent deadline.

Mark Suennen **MOVED** to approve the Major Site Plan of Merva Properties, LLC, to construct two (2) 6,000 sq. ft. general office buildings, and operate a newspaper business from property on Chestnut Hill Road, Tax Map/Lot #15/32-1, subject to the following conditions:

**CONDITIONS PRECEDENT:**

1. Submission of a minimum of three (3) copies of the revised site plan that include all checklist corrections, waivers and any agreed-upon conditions from this hearing;
2. Execution of a Site Review Agreement regarding the condition(s) subsequent;
3. Submission of the language of the form of the security for review and approval by Town Counsel, the cost of which review shall be borne by the applicant;
4. Submission of site improvement bond, in the amount of **\$68,898.50**, and in the form of a Letter of Credit/Bond, for the construction of two (2) 6,000 sq. ft. general office buildings, as shown on the approved plans and profiles;
5. Submission of NH DES Alteration of Terrain (AoT) Permit Approval;
6. Submission of any outstanding Site Plan application fees, if any.

The deadline for complying with the condition(s) precedent shall be **NOVEMBER 1, 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.

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**MERVA PROPERTIES, LLC, cont.**

**CONDITION(S) SUBSEQUENT:**

1. All of the site improvements are to be completed per the approved site plan;
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 and opening of the business on the site;
3. Any outstanding fees related to the site plan application compliance shall be submitted prior to the compliance hearing;
4. 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 Permit to Operate or Certificate of Occupancy, or both. The business cannot be operated until the compliance hearing has been held, and an affirmative finding made by the Planning Board.

The deadline for complying with the Conditions Subsequent shall be **JUNE 1, 2024**, the confirmation of which shall be determined at a compliance hearing on same as described in item 4 above.

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

1. Within 24 months after the date of approval, the following items must be completed in order to constitute "active and substantial development or building" pursuant to RSA 674:39,I, relative to the 5-year exemption to regulation/ordinance changes:

**Installation of Foundation**

2. The following items must be completed in order to constitute "substantial completion of the improvements" pursuant to RSA 674:39,II, relative to final vesting:

**Filing of notice of termination with EPA**

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.

Nick Golon and the Merva's thanked the Board.

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**Miscellaneous Business and correspondence for the meeting of May 25, 2021, continued.**

8. Letter copy, received April 30, 2021, from Robert R. Kelly, 56 Weare Road, to Wayne & Cathy Daniels, 11 Weare Road, re: Deeded Right of Way, Limitation for Vehicular Use, for the Board's information.

9. Invoice received May 5, 2021, and Construction Reports\*, for services rendered from March 29, 2021 to April 25, 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, April.2021' for details)

10. Invoice received May 3, 2021, for services rendered from April 1, 2021, to April 30, 2021, from ConTest Consultants, Inc., for Forest View II, Phase II & III, Field Tests and Analysis, for the Board's information.

Mark Suennen asked if the balance of the escrow for construction monitoring remaining was sufficient to pay upcoming invoices. The Planning Coordinator, Shannon Silver replied that the request for additional funds had been recently sent out to Shiv Shrestha.

The next Planning Board meeting is scheduled for June 22, 2021, at 6:30 p.m., to be held in-person at the Town Hall.

There were no other items to be discussed.

Ed Carroll **MOVED** to adjourn the meeting at 8:07 p.m.

Mark Suennen seconded the motion and it **PASSED** unanimously.

Respectfully submitted,  
Nadine Scholes, Planning Board Assistant

Minutes Approved: 7/27/21