

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2013 Meetings**

September 24, 2013

1 The meeting was called to order at 6:30 p.m. by Planning Board Chairman Stu Lewin.
2 Present were regular members Don Duhaime, Mark Suennen and Peter Hogan, alternate
3 members David Litwinovich and Mitch Larochelle, and Ex-Officio Dwight Lovejoy. Also
4 present were Planning Coordinator Nic Strong, Planning Board Assistant Shannon Silver and
5 Recording Clerk Valerie Diaz.

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7 Present in the audience for all or part of the meeting were Mike Dahlberg, LLS, Jay &
8 Dot Marden, Karen Roach, Selectman Christine Quirk, Selectman Rodney Towne and Dave
9 Elliott.

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11 The Chairman seated David Litwinovich and Mitch Larochelle as full-voting members
12 until the regular members arrived.

13
14 **NEW ERA C.F. TRUST (OWNER)**

15 **DAHLBERG LAND SERVICES, Inc. (APPLICANT)**

16 Submission of Application/Public Hearing/Minor Subdivision & Lot Line Adjustment

17 Location: Gregg Mill & Beard Roads

18 Tax Map/Lot #6/12, 6/12-14 & 6/12-12

19 Residential-Agricultural "R-A" District

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21 Present in the audience were Mike Dahlberg, LLS, Jay & Dot Marden and Karen Roach.

22 The Chairman read the public hearing notice. He indicated that the application form and
23 cover sheet had been signed and submitted on September 9, 2013. He advised that there were no
24 outstanding fees and all items required for a completed application had been submitted. He
25 noted that there were a couple of waivers to consider.

26 Mike Dahlberg, LLS, provided color copies of the plan to the Board. The Chairman
27 thanked Mike Dahlberg, LLS, for submitting two versions of the plan as they were easier to
28 follow.

29 Mike Dahlberg, LLS, stated that the proposed plan was for a two lot subdivision and two
30 lot line adjustments. He identified Tax Map/Lot #6/12-12 as Karen Roach's lot, Tax Map/Lot
31 #6/12 as the conservation lot and Tax Map/Lot #6/12-14 as the lot proposed to be subdivided
32 into two lots. He pointed to a plan in his handout and explained to the Board that it showed the
33 result of the proposed subdivisions and lot line adjustments.

34 Mike Dahlberg, LLS, stated that the area shown as Parcel A would go with Tax Map/Lot
35 #6/12; Parcel B was 5 acres, located at the southern portion of Tax Map/Lot #6/12-12; and Tax
36 Map/Lot 6/12-14 and 6/12-14-1 were located on Gregg Mill Road.

37 Mike Dahlberg, LLS, advised that they had applied for State Subdivision Approval and
38 expected it to be approved within the next two weeks. He stated that they were not requesting
39 any variances or special exceptions.

40 Mike Dahlberg, LLS, explained that Tax Map/Lot #6/12-14 had been created about one
41 year prior and a site walk had taken place with a few members of the Board. He noted that they
42 were anticipating a site walk for the two lot subdivision. He advised that there were no wetlands
43 on the property and all of the soil was Group 1 Soil, Hinckley loamy sand. He stated that they

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NEW ERA CF TRUST, cont.

were proposing to subdivide off two lots and this would be the end of New Era CRF Trust land on Gregg Mill Road.

David Litwinovich **MOVED** to accept the application for New Era C.F. Trust (Owner), Dahlberg Land Services, Inc. (Applicant), Location: Gregg Mill & Beard Roads, Tax Map/Lot #6/12-14 & 6/12-12, Residential-Agricultural “R-A” District, as complete. Don Duhaime seconded the motion and it **PASSED** unanimously.

The Chairman stated that the deadline for Board action was November 28, 2013.

The Chairman asked if the applicant had received the checklist review regarding changing the name of the owner and an abutter on the plan. Mike Dahlberg, LLS, answered that he had received the checklist.

The Chairman advised that driveway permits had been signed off by the Road Agent and would require Planning Board action.

The Chairman asked for an explanation of the proposed access and utility easement. Mike Dahlberg, LLS, explained that there was an existing woods road on Tax Map/Lot #6/12 that provided access to the upper section of Parcel B. He stated that it was a “pretty tough” corner and they did not want to open it up. He continued that they were proposing to have Parcel B go with Tax Map/Lot #6/12-12 and maintain access through Parcel A should there be a need to get to the rear section. The Chairman asked if there was language for the easement. Mike Dahlberg, LLS, stated that they would provide the easement language.

Dwight Lovejoy asked for the location of the proposed driveway to be pointed out on the plan; Mike Dahlberg, LLS, identified the location. Dwight Lovejoy asked if the location of the proposed driveway was steep. Mike Dahlberg, LLS, answered that there would be a 6’ cut on Tax Map/Lot #6/12-14-1.

The Chairman asked for the waiver requests to be addressed. Mike Dahlberg, LLS, indicated that a waiver requests had been submitted for Certified Erosion Control Plan, HISS mapping, Traffic, Fiscal and Environmental Impact Studies, Watershed Outline Drainage and soils information for the Wetlands Conservation District.

Mike Dahlberg, LLS, explained that a HISS map would not show any useful information as the property was all one soil type.

Mike Dahlberg, LLS, stated that the Certified Erosion and Sediment Control Plan would be addressed at the Shoreland Permit level because the property was located within the protected shoreland. He stated that at the time a septic design was submitted they would also need to submit a Shoreland Permit and the Town would be copied on all the information.

Mike Dahlberg, LLS, indicated that the Watershed Outline Drainage was not necessary as they were only creating two residential lots.

Mike Dahlberg, LLS, stated that the Traffic, Fiscal and Environmental Impact Studies were not needed as the two additional lots would not overburden Gregg Mill Road.

The Chairman asked for comments and/or questions from the Board; there were none.

The Chairman suggested that the Board table the waivers until after a site walk and

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NEW ERA CF TRUST, cont.

address them at the next meeting. He requested that the easement language be submitted prior to the next meeting for review and indicated that the driveway permits would be acted on following the site walk. A site walk was scheduled for Saturday, October 5, 2013, at 8:00 a.m.

Peter Hogan asked for a brief review of the proposed plan as he arrived to the meeting late. Mike Dahlberg, LLS, gave a review of the proposed two lot subdivision and two lot line adjustments.

The Chairman asked for further comments and/or questions; there were no comments or questions.

Peter Hogan **MOVED** to adjourn the Public Hearing/Minor Subdivision & Lot Line Adjustment for New Era C.F. Trust (Owner), Dahlberg Land Services, Inc. (Applicant), Location: Gregg Mill & Beard Roads, Tax Map/Lot #6/12, 6/12-14 & 6/12-12, Residential-Agricultural "R-A" District, to October 8, 2013, at 6:30 p.m. David Litwinovich seconded the motion and it **PASSED** unanimously.

The Chairman unseated Mitch Larochelle and David Litwinovich as a full voting member as Peter Hogan and Mark Suennen had arrived at the meeting.

**MISCELLANEOUS BUSINESS AND CORRESPONDENCE FOR THE MEETING OF
September 24, 2013.**

1. Discussion, re: holding only one meeting in November on November 26, 2013.

The Chairman thanked all the Planning Board members that had attended the Special Planning Board meeting that had been held on Tuesday, September 17, 2013.

The Chairman suggested that the Board skip the first meeting scheduled for November to make up for having to attend the September 17, 2013, meeting.

The Board agreed to only hold one meeting in November on the 26th.

2. Approval of the August 27, 2013, minutes distributed by email.

David Litwinovich pointed out that the Road Agent was not listed at the beginning of the meeting minutes.

Peter Hogan **MOVED** to approve the minutes of the August 27, 2013, meeting as amended. Mark Suennen seconded the motion and it **PASSED** unanimously.

3. Driveway Permit Applications received September 13, 2013, from Twin Bridge Land Management, LLC, re: Tax Map #2/62-12-1 & #2/62-12-7, Wright Drive, relocation of existing driveways, for the Board's action.

The Chairman stated that both of the above-referenced driveways had been approved by

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1 **MISCELLANEOUS BUSINESS, cont.**

2
3 the Road Agent.

4 The Chairman asked if either of the existing driveways had required engineered driveway
5 plans. The Planning Board Assistant answered no.

6 The Chairman asked for comments and/or questions; there were no comments or
7 questions.

8
9 Peter Hogan **MOVED** to approve Driveway Permit Applications received September 13,
10 2013, from Twin Bridge Land Management, LLC, re: Tax Map #2/62-12-1 & #2/62-12-
11 7, Wright Drive, relocation of existing driveways. Don Duhaime seconded the motion
12 and it **PASSED** unanimously.

- 13
14 4. Driveway Permit Application received March 19, 2010, from Woodland Development,
15 re: Tax Map #9/21-5-1, Wilson Hill Road, temporary driveway, for the Board's action.

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17 The Chairman asked how the driveway would be classified as temporary and if
18 something should be placed in the requirements that indicated that the driveway was temporary.
19 The Coordinator answered that the Board could add language to the approval.

20 The Chairman asked if there was a plan of when they would be discontinuing use of the
21 temporary driveway. The Coordinator answered that the ultimate intent was that the driveway to
22 this lot would access Fieldstone Drive. The Chairman suggested that language be added to the
23 other requirements that stated the following, "Driveway to be removed prior to Town acceptance
24 of Fieldstone Drive". The Coordinator suggested that the following language be used, "...when
25 Fieldstone Drive is completed a permanent driveway permit...".

26 The Chairman added the following requirement to the driveway permit, "Prior to
27 completion of Fieldstone Drive the temporary driveway will be replaced with a permanent
28 driveway". Peter Hogan agreed with the Chairman's suggestion as it provided closure on the
29 matter. The Chairman asked for comments and/or questions; there were no comments or
30 questions.

31
32 Peter Hogan **MOVED** to approve the Driveway Permit Application received March 19,
33 2010, from Woodland Development, re: Tax Map #9/21-5-1, Wilson Hill Road,
34 temporary driveway, with the added requirement that prior to the completion of
35 Fieldstone Drive the temporary driveway will be replaced with a permanent driveway.
36 Mark Suennen seconded the motion. **Discussion:** Mark Suennen asked if the current
37 Road Agent had seen the driveway permit as it was signed by the previous Road Agent.
38 The Coordinator answered no. Mark Suennen questioned if it would be worthwhile to
39 have the current Road Agent review the permit; he noted that it was three years old. The
40 Coordinator pointed out that the driveway had already been built. She explained that
41 during the pre-construction meeting the applicant was reminded that the temporary
42 driveway needed to be constructed. She explained that work had begun for the stabilized
43 construction entrance but the temporary driveway had not been constructed and the Town

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MISCELLANEOUS BUSINESS, cont.

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3 Engineer reminded them that it needed to be done. She stated that the Planning
4 Department checked to see if the permit had actually been approved at the time and it was
5 determined that it had only gone to the Road Agent and had not been acted on by the
6 Planning Board. She stated that if the Board wanted to send the driveway permit for the
7 Road Agent's review, they could, however, she reiterated that the applicant was using the
8 temporary driveway because the road construction had begun. Mark Suennen requested
9 that the following be added to the motion, "Subject to review by the current Road
10 Agent". Dwight Lovejoy questioned why this issue was even brought up. He stated that
11 this went back to the person who had owned the house before and noted that the lot had
12 changed hands. The Chairman clarified that during construction of the road there would
13 be no way to access the house without the temporary driveway. Dwight Lovejoy
14 believed that there had been a lot of talk regarding widening the crushed stone runoff but
15 the owner received a letter from the Town Engineer advising that the temporary driveway
16 must be constructed or the work would have to stop. The Chairman pointed out that the
17 temporary driveway had been approved with the plan. Dwight Lovejoy indicated that he
18 understood the Chairman's statement, however, he believed that common sense should
19 have been used because the owner of the property would have to tear the temporary
20 driveway up. He continued that a lot of money had gone into building a driveway that
21 they would not even be using. The Chairman stated that the owner could use the
22 temporary driveway as their permanent driveway. Dwight Lovejoy advised that the
23 owner would not use the temporary driveway as a permanent driveway and did not even
24 use it as a temporary driveway because the driveway that had been constructed that they
25 built the road with was nicer and cleaner. He stated that this was a situation where the
26 owner got a call overnight, had to put the driveway in the next day and did so because he
27 did not want any aggravation. He went on to say that he was irritated by these types of
28 things as a previous contractor and as someone as a Board that should get total
29 information before something was run out like this. He reiterated that there was no need
30 to construct the temporary driveway, it was going to be torn out, it was a waste of a lot of
31 money and a waste of a lot of compaction testing. He stated that the owner was so
32 intimidated by what had been going on that they did not dare say anything. He did not
33 believe that it was right. Peter Hogan commented that he did not understand why a
34 compaction test was done for a driveway. Dwight Lovejoy stated that things were done
35 for the different layers with rollers. Peter Hogan stated that he had never heard of the
36 things Dwight Lovejoy was stating being done for the construction of a driveway.
37 Dwight Lovejoy commented that whether Peter Hogan had heard of it or not it had been
38 done. Peter Hogan noted that he had never heard of the Planning Board being involved
39 with the building of a driveway. Dwight Lovejoy explained that the entrance had been
40 changed to avoid a lot of mud coming up on the truck tires when entering Wilson Hill
41 Road. He continued that an extra amount of crushed stone had been put in 150' back
42 from the road. Peter Hogan stated that it what Dwight Lovejoy was describing sounded
43 like a construction access and not an access to someone's personal property. He stated

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MISCELLANEOUS BUSINESS, cont.

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3 that the entrance that Dwight Lovejoy was talking about was a construction entrance.
4 Dwight Lovejoy said that the entrance was and was not a construction entrance. He
5 explained that it would become a permanent road and the owner's driveway would be off
6 the permanent road. Peter Hogan indicated that he would need more information.
7 Dwight Lovejoy suggested that Peter Hogan go out to the property and look at it. Peter
8 Hogan explained that looking at it was only half the picture and there was probably a
9 reason that it was done. Dwight Lovejoy stated that it was done because it was on the
10 original plan and he believed that the original plan was "no good" because the property
11 had changed hands. Peter Hogan did not believe that Dwight Lovejoy's explanation had
12 anything to do with this. He stated that the plan was bound by the construction phases
13 and operations regardless of who owned the property. He stated that if the trucks were
14 using the road as an entrance than it should be built to a specific standard. He continued
15 that the road being constructed with crushed stone in order to keep mud off Wilson Hill
16 Road was consistent with a construction build. Dwight Lovejoy stated that the road had
17 been constructed and everyone was happy going in and out. He continued that the owner
18 of the property had to make a cut in the road that would only be one-third of the length of
19 him maintaining a driveway. He noted that the owner of the house was the contractor of
20 the subdivision and had been perfectly content with the road. Mitch Larochelle indicated
21 that he had run into a similar scenario on Susan Road. He stated that because the new
22 road had yet to be accepted by the Town he had to construct temporary driveway that he
23 would eventually pull out. He agreed that it was a waste of money. Peter Hogan pointed
24 out that the Town allowed Mitch Larochelle to construct the temporary driveway in an
25 effort to let him build on the lot. He explained that a lot did not exist without frontage
26 and the ability to build a driveway off it. Mitch Larochelle noted that the lot he was
27 referring to was a corner lot and he had frontage. Peter Hogan indicated that Mitch
28 Larochelle had stated that the road did not exist at the time the lot was being developed.
29 Mitch Larochelle agreed with Peter Hogan that the new road had not been accepted and
30 in order to build the house he had to construct a driveway off Carriage Road. Peter
31 Hogan questioned if it was Mitch Larochelle's preference that the Board just say no and
32 only allow for development when the road frontage was available and then there would
33 be no wasted money for the temporary driveway. He indicated that contractors could not
34 have it both ways. He stated that the Board had given him the ability to build a lot that
35 was legal. Mitch Larochelle questioned why the driveway could not have been located
36 where the road was being built. He added that if the road was not accepted it would
37 become the permanent driveway. Peter Hogan answered that it could not have been done
38 that way because it was not the owner's property. Mitch Larochelle indicated that the
39 property was the owner/ contractor's property. He did not understand why a temporary
40 driveway needed to be constructed when it could have gone where the road was located.
41 He stated that the driveway could have been brought up to Town specifications at a later
42 time. Peter Hogan pointed out that the driveway would not have been off legal frontage.
43 Dwight Lovejoy stated that Peter Hogan's point was well taken. He went on to explain

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MISCELLANEOUS BUSINESS, cont.

that there had been an existing driveway that was now covered with a Town road. The Chairman clarified that it was not covered by a Town road and was covered by a road that was being constructed. He stated that a potential or better way to deal with these types of situations could be discussed further at another meeting. He stated that the Board needed to determine whether or not to approve the driveway permit. Mitch Larochelle referred to Susan Road with regard to the Lorden development. He stated that there was a corner lot that had frontage on Susan Road and Lorden Road and asked if the Board could allow a driveway off Lorden Road. The Chairman suggested that this question be looked into by the Planning Department and be addressed by the Board as a Miscellaneous Business item at the next meeting. The Chairman asked how a review of the driveway permit by the current Road Agent would affect the approval. Mark Suennen answered that he was willing to accept any criteria that the Road Agent felt were important. Peter Hogan offered an overview and stated that the driveway permit was old, the owner had frontage on Wilson Hill Road and Fieldstone Drive and Fieldstone Drive did not exist at the time the temporary driveway was supposed to be constructed. He stated that in order for this to remain a lot Wilson Hill Road had to provide the frontage and the curb cut. He commented that it was stupid for rollers to be used on the driveway. Dwight Lovejoy indicated that the owner had been told to use the rollers. Peter Hogan stated that he did not know who would tell him to do that. Dwight Lovejoy stated that they were told to do so by a guy with an engineer cap on. Peter Hogan commented that it was ridiculous as there were no other driveways in Town that had that requirement. The Chairman asked there was any other discussion; there was no further discussion. The motion **PASSED** unanimously.

Continued discussion, re: Zoning Ordinance/Subdivision/Non-Residential Site Plan Review Regulations questions, particularly Recreational Camping Park Standards & Landscaping

Present in the audience were Selectman Christine Quirk, Selectman Rodney Towne, Dave Elliott and Scott Whitney.

The Chairman indicated that a memo dated July 19, 2013, with regard to Recreation Camping Park Standards had been discussed at the July 23rd meeting. He stated that the Coordinator had prepared a package that contained a history of the standards.

The Chairman stated that a packet on Landscaping had been handed out this evening and proposed that it be discussed at a future meeting.

The Chairman noted that the Recreational Camping Park Standards were related to Zoning and asked when the required public hearings needed to be scheduled in order to have proposed changes on the 2014 ballot. The Coordinator answered that the public hearings were usually scheduled in December and January and would allow for discussion on the matter between now through November.

The Chairman stated that after reviewing the meeting minutes from the July 23rd meeting it appeared that there were three possible changes to consider. He indicated that the first request

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ZONING/SUBDIVISION/NRSPR QUESTIONS, cont.

was that the requirement to provide separate bathrooms for males and females be changed. He stated unisex bathrooms could be used in lieu of the separate bathrooms if they were private and completely enclosed. He asked the Coordinator if she had spoken with Don Chapman with regard to the Whipple Free Library's bathrooms. The Coordinator answered no. The Chairman stated that the Library had two bathrooms that were not marked male or female. Christine Quirk commented that once the Library received their building permit they removed the marked male and female bathroom signs. The Chairman asked if anyone believed that wording to change this requirement should not be pursued. Peter Hogan commented that he did not have a problem pursuing wording. Mark Suennen stated that he was willing to pursue language.

The Chairman advised that the second requirement for review was relative to the requirement that restrooms be heated to 70 degrees Fahrenheit. He noted that a question had been raised about the requirement being applicable to three season buildings. Christine Quirk added that she was interested in not requiring buildings to be heated that were not used in the winter. Peter Hogan believed that the requirement should be stricken and stated that specifying the temperature of a bathroom was an exercise in stupidity. Mark Suennen agreed that the language should be eliminated. Don Duhaime agreed with Peter Hogan and Mark Suennen.

The Chairman stated that the third requirement being reviewed was for a 200' buffer all the way around the campground property. He noted that Christine Quirk had specifically requested that requirement be decreased to a 100' buffer along Town owned property boundaries. Peter Hogan asked for explanation of the decrease to a 100' buffer. Christine Quirk explained that when she had originally purchased the campground the buffer was 25'. Peter Hogan questioned if Christine Quirk had ever received a complaint from the abutting wildlife. Christine Quirk indicated that she had never received a complaint from any neighbors. She indicated that decreasing the buffer would help her out. Dwight Lovejoy asked if Christine Quirk's property abutted Town property on two sides. Christine Quirk answered that her property abutted the Lydia Dodge lot and Clark Swamp.

Mark Suennen pointed out that the Board should not be trying to set the regulations up just for Christine Quirk's property. He understood that Christine Quirk operated the only campground in Town and it would most likely remain the only campground. He stated that the Board was creating generic regulations that would apply to any campground in New Boston.

Peter Hogan suggested that the Board compare campgrounds in other towns. He added that he was much more cautious when moving towards neighbors. He noted that Christine Quirk was not proposing any changes to the buffers surrounding neighborhoods and was only requesting the buffer be decreased along Town owned property. Dwight Lovejoy commented that the buffer at one time was 25'. Christine Quirk indicated that the buffer used to be 25' and they had never had any problems. She stated that the campground was not causing grief in Town and she bent over backwards to help everybody. Peter Hogan suggested that the buffer be decreased to 50' if other towns were requiring 25'. Christine Quirk suggested that the buffer be dropped to 100' around the entire campground. Peter Hogan believed that Christine Quirk should concentrate on the buffer along Town owned property as abutters might claim that their property values were depreciated.

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Peter Hogan stated that a 50' buffer along Town owned property was not out of the question. He commented that if other towns had 25' buffers, 50' buffers would be twice as much. Christine Quirk noted that the majority of other towns had 25' and 50' buffers with the exception of a few towns with 150' buffers.

The Chairman asked if anyone disagreed with considering reducing the 200' buffer along Town owned property boundaries; no Board members disagreed.

Christine Quirk asked for each Board member to state whether or not they would be agreeable to a 50' buffer. The Chairman stated that he was still thinking about the reduction and that was the reason he was deferring the discussion of the actual footage until the next meeting. Peter Hogan noted that a house setback from Town owned property was 20' and he believed that a 50' buffer was over safe. Dwight Lovejoy stated that would consider a 50' buffer and commented that 50' was 50'. Don Duhaime noted that he would consider a 50' buffer. Mark Suennen advised that property zoned Industrial was required to have a 50' buffer from residential property and property zoned Commercial was also required to have a 50' buffer from residential property. He commented that 50' seemed to be a pretty good number. Mitch Larochelle stated that 50' was good, especially as other towns had 25'.

Christine Quirk asked if this would be discussed any further at this evening's meeting. The Chairman stated that it would not and that the next discussion on this matter would include language to amend the regulation as well as determine the amount for the buffer.

FERUS TERRA, LLC (OWNER)

CASTLE DONOVAN, III (APPLICANT)

ARTHUR F. SICILIANO LAND SURVEYING, LLC (APPLICANT)

Public Hearing/NRSPR/to allow the construction and operation of an Assisted Living Residence/Supported Residential Health Care Facility

Location: Old Coach Road

Tax Map/Lot #10/3-2 & 10/3-3

Residential-Agricultural "R-A"

Present in the audience were Scott Whitney and Dave Elliott.

The Chairman read the public hearing notice. He indicated that the application had been accepted as complete at the May 14, 2013, hearing and the deadline for Board action was July 18, 2013. He stated that there had been several adjournments during the last four months.

The Chairman stated that a letter had been received, dated September 12, 2013, that requested an adjournment of the public hearing to November 26, 2013, to allow time to prepare an affordable drainage plan. He added that there was also a request to extend the 65 day clock for Board action.

Mark Suennen **MOVED** to adjourn the public hearing for Ferus Terra, LLC (Owner), Castle Donovan, III (Applicant), Arthur F. Siciliano Land Surveying, LLS (Applicant), Location: Old Coach Road, Tax Map/Lot #10/3-2 & 10/3-3, Residential-Agricultural "R-

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1 FERUS TERRA/DONOVAN, cont.

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3 A”, to November 26, 2013, at 6:45 p.m. and to extend the 65 day clock for Board action
4 on the application to the same date. Don Duhaime seconded the motion and it **PASSED**
5 unanimously.

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7 **Discussion with Scott Whitney, re: adding a retail use to the existing Vehicular Repair**
8 **Facility use at 636 North Mast Road, Tax Map/Lot #3/150**

9
10 Present in the audience were Scott Whitney and Dave Elliott.

11 The Chairman advised that Scott Whitney was requesting to sell firearms from an
12 approved vehicular repair facility located in the Small-Scale Planned Commercial District. He
13 asked if Scott Whitney was all set on the vehicular repair facility. Scott Whitney answered yes.
14 The Chairman noted that the Board had previously suggested that Scott Whitney move forward
15 with the vehicular repair facility and firearms sales separately.

16 The Chairman stated that the sale of firearms from a vehicular repair facility did not work
17 with the existing Zoning Regulations. He asked for thoughts from the Board members. Mark
18 Suennen suggested that Scott Whitney advise the Board of his plans.

19 Scott Whitney explained that he normally conducted the firearms sales out of his home
20 but in order to sign for the delivery of the firearms as required by ATF he would have to have
21 them delivered to his shop. He continued that he would not be selling them out of the vehicular
22 sales facility and would only be transporting the firearms from his shop to his house. He added
23 that it was an internet sales business.

24 Peter Hogan asked for the location of Scott Whitney’s home. Scott Whitney answered
25 that he resided in the Town of Weare, New Hampshire. Mark Suennen asked if it was Scott
26 Whitney’s intent to received shipments at his place of business and customers would go to his
27 home, not his place of business. Scott Whitney answered yes. Peter Hogan asked if the
28 proposed plan was what Scott Whitney wanted. Scott Whitney answered yes and explained that
29 the firearms sales business was minimal and he sold mostly to friends and family.

30 The Chairman asked if any firearms would be stored at the business. Scott Whitney
31 answered no and indicated that they were stored at his house in a safe. The Chairman asked if
32 Scott Whitney provided outbound shipments. Scott Whitney answered yes. Dwight Lovejoy
33 asked if ammunition was sold as well. Scott Whitney answered no. David Litwinovich asked if
34 Scott Whitney was required by law to have a safe. Scott Whitney answered no.

35 Mitch Larochelle asked if Scott Whitney had spoken with the New Boston Police
36 Department. Scott Whitney indicated that he had submitted paperwork to the New Boston Police
37 Department. Mitch Larochelle asked if the New Boston Police Department had any issues with
38 his proposal. Scott Whitney answered no. Dwight Lovejoy added that the Police Chief resided
39 across the street from the vehicular sales facility.

40 The Chairman commented that internet businesses should be added to Zoning. Mitch
41 Larochelle pointed out that the internet business was not being conducted from the vehicular
42 sales facility. Mark Suennen added that a shipment point was needed. The Chairman agreed that
43 it was not really a business. Mark Suennen stated that Scott Whitney would be conducting a

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1 **SCOTT WHITNEY, cont.**

2
3 business and was acting as his own courier service between his business and his home.

4 Mark Suennen asked how “Personal Services” was defined under permitted uses. The
5 Coordinator answered that “Personal Services” was found in Zoning and referred to services
6 such as hairdressing.

7 Dwight Lovejoy commented that customers would go to Scott Whitney’s home, he would
8 make a call, the customers would wait 10 or 15 minutes and then leave. Scott Whitney added
9 that everything was pre-ordered and he did not buy anything unless it was ordered and paid in
10 full. He indicated that he would call customers when the shipment arrived, have the customer
11 sign paperwork and make his phone calls. He stated that he might sell 25 guns in one year.

12 The Chairman asked if “Office” was closer than “Personal Service”. Mark Suennen read
13 from the Zoning Regulations that a “Personal Service” was defined as establishments primarily
14 engaged in providing the care of a person or his or her apparel, such as laundry, beauty shops,
15 shoe repair, etc. He stated that the “Personal Service” would not apply to the sale of firearms.

16 The Coordinator stated that the Town would not care if Scott Whitney received Lands’
17 End moccasins delivered to the shop. She continued that the issue was not that packages would
18 be received but that the ATF required that the business be approved by the Town in this location.

19 Peter Hogan asked if there was an issue with Scott Whitney operating his vehicular repair
20 business and any other business in the same building. He further asked if the Small-Scale
21 Planned Commercial District allowed for a subordinate use to the principal use. The Coordinator
22 answered that subordinate uses were allowed if they were incidental and subordinate to the
23 principal use.

24 The Chairman asked if ATF required that Scott Whitney use the vehicular repair facility
25 address. Scott Whitney explained that ATF required him to have a registered drop-off area.

26 Peter Hogan asked why Scott Whitney would not set aside a portion of his vehicular
27 repair business as an area where he could conduct the sales of his firearms. Scott Whitney
28 answered that he believed it was an improper environment to conduct firearms sales. He stated
29 that some of his vehicular repair customers may not like firearms and he did not want to have
30 that make a detrimental effect on his business. Peter Hogan stated that it seemed a lot cleaner to
31 him to be a registered gun dealer at his vehicular repair business. He suggested that Scott
32 Whitney operate a retail store. Scott Whitney stated that he had originally proposed to have a
33 retail store. Peter Hogan commented that only having a drop point made it sound “shady”. He
34 believed that Scott Whitney could do a good job to making an area in the facility that kept the
35 two businesses separate. Scott Whitney commented that Peter Hogan’s suggestion would be
36 much better than his proposal. He noted that he did not want to stretch the rules. Peter Hogan
37 stated that he would not be stretching rules. He noted that advertising would be left to Scott
38 Whitney’s discretion. Dwight Lovejoy commented that he liked Peter Hogan’s idea better than
39 the drop off point. Don Duhaime stated that he had no problem with the suggested idea as it
40 sounded reasonable.

41 Mark Suennen questioned how the Board would implement the plan suggested by Peter
42 Hogan. The Chairman believed that a plan would need to be submitted for approval. Peter
43 Hogan noted that the specific location of the firearms sale business needed to be identified on the

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1 **SCOTT WHITNEY, cont.**

2
3 plan. The Chairman added that signage needed to be addressed on the plan as well. Scott
4 Whitney commented that he preferred not to have signage. The Chairman asked that he
5 indicated that on the plan.

6 The Coordinator asked the Board to go on the record and state that they were considering
7 the proposal to be an accessory use to the vehicular repair facility in order to meet the Zoning
8 Ordinance. Peter Hogan went on record to say that the Board was considering a firearms sale
9 business to be a subordinate use to the vehicular repair facility, principal use.

10 The Chairman asked if anyone disagreed with Peter Hogan's statement. Mark Suennen
11 indicated that he could not make the jump that a firearms sales business was a subordinate use to
12 a vehicular repair facility. Peter Hogan asked if Mark Suennen felt that the subordinate use had
13 to be related to the principal use because that was not the leap he was attempting to make. Mark
14 Suennen stated that the way in which it as described led him to believe that the uses were
15 related. Peter Hogan disagreed with Mark Suennen's assessment and explained that he did not
16 believe that vehicular repair had anything to do with firearms sales. He continued that he
17 believed the two businesses could co-exist simultaneously and that the primary use of the
18 building would be vehicular repair while the secondary function would be firearms sales. He
19 stated that the secondary use was subordinate insofar as its financials and one was not required of
20 the other. Mark Suennen believed that the Zoning Ordinance required that an accessory use had
21 to be related to the primary use. Peter Hogan stated that he would not use the word "accessory".
22 Mark Suennen asked if Peter Hogan was proposing a secondary, unrelated, subordinate business.
23 Peter Hogan answered yes and reiterated that the two businesses were only related insofar as it
24 was the same owner. He added that the owner would not have any signage and was limiting
25 himself with regard to potential walk-ins.

26 The Chairman stated that an alternative solution would be to make a request to the ZBA
27 for a variance.

28 The Chairman asked for thoughts or proposed wording from other Board members.
29 Mitch Larochelle agreed with Peter Hogan's suggestion. Peter Hogan stated that he just did not
30 want the location to be a drop point. Dwight Lovejoy questioned if the business could be listed
31 under the permitted "General Service" for vehicular sales and repairs. Peter Hogan asked if
32 Scott Whitney did gun repairs. Scott Whitney answered yes.

33 Peter Hogan questioned why the Zoning Ordinance did not allow for multiple uses. The
34 Coordinator answered that the Board had done work for a Mixed Use District and it did not go
35 well.

36 Peter Hogan asked what was contained in Section 204.2 of the Zoning Ordinance. Mark
37 Suennen answered that it was the definition of the Small-Scale Planned Commercial District.

38 Mark Suennen believed what Scott Whitney wanted to do was perfectly fine but the
39 existing regulations would not allow for it to work. The Chairman commented that the Board
40 should be careful about "stretching to the point of snapping" with regard to Zoning. Mark
41 Suennen stated that he was uncomfortable because the Planning Board's flexibility with the
42 Zoning Ordinance was much less than it was for Subdivision Regulations and Driveway
43 Regulations. Peter Hogan pointed out that Mark Suennen was not arguing whether or not it

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1 **SCOTT WHITNEY, cont.**

2
3 should be done but was debating how it could fit in the existing Zoning Ordinance. Mark
4 Suennen agreed with Peter Hogan's statement and added that he had no problem with what Scott
5 Whitney was trying to accomplish.

6 Mark Suennen asked if Scott Whitney needed a letter from the Planning Board that stated
7 he was a licensed gun salesman out of the business at 636 North Mast Road. Scott Whitney
8 answered yes. The Planning Board Assistant advised that a representative from ATF would
9 contact the Planning Department to confirm that Scott Whitney had gone through the proper
10 steps and obtained approval from the Planning Board. Peter Hogan asked the Planning Board
11 Assistant how she would make the use fit. The Planning Board Assistant stated that the use did
12 not fit. She went on to say that Scott Whitney could go to the ZBA. Mark Suennen commented
13 that the use did not fit and stated that it was like trying to put a square peg in a round hole. He
14 indicated that he would be supportive of this proposal once the ZBA granted a special exception
15 to allow a secondary, unrelated office use in the vehicular repair facility. The Coordinator
16 clarified that Scott Whitney would need to apply for a variance and not a special exception. She
17 added that if customers would visit the business it would be classified as retail.

18 The Chairman asked the Board if the proposal as described fit within the current Zoning
19 Ordinance. He stated that if the Board determined that the proposal did fit, Scott Whitney was
20 set to operate both businesses. He continued that if the Board determined that the proposal did
21 not fit he would need to go to the ZBA and request a variance. Mark Suennen's opinion was that
22 the proposal did not fit the current Zoning. The Chairman indicated that he was having a hard
23 time stretching the proposal to make it fit. Dwight Lovejoy commented that unfortunately he
24 had to agree with the Chairman. He added that Scott Whitney was honest and his intentions
25 were good. Don Duhaime believed that Scott Whitney should apply for a variance through the
26 ZBA.

27 Mark Suennen stated that it was the consensus of the Board that the proposal did not fit
28 the Zoning Ordinance. He asked that the Planning Board's support for Scott Whitney's proposal
29 be attached to his application to the ZBA.

30
31 Mark Suennen **MOVED** that the current application before the Board cannot fit the
32 Zoning Ordinance cleanly enough to allow a decision at this time and the Board
33 recommends that Scott Whitney apply for a variance from the ZBA for the specific
34 activity that he wants to do with the understanding that the Board has heard the
35 application and is in favor of the activity taking place at the existing business. Peter
36 Hogan seconded the motion and it **PASSED** unanimously.

37
38 **Continued discussion with Vincent Iacozzi, Thibeault Corporation, re: gravel permits**

39
40 The Chairman advised that an email had been sent from Vincent Iacozzi earlier today at
41 3:26 p.m. that stated he would be unable to attend the meeting as he had a conflict with a
42 meeting in Manchester that started at 6:30 p.m. He continued that the email stated that the plan
43 for the Parker Road north pit was being amended to accommodate a variance being applied for

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1 **THIBEAULT CORP., GRAVEL PERMITS, cont.**

2
3 by Hesleton's Outdoor Services and that Burd Engineering had been hired to create a site plan.
4 He stated that Vincent Iacozzi indicated that he would amend their plan accordingly and file the
5 excavation application within the next two weeks.

6 The Chairman stated that Vincent Iacozzi planned to amend the Byam Road/River Road
7 gravel pit plan to do reclamation as no more material would be removed from the site. He
8 continued that Vincent Iacozzi committed to submitting the completed application for the Parker
9 Road gravel pit as soon as the Hesleton Outdoor Services was completed.

10 The Chairman asked for the date of the next scheduled Planning Board meeting. The
11 Coordinator advised that the next meeting was scheduled for October 8, 2013. The Chairman
12 stated that by the October 8th meeting, Vincent Iacozzi would have had double the amount of
13 time he said it would take to file the excavation application.

14 The Chairman proposed that Vincent Iacozzi attend a meeting if the excavation
15 application was not in hand by the October 8th meeting and explain why he still had the only two
16 pits in Town that were not under control.

17 Mark Suennen stated that the deadline to submit the excavation application was August 1,
18 2011, and Thibeault Corp. had missed the deadline. He continued that the Board had graciously
19 extended the deadline to August 1, 2013. He stated that it was now September 24, 2013, and if
20 the Board did not receive an application in hand by tomorrow he would recommend to the Board
21 of Selectmen that they issue a cease and desist. He noted that Vincent Iacozzi had missed three
22 deadlines and had not given proper notice that he was going to miss this evening's meeting. Don
23 Duhaime agreed with Mark Suennen and commented that Vincent Iacozzi was "playing" the
24 Board.

25 Mark Suennen asked when was the deadline for submission of items for the next meeting.
26 The Coordinator answered that the deadline had been the previous day.

27
28 Mark Suennen **MOVED** to recommend to the Board of Selectmen that the pits in
29 question be ordered to cease and desist. The Planning Board gave ample opportunity for
30 the applicant to submit their applications and they have not submitted and instead
31 provided meaningless paperwork. The Board asked the applicant to be at the meeting
32 and proper notice was not given that they could not make it. Therefore, the Planning
33 Board recommends to the Board of Selectmen that they consider a cease and desist for
34 those pits not yet in compliance in the Town of New Boston. Don Duhaime seconded the
35 motion and it **PASSED** unanimously.

36
37 Mark Suennen asked if the Coordinator would be able to put together all the missed
38 deadline information as well as correspondence for the Board of Selectmen. The Coordinator
39 answered yes.

40
41 **MISCELLANEOUS BUSINESS, cont.**

42
43 5. Letter dated September 16, 2013, from Raymond Shea, Sandford Surveying &

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1 **MISCELLANEOUS BUSINESS, cont.**

2
3 Engineering, LLC, to New Boston Planning Board, re: Tax Map/Lot #2/28-2 & 3,
4 Conditional Use Permit - request for an extension to the conditions precedent and
5 subsequent deadlines, for the Board's action.

6
7 The Chairman stated that market conditions had affected the applicant's ability to move
8 forward with the project and a deadline extension for the conditions precedent and conditions
9 subsequent request had been submitted for the above-referenced matter.

10 Mark Suennen pointed out that the NHDES Wetland Permit was valid through March 20,
11 2016 and suggested that the conditions precedent be extended to that date as well. The
12 Coordinator thought that the March 20, 2016, date was a date up until an applicant could start
13 construction. Mark Suennen believed that the permit was valid until the work was completed.
14 The Coordinator indicated that she was unsure. The Chairman asked if the conditions
15 subsequent would have to be completed by March 20, 2016. Mark Suennen answered yes.

16
17 Mark Suennen **MOVED** to extend the deadline for the conditions precedent to March 30,
18 2015, and extend the conditions subsequent to March 30, 2016, for the installation of the
19 wetland crossing on Tax Map/Lot #2/28-2 & 3. Don Duhaime seconded the motion and
20 it **PASSED** unanimously.

21
22 6. Letter dated September 19, 2013, from Nic and Nathan Strong, to Stu Lewin, Chair and
23 Planning Board Members, re: Request for Release of Security for Gravel Pit, Tax
24 Map/Lot #11/1, Lyndeborough Road, for the Board's action.

25
26 14. Memorandum received September 24, 2013, from Ed Hunter, New Boston Code
27 Enforcement Officer, to New Boston Planning Board, re: Carolyn J, Nathan P. and
28 Nicola Strong's Earth Removal Operation, Tax Map/Lot #11/1, Lyndeborough Road, for
29 the Board's information.

30
31 The Coordinator sat in the audience for this discussion as she was a party to the matter.

32 The Chairman addressed items 6 and 14 together as they were related. He stated that it
33 was his understanding that there was a request to return the escrow. He noted that Ed Hunter,
34 Building Inspector/Code Enforcement Officer, had conducted an inspection and approved of the
35 request.

36
37 Dwight Lovejoy **MOVED**, based on the information before the Board, to return the
38 security deposits for Nic and Nathan Strong, Gravel Pit, Tax Map/Lot #11/1,
39 Lyndeborough Road. Peter Hogan seconded the motion and it **PASSED** unanimously.

40
41 7. Letter dated September 12, 2013, from Richard Perusse, Road Agent, to Nic Strong,
42 Planning Coordinator, re: communications, for the Board's information.

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1 **MISCELLANEOUS BUSINESS, cont.**

2

3 The Chairman acknowledged receipt of the above-referenced matter; no discussion
4 occurred.

5

6 9a. Letter dated September 12, 2013, from Richard Perusse, Road Agent, to Stuart Lewin,
7 Chairman and New Boston Planning Board, re: SNHPC Road Counting Program, for the
8 Board's information.

9

10 The Chairman acknowledged receipt of the above-referenced matter; no discussion
11 occurred.

12

13 9b. Letter copy dated September 9, 2013, from Richard Perusse, Road Agent, to David J.
14 Preece, AICP, SNHPC, re: SNHPC Regional Traffic Counting Program, for the Board's
15 information.

16

17 The Chairman acknowledged receipt of the above-referenced matter; no discussion
18 occurred.

19

20 10a. Notice of Decision from the New Boston Zoning Board of Adjustment dated September
21 18, 2013, re: BDRC Properties, LLC, Tax Map/Lot #3/52-25, Hemlock Drive, for the
22 Board's information.

23

24 The Chairman acknowledged receipt of the above-referenced matter; no discussion
25 occurred.

26

27 10b. New Boston Zoning Board of Adjustment draft meeting minutes of the September
28 17, 2013, meeting, for the Board's information.

29

30 The Chairman acknowledged receipt of the above-referenced matter; no discussion
31 occurred.

32

33 11. New Boston Zoning Board of Adjustment August 20, 2013, meeting minutes, approved
34 September 17, 2013, for the Board's information.

35

36 The Chairman acknowledged receipt of the above-referenced matter; no discussion
37 occurred.

38

39 12. Letter received September 19, 2013, from Jen Drociak, Compliance Specialist, Land
40 Resources Management Bureau, NH DES, to Mr. Joseph Foistner, New Boston
41 Subdivision Holdings, LLC, re: Land Resources Complaint File #2013-00995, Foxberry
42 Drive, New Boston, NH, for the Board's information.

43

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MISCELLANEOUS BUSINESS, cont.

The Chairman acknowledged receipt of the above-referenced matter; no discussion occurred.

8a. Letter copy dated September 12, 2013, from Richard Perusse, Road Agent, to Dave Elliott, D&S Excavating, Inc., re: Twin Bridge Estates/Wright Drive, (cape cod berm & access drive material), for the Board's information.

8b. Various correspondence, re: Twin Bridge Estates, Phase II, Cape Cod Berm, Infiltration Basin and Access Road, for the Board's review and discussion.

The Chairman addressed items 8a and 8b together as they were related. He indicated that the Cape Cod Berm had been a change from the plan and the access road had been completed differently from the plan. He stated that the infiltration basins had been completed according to plan and had all been completed the same way.

The Chairman advised that the Town Engineer had dug three pits as directed by the Board for the access road and reported that they looked fine. He added that the Road Agent was also okay with the access road.

The Chairman indicated that the Road Agent and Road Committee had advised that they were all set with the Cape Cod Berm.

The Chairman asked for any comments and/or questions. Mark Suennnen commented that if the Road Agent, Road Committee and Town Engineer were happy he was happy. Peter Hogan stated that he was not happy, however, he would sign off on it.

Dave Elliott of 39 Tucker Mill Road commented that the Town's process required that someone ask for the changes and he had followed the direction of the Road Agent in both changes that were being discussed. He explained that he had brought the issues to the Road Agent's attention and asked him how he wanted to handle them. He continued that the Road Agent's reply had been to do the Cape Cod Berm curbs. He noted that it was not his decision as the road contractor.

Dave Elliott referred to the change made in the access road and explained that the Road Agent had notified him that he wanted it to deviate from the plan. He went on to say that the Road Agent had given him instructions on how to handle the issue. The Chairman acknowledged Dave Elliott's comments. Dave Elliott added that it had been stated that he had tried to cram the changes down someone's throat and that was not the case and he wanted to make sure that everyone on the Planning Board understood this.

13a. Letter with attachment received September 23, 2013, from Earl J. Sandford, P.E., Sandford Surveying & Engineering, Inc., to New Boston Planning Board, re: Plan Substitutions/Erosion Control Memo, for the Board's review and discussion.

13b. Letter dated September 24, 2013, to Nic Strong, New Boston Planning Coordinator, from Kevin Leonard, P.E., Northpoint Engineering, re: Indian Falls/Susan Road construction

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1 **MISCELLANEOUS BUSINESS, cont.**

2
3 request design change review, New Boston, NH, for the Board's review and discussion.

4
5 The Chairman addressed items 13a and 13b together as they were related. He noted that
6 the Town Engineer had completed a review of the design changes request but the Board had not
7 received it until this evening.

8 Peter Hogan stated that it did not sound like the Town Engineer agreed with what had
9 been stated. He believed that the only way it could be proven was to have inspections completed
10 on all the slopes, measurements of the depth of the rip rap, etc. He noted that what had been
11 suggested was fine with the Town Engineer but was not what was apparently onsite. Don
12 Duhaime commented that the site was a mess.

13 The Chairman asked if anyone disagreed with Peter Hogan's assessment. Mark Suennen
14 and Don Duhaime indicated that they would like to re-read it.

15 Mark Suennen asked what the next step was for the applicant following the Board's
16 review and decision. The Coordinator advised that the applicant was working on buttoning up
17 the site to everything but the wearing course of pavement. She stated that the applicant would
18 want to know what to do in the locations in question. She noted that the applicant believed what
19 currently existed would be allowed to stay but it did not meet the detail that Earl Sandford, P.E.,
20 had provided.

21 Mark Suennen stated that he was not ready to make a judgment as he had not read the
22 letter from Earl Sandford, P.E. He continued that the Town Engineer had read the letter and he
23 was willing to stand by his recommendations if the applicant needed an answer immediately.

24 The Chairman requested that a letter be sent to the applicant that stated the Board had
25 read their engineer's request for changes and the Town Engineer was agreeable to those changes,
26 however, what had been completed onsite did not match the changes. Peter Hogan suggested
27 that the Board send a letter to the applicant asking when they expected to be in compliance with
28 their revised plan.

29
30 Mark Suennen noted that he would not be at the October 8th meeting.

31
32 Peter Hogan **MOVED** to adjourn at 8:36 p.m. Don Duhaime seconded the motion and it
33 **PASSED** unanimously.

34
35 Respectfully Submitted,
36 Valerie Diaz, Recording Clerk

Minutes Approved: 10/22/13