

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2012 Meetings**

September 25, 2012

1

1 The meeting was called to order at 6:39 p.m. by Chairman Stu Lewin. Present were
2 regular members Mark Suennen, Don Duhaim and Peter Hogan, alternate member David
3 Litwinovich and Ex-Officio Rodney Towne. Also present were Planning Coordinator Nic
4 Strong, Planning Board Assistant Shannon Silver and Recording Clerk Valerie Diaz.

5 Present in the audience for all or part of the meeting were Peter Shellenberger, Ken
6 Clinton, LLS, Dennis McKenney, LLS, Charlie and Lydia Peak, Rich Therrien, Jay Marden,
7 Mike Dahlberg, LLS, Heidi Palmer and Kathy Etlinger.

8
9 **Discussion, re: Mixed Use**

10 There were no audience members present for the Mixed Use discussion.

11 The Chairman referred to a memorandum dated September 25, 2012, and stated that the
12 Coordinator was attempting to define the outcomes of the October 20, 2012 public session. The
13 Coordinator stated that she wanted to know what the Board was hoping to get out of the meeting.

14 Mark Suennen stated that there needed to be a draft of a vision statement because he
15 believed if there was not one, it would take too long to come up with one on the day of the
16 meeting. The Chairman agreed with Mark Suennen. The Coordinator pointed out these types of
17 meetings usually began with ideas being thrown out to see what people were thinking. She
18 continued that it was not very difficult to draft a vision statement from the ideas discussed. She
19 noted that the same method was used during the Community Profile meetings. Mark Suennen
20 questioned if the vision statement was developed within a four hour period. Rodney Towne
21 pointed out that the Community Profile encompassed multiple issues and was very broad. The
22 Coordinator agreed with Rodney Towne and noted that the Mixed Use matter was very specific.
23 She indicated that she could have a draft of points put together for the next meeting. Mark
24 Suennen stated that the draft did not need to be a paragraph or statement but liked the idea of
25 having some bullet points drafted to be able to get a discussion started. He suggested that the
26 Board's objective and goals be included in the bullet points. The Chairman noted that additional
27 ideas generated from the meeting could be added.

28 The Chairman asked if the Southern New Hampshire Planning Commission (SNHPC),
29 was set with the date and time of the October 20, 2012, meeting. The Coordinator answered yes
30 and noted that David Preece and three other members of the SNHPC would be present to
31 facilitate the meeting.

32 The Chairman noted that the Planning Board members were expected to conduct the
33 welcome and introduction portion of the meeting and questioned whether they were going to do
34 anything else with regarding to leading the meeting. The Coordinator explained that the purpose
35 of the meeting was to get as much information from the public on this matter as possible. She
36 continued that the role of the Planning Board would be that of observers as well as assisting the
37 SNHPC members.

38 Rodney Towne thought that the Board's purpose for the Mixed Use District should be
39 presented at the meeting as well as a list of objectives. He went on to say that the public could
40 add or detract the ideas from the list.

41 Rodney Towne asked if the public should be invited to name the district. The
42 Coordinator stated that she had thought about this and had heard feedback that naming the
43 district "Mixed Use District" sounded cold, big and not like New Boston. She noted that a five

September 25, 2012

2

1 **MIXED USE DISTRICT DISCUSSION, cont.**

2
3 minute discussion could take place at the meeting to generate name ideas.

4 The Chairman asked if there were any Board members that were unable to attend the
5 Saturday, October 20, 2012, meeting; all members indicated that they would be present.

6 Mark Suennen stated that he was interested in finding out if there were particular uses the
7 public wanted to avoid and uses that they wanted to include within the district.

8 The Chairman asked if the online survey discussed during a previous meeting would be
9 posted following the October 20th meeting. The Coordinator answered that the online survey
10 was currently posted on the Town website. She noted that an invitation letter was sent to
11 members of the public about the October 20th meeting and included was a link to the online
12 survey in the event that individuals were unable to attend the meeting. She added three
13 individuals had responded that they would be attending the meeting and one had responded that
14 they were unable to attend.

15 The Chairman asked for comments and/or questions with regard to a memorandum dated
16 August 21, 2012. Mark Suennen suggested that samples of how other towns had implemented
17 similar districts be available at the October 20th meeting. He further suggested that the samples
18 should include things that would be useful in New Boston as well as those that would not be
19 useful. The Chairman noted that he was interested in uses to avoid and asked Mark Suennen if
20 he had come across any such uses in the memorandum. Mark Suennen answered yes and stated
21 that some of the larger towns allowed for concurrent uses that he did not believe were
22 appropriate for New Boston. He specifically pointed to parking and stated that the uses needed
23 to be appropriate to the parking that was available. He believed performance standards should be
24 addressed at the October 20th meeting with the explanation that the Board would control
25 acceptable/unacceptable uses through those standards. He commented that the Board did not
26 want to overwhelm the downtown area and wanted to retain the downtown feel. He continued
27 that the Board was attempting to expand people's choices about what they can do with their
28 property and not restrict them. Rodney Towne pointed out that the Mixed Use District area
29 extended considerably outside of the Village area. He continued that uses suitable in the very
30 center of town may not be appropriate in the outlying areas. He believed it would be a
31 continuous hitch in the process but was not a reason to abandon the process. Mark Suennen
32 stated that this was an instance where the performance standards would come into play.

33 David Litwinovich asked if the boundaries for the Mixed Use District were set in stone.
34 The Chairman answered semi-firm/concrete. Rodney Towne commented that he would not be
35 surprised if members from the public questioned why the district did not include or could not
36 include their property. Mark Suennen believed that the Board should be more inclusive rather
37 than less inclusive.

38 The Chairman asked for any further questions and/or comments. David Litwinovich
39 commented that he agreed with Mark Suennen's previous comment regarding acceptable uses.
40 He suggested that the uses be listed at the meeting. The Coordinator indicated that she could use
41 a projector to list the acceptable uses. The Chairman requested that the Board members review
42 the acceptable uses lists that was generated in May 2012 and determine if any more uses needed
43 to be added. The Coordinator offered to email the list from May 2012.

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2012 Meetings**

September 25, 2012

3

1 **MIXED USE DISTRICT DISCUSSION, cont.**
2

3 The Coordinator referenced the design guidelines packet and noted that there were good
4 ideas included with regard to keeping the look of the town through development. She did not see
5 why the design guidelines could not be expanded to include the Mixed Use District as well as the
6 Small Scale Commercial District. She asked the Board to think about if it would be better to
7 include the design guidelines within the performance standards that created a mandatory
8 approach or include them as voluntary guidelines. The Chairman asked the Board to read the
9 design guidelines and be ready to discuss them at the next meeting. Peter Hogan requested a
10 copy of the design guidelines. The Coordinator stated that she would provide Peter Hogan with
11 the design guidelines.
12

13 **MISCELLANEOUS BUSINESS AND CORRESPONDENCE FOR THE MEETING OF**
14 **SEPTEMBER 25, 2012.**
15

- 16 1. Distribution of the August 28, 2012, minutes, for approval at the meeting of September
17 25, 2012. (distributed by email)
18

19 Peter Hogan **MOVED** to approve and release the minutes of the August 28, 2012,
20 meeting minutes. Mark Suennen seconded the motion. AYE - Don Duhaime, Rodney
21 Towne and Peter Hogan. ABSTAINED - Mark Suennen. The motion **PASSED**.
22

- 23 2. Continued discussion, re: Planning Board fees.
24

25 The Coordinator advised that she had not thought any further about the fee issue since the
26 last meeting. The Board decided to continue the discussion at a future meeting.
27

- 28 4. Application for Appointment to the CIP Committee received September 19, 2012, for Jon
29 Strong, for the Board's action.
30

31 The Chairman commented that he had attended the CIP Committee meeting and believed
32 Jon Strong had made good comments and suggestions. He added that Jon Strong provided good
33 insight.
34

35 Mark Suennen asked if Jon Strong was a full-time firefighter and in which town he
36 worked. The Coordinator answered that Jon Strong was a full-time firefighter for the Town of
37 Bedford.
38

39 Mark Suennen **MOVED** to approve the Application for Appointment to the CIP
40 Committee for Jon Strong. Peter Hogan seconded the motion and it **PASSED**
41 unanimously.
42

- 43 5. Copy of article, titled; "*Recycling, tree pruning, and other assaults on liberty*", By Renee
Loth, published in the Boston Globe, for the Board's enjoyment.

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2012 Meetings**

DRAFT

September 25, 2012

4

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 The Chairman acknowledged receipt of the above-referenced matter; no discussion
4 occurred.

- 5
6 6. Discussion, re: email copy dated September 23, 2012, from Stu Lewin, Planning Board
7 Chairman, to Nic Strong, Planning Board Coordinator, re: Change in Work Conditions.

8
9 The Chairman explained that for the next three months his job required that he travel to
10 Burlington, Massachusetts, and as such he would not be able to arrive at the Planning Board
11 meetings by 6:30 p.m. He suggested that someone begin the meetings for him at 6:30 p.m. or
12 start the meetings a half hour later at 7:00 p.m.

13 The Board agreed to temporarily move the start time of the Planning Board meetings to
14 7:00 p.m.

- 15
16 7. Copy of article, titled; "Court upholds planning board's site plan regulation waiver",
17 Property Portfolio Group, LLC v. Derry, No. 2011-496, June 29, 2012, published in New
18 Hampshire Town & City, September/October 2012 edition, for the Board's information.

19
20 The Chairman acknowledged receipt of the above-referenced matter; no discussion
21 occurred.

- 22
23 8. Copy of State of New Hampshire Driveway Permit, received September 21, 2012, for
24 Kenneth R. Barss, Jr., N.H. Route 13, Tax Map/Lot #14/116-1, for the Board's
25 information.

26
27 The Chairman acknowledged receipt of the above-referenced matter; no discussion
28 occurred.

- 29
30 9. Copy of Notice of Decision for Tax Map/Lot #19/21, 29 Mill Street and related Zoning
31 Board of Adjustment meeting minutes of September 18, 2012, for the Board's
32 information.

33
34 The Chairman acknowledged receipt of the above-referenced matter; no discussion
35 occurred.

- 36
37 10. Copy of Notice of Decision for Tax Map/Lot #13/15, 155 South Hill Road and related
38 Zoning Board of Adjustment meeting minutes of September 18, 2012, for the Board's
39 information.

40
41 The Chairman acknowledged receipt of the above-referenced matter; no discussion
42 occurred.

43

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2012 Meetings**

September 25, 2012

5

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 11a. Letter copy with email attachments dated September 24, 2012, from Kevin P. Leonard
4 P.E. Northpoint Engineering, LLC, to Jack Belletete, Belletete's Incorporated, re: Karen
5 Morin Revocable Trust (Daylily Lane/Greenfield Road), New Boston, N.H. for the
6 Board's information.

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

10
11 11b. Outstanding Item Summary dated September 24, 2012, from Kevin M. Leonard, P.E.,
12 Northpoint Engineering, LLC, to Nic Strong, Planning Coordinator, re: Karen Morin
13 Revocable Trust (Daylily Lane/Greenfield Road), New Boston, N.H. for the
14 Board's information.

15
16 The Chairman acknowledged receipt of the above-referenced matter; no discussion
17 occurred.

18
19 12. Letter dated September 24, 2012, from Kevin M. Leonard, P.E., Northpoint Engineering,
20 LLC, to Nic Strong, New Boston Planning Coordinator, re: Twin Bridge Estates, Phase II
21 - Box Culvert Review, New Boston, N.H., for the Board's information.

22
23 The Chairman acknowledged receipt of the above-referenced matter; no discussion
24 occurred.

25
26 13. Thibeault Corporation, Gravel Pit Status

27
28 The Chairman asked for a status with regard to the Earth Removal Permits for the
29 Thibeault gravel pits. The Coordinator advised that the Planning Office was waiting for the
30 submission of required information for a grandfathered status application. The Planning Board
31 Assistant added that the deadline for submission had been September 24, 2012, and she had
32 received an email today from Vinnie Iacozzi that advised his attorneys were working on the
33 items for submission.

34
35 14. Piscataquog River Management Plan

36
37 The Chairman asked when the public hearing would be held on the above-referenced
38 matter. The Coordinator answered that the public hearing was scheduled for the next meeting on
39 October 9, 2012.

40
41 The Board took a fifteen minute recess prior to the start of the next hearing.

42
43

September 25, 2012

6

1 **SHELLENBERGER, PETER M. & SUSAN L.**

2 Compliance Hearing/Public Hearing/NRSPR/Warehouse

3 Location: Byam Road & N.H. Route 13 a/k/a River Road

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

5 Residential-Agricultural "R-A" District

6
7 Present in the audience were Ken Clinton, LLS, Peter Shellenberger, Dennis McKenney,
8 LLS, Charlie and Lydia Peak.

9 The Chairman read the public hearing notice. He stated the application and plans were
10 approved with conditions on April 10, 2012, and the original compliance deadline was
11 September 10, 2012. He noted that a site walk had taken place on September 12, 2012, and the
12 as built plans were received on September 10, 2012. He indicated that there were no outstanding
13 Planning Board fees.

14 The Chairman asked if the as built plans had been updated. Ken Clinton, LLS, answered
15 yes and noted that four copies had been submitted.

16 The Chairman asked if photos of the stairs to the building had been brought to the
17 meeting. Ken Clinton, LLS, provided the requested photographs.

18 The Chairman asked if two lights have been installed over the large doors. Ken Clinton,
19 LLS, answered yes and indicated that the wall pack lights were shown on the as built plans.

20 The Chairman asked if stone had been placed at the edge of the existing pavement. Ken
21 Clinton, LLS, answered yes.

22 The Chairman asked if the maintenance document for the rain garden had been
23 completed. Ken Clinton, LLS, answered that it has been submitted as part of the plan set.

24 The Chairman asked if the contractor logo had been removed from the as-built plans.
25 Ken Clinton, LLS, answered yes.

26 The Chairman indicated that there were two issues to discuss, 1) the stabilization of the
27 grass and 2) the existing rain garden being smaller than what was approved on the plan.

28 Ken Clinton, LLS, stated that he contacted that engineer who designed the rain garden
29 and had asked him to respond to the question raised by the Board via email. He explained that
30 the engineer had provided calculations relative to area and volume that indicated the rain garden
31 was larger in capacity than what was originally designed and, therefore, exceeded the design
32 requirements.

33 Peter Shellenberger addressed the stabilization issue and stated that if any erosion
34 occurred on his property it would not impact any of his neighbors. He pointed out that the street
35 was not downgrade from any of the work that had been done on the property. He noted that the
36 weather had not been conducive to growing grass and he probably did not have 80% coverage.
37 He asked what the issue would be if he had erosion on his property. The Chairman stated that he
38 did not think erosion was the issue and that the issue was with stabilization. He continued that
39 the Town's regulations required 85% stabilization and there was a note on the plan that included
40 the requirement. He further stated that it had been noted during the site walk that the Board had
41 historically been consistent with requiring a bond until stabilization was determined. Peter
42 Shellenberger commented that the decision was based on Town regulation and he would
43 submit the bond. The Chairman explained that once the applicant believed stabilization had been

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2012 Meetings**

September 25, 2012

7

1 **SHELLENBERGER, cont.**

2
3 achieved he simply needed to let the Board know and the members would view the property. He
4 pointed out that a hearing would not be required and the Board could discuss the stabilization at
5 a meeting.

6 Peter Shellenberger believed that the south side of the property was 85% stabilized. The
7 Chairman agreed that the south side was stabilized. Peter Shellenberger stated that about 500
8 square yards of area was not fully established. He asked if the Board was going to make him tie
9 up \$2K for the entire winter. Peter Hogan asked if the area was unstable. The Chairman stated
10 that the Board had been extremely consistent with regard to this matter and other applicants had
11 to bond in similar situations. Peter Hogan agreed with the Chairman, however, he noted that
12 bonds had only been required for areas that were unstable, i.e., driveways with slopes that
13 required stabilization. The Chairman disagreed with Peter Hogan's statement and stated that a
14 bond had been required for a flat driveway on Wilson Hill Road that did not have any slopes.
15 Peter Hogan argued that the driveway referenced by the Chairman had the potential for erosion
16 due to sheet flow.

17 Peter Shellenberger questioned the consequences of erosion on his property as there were
18 no bankings supporting anything. He pointed out that the only potential issue could be mud in
19 his parking lot that he could clean. He stated that he understood the Board's position on wanting
20 to be consistent, however, he believed that it was ridiculous. Peter Hogan stated that the
21 property was located in a sandpit and the applicant had the best drainage on site. He continued
22 that because of the drainage around and underneath the building it made it impossible for the
23 existence of an unstable area.

24 The Chairman asked for comments on this matter from other Board members. Rodney
25 Towne stated that he agreed with both Peter Hogan and Peter Shellenberger, however, he
26 understood what the regulations required. He believed it would meet the intent of the regulations
27 to grant the applicant a six month conditional approval. He added that it was silly to require the
28 applicant to post bond a \$2K for this property. Mark Suennen disagreed with Peter Hogan and
29 Rodney Towne as he believed the site was unstable. He stated that rain falling from the roof off
30 the building had already created rivulets and caused erosion on the slope. He did not believe that
31 the erosion he viewed during the site walk would impact neighboring properties but he did
32 believe that the site was unstable and could erode away the foundation. Rodney Towne stated
33 that the intent of the regulation was to ensure that the Town and abutting properties were not
34 damaged. He continued that the State would handle environmental matters.

35 Peter Shellenberger stated that he was willing to put up \$1K for the bond. He added that
36 he was proud of the building that had been built and he was not going to let it turn into a washed
37 out piece of crap. Peter Hogan asked if the applicant would be paying the bond in cash. Peter
38 Shellenberger stated that he would submit the bond in the form of a check. Peter Hogan asked to
39 move on from the matter as the applicant was willing to submit a \$1K check. Mark Suennen
40 stated that he was satisfied with the applicant submitting \$1K for the bond. Peter Hogan
41 recommended that the bond be returned within six months. He added that he was satisfied not
42 requiring the applicant to post a bond. Peter Shellenberger stated that he would prefer not to
43 submit the bond.

September 25, 2012

8

1 **SHELLENBERGER, cont.**
2

3 Ken Clinton, LLS, indicated that he agreed with Mark Suennen with regard to the area
4 not being fully stable, however, he did not believe that it was entirely unstable. He stated that at
5 least 60% - 65% of the area was stabilized. He explained that if the rivulets increased the
6 material would end up near the sediment forebay and Mr. Shellenberger would have to clean it
7 out. Mark Suennen stated that the material would end up below and near the silt fence. Ken
8 Clinton, LLS, pointed out that the silt fence was located slightly upgrade and any washed out
9 material would instead make its way to the sediment forebay. He noted that it was so established
10 that he did not have a problem from an erosion standpoint. He added that he agreed with Peter
11 Shellenberger that it was a bit ridiculous to have him tie up \$2K for what it would take to ensure
12 grass growth next spring. He further added that he agreed with Rodney Towne's comments with
13 regard to meeting the intent of the regulations and stated that as a professional he did not see
14 problem. He hoped that the Board would consider granting Peter Shellenberger six months to
15 establish stabilization and at that point require \$500 for a bond if stabilization has not been
16 established.

17 The Chairman asked the Board if there were any other issues to be discussed with the
18 exception of the stabilization. Rodney Towne stated that the applicant had answered all of the
19 Board's questions. Mark Suennen commented that stabilization was his only issue. Peter Hogan
20 said that he was satisfied.
21

22 Rodney Towne **MOVED** to confirm compliance with the conditions subsequent to the
23 approval of the Non-Residential Site Plan Review for Peter and Susan Shellenberger for
24 the operation of a warehouse on Tax Map/Lot #6/40-1-1, Byam Road and NH Route 13
25 a/k/a River Road, and to release the hold on the Certificate of Occupancy/Permit to
26 Operate. It is the applicant's responsibility to apply to the Building Department for a
27 Permit to Operate/Certificate of Occupancy. The Applicant is put on notice that the site
28 shall be 85% stabilized in 8 months (5/25/2013). Failure to meet this condition will result
29 in loss of the Certificate of Occupancy and the Applicant will need to vacate. Peter
30 Hogan seconded the motion and it **PASSED**: AYE - Rodney Towne, Don Duhaime,
31 Peter Hogan. NAY - Mark Suennen
32

33 **TOWNES FAMILY TRUST**

34 Submission of Application/Public Hearing/Major Subdivision/2 Lots

35 Location: South Hill Road

36 Tax Map/Lot #13/39

37 Residential-Agricultural "R-A" District
38

39 Present in the audience was Dennis McKenney, LLS, Charlie and Lydia Peak, Jay
40 Marden, Mike Dahlberg, LLS, Heidi Palmer and Kathy Etlinger.

41 The Chairman read the public hearing notice. He advised that the application form and
42 cover sheet were submitted on August 29, 2012. He noted that there were no outstanding fees.
43 He indicated that the following items required for a completed application were missing:

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2012 Meetings**

September 25, 2012

9

1 **TOWNES FAMILY TRUST, cont.**

- 2
3 - Tax map scale copy of final plat;
4 - Driveway Permit; and
5 - Traffic, Fiscal and Environmental Impact Studies.

6 The Chairman stated that during a previous meeting with the applicant a discussion had
7 taken place with regard to a regulation requiring that plans be legible. He indicated that some
8 items that had been submitted were discussed as well as ideas about how to fix them. He
9 continued that it had also been discussed that a note be added to plans that explained what the
10 plan was trying to accomplish.

11 The Chairman noted that neither of the items discussed had been applied to the plan that
12 was most recently submitted and he questioned if the applicant was unclear about the discussion.
13 Dennis McKenney, LLS, stated that the plan before the Board addressed issues that had been
14 raised from the Planning Office. The Chairman pointed out that the letter from the Planning
15 Office was not relevant to the two items he was addressing. He commented that if the plan was
16 given to someone in Town they would not be able to identify the property in question as the plan
17 was not legible. Dennis McKenney, LLS, stated that during the previous discussion he had
18 pointed out that the plan was drawn at a scale of 1" = 200' and when he reduces it to an 11" x 17"
19 piece of paper it was being reduced to a quarter of its size. He indicated that he could not fit all
20 of the information on an 11" x 17" piece of paper. The Chairman pointed out that he had been on
21 the Board for the past four years and there were a lot of people who were able to do it. Dennis
22 McKenney, LLS, noted that the solution he had proposed during the last discussion was to take
23 this sheet and fold it to an 11" x 17" size, therefore, providing a legible document at a size 11" x
24 17". The Chairman reiterated that everyone else was able to provide the plan in the form that
25 was requested. Dennis McKenney, LLS, stated that he could not redraw the plan to fit it on an
26 11" x 17" sheet. He pointed out that during the last discussion the Chairman had provided an
27 example of a plan on an 11" x 17" piece of paper, however, the scale was 1" = 50' where the
28 project he was showing was 100 acres at 1" = 200' as it was the smallest scale he could use and
29 fit all the information on one page. The Chairman suggested that two sheets be used. Dennis
30 McKenney, LLS, indicated that he could provide several 11" x 17" sheets. The Chairman noted
31 that he wanted a plan that was legible that he could review and analyze prior to coming to the
32 meetings. He continued that it was difficult to review the plan when he could not read it.
33 Rodney Towne suggested submitting full size plans folded. Mark Suennen pointed out that
34 Rodney Towne's suggestion required a waiver.

35 Dennis McKenney, LLS, offered to stop by the office to review other projects that had
36 been done at a 1" = 200' scale. He believed that his original suggestion of folding the full size
37 sheet in half would be the simplest solution. The Chairman stated that it would be good if
38 Dennis McKenney, LLS, could look into making what was involved in submitting a correct 11"
39 x 17" plan.

40 Dennis McKenney, LLS, submitted a written waiver request and test pit data that had not
41 previously been submitted.

42 Dennis McKenney, LLS, pointed to the plan and identified it as Tax Map/Lot #13/39,
43 owned by the Townes Family Trust. He identified South Hill Road, the Piscataquog River and

September 25, 2012

10

1 **TOWNES FAMILY TRUST, cont.**

2
3 Chamberlain Road on the plan. He indicated that the tract had a small area of frontage on
4 Chamberlain Road and a long area of frontage on South Hill Road. He explained that this was a
5 two lot subdivision with the parent lot retaining 90 acres and the existing house with red barn lot
6 being broken out as a 12 acre lot.

7 The Chairman pointed out that the tax map scale copy of the final plat was missing.
8 Dennis McKenney, LLS, clarified that he had not submitted the tax map scale copy of the final
9 plat and identified it as the copy that was 1" = 400'. He stated that should approval be granted he
10 could provide a copy of the plan digitally. The Chairman advised that a waiver request needed to
11 be submitted as it was an item required for acceptance of the completed application and the
12 Board could not approve the plan until the application was accepted as complete.

13 The Chairman noted that the driveway permits were missing. Dennis McKenney, LLS,
14 stated that there were two existing driveways; he identified them on the plan. The Chairman
15 requested that the applicant complete the driveway permits at no cost in order to have the permits
16 on file for future use. Dennis McKenney, LLS, agreed to submit the driveway permits.

17 The Chairman listed a number of items that were missing from the plans. He explained
18 that typically for a large lot subdivision the Board only required enough of the detail be
19 completed in the area of the proposed house lot. Dennis McKenney, LLS, asked if the Chairman
20 was referring to the entire 12 acres or the immediate area of the house. Mark Suennen clarified
21 that the applicant should provide contours and survey within the 200' square. Dennis
22 McKenney, LLS, noted that a 200' and a 255' square existed on the plan and asked the Board
23 which they preferred he used. The Chairman noted that the waiver request would then change to
24 only cover the remaining area of the lot and the justification for the waiver would be that a
25 buildable area was proven. Dennis McKenney, LLS, noted that he would be using the 255'
26 square to gather the required information as it was the area where test pits had already been
27 completed. Mark Suennen requested that information be provided to the Board that a driveway
28 could exist from the road to the 255' square area. The Coordinator stated that it would be easier
29 to use the frontage square area. Mark Suennen stated that he was indifferent to which one was
30 used and emphasized that he wanted to see an 1.5 acrea area adjacent to the driveway which
31 would prove that a house could be built on it.

32 The Chairman explained that in order to meet timelines the application needed to be
33 accepted as complete at this meeting. He continued that the Board would accept a waiver
34 request that stated the tax map scale copy of the final plat would be provided as a part of the final
35 submittal. Peter Hogan asked for the reason for the timeline to accept as complete. The
36 Coordinator explained that State law required that an application be accepted as complete thirty
37 days after submission.

38
39 Mark Suennen **MOVED** to accept the application of Townes Family Trust, Location:
40 South Hill Road, Tax Map/Lot #13/39, Residential-Agricultural "R-A" District, as
41 complete, contingent upon the the applicant submitting the 400' scale tax map plat at his
42 next hearing. Rodney Towne seconded the motion and it **PASSED** unanimously.
43

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2012 Meetings**

September 25, 2012

11

1 **TOWNES FAMILY TRUST, cont.**

2
3 The Chairman indicated that the deadline for Board action was November 29, 2012.

4 Rich Therrien of 9 Pearson Lane asked for the location of the proposed 12 acre lot to be
5 identified; Dennis McKenney, LLS, identified the location on the plan.

6 A site walk was scheduled for October 2, 2012, at 6:00 p.m.

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

9
10 Peter Hogan **MOVED** to adjourn the Townes Family Trust, Location: South Hill Road,
11 Tax Map/Lot #13/39, Residential-Agricultural "R-A" District, to October 9, 2012, at 7:45
12 p.m. Don Duhaime seconded the motion and it **PASSED** unanimously.

13
14 **NEW ERA CF TRUST**

15 Submission of Application/Public Hearing/Major Subdivision/2 Lots

16 Location: Gregg Mill Road & Beard Roads

17 Tax Map/Lot #6/12

18 Residential-Agricultural "R-A" District

19
20 Present in the audience were Jay Marden, Mike Dahlberg, LLS, Heidi Palmer and Kathy
21 Etlinger.

22 The Chairman read the public hearing notice. He stated that the application was accepted
23 as complete at the September 11, 2012, meeting. He noted that the deadline for Board action
24 was November 15, 2012. He advised that the waiver requests submitted for the Traffic,
25 Environmental and Fiscal Impact Studies needed to be addressed. He noted that the previously
26 submitted waiver requests had been re-submitted with the additional details that had been
27 requested. He stated that the driveway permit had been submitted and approved by the Road
28 Agent and a site walk had taken place on September 19, 2012.

29 The Chairman asked for confirmation that the plans had not changed since the last
30 meeting. Mike Dahlberg, LLS, indicated that two test pit locations had been added to the plan.
31 He also pointed out that the driveway location had been adjusted. The Chairman asked if the
32 driveway met the sight line requirements. Mike Dahlberg, LLS, answered yes.

33 Mike Dahlberg, LLS, stated that the results of the test pit had concluded that there was no
34 water in the area in question and it was all sand and gravel.

35 The Chairman asked if there were any issues with the waiver requests that had been
36 submitted for the Certified Erosion Sediment Control Plan Soil Map, the Traffic, Environmental
37 and Fiscal Impact Studies, boundary markers/drill holes/boulders, watershed outline and
38 drainage, and the soil information. Peter Hogan commented that he was all right with the waiver
39 requests. Mark Suennen asked what had been seen at the site walk. The Chairman indicated that
40 the property was flat and had good drainage. He noted that the driveway had been moved to a
41 better location. He added that there were no wetlands and he believed that Mark Suennen would
42 be satisfied with the property. Mark Suennen stated that he did not have a problem accepting the
43 waiver for the Certified Erosion Sediment Control Plan as the Shoreland Protection Act would

September 25, 2012

12

1 **NEW ERA CF TRUST, cont.**

2
3 cover that. He continued that he was unsure that the Board needed to waive the Soils Map
4 because the applicant had provided test pit information but was willing to waive the map. He
5 further continued that the waivers for the Traffic, Environmental and Fiscal Impact Studies could
6 be accepted as the applicant had indicated that a house could be placed on the property at
7 anytime. Additionally Mark Suennen noted that the watershed boundaries were not required
8 because the property was contained within the Piscataquog River watershed and that a drill hole
9 in place of a granite bound for a front lot corner was not an unusual request where stone walls
10 existed at the front property line.

11
12 Mark Suennen **MOVED** to grant all the waivers listed in the September 22, 2012, letter
13 based on the explanations given by the applicant as well as the reasons he previously
14 stated. Peter Hogan seconded the motion and it **PASSED** unanimously.

15
16 The Chairman asked the Board if there was a need to define requirements for active and
17 substantial development or substantial completion of improvements. Mark Suennen asked if the
18 purpose of the subdivision was to separate the parcel of land that had a conservation easement
19 from the parcel of land that was buildable. Mike Dahlberg, LLS, answered yes and he added.
20 Mark Suennen asked if the applicant planned to build on the buildable parcel within the next five
21 years. Mike Dahlberg, LLS, answered that it was probable that the buildable land would be built
22 on. Mark Suennen advised that in the past if there were no plans to build on the parcel the
23 Planning Board would define active and substantial development as the filing of the deed and
24 substantial completion of improvements as installation of the foundation. The Coordinator
25 pointed out that the Board had defined substantial completion for the Dane Subdivision as the
26 installation of the driveway and the house. She added that for the Luneau Subdivision the Board
27 had to defined substantial completion of developments as the installation of the driveway. Peter
28 Hogan believed that the installation of a driveway was adequate for active and substantial
29 development. Mike Dahlberg, LLS, asked what would happen to the active and substantial
30 development requirements if the Conservation Commission approached the applicant and offered
31 to purchase the property. Mark Suennen stated that nothing would happen because the condition
32 only applied if there was to be building on the property. The Chairman added that there would
33 be no impact if the applicant allowed for the active and substantial development requirement to
34 expire. Rodney Towne clarified that the only impact to the applicant would be that the current
35 regulations would need to be followed should he decide to build following the expiration of the
36 requirements. Mike Dahlberg, LLS, indicated that he did not want the applicants to be hung up
37 by the 24 month driveway installation requirement. Rodney Towne stated that the applicant
38 would not be hung up, however, he would be subject to any changes in the Zoning Ordinance.
39 Mike Dahlberg, LLS, questioned the need for the condition as it was only a single lot. The
40 Chairman stated that from the Town's point to view the applicant was getting a lot that could be
41 built on according to current Zoning Regulations. He explained that the requirements ensured
42 that the approved plan would be subject to the current Zoning Regulations at the time the
43 subdivision was approved. He continued that if the requirements were not met within the

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2012 Meetings**

September 25, 2012

13

1 **NEW ERA CF TRUST, cont.**

2
3 specified time frame then the subdivision would be subject to the Zoning Regulations at the time
4 of building. Mike Dahlberg, LLS, noted that the applicant was entitled to a four year exemption
5 and requested that the active and substantial development be completed within four years. The
6 Coordinator pointed out that the law had changed and the vesting period was five years. She
7 explained that the five year exemption was only granted if the active and substantial
8 development was done within 24 months. She added that if the active and substantial
9 development was not completed within 24 months, the applicant was not guaranteed the five
10 year exemption. Mark Suennen stated that the Board defined active and substantial development
11 on a case-by-case basis. Mike Dahlberg, LLS, commented that his 30 years of doing this he had
12 never seen a single lot backed in this way. The Coordinator pointed out the Board could decide
13 not to do anything, however, that would not guarantee the applicant the five year exemption
14 either. Mark Suennen suggested that active and substantial development be defined as the filing
15 of the deed. Mike Dahlberg, LLS, pointed out that the deed was already filed and the only time a
16 new deed was filed was at the time land was conveyed. The Planning Assistant noted that the
17 new plan would need to be recorded. Mark Suennen suggested that active and substantial
18 development be defined as the recording of the plan.

19 The Chairman stated that the proposal for active and substantial development was the
20 recording of the plan at the Registry of Deeds and the proposal for substantial completion of
21 improvements was the installation of a driveway and house foundation. Peter Hogan agreed with
22 the proposed active and substantial development and substantial completion of improvements.
23 Jay Marden questioned if the requirements for active and substantial development as well as
24 substantial completion of improvements would be required for all approved lots. The Chairman
25 pointed out that the Board had required definitions of active and substantial development as well
26 as substantial completion of improvements on past approvals. Jay Marden inquired if all of the
27 Indian Falls Subdivision lots had to be developed within five years. Mark Suennen answered
28 that the Indian Falls Subdivision had been approved prior to the change in the law. Jay Marden
29 asked if the requirements were part of a State law. The Coordinator answered yes. Mark
30 Suennen stated that the Board was requiring the applicant to do something that they would have
31 to do anyway following approval in order to guarantee the 5 year exemption. Jay Marden
32 questioned if lots needed to be developed within 5 years. Mark Suennen answered no and
33 clarified that if the applicant wished to continue with the 2012 regulations the driveway and
34 foundation needed to be installed within 5 years. He continued that if the applicant did not
35 install the driveway and foundation within 5 years the lot would be subject the current
36 regulations at the time the of building.

37 The Chairman asked for any questions and/or comments; there were no questions or
38 comments.

39
40 Mark Suennen **MOVED** to approve the Major Subdivision/2 Lots, by New Era CF Trust,
41 Tax Map/Lot #6/12, Beard & Gregg Mill Roads, subject to:

42 **CONDITIONS PRECEDENT:**

- 43 1. Submission of a minimum of five (5) blue/blackline copies of the revised plat,

September 25, 2012

14

1 **NEW ERA CF TRUST, cont.**

- 2
- 3 including all checklist corrections and any corrections as noted at this hearing;
- 4 2. Submission of a suitable mylar for recording at the HCRD;
- 5 3. An 'Individual Stormwater Management Plan' (ISWMP) to be submitted prior to
- 6 the issuance of a building permit, will be required for land disturbance or
- 7 development in 'Critical Areas' (both those designated on the plan or created
- 8 during development). For building permits requiring an ISWMP, Certificates of
- 9 Occupancy will only be issued after receipt of a 'Stormwater Management Plan
- 10 Adherence Statement' as specified in the New Boston Subdivision Regulations."
- 11 4. Deeds for each lot shall have the following statement: 'The property herein
- 12 described is subject to the following condition as described in the recorded
- 13 subdivision plan referenced above: A Stormwater Management Plan will be
- 14 required prior to the issuance of a building permit if any land is to be disturbed in
- 15 the designated or created Critical Areas.'
- 16 5. Submission of any outstanding fees related to the subdivision application or
- 17 recording of documents at the HCRD.
- 18 6. Upon completion of the conditions precedent, the final plans and mylar shall be
- 19 signed by the Board and forwarded for recording at the HCRD.

20 The deadline date for compliance with the conditions precedent shall be **November 25,**

21 **2012**, confirmation of which shall be an administrative act, not requiring further action by

22 the Board. Should compliance not be confirmed by the deadline date and a written

23 request for extension is not submitted by that date, the applicant is hereby put on notice

24 that the Planning Board may convene a hearing under RSA 676:4-a to revoke the

25 approval.

26

27 **ACTIVE AND SUBSTANTIAL DEVELOPMENT OR BUILDING AND**

28 **SUBSTANTIAL COMPLETION OF IMPROVEMENTS:**

- 29 1. Within 24 months after the date of approval, the following items must be
- 30 completed in order to constitute "active and substantial development or building"
- 31 pursuant to RSA 674:39,I, relative to the 5-year exemption to regulation/
- 32 ordinance changes:
- 33 Recording the mylar at the Hillsborough County Registry of Deeds.
- 34 2. The following items must be completed in order to constitute "substantial
- 35 completion of the improvements" pursuant to RSA 674:39,II, relative to final
- 36 vesting:
- 37 Driveway and foundation installation within the 5-year window.

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

39

40 Mark Suennen **MOVED** to approve Driveway Permit #12-13 for New Era CF Trust, Tax

41 Map/Lot #6/12-14, Beard & Gregg Mill Roads. Don Duhaime seconded the motion and

42 it **PASSED** unanimously.

43

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2012 Meetings**

September 25, 2012

15

1 **MISCELLANEOUS BUSINESS AND CORRESPONDENCE FOR THE MEETING OF**
2 **SEPTEMBER 25, 2012, Cont.**

- 3
4 3. Continued discussion, re: Antique Shop, Tax Map/Lot #16/13, 2 Mont Vernon Road.
5 **(Kathy Etlinger & Heidi Palmer (Owner) will be present to discuss)**

6
7 Present in the audience were Kathy Etlinger and Heidi Palmer.

8 The Chairman stated that at the last meeting the applicant had agreed to provide a marked
9 up plan and demonstrate compliance with the parking requirements with regard to the above-
10 referenced Antique Shop.

11 Kathy Etlinger advised that she had submitted an updated plan that illustrated parallel
12 parking along the side of the building. She noted that she was able to measure four 10'x20'
13 parallel parking spaces and five 10'x20' parking spaces located at the back of the building.
14 Mark Suennen asked if the applicant had spoken with the Road Agent. Kathy Etlinger answered
15 yes and indicated that he was okay with the parking spaces she had measured.

16 The Chairman asked how the parking would be marked. Kathy Etlinger answered that
17 she would paint the spaces and utilize signage to mark the parking. The Chairman asked if one
18 of the parking spaces would be identified as a handicapped parking space. Kathy Etlinger
19 answered yes and pointed out that it would be located closest to the entrance of the building.

20 The Chairman asked if the applicant was adding any lights. Kathy Etlinger answered no.

21 The Chairman asked if the applicant was going to be changing the sign. Kathy Etlinger
22 answered no and commented that the sign was such a landmark and she believed that it drew
23 customers.

24 The Chairman asked if the applicant planned to change the hours of operation that were
25 listed on the original plan. Kathy Etlinger answered no. The Chairman noted that the hours of
26 operation were proposed for Monday through Sunday 8:30 a.m. to 6:00 p.m. or by appointment.
27 Peter Hogan advised that the applicant could expand upon the hours if she wished. Kathy
28 Etlinger proposed to change the hours of operation to Monday through Sunday 8:30 a.m. to 8:00
29 p.m. or by appointment; she made the amendment on the plan.

30 The Chairman noted that the parking space lines needed to be painted within thirty days
31 in order to obtain a Certificate of Occupancy from the Building Inspector.

32 Heidi Palmer asked if they were all set with the Fire Department. Rodney Towne
33 explained that the applicant needed to check with the Fire Department.

34
35 Mark Suennen **MOVED** to accept the amendment supplement to the original Heidi
36 Palmer Real Estate Site Plan that showed the revised parking layout and revised hours of
37 operation. Rodney Towne seconded the motion and it **PASSED** unanimously.

38
39 Don Duhaime **MOVED** to adjourn the meeting at 9:03 p.m. Rodney Towne
40 seconded the motion and it **PASSED** unanimously.

41
42 Respectfully Submitted,
43 Valerie Diaz, Recording Clerk

Minutes Approved:
10/23/2012