

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2014**

June 24, 2014

1 The meeting was called to order at 6:30 p.m. by Planning Board Chairman Peter Hogan.
2 Present were regular members Mark Suennen and David Litwinovich and ex-officio Christine
3 Quirk. Also present were Planning Coordinator Nic Strong, Planning Board Assistant Shannon
4 Silver and Recording Clerk Valerie Diaz.

5
6 Present in the audience for all or part of the meeting were Morgan Hollis, Esq., Elizabeth
7 Hardigan, Shiv Shrestha, John Neville, Jake Neville, Selectman Dwight Lovejoy, Selectman
8 Rodney Towne, Paul Botta, Mike Tremblay and Dan Donovan, Jr.

9
10 **S & R HOLDING, LLC**

11 Public Hearing/Major Subdivision/40 Lots w/open space
12 Discussion, re: Waiver request to Lorden Road cul-de-sac length
13 Location: McCurdy & Susan Roads
14 Tax Map/Lot #12/19
15 Residential-Agricultural “R-A” District

16
17 The Chairman read the public hearing notice. Present in the audience were Morgan
18 Hollis, Esq., Elizabeth Hardigan, Shiv Shrestha, John Neville, Jake Neville, Selectman Dwight
19 Lovejoy and Selectman Rodney Towne.

20 Morgan Hollis, Esq., introduced himself and advised that he represented S & R Holding,
21 LLC. He stated that he was before the Board to request consideration of two issues.

22 Morgan Hollis, Esq., provided a copy of the approved plan and pointed out the locations
23 of Susan Road and Lorden Road. He stated that the Forest View II subdivision had been
24 approved for two phases of construction and noted that Phase I included the construction of a
25 dead-end cul-de-sac, Lorden Road, off Susan Road. He indicated that Lorden Road had been
26 measured from where Susan Road came off Carriage Road and there was a maximum limitation
27 on a cul-de-sac under the Town's regulations. He stated that Susan Road terminated at 1,000'
28 with one cul-de-sac and all S&R Holding could do was to take a right and go approximately
29 another 300' which got into the lot but not to where it was proposed to build houses in the
30 conservation subdivision. He continued that an additional 640' was needed to create a cul-de-sac
31 at the point approved on the subdivision plans in order to construct the first eight – ten houses
32 along Lorden Road.

33 Morgan Hollis, Esq., stated that a condition of the subdivision approval had been that no
34 COs would be issued until Susan Road was completed and paved through to its connection to
35 Indian Falls Road. He advised that Susan Road had been paved, however, it had not been
36 opened or accepted by the Town; he identified the location of jersey barriers and gates at an end
37 of Susan and Indian Falls Roads. He noted that Town Counsel had clarified that the intent of the
38 Board's condition was not only that it be paved but that it also be open. He acknowledged that it
39 was pretty rare to have roads paved and not open but that it was the issue before them.

40 Morgan Hollis, Esq., stated that since the subdivision was approved three years ago, lots
41 had been cut out and Lorden Road was roughed out all the way through. He explained that
42 constructing Lorden Road all the way through was an unbelievable financial expense and he was
43 therefore, requesting that the Board change the conditions of the subdivision to make it clear that

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1 S&R HOLDING, LLC, cont.

2
3 it was not connected to the pavement or the opening of the connection between Susan and Indian
4 Falls Roads. He noted that S & R Holding, LLC, did not control those roads and could not
5 control that connection. He added that the applicant was also submitting a waiver request with
6 regard to the 1,000' cul-de-sac length maximum requirement.

7 Morgan Hollis, Esq., read NH RSA 674:36,II,(n), as follows, noting the subdivision
8 regulations may "...include provision for waiver of any portion of the regulations. The basis for
9 any waiver granted by the Planning Board shall be recorded in the minutes of the Board. The
10 Planning Board may only grant the waiver if the Board finds, by majority vote, that 1) strict
11 conformity would pose an unnecessary hardship to the applicant and waiver would not be
12 contrary to the spirit and intent of the regulations; or, 2) specific circumstances relative to the
13 subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly
14 carry out the spirit and intent of the regulations".

15 Morgan Hollis, Esq., referred to the spirit and intent requirement of the RSA and stated
16 that the spirit and intent of any cul-de-sac length regulation was relative to fire, health and life
17 safety issues. He continued that the Town of New Boston had determined that 1,000' was the
18 appropriate maximum length for cul-de-sac roads. He did not believe that the RSA requirements
19 relative to specific circumstances relative to the subdivision and the conditions of the land within
20 the subdivision could be addressed unless the purpose of the 1,000' was considered.

21 Morgan Hollis, Esq., advised that they were asking for an additional 640' of roadway that
22 would be surrounded by cleared land on either side of the road. He pointed out that in typical
23 subdivisions with spaced out lots there were more occasions for trees to fall along roads and
24 create situations where emergency access would be a problem. He stated that the Town's open
25 space subdivisions allowed for less frontage, homes closer to each other and greater conservation
26 area. He noted that the conservation area was not located in the area where they were requesting
27 the extension. He stated that trees falling and preventing access to the cul-de-sac was not likely
28 as the area in question was being cleared; he believed that this covered the unique circumstances
29 portion of the RSA.

30 Morgan Hollis, Esq., explained that trying to build the length of Lorden Road in this day
31 and age without having the ability to start building houses and complete the road to Phase I
32 created a hardship. He stated that it was not anticipated that it would be the way it is but it is.
33 He continued that trying to build the rest of Lorden Road imposed not only a significant financial
34 hardship but also imposed a hardship with regard to the earth and materials. He stated Lorden
35 Road would be built and in all likelihood would not have houses along it for a number of years.
36 He believed that completing Lorden Road would also create a hardship relative to the natural
37 resources attached to the conservation project.

38 Morgan Hollis, Esq., suggested that the applicant pay for the installation of gates on the
39 municipal side of Susan Road to create access for emergency vehicles.

40 Morgan Hollis, Esq., reiterated that building Lorden Road through to Phase II created a
41 hardship on the property and the owner. He stated that this was a unique situation and he
42 believed that it was a waste of resources to require that the owner build the rest of Lorden Road
43 at this time. He acknowledged that the requirement to build the entire length of Lorden Road

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1 **S&R HOLDING, LLC, cont.**

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3 had been a condition at the time of approval, however, they were present this evening requesting
4 relief.

5 The Chairman referred to the cul-de-sac waiver request and advised that if the applicant
6 received a positive recommendation from the Fire Wards, Police Chief and Road Agent then the
7 Board would consider the request. Morgan Hollis, Esq., asked if the Board would consider
8 approving the waiver request conditioned on the positive recommendations from the Fire Wards,
9 Police Chief and Road Agent. The Chairman answered no. Morgan Hollis, Esq., stated that they
10 would speak with the Fire Wards, Police Chief and Road Agent. Mark Suennen stated that the
11 Board had recently decided that police services, fire services and highway department services
12 were critical services that the Board cared about and listened to with regard to the 1,000' cul-de-
13 sac length limitation. He reiterated that if the applicant could receive a positive recommendation
14 from the Police Chief, Fire Wards and Road Agent, the Board would be willing to listen to the
15 waiver request. He added that until the positive recommendations were received the Board
16 would not grant a waiver request. Morgan Hollis, Esq., asked if the 1,000' cul-de-sac length
17 maximum was set following discussions with the Fire Wards, Police Chief and Road Agent.
18 Mark Suennen answered yes and added that those groups did not believe that the length
19 maximum requirement should be waived unless there was an extraordinary situation.

20 Morgan Hollis, Esq., asked for further questions from the Board. Christine Quirk stated
21 that she had no further questions.

22 John Neville noted that since the approval of the subdivision the Board had determined
23 that general contractors were allowed to schedule compaction and quality control of roads being
24 built. He pointed out that the applicant's money had been placed in escrow for the Town for the
25 inspection fees. He asked if he should submit bills from the company he hired to do the testing
26 to the Town. The Planning Assistant indicated that this issue had not been discussed but would
27 be looked into this week. She advised that she would contact John Neville as soon as a decision
28 on how to handle this matter was determined.

29
30 Mark Suennen **MOVED** to adjourn the Public Hearing and Discussion, re: Waiver
31 request to Lorden Road cul-de-sac, Location: McCurdy and Susan Roads, Tax Map/Lot
32 #12/19, Residential-Agricultural "R-A" District, to July 22, 2014, at 6:30 p.m. David
33 Litwinovich seconded the motion and it **PASSED** unanimously.

34
35 **Continued discussion, re: Zoning Ordinance questions specifically open space subdivisions**

36
37 Present in the audience were Selectmen Rodney Towne and Dwight Lovejoy.

38 The Chairman asked what needed to be discussed. Mark Suennen advised that the Board
39 had previously discussed which incentives worked and which ones did not work. He continued
40 that the Board needed to determine how to modify the current language relative to the open space
41 subdivision regulations.

42 Mark Suennen suggested that the Board discuss the open space subdivision preliminary
43 design reviews. He stated that it could be beneficial to both the Board and applicant if the

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ZONING ORDINANCE/OPEN SPACE SUBDIVISION DISCUSSION, cont.

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3 reviews were strongly or mildly encouraged. He continued that the Board could also make a
4 recommendation that preliminary design reviews should take place on any proposed open space
5 subdivision. The Chairman pointed out that preliminary design reviews had taken place
6 frequently when development was occurring more frequently. The Coordinator agreed that most
7 major subdivisions had preliminary design reviews. The Chairman stated the open space
8 subdivision discussed during the first agenda item had used the preliminary design review
9 process. Mark Suennen asked if the Chairman was in favor of encouraging, recommending
10 and/or making any statement with regard to preliminary design review. The Chairman answered
11 that he was not in favor of doing anything more than what was already being done. He
12 commented that he did not want to spend a lot of time trying to fix something that was not
13 particularly broken. He noted that most people took advantage of the preliminary design review.
14 Mark Suennen indicated that he was not in favor of encouraging people to do more open space
15 unless it was open space in a territory in Town that benefited the Town.

16 David Litwinovich stated that he liked the idea of encouraging preliminary design review
17 for any subdivision because the Board could make their opinions known before applicants
18 created plans. The Chairman noted that the Board was not bound by any plans that were created
19 prior to approval. Christine Quirk commented that it was to the applicant's benefit to participate
20 in the preliminary design review process.

21 The Chairman asked if the Planning Department encouraged applicants to participate in
22 the design review process. The Coordinator answered that the Planning Department did not
23 encourage design reviews but advised that they were available to applicants. The Chairman
24 asked if an applicant had ever declined the design review process. The Coordinator answered
25 that, generally speaking, applicants that had proposed subdivisions with roads had not declined
26 the design review process. She noted that there had been a couple of applicants with major
27 subdivisions of existing frontage lots that had declined the design review process. She added
28 that those subdivisions had not been complicated.

29 It was the consensus of the Board that the preliminary design review process was
30 available to applicants and most applicants took advantage of it, therefore, it was not necessary
31 to amend the Zoning Ordinance.

32 Mark Suennen stated that the Planning Department could advise applicants that at least
33 one Planning Board member would encourage applicants to always complete the design review
34 process.

35 The Chairman stated that the Board should only encourage open space subdivisions in
36 locations that had a specific value. Mark Suennen asked where those locations would be and
37 how they would be defined. The Chairman asked who would deem the land valuable. Mark
38 Suennen answered that the Conservation Commission had identified valuable land as lots that
39 could connect other existing open space areas, known wildlife corridors and natural resources of
40 significance. He suggested that language be added to 401.4, a, of the Zoning Ordinance, that
41 identified that areas he had listed be left in open space. The Coordinator asked if Mark Suennen
42 was thinking of permitting open space subdivisions in the current allowed districts but
43 encouraging them in areas that the Board defined as important areas. Mark Suennen answered

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ZONING ORDINANCE/OPEN SPACE SUBDIVISION DISCUSSION, cont.

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3 that he did not plan on discouraging open space subdivisions in any areas. He continued that if
4 an open space subdivision was proposed in an area not highlighted by the Board as important
5 then the Board would be specific about what land in a non-preferred area could be open space.
6 Christine Quirk asked if Mark Suennen intended on taking a map of the Town to decide which
7 areas were desirable for open space. Mark Suennen answered no and explained that specifically
8 citing lots could cause residents in those areas to become upset. He noted that it was not the
9 intent of the Board to make residents' land less valuable. Christine Quirk asked if the Planning
10 Board would decide which land was considered beneficial open space to the Town on a case-by-
11 case. Mark Suennen answered yes. Christine Quirk did not believe in that case that a lot of
12 changes were needed to the open space subdivision regulations.

13 David Litwinovich believed that Section 401.5, of the Open Space Development
14 regulations could be deleted. He suggested that specific types of land where the Board would
15 encourage open space subdivisions should be listed. He stated that a 5% density enhancement
16 was not a legitimate incentive for open space subdivisions to developers. He did believe that
17 items A – G of the Open Space Development regulations were legitimate aspects of the Town
18 that the Board should encourage. Mark Suennen asked David Litwinovich if he thought items A
19 – G should have the heading in Section 401.4, a, “Areas to Which Open Space Development
20 Should Be Encouraged”. David Litwinovich answered that he was not certain if the items should
21 be listed in Section 401.4, a. He suggested instead that the items could be listed under the
22 section “Review Criteria”. Peter Hogan asked if there was a problem with having the list in the
23 section “Open Space Enhancements”. Christine Quirk stated that the items belonged in the
24 “Open Space Enhancements” section.

25 Peter Hogan asked why the Town wanted open space subdivisions. Mark Suennen
26 answered that open space subdivisions encouraged clustering of homes for neighborhood
27 development. He condensed the statement of purpose from the Open Space Development
28 regulations, “To encourage housing consistent with the small town, rural character of New
29 Boston, to implement Smart Growth principles, to prevent greater flexibility in design and
30 discourage development sprawl, to facilitate the economical and efficient provision of public
31 services, to provide a more efficient use of land in harmony with its natural characteristics, to
32 encourage flexible lot sizes and road design that will contribute to and enhance the rural
33 atmosphere, to preserve more usable open space, agricultural land, and to expand the
34 opportunity for the development of a diversity of housing types”.

35 Christine Quirk commented that the open space regulations should be left alone. The
36 Chairman agreed and stated that the Board would continue to review the open space subdivision
37 applications on a case-by-case basis.

38 Rodney Towne noted that during the last discussion on this matter he had asked a
39 question regarding accessory housing units in open space subdivisions. He indicated that he had
40 done some research since the last discussion and had found that accessory housing units were
41 specifically excluded from open space subdivisions. The Chairman believed that the exclusion
42 of accessory housing units from open space subdivisions had been done intentionally due to the
43 size of the lots. The Coordinator indicated that the statements being made were not entirely

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ZONING ORDINANCE/OPEN SPACE SUBDIVISION DISCUSSION, cont.

accurate; she left the conference room to locate the accessory dwelling unit file in the Planning Department.

The Chairman asked Rodney Towne if he was in favor or opposed to accessory housing units in open space subdivisions. Rodney Towne answered that he did not believe that accessory housing units should be allowed in open space subdivisions.

Christine Quirk asked for confirmation that duplexes could be built in open space subdivisions. Rodney Towne confirmed that duplexes were allowed in open space subdivisions. Mark Suennen pointed out that this had been part of the last discussion and noted that the Board had questioned why an in-law accessory dwelling unit could not be built in an open space subdivision but the construction of a duplex was allowed. Rodney Towne stated that accessory housing units were currently excluded from open space subdivisions through omission.

Peter Hogan referenced Section 404 of the Zoning Ordinance, General Requirements, Permitted Uses and read the following, “An open space development shall only include single and two-family dwellings, accessory structures, incidental recreational uses and home occupations as defined in this ordinance”. He asked Rodney Towne what he believed the ordinance excluded. Rodney Towne answered that the ordinance excluded accessory housing units and noted that it had its own definition and separate section in the Zoning Ordinance. The Chairman asked for confirmation that there was a difference between an accessory structure and an accessory dwelling. Rodney Towne answered yes and explained that garages and sheds were accessory structures.

The Chairman read the following from Planning Board minutes dated December 2008, “The Board thought detached accessory dwelling units should not be allowed in open space subdivisions”.

Mark Suennen stated that the Board should consider that two-family dwellings were permitted but multiple dwellings were not permitted, i.e., a single family dwelling as an accessory on an open space lot. Rodney Towne agreed that the Zoning Ordinance allowed for what Mark Suennen had explained.

The Chairman indicated that accessory dwelling units were permitted in the “R-A” Residential-Agricultural District but not in open space subdivisions. He noted that the Zoning Ordinance only specified that accessory dwelling units were prohibited in open space and not detached structures.

The Coordinator asked if she could address the matter. The Chairman agreed. The Coordinator explained that the first cluster ordinance only allowed for single family dwellings. She continued that in 2001 and 2007 single and two-family dwellings were permitted. She advised that in 2009 the accessory dwelling unit standards were put in place and the accessory dwelling unit or detached dwelling unit, was specifically excluded from the ordinance. She stated that in 2010 the Work Force Housing Committee came before the Planning Board and specifically deleted the exclusion so that accessory dwelling units could be permitted in the Residential-Agricultural District. She explained that the Planning Board had not added them to the open space development standards section. She noted that when this matter had been discussed during the June 10, 2014, meeting the Board had agreed to consider placing language

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in that section because it had been specifically allowed in 2010.

Rodney Towne stated that it should not be allowed. He stated that it may have been included in discussions of the minutes, however, the Zoning Ordinance was never changed. The Chairman stated that he remembered the discussions being about allowing an accessory use for in-law apartments in barns. He continued that the Board consistently agreed that the use of an in-law apartment as an accessory use was not a problem. The Coordinator advised that the Workforce Housing Committee had made the argument to the Board that if full sized two-family dwelling units were allowed then 1,000' s.f. detached structures should also be allowed. She noted that the Board had agreed with the Committee. The Chairman stated that he did not recall the discussions and noted that he could go either way on the matter. Rodney Towne pointed out that if the accessory dwelling units were allowed in open space subdivisions than a development of ten houses could potentially become a development with 20 dwelling units.

The Coordinator noted that any changes that were made needed to be made in all the pertinent sections of the Zoning Ordinance. She stated that the Board needed to determine if they agreed with the 2010 Board decision or if they wanted to change it.

Mark Suennen stated that he was in favor of accessory dwelling units in open space developments; he agreed with the Workforce Housing Committee's previously stated argument. He noted that the accessory dwelling unit was restricted by size in its definition. Christine Quirk agreed with Mark Suennen and added that an accessory dwelling unit was limited in size as opposed to a duplex. She asked for confirmation that an accessory dwelling unit would not be permitted on a lot that had a duplex. Mark Suennen confirmed that an accessory dwelling unit was not allowed on a lot with a duplex. Rodney Towne stated that allowing accessory dwelling units in open space developments affected density issues that the Board had previously discussed.

The Chairman asked how the Board wanted to move forward with this matter, i.e., do nothing, have further discussion, or amend. Mark Suennen indicated that Rodney Towne was not in favor of allowing accessory dwelling units in open space developments Christine Quirk was in favor of allowing accessory dwelling units in open space developments. He asked Dwight Lovejoy for his position on the matter. Dwight Lovejoy stated that he did not have an opinion on the matter at this point.

Mark Suennen suggested that the Board table the discussion and think about the matter further.

The Coordinator asked if the Board wanted to continue discussion on this matter at the next meeting. The Board agreed.

Continued discussion, re: Subdivision Regulation Amendments for cul-de-sacs

The Chairman looked at suggested language received from the Fire Wards that day that suggested a positive unanimous recommendation for a waiver be received from the Fire Wards, Police Chief and Road Agent. The Chairman suggested the following language as an amendment to the cul-de-sac section of the Subdivision Regulations, "The Planning Board will

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1 SUBDIVISION REGULATION AMENDMENT DISCUSSION, cont.

2
3 consider waiver requests beyond the maximum length of a non-connecting street with a positive
4 **majority** recommendation from the Fire Wards, Police Chief and Road Agent”. Rodney Towne
5 commented that the Chairman’s suggestion made sense to him. Mark Suennen suggested that
6 the word “only” be added to the Chairman’s suggestion between the words “will” and
7 “consider”, i.e., “The Planning Board will only consider...”. The Chairman agreed with Mark
8 Suennen’s suggestion.

9 Dwight Lovejoy asked if the Chairman wanted a majority or if he wanted a positive
10 recommendation from all the parties listed. The Chairman answered that he wanted a majority.
11 Mark Suennen explained that if one party was blatantly against granting the waiver requests but
12 the other two parties could come to terms with the request it should be considered. He added
13 that the Board would not consider the waiver request if two out of the three parties did not
14 provide positive recommendations.

15 Dwight Lovejoy asked if applicants could use monetary reasons as justification for the
16 waiver requests. Mark Suennen answered that monetary reasons could not be the sole
17 justification for the waiver request. The Chairman added that monetary reasons were rarely
18 given any consideration. He went on to say that he had no idea how much it cost to build a road
19 and, therefore, never gave it any consideration. He advised that he considered environmental
20 issues, aesthetics issues and intent issues. Mark Suennen added that feasibility was also
21 considered. The Chairman asked for clarification of feasibility. Mark Suennen explained that he
22 considered feasibility to be whether something could physically be done. The Chairman
23 commented that anything could physically be done and that was why issues of aesthetics and the
24 environment needed to be considered.

25 The Chairman stated that he did not have a problem with how cul-de-sac length was
26 measured, i.e., No non-connecting street shall be longer than 1,000’ measured from intersection
27 of the centerlines at the cul-de-sac and the existing road to the throat of the turnaround. Mark
28 Suennen noted that he had suggested the following language, “...from the center of the public
29 right-of-way to the throat of the turnaround”. The Chairman asked which of the following
30 suggestions was more readily identifiable, “intersection of the centerlines” or “center of the
31 public right-of-way”. The Coordinator answered that it was easier to find the centerlines. The
32 Chairman agreed.

33 The Coordinator asked if there were any further comments. David Litwinovich
34 commented that he loved sketches and that pictures could tell 1,000 words. Mark Suennen asked
35 David Litwinovich to draw a sketch of the cul-de-sac lot layout for the next meeting; David
36 Litwinovich agreed.

37 Mark Suennen stated that the modification that had been made to language in V-III-b,1,a,
38 i should be also made to V, i.

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

41 The Coordinator advised that she would send the proposed amendments to Town Counsel
42 for review and schedule a public hearing for July 22, 2014.

43 The Chairman noted that the Board had received recommendations from the Road

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SUBDIVISION REGULATION AMENDMENT DISCUSSION, cont.

Committee with regard to cul-de-sac shape. David Litwinovich asked if it applied to left and right offsets as well as the straight cul-de-sac. The Coordinator indicated that she did not have an answer. The Chairman requested that the Committee be asked the question.

The Chairman indicated that this matter was listed under Miscellaneous Business, item #6.

The Chairman asked if there was anything further to discuss with regard to cul-de-sacs. The Coordinator answered no.

The Chairman stated that the cul-de-sac discussion was concluded.

Continued discussion, re: Master Plan update, questionnaire/survey for public input

The Chairman believed that language from the regulations was adopted from recommendations that came from sub-committees made of a group of people who no longer lived in Town. Mark Suennen stated that was why it was important to update the Master Plan every ten years.

The Chairman asked what was considered a good response rate for public input surveys. Rodney Towne answered that between 10% and 12% was considered good.

The Chairman asked for the Board's thoughts on sending out a public input survey. David Litwinovich believed that the survey was worth doing, however, he believed that it should only be one page of questions. The Chairman believed that there would be a higher response rate if the survey was done through email but he acknowledged it would be difficult to obtain the needed email addresses. The Coordinator advised that the last public input survey conducted in Town had a 25% response rate.

The Chairman asked what the Board needed to determine with regard to the survey. The Coordinator explained that the Board needed to determine if they were going to put a survey together as the Board or meet with UNH Survey Center and have them create a budget package for completing the survey.

David Litwinovich volunteered to condense the previous public input survey that was used in Town.

Rodney Towne reminded the Board that the Town was moving into "budget season" and a decision needed to be made so the Planning Department could prepare accordingly. David Litwinovich stated that he would provide the condensed survey for the next meeting.

MISCELLANEOUS BUSINESS AND CORRESPONDENCE FOR THE MEETING OF JUNE 24, 2014.

11. Letter with plan attachment received June 23, 2014, from Paul Botta, Owner/Proprietor, Molly's Restaurant & Tavern, to whom it may concern, re: addition of outdoor stage to site, for the Board's review and discussion.

Present in the audience were Paul Botta, Selectman Rodney Towne, Selectman Dwight

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1 **MISCELLANEOUS BUSINESS, cont.**

2
3 Lovejoy and Mike Tremblay.

4 The Chairman asked Paul Botta for the intended use of the proposed stage. Paul Botta
5 answered that the outdoor stage would be used for small venue music. He indicated that the
6 stage would only be used during the afternoon hours and into the early evening hours. He
7 advised that the stage would not be used after 8:00 p.m. He stated that he wanted to hold a
8 festival once a year where New Boston bands could play as well as host special events and
9 weddings.

10 Paul Botta told the Board that he had used a trailer to construct a float for the 4th of July
11 Parade and intended on using the trailer as the temporary outdoor stage. He stated that when the
12 stage was not being used it could be covered and moved to the top of the property. He stated that
13 leaving the stage on the lawn would interfere with the horseshoe pits and other activities that
14 took place on the lawn.

15 The Chairman asked if the music would be aimed at the building or away from the
16 building. Paul Botta answered that the music would be aimed toward the Piscataquog River. He
17 noted that the music would be played on the side of his property where homes did not exist.

18 Mark Suennen noted that afternoon events had previously taken place on the lawn. Paul
19 Botta advised that a birthday party had recently taken place for Hollis Young's 75th birthday and
20 a musician had played background music from the deck. He stated that the music could not be
21 heard off the deck. Mark Suennen asked if Paul Botta had received any complaints relative to
22 his special events. Paul Botta answered no and added that he had been in contact with the
23 neighbors. He stated that he did not want to bother anyone but he did want to boost his business.

24 Mark Suennen commented that on the surface the request seemed reasonable. He asked
25 how often the stage would be used. Paul Botta answered that he was not sure but hoped to use it
26 for DJs for weddings he was booking. He offered to contact the Board every time he had a
27 booking.

28 Mark Suennen asked for hours of operation for the stage. Paul Botta indicated that he
29 would roll the stage on the lawn early in the morning for the set-up but it would be used for
30 events between the times of 11:00 a.m. to 4:00 p.m. He stated that if he had an event that ran
31 between 4:00 pm. and 7:00 p.m. he would ask for special permission.

32 David Litwinovich asked if a public hearing needed to be scheduled to revise the site
33 plan. The Coordinator answered that the Board needed to consider potential impacts to traffic,
34 number of people, noise and shoreland impacts and if anything rose to the level of needing to
35 amend the site plan. Mark Suennen stated that with regard to shoreland impact he did not
36 believe that impervious surface applied to something that was portable. The Coordinator stated
37 that the stage may not be considered impervious surface, however, she was not in a position to
38 make that determination. Christine Quirk noted that there had been previous discussion with
39 regard to the number of people allowed at the facility due to the septic system. Paul Botta
40 advised that anytime he had over 100 guests he ordered port-a-potties.

41 The Chairman asked if there was any additional lighting being proposed. Paul Botta
42 answered no and explained that additional lighting was not needed as the stage would not be
43 used after dark.

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1 **MISCELLANEOUS BUSINESS, cont.**

2
3 Mark Suennen asked if special permits or permission were needed to hold weddings.
4 Paul Botta answered no. Mark Suennen questioned why the Board would require site plan
5 modification for something that Mr. Botta had been allowed to do. He believed that the use of
6 the outdoor stage should be provisionally allowed for 90 days. He continued that if after 90 days
7 there was a vast outcry from the public a site plan review would be required.

8
9 Mark Suennen **MOVED** to provisionally allow Paul Botta, Owner/Proprietor, Molly's
10 Restaurant & Tavern, the use of the mobile trailer, 25' x 8', maintained at least 70' from
11 the Piscataquog River, limited to daylight hours, 10:00 a.m. through 6:00 p.m., for 90
12 days to begin on June 25, 2014, and if there is substantial complaint to the Planning
13 Department, Planning Board or Board of Selectmen, the Planning Board would consider
14 a requirement for a site plan review to extend beyond the 90 days. David Litwinovich
15 seconded the motion. **DISCUSSION:** The Chairman asked for "complaint" to be
16 defined and if someone simply not wanting it could be considered a complaint. Mark
17 Suennen believed that simply not wanting it was justifiable and warranted a site plan
18 review. The motion **PASSED** unanimously.

19
20 3a. Letter dated June 12, 2014, from Michael Tremblay to New Boston Planning Board, re:
21 request to meet with Planning Board to discuss to his current Non-Residential Site Plan
22 approval, for the Board's discussion. Background information distributed at 06/10/14,
23 meeting.

24
25 3b. Memorandum dated June 11, 2014, from Nic Strong, Planning Coordinator, to Peter
26 Hogan, Chair, and Planning Board Members, re: Mike Tremblay, Tax Map/Lot #3/122
27 and Mark Bilodeau, Tax Map/Lot #14/44, for the Board's information.

28
29 Present in the audience were Mike Tremblay, Selectman Rodney Towne and Selectman
30 Dwight Lovejoy.

31 Mike Tremblay stated that this matter was in the hands of his attorney and that his
32 attorney had been in contact with the Coordinator. He added that Earl Sandford had completed a
33 decibel reading/sound report and that his abutter, Jim Straw, had spoken with Earl Sandford, PE,
34 when he was onsite. Mike Tremblay noted that the report had contained recommendations for 4'
35 woodchip buffers to be installed.

36 Mike Tremblay advised that his approved hours of operation were 7:00 a.m. through 7:00
37 p.m. and that his attorney was suggesting a site plan amendment to give up some of the hour so
38 the neighbors would know when he would be cutting and to get two saw operators. He said he
39 would be going the legal route.

40 Mike Tremblay asked what provisions the Town had with regard to site plans for
41 subcontractors. The Chairman answered that the provisions varied based on the specific
42 operation.

43 The Chairman stated that he did not believe that anyone was asking Mr. Tremblay to do

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MISCELLANEOUS BUSINESS, cont.

1
2
3 anything other than abide by his approved site plan. He asked if Mr. Tremblay was approved for
4 one saw operator. Mike Tremblay answered that the original site plan approved him to have one
5 saw and no employees. He noted that when the site plan had been approved 12 years prior he
6 had been working third shift and had not intended on having employees. He stated that he had
7 created the latest issue by starting work one morning at 6:30 a.m.. He said he had apologized.
8 The Chairman stated that Mr. Tremblay could be assured that the requirement of no employees
9 was the Planning Board's way of capping the size and extent of the use of the property. He
10 indicated that it was not unreasonable to use a property for quite a lot of things but at some point
11 it could become a commercial operation; he noted that the Planning Board who approved the site
12 plan did not allow that and the current Planning Board was unlikely to allow it now. The
13 Chairman went on to say that if Mr. Tremblay was operating the business after his regular work
14 he would be tired and not expected to work 8 - 10 hours cutting wood. The Chairman said the 12
15 hour window was given which was fairly harmless if Mr. Tremblay was the only one working
16 because he had to sleep at some point. The Chairman noted that limits imposed by this also
17 limited impact to the neighbors. He stated that adding an additional saw and employees would
18 have an impact on the neighbors. He reiterated that there was a difference from running a
19 business out of your house as a side venture and taking the next step and operating as a
20 commercial venture. Mike Tremblay stated that he would have to leave this matter in the hands
21 of his attorney and he would be searching all his avenues. He pointed out his property was
22 Residential-Agricultural and he had requested a business name as a farm and was in discussion
23 with his attorney about what could be considered a farm.

24 The Chairman advised that if Mike Tremblay operated within the provisions of the
25 approved site plan then there would be no specific need for the Planning Board to issue any
26 revocation of what was approved. He stated that cutting back the hours most likely would not
27 appease the neighbors. Mike Tremblay stated that the lawyer thought the hours could be
28 bargained for a second saw operator. The Chairman asked if there was currently a cease and
29 desist in place. Mike Tremblay stated that was only if he did not abide by the original site plan.
30 The Chairman asked what the problem was to which Mike Tremblay replied that he wanted
31 someone working with him. Dwight Lovejoy thought he was already allowed one person.
32 Rodney Towne stated that Mike Tremblay was the person. The Chairman stated that the
33 Planning Board was usually pretty specific with the plans.

34 Mike Tremblay read from the minutes of his 2003 hearing. "... he usually processed 200
35 - 300 cords of wood per year but did not do so as a full time everyday job. He stated that he had a
36 full time job elsewhere and the wood cutting was about 4 hours either in the morning or the
37 afternoon. Mike Tremblay stated that he cut, split and delivered the wood and had no plans for
38 customers coming to the house." "... He stated that his proposed hours were 7:30 a.m. to 5:00
39 p.m. and stated again that this was not a full time operation. Upon further discussion Mike
40 Tremblay decided that his hours should be modified to be 7:30 a.m. to 7:00 p.m.". The
41 Chairman asked why Mr. Tremblay had decided that. Mike Tremblay said he did not know but
42 then the neighbors allowed it. The Chairman asked if Mike Tremblay saw how clear he was
43 about the site plan from reading the minutes. Mike Tremblay said it was basically the legal

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1 **MISCELLANEOUS BUSINESS, cont.**

2
3 wording and how it was interpreted. The Chairman said that Mr. Tremblay's lawyer might tell
4 him that.

5 Mike Tremblay went back to the minutes of December 9, 2003. "The abutters were
6 concerned with the hours of operation, noting that Mr. Tremblay had not mentioned the
7 weekends. Mike Tremblay noted that he would work on weekends in the winter, noting that for
8 much of the summer...". Dwight Lovejoy asked when this was written. Mike Tremblay said
9 this was the original letter.

10 The Chairman stated that if Mike Tremblay continued under his original site plan he
11 would not have any further issues with the Planning Board. He noted that when the Planning
12 Board was sent notices of violation it created a huge problem. The Chairman said the Planning
13 Board could consider revocation of Mr. Tremblay's site plan which he did not want to happen.
14 The Chairman went on to say that at the moment the Planning Board's intent was to leave it
15 alone as long as Mr. Tremblay continued under the original approval. He said the approval was
16 absolutely clear as to the intent and size of the business and the Planning Board did not intend for
17 it to grow into what Mr. Tremblay had recently been running. The Chairman said again that
18 operating under the original approval Mr. Tremblay would be good. He said that there was
19 going to be people that would just not ever be happy with his operation. The Chairman said that
20 Mr. Tremblay could voluntarily decide to stop cutting a little early to let them calm down he
21 could do that but the Board was not requiring that.

22 Mike Tremblay said he had found part of the minutes of his 2003 hearing that he had
23 been looking for. "...Brian Ridge stated that his concern was that the business would expand so
24 that there would be more than one person cutting and loading and delivering the wood. Mike
25 Tremblay stated that he had no plans to have any additional employees. The Chairman thought
26 that a note could be added to the plan stating that there could be only one person sawing."

27 The Chairman stated that what Mike Tremblay had just read told Mr. Tremblay
28 everything. He said the Board had allowed the business knowing it could get out of hand but it
29 would not be able to with the stipulations regarding Mike Tremblay being the sole operator and
30 so on.

31 Mike Tremblay said he would see where it went and it was still in the hands of the
32 lawyer. The Chairman asked which lawyer and Mike Tremblay said it was BJ Branch.

33
34 15. The Chairman stated that he had seen there was an inspection done on Bilodeau's site.
35 He asked if that one was in compliance. The Coordinator stated that was what the report said.
36 The Chairman said there would be no Planning Board action for either one.

37
38 1. Approval of the May 27, 2014, meeting minutes, with or without changes.

39
40 David Litwinovich **MOVED** to approve the meeting minutes of May 27, 2014, as
41 written. Mark Suennen seconded the motion and it **PASSED** unanimously.

42
43 2. Distribution of the June 10, 2014, meeting minutes, for approval with or without changes

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1 **MISCELLANEOUS BUSINESS, cont.**

2
3 at the July 22, 2014, meeting. (distributed by email)

4
5 The Chairman acknowledged the above-referenced matter; no discussion occurred.

- 6
7 4a. Letter received June 19, 2014, from Samuel G. Proctor, Jr., Proctor & Greene, Inc., for,
8 Ferus Terra, LLC, to Shannon Silver, Planning Board Assistant, re: Notice of Merger
9 Form – Old Coach Road, Tax Map/Lot #10/3-2 & 10/3-3, for the Board’s information.

10
11 Mark Suennen **MOVED** to accept the executed Notice of Merger for Ferus Terra, LLC
12 Old Coach Road, Tax Map/Lot #10/3-2 & 10/3-3. David Litwinovich seconded the
13 motion and it **PASSED** unanimously.

- 14
15 4b. Endorsement of a Notice of Merger form for Ferus Terra, LLC, Tax Map/Lot #'s 10/3-2
16 & 10/3-3.

17
18 The Chairman endorsed the Notice of Merger and David Litwinovich signed the Notice
19 of Merger as Acting Secretary in Don Duhaime’s absence.

- 20
21 4c. Copy of section 674:39-a Voluntary Merger, for the Board’s information.

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

- 24
25 5. Email received June 9, 2014, from Emile R. Bussiere, Jr., Esquire, to Shannon Silver, re:
26 request for a 1 year extension to the conditions subsequent deadline of July 1, 2014, to
27 July 1, 2015, for the Board’s action.

28
29 The Chairman asked if there were any issues with the above-captioned request. The
30 Coordinator identified the location of the property.

31 Mark Suennen asked how many extension requests had previously been made. The Planning
32 Board Assistant advised that this was the third extension request. She advised that the applicant
33 had initially only requested six months but she had suggested one year as the six month
34 extension would bring the deadline to the middle of the winter. She noted that just because one
35 year had been requested it did not necessarily mean that it would take one year.

36 Mark Suennen stated that he was not willing to grant the applicant a one year extension
37 and stated that the applicant had until the end of this construction season to meet the conditions
38 subsequent deadline. He noted that the applicant did not have much left to complete and that
39 there were other developments that were anxiously waiting for him to complete what was left for
40 him to do. He commented that the applicant had been given more than enough time.

41
42 Mark Suennen **MOVED** to grant an extension of the conditions subsequent deadline
43 from July 1, 2014, to November 15, 2014, that will be in compliance or revoked and the

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MISCELLANEOUS BUSINESS, cont.

applicant will give up his bond and give the Board an explanation of why he failed to meet the deadline. David Litwinovich seconded the motion. **DISCUSSION:** Mark Suennen asked how the motion not allowing any further extensions was worded for the Shaky Pond Development. The Planning Board Assistant left the conference room to locate the Shaky Pond Development file.

The Chairman tabled the motion and went on to the next Miscellaneous Business item while the motion was being located.

6. Letter received June 19, 2014, from Dick Perusse, Road Agent and Tom Miller, Road Committee Chair, to Peter Hogan, Planning Board Chairman, re: Cul-de-sac Regulations for the Board's review and discussion. (Related to 7:15 p.m. agenda item.

The above-captioned matter was discussed during the 7:15 p.m. continued discussion, re: Subdivision Regulation Amendments for cul-de-sacs.

7. Letter dated June 12, 2014, from Kevin Leonard, P.E., Northpoint Engineering, LLC, to Nic Strong, Planning Coordinator, re: Shaky Pond Development, LLC – Technical Review Escrow, for the Board's information.

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

- 8a. Construction Services Report dated June 5, 2014, and invoice dated June 13, 2014, from Northpoint Engineering, LLC, for Woodland Development/Fieldstone Drive, for the Board's information.

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

- 8b. Email dated June 16, 2014, from Kevin Leonard, P.E., Northpoint Engineering, LLC, to Shannon Silver, re: Woodland Development/Fieldstone Drive, re: as-builts and escrow account, for the Board's information.

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

9. Construction Services Reports dated June 2, 3, and 4, 2014, and invoice dated June 13, 2014, from Northpoint Engineering, LLC, for Forest View II/S&R Holding, for the Board's information.

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

10. Invoice dated June 13, 2014, from Northpoint Engineering, LLC, for Twin Bridge Land

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1 **MISCELLANEOUS BUSINESS, cont.**

2
3 Management, LLC, for the Board's information.

4
5 The Chairman acknowledged the above-referenced matter; no discussion occurred.

- 6
7 5. Email received June 9, 2014, from Emile R. Bussiere, Jr., Esquire, to Shannon Silver, re:
8 request for a 1 year extension to the conditions subsequent deadline of July 1, 2014, to
9 July 1, 2015, for the Board's action, Continued.

10
11 Mark Suennen withdrew his previous motion with regard to the above-referenced
12 matter in order to be consistent with how the Board had handled similar situations in the past.

13
14 Mark Suennen **MOVED** to grant an extension of the conditions subsequent for Emile
15 Bussiere, Esq., Susan and Indian Falls Roads, to November 15, 2014, and that no further
16 extensions shall be granted. David Litwinovich seconded the motion and it **PASSED**
17 unanimously.

- 18
19 13. Copy of letter dated June 13, 2014, from Lawrence J. Dwyer, P.E., Terracon Consultants,
20 Inc., to Kevin Leonard, P.E., Northpoint Engineering, LLC, re: Forest View II –
21 Detention Pond Access Road, for the Board's information.

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

- 24
25 14a. Driveway Permit Application for Glover Construction, Inc., Tax Map/Lot #5/16-19,
26 Christian Farm Drive, for the Board's action.

- 27
28 14b. Copy of previously approved Driveway Permit #07-048 and sketch for Tax Map/Lot
29 #5/16-19, Christian Farm Drive, for the Board's information.

30
31 The Coordinator explained that the State did not allow the previously proposed wetland
32 crossing and as such the applicant had to move the driveway location. She noted that the new
33 proposed driveway location was closer to Route 136. She advised that a waiver had been
34 granted to not require the applicant to show driveways on the subdivision plan. She noted that
35 the Planning Board had, therefore, been dealing with these driveways on a case-by-case basis.

36 The Board agreed to view the proposed driveway location separately.

37 Mark Suennen asked that the Planning Department contact the applicant and request that
38 the driveway be flagged.

39
40 Mark Suennen **MOVED** to adjourn at 8:51 p.m. David Litwinovich seconded the motion
41 and it **PASSED** unanimously.

42
43 Respectfully submitted, Valerie Diaz, Recording Clerk

Minutes Approved: 8/26/14