

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

October 14, 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, David Litwinovich and Don Duhaime, alternate
3 member Joe Constance and ex-officio Rodney Towne. Also present were Planning Coordinator
4 Nic Strong, Planning Board Assistant Shannon Silver and Recording Clerk Valerie Diaz.

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6 Present in the audience for all or part of the meeting were Brandy Mitroff, Amy Sanders,
7 Brian Balke, Tori Underwood, Lee Brown, Selectman Dwight Lovejoy, Carol Hill and Lucy
8 Fales.

9
10 **TOWN OF NEW BOSTON (OWNER)**
11 **NEW BOSTON CENTRAL SCHOOL (APPLICANT)**
12 Submission of Application/Public Hearing/NRSPR/addition of modular classroom
13 Location: 15 Central School Road
14 Tax Map/Lot #18/38
15 Residential-Agricultural "R-A" District

16
17 The Chairman read the public hearing notice. Present in the audience were Brandy
18 Mitroff, Amy Sanders, Brian Balke, Tori Underwood, Lee Brown and Selectman Dwight
19 Lovejoy.

20 Lee Brown advised that he was representing the New Boston Central School, (NBCS), as
21 a project manager. He provided the Board with a narrative for the addition of a modular
22 classroom.

23 Lee Brown indicated that the modular classroom would be located to the north of the
24 main entrance of the school. He stated that the structure would be 28' x 68' and would house
25 two classrooms. He explained that the structure would be tethered to the school for most
26 utilities.

27 SAU #19 Superintendent Brian Balke indicated that as the Town of New Boston had
28 grown the school had struggled with space needs. He stated that architect Roger Dignard had
29 drawn plans for a four classroom addition off the back of the school in 2009. He noted that the
30 four classroom addition had been on the CIP schedule for many years and that the school had
31 been hesitant to move forward with the project. He explained that State building aid was no
32 longer available. He stated that the School Board had decided to move forward with the modular
33 classrooms as a temporary situation as the State would no longer provide 30% funding for
34 projects and because the four classroom addition would impact the tax rate. He added that the
35 modular classrooms would most likely be used for multiple years.

36 Brian Balke advised that the SAU #19 School District had conducted a demographic
37 study in 2013. He explained that the study showed that student enrollment should decrease
38 within three to five years. He pointed out that the decrease in enrollment had yet to be seen and
39 was in contrast to many local NH school districts. He stated that a decrease in enrollment would
40 be a welcome thing as NBCS was overcrowded. He advised that kids were receiving instruction
41 in hallways, converted closets and stairwells. He stated that the installation of modular
42 classrooms would help get kids out of inappropriate instructional spaces. He continued that the
43 modular classroom would be a safe and secure structure that would be adjacent to NBCS. He

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NEW BOSTON CENTRAL SCHOOL, cont.

added that the modular classroom would be convenient to access.

Brian Balke invited the Board to ask questions. Joe Constance asked for the number of students that would utilize the modular classrooms. Brian Balke answered that for the remainder of the current school year a morning kindergarten class with 17 - 20 children would use one of the classrooms and up to 10 children would use the other classroom at any given time. He further explained that the classrooms would be used for special education and support services. He noted that currently two small classrooms were used by six teachers for special education and support services.

Joe Constance asked if classroom sizes exceeded State standards. Brian Balke answered no and advised that classroom sizes were between 22 and 23 students per class. He noted that currently NBCS had a small fifth grade class and that all other classes had one additional class. He explained that when the fifth grade class matriculated out of NBCS the incoming first grade class would be short one classroom. Mark Suennen commented that it was likely that both sides of the modular structure would be used for regular class instruction if there was a shortage of one classroom. Brian Balke explained that both sides of the modular structure would probably be used for regular classroom instruction next year. He continued that the administration wanted to be as respectful as they could to the teachers who had already set up their classrooms and established routines with their students. He commented that they did not want to have a lot disruption to the educational services provided to the students.

Joe Constance asked if NBCS intended on using the White Buildings in the future. Brian Balke advised that a meeting between the School Board, Board of Selectmen and Recreation Commission was scheduled for October 16, 2014, to discuss the fate of the White Buildings. He continued that there was currently a significant issue with the White Buildings relative to the oil tanks that had been buried. He stated that they were not sure when the White Buildings would be able to be used. He explained that following the cleanup of the oil, a \$40K septic project needed to be completed.

Brian Balke indicated that the School Board had concerns with the use of the White Buildings. He stated that there was a lot of lost time having children walking back and forth to NBCS. He went on to say that it was inefficient to have the children leaving the building and meandering down to the White Buildings. He explained that service providers, guidance personnel and other ancillary personnel also had to go down to the White Buildings. He stated that they were concerned from a safety perspective with regard to having children in a relatively unsecured structure with no administration or secretarial support.

Mark Suennen asked Brian Balke to address the immediate use of the modular classrooms and the use for the next school year. Brian Balke explained that both classrooms would be used as classrooms. Mark Suennen asked how the children would access the school building for recess, art and gym. Brian Balke answered that the children would use the side door shown on the plan. He explained that the modular classroom would be located in a fenced in area in order to maintain the security of the structure. He added that other security measures would include locking doors, Prox card readers and security cameras. He advised that the school had worked hard with Police Chief Brace and Fire Chief MacDonald over the last three years to

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increase the safety of the schools.

Mark Suennen asked what kind of exterior lighting would be used for the modular classroom structure. Lee Brown answered that the existing structure had wall packs all around it. He pointed to the proposed location of the security camera.

Brandy Mitroff asked if abutters had been sent notices regarding the current meeting and if the meeting had been posted in the newspaper. The Coordinator answered that notices had not been sent to abutters and that the regular public notice had been done. Brandy Mitroff asked if the meeting should be called an informational session instead of a public hearing as abutters were not notified and there were no notices in the newspapers. Brian Balke stated that it was the school's intention to have an informational session for the purposes of answering questions about the scope of the project. He pointed out that it was the School Board's position that this item did not require a public hearing. The Coordinator explained that this meeting was governed under the Governmental Use of Property statute and was a public hearing that did not require abutter notices to be sent. Mark Suennen noted that the applicant was not looking for permission for their project and that they could move forward with it. He continued that this meeting provided the Planning Board the opportunity to hold a public hearing, offer suggestions and/or recommendations, find out if there were any issues and allow the public to express their concerns. Brandy Mitroff commented that she found it terribly odd that three additions had been added to the NBCS without public hearings. Brian Balke stated that he and the SAU felt that the collaboration between the different boards and committees in Town was important. He stated that he would share comments and/or questions with the School Board.

Mark Suennen asked if hurricane strength tie downs would be used on the modular classrooms. Lee Brown indicated that he had worked with and received appropriate approvals from the State Fire Marshal.

Mark Suennen asked for the depth and type of foundation that would be used for the modular classrooms. Lee Brown answered that concrete would be used with an Alaskan slab being poured over the entire area. He continued that the modular classrooms structure would be anchored to the slab.

Mark Suennen asked if the modular classrooms would be used longer than five years. Brian Balke answered that his time projection was longer than the School Board's time projection. He indicated that the School Board was looking to use the modular classrooms for three years while he believed that the modular classrooms would be used for five to eight years or possibly up to ten years. He advised that the School Board did not want to move forward with a \$1.5 or \$1.8 million addition if they did not absolutely have to. He stated that the modular classrooms were an example of the School Board's due diligence to provide a cost effective solution to the space needs.

Joe Constance asked if the Southern New Hampshire Planning Commission, (SNHPC), had completed the previously discussed demographic study. Brian Balke answered that the NH School Administrators Association had completed the study.

Don Duhaime asked for the current number of enrolled students at NBCS. Tori Underwood answered that as of October 1, 2014, there were 547 enrolled students at NBCS.

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NEW BOSTON CENTRAL SCHOOL, cont.

Don Duhaime asked why there was a proposal for fencing around the modular classrooms. Brian Balke answered that the fencing was for safety of the students. Don Duhaime commented that the fencing made the school feel like a prison. Brian Balke stated that brick and mortar was the school's preference from a safety standpoint. Don Duhaime asked for the cost of the modular classrooms. Brian Balke answered that the modular classrooms would cost somewhere around \$80K. Don Duhaime asked if Brian Balke believed the fencing around the modular classrooms would make the children feel insecure. Brian Balke answered no. Don Duhaime stated that the installation of a fence around the modular classrooms would make things more complicated for the children. Brian Balke stated that he would be happy to bring Don Duhaime's feedback to the School Board. Rodney Towne believed that the fencing would integrate the modular classrooms with NBCS. Joe Constance commented that the school's security concerns were much different than they were when modular classrooms existed at NBCS prior to September 11, 2001. Rodney Towne asked how long the previous modular classrooms had been used. Joe Constance believed that the modular classrooms had only been used for a couple of years. The Chairman asked for confirmation that the purpose of the fencing was not to keep children in the school but to keep unwanted persons out. Brian Balke answered yes.

David Litwinovich asked if the installation of the modular classrooms would eliminate the need for students to receive services in the hallways this year and next year. Brian Balke answered yes. He went on to say that last week during a staff meeting at NBCS he advised that it was his expectation that children would no longer be receiving services in the hallway.

Mark Suennen stated that he did not realize there would be a fence around the building as it was not shown on the plan; he asked for the delineation of the fence to be pointed out. Lee Brown pointed out the location of the fence and noted that there would be two 4' gates and panic hardware. Don Duhaime asked if the fence would be located 15' away from the building. Lee Brown answered that the fence would be located 10' to 15' away from the building.

Brian Balke advised that the School Board was discussing using the modular classrooms for the 2015-2016 school year for kindergarten classrooms. He continued that during the morning both classrooms would be utilized for kindergarten, while in the afternoon only one classroom would be used for kindergarten. He stated that the other space could be used for small group instruction during the afternoon.

The Chairman asked for additional comments and/or questions from the Board; there were no comments or questions.

The Chairman asked for additional comments and/or questions from the audience; there were no comments or questions.

Brian Balke reiterated that he would share Don Duhaime's concerns relative to the fence with the School Board.

Joe Constance asked for the key variables of the demographic study. Brian Balke answered that the key variables were birth rate, buildable lots, new developments and historical trends of enrollment.

Mark Suennen asked if there was a plan to remove the foundation for the modular

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NEW BOSTON CENTRAL SCHOOL, cont.

classrooms once they were removed. Lee Brown answered that the foundation could be jackhammered out and added that it was the intent to return it to its current state.

Public Meeting per RSA 676:1 for the Board to discuss proposed amendments to the Rules of Procedure, re: revisions to bond estimate forms

The Chairman asked for the Coordinator to advise the Board with regard to the above-captioned matter. The Coordinator explained that periodically the Planning DBoard reviewed the bond estimate forms to make sure that the numbers matched industry standards. She advised that the Town Engineer had reviewed the bond estimate forms and submitted his suggested revisions.

Mark Suennen asked if the Town Engineer had suggested replacing the words “borrow” and “disposal” with the words “export” and “import”. The Coordinator answered yes.

Mark Suennen referred to the section on manholes and asked if VF was supposed to be vertical feet. Don Duhaime answered yes. Mark Suennen asked if that was an appropriate way to quantify manholes. Don Duhaime commented that it was typical to him. Rodney Towne asked if there was a term that Mark Suennen would rather use. Mark Suennen stated that he would not argue with it if it was the right way to go. The Coordinator clarified that it was always under Section 5c with vertical feet at \$250. She went on to say that it was the Town Engineer’s suggestion to make Section 5c 500 and add manholes in this section at the same measurement to make them match. Mark Suennen commented that there was value to matching. Rodney Towne stated that it should be changed if it was not the industry standard.

Mark Suennen referred to Section 3, j, and asked if the Town Engineer was suggesting a 50% multiplier on vendor costs. The Coordinator answered yes. Rodney Towne asked for confirmation that this was for bonding purposes. The Coordinator confirmed that it was for bonding purposes. Rodney Towne commented that he had no problem with the suggestion.

Mark Suennen suggested that the contingency for projects that would take longer than two years to complete should be 10% and 2% additional for every year after two years. Rodney Towne stated that Mark Suennen’s suggestion made sense.

Don Duhaime asked if mortar rubble masonry headers could be removed from the bond estimate forms. He stated that it was something that would deteriorate within three to five years. He continued that pre-cast, concrete headwalls looked relatively decent. Rodney Towne pointed out that this was something that was allowed through the Zoning Ordinance and therefore, would need to be addressed through a different process.

The Chairman asked for further comments and/or questions. Rodney Towne asked if the Board should discuss Mark Suennen’s suggestion with regard to 10% contingencies for 2 years with an additional 2% contingency added to every year past the two years. David Litwinovich stated that he liked the idea of requiring an additional contingency for projects that took longer than two years; however, he was not sure that 2% was enough. The Chairman suggested that the additional contingency be 5% instead of 2%. Mark Suennen stated that an additional 5% contingency would give a contractor an incentive to complete projects sooner. The Coordinator

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1 RULES OF PROCEDURE, cont.

2
3 pointed out that roads had to over-winter and asked if Mark Suennen wanted to institute the
4 additional contingency in the second year. Mark Suennen answered yes and explained that an
5 additional 5% contingency would be added to a project that took longer than 12 months to
6 complete. The Coordinator asked if the additional contingency would apply for a contractor who
7 started a road in September but was unable to put the wearing course on until the following
8 spring due to frost. Mark Suennen answered the 10% would be for the first year with an
9 additional percentage every calendar year thereafter. The Planning Board Assistant advised that
10 it did not normally work in the way Mark Suennen described. She noted that the conditional
11 deadline was not typically 12 months and that sometimes bonds were renewed yearly or would
12 go all the way through to the conditional deadline date. Mark Suennen asked if the final bond
13 amount was not defined until the Board defined the conditions subsequent date. The Coordinator
14 clarified that the bond estimate form was submitted prior to the determination of the conditions
15 subsequent deadline.

16 Don Duhaime suggested that the Board change the contingency amount to 15% or 20%
17 instead of adding an additional contingency after two years. Mark Suennen stated that he was
18 not sure that Don Duhaime's suggestion was the right answer.

19 Rodney Towne asked if there was a process to add additional contingencies to a bond
20 over the life of the bond and believed that this posed a problem. The Chairman believed that the
21 additional contingency could only be added at the time the bond was renewed. Don Duhaime
22 commented that the Planning Department should not have to determine which bonds needed the
23 additional contingencies every year and reiterated that the full contingency should be taken at the
24 time the bond was obtained.

25 Don Duhaime believed that the contingency should be increased to 15%. Mark Suennen
26 asked if the Board had the flexibility to request or require higher contingencies for special cases.
27 The Coordinator answered that it could be done with the proper discussion at meetings with
28 proper notices. Joe Constance asked if the special circumstances Mark Suennen referred to were
29 related to environmental conditions. Mark Suennen answered that he was concerned with the
30 amount of time it would take to complete a project or special technologies, i.e., rain gardens.

31 Mark Suennen stated that he was in favor of increasing the contingency to 15% as long as
32 the Board had flexibility to discuss openly and require higher contingencies for projects of
33 special note, i.e., technology or timeframe. Don Duhaime and Rodney Towne agreed with Mark
34 Suennen.

35
36 Mark Suennen **MOVED** to approve the modified site plan improvements guarantee
37 worksheet and ISWMP improvements guarantee worksheet, as modified and discussed at
38 the meeting. Don Duhaime seconded the motion and it **PASSED** unanimously.

40 Board to choose next Zoning Ordinance question for review and discussion

41
42 Present in the audience were Carol Hill and Lucy Fales.

43 Mark Suennen stated that Don Duhaime had expressed an interest in looking at mortar

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ZONING ORDINANCE QUESTION, cont.

rubble masonry headwalls. The Chairman suggested that materials in general be reviewed. He questioned how many other materials were allowable that should not be or were not applicable. He stated that it was his understanding that plastic pipe had been removed because the Road Committee did not want to use it.

Don Duhaime asked why the Board had an issue with the use of ADS piping. The Chairman explained that the Road Committee had advised that the ADS piping wore out due to the material flowing through it and caused premature failure. Rodney Towne added that a lot of flow caused scuffing to the pipe. He stated that concrete could be used so the road would not have to be dug up to deal with the failing pipes. He stated that occasional flow was okay but continuous flow was not okay. Don Duhaime asked if there were pipes in Town that had continuous flow. Rodney Towne answered yes and said that they were all over the place. Mark Suennen referred to the wet area of Bedford Road before Klondike Corner.

Don Duhaime suggested that someone come before the Board to discuss ADS pipe. He stated that he had seen it and believed it wore very well. He commented that he did not want to stick with one type of pipe. He stated that concrete pipe was fine but noted it also failed.

Rodney Towne pointed out that the use of plastic pipe had not been completely eliminated from the regulations. He went on to say that there were limitations on where it could be used. Don Duhaime asked for the limitations. Rodney Towne answered that the limitations included depth and cul-de-sacs.

Mark Suennen suggested that the Board consider defining the Traffic, Environmental and Fiscal Impact Studies. He believed that Board should discuss how the studies were used, when they should be waived, when they should be used and what they should contain. Rodney Towne agreed that the Board should create criteria for waiving the studies.

The Board agreed to discuss Traffic, Environmental and Fiscal Impact Studies at the next meeting.

**MISCELLANEOUS BUSINESS AND CORRESPONDENCE FOR THE MEETING OF
OCTOBER 14, 2014.**

10. Letter with map attachment received October 6, 2014, from Carol F. Hill, to Planning Board, re: 778 River Road, Tax Map/Lot #6/18, for the Board's review and discussion.

Carol Hill indicated that she was seeking approval to use a building located at 778 River Road that had been used as the Sacred and Profane Bookstore for the past 35 years. She explained that the gentleman who operated the bookstore had moved out at the end of August. She noted that the building and property were owned by Walter and Lucy Fales.

Carol Hill stated that she wanted to operate a consignment tack shop from the location previously identified. Mark Suennen asked for an explanation of a consignment tack shop. Carol Hill explained that tack, equipment needed for horses, would be consigned by individuals who had too much in their tack trunk or barn. She noted that there would be a requirement that all equipment, i.e., blankets, bridles, halters, bits, leg wraps, harnesses, etc., would need to be

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MISCELLANEOUS BUSINESS, cont.

useable and in excellent condition. She added that all equipment needed to be clean and up-to-date. She advised that she would also be selling new items from individuals that made items for horses, i.e., saddle pads, leg wraps, decorative brushes, etc.

Carol Hill pointed out that the location of the proposed building was located on one of the main streets that everyone used to get in and out of New Boston. She noted that it was the best street for anyone who used the fairgrounds for the Hillsborough County Fair and horse shows. She noted that a lot of people would also have to pass the building if they were going to Oak Rise barn in Goffstown for horse shows.

Carol Hill did not believe the proposed business would create an upsurge to traffic. Mark Suennen stated that he was not concerned with an increase of traffic to Route 13 but indicated that he was concerned with access in and out of the driveway. He asked if the driveway was gravel. Carol Hill answered yes. She advised that she had contacted the District 5 utility engineer with the State and he commented that the driveway had been used for 35 years and he did not have any issues with it. She noted that she intended on leveling the driveway with additional gravel in the spring. She believed that the driveway could facilitate ten cars. Mark Suennen pointed out that horse people drove big trucks and had big trailers. Lucy Fales stated that it was unlikely that customers would pull into the driveway with their horse trailers. Carol Hill explained that it was not safe to leave a horse in a trailer unattended.

The Chairman asked for the currently approved use. Lucy Fales advised that the site had never been approved for any uses. She continued that the building was constructed in 1969 and first operated Fales Home and Farm Supplies and went on to house Agway Supplies, a material shop, a print shop, the book store and the State had rented pumps at the location for gas. The Chairman asked if it was worth bringing it up to standards with a site plan. The Coordinator referenced Section 503 of the Zoning Ordinance, and indicated that the use would be considered a pre-existing non-conforming use. The Chairman asked if a site plan was required. The Coordinator answered that the Board could decide on whether or not to require a site plan.

The Chairman stated that he would like to see a site plan on file. Carol Hill asked for an explanation of a site plan. The Chairman answered that the site plan required a slightly more detail than the drawing submitted by Ms. Hill. He continued that details that were needed were exterior lighting, parking, traffic flow and snow storage. Rodney Towne stated that he did not want to get carried away with regard to the change in use. The Chairman agreed.

Carol Hill indicated that she intended on using an existing sign post to hang a business sign. She added that she would make sure the sign conformed to the sign ordinance.

Don Duhaime asked for the proposed hours of operation. Carol Hill answered that the business would be open on Thursday and Friday evenings as well as Saturday and Sunday. The Chairman advised that the hours of operation on the plan did not necessarily have to be the hours that the shop would be open. Carol Hill indicated that she would change the hours of operation.

Carol Hill asked if there was any other information needed for the site plan. Rodney Towne answered that the size of the building and the setbacks should be shown. Lucy Fales advised that they had received information from the State with regard to the setbacks.

The Board agreed to schedule this matter under Miscellaneous Business. Carol Hill

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1 **MISCELLANEOUS BUSINESS, cont.**

2
3 advised that she would contact the Planning Department to schedule the meeting for October
4 28th or November 25th meeting.

- 5
6 1. Approval of the September 9, 2014, meeting minutes, with or without changes.
7 (distributed by email)

8
9 David Litwinovich **MOVED** to approve the September 9, 2014, meeting minutes as
10 written. Mark Suennen seconded the motion and it **PASSED** unanimously.

- 11
12 2. Distribution of the September 23, 2014, meeting minutes, for approval with or without
13 changes at the October 28, 2014, meeting. (distributed by email)

14
15 The Chairman acknowledged receipt of the above-referenced matter; no discussion
16 occurred.

- 17
18 3. Endorsement of a Subdivision Plan for Louis & Marcia Rumore, Tax Map/Lot #8/78, 164
19 Bedford Road, by the Planning Board Chairman & Secretary. (previously endorsed
20 8/26/14, these are extra copies for owner).

21
22 The Chairman indicated that the above-referenced Subdivision Plan would be endorsed at
23 the close of the meeting.

- 24
25 4a. Discussion, re: Confidential and Privileged letter dated September 13, 2014, from
26 William R. Drescher, Esq., Drescher & Dokmo, P.A., re: Tremblay Matter. (If discussion
27 is needed it will be in non-public session pursuant to RSA 91-A:3, II, (e). (previously
28 distributed at 9/23/14 meeting)

- 29
30 4b. Copy of Notice of Violation, for the Board's information. (If discussion is needed it will
31 be in non-public session pursuant to RSA 91-A:3, II, (e). (previously distributed at
32 9/23/14 meeting)

33
34 The Coordinator advised that any discussion regarding the above-referenced matter had
35 to take place in non-public session. She noted that Joe Constance had wanted to discuss a matter
36 at the last meeting. The Chairman asked Joe Constance if there was a matter he still wished to
37 discuss. Joe Constance answered yes. The Board agreed to table the discussion until the end of
38 the meeting.

- 39
40 5. Statement of Fire Cistern Warranty from Michie Corporation, for Shaky Pond
41 Development, LLC, for the Board's information.

42
43 Don Duhaime asked if comments with regard to the above-referenced matter should be

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MISCELLANEOUS BUSINESS, cont.

addressed directly with the Fire Wards. The Chairman asked for Don Duhaime to share his comments with the Board.

Don Duhaime was recommending that the steel pipe being used for the fire cisterns be wrapped in an 8 ml piece of plastic polyethylene. He explained that the plastic would provide protection to the pipe. The Chairman stated that the Board wanted pipe that lasted longer than five years. The Coordinator advised that this was a good question for the Town Engineer and the Fire Wards as they had created the regulation. Don Duhaime stated that he would contact the Town Engineer tomorrow.

The Chairman asked why stainless steel piping was not required. Rodney Towne explained that stainless steel was brittle. Don Duhaime commented that steel was fine but that it should be wrapped to protect it. He stated that wrapping the pipe in plastic protected it from corrosive material.

6. Email copy with Outstanding Items Summary letter attachment received October 6, 2014, from Kevin M. Leonard, P.E., Northpoint Engineering, LLC, to Vincent Iacozzi, Thibeault Properties & Investments, re: Indian Falls/Susan Road Connection - Bussiere - Fall 2014, for the Board's information.

Mark Suennen asked if the applicant was expected to be finished by November 15th in light of the extensive punch list. Joe Constance asked if they had been working. The Coordinator answered that she was not sure if they had been working. Rodney Towne added that he had driven by and not seen any activity.

The Chairman asked if Thibeault Corp was working at the above-referenced project. Rodney Towne answered yes. The Chairman stated that he had heard that Thibeault had closed his construction firm. Rodney Towne commented that that was the applicant's problem and not the Town's problem.

Don Duhaime commented that Jeff Madon, Northpoint Engineering, LLC, had done a nice job picking up a lot of stuff along the road relative to erosion. Mark Suennen suggested that Don Duhaime share his comments with the Town Engineer.

Rodney Towne noted that during the punch list process a deadline of when the work needed to be completed had not been mentioned. He asked if the applicant needed to be reminded that the work needed to be completed by November 15th. The Coordinator stated that the applicant was aware of the deadline.

Don Duhaime asked if the Town was going to pull the bond if the work was not completed. Rodney Towne stated that the Board had voted to pull the bond if the work was not completed by November 15th. Don Duhaime asked why the Board had voted to pull the bond. Rodney Towne answered that the Board had voted to pull the bond because the applicant was "dragging his feet". Mark Suennen added that another discussion item had been that another development was being held up and could not move forward until Indian Falls and Susan Roads were opened. Don Duhaime pointed out that Shiv Shrestha knew that he could not move forward at the time of his approvals.

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MISCELLANEOUS BUSINESS, cont.

Mark Suennen stated that it had been the understanding of the Board that the applicant “only had a little ways to go” and they continued to “be just a little ways to go”. He commented that it was not unreasonable that they finish the road and open it so that other developers were not impacted. Don Duhaime stated that the applicant accepted a lot of liability once the road was open. Rodney Towne disagreed and stated that once the road was open it would be turned over to the Town. Don Duhaime indicated that the road could only be turned over to the Town if the applicant put final pavement down. Mark Suennen stated that putting final pavement down was part of the requirement.

Don Duhaime asked if the Town was going to pull the bond on November 15th when the paving plants would be closing. The Chairman stated that the bond expired on November 15th. The Planning Board Assistant pointed out that the bond did not expire as it was a cash bond.

Mark Suennen noted that there was a process to go through to call the bond. He continued that the Board of Selectmen would have to accept the bond and hire a contractor to finish the work. He stated that if the applicant did not pave it, it was possible that it would not get a final coat before the end of the season. Don Duhaime stated that final pavement cannot be done after November 15th in accordance with the Road Construction Procedures.

Mark Suennen indicated that the Board needed to vote to pull the bond and that Don Duhaime could vote no. Don Duhaime stated that he saw some legal issues with pulling the bond. He stated that Shiv Shrestha had obtained his approvals knowing that if the roads for the Bussiere project were not completed he could not do anything. Mark Suennen stated that the applicant had also received approvals for a subdivision plan that included a road. He continued that the applicant had received several extensions and the Board was done granting extensions. He went on to say that the Board had been very generous to extend the applicant’s deadline based on the conditions they were aware of as long as it did not affect others. He stated that it now impacted others and the Board was taking action. The Chairman added that the applicant just needed to finish the road even if it was not impacting someone else.

Rodney Towne asked for the number of extensions the Board had granted. Mark Suennen stated that the applicant had received three extensions. Don Duhaime pointed out that the Board had granted more extensions for other subdivisions. Mark Suennen stated that those extensions had been granted because those subdivisions did not impact some other project. Mark Suennen indicated that the Board had documented evidence provided through a meeting with Shiv Shrestha. He explained that Shiv Shrestha had requested the granting of some special waivers which the Board denied; however, he stated the Board told Shiv Shrestha that they would require the applicant that he was waiting on to “put up and shut-up”.

Rodney Towne asked if there was another development that was having problems because of this development. Don Duhaime indicated that the Shaky Pond development was having problems but he did not believe that it should be part of this discussion or influence the Board’s decisions.

Don Duhaime stated that he could understand the applicant’s concern that the economy was not there to start building and he might be waiting for the big boom. The Chairman indicated that the applicant was too far along and the only option was to finish it. Rodney

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MISCELLANEOUS BUSINESS, cont.

Towne said that sooner or later the base coat would crack and grass would begin to grow over the next four years.

Don Duhaime advised that before the Board made a rash decision they should consider the plan for Indian Falls to be built out to Klondike Corner. He stated that if the Board “cut the head off” the applicant now, he may to decide to never continue the road out to Klondike Corner. He commented that it would be a nice road to see out there with the addition of 50 - 60 homes. He stated that there could be a lot of ramifications by upsetting this “apple cart”. Mark Suennen indicated that all of these items could be discussed on November 28th.

7. Construction Services Reports dated September 16, 17, 19, 22, 23, and 25, 2014, from Northpoint Engineering, LLC, for Indian Falls/Susan Road - Bussiere, for the Board’s information.

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

8. Construction Services Reports dated September 15, 16, 19, and 25, 2014, from Northpoint Engineering, LLC, for Twin Bridge Estates - Phase II, for the Board’s information.

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

9. Construction Services Reports dated September 15, 16, 17, 19, 24, 25, and 26, 2014, from Northpoint Engineering, LLC, for Woodland Development, LLC, for the Board’s information.

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

11. Endorsement of a Subdivision Plan for Alexander Shaw Clark, Tax Map/Lot #11/113, Joe English Road, by the Planning Board Chairman & Secretary.

The Chairman indicated that the above-referenced Subdivision Plan would be endorsed at the close of the meeting.

- 4a. Discussion, re: Confidential and Privileged letter dated September 13, 2014, from William R. Drescher, Esq., Drescher & Dokmo, P.A., re: Tremblay Matter. (If discussion is needed it will be in non-public session pursuant to RSA 91-A:3, II, (e). (previously distributed at 9/23/14 meeting)

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1 **MISCELLANEOUS BUSINESS, cont.**
2

3 4b. Copy of Notice of Violation, for the Board's information. (If discussion is needed it will
4 be in non-public session pursuant to RSA 91-A:3, II, (e). (previously distributed at
5 9/23/14 meeting)
6

7 Mark Suennen **MOVED** to enter non-public session pursuant to RSA 91-A:3, II, (e).
8 Rodney Towne seconded the motion. A roll call was held: Peter Hogan, AYE; Mark
9 Suennen, AYE; Rodney Towne, AYE; David Litwinovich, AYE; Don Duhaime, AYE;
10 Joe Constance, AYE. The motion **PASSED**.
11

12 Other than Dwight Lovejoy, Selectman, there were no audience members present and the
13 door to the conference room therefore remained open. Selectman Lovejoy remained in
14 attendance.

15 Discussion took place regarding the violation and the Building/Inspector's role in issuing
16 a violation and the fines that could ensue.

17 Joe Constance asked how the process would stop. Rodney Towne indicated that the
18 process would stop in a courtroom. Discussion took place regarding the approval of the site plan
19 and the conditions the Planning Board had enacted at the time.

20 Mark Suennen asked if there was an estimated cost for a trial on this matter. Rodney
21 Towne answered no and explained that the matter would most likely be heard before an
22 arbitrator before a trial.

23 Mark Suennen asked if there was any indication that Town Counsel needed anything
24 further from the Board. The Coordinator advised that Town Counsel had the entire file on this
25 matter.
26

27 Mark Suennen **MOVED** to exit non-public session pursuant to RSA 91-A:3, II, (e). Don
28 Duhaime seconded the motion. A roll call was held: Peter Hogan, AYE; Mark Suennen,
29 AYE; Rodney Towne, AYE; David Litwinovich, AYE; Don Duhaime, AYE; Joe
30 Constance, AYE. The motion **PASSED**.
31

32 Mark Suennen **MOVED** to adjourn at 8:12 p.m. Don Duhaime seconded the motion and
33 it **PASSED** unanimously.
34
35

36 Respectfully submitted,
37 Valerie Diaz, Recording Clerk

Minutes Approved:
11.25.2014