

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2011 Meetings**

September 13, 2011

1

1 The meeting was called to order at 7:00 p.m. +/- by Chairman Stu Lewin in the Russell
2 Room at the Whipple Free Library. Present were regular members Mark Suennen, Don Duhaime
3 and Peter Hogan, Alternate Member David Litwinovich, and Ex-officio Christine Quirk. Also
4 present were Planning Coordinator Nic Strong, Planning Board Assistant Shannon Silver and
5 Recording Clerk Valerie Diaz.

6
7 Present in the audience for all or part of the meeting were David Craig, Steve Young,
8 Jerri Stanford, David Mann, Brandy Mitroff, Jay Marden, Lou Maynard, Ken Lombard, Vinnie
9 Iacozzi, Rick Kohler, Brian Stevens, Morgan Hollis, Esq., Shiv Shrestha, Dana Lorden, John
10 MacLellan, Keith O'Halloran, Warren Houghton, Maureen Mansfield, Cyndie Wilson, and
11 Richard Harvey.

12
13 **TWO NINETY-NINE STARK REALTY (OWNER)**
14 **JERRI STANFORD & DAVID MANN (APPLICANTS)**
15 Submission of Application/Public Hearing/NRSPR/Retail Store
16 Location: 3 River Road
17 Tax Map/Lot #18/9
18 Small Scale Planned Commercial "COM" District

19
20 Present in the audience were David Craig, Steve Young, Jerri Stanford, David Mann,
21 Brandy Mitroff, Jay Marden, Lou Maynard, Vinnie Iacozzi, Rick Kohler, Brian Stevens and
22 Ken Lombard.

23 The Chairman read the public hearing notice. He noted that the application form and
24 cover sheet were signed and received on August 26, 2011. He continued that the applicants had
25 submitted a waiver request for the requirement of the submission of a professionally drawn plan.
26 He advised that there were no outstanding fees. The Chairman explained that should the
27 application be determined to be complete, the deadline for Board action was November 27, 2011.
28 He noted that a site walk had taken place prior to the hearing.

29 The Chairman asked the applicants if there was anything they wished to add. David
30 Mann advised that he intended on amending the site plan to reflect the accurate location of a
31 utility pole.

32 The Chairman asked if the shrubs at the driveway entrance belonged to 3 River Road or
33 the abutting property. David Mann answered that the shrubs belonged to the 3 River Road
34 property and added that they acted as a barricade to the existing dumpsters. The Chairman
35 commented that the shrubs obscured the view to the right of the driveway. He suggested that 2'
36 of the branches be cut from the shrubs to enable a clearer sight line. David Mann agreed to cut
37 the shrubs.

38 The Chairman indicated that the Planning Office had difficulty locating a driveway
39 permit for 3 River Road. He explained that the NH DOT had been contacted with regard to this
40 matter and had informed the Planning Office a driveway permit did not exist for 3 River Road.
41 He continued that because there was a change in use to the property a driveway permit that
42 reflected current standards was required. The Chairman handed the applicants a copy of an
43 email from the Coordinator explaining the issue with NH DOT to review. After review of the

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1 **299 STARK REALTY/MANN/STANFORD, cont.**

2
3 information David Mann stated that he needed to submit a waiver request for the driveway
4 permit as the things that would be required could not be done. The Chairman explained that the
5 waiver could not be acted on by the Planning Board as it was a State matter. The Coordinator
6 added that receipt of a driveway permit could be a condition of approval. She further added that
7 Scott Looney of NH DOT had stated that the applicants could contact NH DOT District 5 to
8 resolve this matter. David Mann asked for a copy of the email. The Planning Board Assistant
9 stated that the applicants could obtain a copy of the information the following day.

10 The Chairman asked the Coordinator if there continued to be outstanding issues with
11 regard to the plan review. The Coordinator answered that revised plans had been submitted
12 earlier in the day and as such a subsequent review had not taken place.

13 The Chairman asked the Board for comments or questions; there were no comments or
14 questions from the Board.

15 The Chairman asked for comments or questions from the audience. Brandy Mitroff of 74
16 Thornton Road asked for a synopsis of the proposed business. David Mann stated that the
17 proposed business was a retail business. He explained that the items to be sold were generated
18 from estate sales and “cleanouts”. He specifically noted that he was not an antique or junk
19 dealer, nor was he a consignment shop.

20 The Chairman reported that during the site walk the Board members had viewed the
21 outside of the building, specifically, the front door, lighting, and driveway. He added that there
22 would be three marked parking spaces at the back of the building. He advised that there was
23 enough room for vehicles to turn around and pull out onto River Road rather than backing out.
24 He stated that an entrance to the building could be accessed from the back of the building closest
25 to the parking area. Brandy Mitroff asked for the location of the proposed parking spaces in
26 relation to the Katz's home and Dodge's Store. The Chairman answered that the parking spaces
27 were located on the north side of the property, at the other side from Dodge's Store. David Craig
28 provided an illustration of the parking area for Brandy Mitroff to review.

29 The Chairman advised that because of specific wording contained within the applicant's
30 waiver request relative to a “non-professional” plan, the Board should consider whether or not to
31 change the application to a minor site plan.

32
33 Mark Suennen **MOVED** that based on what the Board saw during the site walk and
34 based on the applicant's description of this business the Board should classify this
35 application as a minor non-residential site plan. Peter Hogan seconded the motion.

36 **DISCUSSION:** Peter Hogan asked the applicants if the type of business that had
37 originally been proposed had changed at all. Jerri Stanford and David Mann confirmed
38 that the business that had originally been proposed continued to be proposed. The motion
39 **PASSED** unanimously.

40
41 The Chairman asked the Coordinator if the Board needed to act on the waiver request to
42 not require a professionally drawn site plan. The Coordinator explained that the previous motion
43 changed the application from a major site plan to a minor site plan, making the waiver request

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3 moot as minor site plans did not require professionally drawn site plans. The Chairman told the
4 applicants that the Board would allow them to withdraw their waiver request as it was no longer
5 necessary. He continued that the plan that had been submitted was acceptable with the
6 understanding that the Planning Office still had not reviewed it for errors as it had been
7 submitted earlier in the day. David Mann pointed out that the reason the amended plans had
8 been submitted earlier in the day was due to receiving the changes from the Planning Office on
9 Saturday, September 10, 2011. The Chairman indicated that part of the approval would be
10 conditioned on the submission of revised plans.

11 The Chairman asked for further comments or questions from the audience. Steve Young
12 of 37 Francestown Road identified himself as the owner of the Apple Barn and the piece of
13 property that was being used to operate the Garden Center. He stated that it was his
14 understanding that he was not considered an abutter to the subject property because Geoffrey
15 Katz owned the right-of-way in front of his property. He asked the Board to clarify the
16 definition of an abutting piece of property. The Coordinator answered that the Board used the
17 State definition of an abutter which was, "anyone with an adjoining lot line or across street or
18 stream". The Coordinator pointed out that Steve Young was not considered "across the street" as
19 Geoffrey Katz owned the strip of land between 3 River Road and the Apple Barn. Steve Young
20 asked which pieces of property were considered his abutters. The Coordinator answered that the
21 creamery building, the bank, the library and possibly Hunter's would probably be abutters. The
22 Planning Board Assistant pointed out that the strip of land between the Apple Barn and 3 River
23 Road was not considered a street but simply a strip of land and therefore, Steve Young's
24 property did not meet the State's criteria to be considered an abutter. Steve Young noted that he
25 wanted to determine abutters to his property in the event he decided to do something with the
26 Apple Barn. The Planning Board Assistant advised that she could review a tax map of the
27 property with Steve Young at the Planning Office and point out his abutters.

28 Lou Maynard commented that he liked the idea of the antique store. He added that he
29 owned some of the antiques for sale in the store and wanted to see the store move forward. Mark
30 Suennen clarified that the store located at 3 River Road was not an antique store. Jerri Stanford
31 further clarified that the store sold secondhand items.

32 Jay Marden of Gregg Mill Road was interested to know if the Garden Center/Apple Barn
33 property had legal frontage. The Chairman stated that Mr. Marden's question was not relevant to
34 the application being discussed. He continued that the matter could be placed on a future
35 meeting's agenda under Miscellaneous Business.

36 Peter Hogan stated that he wanted clarification of the previous motion that approved the
37 current application as a minor site plan.

38
39 Peter Hogan **MOVED** to grant the applicant's waiver request and allow the submission
40 of a "non-professional" plan. Peter Hogan stated that he did not believe that
41 determination of the application as a minor site plan was relevant in the Commercial
42 District. He believed that it was far more legal to grant the request. He added that the
43 application did not qualify as a minor site plan as it did not meet the provisions listed in

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2
3 the regulations. David Mann as for clarification regarding the differences between minor
4 and major site plan. Peter Hogan explained that minor site plans in the “R-A” District
5 did not require professionally drawn site plans. He continued that he did not believe the
6 Board could affirmatively answer the questions that would determine the application to
7 be a minor site plan. He stated that he agreed with the waiver and did not want to require
8 the applicants to complete the items that made it onerous, however, he believed that the
9 motion that required a minor site plan would be overturned if appealed. The Coordinator
10 stated that the waiver request was for the submission of a “non-professional” plan. She
11 explained that unless the Board considered a waiver for every requirement contained
12 within the checklist for a major site plan, i.e., bearings and distances, grading work, etc.,
13 the applicant’s plans would need to complete everything listed. She continued that by
14 waiving the requirement of being a major site plan in a Commercial District, as Mark
15 Suennen had done, the Board effectively waived all the major checklist requirements.
16 Peter Hogan asked if Mark Suennen if his previous motion was adequately crafted. Mark
17 Suennen answered that had this discussion taken place before the motion had passed he
18 would have amended it. The Coordinator noted that the Board had not seconded Peter
19 Hogan's motion. Mark Suennen seconded the motion. **DISCUSSION:** Peter Hogan
20 suggested waiving the items that needed to be waived as he believed the Board could not
21 consider this application as a minor site plan. The Coordinator advised that in the past
22 the Board had waived the requirement for a major site plan in a Commercial District for
23 Little People’s Depot. Peter Hogan commented that just because the major site plan for
24 Little People’s Depot had been waived did not necessarily make it right. Mark Suennen
25 stated that he was willing to discard the previous motion and resubmit a new motion He
26 noted that he would vote “no” on the current motion and ask to rescind his previous
27 motion and create a new motion to waive the requirements that define a minor site plan.
28 Peter Hogan asked if Mark Suennen wanted to waive requirements A, C and E of the Site
29 Plan Regulations in respect to the consideration of whether the application is determined
30 to be a minor or major site plan. Mark Suennen answered yes and stated that requirement
31 E, did not apply if requirement C was previously rescinded. The Chairman asked how
32 many non-family employees would be on-site. Jerri Stanford answered one. The
33 Chairman asked if Peter Hogan would be comfortable with Mark Suennen’s suggestion.
34 Peter Hogan answered no and commented that items that needed to be waived should be
35 waived. The Chairman stated that Mark Suennen was attempting to waive things that
36 needed to be waived. Peter Hogan commented that it was a “hack” way to waive the
37 requirements. The Chairman asked for Peter Hogan’s proposed motion language on this
38 matter. Peter Hogan stated that he would state that David Mann lived on the property and
39 the plan would be drawn by David Mann. He continued that the plan would be “non-
40 professionally” drawn and would be absent metes, bounds and other specifics that would
41 generally be included on a major site plan drawn by a professional. The Chairman
42 pointed out that there was not an issue with waiving the requirement for a professionally
43 drawn plan; however, he noted that the contents of the plan were being questioned. Peter

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2
3 Hogan stated that the Board could waive the professional content of the plan. The
4 Chairman asked specifically what content would be waived. Peter Hogan answered that
5 all of the content that was included in a major site plan and not in a minor site plan could
6 be waived. The Chairman clarified that the plan would meet the minor site plan
7 requirements even though it was being accepted as a major site plan. Jerri Stanford
8 believed that the plan the Chairman described had been submitted. Peter Hogan
9 commented that the applicant had “sort of” turned in a plan that the Chairman described.
10 He stated that it was implied that by having David Mann draw a plan the professional
11 content would not be included. Peter Hogan **MOVED** that the site plan to be submitted
12 should meet the requirements of a minor application not the major that the application is.
13 He asked if there was anything to add before he amended his motion. Mark Suennen
14 suggested the Board also waive the location of the 100 year flood elevation line, size and
15 location of all existing private and public utilities. Peter Hogan agreed to add those
16 things to his motion. Mark Suennen seconded the motion and it **PASSED** unanimously.
17

18 Peter Hogan **MOVED** to rescind the previous determination of accepting the application
19 as a minor site plan. Mark Suennen seconded the motion and it **PASSED** unanimously.
20

21 The Chairman asked for further comments or questions prior to adjourning or approving
22 the application. David Craig identified himself as an abutter located at 5 River Road. He
23 commented that he was in favor of the business, however, he was concerned with parking and
24 wanted the spaces to be clearly delineated. He also wanted ingress and egress to be clearly
25 marked to avoid hazardous conditions around the entrances to the business and his office. The
26 Chairman informed David Craig that it had been discussed that signage would be provided in the
27 front of 3 River Road that parking was located at the rear of the building. He also noted that
28 parking delineation was clearly illustrated on the plan and would be accomplished onsite with
29 white paint. David Craig commented that the information the Chairman provided was adequate.
30 He added that he was concerned about visibility issues during the winter months.

31 David Mann asked if the parking spaces located across the street from 3 River Road were
32 considered public parking. David Craig answered that he believed the parking was public.
33 David Mann asked the Board if he could post a sign that noted the location of additional public
34 parking across the street. Peter Hogan stated that indicating that additional public parking was
35 available was not appropriate. The Chairman stated that the public parking existed and was
36 available to use, however, it was not a good idea to hang a sign indicating that additional parking
37 was located across the street.

38 The Chairman asked if there were any further comments or questions from the audience;
39 there were no further comments or questions from the audience.

40 Peter Hogan asked where the snow would be placed from the parking areas during the
41 winter months. The Chairman answered that the plans indicated that the snow would be plowed
42 and removed as needed from the parking area. David Craig commented that he has had Eric
43 Scoville remove the snow from his parking lot. Peter Hogan asked if the applicants had

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2
3 considered the differences between snow blowing and snow plowing. Jerri Stanford indicated
4 that they had. David Mann stated that they planned on having snow removed. Lou Maynard
5 stated that he had watched the property last winter for Geoffrey Katz and the snow had been
6 removed from the parking area and kept clear all winter. Jerri Stanford stated that snow blowing
7 made sense. Peter Hogan pointed out that the applicants did not have the right to stack their
8 snow in such a way that it would drain onto Mr. Craig's property and that David Craig's drainage
9 plan was designed to handle the runoff from his own lot not from his neighbors' lots. David
10 Craig commented that he did not think it would be a problem on his end. David Mann indicated
11 that they did not have any issues with snow blowing. Peter Hogan did not believe that the note
12 on the plan addressed the snow removal issues and as such the application may need to be
13 adjourned. He continued that David Craig's site plan was very specific relative to the issue of
14 snow removal. The Chairman suggested making the matter of snow removal a condition of
15 approval as an alternative to adjourning the application. Peter Hogan stated that there was no
16 indication of where the snow would go on the plan.

17 The Chairman stated that Peter Hogan wanted to adjourn the application and asked for
18 the remaining Board members' position on this matter. Mark Suennen and Christine Quirk were
19 satisfied with making the snow removal matter a condition of approval.

20 The Chairman explained that the following would be included in the conditions
21 precedent: 1) submittal of plans that met checklist requirements; 2) execution of a Site Review
22 Agreement; and 3) receipt of a driveway permit or waiver from NH DOT.

23
24 Mark Suennen **MOVED** to accept the application as complete and to approve the Non-
25 Residential Site Plan Application by Jerri Stanford and David Mann, to operate a retail
26 store from property owned by 299 Stark Realty, 3 River Road, Tax Map/Lot #18/9,
27 subject to:

28
29 **CONDITIONS PRECEDENT:**

- 30 1. Submission of a minimum of four (4) revised site plans that include all of the
31 checklist corrections and any corrections as noted at this hearing;
32 2. Execution of a Site Review Agreement.
33 3. Receipt of a driveway permit from NH DOT or an approved waiver in writing.

34 The deadline for complying with the conditions precedent shall be **March 13, 2012**, the
35 confirmation of which shall be an administrative act, not requiring further action by the
36 Board. Should compliance not be confirmed by the deadline date, and a written request
37 for extension is not submitted prior to that date, the applicant is hereby put on notice that
38 the Planning Board may convene a hearing pursuant to RSA 676:4-a to revoke the
39 approval.

40
41 **CONDITIONS SUBSEQUENT:**

- 42 1. All site improvements are to be completed as per the approved site plans;
43 2. The Town of New Boston Planning Department shall be notified by the applicant

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1 **299 STARK REALTY/MANN/STANFORD, cont.**

2
3 that all improvements have been completed, and are ready for final inspection,
4 prior to scheduling a compliance hearing on those improvements, a minimum of
5 three (3) weeks prior to the anticipated date of compliance hearing;

- 6 3. Any outstanding fees related to the site plan application compliance shall be
7 submitted;
- 8 4. A compliance hearing shall be held to determine that the site improvements have
9 been satisfactorily completed, prior to releasing the hold on the issuance of any
10 Permit to Operate/Certificate of Occupancy, or both. No occupancy/use of the
11 retail store shall be permitted until the site improvements as noted have been
12 completed, and a site inspection and compliance hearing held.

13 The deadline for complying with the Conditions Subsequent shall be **March 14, 2012**,
14 the confirmation of which shall be determined at a compliance hearing as noted in item
15 #4 above.

16 Christine Quirk seconded the motion.

17 **DISCUSSION:** Peter Hogan believed that any expansion of the business would require
18 a major site plan as potential drainage, snow storage and snow handling would be
19 addressed. The Coordinator pointed out that this was a major site plan and the only
20 item that had been waived was the requirement to have a professionally drawn plan. She
21 continued that the business could expand without review of the specific items Peter
22 Hogan had just listed. Peter Hogan stated that as part of the approval he wanted a cap to
23 be placed on expansion and to require the applicants to come before the Board to obtain
24 approval for any future expansion because there was not a lot of property available here if
25 the business ran to its full potential. The Coordinator asked for clarity of what Peter
26 Hogan's definition of "expansion". Peter Hogan answered that the business should not
27 expand beyond what it currently proposed. The Chairman pointed out that the applicant's
28 plan was approved for only three business parking spaces and if that number was
29 exceeded they would not be in compliance and that the applicants were approved for
30 everything on their plan as a major site plan. The Chairman called for a vote and the
31 motion **PASSED**. AYE – Don Duhaime, Mark Suennen and Christine Quirk. NAY –
32 Peter Hogan.

33
34 David Mann asked if they could operate their business now. The Chairman explained
35 that the things just discussed by the Board - driveway permit or waiver, revised plans and so on
36 had to be received by a certain date, then all the things shown on the plan had to be done onsite
37 so that the facility matched the plan - signs, stripes, lighting, signs, and so on. He noted that then
38 the Planning Board would schedule a compliance site walk to confirm that the site matched the
39 plan and then the business could open. David Mann asked if the DOT approval was part of that
40 which the Chairman confirmed to be the case. David Craig asked if a compliance hearing would
41 require notice to be sent to the abutters. The Coordinator stated that it would.

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43

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1 **VISTA ROAD, LLC**

2 Public Hearing/Major Subdivision/2 Lots

3 Location: Byam Road and River Road (Route 13)

4 Tax Map/Lot #6/40-2

5 Residential-Agricultural "R-A" District

6
7 Present in the audience were Vinnie Iacozzi, Jay Marden, Brian Stevens, Rick Kohler,
8 Ken Lombard and Keith O'Halloran.

9 The Chairman read the public hearing notice. He indicated that the application had been
10 accepted as complete on March 8, 2011, and the deadline for Board action was May 12, 2011.
11 He noted that if the application was not approved this evening an agreement to extend the
12 deadline for action would be required. He stated that the Planning Office had received the
13 information the Board had requested at the previous hearing with regard to the Environmental
14 Impact Study as well as an ISWMP, both received on September 6, 2011.

15 The Chairman asked the Coordinator to address an issue with the bond. The Coordinator
16 explained that a bond estimate form provided by the Planning Office was used to calculate what
17 was needed for the bond for the ISWMP. She continued that the surveyor had contacted the
18 Planning Office and advised that the bond had previously been prepared for the CUP. She
19 believed that if the CUP bond was also for the driveway it was most likely too much and if it was
20 not included then it needed to be provided for the ISWMP. She noted that the ISWMP was for
21 disturbing critical areas which were 20' from the side lot line. She pointed out that the wetland
22 crossing was at the top of the lot and the bond for that should have only been for the culvert,
23 clearing and grubbing, and erosion controls. Vinnie Iacozzi believed that the submitted bond,
24 \$5,359.00, was for the total length of the driveway, including the culvert. The Chairman asked if
25 the applicant preferred to submit something in addition and leave the CUP as it was or have two
26 bonds that combined up to the total of what was approved for the CUP under the assumption that
27 it had both. Vinnie Iacozzi stated that he would have the bond amended to cover both permits.
28 The Chairman asked if the bond would total the same amount. Vinnie Iacozzi answered that
29 adding any more to the amount would be excessive. The Chairman stated that the applicant
30 needed to update the CUP by reducing it and complete the separate form for the ISWMP. Vinnie
31 Iacozzi stated that he used a slightly different formula for the calculations of the ISWMP and
32 arrived at different numbers for the same work. The Coordinator questioned the formula used by
33 the applicant and explained the ISWMP was only for the critical areas which included those
34 areas within 20' of the side lot line. She commented that it was unusual for the ISWMP to match
35 the wetland crossing because the bond for the wetland crossing should not include the driveway
36 with the exception of the small wetland crossing area. Mark Suennen believed that the ISWMP
37 bond form was used for the CUP bond. Vinnie Iacozzi stated that he could provide an additional
38 \$1,800.00 or amend the language of the bond to cover both. The Planning Board Assistant stated
39 that a new bond worksheet needed to be filled out for the ISWMP. The Chairman stated that if
40 the bond that had been submitted covered both the CUP and the ISWMP then it needed to be
41 noted on the form and be resubmitted.

42 The Chairman asked Mark Suennen if he believed the bond was for both the CUP and
43 ISWMP. Mark Suennen commented that the bond that had been submitted either covered both

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1 **VISTA ROAD, LLC, cont.**

2
3 the CUP and ISWMP or the bond submitted for the culvert was too high. He added that the
4 value of the 10% contingency was three times the cost for the driveway and, therefore, made up
5 for any mathematical errors with the bond.

6 The Chairman asked the Board if the information submitted by the applicant in lieu of the
7 Environmental Impact Study was sufficient. Mark Suennen stated that the information submitted
8 could be substituted for an Environmental Impact Study, however, he noted that he did not agree
9 with all the information submitted. He referred to the October 4, 2004, Drainage Summary, and
10 explained that an illustration provided showed an increase of three times the flow during a 10
11 year storm from the property to an existing culvert under River Road, a/k/a, Route 13, and into
12 the Piscataquog River. He stated that the Board had made it a habit to prohibit any flow on, over
13 or under Town roadways. He wanted further explanation of how the additional flow could be
14 accommodated during a 10 year storm. Vinnie Iacozzi stated that the information in the
15 Drainage Summary in question referred to a previously proposed 50' roadway rather than the
16 current 12' proposed driveway. He stated that he could provide the Board with the exact
17 calculations of the increased flow.

18 The Chairman referred to ISWMP dated October 1, 2010, and read the following, "The
19 culvert does restrict flow, and therefore, it would not lead to flooding upstream." He questioned
20 the accuracy of the statement as he believed that restricting flow would create flooding. Vinnie
21 Iacozzi agreed that the statement was inaccurate and advised that he would follow up with Eric
22 Mitchell, PE.

23
24 Mark Suennen **MOVED** to accept the documents submitted, i.e., Drainage Summary,
25 Drainage Appendix Revisions, Site Specific Soil Survey and Stormwater Management
26 Report as substitutions for a site specific Environmental Impact Study. Christine Quirk
27 seconded the motion. **DISCUSSION:** Peter Hogan asked for clarification that the intent
28 of the motion was to accept the method of submission and not the results of the submitted
29 information. Mark Suennen answered that his motion was to accept the method and
30 materials submitted and not the results. The motion **PASSED** unanimously.

31
32 Peter Hogan referred to the earlier discussion of increased flow from the property to the
33 Piscataquog River and questioned why the Board would consider accepting any increased flow.
34 Mark Suennen stated that he shared the same concern with Peter Hogan and wanted clarification
35 if an increase of flow existed why it did. He added that he would not approve any increase in
36 flow. Vinnie Iacozzi stated that he did not believe there was increase and explained that he
37 thought this was a point loading issue not an increase. Mark Suennen stated if Mr. Mitchell
38 could prove that there would not be an increase of flow from the property with the installation of
39 an impervious driveway he would be satisfied.

40 The Chairman asked the Coordinator if any outstanding issues remained. The
41 Coordinator answered no.

42 The Chairman stated that the application needed to be adjourned to the next meeting and
43 the applicant should be asked to agree to an extension of the deadline for the Board's action.

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2
3 Vinnie Iacozzi asked if the application would be accepted as complete and no further revisions
4 were necessary. The Coordinator answered yes.

5 The Chairman reiterated that the bond form needed to be updated and the drainage
6 calculations needed to be provided prior to the next meeting. Vinnie Iacozzi agreed to extend the
7 deadline for Board action.

8
9 Mark Suennen **MOVED** to adjourn the public hearing of Vista Road, LLC, Location:
10 Byam Road and River Road (Route 13), Tax Map/Lot #6/40-2, Residential-Agricultural
11 "R-A" District, and to extend the deadline for Board action to September 27, 2011, at
12 7:15 p.m. Peter Hogan seconded the motion and it **PASSED** unanimously.

13
14 **LUEDKE, MARK D. & RHONDA S.**

15 Submission of Application/Public Hearing/Conditional Use Permit

16 Purpose: To install one wetland crossing

17 Location: 26 Hooper Hill Road

18 Tax Map/Lot #11/10

19 Residential-Agricultural "R-A" District

20
21 Present in the audience were Rick Kohler, Brian Stevens, Jay Marden, John MacLellan
22 and Keith O'Halloran.

23 The Chairman read the public hearing notice. He advised that the application form had
24 been submitted on July 25, 2011. He also indicated that the driveway permit and application fees
25 had been submitted, however, they would not be forwarded to the Road Agent until approval of
26 the wetland crossing was received from the Planning Board. He stated that there were no
27 outstanding issues relative to the plan. He added that the Dredge and Fill Permit application was
28 under technical review at the State and would become a condition of approval. He stated that a
29 site walk had taken place on August 13, 2011. He asked for comments from Board members that
30 had attended the site walk; there were no comments.

31 Rick Kohler stated that he had conducted a site walk with Burr Tupper of the
32 Conservation Commission as well as some the members of the Planning Board. He indicated
33 that he was requesting a conditional approval of a CUP conditioned upon the transfer of
34 ownership that was scheduled to take place on September 16, 2011. He noted that the closing
35 was contingent upon the approval of the CUP.

36 The Chairman asked in what form the financial security would be submitted. Brian
37 Stevens answered that he would submit the financial security in the form of a check.

38 The Coordinator asked if it was the intention of the applicant to construct a driveway on
39 Hooper Hill Road. Rick Kohler answered yes. The Coordinator advised that transfer of
40 ownership was not enough to provide legal frontage to Lot #11/9-3. She explained it had
41 originally been proposed to subdivide the northern portion of Tax Map/Lot #11/10 from the
42 southern portion and attach same to the Stevens' lot, noting that otherwise there would not be
43 frontage for the proposed driveway. Brian Stevens stated that it was his intention to conduct the

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11

1 **LUEDKE, MARK & RHONDA, cont.**

2
3 subdivision as described by the Coordinator.

4 The Chairman asked Rick Kohler if the sight distance issue that had been raised during
5 the site walk had been addressed. Rick Kohler answered that the sight distance requirement had
6 been exceeded in both directions .

7 The Chairman asked if there were any further comments or questions; there were no
8 comments or questions.

9
10 Mark Suennen **MOVED** to accept the application as complete, and to grant the
11 Conditional Use Permit and approve the plans of Mark & Rhonda Luedke to effect one
12 (1) wetland crossing on property on Hooper Hill Road, known as Tax Map/Lot #11/10 as
13 the four conditions for granting the Permit have been found to exist, subject to the
14 following conditions:

15
16 **CONDITIONS PRECEDENT:**

- 17 1. Submission of the financial security in the amount of \$9,615.50 and in the form of
- 18 cash or a check.
- 19 2. Any revisions to the site plan as decided by the Board at the hearing (if
- 20 applicable).
- 21 3. Receipt of Dredge and Fill Permit from NH DES.
- 22 4. Subdivision of the northerly portion of Tax Map/Lot #11/10 from the southerly
- 23 portion of Lot #11/10 and its subsequent merger with Lot #11/9-3.

24 The deadline for complying with the conditions precedent shall be **December 31, 2011**,
25 the confirmation of which shall be an administrative act, not requiring further action by
26 the Board. Should the conditions to approval not be fulfilled by the deadline date, and a
27 written request for extension is not submitted prior to that date, the applicant is hereby
28 put on notice that the Planning Board may convene a hearing under RSA 676:4-a to
29 revoke the approval.

30
31 **CONDITIONS SUBSEQUENT:**

- 32 1. Completion of the site improvements as related to the one (1) wetland crossing, as
- 33 shown on the approved construction design plan.
- 34 2. The financial security shall not be released until the site has been inspected upon
- 35 notification to the Planning Department by the applicant that the project has been
- 36 completed, and a compliance hearing is held and confirms that the project has
- 37 been satisfactorily completed by no later than **September 13, 2012**.

38 Peter Hogan seconded the motion and it **PASSED** unanimously.

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42
43

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1 **GRANITE STATE CONCRETE, CO., INC.**

2 Existing Excavation Exemption Application/Public Hearing

3 Location: Lyndenborough Road

4 Tax/Map Lot #13/4

5 Residential-Agricultural "R-A"

6
7 Present in the audience were John MacLellan, Cyndie Wilson, Maureen Mansfield,
8 Warren Houghton, Morgan Hollis, Esq., Dana Lorden, Shiv Shrestha, and Keith O'Halloran.

9 The Chairman read the public hearing notice. He stated that the application form had
10 been completed and signed by John MacLellan and received on July 29, 2011. He noted that
11 there were outstanding fees that could be addressed as conditions for approval.

12 The Chairman explained that the Earth Removal Regulations listed a set of criteria that
13 needed to be met in order to be considered Exempt. He read the following from the Earth
14 Removal Regulations, Appendix 1, Details and Descriptions for Projects Exempt from a Permit:

15
16 An 'existing excavation' is one which meets **all** of the following conditions:

- 17
18 1. The owner of such excavation must demonstrate that such excavation lawfully existed
19 as of August 24, 1979; and,
20 2. The owner of such operation must demonstrate that earth material of sufficient weight
21 or volume to be commercially useful was removed during the two-year period before
22 August 24, 1979; and,
23 3. The owner of such excavation must demonstrate that either said owner, the
24 predecessor in title to such owner, or the authorized operator of such excavation
25 previously filed a report with the local Regulator no later than two years following
26 August 4, 1979, which report must have included:
27 a. The location of the excavation and the date the excavation first began;
28 b. A description of the limits of permissible expansion...which are claimed to
29 apply to the excavation;
30 c. An estimate of the area which had been excavated at the time of the report; and,
31 d. An estimate of the amount of commercially viable earth materials still available
32 on the parcel at that time.

33
34 John MacLellan identified himself and stated that he was present to confirm to the Board
35 that Granite State Excavation, Co., Inc., was exempt from current requirements. He advised that
36 the above-captioned location had been operating as an excavation site since 1960. He stated that
37 he had purchased and began operating the property in 1964. He provided the Board with
38 affidavits signed by the former Road Agent of Mont Vernon to confirm material had been
39 purchased from the site prior to August 24, 1979. He also provided copies of a letter addressed
40 to the Town dated August 23, 1991. He explained that the August 23, 1991, letter showed that
41 he was in compliance with RSA 155- E. He stated that the excavation site had operated under
42 the requirements for Operational Standards, RSA 155- E, and had continually operated since
43 1974. He noted that an annual inspection of the site had been conducted by the Building

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1 **GRANITE STATE CONCRETE, CO., INC., cont.**

2
3 Inspector and that, along with the AoT plans submitted to NH DES confirmed his compliance
4 with RSA 155-E.

5 The Chairman stated that the affidavit submitted by John MacLellan could potentially
6 meet item 1 of the Earth Removal Regulations, Appendix 1, Details and Descriptions for Projects
7 Exempt from a Permit, as it contained information that the Town of Mont Vernon purchased
8 material from the site from 1970 through 1973.

9 The Chairman stated John MacLellan had not demonstrated item 2's criteria, i.e., weight
10 or volume to be commercially useful, of the Earth Removal Regulations, Appendix 1, Details
11 and Descriptions for Projects Exempt from a Permit, through any of the submitted information.

12 The Chairman stated that John MacLellan had not filed a report with the local Regulator
13 no later than two years following August 4, 1979, which was required by item 3 of the Earth
14 Removal Regulations, Appendix 1, Details and Descriptions for Projects Exempt from a Permit.

15 John MacLellan felt that the report he filed in 1991 was sufficient to meet item 3's
16 criteria. The Chairman stated that the report needed to be filed within 2 years of 1979 and as
17 such the report was filed 10 years past the deadline.

18 The Chairman stated that he was not convinced based on the information provided that
19 Mr. MacLellan owned a gravel pit that was exempt from obtaining a permit. John MacLellan
20 pointed out that RSA 155- E, required that the report filed with the Regulator shall be filed no
21 later than two years after August 4, 1989, and not August 4, 1979, as previously stated by the
22 Chairman. The Coordinator reviewed the regulation and confirmed that the date in question was
23 in fact August 4, 1989, and the 1979 date was a typographical error on the Planning Board's
24 cover sheets for this hearing. The Chairman clarified that the report had been filed two weeks
25 past the deadline and not 10 years. John MacLellan argued that the report had been filed by the
26 expiration date. The Chairman disagreed and stated that the report had been filed on August 23,
27 1991, and should have been filed no later than August 4, 1991. John MacLellan again disagreed
28 and pointed out that the regulation required that the report be filed no later than August 24, 1989,
29 and not August 4, 1989. The Coordinator confirmed that the regulations stated August 4, 1989.
30 John MacLellan said he had a copy of the Town's regulations that showed the August 24, 1989,
31 date, but did not provide same to the Board. The Chairman stated that he did not have a copy of
32 the regulations available and the correct date would be looked into.

33 Peter Hogan asked what submitted information proved item 1, of the Earth Removal
34 Regulations, Appendix 1, Details and Descriptions for Projects Exempt from a Permit. John
35 MacLellan stated that the affidavit he had provided proved that the excavation site lawfully
36 existed as of August 24, 1979. Peter Hogan stated that the affidavit only established that
37 material had been hauled out of the site and did not prove that the site lawfully existed. John
38 MacLellan stated that at the time the material had been removed legally.

39 Peter Hogan questioned why John MacLellan did not simply apply for an earth removal
40 permit for this site. John MacLellan answered that he did not need to apply for a permit as the
41 excavation site had grandfathered status and had been in operation for almost fifty years. He
42 added that by law he had the right to continue operating the excavation site under his
43 grandfathered status. Peter Hogan stated that he believed the site had a right to continue

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1 **GRANITE STATE CONCRETE, CO., INC., cont.**

2
3 operating but argued that a permit was required. He explained that it was John MacLellan's
4 burden to establish that the site was grandfathered. John MacLellan asked for the Board's
5 burden of proof to be explained. Peter Hogan stated that "the owner of such excavation must
6 demonstrate that such excavation lawfully existed as of August 24, 1979". He commented that
7 the affidavit submitted did not prove the requirement and only proved that someone had hauled
8 gravel out of the gravel pit. John MacLellan pointed out that the affidavit was all that was
9 needed during the 1970's to prove that the pit was active. Peter Hogan stated that active and
10 legal were two different things. John MacLellan stated that it was an allowed use and legal
11 during the 1970's as there was no zoning.

12 The Chairman moved on to item 2, of the Earth Removal Regulations, Appendix 1,
13 Details and Descriptions for Projects Exempt from a Permit, and stated that "the owner of such
14 operation must demonstrate that earth material of sufficient weight or volume to be
15 commercially useful was removed during the two-year period before August 24, 1979". He
16 asked John MacLellan if he agreed that the date, August 24, 1979, was accurate. John
17 MacLellan stated that he agreed that the August 24, 1979, date was accurate. The Chairman
18 stated that he did not believe any of the information provided proved the above-referenced item
19 2. John MacLellan stated that the Board had his testimony that the excavation site had been in
20 operation since 1974. The Chairman asked for John MacLellan to submit records, i.e., sales
21 receipts, to the Board that demonstrated that earth material of sufficient weight or volume to be
22 commercially useful was removed from the site. John MacLellan advised that he would look for
23 the information that would satisfy the Board.

24 The Chairman stated that the Board needed clarification on the date in item 3, of the
25 Earth Removal Regulations, Appendix 1, Details and Descriptions for Projects Exempt from a
26 Permit, to make a decision that sufficient information had been provided to prove John
27 MacLellan met the required criteria.

28 Peter Hogan referred back to item 1, of the Earth Removal Regulations, Appendix 1,
29 Details and Descriptions for Projects Exempt from a Permit, and asked if it was John
30 MacLellan's position that he could not show that the excavation site legally existed as there were
31 no zoning regulations during the time period in question. John MacLellan agreed with Peter
32 Hogan's statement. Peter Hogan commented that he agreed with John MacLellan's position and
33 added that by hauling material out of the site it proved that it was legally operating. The
34 Chairman asked the Planning Office to look further into John MacLellan's explanation of being a
35 legal excavation site.

36 The Chairman indicated that the Planning Office would provide confirmation that
37 sufficient information was provided to meet item 1. He stated that John MacLellan needed to
38 provide further information regarding sufficient weight and volume of removed material. Peter
39 Hogan commented that he did not need to provide too much and suggested the submission of a
40 load ticket would be sufficient.

41 The Chairman stated that with regard to item 3, of the Earth Removal Regulations,
42 Appendix 1, Details and Descriptions for Projects Exempt from a Permit, the submission of his
43 report was off by fourteen days; however, in the overall scheme of things it may be close

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15

1 **GRANITE STATE CONCRETE, CO., INC., cont.**

2
3 enough.

4 The Chairman asked the Board if they had any comments or questions. Peter Hogan
5 stated that it may be a bit of a stretch for the requested information to be located and provided to
6 the Board. He asked if Christine Quirk recalled any issues with Granite State Concrete, Co.,
7 Inc.'s, permit in the past. Christine Quirk answered that there had not been issues with the
8 permit.

9 John MacLellan stated that he had provided the Town with reclamation bonds for many
10 years and the site had been recognized as a grandfathered pit for many years.

11 The Chairman asked if there was any harm in taking two weeks to further review the
12 submitted information. Mark Suennen pointed out that some time between 1991 and 1997 Town
13 Counsel had advised the Board of Selectmen that the excavation site was grandfathered. It was
14 Mark Suennen's opinion that the Board should follow the advice of the previous Town Counsel
15 that the site was grandfathered. Peter Hogan agreed with Mark Suennen.

16 Mark Suennen asked if a plan had been submitted with the AoT Permit dated 2000-2001.
17 John MacLellan answered that a copy of the plan had been submitted with this application. The
18 Coordinator advised that the plan that existed was for all of the pits owned by Granite State
19 Concrete and crossed town lines. The Coordinator pointed out the location of the excavation site
20 in question on the plan. Mark Suennen asked when the AoT permit expired. John MacLellan
21 answered that his next review was scheduled for August of 2014. The Coordinator asked John
22 MacLellan to point out on the plan where the current excavation area was today and how
23 different the site appeared from 2001 to present. John MacLellan answered that the property had
24 not changed very much and that on average only 2,000 yards of material were removed per year
25 from this site. Mark Suennen asked if John MacLellan was comfortable stating that he continued
26 to work inside the 2001 limits. John MacLellan answered yes and noted that no trees had been
27 cut since that time.

28 The Chairman asked if John MacLellan had any issues with the proposed standard hours
29 of operation for the site. John MacLellan answered that he did not have any issues with the
30 proposed hours of operation.

31 The Chairman stated that the most recent bond information the Planning Office had was
32 that a bond had expired October 1, 2002. John MacLellan handed the Coordinator updated bond
33 information. He noted the bond covered both New Boston lots. The Chairman asked when the
34 bond expired. The Coordinator answered October 1, 2011. The Chairman asked John
35 MacLellan if he intended on renewing the bond. John MacLellan answered that the bond was
36 automatically renewed each year.

37 The Chairman asked if the Board was satisfied that the excavation site was an existing
38 grandfathered use based on the previous determination of the Board of Selectmen. Peter Hogan
39 and Mark Suennen agreed with the Chairman's statement.

40 The Chairman advised that there were outstanding fees for one abutter notice and for
41 John MacLellan's prorated portion of the newspaper notice of this hearing. The Planning Board
42 Assistant noted that she had not received a bill from the newspaper and would send out a bill as
43 soon as she received one. The Chairman advised that the outstanding fees would become part of

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16

1 **GRANITE STATE CONCRETE, CO., INC., cont.**

2
3 the conditions precedent and would be due October 13, 2011.

4 Mark Suennen requested that proof be provided to the Planning Office with regard to the
5 renewed bond of October 1, 2011.

6
7 Peter Hogan **MOVED** to approve the Existing Excavation Exemption Application by
8 Granite State Concrete, Co., Inc., on property on Tax Map/Lot #13/4, Lyndeborough
9 Road, subject to:

10
11 **CONDITIONS PRECEDENT:**

- 12 1. Submission of proof of a current bond.
13 2. Submission of any outstanding fees.

14 The deadline for complying with the conditions precedent shall be **October 13, 2011**,
15 the confirmation of which shall be an administrative act, not requiring further action by
16 the Board. Should compliance not be confirmed by the deadline date, and a written
17 request for extension is not submitted prior to that date, the applicant is hereby put on
18 notice that the Planning Board may convene a hearing pursuant to RSA 676:4-a to revoke
19 the approval.

20
21 **CONDITIONS SUBSEQUENT AND ONGOING:**

- 22 1. The subject excavation, as well as any expansion thereof, shall be performed in
23 compliance with the express operational standards of RSA 155-E:4-a and the
24 express reclamation standards of RSA 155-E:5 and 155-E:5-a, as the same may be
25 amended, from time to time. Any violation of those standards shall be
26 enforceable pursuant to RSA 155-E:10. Compliance with these standards and the
27 applicable requirements of the Town of New Boston Earth Removal Regulations,
28 is mandatory in order to retain the exempted status.
29 Compliance shall be confirmed by periodic inspections by the Regulator or its
30 designee as detailed in Section 16 (Administration and Enforcement) of the Town
31 of New Boston Earth Removal Regulations. Loss of exempt status can occur only
32 after the Regulator has given written notice that the excavation is not in
33 compliance and the owner has failed to bring it into compliance within 30 days of
34 receipt of such notice, upon a finding by the Regulator to that effect.
- 35 2. Prior to the granting of any permit, or to the removal of any topsoil or other
36 overburden material from a new area within an existing excavation site, the
37 Applicant shall submit to the Regulator an acceptable bond with sufficient surety
38 as determined by the Regulator. The purposes of the bond are to guarantee
39 reclamation of the area and compliance with the permit. The surety must be
40 phased to coincide with the phasing of work, in an amount sufficient to guarantee
41 reclamation of the applicable section, to be released as sections are completed.
42 Prior to a new section being opened, new securities shall be posted. The surety
43 shall not be released until the Regulator is satisfied that all conditions of the site

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1 reclamation plan have been complied with. This shall be determined at a final site
2 walk by the Regulator and/or its designee.

3 Additionally, if a bond or security is already in place, the applicant is responsible
4 for keeping said security up-to-date and submitting riders, renewals, or other
5 documentation to the Planning Board as proof that the bond or security is in place.

6 3. Hours of operation

7 Start up time for all machinery associated with an Earth Removal Operation shall
8 be no earlier than 6:45 a.m. in cold weather only; in warm weather start up time
9 for machinery shall be no earlier than 7:00 a.m.; activity of any kind, including
10 loading and removal of material from the site shall begin no earlier than 7:00
11 a.m.; termination of removal of material from the site shall be no later than 5:00
12 p.m.; processing of materials shall begin no earlier than 7:00 a.m. and must be
13 shut down by 5:00 p.m. These operating hours shall be for Monday through
14 Saturday.

15 No operation shall take place on Sundays and major Federal holidays, as follows:
16 New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving and
17 Christmas; provided, however, that access on Sundays and holidays is permitted
18 in the event of a town-wide emergency situation requiring use of material or
19 equipment, for example, flooding situations, ice storms, major blizzards.

20 4. Submission of revised AoT plans upon renewal of AoT permit.

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

22
23 **GRANITE STATE CONCRETE, CO., INC.**

24 Submission of an Earth Removal Application/Public Hearing

25 Location: Salisbury Road

26 Tax Map/Lot #13/5

27 Residential-Agricultural "R-A" District

28
29 Present in the audience were John MacLellan, Warren Houghton, Maureen Mansfield,
30 Cyndie Wilson, and Richard Harvey. The Chairman read the public hearing notice. He noted
31 that the application form was completed and had been received on August 29, 2011. He stated
32 that the applicant had received a Special Exception from the ZBA in 2005 and was approved for
33 a site plan by the Planning Board in 2005. He advised that there were outstanding fees with
34 regard to the applicant's prorated share of the newspaper notice of this evening's hearing. He
35 stated that everything required for a completed application had been received.

36 The applicant provided cross-sections to the Coordinator. He stated that after discussing
37 the procedure with the Planning Office he had elected to submit the last approved plan for the
38 above-referenced lot with the following addenda: new sign-off block, driveway locations and
39 deed references for the lots created on Salisbury Road, amended hours of operation to
40 correspond with current regulations, amended language relative to snow removal, and he had
41 provided cross-sections. Mark Suennen added that upon conditional approval the applicant
42 would update the plan to reflect the addenda presented at this hearing. The applicant agreed with
43 Mark Suennen's statement.

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1 **GRANITE STATE CONCRETE, CO., INC., cont.**

2
3 The Chairman asked for comments or questions from the Board. Mark Suennen asked if
4 the 100 trips listed on the application referred to 50 trips into the lot and 50 trips out. The
5 applicant answered yes. Mark Suennen asked how often 100 trips a day would occur. The
6 applicant answered that they had not had 100 trips per day within the last several years. Mark
7 Suennen asked how many trips per day was typical 5 years ago. The applicant answered about
8 50 trips a day. Mark Suennen and Peter Hogan commented that they felt comfortable waiving
9 the Traffic and Environmental Impact Studies.

10
11 Mark Suennen **MOVED** to approve the Environmental and Traffic Impact Study waivers
12 for Granite State Concrete, Co., Inc., Location: Salisbury Road, Tax Map/Lot #13/5,
13 Residential-Agricultural "R-A" District, based on the stated typical number of trips into
14 the pit, the pathways selected for the trips and the environmental work that had been
15 completed as part of the AoT Permit. Peter Hogan seconded the motion. **DISCUSSION:**
16 Mark Suennen added that the application and information submitted met the spirit and
17 intent of the regulations. The motion **PASSED** unanimously.

18
19 The Chairman stated that there were no driveway permits on record for the above-
20 captioned property. The applicant stated that the information that there were no driveway
21 permits was a surprise to him as the driveway had been there for fifty or sixty years. The
22 Chairman asked that the applicant fill out a driveway permit and submit as a condition precedent.
23 The applicant agreed to submit a driveway permit form. The Chairman noted that no fee would
24 be assessed for the driveway permit.

25 The Chairman asked the Board if anyone believed a CUP was required for the
26 Groundwater Resources Conservation District and if not a motion should be made to state that
27 for the record.

28
29 Mark Suennen **MOVED** that based on the characteristics of the gravel pit and the fact
30 that no new impervious area was being created the applicant does not need to submit a
31 Groundwater Resources Conservation District CUP application. Peter Hogan seconded
32 the motion and it **PASSED** unanimously.

33
34 The Chairman stated that a bond was in place for the current application being discussed
35 as well as Tax Map/Lot #13/4. He noted that the bond was set to expire on October 1, 2011, and
36 that it would be renewed and the applicant would provide a copy of the renewal to the Planning
37 Office. He further noted that the renewal of the bond would become part of the conditions
38 precedent.

39 The Chairman indicated that an end date for the gravel pit was needed. The applicant
40 stated that at the current rate material was being removed it could take up to 100 years before the
41 pit was exhausted. The Chairman asked if 50 years for an end date was acceptable. The
42 applicant agreed.

43 The Chairman asked if the Board believed additional requirements should be added; the

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19

1 **GRANITE STATE CONCRETE, CO., INC., cont.**

2
3 Board did not believe additional requirements should be added.

4
5 Peter Hogan **MOVED** to approve the Earth Removal Application with associated plans
6 entitled "Removal of Earth Products Plan G.S.C. - New Boston Map 13 Lot 5 New
7 Boston, New Hampshire", dated September 9, 2004, most recently revised March 7,
8 2005, along with the supplemental information provided on a one page document entitled
9 "Earth Removal Application - Checklist Notes, Granite State Concrete Co., Inc., Map 13
10 Lot 5", received July 29, 2011, and on a three page document entitled "Earth Removal
11 Application Addendum to Excavation Plan Map 13 Lot 5, Salisbury Road New Boston,
12 New Hampshire", received September 7, 2011, and a one page document entitled
13 "Excavation Area 2011, re: checklist #14", received September 7, 2011, and to grant an
14 Earth Removal Permit to include the site specific items discussed at this hearing, subject
15 to:

16
17 **CONDITIONS PRECEDENT:**

- 18 1. Submission of revised plans that include all checklist corrections and any
19 corrections as noted at this hearing.
20 2. Submission of any outstanding fees.
21 3. Submission of proof of a current bond.

22 The deadline for complying with the conditions precedent shall be **December 13, 2011**,
23 the confirmation of which shall be an administrative act, not requiring further action by
24 the Board. Should compliance not be confirmed by the deadline date, and a written
25 request for extension is not submitted prior to that date, the applicant is hereby put on
26 notice that the Planning Board may convene a hearing pursuant to RSA 676:4-a to revoke
27 the approval.

28
29 **CONDITIONS SUBSEQUENT AND ONGOING:**

- 30 1. Prior to the granting of any permit, or to the removal of any topsoil or other
31 overburden material from a new area within an existing excavation site, the
32 Applicant shall submit to the Regulator an acceptable bond with sufficient surety
33 as determined by the Regulator. The purposes of the bond are to guarantee
34 reclamation of the area and compliance with the permit. The surety must be
35 phased to coincide with the phasing of work, in an amount sufficient to guarantee
36 reclamation of the applicable section, to be released as sections are completed.
37 Prior to a new section being opened, new securities shall be posted. The surety
38 shall not be released until the Regulator is satisfied that all conditions of the site
39 reclamation plan have been complied with. This shall be determined at a final site
40 walk by the Regulator and/or its designee.
41 Additionally, if a bond or security is already in place, the applicant is responsible
42 for keeping said security up-to-date and submitting riders, renewals, or other
43 documentation to the Planning Board as proof that the bond or security is in place.

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1 **GRANITE STATE CONCRETE, CO., INC., cont.**

2
3 2. Amendments and Renewals

4 Permit holders wishing to alter the size or location of the excavation, the rate of
5 removal or the plan for reclamation shall apply for a renewal or amendment,
6 following the same procedures as those required for the original excavation
7 permit.

8 3. The Earth Removal permit is not transferable without the prior written consent of
9 the Regulator.

10 4. A copy of the Earth Removal permit shall be prominently displayed at the site or
11 the principal access to the site.

12 5. Inspections

13 The Regulator or its designee may make periodic inspections, minimally on an
14 annual basis, of all excavation sites, both permitted and exempt, to determine if
15 the operations are in conformance with the New Boston Earth Removal
16 Regulations and the approved plans.

17 6. Hours of operation

18 Start up time for all machinery associated with an Earth Removal Operation shall
19 be no earlier than 6:45 a.m. in cold weather only; in warm weather start up time
20 for machinery shall be no earlier than 7:00 a.m.; activity of any kind, including
21 loading and removal of material from the site shall begin no earlier than 7:00
22 a.m.; termination of removal of material from the site shall be no later than 5:00
23 p.m.; processing of materials shall begin no earlier than 7:00 a.m. and must be
24 shut down by 5:00 p.m. These operating hours shall be for Monday through
25 Saturday.

26 No operation shall take place on Sundays and major Federal holidays, as follows:
27 New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving and
28 Christmas; provided, however, that access on Sundays and holidays is permitted
29 in the event of a town-wide emergency situation requiring use of material or
30 equipment, for example, flooding situations, ice storms, major blizzards.

31 7. Maximum Excavation Limit

32 Final excavation grade shall be not less than four feet to documented seasonal
33 high water table, provided, however, that pursuant to RSA 155-E:11,II, an
34 exception shall be granted if the application demonstrates to the Regulator's
35 satisfaction that excavation below this height will not adversely affect water
36 quality. The Regulator reserves the right to have an outside review of the
37 information submitted as part of any proposal to excavate within four feet of the
38 documented seasonal high water table, at the Applicant's expense. Written notice
39 of such an exception shall be recorded in the Hillsborough County Registry of
40 Deeds at the Applicant's expense, and one copy shall be filed with the New
41 Hampshire Department of Environmental Services.

42 8. Waste Disposal

43 No disposal of any waste material, including solid and/or hazardous waste,

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1 **GRANITE STATE CONCRETE, CO., INC., cont.**

2
3 septage, dredge spoils, or refuse shall be undertaken on the site without
4 appropriate State approval under RSA 149:M, or other appropriate State
5 regulations.

6 9. Tree cutting

7 The applicable state statutes pertaining to forestry practice and timber harvesting
8 shall apply to the removal of vegetative cover at excavation sites.

9 10. Stopping of Removal/Excavation Operations

10 If removal/excavation operations stop for more than one year with no notice
11 thereof provided to the Regulator and said stoppage is not in accordance with the
12 approved excavation plan or due to bad weather, the excavation permit may be
13 revoked and the performance bond forfeited with its proceeds used for reclaiming
14 the land in accordance with the approved reclamation plan.

15 11. Applicant shall submit one copy of any plans or reports that are approved by the
16 NH DES Alteration of Terrain Bureau within 30 days of said approval.

17
18 **SITE SPECIFIC PERMIT CONDITIONS:**

19 A. Approved routes for transportation of material
20 Existing haul road to Hopkins Road.

21
22 B. Number and type of vehicles to be used to transport material
23 5 – 10 tractor or trailer trucks.

24
25 C. Equipment to be used for material removal
26 Front-end loader.

27
28 D. Requirements for material processing
29 Processing currently takes place on adjacent lots.

30
31 E. Requirements for temporary stockpiling of offsite materials
32 N/A. There is to be no temporary stockpiling of offsite materials.

33
34 F. Required plantings for reclamation
35 Plans show typical details for loam and seeding.

36
37 G. Other requirements
38 None

39
40 The Earth Removal Permit is valid until such time as the Regulator determines the Earth
41 Removal Operation is no longer in compliance with the New Boston Earth Removal
42 Regulations; or, until such time as the operation shall be deemed to be abandoned as
43 defined in the Earth Removal Regulations; or, until such time as the owner informs the

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22

1 **GRANITE STATE CONCRETE, CO., INC., cont.**

2
3 Regulator that they will no longer be running the Earth Removal Operation; or, until such
4 time as the operation is depleted; or, until the completion date as determined by the
5 Regulator in the regulatory process, in accordance with RSA 155-E:8, in this case
6 **September 13, 2061**, whichever first occurs.
7

8 Don Duhaime seconded the motion and it **PASSED** unanimously.
9

10 The Board took a 10 minute recess.
11

12 **HOUGHTON, RITA (OWNER)**
13 **HOUGHTON, WARREN (APPLICANT)**
14 Submission of Earth Removal Application/Public Hearing
15 Location: Lyndeborough Road
16 Tax Map/Lot #11/5
17 Residential-Agricultural "R-A" District
18

19 Present in the audience were Cyndie Wilson, Maureen Mansfield, Warren Houghton,
20 Morgan Hollis, Esq., Shiv Shrestha and Dana Lorden.

21 The Chairman read the public hearing notice. He stated that the application had been
22 completed and submitted on August 1, 2011, as well as waiver requests for Traffic and
23 Environmental Impact Studies. He advised that a copy of a letter dated April 22, 2008, from NH
24 DES had also been submitted relative to "no need for an AoT Permit". He noted that there was
25 an outstanding fee for the applicant's share of the prorated cost for the newspaper notice of this
26 evening's hearing which would become part of the conditions precedent. He stated that there
27 were no outstanding plan review issues.

28 The Chairman noted that there was no driveway permit for the above-referenced lot.
29 Warren Houghton confirmed that a driveway permit did not exist and advised that he would be
30 asking for a waiver of the driveway permit. He explained that his father had purchased the
31 gravel pit in 1963 and the same driveway had been utilized ever since without any issues.

32 The Chairman stated that Ed Hunter, Code Enforcement Officer, had recently completed
33 his annual inspection of the pit and had advised the Board of a few issues. He asked the
34 applicant if he was aware of the issues. Warren Houghton indicated that he had spoken with Ed
35 Hunter, Code Enforcement Officer, and he had taken care of an issue with the berm. The
36 Chairman asked if the issue with the grade had been fixed. Warren Houghton answered that he
37 had taken care of grading issue by installing barricades of dirt 4' in height.

38 The Chairman asked the Board if anyone believed a CUP was required for the
39 Groundwater Resources Conservation District and if not a motion should be made to state that
40 for the record.
41

42 Mark Suennen **MOVED** in light of the fact that the lot in question was a gravel pit and
43 no impervious surface was being created that it be determined that there was not a need

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23

1 **HOUGHTON, RITA, cont.**

2
3 for a Groundwater Resources Conservation District CUP. Peter Hogan seconded the
4 motion and it **PASSED** unanimously.

5
6 The Chairman stated that the applicant had submitted a waiver for the Traffic Impact
7 Study as the gravel pit had been grandfathered, active since 1963 and had no history of traffic
8 issues. He indicated that a waiver for the Environmental Impact Study had also been submitted
9 as the pit had been grandfathered, active since 1963 and had no history of environmental issues.
10 Mark Suennen asked if the listed 40 daily trips in and out of the pit were typical. Warren
11 Houghton answered that the listed 40 daily trips were a maximum number of trips for the pit.
12 He noted that in recent history about 10 daily trips were occurring. Mark Suennen asked if the
13 applicant utilized four 10-wheel dump trucks. Warren Houghton answered yes and noted that
14 tri-axles were also used.

15
16 Mark Suennen **MOVED** to approve the Environmental and Traffic Impact Study waivers
17 for Rita Houghton (Owner) & Warren Houghton (Applicant), Location: Lyndeborough
18 Road, Tax Map/Lot #11/5, Residential-Agricultural "R-A" District, based on the travel
19 data that was discussed and the requirements that the applicant was maintaining adequate
20 erosion and sediment controls as checked by the Town's Code Enforcement Officer and
21 that by allowing the waivers they were meeting the spirit and intent of the regulations.
22 Peter Hogan seconded the motion and it **PASSED** unanimously.

23
24 The Chairman stated that the applicant had a certificate of deposit in place for the bond.
25 The applicant confirmed that the certificate of deposit was still in place. The Chairman asked if
26 the applicant would approve a condition added to the permit that the bond needed to be kept
27 current; the applicant agreed to the addition. Mark Suennen asked how many acres were open.
28 Warren Houghton stated that two acres were open and the bond had been established at \$3,500
29 per acre. The Board determined that the \$7,808.94 bond that was currently being held was
30 sufficient.

31 The Chairman advised that an ending date for the pit needed to be determined to be in
32 compliance with the State law. The applicant requested using an end date of 2061. The Board
33 agreed with the end date of 2061.

34 The Chairman asked for questions or comments. The Coordinator reminded the
35 Chairman that the Board needed to act on the driveway permit waiver request. Mark Suennen
36 asked the applicant how upset he would be if the Board denied his waiver request. The applicant
37 answered that "he would not like it". The Chairman explained that the Board was not
38 questioning the existence of the driveway. The applicant stated that he wished to waive the
39 driveway permit requirement. The Chairman asked the applicant to state the reasons for the
40 waiver request. The applicant indicated that he requested the waiver because the pit was
41 grandfathered. The Chairman noted that as long as Warren Houghton was before the Board it
42 was an opportunity for the Board to catch up with a situation that was unpermitted. He noted
43 that the driveway permit would have no fee attached to it. He further noted that this was the

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24

1 **HOUGHTON, RITA, cont.**

2
3 same situation as the applicant immediately preceding Warren Houghton who was going to fill
4 out the permit and submit it. Cyndie Wilson commented that driveway permits were not
5 required in 1963.

6
7 Peter Hogan **MOVED** to approve the driveway permit waiver request. Mark Suennen
8 seconded the motion. **DISCUSSION:** Mark Suennen commented that the applicant was
9 kind enough to be involved in the writing of the Earth Removal Regulations and it was
10 his position that if the applicant was adamantly refusing to sign a driveway permit he did
11 not wish to fight him on it. The motion **PASSED**. **AYE** – Don Duhaime, Mark Suennen
12 and Christine Quirk. **NAY** – Peter Hogan.

13
14 The Chairman asked for further comments or questions; there were no further comments
15 or questions.

16
17 Mark Suennen **MOVED** to approve the Earth Removal Application with associated plans
18 entitled "Site Specific March 2007 Revised 8-1-11 Terrain Alteration Plan for Rita C.
19 Houghton Map 11 Lot 5 New Boston, N.H.", most recently revised September 7, 2011,
20 along with a two-page document entitled "Rita & Warren Houghton - Tax Map/Lot
21 #11/5", and a hand drawn sketch entitled "Typical Reclamation and Slope Cross Section,
22 Maximum slope 3 to 1", said additional information to be attached to and considered part
23 of the approved plans, and to grant an Earth Removal Permit to include the site specific
24 items discussed at this hearing, subject to:

25
26 **CONDITIONS PRECEDENT:**

27 1. Submission of any outstanding fees.

28 The deadline for complying with the conditions precedent shall be **October 13, 2011**,
29 the confirmation of which shall be an administrative act, not requiring further action by
30 the Board. Should compliance not be confirmed by the deadline date, and a written
31 request for extension is not submitted prior to that date, the applicant is hereby put on
32 notice that the Planning Board may convene a hearing pursuant to RSA 676:4-a to revoke
33 the approval.

34
35 **CONDITIONS SUBSEQUENT AND ONGOING:**

36 1. Prior to the granting of any permit, or to the removal of any topsoil or other
37 overburden material from a new area within an existing excavation site, the
38 Applicant shall submit to the Regulator an acceptable bond with sufficient surety
39 as determined by the Regulator. The purposes of the bond are to guarantee
40 reclamation of the area and compliance with the permit. The surety must be
41 phased to coincide with the phasing of work, in an amount sufficient to guarantee
42 reclamation of the applicable section, to be released as sections are completed.
43 Prior to a new section being opened, new securities shall be posted. The surety

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25

1 **HOUGHTON, RITA, cont.**

2
3 shall not be released until the Regulator is satisfied that all conditions of the site
4 reclamation plan have been complied with. This shall be determined at a final site
5 walk by the Regulator and/or its designee.

6 2. Amendments and Renewals

7 Permit holders wishing to alter the size or location of the excavation, the rate of
8 removal or the plan for reclamation shall apply for a renewal or amendment,
9 following the same procedures as those required for the original excavation
10 permit.

11 3. The Earth Removal permit is not transferable without the prior written consent of
12 the Regulator.

13 4. A copy of the Earth Removal permit shall be prominently displayed at the site or
14 the principal access to the site.

15 5. Inspections

16 The Regulator or its designee may make periodic inspections, minimally on an
17 annual basis, of all excavation sites, both permitted and exempt, to determine if
18 the operations are in conformance with the New Boston Earth Removal
19 Regulations and the approved plans.

20 6. Hours of operation

21 Start up time for all machinery associated with an Earth Removal Operation shall
22 be no earlier than 6:45 a.m. in cold weather only; in warm weather start up time
23 for machinery shall be no earlier than 7:00 a.m.; activity of any kind, including
24 loading and removal of material from the site shall begin no earlier than 7:00
25 a.m.; termination of removal of material from the site shall be no later than 5:00
26 p.m.; processing of materials shall begin no earlier than 7:00 a.m. and must be
27 shut down by 5:00 p.m. These operating hours shall be for Monday through
28 Saturday.

29 No operation shall take place on Sundays and major Federal holidays, as follows:
30 New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving and
31 Christmas; provided, however, that access on Sundays and holidays is permitted
32 in the event of a town-wide emergency situation requiring use of material or
33 equipment, for example, flooding situations, ice storms, major blizzards.

34 7. aximum Excavation Limit

35 Final excavation grade shall be not less than four feet to documented seasonal
36 high water table, provided, however, that pursuant to RSA 155-E:11,II, an
37 exception shall be granted if the application demonstrates to the Regulator's
38 satisfaction that excavation below this height will not adversely affect water
39 quality. The Regulator reserves the right to have an outside review of the
40 information submitted as part of any proposal to excavate within four feet of the
41 documented seasonal high water table, at the Applicant's expense. Written notice
42 of such an exception shall be recorded in the Hillsborough County Registry of
43 Deeds at the Applicant's expense, and one copy shall be filed with the New

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26

1 **HOUGHTON, RITA, cont.**

- 2
- 3 Hampshire Department of Environmental Services.
- 4 8. Waste Disposal
- 5 No disposal of any waste material, including solid and/or hazardous waste,
- 6 septage, dredge spoils, or refuse shall be undertaken on the site without
- 7 appropriate State approval under RSA 149:M, or other appropriate State
- 8 regulations.
- 9 9. Tree cutting
- 10 The applicable state statutes pertaining to forestry practice and timber harvesting
- 11 shall apply to the removal of vegetative cover at excavation sites.
- 12 10. Stopping of Removal/Excavation Operations
- 13 If removal/excavation operations stop for more than one year with no notice
- 14 thereof provided to the Regulator and said stoppage is not in accordance with the
- 15 approved excavation plan or due to bad weather, the excavation permit may be
- 16 revoked and the performance bond forfeited with its proceeds used for reclaiming
- 17 the land in accordance with the approved reclamation plan.
- 18

19 **SITE SPECIFIC PERMIT CONDITIONS:**

- 20 A. Approved routes for transportation of material
- 21 Route 13 North & South, Lyndeborough Road.
- 22
- 23 B. Number and type of vehicles to be used to transport material
- 24 10 wheelers (#4) and triaxles.
- 25
- 26 C. Equipment to be used for material removal
- 27 Loader.
- 28
- 29 D. Requirements for material processing
- 30 Crushing (2 times a year). Screening (4 times a year - see excavation plan).
- 31
- 32 E. Requirements for temporary stockpiling of offsite materials
- 33 Type: loam. Location: see excavation plan. Current erosion control measures in
- 34 place - level lot.
- 35
- 36 F. Required plantings for reclamation
- 37 Plans show typical details for loam and seeding.
- 38
- 39 G. Other requirements
- 40 None
- 41

42 The Earth Removal Permit is valid until such time as the Regulator determines the Earth

43 Removal Operation is no longer in compliance with the New Boston Earth Removal

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27

1 **HOUGHTON, RITA, cont.**

2
3 Regulations; or, until such time as the operation shall be deemed to be abandoned as
4 defined in the Earth Removal Regulations; or, until such time as the owner informs the
5 Regulator that they will no longer be running the Earth Removal Operation; or, until such
6 time as the operation is depleted; or, until the completion date as determined by the
7 Regulator in the regulatory process, in accordance with RSA 155-E:8, in this case
8 **September 13, 2061**, whichever first occurs.
9

10 Peter Hogan seconded the motion and it **PASSED** unanimously.
11

12 **S&R HOLDING, LLC**

13 Public Hearing/Major Subdivision/40 Lots w/open space

14 Discussion, re: amending existing conditions to subdivision plan relative to Certificate of
15 Occupancy

16 Location: Susan Road

17 Tax Map/Lot #12/19

18 Residential-Agricultural "R-A" District
19

20 Present in the audience were Morgan Hollis, Esq., Shiv Shrestha, Dana Lorden, Cyndie
21 Wilson, and Richard Harvey.

22 The Chairman stated that the Board had received a letter dated August 11, 2011, from
23 Dana Lorden that requested a waiver to amend the existing condition to the subdivision plan,
24 relative to the issuance of Certificates of Occupancy being tied to the completion of another
25 development road. He explained that a condition from the Notice of Decision clearly stated that
26 no Certificates of Occupancy would be issued until the subdivision road as well as the offsite
27 section of Susan Road and Indian Falls Road were installed. He advised that this matter dated
28 back to December 9, 2003, and had been discussed on multiple occasions with the end result of
29 the three roads being tied together.

30 Morgan Hollis, Esq., provided the Board with a plan of the subdivision as well as an
31 aerial photograph of the subdivision.

32 Morgan Hollis, Esq., stated that the subdivision had two entry points, one on McCurdy
33 Road, that proposed a single road through the subdivision that would intersect with Susan Road.
34 He noted that Susan Road was currently a small, approved cul-de-sac that was located off
35 Carriage Road. He pointed out the location of Susan, McCurdy and Carriage Roads on the
36 plan/photograph he provided.

37 Morgan Hollis, Esq., explained that at the time the above-captioned application had been
38 submitted Carriage Road existed as a loop road and Susan Road had been proposed to connect
39 with Indian Falls Road. He continued that it had been represented that Susan Road had been
40 fully bonded for the connection to Indian Falls Road and it had been anticipated that it would be
41 completed. He advised that currently the owner of the Susan Road subdivision had rough graded
42 and base coated some sections of the road but had not completed the extension of the roadway.
43 He went on to say that the owner of the Susan Road subdivision had told him that there was no

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28

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

2
3 demand to finish the road to sell lots and he intended to wait until the spring to reevaluate and
4 most likely complete the connection. He noted that the road was bonded through completion and
5 the Town could complete the connection if the owner did not. He stated that the applicant was at
6 a standstill with the project until the road was completed or Lorden Road was constructed which
7 would be a substantial expense.

8 Morgan Hollis, Esq., explained that Phase I of the Lorden Road project proposed to come
9 off Susan Drive and go up eight lots to a temporary cul-de-sac. He continued that Phase II of the
10 project was the completion of Lorden Road all the way out to McCurdy Road.

11 Morgan Hollis, Esq., requested that the Board reconsider the aforementioned condition.
12 He explained that the construction stage of the connection of Susan and Indian Falls Roads had
13 changed since the proposal and it had been rough graded.

14 Morgan Hollis, Esq., pointed out that typically there were two reasons for concerns of a
15 cul-de-sac road off an unfinished road: accessibility, i.e., falling trees blocking the road, and
16 firefighting equipment. He explained that Susan Road existed as a cul-de-sac and it had been
17 accepted that fire apparatuses could get in off Carriage Road. He also indicated that the edge of
18 the road along Susan Road was relatively clear of trees. He noted that all of the houses had
19 sprinklers and the length of the Susan Road cul-de-sac was 1,000’.

20 The Chairman read item 10 of the Notice of Decision as follows, “No Certificates of
21 Occupancy shall be issued until the sprinkler systems are installed, inspected, tested and
22 approved by the New Boston Board of Fire Wards or their designee, and the driveways are
23 installed and approved by the Road Agent and the Planning Board and the subdivision road,
24 Lorden Road (as well as the off-site section of Susan Road and Indian Falls Road) are installed
25 through binder pavement and the road identification sign(s) and stop sign(s) are installed to the
26 satisfaction of the Road Agent/town’s engineer, guard rails are installed, if necessary”.

27 Morgan Hollis, Esq., indicated that the applicant had no control over what went on with
28 Susan and Indian Falls Roads. He pointed out that because the road was bonded the Town had
29 control over the road and the time frames within which it should be completed. He requested
30 that the parenthetical statement “(as well as the off-site section of Susan Road and Indian Falls
31 Road)” be eliminated from item 10 of the Notice of Decision.

32 Morgan Hollis, Esq., welcomed questions or comments from the Board. The Chairman
33 asked for clarification that the other subdivisions in the same area were subject to the same
34 conditions requiring Susan and Indian Falls Roads to be installed through binder to provide the
35 connector to another Town road. The Coordinator confirmed that this was correct.

36 Don Duhaime asked if the applicant had asked the owner of Susan Road if S&R Holding,
37 LLC, could complete the construction of Susan Road. Morgan Hollis, Esq., answered no that the
38 applicant had not asked the owner of Susan Road to be allowed to pay for the completion of his
39 road. Don Duhaime suggested that the applicant offer to complete Susan Road as it was a short
40 distance and the road was currently at sub-grade. Morgan Hollis, Esq., indicated that he was
41 unsure of what the cost would be to complete Susan Road. Don Duhaime commented that it
42 would certainly be less than putting in the whole of Lorden Road.

43 Peter Hogan suggested that the applicant approach the Safety Committee with this matter

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29

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

2
3 for their approval. Morgan Hollis, Esq., advised that he had been in contact with the Safety
4 Committee and to date had not had an answer.

5 Morgan Hollis, Esq., asked for the position of Planning Board on this matter. Peter
6 Hogan stated that it was not okay with him. Don Duhaime stated that this matter had been
7 haggled about at the Planning Board for years and he was not interested in changing his mind
8 with regard to this condition. Mark Suennen stated that the Planning Board had not bound the
9 applicant to wait for the completion of Susan Road to begin their project and noted that the
10 Planning Board had granted the applicant the ability to phase their project but they had the option
11 to build Lorden Road end to end. Christine Quirk commented that when she had discussed this
12 matter with the Board of Selectman they were not willing to change the established condition
13 either.

14 Morgan Hollis, Esq., stated that this answered his questions. The Chairman asked if he
15 wanted the Board to make a motion and Attorney Hollis stated that he did not need a motion on
16 this matter.

17 Richard Harvey and another abutter asked for clarification of the issue at hand. The
18 Board supplied them with copies of the plans and aerial photograph and explained what the
19 applicant had been asking for.

20
21 **MISCELLANEOUS BUSINESS AND CORRESPONDENCE FOR THE MEETING OF**
22 **September 13, 2011**

23
24 1. Approval of the June 28, 2011, minutes, distributed by email.

25
26 Peter Hogan **MOVED** to approve the minutes of June 28, 2011, as written. Mark
27 Suennen seconded the motion and it **PASSED** unanimously.

28
29 2. Discussion, re: Dean Mehlhorn's Planning Board Appointment. (No copies)

30
31 The Chairman explained that Dean Mehlhorn's appointment came and went without him
32 being sworn in. He noted that Dean Mehlhorn would have to go through the appointment
33 process again if he was interested.

34 The Board agreed that a letter should be sent to Dean Mehlhorn that indicated he should
35 come back to the Board when his personal issues were resolved.

36
37 3. Discussion, re: CIP Meeting Minutes. (No copies)

38
39 The Coordinator explained that Brandy Mitroff had contacted the Planning Board
40 Assistant to find out if it was possible not to have the Recording Clerk record the minutes of the
41 CIP meetings as they were too detailed. The Coordinator noted that she was not okay with
42 giving an answer and believed the Planning Board should discuss the matter.

43 The Coordinator stated that the question for the Board was did they think the CIP

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30

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 meeting minutes were too detailed. The Chairman asked if the CIP meeting minutes matched the
4 Planning Board level of detail. The Coordinator pointed out that the CIP meeting minutes were
5 less detailed than the Planning Board meeting minutes.

6 Mark Suennen asked why Brandy Mitroff was interested in having less detailed minutes.
7 Christine Quirk answered that Brandy Mitroff wanted people reading the minutes to be able to
8 “come right to the point” without having to read what everybody had said. Mark Suennen
9 suggested that a summary of the minutes be provided with the CIP meeting minutes. He
10 commented that he disagreed with reducing the minutes. The Chairman thought that having
11 detailed meeting minutes was handy and helpful. The Coordinator stated that she believed
12 creating summaries of the minutes entailed too much work. The Recording Clerk stated that she
13 did not believe that she was tasked with interpreting and summarizing the minutes. She went on
14 to say that the record should not be amended and she did not feel comfortable submitting
15 amended minutes.

16 The Chairman asked if Brandy Mitroff was the Chair of CIP Committee. The
17 Coordinator answered that she had previously been the Chair and did not know if that would be
18 the case this year.

19 Don Duhaime asked when the CIP meetings would begin. The Coordinator answered
20 that the CIP meetings would tentatively begin on September 28, 2011. Mark Suennen asked if a
21 Planning Board member had been assigned to the Committee. Don Duhaime commented that he
22 was interested in volunteering for the CIP Committee.

23 Peter Hogan stated that he did not have a problem with the detailed minutes as it allowed
24 those members of the Board that had not attended the meetings to read and catch up on the
25 general idea of what took place. He also agreed that the minutes should not be interpreted.

26 Mark Suennen stated that the minutes should stand as the minutes and noted that Brandy
27 Mitroff was more than welcome to write a condensed version. Peter Hogan added that the
28 condensed version could be used for her use.

29
30 4. Discussion, re: Gravel Pit submittal deadline of August 1, 2011. (No copies)

31
32 The Chairman stated that the Board had set a deadline of August 1, 2011, for gravel pit
33 applications to be submitted and not all known applicants had submitted their applications.
34 Mark Suennen asked how many applications had not been submitted. The Planning Board
35 Assistant believed that either eight or nine applications had not been submitted.

36 The Board agreed to send a follow-up letter reminding that the deadline for submission
37 had passed and that submission was expected as soon as possible. Mark Suennen stated that if
38 the applications had not been submitted by November 1, 2011, a cease and desist letter should
39 be mailed.

40
41 5. Email received August 31, 2011, from Kenneth J. Kozyra, KJK Wireless, LLC, to
42 Shannon Silver, re: request for an extension to the compliance Conditions Precedent
43 deadline date of September 15, 2011, to October 15, 2011, to allow for grass growth, for

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31

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 the Board's action.

4
5 Peter Hogan **MOVED** to grant the request for an extension to the Conditions Precedent
6 deadline of September 15, 2011, to October 15, 2011. Don Duhaime seconded the
7 motion and it **PASSED** unanimously.

- 8
9 6. Email received August 31, 2011, from Kim Martin, to Shannon Silver, re: request for
10 compliance site walk, 70 South Hill Road, for the Board's action.

11
12 The Coordinator noted that the issue was that the applicant for this and the next site walk
13 to be scheduled wanted to have a compliance hearing on September 27th. She noted that the
14 Board would have to schedule a compliance site walk on either Wednesday or Thursday in order
15 to meet the deadline for the agenda for the September 27th meeting being prepared on Friday.
16 She further noted that the Board had said in the past that they did not want to schedule any more
17 compliance hearings without a successful compliance site walk having been held because it tied
18 up time on the agenda to have a compliance hearing when nothing could be accomplished
19 because the site was not ready. After some discussion, the Chairman offered to go to the sites on
20 Thursday, September 22nd to see if he thought them ready for a full site walk and subsequent
21 compliance hearing.

22 The Board scheduled a compliance site walk for the above-referenced matter on
23 Saturday, September 24, 2011, at 8:00 a.m.

- 24
25 7. Letter received August 29, 2011, from Margaret and Sean McGann, to the Planning
26 Board, re: request for a compliance site walk the week of September 12, 2011, 1 Old
27 Coach Road, for the Board's action.

28
29 Peter Hogan did not believe that the above-referenced matter was ready for a compliance
30 site walk as it did not appear the applicant was in compliance. The Planning Board Assistant
31 asked Peter Hogan why he did not believe the applicant was in compliance. Peter Hogan
32 answered that the signs had not been put up. The Planning Board Assistant explained that the
33 applicant had been painting the signs the previous day and they would be up soon. The
34 Coordinator added that the applicant intended on being ready for a compliance walk for
35 tomorrow. The Planning Board Assistant further added that the applicant had visited the
36 Planning Office and she had reviewed all of the exterior items that needed to be completed.

37 The Board scheduled a compliance site walk for the above-referenced matter on
38 Saturday, September 24, 2011, immediately following the 8 a.m. compliance walk at 70 South
39 Hill Road. The Chairman noted that he would visit the site on Thursday, September 22, 2011.

- 40
41 8. Letter received September 7, 2011, from Reggie Houle, to New Boston Planning Board,
42 re: request for an extension to the Conditions Subsequent date of September 1, 2011, to
43 September 1, 2012, for the Board's action.

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32

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 The Coordinator noted that Reggie Houle had a bond in place now for the Daylily Lane
4 subdivision and was working on completing the last few items for compliance of the subdivision.
5 Mark Suennen noted that in light of the fact that Reggie Houle had put a bond in place even
6 though the old one had expired he was inclined to look favorably on the request for an extension.

7
8 Mark Suennen **MOVED** to grant an extension of the Conditions Subsequent date of
9 September 1, 2011, to September 1, 2012, for Reggie Houle, Daylily Lane and Greenfield
10 Road, Tax Map/Lot #7/74. Don Duhaime seconded the motion and it **PASSED**
11 unanimously.

- 12
13 9. Faxed letter received September 8, 2011, from Raymond Shea, Sandford Surveying and
14 Engineering, LLC, to New Boston Planning Board, re: Tax Map/Lot #2/28-2&3, Weare
15 Road (Route 77), request to extend deadlines for Conditions Precedent and Subsequent,
16 for the Board's action.

17
18 Mark Suennen **MOVED** to grant an extension to the deadlines for the Conditions
19 Precedent from October 1, 2011, to October 1, 2012, and Subsequent date from October
20 1, 2012, to October 1, 2013. Peter Hogan seconded the motion and it **PASSED**
21 unanimously.

- 22
23 10. Memorandum with inspection attachment received August 16, 2011, from Ed Hunter,
24 Code Enforcement Officer, to New Boston Planning Board, re: Joe English Stone, for the
25 Board's review and discussion.

26
27 The Planning Coordinator recalled that during discussion of the site plan it was noted that
28 this was not a typical removal of earth materials operation. The applicants expressed that they
29 could not with any accuracy point to an area from which the rocks would be removed and then
30 that area completed and reclaimed before moving to the next area. As they described it,
31 customers could pick the rocks they were interested in purchasing which may be scattered over a
32 wide area. The applicants prepared an erosion control plan and were charged with making sure
33 that no erosion problems arose during the operation.

34 Christine Quirk stated that people were being allowed to pick rocks from the property.

35 The Chairman requested that the applicants color in the areas that were completed on the
36 site plan that had originally been submitted.

37 Mark Suennen stated that unless digging was going deeper than 12" he was not
38 concerned about the removal of material.

39 The Board determined that if, at this time, the Code Enforcement Officer needed a more
40 detailed plan of an area for his inspection purposes, he should feel free to request one.

- 41
42 11. Letter received August 20, 2011, from Eric Seidel, WFL Board of Trustees, Chair, to the
43 New Boston Planning Board, re: CIP for the Whipple Free Library, for the Board's

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2011 Meetings**

September 13, 2011

33

1 **MISCELLANEOUS BUSINESS, cont.**

2

3 information.

4

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

7

8 12. Information re: 2011 Municipal Law Lecture Series, for the Board's information.

9

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

12

13 13. Copy of Legal News articles, titled; *Code enforceable despite city mistake* and *Rhode*
14 *Island builder must comply with comp plan*, published in Planning, Aug/Sept 2011 issue.

15

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

18

19 14. Copy of article titled; "*Putting Greenways First*", *Creating healthy and connected*
20 *communities by blending urban and conservation design*, By Randall Arendt, published
21 in Planning, Aug/Sept 2011 issue.

22

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

25

26 15. Meeting minutes of August 9, 2011, were distributed by email for approval at the
27 September 27, 2011, meeting.

28

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

31

32 Peter Hogan **MOVED** to adjourn the meeting at 10:55 p.m. Mark Suennen seconded the
33 motion and it **PASSED** unanimously.

34

35 Respectfully Submitted,
36 Valerie Diaz, Recording Clerk

Minutes Approved:
10/11/11