

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

February 28, 2012

1

1 The meeting was called to order at 6:38 p.m. by Chairman Stu Lewin. Present were  
2 regular members Mark Suennen and Don Duhaime. Also present were Planning Coordinator Nic  
3 Strong, Planning Board Assistant Shannon Silver and Recording Clerk Valerie Diaz.

4  
5 Present in the audience for all or part of the meeting were Kenneth & Gloria Barss, Ken  
6 & Lori Barss, Bianca Matheson, Naomi Bolton, Michael Dahlberg, LLS, Ken Clinton, LLS,  
7 Peter Shellenberger, Gail & Jon Stout, Jay Marden and Ivan Byam.

8  
9 **Discussion, re: Conditional Use Permit Procedures**

10  
11 The Chairman indicated that the Board members had read the Conditional Use Permit  
12 Memorandum. He went on to say that the contents of the memorandum attempted to consolidate  
13 and document the Town's existing CUP procedures, application form and checklist. He added  
14 that that the proposed CUP procedures would be done in a manner consistent with other Planning  
15 Department procedures, i.e., driveway permits.

16 The Chairman noted that the memorandum was very well done. He asked for comments  
17 and/or questions from the Board.

18 Mark Suennen referenced a portion of the memorandum relative to a homeowner  
19 supplying a CUP and asked how it had gone. The Coordinator answered that with regard to the  
20 two applications Mark Suennen had referenced it had gone okay. She noted that the application  
21 for Dave Allen of Bedford Road did not have a jurisdictional wetland and, therefore, a dredge  
22 and fill permit was not required. She continued that it had met the requirements of the Town's  
23 Zoning Ordinance and pointed out that they tended to be more stringent in certain areas. Mark  
24 Suennen asked if the CUP was for a driveway culvert. The Coordinator answered yes and she  
25 explained that the applicant had sketched a plan. She noted that the plan did not include heights  
26 of the invert or the outlet or elevations but included was a sketch of what the culvert would look  
27 like as well as erosion control measures and estimates.

28 The Coordinator stated that the other CUP application submitted by a homeowner was  
29 done by Skip Hansen of Bedford Road. She noted that it had been done a long time ago. Mark  
30 Suennen asked if it had been completed more than eight or ten years ago. The Coordinator  
31 answered yes.

32 It was Mark Suennen's opinion that an engineer, surveyor or someone with a CPESC  
33 (Certified Professional in Erosion and Sediment Control) should be preparing plans for CUP  
34 permits. The Chairman asked if Mark Suennen believed that an engineer, surveyor or someone  
35 with a CPESC should have prepared the CUP's for the two cases cited in the memorandum.  
36 Mark Suennen answered yes and stated that arguably a culvert was a structural feature. He  
37 continued that police and/or fire personnel may be put at risk should they need to use driveways  
38 where structural failures were present in the culvert because they were not designed by someone  
39 who actually knew what they were doing. The Chairman noted that since only two such  
40 applications had been submitted in the last 10 – 15 years it would not seem to be onerous to  
41 make a requirement that plans be prepared by a professional. Mark Suennen commented that the  
42 Chairman's statement was fair and further commented that it would make more sense that  
43 allowing homeowners to draw plans be made an exception rather than the rule.

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1 **CONDITIONAL USE PERMIT PROCEDURES DISCUSSION, cont.**

2  
3 The Chairman asked if the Board had jurisdiction to determine whether or not to waive  
4 the requirements for a professional to draw the plans. The Coordinator answered yes and noted  
5 that a section should be added that addressed waivers.

6 The Chairman asked if the performance security was always handled by the Board of  
7 Selectmen because the Planning Board was not permitted to handle it. The Coordinator  
8 answered that the reason the Board of Selectmen were listed in this section of the Zoning  
9 Ordinance was because she had forgotten to change the zoning on this matter.

10 Mark Suennen referred to the third bullet in the Coordinator's memo and asked if it  
11 would be set up like a SWMP inspection and the individual who developed the plan would also  
12 sign off and indicate that all the requirements for the plan were met. The Coordinator answered  
13 yes and noted that she had borrowed freely from the SWMP section when drafting the proposed  
14 CUP section. She asked the Board for their thoughts on requiring a person with two or more  
15 years of experience in site grading, site drainage, erosion control, hydrology and soils to inspect  
16 the installation and sign the adherence statement. She noted that it made sense for a SWMP but  
17 was not so sure it made sense for a CUP and questioned whether a CPESC person would have  
18 that proposed required experience. Mark Suennen answered that someone with a CPESC may  
19 not have site grading experience but that they would certainly have the required erosion control  
20 experience. He continued that he was not familiar with the CPESC certification but he had co-  
21 workers would held certifications and would ask them what was required for the certification.  
22 The Coordinator asked Mark Suennen to ask one of his CPESC certified co-workers if they  
23 would be willing sign the adherence statement as written. She noted if they were not willing to  
24 sign it then that section needed to be reconsidered. Mark Suennen agreed to ask his co-workers  
25 the requested questions.

26 The Coordinator noted that she had listed surveyors or engineers as those professionals  
27 who could prepare the CUP plans and added that she was unsure how to capture the process that  
28 typically took place where surveyors would contact engineers for drainage calculations and pipe  
29 sizing. Mark Suennen did not believe the Board needed to capture that process because people  
30 with licenses were very careful with what they signed, stamped and certified and if they did  
31 things outside of what was allowed their licenses could be revoked.

32 The Chairman asked why there were different qualifications between the person  
33 preparing a CUP plan and the one certifying an adherence statement. The Coordinator answered  
34 that it was quite likely that a Certified Wetland Scientist (CWS) or soils person could go out and  
35 say that the applicant did what they were supposed to do but such a person would not be able to  
36 design the original plan.

37 The Chairman asked for any further questions and/or comments. Mark Suennen referred  
38 to the CUP Procedures, item #1.2.D, and suggested that the language be revised to state:  
39 "prepared by a surveyor or a professional engineer licensed in the State of New Hampshire".

40 Mark Suennen referred to the CUP Procedures, item #1.3.B, and suggested that the  
41 following language be added, "if there is an existing driveway permit they needed to supply it  
42 and if one does not exist a driveway permit application needs to be supplied". The Chairman and  
43 Coordinator pointed out that for final approval a permit was required. Mark Suennen questioned

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1 **CONDITIONAL USE PERMIT PROCEDURES DISCUSSION, cont.**

2  
3 if an existing driveway was being altered, i.e., installation of a culvert or the realignment of a  
4 driveway. He spoke of the driveway near the Napa Store on Route 77 and noted that the  
5 driveway location did not change on the State road, however, it did change internally on the site.  
6 The Coordinator questioned if the State would issue a new permit in such an instance. Mark  
7 Suennen answered no. The Coordinator asked if Mark Suennen was suggesting that an applicant  
8 submit an existing permit. Mark Suennen answered that an applicant should submit an existing  
9 permit and if one cannot be located on file with the Town or State a permit or a permit  
10 application needed to be submitted. The Coordinator suggested requiring the submission of a  
11 permit and not a permit application. Mark Suennen agreed with the Coordinator's suggestion.  
12 Mark Suennen noted that by requiring a permit it gave the Town the opportunity to capture  
13 completeness with regard to the Planning Office's records.

14 Mark Suennen commented that adding the previously mentioned waiver section sounded  
15 good to him.

16 The Chairman asked Mark Suennen if he had any further questions or comments. Mark  
17 Suennen answered no.

18 The Chairman suggested adding the following language to item #3 of the CUP  
19 Procedures, "Although not required for the completed application, the following things will be  
20 required for final approval:".

21 The Chairman asked if the CUP procedures needed to be reviewed by Town Counsel.  
22 The Coordinator answered yes. The Board agreed that the document should be sent to Town  
23 Counsel for review.

24  
25 **Discussion, re: Planning Board Goals for 2012**

26  
27 The Chairman asked if there was anything specific in the updated Memorandum, re:  
28 Continued Discussion, re: Goals of 2012, to discuss. He stated that the Coordinator had done a  
29 good job documenting the discussion from the last meeting. The Coordinator pointed out that a  
30 Mixed Use District timeline had been included.

31 The Chairman stated that he was going to suspend the discussion as he wanted Board  
32 Member Hogan to be present for the discussion.

33 The Chairman asked for questions and/or comments with regard to the 2012 Planning  
34 Board Goals. Mark Suennen answered no and added that the Memorandum accurately  
35 summarized what had been discussed.

36  
37 **MISCELLANEOUS BUSINESS AND CORRESPONDENCE FOR THE MEETING OF**  
38 **FEBRUARY 28, 2012.**

39  
40 1. Approval of the January 24, 2012, minutes distributed by email.

41  
42 Mark Suennen pointed out that Peter Hogan was present at the January 24, 2012, meeting  
43 but was not listed in the introductory paragraph as being present.

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1 **MISCELLANEOUS BUSINESS, cont.**

2  
3 Mark Suennen **MOVED** to approve the minutes of January 24, 2012, as amended. Don  
4 Duhaime seconded the motion and it **PASSED** unanimously.

5  
6 2. Discussion, re: Bonds & Securities. (see information distributed at 02/14/2012 meeting)

7  
8 The Chairman asked the Planning Board Assistant to provide a brief synopsis of the  
9 information provided.

10 The Planning Board Assistant stated that the Board had been provided with various  
11 options for handling bonds. She explained that currently the Planning Office was constantly  
12 chasing the applicant or the bank as the banks did not automatically renew the bonds when they  
13 expired. She continued that she had to call the banks and developers and it was becoming a  
14 consistent problem. She noted that the options listed contained language that would alleviate the  
15 problem and it was up to the Board to determine the best option.

16 The Chairman asked if the proposed language would become part of an approval. The  
17 Coordinator answered that the agreed upon language would need to be placed in the Subdivision  
18 Regulations or the Rules of Procedure. She pointed out that the benefit of placing the language  
19 in the Rules of Procedure would be that a formally noticed public hearing was not required to  
20 amend that document, it simply needed to be discussed at a formal Planning Board meeting.

21 Don Duhaime suggested that approvals be rescinded should the developer fail to provide  
22 a renewed bond after two notices had been sent. The Planning Board Assistant informed that  
23 Board the banks did not care. Don Duhaime stated that renewal of the bond was up to the  
24 developer. The Planning Board Assistant stated that she understood Don Duhaime's point,  
25 however, it had been her experience that it had become more difficult for the banks to want to  
26 renew the bonds due to the economy. She continued that she had contacted banks on behalf of  
27 developers and advised that there was the possibility of plan revocation and the banks did not  
28 respond.

29 The Planning Board Assistant noted that one of the options listed had come from Emile  
30 Bussiere, Esq.'s, letter of credit and stated the following, "...it shall be deemed automatically  
31 extended, without amendment, for additional period(s) of one year from the expiry date  
32 hereof...unless at least sixty (60) days prior to any expiration date we notify you by registered  
33 mail...that we elect not to renew it...". She pointed out that the use of the foregoing option  
34 would not require her to do any legwork with the exception of tracking the expiration dates. She  
35 continued that it alleviated a lot of worry, letter writing, phone calling and chasing people. The  
36 Coordinator stated that if the Planning Office was given a vote on the matter they would vote for  
37 this option.

38 The Chairman commented that the Planning Office had done a really good job presenting  
39 the information.

40 The Coordinator explained that the first option listed of an automatic call provision being  
41 included in the bond language was fairly common and a lot of towns used it as a requirement.  
42 She continued that the option placed the Town in the position of finishing roads which was not  
43 what the Town wanted to do.

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1 **MISCELLANEOUS BUSINESS, cont.**

2  
3 Another option was to have the bond include language that explained what would happen  
4 if the developer defaulted on the project but otherwise would leave the bond in full force and  
5 effect indefinitely, obviously intended to be until the project was completed. She believed that  
6 people within the industry would not allow for the open ended option to happen.

7 The Chairman asked if the decided upon option would be enforced upon the banks as part  
8 of what they come up with for the developer. The Coordinator answered yes. She pointed out  
9 that an issue could arise if a developer worked with a financial institution that did not like the  
10 language. She noted that the developer may need to go to another financial institution that was  
11 willing to write a letter of credit with the proposed language in it.

12 The Chairman asked for confirmation that some towns currently used the automatic call  
13 option. The Coordinator confirmed that some towns currently used the automatic call option.

14 The Chairman asked if it was known if towns used the open ended timeline option. The  
15 Coordinator answered that the open ended timeline option was an older example of what some  
16 towns used. Mark Suennen stated that he was not sure that the Town would want to use an open  
17 ended timeline and he suggested that it be removed from the options. He explained that it was  
18 open in the fact that the Town could take it at any time, however, the developer would have the  
19 option to let it sit forever. He stated that he would be against the open ended timeline option.

20 The Chairman asked for the differences between the open ended timeline option and the  
21 automatic renewal option and if it only renewed once. The Coordinator answered that the  
22 automatic renewal would be renewed annually and the open ended timeline would be in place  
23 until the road was completed. The Planning Board Assistant added that that the automatic  
24 renewal provided the Planning Office with documentation, unless amended, that it was in effect.

25 The Chairman asked if cash securities were to be decided upon as a preferred option.  
26 The Coordinator noted that cash securities was separate and explained that there had never been  
27 a documentation process for it, e.g., incremental reduction language. Don Duhaime asked if the  
28 Planning Office had ever had contractors that could not afford a bond and were willing to put up  
29 \$5,000. The Coordinator answered yes. Don Duhaime asked if the contractors would still have  
30 that option. The Coordinator answered that the contractors would continue to have that option  
31 and internally a document would be signed that recorded that the money was received and if a  
32 partial release was requested how that process would work. Don Duhaime did not believe that  
33 the Planning Office would want to do a reduction and noted an issue that had occurred with the  
34 Susan Road subdivision and a request to reduce the bond. He stated that Peter Hogan had argued  
35 that all of the money should not be given back because they had not done anything for a whole  
36 year and it could be another year before they did any work. He continued that if too much  
37 money was given back the Town may not have any recourse and would need to complete the  
38 project. He stated that if \$5,000 was given to the Town for a bond than it would be returned in  
39 full on completion. The Coordinator agreed with Don Duhaime's statement with regard to small  
40 amounts and quick projects. She went on to say that when the Town dealt with larger amounts,  
41 \$30,000, \$50,000 or more the Town was legally obligated to do a partial reduction. The  
42 Chairman asked if a limit should be set on cash. Mark Suennen and the Coordinator answered  
43 no. The Coordinator added that quite often when the performance part of a bond went away the

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1 **MISCELLANEOUS BUSINESS, cont.**

2  
3 Town received a smaller check as the two year maintenance bond and placed that in escrow.  
4 Mark Suennen commented that the Board had done a good job handling the reductions on a case  
5 by case basis.

6 The Chairman asked if cash was different from a bankruptcy point of view than the letter  
7 of credit. The Coordinator answered that both would probably be problematic, however, the  
8 cash would probably be more problematic as the cash would be frozen immediately. She noted  
9 that the Town was most likely not high on a list of creditors to pay.

10 The Chairman stated that it was the consensus of the Board to move forward with adding  
11 the automatic renewal language to the Town's regulations.

12 The Chairman asked if the proposed procedures for the CUP from the previous  
13 discussion would be incorporated into the Subdivision Regulations or the Rules of Procedure.  
14 The Coordinator answered that it would end up being its own document. The Chairman asked if  
15 it required a regular hearing. The Coordinator answered yes.

16 Mark Suennen commented that cash was the most preferred option followed by automatic  
17 renewal. He questioned what position the Board would take if an applicant's financial institution  
18 did not agree with the language contained within the automatic renewal. The Coordinator  
19 answered that an applicant's financial institution could word their letter of credit in a way that  
20 they wanted as long as it meant the same thing. She noted that the Town of Derry had a  
21 document that was required to be used and if it was not used the applicant would not receive  
22 approval for their project.

23 The Chairman stated that the Board should move forward with automatic renewal and  
24 coming up with a cash escrow agreement was a good idea. Don Duhaime and Mark Suennen  
25 agreed with the Chairman.

- 26  
27 3. Letter received February 17, 2012, from Will Stewart, Vice President of Economic  
28 Development and Advocacy, Greater Manchester Chamber of Commerce, to Metro  
29 Center Members, re: Metro Center Annual Meeting, February 1, 2012, with meeting  
30 notes and 2012 Strategic Plan attachments, for the Board's information.

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

- 34  
35 5. Email message received February 22, 2012, from Joanne O. Morin, Director, NH Office  
36 of Energy & Planning, to Nicola Strong, re: No Spring Planning and Zoning Conference,  
37 for the Board's information.

38  
39 The Chairman acknowledged receipt of the above-referenced matter; no discussion  
40 occurred.

- 41  
42 6. Letter received February 22, 2012, from Bruce DeMay, Director, Economic & Labor  
43 Market Information Bureau, New Hampshire Employment Security, to Nicola Strong,

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1 **MISCELLANEOUS BUSINESS, cont.**

2  
3 Planning Coordinator, re: New Hampshire Community Profiles, for the Board's  
4 information.

5  
6 Mark Suennen pointed out that the largest business in Town with more than six  
7 employees was Dr. Brenner's office and it was missing from the list.

8 The Chairman asked if the above-referenced document was on the Town's website. The  
9 Planning Board Assistant answered no. The Chairman indicated that the Town was allowed to  
10 post the document and it may be something to consider.

11  
12 7. **Read File:** 2012 Regional Guidebook, titled Advantage.

13  
14 The Chairman acknowledged receipt of the above-referenced matter; no discussion  
15 occurred.

16  
17 9. **Read File:** Notice of Public Hearing from the Town of Goffstown, re: installation of a  
18 telecommunication cell tower.

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

22 10. No Planning Board meeting March 13, 2012, due to Town Meeting.

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

26  
27 11. Kick-off meeting Broadband NH BSG

28  
29 The Chairman indicated that he attend the kick-off meeting for the Broadband Steering  
30 Group. He stated that a point of interest was that a map of coverage was being created and  
31 specifically New Boston's coverage.

32  
33 4. Discussion, re: Home Shop determination, Scott & Robyn Elliott, 65 Pino Echo Road,  
34 Tax Map/Lot #5/5-2, 2006 correspondence and Planning Board minute copies attached  
35 for the Board's review and discussion.

36  
37 The Chairman stated that he was unsure what was to be reviewed and discussed. The  
38 Planning Board Assistant advised that in the past it had been discussed whether or not the above-  
39 referenced residence should be required to complete a Home Shop Site Plan. She noted that  
40 correspondence had taken place between the Board and residents during 2006 and it had  
41 been determined that a site plan was not required. She continued that the owner of the property  
42 had recently applied for a building permit and the Building Inspector/Code Enforcement Officer  
43 subsequently approached the Planning Office to inquire if a site plan existed. She noted that the

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1 **MISCELLANEOUS BUSINESS, cont.**

2  
3 property in question did not have a site plan and that the requirement should be revisited based  
4 on the Code Enforcement Officer's explanation of what existed on site today. She added that the  
5 property looked like it was operating a business and compared it to Mike Boyle's home shop.  
6 She stated that the discussion the Board should have was whether or not the home owner should  
7 talk with the Board about being required to complete the site plan process. She stated that the  
8 homeowner had provided copies of the 2006 letter to the Building Inspector/Code Enforcement  
9 Officer that stated he was not required to have a site plan.

10 The Chairman asked if customers were being serviced at the property. The Planning  
11 Board Assistant answered that she was unsure and those types of questions should be addressed.  
12 She went on to say that Mike Boyle, who was required to complete a site plan for a home shop,  
13 did not service customers. The Coordinator pointed out that by completing a site plan,  
14 customers, signage and storage would be permitted.

15 The Coordinator asked if one of the questions was relative to stockpiles. The Planning  
16 Board Assistant answered yes and explained that there were questions with regard to stockpiles  
17 on site for the landscaping portion of the homeowner's business. The Chairman asked if the  
18 stockpiles currently existed. The Planning Board Assistant answered yes. The Coordinator  
19 noted that the homeowners had never denied that they had a business, however, at the time it was  
20 stated that inventory was not stored on site and that may have changed.

21 The Chairman asked that Board Members drive by the residence prior to the next meeting  
22 to make sure that the four conditions required to not have a site plan were being met. He stated  
23 that if there was any inventory at the home site then it would not agree with what was stated in  
24 the letter of 2006.

25 The Chairman asked if there were any employees. The Coordinator answered that she  
26 did not know.

27  
28 **KENNETH R. BARSS REVOCABLE TRUST**

29 **BARSS, KENNETH R. SR, & GLORIA J. TRUSTEES (Owners)**

30 **BARSS, KENNETH R. JR, & LORI A. (Owners)**

31 **MATHESON, WILLIAM R. IV, & BIANCA J. (Owners)**

32 Submission of Application/Public Hearing/Minor Subdivision/Lot Line Adjustment

33 Location: Mont Vernon Road

34 Tax Map/Lot #'s 14/116, 116-1 & 116-2

35 Residential-Agricultural "R-A" District & Small Scale Planned Commercial "COM" District

36  
37 Present in the audience were Michael Dahlberg, LLS, Gloria and Kenneth Barss, Ken &  
38 Lori Barss, Bianca Matheson and Naomi Bolton.

39 The Chairman stated that an application and cover sheet had been submitted on February  
40 1, 2012, and there were no outstanding fees. He noted that there were a couple of outstanding  
41 issues with regard to the final plat checklist.

42 Michael Dahlberg, LLS, advised that the Barsses owned Tax Map/Lot #14/116, their son  
43 Kenneth Barss, Jr., owned Tax Map/Lot #14/116-1 and their daughter and son-in-law owned Tax



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1 **BARSS, cont.**

2  
3 Map/Lot #14/116-2. He stated that Kenneth and Gloria Barss were seeking two lot line  
4 adjustments, moving parcel A with Tax Map/Lot #14/116-1 and moving parcel B with Tax  
5 Map/Lot #14/116-2, leaving the Barsses with a remainder of 38 acres as well as adequate  
6 frontage. He indicated that no new construction was planned and noted that was the reason for  
7 the waiver requests of the soils mapping, wetlands and studies as there would be no new impacts.  
8 He stated that the existing commercial building had an approved site plan and the subdivision for  
9 Tax Map/Lot #14/116-1 also had been approved during the 1980's.

10 Michael Dahlberg, LLS, stated that the property had been re-surveyed and a couple of  
11 mathematical errors had been straightened out. He continued that all the monuments had been  
12 set and he believed it was ready to be heard.

13 The Chairman asked if the fact that the lot line between Residential Agricultural and  
14 Commercial District would no longer exist mattered. The Coordinator answered no. The  
15 Chairman asked if the zoning district line would continue to exist. The Coordinator answered  
16 yes and noted that having it surveyed in the way it was done was helpful to give an accurate  
17 portrayal of the district line.

18 The Chairman asked for questions and/or comments from the Board. Mark Suennen  
19 referred to Tax Map/Lot #14-116-1 and asked if it was going from 2 acres to 12.15 acres.  
20 Michael Dahlberg, LLS, answered yes. Mark Suennen asked how the increase in acreage  
21 affected the current use status. Michael Dahlberg, LLS, answered that the applicant could put  
22 the additional acreage into current use, however, they would have to apply for that use. He  
23 thought that the land would not come out of current use and would only transfer to Kenneth  
24 Barss, Jr.

25 The Chairman noted that he wanted to address the waiver for the three print copies of soil  
26 maps. Mark Suennen indicated that the applicant was requesting waivers for contours, wetlands,  
27 wetland setbacks, stormwater/sediment and erosion measurement control plans, acreage  
28 breakdowns, fire fighting system plans, deed covenants, sprinkler system data, traffic impact  
29 study, fiscal impact study and environmental impact study. He pointed out that soils [maps]  
30 were not included in the waiver request. Michael Dahlberg, LLS, advised that the soils maps  
31 should have been included within the waiver request and stated he could retype the request. The  
32 Chairman asked if he could write in the request. Michael Dahlberg, LLS, wrote in the waiver  
33 request for the soils maps.

34  
35 Mark Suennen **MOVED** to grant the waiver to not require Kenneth R. Barss Revocable  
36 Trust, Kenneth R. Sr. & Gloria J. Trustees (Owners), Kenneth R. Jr. & Lori (Owners),  
37 William R. IV & Bianca J. (Owners), Location: Mont Vernon Road, Tax Map/Lot #'s  
38 14/116, 116-1 & 116-2, Residential-Agricultural "R-A" District & Small Scale Planned  
39 Commercial "COM" District, to submit soil maps. Don Duhaime seconded the motion  
40 and it **PASSED** unanimously.

41  
42 Mark Suennen **MOVED** to accept the application of Kenneth R. Barss Revocable  
43 Trust, Kenneth R. Sr. & Gloria J. Trustees (Owners), Kenneth R. Jr. & Lori (Owners),

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1 **BARSS, cont.**

2  
3 William R. IV & Bianca J. (Owners), Location: Mont Vernon Road, Tax Map/Lot #'s  
4 14/116, 116-1 & 116-2, Residential-Agricultural "R-A" District & Small Scale Planned  
5 Commercial "COM" District, as complete. Don Duhaime seconded the motion and it  
6 **PASSED** unanimously.

7  
8 The Chairman noted that the deadline for Board action was May 3, 2012.

9 The Chairman asked if the applicant had received a copy of the outstanding plan checklist  
10 issues. Michael Dahlberg, LLS, answered yes. The Chairman asked if there were any issues  
11 with the outstanding issues. Michael Dahlberg, LLS, answered that he had cleaned them up and  
12 submitted them to the Planning Office the previous day. The Coordinator noted that the final  
13 submission would be reviewed.

14 The Chairman asked for questions and/or comments from the audience. Kenneth Barss,  
15 Sr., stated that he and his wife were trying to do a little estate planning.

16 The Chairman noted that part of the property had been surveyed by tape and compass and  
17 asked for the compass and tape survey lines to be identified on the plan. Michael Dahlberg,  
18 LLS, identified the areas in question on the plan.

19 The Chairman asked if anyone on the Board wished to have a site walk. Mark Suennen  
20 and Don Duhaime did not believe a site walk was necessary.

21  
22 Mark Suennen **MOVED** to grant the waiver and not require Kenneth R. Barss  
23 Revocable Trust, Kenneth R. Sr. & Gloria J. Trustees (Owners), Kenneth R. Jr. & Lori  
24 (Owners), William R. IV & Bianca J. (Owners), Location: Mont Vernon Road, Tax  
25 Map/Lot #'s 14/116, 116-1 & 116-2, Residential-Agricultural "R-A" District & Small  
26 Scale Planned Commercial "COM" District, to submit the Traffic, Fiscal or  
27 Environmental Impact Studies, based on the fact that all they were doing was resetting lot  
28 lines and maintaining existing driveways and accepting the waiver was within the spirit  
29 and intent of the Board's regulations. Don Duhaime seconded the motion and it  
30 **PASSED** unanimously.

31  
32 The Coordinator pointed out that waivers for contours, wetlands, wetland setbacks,  
33 acreage breakdowns, fire fighting system plans, deed covenants and sprinkler system data had  
34 also been submitted and need to be acted upon.

35 The Chairman asked if any wetlands existed on the lot. Michael Dahlberg, LLS,  
36 answered that wetlands did exist. The Chairman asked for the location of the wetlands to be  
37 identified. Michael Dahlberg, LLS, identified the locations of the wetlands on the plan.

38 The Chairman asked for the general elevation of the terrain. Michael Dahlberg, LLS,  
39 answered, that the terrain rose from Dunbar Road up and pointed out the locations on the plan.

40 Mark Suennen referred to Tax Map/Lot #14/116-2 and asked what the meaning was of  
41 the legend "E Building". Michael Dahlberg, LLS, answered that "E Building" represented an  
42 "Existing Building".

43 Mark Suennen asked what "EDS" stood for on the plan. Michael Dahlberg, LLS,

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11

1 **BARSS, cont.**

2  
3 answered, "Effluent Disposal System".

4 Mark Suennen did not believe that the applicant needed to delineate the wetlands. He  
5 added that the description of the contours was satisfactory. He continued that the buildings were  
6 existing and if they were in the setbacks they were deemed grandfathered. He noted that the  
7 applicant did not need stormwater erosion and sediment plans as they were not building and the  
8 Board was not concerned with the acreage breakdown as they were not worried about the  
9 wetlands. The Chairman noted that the fire safety items were not an issue as there was no new  
10 construction. Mark Suennen commented that the applicants were not building or creating a  
11 homeowners association and, therefore, there was no need for deed covenants.

12  
13 Mark Suennen **MOVED** to grant the balance of the waivers for Kenneth R. Barss  
14 Revocable Trust, Kenneth R. Sr. & Gloria J. Trustees (Owners), Kenneth R. Jr. & Lori  
15 (Owners), William R. IV & Bianca J. (Owners), Location: Mont Vernon Road, Tax  
16 Map/Lot #'s 14/116, 116-1 & 116-2, Residential-Agricultural "R-A" District & Small  
17 Scale Planned Commercial "COM" District, that were applicable based on the  
18 information given at the meeting and the fact that it was a lot line adjustment without  
19 construction requirements. Don Duhaime seconded the motion and it **PASSED**  
20 unanimously.

21  
22 The Chairman asked for further comments and/or questions; there were no further  
23 comments or questions.

24  
25 Mark Suennen **MOVED** to approve the Minor Subdivision/Lot Line Adjustment Plan for  
26 Kenneth Sr., & Gloria Barss, Trustees, Kenneth Jr., & Lori Barss, and William IV., &  
27 Bianca Matheson, such that Parcel "A" of 10.11 acres is annexed from Tax Map/Lot  
28 #14/116 to Tax Map/Lot #14/116-1; Parcel "B" of 11.67 acres is annexed from Tax  
29 Map/Lot #14/116 to Tax Map/Lot #14/116-2; leaving Tax Map/Lot #14/116 with 38.08  
30 acres, subject to:

31  
32 **CONDITIONS PRECEDENT:**

- 33 1. Submission of a minimum of four (4) blue/blackline copies of the revised plat,  
34 including all checklist corrections and any corrections as noted at this hearing;  
35 2. Submission of the mylar for recording at the HCRD.  
36 3. Payment of any outstanding fees related to the subdivision application and/or the  
37 recording of documents with the HCRD.

38 The deadline for complying with the condition(s) precedent shall be **April 28, 2012**, the  
39 confirmation of which shall be an administrative act, not requiring further action by the  
40 Board. Should compliance not be confirmed by the deadline date, and a written request  
41 for extension is not submitted prior to that date, an administrative NOTICE OF DENIAL  
42 shall be issued without further action of the Board being required.

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

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1 **MISCELLANEOUS BUSINESS AND CORRESPONDENCE FOR THE MEETING OF**  
2 **FEBRUARY 28, 2012, Cont.**

- 3  
4 8. Discussion, re: owner endorsement of Site Review Agreement for Robert Waller  
5 (Applicant) and Al Lindquist (Owner), to operate an auto restoration home business from  
6 236 Meadow Road, Tax Map/Lot #14/80.

7  
8 The Chairman indicated that the issue relative to the above-referenced matter was that the  
9 owner did not want to sign the site review agreement and how the Board would handle it. He  
10 asked the Coordinator if this had ever happened. The Coordinator answered that this had never  
11 happened before.

12 Mark Suennen pointed out that the owner had signed the application and questioned why  
13 he would not sign the site review agreement. The Coordinator stated that the owner did not want  
14 to be tied to the conditions that were put on the applicant to run the business. She continued that  
15 the owner was okay with the applicant operating the business but noted the owner was separate  
16 from the business and did not want to be part of having to enforce the conditions.

17 The Coordinator advised that she had placed a call to Town Counsel earlier in the day  
18 and had not heard back yet.

19 The Chairman asked if other Towns operated in the same way with this matter as New  
20 Boston. The Coordinator answered that she was familiar with a lot of towns having subdivision  
21 agreements similar to New Boston and most towns were more formal with their site plans.

22 The Chairman noted that the Board needed to wait until they heard back from Town  
23 Counsel and asked for the date of the next meeting. The Coordinator answered that the next  
24 meeting was scheduled for March 27, 2012.

25 The Chairman asked how the site plan could be enforced if the owner refused to sign it.  
26 The Coordinator stated it depended and noted that Town Counsel had questioned whether the  
27 Regulations contained mention of the Site Review Agreement. She noted that the Regulations  
28 did not but the Notice of Decision did. She further noted that without the owner's support there  
29 may be no site plan.

30 The Chairman asked if there was anything contained within the application that the  
31 owner agreed to sign the agreement at the end. The Coordinator answered no.

32  
33 The Board took a six minutes recess prior to the next hearing.

34  
35 **SHELLENBERGER, PETER M. & SUSAN L.**

36 Submission of Application/Preliminary Hearing/Design Review/NRSPR/Warehouse

37 Location: Byam Road

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

39 Residential-Agricultural "R-A" District & Small Scale Planned Commercial "COM" District

40  
41 Present in the audience were Peter Shellenberger, Ken Clinton, LLS, Gail & Jon Stout,  
42 Ivan Byam and Jay Marden.

43 The Chairman read the public hearing notice. He stated that this was the first work

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1 **SHELLENBERGER, PETER, cont.**

2  
3 session following the preliminary hearing and because it was preliminary there was no deadline  
4 for Board action. He noted that the preliminary hearing was held on February 14, 2012, and a  
5 site walk took place on February 18, 2012. He advised that the Board had received a memo  
6 from Russ Boland, Fire Inspector, that he and Chief MacDonald had reviewed the preliminary  
7 design plan and it appeared to be in compliance with State and local fire codes. He noted that the  
8 Board needed to address outstanding issues with landscaping and parking. He continued that the  
9 applicant was to provide information with regard to the view and sight of the building  
10 from River Road as it was a Scenic Byway.

11 Ken Clinton, LLS, of Meridian Land Services noted that he was present on behalf of  
12 Peter Shellenberger. He stated that they were seeking clarification regarding the parking counts.  
13 He explained that because the warehouse use did not have a specified parking ratio in the Site  
14 Plan Review Regulations they had proposed the ratio of one parking space per every 475 s.f. of  
15 warehouse floor area. He indicated that by using their proposed ratio 11 parking spaces would  
16 be required, however, they were showing 12 spaces on their plan. He went on to say that the  
17 proposed number of parking spaces was more than adequate for the nature of use that the  
18 applicant had described as well as future warehouse uses. He pointed out that future changes  
19 would require a change of use, new site plan and new parking would need to be evaluated.

20 Ken Clinton, LLS, stated that another issue that needed to be addressed was with regard  
21 to the landscaping. He noted that the proposed landscaping areas had been staked for the site  
22 walk. He stated that there had been discussion during the site walk about screening and what  
23 would be considered reasonable, specifically, from the Maas property. He went on to say that  
24 the group at the site walk viewed the building area from the Maas property. He stated that  
25 discussion had occurred about whether it was appropriate or not to consider placing landscaping  
26 on the Maas property. He explained that although the Planning Board did not believe that  
27 requiring the applicant to place landscaping on the Maas property was appropriate as part of the  
28 site plan, he advised that Mr. Shellenberger and Angela and Ron Maas had reached a private  
29 agreement. He indicated that there would be some give and take with regard to landscaping on  
30 the Maas property.

31 Ken Clinton, LLS, stated that there was a change to the proposed plan since the last  
32 meeting. He explained that the landscaping area would be shifted towards the back of the  
33 building as it was considered the most critical area relative to screening. He indicated that the  
34 shift would move the landscaping about 20' to the east and the proposed rain garden 20' as well.  
35 He informed the Board that the proposed shift was agreeable to Angela and Ron Maas.

36 The Chairman asked for clarification that the screening would be more focused on the  
37 area where the applicant's trailer would be parked rather than the side of the building. Ken  
38 Clinton, LLS, answered yes and added that the screening would continue to cover the corner of  
39 the building, however, it more focused on the trailer that would be parked and loaded.

40 Ken Clinton, LLS, stated that during the site walk it had been asked if cars would be able  
41 to see the building as they drove along Route 13 and noted that its status as a Scenic Byway  
42 needed to be considered. He advised that the proposed building would be located about 500'  
43 away from Route 13. He stated that there was about a 200' view window that would be viewable

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1 **SHELLENBERGER, PETER, cont.**

2  
3 to cars traveling south on Route 13 and they would be able to see the back of the building. He  
4 stated that the driver would most likely only get a short glimpse of the building as there two  
5 roads that immediately followed, the location, Byam Road and Gregg Mill Road, on which the  
6 motorist would have to concentrate. He did not believe that it was a major factor. The Chairman  
7 asked if it was purely open or if it was only open now because it was winter and the leaves were  
8 not on the trees. Ken Clinton, LLS, answered that the area was more open. He pointed to the  
9 plan and indicated the location of a rise that prevented part of the view, the 200' window that  
10 contained a few scattered trees and the horse paddock area. He noted that because the area was  
11 listed as a Scenic Byway the Town did have an opportunity to insert additional regulations for  
12 protection. He continued that he had reviewed information from the State regarding Scenic  
13 Byways and advised that it focused on signage. He stated that he was not aware if New Boston  
14 had something specific to address Scenic Byways. The Chairman asked about the proposed  
15 signage for the building. Peter Shellenberger stated that they were proposing to have a small  
16 sign at the entrance of the driveway. Ken Clinton, LLS, advised that they would be  
17 addressing the signage with a separate application and would begin the process after the site plan  
18 was approved. He noted that the proposed signage would be located on Byam Road and there  
19 were no plans for signage on Route 13. The Chairman asked if there would be signage on the  
20 side of the proposed building that was viewable from Route 13. Ken Clinton, LLS, answered  
21 that there was no signage proposed for the north or east side of the building.

22 Ken Clinton, LLS, noted that the Chairman had visited the applicant's current facility and  
23 was able to witness and hear some of the operations. The Chairman informed the Board that he  
24 indeed visited the facility and was able to confirm that the forklift made no noise and he was able  
25 to have a conversation while the baler was running. He commented that the noise from the  
26 baler was more annoying than loud.

27 Ken Clinton, LLS, reiterated that they were seeking clarification that the proposed  
28 parking was reasonable and that the proposed landscape buffer locations were reasonable. He  
29 stated that he was unable to type the trees or show the density until he confirmed the locations.  
30 The Chairman asked if the applicant would be able to demonstrate that they were meeting the  
31 Zoning requirements for the landscaping. Ken Clinton, LLS, answered yes.

32 The Chairman asked for comments and/or questions from the Board regarding the  
33 landscaping. Mark Suennen asked if the proposed screening for the Byam Lot was increased  
34 by 30', 40' or 50' would it help screen the view window from Route 13. Ken Clinton, LLS,  
35 answered yes and noted that they could continue the screening east away from the horse paddock  
36 area to cut down on the 200' sight window. Mark Suennen encouraged the applicant to consider  
37 reducing the sight view window in accordance with the site plan requirements.

38 Jay Marden of Gregg Mill Road asked for a horizontal line to be identified on the  
39 proposed plan. Ken Clinton, LLS, indicated that the line in question was a zoning district line.  
40 Jay Marden asked for the zones to be identified. Ken Clinton, LLS, pointed out the Residential-  
41 Agricultural zone and the Commercial zone. Jay Marden asked who owned the entire lot. Ken  
42 Clinton, LLS, answered that Peter Shellenberger owned the entire lot. Jay Marden asked if there  
43 were plans for activity to occur north of the zone line. Ken Clinton, LLS, advised that the site

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1 **SHELLENBERGER, PETER, cont.**

2  
3 plan application was only for the Commercial area of the property. Jay Marden asked if the area  
4 in question would be left in its natural state. Ken Clinton, LLS, answered that there may be  
5 consideration to continue to allow Mr. Byam the use of the pasture for his horses. Mark Suennen  
6 pointed out that should the applicant wish to put a residence on the residential portion of the  
7 property he would need to split it out as a separate lot as the two separate uses were on one lot.  
8 Ken Clinton, LLS, pointed out the environmental restrictions, i.e., the Shoreland Protection Act  
9 and floodplain, with regard to development.

10 The Chairman invited comments and/or questions from the audience; there were no  
11 comments or questions.

12 The Chairman addressed the applicant's request to determine appropriate parking space  
13 ratios. He stated that the proposed parking was one parking space for every 475 s.f. of the  
14 building. Ken Clinton, LLS, noted that using the previously mentioned calculation there should  
15 a "hair" over ten spaces and they were showing twelve on the plan. The Chairman stated that the  
16 applicant had three full-time employees and five part-time employees. He asked if the truck  
17 driver was a full-time employee. Peter Shellenberger answered yes. Ken Clinton, LLS, pointed  
18 out that a warehouse did not receive general retail commercial traffic and, therefore, there was  
19 not a need to provide the public with parking.

20 The Chairman asked for comments and/or questions from the audience with regard to  
21 parking. Gail Stout of Old Coach Road asked if any type of vehicle maintenance would be done  
22 in the yard area. Ken Clinton, LLS, answered no. Peter Shellenberger added that he only  
23 checked the and greased the front ends of the trucks.

24 Mark Suennen believed that the applicant's proposed parking spaces were adequate based  
25 on the ITE Parking Generation numbers. The Coordinator noted that the calculation used was  
26 1/2 per 1,000 s.f., plus 1 per employee.

27 Ken Clinton, LLS, asked if the Board had any other concerns that had not been  
28 addressed. The Chairman suggested that a note be added to the plan that would ensure the truck  
29 would be backed into its parking space at night so that the back-up alarm would not be heard  
30 early in the morning. Ken Clinton, LLS, agreed to add the note and stated that it was a  
31 reasonable request.

32 Ken Clinton, LLS, asked if the Board would recommend that he meet with someone in  
33 Town with regard to the driveway entrance prior to formal submission. The Coordinator  
34 suggested that Ken Clinton, LLS, contact the Road Agent, Dick Perusse.

35 Gail Stout asked for any future plans for expansion. Ken Clinton, LLS, indicated that  
36 the owner did not have any plans for expansion of his business. He did point out that there was  
37 room for expansion, however, the site plan process would have to be revisited. Gail Stout asked  
38 if someone would need to come back to the Planning Board if they purchased the property and  
39 intended on operating a similar use. Ken Clinton, LLS, stated that if the purchaser intended on  
40 continuing the use as a warehouse they may not be required to go before the Board but if they  
41 were changing the use they would be required to appear before the Board.

42 The Board noted that they would await the applicant's final application and noted there  
43 was only one meeting in March, on the 27<sup>th</sup>.

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1 **MEETING ADJOURNMENT**

2

3 Don Duhaime **MOVED** to adjourn at 8:25 p.m. Mark Suennen seconded the motion and  
4 it **PASSED** unanimously.

5

6

7 Respectfully Submitted,  
8 Valerie Diaz, Recording Clerk

Minutes Approved:  
03/27/2012