

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

April 10, 2012

1

1 The meeting was called to order at 6:35 p.m. by Chairman Stu Lewin. Present were
2 regular member Peter Hogan, alternate David Litwinovich and Ex-Officio Christine Quirk. Also
3 present were Planning Coordinator Nic Strong, Planning Board Assistant Shannon Silver and
4 Recording Clerk Valerie Diaz.

5
6 Present in the audience for all or part of the meeting were Peter Shellenberger, Road
7 Agent Dick Perusse, Jay Marden, Road Committee Member Willard Dodge, Road Committee
8 Chairman Tom Miller, Selectman Rodney Towne and Ken Clinton, LLS.

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10 The Chairman seated David Litwinovich as a full voting member in Don Duhaime's
11 absence.

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13 **Election of Officers**

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15 David Litwinovich **MOVED** to nominate Stu Lewin as Chairman of the Planning Board.
16 Christine Quirk seconded the motion and it **PASSED** unanimously.

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18 Stu Lewin **MOVED** to nominate Peter Hogan as Vice Chairman of the Planning Board.
19 Christine Quirk seconded the motion and it **PASSED** unanimously.

20
21 Peter Hogan **MOVED** to nominate Don Duhaime as Secretary of the Planning Board.
22 Christine Quirk seconded the motion and it **PASSED** unanimously.

23
24 **Dick Perusse, Road Agent, Discussion re: Driveway Permits**

25
26 Present in the audience were Peter Shellenberger, Jay Marden, Road Committee Member
27 Willard Dodge, Road Agent Dick Perusse, Road Committee Chairman Tom Miller, Selectman
28 Rodney Towne, and Ken Clinton, LLS.

29 The Chairman invited Dick Perusse, Road Agent, to address the Board. Dick Perusse
30 advised that he was present to discuss two driveway permits in Town and whether or not he
31 should be involved with the permitting process.

32 Dick Perusse stated the first driveway was located at 1 Old Coach Road, a/k/a, The
33 Alphabet Soup Company. He noted that the driveway permit had been approved and the
34 driveway had been built. He continued that the way the driveway had been constructed did not
35 work very well during the winter months and pointed out that there had been icing problems on
36 Old Coach Road.

37 The Chairman asked the Coordinator if the Board had approved a driveway permit for the
38 driveway in question. The Coordinator clarified that the driveway at 1 Old Coach Road was an
39 existing driveway. Dick Perusse, Road Agent, questioned if the applicant had prepared and
40 presented a sketch of how they wanted to build the proposed driveway to the Board. The
41 Chairman answered yes. He asked the Coordinator if the sketch had been forwarded to the
42 department heads. The Coordinator answered yes and explained that site plans were distributed
43 to department managers and the Conservation Commission. Dick Perusse, Road Agent,

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1 **DISCUSSION W/ROAD AGENT RE: DRIVEWAY PERMITS, cont.**

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3 commented that he did not recall seeing the site plan for 1 Old Coach Road.

4 Dick Perusse, Road Agent, advised that Peter Shellenberger of Ecosmith Recyclers had
5 contacted him with regard to his proposed non-residential site plan. He stated that ultimately he
6 had no say as the Road Agent on what the applicant proposed to build and questioned if he
7 would have the opportunity to see the proposed site plan prior to approval of the plan. The
8 Chairman pointed out that the Highway Department should have already received and been able
9 to review the proposed site plan. The Planning Board Assistant explained that the Road Agent
10 received memos in his bin that specifically highlighted that they were intended for the Road
11 Agent/Highway Department. Dick Perusse, Road Agent, stated that he did not remember seeing
12 the site plan for Peter Shellenberger. The Chairman pointed out that the driveway for Peter
13 Shellenberger, Byam Road, Tax Map/Lot #6/40-1-1, had an existing approved driveway permit.

14 Peter Hogan asked for the Road Agent's concern with Peter Shellenberger's driveway.
15 Dick Perusse, Road Agent, questioned why the applicant would contact him if he was not
16 involved in the process. It was Dick Perusse, Road Agent's, opinion that he should be involved
17 in the driveway permit process if he was going to be the one living with it at the tail end of it to
18 make sure that things go accordingly. He continued that ultimately the Town would end up
19 owning the access point and if things were not built properly the Town would have to pick up the
20 pieces for it. He referred to the driveway located at 1 Old Coach Road and noted that even
21 though it had been approved there was a problem with it and it did not work the way it was built.
22 He explained that during the winter ice was building from the driveway onto to Old Coach Road.
23 He advised that he had spoken with the property owners about the problem and their comment to
24 him was that they had a permit for the driveway and, therefore, it was not their problem.

25 The Chairman addressed the Road Agent's original question and noted that there was a
26 driveway permit process. He noted that one of the things the Board had changed with regard to
27 the driveway permits was involving the Road Agent more and making the Road Agent more
28 responsible for the approval of the plan for the driveway and inspections.

29 The Chairman pointed out that the two driveways mentioned by the Road Agent pre-
30 dated the current Planning Board and Road Agent. He noted that as with many things that come
31 up, current officials were living with things that were approved in the context of the time at
32 which they are approved. Dick Perusse, Road Agent, agreed with the Chairman's statement and
33 added that he had noticed that most residential driveway permits pre-dated him and as such there
34 was not much he could do. The Chairman reiterated that the Board had changed the permitting
35 process about a year ago and made the Road Agent more involved and more responsible for
36 driveway permits.

37 The Chairman addressed the Road Agent's second question and explained that any plan
38 that came to the Board for review was distributed to all the departments and it was up to them to
39 provide feedback. He noted that larger proposed developments were reviewed by the Technical
40 Review Committee in a more formal setting. He stated that with regard to smaller applications it
41 was the responsibility of the department to advise the Board of any concerns. He added that it
42 was the assumption of the Board that there were no issues if there was no feedback.

43 Rodney Towne referred to the driveway at 1 Old Coach Road and stated that the lot

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1 **DISCUSSION W/ROAD AGENT RE: DRIVEWAY PERMITS, cont.**

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3 changed and required certain parking requirements as well as restrictions, i.e., no backing out
4 onto Old Coach Road. He went on to say that the parking lot created an issue for drivers and
5 drained its water out onto Old Coach Road. He pointed out that the water drainage had never
6 been an issue for the property and such he believed that something happened during the approval
7 process that created an issue with the current driveway. He believed that the RSAs allowed the
8 Town to force the property owner to make changes to the driveway and he noted that there was
9 no grandfathering for those types of things. Peter Hogan asked if the driveway was in
10 compliance. Rodney Towne answered that did not matter if the driveway was in compliance or
11 not. He stated the Town could force the property owner to change the driveway if it created a
12 problem with the road. Peter Hogan commented that he did not doubt that what Rodney Towne
13 was saying was true, however, he did not believe that the Board approved a driveway that was
14 not up to current specifications. Rodney Towne clarified that this Board did not approve the
15 driveway and instead required a parking lot without taking into consideration the problem it was
16 going to cause for the existing driveway. Peter Hogan stated that the plan could have been
17 drawn in such a way that the drainage was not correct. Christine Quirk stated that she did not
18 believe that the drainage was discussed or thought about. She continued that the Board had been
19 more concerned with parking and restricting backing out onto Old Coach Road.

20 Rodney Towne believed that the Town could request that the property owner at 1 Old
21 Coach Road fix the drainage problem or in the alternative pull their occupancy permit for the
22 business as it was creating a hazard.

23 The Coordinator noted that the property in question was approved as a Home Business
24 and as such it did not require a full blown engineering study with drainage calculations. She
25 stated that the driveway was existing and had never been an issue and that the approval was for
26 the parking lot with two spaces and restricted backing out onto Old Coach Road. She explained
27 that during construction the land was disturbed and water that had never been there before had
28 obviously been found. She pointed out that the issue had nothing to do with the approval. She
29 agreed that the Town could request that the property owner fix the problem and note that there
30 was a winter of experience that proved that the current driveway caused problems. She
31 commented that the best way to handle this matter was to approach Mrs. McGann, property
32 owner at 1 Old Coach Road, and tell her about the problem before approaching the Building
33 Department to pull Certificates of Occupany.

34 Rodney Towne asked if the Board could add a statement to approvals that no drainage
35 onto roads was allowed. The Coordinator advised that Rodney Towne's suggested language was
36 currently in the Driveway Regulations. Rodney Towne stated that Mrs. McGann was in
37 violation of the plan. The Coordinator stated that Mrs. McGann may be in violation of the
38 requirement to not drain into a public highway and was not in violation of the plan because there
39 was no requirement for a particular contour.

40 Dick Perusse, Road Agent, advised that the McGanns informed him that they had all of
41 their permits to build and they had built it according to their plan. He continued that the
42 McGann's stated that they had no more money to do anything else and claimed that the issue was
43 not their problem. He went on to say that the problem was the McGann's as the water was

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1 **DISCUSSION W/ROAD AGENT RE: DRIVEWAY PERMITS, cont.**

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3 coming from their property. Peter Hogan agreed and pointed out that the Coordinator also
4 agreed that this was a problem to be addressed by the McGanns, however, the problem did not
5 have anything to do with their site plan. He commented that the McGanns needed to be
6 informed that they needed to fix the problem.

7 Peter Hogan referred to the second driveway in question owned by Peter Shellenberger
8 and located at Byam Road, Tax Map/Lot #6/40-1-1, and asked for the Road Agent to specifically
9 identify his concerns. Dick Perusse, Road Agent, believed that most of the issues had been
10 resolved as Peter Shellenberger had contacted him directly. He advised that it had been agreed
11 to remove the existing culvert pipe rather than extend it. He stated that no formal plans had been
12 shown to him and he had advised Peter Shellenberger that the process did not start with the Road
13 Agent. The Chairman noted that the application had been distributed to all department heads.
14 The Planning Board Assistant explained that a memo had been distributed to all the department
15 heads with regard to the application and because an approved driveway existed no formal
16 driveway plans had been distributed.

17 Peter Shellenberger stated that through his application process he tried to be proactive
18 and meet with as many departments as he could. He suggested that the Road Agent be required
19 to send some sort of acknowledgement that there were no issues with Highway Department
20 matters, similar to what the Fire Wards have done. The Planning Board Assistant stated that the
21 Fire Wards had always sent out notes documenting that they had or did not have issues with a
22 proposed application. She did not believe the Road Agent had ever done this and it had always
23 been assumed if the Planning Office did not hear from a department Road then there were no
24 issues.

25 Jay Marden commented that a driveway permit was only a permit to get on the road and
26 whoever was building a driveway needed to do so in conformation with the highway
27 requirements. He continued that when a driveway permit was issued it was not accompanied by
28 an engineering plan. The Chairman pointed out that one of the driveway permit requirements
29 was to have a post construction inspection completed by the Road Agent. He noted that the
30 process was already in place and required pre-construction approval by the Road Agent and
31 Planning Board, construction of the driveway and post construction inspection. He stated that
32 the two driveways discussed this evening were not required to go through the driveway permit
33 process because they already had valid driveway permits. Jay Marden asked if the driveways in
34 question were already built. The Chairman answered yes. Jay Marden asked if the driveways
35 were built in a non-conforming manner. The Coordinator answered no. Jay Marden stated that
36 because a new operation was going any problems should be solved by those redoing the
37 driveway permits. The Chairman explained that no one was redoing the driveway permits as
38 they already existed. The Planning Board Assistant noted that the driveway permit was
39 permitting the curb cut and did not permit the interior of the driveway. Jay Marden stated that
40 his point was that just because someone had a driveway permit it did not mean that they could
41 build whatever they wanted and run water into the street. He added that the construction needed
42 to conform to the Town requirements. The Chairman stated that at the time the driveways were
43 constructed they did conform to the Town's requirements. He explained that the approvals for

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1 **DISCUSSION W/ROAD AGENT RE: DRIVEWAY PERMITS, cont.**

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3 the driveways were not being reviewed on the two properties being discussed because only the
4 interior of the lots were being changed and not the driveways. Jay Marden questioned if the
5 approved driveways functioned properly. The Chairman answered that the driveways had been
6 approved years ago and nothing had changed. He continued that if the driveways had been
7 incorrectly approved previously or some situation on the lot changed it did not have anything to
8 do with the driveway permit.

9 Willard Dodge stated that it was clear that the Peter Shellenberger property located on
10 Byam Road, Tax Map/Lot #6/40-1-1, had an existing driveway permit, however, a site plan for
11 an industrial operation was being created and the existing driveway may not fit the scope of what
12 was going on. He questioned if it was the Board's position that they could not review the
13 driveway with the Road Agent and builder. The Chairman pointed out that the Road Agent had
14 been provided with a copy of the application. Willard Dodge stated that the Road Agent said he
15 did not receive a copy of the application and the Board said he did receive a copy of the
16 application and that got everyone nowhere. The Coordinator advised that the curb cut had been
17 approved with sight distance at the time of approval. She went on to say that the applicant had
18 contacted the Road Agent to see about cutting down a tree that may have been blocking sight
19 distance. She continued that the issue when talking Road Agent was curb cut, i.e., centerline to
20 about 25' into the property. She stated that at the time a driveway permit was approved everyone
21 was hopeful that the sight distance was taken into account forever no matter what use took place
22 on the property. Willard Dodge stated that the existing driveway was 10' wide but the proposed
23 industrial operation it may need to be a whole lot bigger. He commented that he was troubled
24 that the Board had nothing to say about this matter. The Coordinator pointed out that the permit
25 was for the curb cut, i.e., access to the Town road. Willard Dodge stated that the driveway being
26 developed would affect a Town road. He reiterated that he had a lot of trouble that the Board
27 was going to complete a site plan review without involving the Road Agent relative to the
28 driveway. The Chairman disagreed with Willard Dodge's statement and clarified that the Road
29 Agent as well as the other departments and Conservation Commission were provided with all the
30 applications. Willard Dodge again stated that the Road Agent represented that he did not receive
31 a copy of the application and the Board represented that the Road Agent was provided with an
32 application. He proposed that they start over and make this work.

33 The Coordinator noted that the culvert would be removed and asked if there were
34 concerns with regard to drainage. Dick Perusse, Road Agent, stated that he did not recall ever
35 receiving a copy of the application and he asked if a copy could be provided. The Coordinator
36 confirmed that a copy of the application could be provided. Dick Perusse, Road Agent, advised
37 that the existing cross-culvert pipe would be removed. He commented that the removal made
38 sense. He stated that his biggest concern was that he had not been informed about the
39 application by the Planning Board. The Coordinator asked for confirmation that there were no
40 other physical improvement issues for Tax Map/Lot #6/40-1-1. Dick Perusse, Road Agent,
41 answered no.

42 The Coordinator stated that in the future the Planning Office would triple check that
43 every department received the memos relative to proposed applications. The Chairman

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1 **DISCUSSION W/ROAD AGENT RE: DRIVEWAY PERMITS, cont.**

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3 suggested that the Road Agent send back acknowledgement of receipt of the memo to the
4 Planning Office and if nothing was received then the Planning Office should assume that the
5 Road Agent did not receive the memo. Dick Perusse, Road Agent, agreed to the Chairman's
6 suggestion.

7 The Chairman asked the Coordinator who would address the issue with the McGanns.
8 Peter Hogan answered that it was not a matter for the Planning Board to move forward with as it
9 did not deal with their approval. The Coordinator stated that it was a matter for the Board of
10 Selectmen and Highway Department.

11 The Chairman summarized that the Board of Selectmen and/or the Highway Department
12 would deal with the matter with the McGann's driveway and that the Road Agent, moving
13 forward, would submit an acknowledgement of receipt to the Planning Office for all memos.
14 The Planning Board Assistant pointed out that the memos were only issued for non-residential
15 site plans and subdivisions not pre-existing approvals for residential driveways.

16 The Chairman asked if Willard Dodge was satisfied with the solution for the Road Agent
17 to acknowledge receipt of application memos. Willard Dodge commented that it appeared that
18 they were getting there. The Chairman asked if Willard Dodge felt that more needed to be done.
19 Willard Dodge answered no and stated that someone on the Board needed to make sure the Road
20 Agent was involved with business/industrial operations. He added that all he was looking for
21 was regular interaction between the Road Agent and the Board.

22 Jay Marden asked if the Building Inspector did not issue occupancy permits until after the
23 Highway Department had inspected a driveway. The Planning Board Assistant answered that no
24 building permits were issued until a driveway permit was issued and no certificates of occupancy
25 were issued until the driveways were signed off by the Road Agent.

26 Planning Board Member Mark Suennen arrived at the meeting.

27 Tom Miller offered to take the Board on a tour of developments in Town to view what
28 types of things work and do not work relative to the road construction, i.e., driveways, cul-de-
29 sacs, etc. The Chairman stated that he was all for attending a tour. Peter Hogan asked if plow
30 and maintenance problems for cul-de-sacs would be addressed. Tom Miller answered that some
31 of the cul-de-sac maintenance issues would be addressed but he wanted to view drainage
32 problems. He added that detention ponds would end up costing the Town money to maintain.

33 Peter Hogan asked Tom Miller if he had a cul-de-sac design that worked properly for
34 plowing. Tom Miller answered no. Peter Hogan stated that the Board would make the cul-de-
35 sacs any way that the Highway Department wanted. He went on to say that he was sick of
36 hearing the whining about cul-de-sacs being difficult to plow. He stated that the general
37 consensus of the Board was that the cul-de-sacs were a good design, however, there were issues
38 with the turnaround at the end. Tom Miller stated that submitting a design was easy enough to
39 do. He noted that he was more concerned with drainage issues. Peter Hogan stated that all the
40 Highway Department needed to do was submit a design that they wanted and that was cheap to
41 maintain. He stated that he could not care less if the design was expensive to build as that was
42 the applicant's problem. Tom Miller stated that the Town would end up with problems with
43 siphon basins in the future. Peter Hogan commented that it should be noted if a design would

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1 **DISCUSSION W/ROAD AGENT RE: DRIVEWAY PERMITS, cont.**

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3 cost a fair amount of money to maintain. Tom Miller stated that he wanted to eliminate things
4 the Town has done in the past so that there were fewer long term maintenance problems.
5 Christine Quirk indicated that she was very interested in attending the tour.

6 The Chairman stated that if Tom Miller was willing in setting the tour up they would
7 make it an official Board activity. The Coordinator asked for confirmation that the tour would
8 not include subdivisions built in the 1980's and explained that the regulations had changed since
9 then and those subdivisions could not be created today. Tom Miller answered that he may go
10 into some of those subdivisions to show some of the problems that the siphon basins are causing.
11 The Chairman requested that the list of locations to view on the tour be reviewed by the
12 Coordinator prior to the tour to ensure that things like 30% driveway slopes were not addressed.
13 Tom Miller commented that he could not care less about driveway slopes and that he was more
14 concerned with things the Town had to maintain and the costs associated with the maintenance.
15 Peter Hogan stated that the Board saw driveway slopes as a Highway Department issue because
16 of the water draining off them and onto the roads. He noted that the Board had always been
17 conscious of water flowing onto the road. Tom Miller stated that the Town needed to be careful
18 with what they were doing with the water to meet DES regulations.

19 The Chairman asked for further comments and/or questions; there were no further
20 comments or questions.

21
22 **Continued discussion, re: Mixed Use District**

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24 Present in the audience were Selectman Rodney Towne, Road Committee Chairman Tom
25 Miller, Road Committee Member Willard Dodge, Jay Marden, Peter Shellenberger, Ken Clinton,
26 LLS, and Ivan Byam.

27 The Chairman stated that the Board needed to discuss the existing village area and
28 assumptions, determine district boundaries, discuss options to create a mixed use district and
29 discuss potential uses.

30 The Chairman asked if anyone had thoughts on what the village district should
31 encompass. Mark Suennen indicated that with regard to a performance overlay he was interested
32 in stating that mixed use was appropriate "here" and not appropriate "there" because of the site
33 conditions of the individual locations. He recommended that the Board permit residential uses in
34 a traditional commercial area or permit commercial uses in a traditional residential area that meet
35 certain performance criteria. Peter Hogan and Christine Quirk stated that they agreed with an
36 overlay district.

37 Mark Suennen stated that while he did not have a problem with any of the general sites
38 listed in the "Continued Mixed Use Discussion" memorandum, he did not want to designate
39 specific locations as the only appropriate locations for the overlay district. He believed that it
40 was better to speak in more general terms and identify criteria that the Board would favor for the
41 use of the overlay district and what criteria would make an area not conducive for the overlay.
42 The Chairman asked for the criteria that Mark Suennen was referring to. Mark Suennen
43 answered that an example of some of the criteria could include access to a good road network,

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1 **MIXED USE DISCUSSION, cont.**

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3 and the nature of the community.

4 The Chairman asked if Mark Suennen was looking at all of New Boston or focusing on
5 the village area. Mark Suennen stated that he was looking at all of New Boston but could focus
6 on the village area. He indicated that Mill Street created a challenge as it was not an appropriate
7 road network to add a lot of commercial space. He continued that an area that might be good for
8 an overlay district began at Tingley's Flowers on Route 13 and extended down Route 13 to the
9 4-H access road. The Chairman asked for Mark Suennen's thoughts with regard to an overlay
10 district along Route 77. Mark Suennen stated that Route 136 was more difficult to have an
11 overlay as the road network had a significant grade. He referred to the location of the Cider Mill
12 and noted that it may conducive to a residential/commercial mixed use. He stated that the
13 Fitzpatrick house on High Street that was just re-painted orange may not be a good location for
14 an overlay because there was no good road access and no parking. Christine Quirk stated that
15 the Friendly Beaver Campground could serve as a mixed use location. She noted that she
16 currently had residential zoning and a business. Mark Suennen stated that he was less interested
17 in individual areas along Route 136 and believed that a lot of locations along Route 13 made
18 sense for use of the overlay district. He further stated that locations going up Meetinghouse Hill
19 Road were not good because of the slope and everything was located close to the road. David
20 Litwinovich believed that the overlay district area should be tight and start at the location of New
21 Boston Pizza up to the doctor offices on Route 77, down to the 4-H Fairgrounds and up
22 Meetinghouse Hill to the physical therapy office.

23 Peter Hogan questioned whether the Board wanted to allow residential uses in the
24 commercial districts. He asked if the old chicken house on the old Demary property was zoned
25 commercial. Willard Dodge answered that he did not believe the location was zoned
26 commercial. Peter Hogan and Mark Suennen determined that the area of Route 77 that was
27 zoned commercial began at the storage units up to Dodge Road. Peter Hogan commented that he
28 did not believe there would be any interest in having a residential use in the area along Route 77
29 previously described. Mark Suennen pointed out that there may not be an interest currently but
30 if it was redeveloped it might be amenable to a mixed use district.

31 Jay Marden asked if it was reasonable to use the mixed use overlay in business districts
32 only and consider rezoning different areas for business so that any business areas could be mixed
33 use. Mark Suennen pointed out that the concern the Board had with Jay Marden's suggestion
34 was the issue of spot zoning. Jay Marden stated that if both sides of Route 13 from the Post
35 Office to Dodge Road was zoned for mixed use it could not be thought of as spot zoning. He
36 considered a mixed use district as being business with the ability of putting residential in it as a
37 lesser use. The Chairman asked how the overlay district differed from what Jay Marden had
38 described as zoning all commercial and allowing residential uses. Mark Suennen answered that
39 with an overlay the underlying zoning remained residential-agricultural. The Chairman asked if
40 commercial uses would be allowed. Mark Suennen answered yes.

41 Mark Suennen asked if the Board decided to allow for commercial uses to be added to
42 residential districts would it be required to maintain the residential use or could the overlay
43 district wipe out the existing or proposed residential use. He noted that eliminating the

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1 **MIXED USE DISCUSSION, cont.**

2
3 residential use would go against the concept of a mixed use district.

4 Ken Clinton, LLS, suggested that the overlay district be thought of as allowing primary
5 and secondary uses. He stated that where a residential use was the primary use and a commercial
6 use was the secondary use, the character of the residence would not be lost. He continued that
7 using his example the character of the residence would not be lost and something too intrusive
8 would be kept out. The Chairman asked if the overlay district could be used in the commercial
9 district with a residential use as the secondary use. Mark Suennen answered yes. Ken Clinton,
10 LLS, used an example of a row of businesses on the first floor of a building with apartments on
11 the second floor.

12 The Chairman stated that the Board still needed to determine whether they were
13 specifically looking at the village district for the mixed use district and then looking at the larger
14 issue in general.

15 The Chairman asked if anyone thought anything should specifically be added to the
16 village area that was not there already. Peter Hogan answered that he wanted to allow residential
17 uses in the village area. The Chairman asked Peter Hogan if it was his thought that the purpose
18 of the mixed use district was to allow residential uses in places that do not current allow it. Peter
19 Hogan answered yes. The Chairman asked if there were any areas in the village that were zoned
20 residential and not commercial. Mark Suennen answered that Mill Street was not zoned
21 commercial. The Chairman pointed out that Mark Suennen had stated early that it did not make
22 sense to allow commercial uses on Mill Street. Mark Suennen stated that all locations on the
23 Town Hall side of Route 13 and Meetinghouse Hill Road were R-A with the exception of Tax
24 Map/Lot #22. Willard Dodge asked if Tax Map/Lot #22 was the previous location of Sullivan's
25 Real Estate. The Coordinator answered yes.

26 The Chairman asked if anyone was thinking of putting commercial in the area just
27 described by Mark Suennen. Mark Suennen stated that it could go either way with an overlay
28 district, i.e., commercial use in a residential district or residential use in a commercial district.
29 He added that there may be more restrictions associated with a commercial use in a residential
30 district because of the nature of the residential land.

31 The Chairman asked if anyone believed it would be worth taking some time at the start of
32 the next meeting to tour and assess the village area. He stated that the next step in the discussion
33 should be to determine the boundaries. Mark Suennen pointed out that an overlay district was
34 "boundary-less" and was criteria based. The Chairman stated that a list of the criteria should be
35 discussed at the next meeting.

36 The Chairman asked for any final thoughts before closing the discussion. Christine Quirk
37 commented that she believed the Board was moving in the right direction.

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

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

3 Location: Byam Road

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

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

6
7 Present in the audience were Ivan Byam, Road Committee Member Willard Dodge,
8 Selectman Rodney Towne, Road Agent Dick Perusse, Peter Shellenberger and Ken Clinton,
9 LLS.

10 The Chairman read the public hearing notice. He stated that the application was
11 determined to be complete at the March 27, 2012, meeting and the deadline for Board action was
12 May 31, 2012. He advised that an informational session took place on December 20, 2012, a
13 preliminary hearing was held on February 14, 2012, and a work session was held on February
14 28, 2012. He noted that the ZBA granted a Special Exception for the warehouse use on the
15 property; the driveway permit was issued in 2001; and a memo from the Fire Inspector had been
16 received and it reported that there were no fire code issues. He stated that the most recent plans
17 had been submitted on March 12, 2012, and there were a few outstanding issues.

18 The Chairman advised the applicant that the sign permit needed to be applied for through
19 the Building Department.

20 Ken Clinton, LLS, informed the Board that he had made all of the required updates to the
21 plan with the exception of one. He indicated that he had received a letter from Northpoint
22 Engineering relative to the drainage report. He stated that Kevin Leonard, P.E., had made five
23 points that he would review with the Board. The first was a suggestion that a note be added to
24 the plan stating that the existing culvert would be removed from under the driveway per approval
25 of Road Agent; the note had been added to the plan. The Chairman pointed out that there were
26 not any driveway permit issues as there would not be a new driveway permit issued. He
27 suggested that the note say, "the culvert will be removed per discussions with the Road Agent".
28 Ken Clinton, LLS, noted that because a substantial change was taking place they intended on
29 filing for a new driveway permit so that current information would be on record. He stated that
30 he would follow how the Board wished to proceed with this matter. The Chairman stated that if
31 the applicant and Road Agent were in agreement on what changes needed to be made then he
32 preferred that the changes be made and no new permit was necessary. Ken Clinton, LLS, agreed
33 with the Chairman's suggestion.

34 Ken Clinton, LLS, stated that the second comment from Kevin Leonard, P.E., was with
35 regard to snow storage shown on the plan. He advised that numerous areas of snow storage were
36 labeled and identified on the plan. The Chairman pointed out that Kevin Leonard, P.E.'s,
37 comment asked whether any of the identified snow storage locations blocked the basin from
38 receiving the runoff. Ken Clinton, LLS, assured the Board that the locations did not block the
39 basin from receiving the runoff; he pointed out the locations on the plan.

40 Ken Clinton, LLS, advised that the third comment from Kevin Leonard, P.E., addressed
41 the paved apron was wider than normal and he noted that extreme care should be taken in
42 constructing the apron without encroaching on the abutting lot. He stated that they agreed with
43 Kevin Leonard, P.E.'s, advice.

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11

1 **SHELLENBERGER, cont.**

2
3 Ken Clinton, LLS, stated that the fourth comment from Kevin Leonard, P.E., was relative
4 to the proposed rain garden. He explained that Kevin Leonard, P.E., believed that the proposed
5 rain garden was designed in accordance with the requirements, however, he believed that the
6 peak storm flow would be about 1/10th of a foot below the top of the design during a 50 year
7 storm; he noted this information was accurate. He continued that Kevin Leonard, P.E., believed
8 that there should be a greater level of control or more volume for storage. He went on to say
9 that Kevin Leonard, P.E., agreed that the design was for a 50 year storm but felt there should be
10 a greater storm design for extra safety. He noted that the 50 year storm design was a high
11 threshold and frequently he dealt with towns that required 25, 15 or 10 year storm designs. The
12 Chairman pointed out that New Boston had experienced two 50 year storms in a row and they
13 had caused a lot of problems. Ken Clinton, LLS, stated that the property was adjacent to a sand
14 pit and was excessively well drained. He also noted that the perc rates he was required to use for
15 the drainage calculations came with standard classifications for the soil type in question ranging
16 from 6" to 25-29" per minute. He further noted that they were required to use the lowest
17 possible perc rate and divide it by two. By doing so, Ken Clinton, LLS, noted, the raingarden
18 was already oversized and he saw no reason to increase the freeboard an additional 6". The
19 Chairman asked for an explanation of increasing the freeboard. Ken Clinton, LLS, explained
20 that increasing the freeboard referred to increasing the height of the berm. The Chairman asked
21 if Kevin Leonard, P.E., had recommended that the freeboard be increased all the way around the
22 outside of the raingarden. Ken Clinton, LLS, answered yes. He noted that the current design
23 met the Town's required criteria and an increase was unnecessary.

24 The Chairman asked if anyone disagreed with Ken Clinton's reasons for not increasing
25 the freeboard as recommended by Kevin Leonard, P.E. Mark Suennen answered that he did not
26 know enough about water flow and rain gardens and he was not in a position to argue with Kevin
27 Leonard, P.E., on this matter. Ken Clinton, LLS, stated that part of Kevin Leonard, P.E.'s,
28 justification for the increased freeboard was his belief that sediment would collect and become a
29 maintenance problem. He clarified that the sediment would drop into the sediment forebay. The
30 Chairman asked if Kevin Leonard's concerns would be addressed if the berm was increased in
31 height by 2" all the way around. Ken Clinton, LLS, answered that an increase of 2" would go
32 closer to alleviating his concerns, however, he did not believe it was a legitimate concern from a
33 strict engineering sense. He went on to say that it would be an exercise in multiplications of
34 factors of safety. He added that the design was over designed to begin. Peter Hogan stated that
35 Kevin Leonard, P.E., was assuming that the contractor would screw up during construction
36 and/or the owner would allow sediment to build up. Ken Clinton, P.E., preferred to verify that
37 the elevations were met during construction. The Chairman stated that it was already required
38 for the elevations to be met. Peter Hogan commented that he was ready to move on as it was
39 only a recommendation and not a requirement.

40 The Chairman asked if anyone else felt the rain garden should be changed based on
41 Kevin Leonard, P.E.'s, comments. Mark Suennen asked what the impact to the rain garden
42 would be during a three hour long 50 year storm with the current provided 1/10 of a foot of
43 freeboard. Ken Clinton, LLS, answered that if the volume was not sufficient and it went out

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12

1 **SHELLENBERGER, cont.**

2
3 through the overflow as it was designed to do there were two areas on site that would act as
4 natural basins; he pointed to the locations of the natural basins on the plan. Mark Suennen stated
5 that it was his understanding that the overflow would stay on the property and would not meet
6 the Maas property or the wetlands. Ken Clinton, LLS, confirmed that the overflow would not
7 meet the Maas property or the wetlands.

8 Ken Clinton, LLS, explained that Kevin Leonard, P.E.'s, fifth and final comment
9 addressed the lack of a maintenance manual for the sediment forebay. He agreed that the
10 maintenance needed to be clearer and as such he added a sediment forebay maintenance section
11 to the details on the plan; he read the maintenance schedule. Mark Suennen asked if the
12 maintenance manual referred to the plans. Ken Clinton, LLS, advised that what was contained in
13 the plan was the full maintenance schedule.

14 Ken Clinton, LLS, noted that he had received a plan checklist review from the
15 Coordinator and he had cleaned up all of the errors. He pointed out that the traffic flow arrow
16 discussed at the last meeting had been added to the plan.

17 Ken Clinton, LLS, showed the Board an example of what the applicant's proposed sign
18 would look like and noted that it was for identification purposes. He indicated that the language
19 that the sign would be unlit was also added to the plan.

20 Ken Clinton, LLS, stated that the hours of operation were amended on the plan and
21 specified the days of the week the business would operate, i.e., Monday through Sunday.

22 Peter Hogan suggested that the applicant post on his sign "No Retail". Peter
23 Shellenberger stated that he would consider Peter Hogan's suggestion.

24 Ken Clinton, LLS, indicated that he had added the two wall pack lights to the garage bay
25 entrances and three entrance lights that would be 100 watts. He noted that he needed to add that
26 the lights would only be in use during the hours of operations. He further noted that a motion
27 sensor light for the back of the building needed to be added to the plan.

28 The Chairman asked if a note had been added with regard to the amount of time allowed
29 for trucks to idle. Ken Clinton, LLS, stated the note had been added for maximum truck idling
30 time of 15 minutes to the restrictions section of the hours of operation.

31 Ken Clinton, LLS, stated that he would make the appropriate corrections to the plans and
32 submit. He offered to answer any questions from the Board or public.

33 The Chairman informed the applicant that if something major was encountered during
34 construction that altered the design he should come back to the Board before making any field
35 changes.

36 The Chairman ran through the day to day operations of the business as previously
37 described at prior hearings relevant to timing of truck arrivals and departures, numbers of
38 vehicles on site, transportation of the shipping containers and so on. In response to one comment
39 by the Chairman, Peter Shellenberger explained that the trailer parked at the dock was for storage
40 of shoes and so on and was sent out once a month. The shipping container for the clothing bales
41 was brought in once a week and live loaded which took about two hours.

42 The Chairman asked for further questions comments and/or questions; there were no
43 further comments or questions.

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13

1 **SHELLENBERGER, cont.**

2
3 Peter Hogan **MOVED** to approve the Non-Residential Site Plan Application by Peter and
4 Susan Shellenberger, to operate a warehouse from property on Byam Road and NH Route
5 13 a/k/a River Road, Tax Map/Lot #6/40-1-1, subject to:

6
7 **CONDITIONS PRECEDENT:**

- 8 1. Submission of a minimum of four (4) revised site plans that include all of the
9 checklist corrections and any corrections as noted at this hearing;
10 2. Execution of a Site Review Agreement;
11 3. Submission of any outstanding fees.

12 The deadline for complying with the conditions precedent shall be **June 10, 2012**, the
13 confirmation of which shall be an administrative act, not requiring further action by the
14 Board. Should compliance not be confirmed by the deadline date, and a written request
15 for extension is not submitted prior to that date, the applicant is hereby put on notice that
16 the Planning Board may convene a hearing pursuant to RSA 676:4-a to revoke the
17 approval.

18
19 **CONDITIONS SUBSEQUENT:**

- 20 1. All site improvements are to be completed as per the approved site plans;
21 2. The Town of New Boston Planning Department shall be notified by the applicant
22 that all improvements have been completed, and are ready for final inspection,
23 prior to scheduling a compliance hearing on those improvements, a
24 minimum of three (3) weeks prior to the anticipated date of compliance hearing;
25 3. Submission of as-built plans and a statement from an engineer, preferably the
26 design engineer, certifying that the improvements were constructed in accordance
27 with the approved plans;
28 4. Any outstanding fees related to the site plan application compliance shall be
29 submitted;
30 5. A compliance hearing shall be held to determine that the site improvements have
31 been satisfactorily completed, prior to releasing the hold on the issuance of any
32 Permit to Operate/Certificate of Occupancy, or both. No occupancy/use of the
33 warehouse shall be permitted until the site improvements as noted have been
34 completed, and a site inspection and compliance hearing held.

35 The deadline for complying with the Conditions Subsequent shall be **September**
36 **10, 2013**, the confirmation of which shall be determined at a compliance hearing
37 as noted in item #5 above.

38
39 Mark Suennen seconded the motion and it **PASSED** unanimously.
40
41
42
43

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14

1 **MISCELLANEOUS BUSINESS AND CORRESPONDENCE FOR THE MEETING OF**
2 **APRIL 10, 2012.**

- 3
4 1. Letter received March 28, 2012, from Victor Lemay, re: Wilson Hill Road, Tax Map/Lot
5 #9/21-5, request to extend the conditions precedent deadline from May 1, 2012, to May 1,
6 2013, and extend the conditions subsequent deadline from May 1, 2013, to May 1, 2014,
7 for the Board's action.

8
9 Peter Hogan **MOVED** to grant an extension of the conditions precedent deadline for
10 Victor Lemay, Wilson Hill Road, Tax Map/Lot #9/21-5, from May 1, 2012, to May 1,
11 2013, and grant the conditions subsequent deadline from May 1, 2013, to May 1, 2014.
12 Mark Suennen seconded the motion and it **PASSED** unanimously.

- 13
14 2. Email received April 4, 2012, from Doug Hill, Douglas Hill Construction, re: Christian
15 Farm Drive, Tax Map/Lot #5/16, request to extend the conditions subsequent deadline
16 from May 1, 2012, to May 1, 2013, for the Board's action.

17
18 Peter Hogan **MOVED** to grant an extension of the conditions subsequent deadline for
19 Douglas Hill Construction, Christian Farm Drive, Tax Map/Lot #5/16 from May 1,
20 2012, to May 1, 2013. Mark Suennen seconded the motion and it **PASSED** unanimously.

- 21
22 3a. 3rd draft of Conditional Use Permit Procedures for the Board's information.

- 23
24 3b. Information, re: Certified Professional in Erosion and Sediment Control (CPESC)
25 qualification, for the Board's information.

- 26
27 3c. Sample pages from NH DES AOT Rules, Certified Professional in Erosion and Sediment
28 Control (CPESC) inspections and plans, for the Board's information.

29
30 The Chairman addressed items 3a, 3b and 3c together as they were related. He asked if
31 the information had been forwarded to Town Counsel. The Coordinator answered that it had
32 been forwarded to Town Counsel.

33 Mark Suennen asked if there was a specific reason the Board was provided with the
34 CPESC requirements. The Coordinator explained that the procedures specified that an
35 adherence statement could be completed by a Professional Engineer or CPESC as that mirrored
36 the AOT rules.

- 37
38 4. Distribution of March 27, 2012, minutes for approval at the meeting of April 24, 2012,
39 distributed by email.

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

43

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15

1 **ADJOURNMENT**

2

3 Peter Hogan **MOVED** to adjourn at 8:03 p.m. Mark Suennen seconded the motion and it
4 **PASSED** unanimously.

5

6

7 Respectfully Submitted,
8 Valerie Diaz, Recording Clerk

Minutes Approved:
05/08/2012