

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

April 24, 2012

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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, Alternate David Litwinovich and Ex-Officio  
3 Christine Quirk. Also present were Planning Coordinator Nic Strong, Planning Board Assistant  
4 Shannon Silver and Recording Clerk Valerie Diaz.

5  
6 Present in the audience for all or part of the meeting was Mike Dahlberg, LLS.

7  
8 The Chairman seated David Litwinovich as a full voting member in Peter Hogan's  
9 absence.

10  
11 **Continued discussion, re: Mixed Use District**

12  
13 The Chairman indicated that the next objectives listed on the task plan were to determine  
14 the district boundaries, discuss options for the creation of a mixed use district and discuss  
15 potential uses.

16 The Chairman stated that the Board had discussed creating a mixed use district in the  
17 village area. He went on to say that there was interest in addressing other areas of the Town to  
18 get similar results.

19 The Chairman invited comments from the Board. Mark Suennen stated that he had  
20 looked at the zoning for a couple of towns and admitted that he had not gotten very far in the  
21 process. He noted that he had come across a Residential Professional Office District overlay and  
22 explained that the purpose of the district was to preserve concentrations of large architecturally  
23 significant older residential structures within a residential district by enhancing the economic  
24 viability of the buildings. He continued that it was allowed to convert and maintain the buildings  
25 at low intensity professional that would be compatible with scale, density and use with the  
26 surroundings and adjacent residential neighborhoods. He believed that the Residential  
27 Professional Office District allowed for professional businesses, i.e., lawyers' offices,  
28 accountants' offices, clinicians' offices, to operate within those residential homes that were  
29 difficult to sell or maintain as residential homes. He stated that such a district would be  
30 beneficial to the village area as well as in developments with larger homes that were hard to  
31 maintain as larger homes. Christine Quirk commented that the Residential Professional Office  
32 district was a good one.

33 Mark Suennen told the Board that the Town of Goffstown had a Residential Small  
34 Business Office District. He explained that the district allowed residential, personal services,  
35 office, commercial and other compatible uses in a scale and in a manner that would properly  
36 balance traffic congestion, visual conflicts, light, noise, etc. He noted that the district was  
37 primarily residential conversion for the purposes of preserving the historic fabric and character  
38 of an area while recognizing market forces for uses and building changes. He added that mixed  
39 residential and non-residential uses were permitted. He stated that he was interested in finding  
40 out where the Residential Small Business Office District was located in Goffstown. The  
41 Coordinator advised that the Residential Small Business Office District was located from the  
42 cemetery on Route 114 to Sully's. She pointed out that a Montessori school and an architectural  
43 office were located within the area she previously described. Mark Suennen stated that this type

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1 **MIXED USE DISTRICT DISCUSSION, cont.**

2  
3 of district might be appropriate in New Boston along New Boston Road from the Bedford town  
4 line to Klondike Corner. He indicated that some of the houses up Chestnut Hill Road were set  
5 back. Christine Quirk pointed out that Earl Sandford, P.E., had previously operated his business  
6 out of a building on the left side of Chestnut Hill Road. The Chairman asked if anyone was  
7 currently operating a business out of the property Christine Quirk had referred to. The  
8 Coordinator believed the building was empty. She noted that behind the area in question there  
9 was about 90 acres of undeveloped land zoned Commercial. Mark Suennen asked if the area  
10 they were currently discussing could be considered for a mixed use development, i.e.,  
11 commercial frontage with second-story residential. The Coordinator answered yes but pointed  
12 out that the Town did not have the zoning to make sure the development was created as a mixed  
13 use property. She added that an overlay may not be able to accomplish the mixed use  
14 development either. She explained that the type of zoning to create a mixed use development  
15 from scratch would be a Planned Unit Development ordinance or a Traditional Neighborhood  
16 District ordinance, which the Town did not have. Mark Suennen asked for confirmation that a  
17 different kind of zoning would be required. The Coordinator answered yes and went on to say  
18 that if the property was subdivided for residential use a certain percentage would be required to  
19 be commercial for the mixed use district.

20 Mark Suennen stated that he was concerned with the creation of a mixed use district in  
21 the village area due to lack of available parking. He pointed out that Mill Street did not provide  
22 adequate parking or space to increase parking and neither did the businesses along the section of  
23 Route 13 towards the New Boston Central School. He stated that the Board had to consider  
24 parking when considering the creation of a true mixed use overlay district. The Chairman  
25 commented that Mark Suennen had made a good point and agreed that parking was problematic.  
26 Mark Suennen stated that there were possible solutions to the parking problem and referenced  
27 the desire of the Fire Department to move to a larger location. He explained that the relocation  
28 of the Fire Department would create an area for a potential parking lot at the current Fire  
29 Department location. He added that the lot could be a municipally shared lot to support  
30 businesses in the Mill Street area. He pointed out that he was unsure of the Selectmen's plans  
31 for the property.

32 David Litwinovich asked Mark Suennen if he anticipated parking issues with  
33 professional business in residential areas; he added that he believed there would still be parking  
34 issues. Mark Suennen answered that he believed that there would be parking issues for  
35 professional businesses. He explained that accountants may only see one or two customers per  
36 month during the months of May through December, however, during the months of February  
37 through April there was most likely a steady stream of customers. Christine Quirk pointed out  
38 that flower shops or garden centers were most likely to be busy in the summer and not during the  
39 winter and some of the issues would work themselves out. Mark Suennen agreed that there  
40 would be some balance and stated that shared parking could be utilized in those instances, e.g.  
41 municipally owned parking lot or a parking lot owned in common. He reiterated that the issue of  
42 space for a parking lot remained. Christine Quirk did not believe that the Fire Department would  
43 be relocating in the near future.

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1 **MIXED USE DISTRICT DISCUSSION, cont.**

2  
3 The Chairman questioned if a mixed use overlay district would work if there was no  
4 space available for additional parking. Mark Suennen stated that the mixed use overlay district  
5 would work selectively and less so in the village area from a practicality and/or feasibility  
6 standpoint. The Chairman, therefore, questioned the practicality and feasibility of the creation of  
7 the mixed use district. Mark Suennen referred to the section of Route 13 south of the village  
8 where a mix of municipal and commercial businesses existed. He stated that that area would be  
9 a good place to add second floor residential and used the Antique Barn and New Boston Pizza as  
10 an example for such a use and noted that there was plenty of parking.

11 The Chairman asked for another example of a good area for the mixed use overlay  
12 district. Mark Suennen pointed to the area of Bedford Road/New Boston Road/Chestnut Hill  
13 Road and stated that although there were not many existing structures in the area the ones that  
14 did exist had the ability to have parking.

15 Mark Suennen stated that there might be pockets along Route 136 that would be worth  
16 looking at for the mixed use overlay district. Christine Quirk believed that all of Route 136  
17 could be zoned mixed use because parking was not an issue as all of the lots were bigger.

18 The Coordinator pointed out that David Craig's law office was zoned commercial and a  
19 secondary use for the property would ideally be residential for an apartment above the office.  
20 She noted that he would have to assess whether or not to have one or two parking spaces for the  
21 apartment. She referred to a home located on High Street and pointed out that a house existed on  
22 a commercially zoned lot and the homeowner had trouble selling the property. She suggested  
23 allowing a certain percentage of the property to be zoned residential for the mixed use overlay  
24 district. She stated that a site plan would specify required parking.

25 Mark Suennen stated that he had been looking at residential areas that could have  
26 commercial added to them, whereas, the Coordinator was pointing out commercial areas that  
27 could have residential added to them. He agreed that residential could be added to commercial  
28 areas and cited the New Boston Hardware Store as an example. The Coordinator added that  
29 having such an application brought to the Planning Board as part of a site plan review was a  
30 more appropriate venue than requiring a variance because the ZBA may not have looked at  
31 parking or all the other related issues that are considered by the Planning Board during site plan  
32 review.

33 The Coordinator stated that parking was definitely an issue for the mixed use district,  
34 however, the requirements would be part of the standards. She added that currently the standard  
35 for residential parking was two spaces per dwelling unit. She stated that if a potential apartment  
36 was only one bedroom perhaps the Board would only require one parking space. She added that  
37 a chiropractor's office that scheduled patients one after the other may benefit from shared  
38 residential/customer parking. Mark Suennen agreed and added that a computer servicing  
39 business may also benefit from shared residential/customer parking. Christine Quirk commented  
40 that there were existing lots in Town that could accommodate the examples listed by the  
41 Coordinator and Mark Suennen. Mark Suennen stated that he agreed with the Coordinator that  
42 the restrictions should be clearly defined.

43 The Coordinator advised that the idea of a mixed use district had been supported at the

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1 **MIXED USE DISTRICT DISCUSSION, cont.**

2  
3 time of the last update to the Master Plan for the village area but not throughout the Town. She  
4 thought, politically speaking, that it might be better to first establish something in the village area  
5 and have the option to expand to other areas of town if it was successful. The Chairman asked if  
6 the Board should focus on keeping the mixed use district in the village. Mark Suennen stated  
7 that he would be willing to start by keeping the focus in the village and/or the village adjacent  
8 with the idea that if the mixed use district took off and showed benefits to the Town it could be  
9 moved further out.

10 The Chairman asked what the Board believed the boundaries should be for the mixed use  
11 district area. Mark Suennen answered that the mixed use district should start on Route 13 South  
12 near Tingley's Flowers, up to the Route 77/Route 136 intersection at Dr. Brenner's office, up to  
13 the Cider Mill on Route 136. The Coordinator asked if the concrete barns on Route 77 would be  
14 included in the mixed use district. Mark Suennen answered yes. Christine Quirk added that  
15 including the concrete barns may make the area more viable in the future and help bring in more  
16 tax dollars. Mark Suennen noted that the entire village area would be included in the mixed use  
17 district, down Route 13 to Lisa Jeck's home and business, Aislynn, and up Meetinghouse Hill  
18 Road to the Bedford Road intersection. The Board decided not to extend the mixed use district  
19 up Old Coach or Clark Hill Roads at this time as there was limited parking. Mark Suennen  
20 suggested allowing Heidi Palmer's property to be either commercial or residential and not  
21 necessarily both at the same time. The Coordinator pointed out that by moving forward with  
22 Mark Suennen's suggestion they would be practicing market dependent zoning by allowing one  
23 use or the other. Mark Suennen agreed that true mixed use would allow a primary use and  
24 secondary use but he stated that there was nothing that would prohibit a single facility from  
25 having 100% of one use for a period of time based on market conditions. The Coordinator stated  
26 that she did not believe this was the direction the Board was headed and this would in fact be a  
27 form based code rather than a mixed use district. Mark Suennen agreed and stated that his  
28 suggestion would also create problems for the Building Inspector.

29 The Chairman asked if the Board was in agreement with the set of boundaries discussed.  
30 Christine Quirk stated that the proposed boundaries sounded good to her. David Litwinovich  
31 asked if the mixed use district would only exist on the right side of Route 136. The Planning  
32 Board Assistant clarified that the mixed use district would be for both sides of Route 136.

33 It was the consensus of the Board to not include Valley View Road in the mixed use  
34 district but they did include Depot Street.

35 The Chairman asked if the Coordinator could provide the Board with a sketch of the  
36 proposed mixed use district for the next meeting. Mark Suennen asked if Northpoint  
37 Engineering could provide an aerial graphic of the proposed mixed use district. The Coordinator  
38 answered that Northpoint Engineering and/or the Southern New Hampshire Planning  
39 Commission may be able to provide the Board with an aerial graphic.

40 The Chairman asked if the Board was moving forward with an overlay. Mark Suennen  
41 answered that they would be moving forward with an overlay with performance standards. He  
42 asked if there was any reason to use one of the other options listed in the Coordinator's memo.  
43 The Coordinator replied that the mixed use overlay district was a good option for what the Board

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1 **MIXED USE DISTRICT DISCUSSION, cont.**

2  
3 was trying to achieve. She noted that the district would provide for allowing residential uses in  
4 commercially zoned areas and vice versa with a description of the physical limits of the area in  
5 which that could take place. She further noted that this would not be rezoning the lots but  
6 declaring where the Town would be willing to allow the overlay to be used.

7 The Chairman asked for a rough list of allowed uses in the mixed use district. Mark  
8 Suennen stated that commercial uses would be allowed in a residential district. He indicated that  
9 agricultural uses would not be allowed in the mixed use district because they were already  
10 permitted by right in both the commercial and residential-agricultural districts. He further  
11 indicated that manufactured housing should not be permitted in the district. He stated that small  
12 professional offices would be allowed, i.e., realtors, doctors and chiropractors. Mark Suennen  
13 did not think that funeral parlors were a good fit for the mixed use district due to lack of parking  
14 in the village area currently being discussed. The Coordinator suggested a veterinarian office as  
15 a permitted business. Mark Suennen stated that he was not sure he wanted to allow a  
16 veterinarian office in the mixed use district. The Planning Board Assistant pointed out that one  
17 previously operated in what is now Little People's Depot. Mark Suennen commented that he  
18 would not fight against permitting a veterinarian office. He next noted that he did not think  
19 museum or gallery would be appropriate based on the size of the lots in question, and, again, the  
20 issue of parking. He stated that a bed and breakfast would probably not be an appropriate  
21 business based on the lack of available parking.

22 The Coordinator offered to compile a list of potential mixed use district uses for the next  
23 meeting that other towns already used. She noted that the question would be how to overlay uses  
24 for the mixed use district over the existing commercial district by disallowing some of the pure  
25 commercial uses when the mixed use would be happening instead.

26 The Chairman indicated that at the next meeting the Board would review potential uses.  
27 The Coordinator asked the Board to think about potential publicity and who the stakeholders for  
28 this project might be. Mark Suennen asked what kinds of stakeholders they should be thinking  
29 about and specifically asked if SNHPC and individuals in Town should be included. The  
30 Coordinator answered yes and added that property owners in the proposed mixed use district  
31 should be included as well as opening the discussion up to a wider audience to determine town-  
32 wide ideas. She continued that department managers, boards and commissions should be invited  
33 to participate.

34 The Chairman asked for further comments and/or questions; there were no further  
35 comments or questions.

36  
37 **Informational session with Michael R. Dahlberg, LLS, RPLS, Dahlberg Land Services,**  
38 **Inc., to discuss a commercial plan for Tax Map/Lot #3/52-25, Hemlock Drive and Route**  
39 **114.**

40  
41 Present in the audience was Mike Dahlberg, LLS.

42 The Chairman noted that the above-captioned matter was an informational session and as  
43 such it was only for preliminary conceptual consultation. He advised that during the session

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1 **INFORMATIONAL SESSION, TAX MAP/LOT #3/52-25, cont.**

2  
3 statements made by the applicant or the Board were non-binding.

4 Mike Dahlberg, LLS, informed the Board that the property in question was at the old  
5 gravel pit located on Hemlock Drive. He explained that Bob Jenkins had purchased the property  
6 from the applicant, lost the property, left it and the applicant took it back. He noted that the  
7 gravel pit was spent. He stated that Mr. Jenkins had at one time wanted to create a mixed use  
8 development with one portion of the property being a contractor's yard and building while the  
9 other portion would have facilitated storage buildings.

10 Mike Dahlberg, LLS, stated that the applicant wanted to use the commercial property as  
11 an equipment auction yard. He noted that the property was in close proximity to Route 114 and  
12 was located within the Commercial District. He explained that the applicant would hold one  
13 auction per month from March through December. He continued that twice a year substantial  
14 equipment auctions would be held where hundreds of pieces of equipment would be on site as  
15 well as 300 – 400 people in attendance. Mark Suennen asked if the auction items would include  
16 things such as commercial earth moving equipment and paving equipment. Mike Dahlberg,  
17 LLS, answered yes and explained that an auctioneer would be on a truck with a speaker system  
18 and he would be driven around a one-way traffic route. He noted that the auction company  
19 would manage the traffic, bring in portable restrooms, concessions and organize garbage pick-  
20 up. He informed the Board that all the heavy equipment was inspected before it would come off  
21 the trailer and if the equipment did not run or was leaking it would not be placed in the auction.

22 Mike Dahlberg, LLS, stated that he did not see the applicant's auction business located in  
23 Zoning Ordinance under permitted uses. He noted that if the use was not permitted or allowed  
24 by special exception the applicant would need to apply for a variance.

25 Mark Suennen asked if the equipment being auctioned was gas or diesel powered and if it  
26 was operated by someone in a driver's seat. Mike Dahlberg, LLS, answered yes. Mark Suennen  
27 gave consideration as to whether or not the business could be permitted as a vehicular sales  
28 business. Mike Dahlberg, LLS, commented that he was unsure if the applicant's business would  
29 rise to the level of vehicle sales.

30 The Chairman asked if there was an equivalent auction business nearby. Mike Dahlberg,  
31 LLS, answered that he was unaware of any similar businesses located nearby. Don Duhaime  
32 noted that there was a car auction business located in Manchester, NH, off Route 101. The  
33 Planning Board Assistant added that the State conducted auctions once a month and hired an  
34 auctioneering company in Concord, NH.

35 Mike Dahlberg, LLS, stated that eventually the applicant may use the property as a dual  
36 use with a building and contractor's yard at the front of the property. He stated that in the  
37 current economy people were just coming up with things to do and this is what the applicant had  
38 come up with.

39 Mike Dahlberg, LLS, stated that the site was already disturbed and would provide the  
40 area needed for equipment display and parking. He added that they were not looking to do a  
41 whole lot of dirt work. The Chairman asked if the infrastructure that appeared on the plan  
42 already existed at the property. Mike Dahlberg, LLS, answered that a circular roadway system  
43 existed and pointed to the location of a proposed driveway. He asked if the interior driveway

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1 **INFORMATIONAL SESSION, TAX MAP/LOT #3/52-25, cont.**

2  
3 had to conform to the 10% maximum driveway requirement even though it was a commercial  
4 use and would only be used seasonally. He pointed out that the grade was currently 12% or  
5 13%. He further asked if the applicant could receive temporary site plan approval in order to  
6 begin auctions this year. The Chairman answered that temporary site plan approval did not exist  
7 and that a site plan with appropriate waivers should be submitted for approval. He asked Mike  
8 Dahlberg, LLS, why there was a need for a temporary site plan. Mike Dahlberg, LLS, answered  
9 that the applicant just wanted to see if he could make a go of the business and was planning on  
10 having an auction in June of 2012. The Chairman asked if any improvements needed to be  
11 completed. Mike Dahlberg, LLS, pointed to the location of a clogged culvert and explained that  
12 riprap had been placed in the ditch to direct the flow along a berm. He continued that the ditch  
13 needed to be tuned up and a culvert needed to be installed to create an entrance.

14 The Chairman asked if the applicant needed a driveway permit for the new driveway and  
15 if there were additional requirements. The Coordinator answered that the applicant was required  
16 to apply for a driveway permit and the two driveways needed to be at least 200' apart. Mike  
17 Dahlberg, LLS, stated that the driveways were 200' apart. The Coordinator pointed out that the  
18 10% grade requirement was located with the Driveway Regulations and could, therefore, be  
19 waived by the Planning Board.

20 The Chairman asked for confirmation that there would be no houses or any structures at  
21 this time. Mike Dahlberg, LLS, confirmed that there would not be any structures on the property  
22 which would be used mainly for parking. The Chairman noted that the auctions would be  
23 seasonal so there would be no need to worry about access in bad weather. Mike Dahlberg, LLS,  
24 added that it would be too much of a hassle to conduct auctions during the winter months.

25 The Chairman commented that it did not seem like a big deal to him. Christine Quirk  
26 also commented that it did not seem like a big deal to her.

27 Mike Dahlberg, LLS, asked if Goffstown should be notified regarding regional traffic  
28 impact.

29 Mark Suennen asked if the auctions would be held on weekends or weekdays. Mike  
30 Dahlberg, LLS, answered that the big auctions usually took place during the week. Mark  
31 Suennen stated that based on the size of the vehicles that would be entering the property he did  
32 not believe that the traffic impact study would be waived.

33 The Chairman asked for Mark Suennen's opinion on waiving the 10% grade requirement  
34 for the driveway. Mark Suennen believed that because the driveway was internal it was an issue  
35 for the Fire Department.

36 Mark Dahlberg, LLS, asked if the traffic impact study would address issues of vehicle  
37 movement, i.e., safely negotiating entering and exiting Route 114. Mark Suennen answered that  
38 the study would define how much traffic was coming in, how many deliveries, how many  
39 vehicles needed parking and when the traffic would occur. He noted that he was not looking for  
40 a forty page study but rather a report that listed expected conditions. Mike Dahlberg, LLS,  
41 believed that one piece of equipment per truck would be expected. Mark Suennen stated that the  
42 biggest trucks most of the businesses that operated along Route 114 would run were box trucks  
43 and the occasional flatbed. He pointed out that the applicant was proposing running dozens of

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1 **INFORMATIONAL SESSION, TAX MAP/LOT #3/52-25, cont.**

2  
3 flatbeds.

4 The Chairman asked what business was located across the street from the above-  
5 captioned property at Tax Map/Lot #3/52-26. The Coordinator answered that a landscaping  
6 business was located at Tax Map/Lot #3/52-26. Mark Dahlberg, LLS, stated that a multi-tenant  
7 business was located at Tax Map/Lot #3/52-26.

8 Christine Quirk commented that there would be plenty of local people that would be  
9 interested in attending the auctions.

10 Mark Suennen did not believe that the State would be interested in the traffic from this  
11 proposed business. Don Duhaime pointed out that there would be 300 to 400 cars in one day's  
12 time driving to the property. The Chairman added that there would also be a significant number  
13 of trucks. Christine Quirk stated that the trucks would arrive at different times and would most  
14 likely arrive the day before the auction. Mike Dahlberg, LLS, stated that the applicant would  
15 have to stage the pick-up of the equipment after the auction.

16 Christine Quirk asked if the applicant intended to have one to two dozen pieces of  
17 equipment at the smaller auctions. Mike Dahlberg, LLS, answered yes. Christine Quirk asked if  
18 the larger auctions would only take place twice per year. Mike Dahlberg, LLS, answered yes.  
19 The Chairman and Christine Quirk commented that the larger auctions two times a year did not  
20 seem like a big deal. Mark Suennen stated that he was not worried about the larger auctions but  
21 was concerned with the smaller auctions and the fact that large vehicles would be pushed up and  
22 down Hemlock Drive. He went on to say that he believed heavy movement would occur by  
23 vehicles turning left onto Hemlock Drive and turning right onto Route 114. He questioned if the  
24 road throat located at the intersection of Hemlock Drive and Route 114 was suitable for large  
25 vehicle radius turns out on a regular basis. He further questioned if the Road Agent would be  
26 interested in reviewing this matter. The Coordinator also believed that traffic would come from  
27 the Weare direction and points north. Mark Suennen stated that the traffic impact study would  
28 tell where the traffic would be coming from and where it would go. Mike Dahlberg, LLS, added  
29 that the direction of the traffic to and from the property would also depend on where the  
30 applicant concentrated the publicity flyers. Mark Suennen stated that he would be looking to the  
31 applicant to tell the Board where the trucks were coming from and where they would be  
32 traveling.

33 The Coordinator pointed to the location of a culvert on the plan and asked why it was  
34 located in the area shown. Mike Dahlberg, LLS, answered that a driveway existed in the area in  
35 question which was a little hard to decipher due to the color and line weight on the plans.

36 The Coordinator asked Mark Suennen to review the definition of vehicle sales in the  
37 Zoning Ordinance to ensure that he was interpreting it correctly. Mark Suennen read the  
38 definition and noted that it defined "an enclosed establishment for the display and sale...". He  
39 noted that the permitted use of vehicles sales did not appear to apply to the applicant's proposed  
40 auction business. The Coordinator pointed out the Small Scale Planned Commercial Committee  
41 had reworked all of the definitions and it had been fairly important to have the enclosed portion  
42 of the definition; she did not believe that the auction business fit the use for vehicle sales. She  
43 noted that the best way to deal with a proposed business that did not fit into the permitted uses



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1 **INFORMATIONAL SESSION, TAX MAP/LOT #3/52-25, cont.**

2  
3 was not to shoehorn it in but instead ask for the relief provided by the variance process.  
4 Christine Quirk stated that she considered the use as more of a contractor's yard. Mark Suennen  
5 read the contractor's yard definition and noted that it did not include vehicular sales from the  
6 yard.

7 Mark Suennen stated that Riverdale Road was a residential accessing road and the Board  
8 had listened to abutters that had opposed a contractor's yard off Whipplewill Road. Mike  
9 Dahlberg, LLS, pointed out that there was no access from the property onto Riverdale Road as  
10 there was a brook that ran almost the entire length of the property. He noted that the current  
11 buffer would remain and be maintained. He further noted that the applicant was not looking to  
12 expand the property or remove gravel. Mark Suennen commented that it should be a simple site  
13 plan. Mike Dahlberg, LLS, agreed and added that he also agreed with the need for a traffic  
14 impact study.

15 David Litwinovich asked for confirmation that Mark Suennen did not think the State  
16 would be interested in the traffic flow from this proposed business accessing a State road. Mark  
17 Suennen clarified that the traffic was going to be concentrated at an existing intersection rather  
18 than creating a new driveway. David Litwinovich believed that the road would see the same  
19 amount of abuse either way. Mark Suennen stated that knowing what the State got involved in  
20 and what they did not get involved in, he believed the State would not be involved in this  
21 application. Mike Dahlberg, LLS, indicated that he was familiar with a few people from District  
22 5 and he would run this matter by them.

23 It was the consensus of the Board that the applicant would need to move forward with the  
24 variance process for the proposed use.

25 Mark Suennen asked if the applicant would need to obtain an additional site plan for the  
26 building that he may build in the future. Mike Dahlberg, LLS, answered yes. He explained that  
27 the applicant wanted to build a 4,000 s.f. or 5,000 s.f building that would be similar to John  
28 Neville's building.

29 The Chairman asked for any further comments and/or questions; there were no questions  
30 or comments.

31  
32 **MISCELLANEOUS BUSINESS AND CORRESPONDENCE FOR THE MEETING OF**  
33 **APRIL 24, 2012.**

- 34  
35 1. Approval of the March 27, 2012, minutes, distributed by email.

36  
37 Mark Suennen stated that the word sign was misspelled.

38  
39 Mark Suennen **MOVED** to approve the minutes of March 27, 2012, as amended. Don  
40 Duhaime seconded the motion and it **PASSED** unanimously.

- 41  
42 2. Distribution of the April 10, 2012, minutes, for approval at the meeting of May 8, 2012.  
43 (distributed by email)

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1 **MISCELLANEOUS BUSINESS, cont.**

2  
3 The Chairman acknowledged receipt of the above-referenced matter; no discussion  
4 occurred.

- 5  
6 3. Endorsement of a Site Review Agreement by the Planning Board Chairman for Peter M.  
7 & Susan L. Shellenberger, Tax Map/Lot #6/40-1-1, Byam Road.

8  
9 The Chairman indicated that he would execute the above-referenced document at the  
10 close of the meeting.

- 11  
12 4. Copy of a Supreme Court Case, Carroll County, Case No. 2010-688, Thomas Ettinger &  
13 a. v. Town of Madison Planning Board, Argued: October 13, 2011, Opinion Issued:  
14 December 8, 2011, re: violation of Right-to-Know-Law, for the Board's information.

15  
16 It was the Chairman's understanding that the Board was allowed to go into non-public  
17 session to read attorney's letters, however, the Board was not permitted to discuss the contents of  
18 same unless the attorney was present or on the phone. The Coordinator noted that there was a  
19 list contained within RSA 91-A of things that were valid reasons for the Board to enter into a  
20 non-public session, and reading an attorney's letter was not on the list. The Chairman stated that  
21 it was the discussion aspect of it that was not allowed. He questioned how the Board could  
22 discuss a privileged letter from an attorney in an open session before they could decide that it  
23 was unprivileged. The Coordinator answered that the Board needed to invite the attorney to  
24 come before the Board to discuss what was written. Mark Suennen added that the matter could  
25 be discussed over the phone with the attorney as well.

26 Mark Suennen asked if Town Counsel was willing to do that sort of thing. The  
27 Coordinator answered yes and noted that if the Board was involved in a litigation situation they  
28 would be in non-public session.

- 29  
30 5. Memorandum received April 19, 2012, from Ed Hunter, New Boston Code Enforcement  
31 Officer, to New Boston Planning Board, re: Elliott, 65 Pine Echo Road, Tax Map/Lot  
32 #5/5-2, for the Board's information.

33  
34 The Coordinator explained that Ed Hunter, Code Enforcement Officer, had visited the  
35 above-referenced property to view the potential for an apartment in the garage. She continued  
36 that Ed Hunter, Code Enforcement Officer, had viewed the property and believed that a business  
37 was currently operating from the property and mentioned it to the property owners. She went on  
38 to say that the property owners had explained that they had received letters from the Planning  
39 Board from 2006 that indicated that they were all set. She advised that since the Board had  
40 viewed the property and agreed that it was a mess, Ed Hunter, Code Enforcement Officer, had  
41 revisited the property and determined that it had been tidied up.

42 The Coordinator stated that the property owners were considering submitting an  
43 application for a site plan but believed that they were now within the perimeters of what was

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1 **MISCELLANEOUS BUSINESS, cont.**

2  
3 okay in 2006.

4 Mark Suennen stated that if the Code Enforcement Officer did not have an issue with the  
5 property and there were no complaints on record then it was a non-issue for the Board. Don  
6 Duhaime asked if the Board was just supposed to forget about it. Mark Suennen answered yes  
7 and reiterated that the Board should not be involved until the Code Enforcement Officer said  
8 there was a problem or the Board received a complaint. He continued that he did not believe it  
9 was the Board's responsibility to tell people that they had ugly sites. Don Duhaime clarified that  
10 the property owner had a commercial business in a residential area. Mark Suennen stated that  
11 the Code Enforcement Officer did not believe that a commercial site existed. Don Duhaime  
12 disagreed with Mark Suennen and believed that within six months the property would look like a  
13 dump again. The Planning Board Assistant stated that she was not sure that the property had  
14 been cleaned up and noted that the Code Enforcement Officer had addressed a huge pile of wood  
15 to the property owners. She continued that the property owners had indicated that the wood was  
16 for their personal use. She pointed out that there were no regulations that limited the amount of  
17 firewood for personal use. She went on to say that when the Code Enforcement Officer  
18 questioned the property owner about car parts all over the front yard the property owner had  
19 explained that his three sons ripped their vehicles apart to work on them.

20 The Planning Board Assistant explained that the property owner did not deny that he  
21 operated an excavating business and would occasionally have their equipment at their home.  
22 She stated that the Code Enforcement Officer had been satisfied with the property owner's  
23 responses to his questions.

24 The Chairman asked if it was permitted to store excess material outside for a home shop.  
25 The Coordinator answered no but if the inventory was not declared to be inventory for the  
26 business then it was up to someone to determine. The Planning Board Assistant pointed out that  
27 the property owners did not have a home shop. The Chairman asked for the type of plan  
28 property owners had. The Coordinator indicated that the property owners did not have any type  
29 of plan. Mark Suennen added that the property owners had a single family home with a barn  
30 with lots of stuff on the outside. Christine Quirk commented that a lot of people have a lot stuff  
31 on their property. Mark Suennen stated that it was not unusual in that sense, however, the Board  
32 was aware that the owners operated a professional business from some place and sometimes that  
33 some place overlapped with his home. He noted that the property owners had satisfied the Code  
34 Enforcement Officer that they were meeting the criteria set forth. He continued that anyone  
35 could disagree and at that point the Board had the responsibility to respond. He added that even  
36 Board members could disagree. Christine Quirk stated that she had driven by the property a few  
37 weeks following the original discussion and she did not see a lot. Mark Suennen advised that he  
38 had driven by the property last Saturday and had seen a dump truck parked in front of the barn  
39 with the hood up and the property owner performing maintenance to it. He believed that if this  
40 was something the property owner did on a regular basis the neighbors would advise the Board.

41 The Chairman asked for Don Duhaime's opinion. Don Duhaime stated that if he were a  
42 neighbor he would probably be complaining. He continued that he was not a neighbor and he  
43 would leave it up to the Code Enforcement Officer at this point. Mark Suennen stated that as a

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1 **MISCELLANEOUS BUSINESS, cont.**

2  
3 member of the Board Don Duhaime could request that the Code Enforcement Officer keep an  
4 eye on the site and if it started to differ from what was represented he could inform them.

- 5  
6 7. Construction Services Report dated April 4, 2012, from Northpoint Engineering, LLC,  
7 for S&R Holding Company, LLC, Forest View II, for the Board's information.

8  
9 The Chairman acknowledged receipt of the above-referenced matter; no discussion  
10 occurred.

- 11  
12 8. Statewide Water Conversation

13  
14 The Coordinator advised that a statewide conversation was going to take place on May 8,  
15 2012, from 6:00 p.m. – 9:00 p.m. at Manchester Waterworks to discuss sustainability and water  
16 resources within the state.

- 17  
18 6. Letter dated April 17, 2012, from Dwight D. Sowerby, Drescher & Dokmo, P.A., to Nic  
19 Strong, Planning Coordinator, re: Proposed Zoning Ordinance Changes Sec. 204.6  
20 Conditional Use Permit, for the Board's review and discussion.

21  
22 The Coordinator advised that the way in which the above-referenced changes were  
23 proposed would not work. The Chairman asked if the way the Board was currently handling the  
24 CUPs was an issue. The Coordinator answered yes and explained that someone could come in  
25 and say that a plan was not required in the Zoning Ordinance and, therefore, one would not be  
26 provided. The Chairman asked if anyone had ever refused to provide a plan. The Coordinator  
27 answered no.

28 Christine Quirk asked if this matter had anything to do with the Zoning Board of  
29 Adjustment. The Coordinator answered no and noted that this matter was relative to CUPs for  
30 wetlands crossings. She continued that currently the zoning ordinance had a very short section  
31 that said a CUP was required for driveways, roadways and access ways in the district. She went  
32 on to say that it required a bond and the Planning Board could ask for an environmental report  
33 upon the advice of the Conservation Commission. She explained that the way the Planning  
34 Board had moved forward with the CUP process, i.e., hearings, checklist, site walks, fees, etc.,  
35 had never been written down. She further explained that the Board had attempted to make a  
36 procedure, however, Town Counsel had pointed out that a lot of the items were too substantive to  
37 be called a "procedure".

38 The Coordinator advised that the choices the Board had were to put everything they had  
39 done into the Zoning Ordinance or try to put it into Subdivision and Site Plan Regulations. She  
40 noted that by placing it in zoning a variance would be required if anyone did not want to supply a  
41 listed item and only new development would be affected by placing it in the Subdivision and Site  
42 Plan Regulations.

43 The Chairman noted that the difference between the procedures that had been proposed

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1 **MISCELLANEOUS BUSINESS, cont.**

2  
3 and deemed unsuitable by Counsel and the regulations was that the regulations more closely  
4 mirrored the Zoning Ordinance. The Coordinator answered yes because the regulations listed the  
5 things required to be submitted to the Board in order to get to a plan that conformed to the  
6 Zoning Ordinance. She noted that a procedure was how the Board handled a matter and a  
7 regulation was a requirement that the applicant must complete. The Chairman suggested turning  
8 the document from "Conditional Use Permit Procedures" to "Conditional Use Permit  
9 Regulations". The Coordinator stated that there was no enabling legislation allowing the  
10 Planning Board to adopt Conditional Use Permit Regulations as there was for Subdivision and  
11 Site Plan Review Regulations.

12 Mark Suennen suggested that Town Counsel come before the Board to have a discussion.

13 The Chairman asked how other towns handled this matter. The Coordinator answered  
14 that quite a few towns addressed this matter through their zoning ordinance and quite a few  
15 towns were in the same position as New Boston with a very brief zoning ordinance section and  
16 the details for submission items, plan requirements and so on, included with the application  
17 form.

18 The Chairman suggested that instead of having Town Counsel come to the next meeting  
19 he wanted one more meeting to discuss how other towns had placed this matter in their zoning.  
20 Mark Suennen agreed and believed it was reasonable to know what questions to ask of Town  
21 Counsel prior to him attending a meeting.

22 Mark Suennen asked if it would be less expensive to speak to Town Counsel over the  
23 phone rather than having him be present at a meeting. The Coordinator believed the cost would  
24 be the same regardless of whether or not Town Counsel was on the phone or present at the  
25 meeting. Christine Quirk pointed out that Town Counsel would not have travel time if the  
26 discussion occurred over the phone.

27  
28 9. 1 Old Coach Road Driveway

29  
30 Christine Quirk advised that the Board of Selectmen had discussed the issue of ice build-  
31 up with the driveway located at 1 Old Coach Road. She stated that they would like to have the  
32 Road Agent and Planning Coordinator have a discussion with the owners and let them know that  
33 they were responsible for fixing the problem before next winter.

34  
35  
36 Mark Suennen **MOVED** to adjourn at 8:31 p.m. Don Duhaime seconded the motion and  
37 it **PASSED** unanimously.

38  
39  
40 Respectfully Submitted,  
41 Valerie Diaz, Recording Clerk

Minutes Approved:  
05/22/12