

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

January 10, 2012

1

1 The meeting was called to order at 6:30 p.m. by Vice Chairman Peter Hogan in Chairman
2 Stu Lewin's absence. Present were regular member Don Duhaime and alternate David
3 Litwinovich. 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 were Ed Hunter, Building
7 Inspector/Code Enforcement Officer, Robert Waller, Carol Hayse, Vinnie Iacozzi and Michael
8 Thibeault.

9
10 Peter Hogan seated David Litwinovich as a full voting member in Mark Suennen's
11 absence.

12
13 **MISCELLANEOUS BUSINESS AND CORRESPONDENCE FOR THE MEETING OF**
14 **JANUARY 10, 2012.**

15
16 1. Approval of November 22, 2011, minutes, distributed by email.

17
18 Don Duhaime **MOVED** to approve the minutes of November 22, 2011, as written.
19 David Litwinovich seconded the motion and it **PASSED** unanimously.

20
21 2. Email received January 5, 2012, from Stuart Lewin, Planning Board

22
23 Peter Hogan explained that the above-referenced email contained a request from the
24 Chairman to postpone the scheduled Planning Board Goals discussion. He noted that both the
25 Chairman and Mark Suennen would be absent for the discussion.

26
27 3. Endorsement of an Earth Removal Plan for James F. Mills Revocable Trust, Tax
28 Map/Lot #1/2-8, Bunker Hill Road, by the Planning Board Chairman and Secretary.

29
30 Peter Hogan and Don Duhaime endorsed the above-referenced plan.

31
32 4. Copy of the Report of the Southern New Hampshire Planning Commission received via
33 email January 3, 2012, for the Board's information.

34
35 Peter Hogan acknowledged receipt of the above-referenced matter; no discussion
36 occurred.

37
38 5. Letter with attachments received January 5, 2012, from Brian K. Rose, AICP, Planning &
39 Zoning Administrator, Town of Goffstown, to David Preece, Executive Director,
40 Southern NH Planning Commission, and Shannon Silver, Planning Assistant, Town of
41 New Boston, re: Development of Regional Impact, for the Board's review and
42 discussion.

43

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1 **MISCELLANEOUS BUSINESS, cont.**

2
3 The Coordinator advised that the above-referenced matter was relative to a proposed
4 subdivision of condominiums in Goffstown. She noted that the Board had requested that they be
5 kept up to date on the project due to the potential impacts to traffic on River Road. She
6 explained that the applicant had requested a time extension of their special exception and a
7 hearing had been scheduled for February 7, 2012.

8
9 6. Site Walk notes received via email January 9, 2012, from David Litwinovich, to Shannon
10 Silver, re: Saturday, January 7, 2012, Site Walks, for the Board's information.

11
12 The Coordinator asked if compliance hearings could be scheduled. The Board agreed
13 that compliance hearings for all the applicants in question could be scheduled.

14
15 7. Meeting minutes of December 20, 2011, distributed by email for approval at the next
16 meeting.

17
18 Peter Hogan acknowledged receipt of the above-referenced matter; no discussion
19 occurred.

20
21 The Board took a forty-minute recess prior to the next hearing.

22
23 **HERGET, RICHARD & HAYSE CAROL**

24 Submission of an Application for Exemption for Excavations o Greater than 5,000 cubic yards
25 but less than 10,000 cubic yards/Public Hearing

26 Location: 79 Summit Drive

27 Tax Map/Lot #14/128

28 Residential-Agricultural "R-A" District

29
30 Present in the audience were Ed Hunter, Building Inspector/Code Enforcement Officer,
31 Robert Waller and Carol Hayse.

32 Peter Hogan read the public hearing notice. He asked the Coordinator if this matter was
33 similar to the gravel pit permit process. The Coordinator pointed out that the applicants were
34 requesting that the Board not require them to obtain a permit under one of the exemption
35 processes contained in the Earth Removal Regulations. Peter Hogan asked if the applicants were
36 aware of how easy it was to obtain a permit. The Coordinator answered that the Planning Office
37 had explained all of the different options to the applicants and they had chosen to move forward
38 with the exemption.

39 Peter Hogan stated that he did not have a problem with an exemption. David Litwinovich
40 and Don Duhaime also commented that they did not have a problem with the exemption.

41 Carol Hayse arrived and asked if there were any questions she could answer. Peter
42 Hogan indicated that he did not have any questions and asked for comments and/or questions
43 from abutters; there were no abutters present.

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1 **HERGET/HAYSE, cont.**

2
3 David Litwinovich asked for an average number of customers per week. Carol Hayse
4 answered that an average number of customers per week would be zero. She explained that she
5 had a total of four customers the previous year.

6 Peter Hogan asked Ed Hunter, Building Inspector/Code Enforcement Officer, if the
7 exemption would affect him. Ed Hunter, Building Inspector/Code Enforcement Officer,
8 explained that his annual visits to the site would no longer be required.

9 The Coordinator reinforced that the special exception and site plan review remained
10 in full force and effect. Carol Hayse stated that she understood that the special exception and site
11 plan review remained in full force and effect.

12
13 David Litwinovich **MOVED** to approve the Exemption for Excavations of greater than
14 5,000 cubic yards but less than 10,000 cubic yards, for Carol Hayse and Richard Herget,
15 on property on Tax Map/Lot #14/128, Summit Drive, subject to all prior conditions of the
16 Special Exception and Non-Residential Site Plan Review process remaining in full force
17 and effect, and the \$1,000 security remaining in place for reclamation. Don Duhaimé
18 seconded the motion and it **PASSED** unanimously.

19
20 Carol Hayse asked if the approved exemption required her to do anything different. The
21 Coordinator answered that the applicant would continue to fill our required forms out for the
22 State. She noted that if the applicant wanted to change anything in the site plan she would need
23 to come back to the Board for approval.

24
25 **LINDQUIST, AL (Owner)**

26 **WALLER, ROBERT (Applicant)**

27 Submission of Application/Public Hearing Non-Residential Site Plan Review/Auto Restoration
28 Home Business

29 Location: 236 Meadow Road

30 Tax Map/Lot #14/80

31 Residential-Agricultural "R-A" District

32
33 Present in the audience were Ed Hunter, Building Inspector/Code Enforcement Officer,
34 Robert Waller, Vinnie Iacozzi and Michael Thibeault.

35 Peter Hogan read the public hearing notice. He asked the Coordinator if four copies of
36 the floor plans had been submitted. The Coordinator answered no. Peter Hogan advised the
37 applicant that he needed to submit three copies of the floor plans for new and existing buildings
38 in which the business activity would take place in order for his application to be approved as
39 complete. Robert Waller indicated that the aforementioned plans were located in the Building
40 Department and had been there since 2002. Peter Hogan stated that the applicant could provide
41 the plans as a condition of approval.

42 Peter Hogan asked if the auto restoration business was operated in a building that was not
43 connected to the applicant's home. Robert Waller answered yes. Peter Hogan asked how the

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1 **LINDQUIST/WALLER, cont.**

2
3 applicant came to the conclusion that he met the requirements for an auto restoration home
4 business. Robert Waller answered that he had been operating his business since 1984. He stated
5 that after Dennis Sarette was Building Inspector it had been determined that he had not had a site
6 plan review. He went on to say that a document was sent out in 1990 that grandfathered people
7 who had existing businesses at that time. He stated that he did not know anything about the 1990
8 document being sent to him. He explained that he asked for copy of the list of people who had
9 been sent the form in 1990 and believed that if he was recognized in 1990 as having a business
10 he should have been grandfathered at that point. Peter Hogan stated that he was not too worried
11 about that vein of discussion and asked if the applicant's auto restoration business was
12 characteristic of what the Building Inspector would call a home business. Ed Hunter, Building
13 Inspector/Code Enforcement Officer, answered that the Planning Board would need to determine
14 if the applicant should be applying as a home business. He pointed out that a home business
15 could be operated out of an accessory building on a residential site. He stated that it was the
16 scope of the business and whether it met the criteria in the regulations. Peter Hogan stated that
17 some people could challenge if the auto restoration qualified as home business and argue that a
18 home business would be something more like an attorney's office, for example. He asked if Ed
19 Hunter, Building Inspector/Code Enforcement Officer, had any input on this matter. Ed Hunter,
20 Building Inspector/Code Enforcement Officer, answered no.

21 Peter Hogan stated that the Town of New Boston recognized an auto restoration business
22 as a home business, however, he added that if the applicant was ever challenged on this matter he
23 could be in trouble. Robert Waller asked why and stated that he moved his business from
24 Amherst to his home in 1987 and had always maintained an office there. He noted that the Town
25 of New Boston taxed him as a "shop" on 2,182 s.f. He advised that he was the only employee of
26 the shop and intended on operating it into his retirement. Peter Hogan stated that another auto
27 restoration shop existed in Town in a Residential-Agricultural District that had been approved a
28 few years ago.

29 Peter Hogan stated that it was the consensus of the Board that the proposed home
30 business was considered a home business under the Town's definition. He noted that any
31 objections to the approval needed to be made within thirty days of the approval.

32 Robert Waller stated that the Town should delineate between an auto restoration business
33 and an auto-body repair business as there were differences. Peter Hogan stated that as a home
34 business he did not believe there were any differences between the two businesses. He asked the
35 applicant to describe the differences. Robert Waller indicated that there would be differences
36 with regard to traffic, amount of materials used and number of deliveries to the business. He
37 also noted that he would work on one or two cars per year, whereas an auto-body repair business
38 may work on one to two cars a week. Peter Hogan pointed out that as a home business exterior
39 storage was prohibited and crash vehicles could not be dropped in front of the business and
40 remain there for an extended period of time in either case. He stated that the idea of a home
41 business was not to make a yard look like a business. He continued that everything that was
42 done within the scope of the business was done inside the shop or in the applicant's case within
43 six trailers. Robert Waller clarified that he utilized six storage containers. He explained that he

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1 **LINDQUIST/WALLER, cont.**

2
3 used the containers to conceal the cars that he was restoring for customers.

4 Peter Hogan stated that a home business was not supposed to substantially change the
5 character of the neighborhood. He asked for Ed Hunter, Building Inspector/Code Enforcement
6 Officer's, opinion on the six trailers. Ed Hunter, Building Inspector/Code Enforcement, stated
7 that he was treating the containers as structures. He indicated that he and the applicant had
8 discussed whether or not the containers were temporary. He advised that the Building Code
9 allowed permits for temporary structures for 180 days. He added that the containers had been at
10 the residence since 2010 and he was unsure how to create more of a permanent situation without
11 adding another structure to take their place. He noted that the containers were located within a
12 property line setback which needed to be further addressed. Robert Waller stated that it was his
13 understanding that any permitting of the containers would begin following approval of the site
14 plan. Ed Hunter, Building Inspector/Code Enforcement Officer, confirmed Robert Waller's
15 statement.

16 Robert Waller stated that he had no intentions of permanently keeping the containers.
17 The Coordinator asked how the applicant would store customer cars if he no longer used the
18 containers. Robert Waller stated that going forward with his business he would no longer be
19 taking cars to store. He indicated that he had plans to start reducing the number of trailers. He
20 explained that once he finished a car within a month and a half he would get rid of a trailer, i.e.,
21 going from six to five, five to four, etc. He commented that he wanted his lawn back and did not
22 like having to deal with the containers. Don Duhaime asked if the containers could be relocated
23 to the back of the shop. Robert Waller answered that the slope of the property would not permit
24 the containers to be relocated behind the shop. He stated that he could move them to the top of
25 the property, however, it was not very convenient. He continued that the current location was
26 most convenient for him to get the cars in and out as he worked alone. He stated that if "push
27 came to shove" he could move them to the upper section of the property, noting, that the location
28 may be objectionable to his neighbor across the street.

29 Peter Hogan commented that the trailers were the only things that caught his eye and
30 were debatable. He read the following from the Town of New Boston Zoning Ordinance,
31 Section 319.3, Home Business and Expanded Home Business, "Exterior storage of materials or
32 variation from the residential character of the principal or accessory structure shall not be
33 permitted." Robert Waller stated that the items in question were ground level storage containers
34 and not trailers. He pointed out that the containers did not have wheels. Peter Hogan asked if
35 the applicant was willing to reduce the trailers by half. Robert Waller answered that he was
36 willing to reduce the trailers in order to get rid of the \$500 per month rental expense. He
37 explained that approximately every 60 to 90 days one container would be removed until he was
38 able to get down to three containers or possibly less.

39 Peter Hogan asked the applicant to address the tents on the property. Robert Waller
40 stated that the tents were temporary and not staked in. He informed that the Board that he would
41 like to "clean all that up" and come back and propose a finished addition.

42 Peter Hogan asked how the applicant had determined the operating building to be 2,182
43 s.f. Robert Waller answered that he had matched the Town's assessments. He stated that there

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1 **LINDQUIST/WALLER, cont.**

2
3 were two sections of the building, the first section had a flat roof and measured 30 x 36. He
4 continued that the second section was located in the back and measured 22 x 22 with a 28 x 38
5 section connected to it. He said there was also an additional 660 s.f. which was assessed
6 differently than the shop.

7 Peter Hogan asked if the proposed hours of operation were Monday through Friday 8am
8 – 7pm and Saturday by appointment only 9am – 4pm. Robert Waller answered yes and added
9 that he usually closed the gate around 5:30pm but would meet later by appointment.

10 Peter Hogan asked the applicant to address his parking delineation. Robert Waller
11 pointed to his plan and stated that the parking was located between the flat roof section of the
12 barn and the house. He stated that he could comfortably park four vehicles in the parking area.
13 He added that he typically did not have more than one customer at a time visiting the shop.

14 Peter Hogan asked for confirmation that the applicant did not conduct any vehicle sales
15 off the property. Robert Waller answered no and stated that he only restored vehicles.

16 Peter Hogan asked for comments and/or questions from the Board. David Litwinovich
17 asked if the storage containers violated the Building Code as they were not permitted. Ed
18 Hunter, Building Inspector/Code Enforcement Officer, answered yes. David Litwinovich asked
19 if the location of the containers within the setback also violated the Building Code. Ed Hunter,
20 Building Inspector/Code Enforcement Officer, answered that it was his suspicion that the setback
21 was violated and pointed to the drawing that showed the location of the containers closer than
22 20ft to the property line. David Litwinovich questioned approval site plan by the Board with the
23 existence of the Building Code violations. Peter Hogan stated that the Board was not waiving
24 any building codes. Peter Hogan pointed out that if the applicant received approval to operate a
25 home business he would be required to follow all building codes, i.e., permits for containers and
26 correct location. He also pointed out that the Selectmen considered the storage containers as
27 buildings. Robert Waller commented that the Town's definition of a temporary structure was
28 very vague. Peter Hogan pointed out that the definition as written was good for the applicant as
29 it defined large metal storage containers as buildings and removed issues regarding exterior
30 storage. David Litwinovich asked if showing the correct location of the storage containers
31 would be listed as a condition subsequent. Peter Hogan answered no and stated that it would be
32 a change to the plan.

33 Don Duhaime asked if painting of vehicles took place on site. Robert Waller answered
34 that he did some painting on site but rented booths off site to do a full paint job. Don Duhaime
35 asked if paints were stored on site. Robert Waller answered yes and noted that he filtered all the
36 products. He continued that he was changing over to waterborne paints. Don Duhaime stated
37 that he was concerned about environmental impacts due to the use of paints. Robert Waller
38 advised that waste was maintained in five gallon containers until he paid to properly dispose of it
39 during the Town's hazardous waste collection day. Don Duhaime asked if drains existed in the
40 shop. Robert Waller answered that he did have a floor drain in the shop but did not use it. Peter
41 Hogan asked where the floor drain exited. Robert Waller stated that the floor drain exited out the
42 side of the building and dropped down into a large, self-contained, concrete tank. He added that
43 he has never had to have the tank drained as he did not use it. Peter Hogan asked if the applicant

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1 **LINDQUIST/WALLER, cont.**

2
3 would be agreeable to plug the drain. Robert Waller answered that the drain had already been
4 plugged. Peter Hogan asked for a note to be added to the plan that indicated that the drain would
5 be plugged to guard against accidental spills. Robert Waller was agreeable to maintaining the
6 non-functional use of the drain.

7 Peter Hogan asked the applicant to identify the exterior lighting. Robert Waller indicated
8 that the exterior lighting existed at the side of the house, spots on the front and rear corners and a
9 wall light between the garage doors. Peter Hogan asked if the applicant could point out the
10 lighting during the site walk. Robert Waller answered yes.

11 Peter Hogan asked the applicant to enlarge his site plan drawing and place the storage
12 containers in the correct location. Robert Waller stated that the current location of the storage
13 allowed for more open green space and was much more attractive than sliding them in fifteen or
14 twenty feet. Peter Hogan asked for confirmation that three of the containers would be removed
15 within the year. Robert Waller confirmed Peter Hogan's question and added that he would be
16 removing one container every 60 to 90 days. Peter Hogan noted that he was not sure the
17 applicant would be granted the relief he was looking for from the ZBA. Robert Waller stated
18 that his other option would be to turn the containers 90 degrees and set them back from the road
19 fifteen feet. Peter Hogan advised that the only entity that could waive a Zoning Ordinance
20 requirement was the ZBA.

21 Robert Waller commented that it was hard for him to understand why he was required to
22 go through this process. He stated that he had been in operation since the late 80's. He
23 continued that Tax Collector Gendron knew exactly what he had been doing for twenty-five
24 years. Peter Hogan stated that this was a trailer issue and if the applicant planned on moving one
25 every three months it really should not be a big issue.

26 Robert Waller asked if all of the items met the requirements for a home business
27 application with exception of the containers. Peter Hogan answered that he did not feel the
28 proposed business was any different than the previously approved Restoration Station on
29 Chestnut Hill Road.

30 Peter Hogan asked the Board for comments and/or questions regarding traffic; there were
31 no comments or questions.

32 The Board scheduled a site walk for Sunday, January 15, 2012, at 8:00 a.m.

33 Peter Hogan asked if signage currently existed at the property. Robert Waller answered
34 that he had submitted an application for a small 16" x 19" sign to be posted on a tree located at
35 the entrance of driveway. He continued that the Building Inspector/Code Enforcement Officer
36 had denied his application at this time and asked that it be resubmitted following approval of the
37 site plan.

38 Peter Hogan asked if the property line was marked or if the Board could determine the
39 property line with respect to the trailers. Robert Waller answered yes and noted that the Town
40 had ripped out a corner marker during a drainage project.

41 Robert Waller stated that no one has been able to explain to him why he had to go
42 through this process twenty-five years after he started his business. Peter Hogan answered that
43 the Town had no evidence that the process had been gone through in the first place. Robert

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1 **LINDQUIST/WALLER, cont.**

2
3 Waller pointed out that this process was not required when he started his business. Peter Hogan
4 stated that it was his understanding that it had not been verified that a legal, conforming business
5 existed when the Zoning began. Robert Waller stated that this was America and that the people
6 making an allegation should have proof. Peter Hogan noted that the Town would have the proof
7 and they cannot find it. Robert Waller stated that the Town did not have the proof as he had
8 asked for a list and even went to the library. He continued that the Town did not mind grabbing
9 \$40,000 from him for the construction of the police station. Robert Waller advised that that his
10 attorney did not believe he should be asking for any approvals as he had been grandfathered for
11 twenty-five years. He went on to say that he was being taxed by the Town as a shop; he
12 provided a copy of a tax bill to the Board. The Coordinator explained that the use of the word
13 “shop” on the assessment card did not mean that the property was a business or was being taxed
14 as Commercial. She pointed out that Zoning and Assessing were completely different.
15

16 Don Duhaime **MOVED** to adjourn the Submission of Application Public Hearing for Al
17 Lindquist (Owner), Robert Waller (Applicant), NRSPR, Auto Restoration Home
18 Business, Location: 236 Meadow Road, Tax Map/Lot #14/80, Residential-Agricultural
19 “R-A”, to January 24, 2012, at 6:30 p.m. David Litwinovich seconded the motion and it
20 **PASSED** unanimously.
21

22 **THIBEAULT SAND AND GRAVEL, LLC**

23 Submission of an Earth Removal Application/Public Hearing

24 Location: Parker Road

25 Tax Map/Lot #6/14

26 Residential-Agricultural “R-A” District
27

28 Present in the audience were Vinnie Iacozzi and Michael Thibeault.

29 Peter Hogan read the public hearing notice. Vinnie Iacozzi provided the Coordinator
30 with a number of additional documents in response to the checklist.

31 Peter Hogan stated that the Board needed to address waivers for the Traffic and
32 Environmental Impact Studies. He read the following from the applicant’s letter, “Parker Road
33 pit is an operation that has been actively mined since 1974, although, technically it could be
34 grandfathered we were advised by NH DES because we are applying for the whole site we
35 should follow the permitting process. We have done the wetlands and wildlife evaluations and
36 other items necessary for the excavation permit and have been operating at the site without
37 incident since 2006 when we took title of the property. Studies place a severe economic burden
38 on the company in tough economic times and we are doing nothing to expand our operation
39 beyond its current scope.”

40 Peter Hogan asked if the Board had any issues with the requested waivers. Don Duhaime
41 asked if fuel was stored on the property. Vinnie Iacozzi answered no. Don Duhaime asked if
42 any other oils or chemicals were stored on site. Vinnie Iacozzi answered no and noted the
43 location of oils was in a trailer at the entrance of the Parker Road.

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1 **THIBEAULT SAND AND GRAVEL, LLC, cont.**

2
3 David Litwinovich asked if the 200 trips listed referred to 100 trips into the pit and 100
4 trips out of the lot. Vinnie Iacozzi answered yes. Michael Thibeault added that the current trips
5 in and out of the pit were 18. Don Duhaime stated that 200 trips may not be an issue for traffic
6 impact now but could be in the future. Vinnie Iacozzi advised that they would not be exceeding
7 anything they have done during the last six years. Don Duhaime understood that the trips have
8 decreased but argued that they could increase in the future. Vinnie Iacozzi stated that the years
9 2006 and 2007 were the best years for the pit and they never exceeded 200 trips. He continued
10 that issues had surfaced in the first two weeks that they owned the property as drivers from
11 Strong's pit were using the Thibeault pit as a cut through. He noted that this issue was resolved
12 and documented by the Town's police chief.

13
14 Don Duhaime **MOVED** to accept the application of Thibeault Sand and Gravel, LLC,
15 Location: Parker Road, Tax Map/Lot #6/14, Residential-Agricultural "R-A" District as
16 complete. David Litwinovich seconded the motion and it **PASSED** unanimously.

17
18 Vinnie Iacozzi stated that they had two issues with obtaining the AOT Permit. He
19 explained that the new 250' setback along the river created a problem and it needed to be
20 determined whether a strip of land along the river would go into a conservation easement, be
21 deeded to a third party, e.g., the Town, State or other conservation agency. He continued that
22 Mr. Thibeault had not decided whether or not he wanted to give up property rights and if he did
23 whether he would be able to use the acreage for future calculations with regard to density.

24 Vinnie Iacozzi stated that the second issue with the AOT Permit was relative to the
25 submission of additional paperwork. He explained that an AOT Permit application and \$22,000
26 fee had been submitted, however, additional paperwork was required and was submitted three
27 days after the deadline. He continued that DES was requiring that an additional \$22,000 be
28 submitted. He stated that he took exception to submitting an additional \$22,000 and as such was
29 in currently in negotiations with DES. He stated that the two issues should be resolved within
30 the next two weeks and the permit would be issued as all paperwork had been filed and accepted.

31 Peter Hogan stated that it was the consensus of the Board that a Groundwater CUP was
32 not necessary as the applicant was not storing hazardous materials.

33 Peter Hogan stated that according to the Town a driveway permit did not exist for the
34 Parker Road driveway. He stated that if the applicant filled out the driveway permit the Town
35 would waive the fee. Vinnie Iacozzi agreed to fill out the permit.

36 Vinnie Iacozzi asked if the Earth Removal permit needed to be renewed in two to five
37 years. The Coordinator explained that the permitting process had changed and pits were being
38 permitted from 40 to 50 years. She noted that there would continue to be an annual compliance
39 inspection by the Building Inspector. Vinnie Iacozzi stated that Michael Thibeault had worked
40 with the Conservation Commission and Open Space Committee and had built a buffer along the
41 river to ensure that the operation would never be seen from River Road. He pointed out an area
42 from the Parker Road gate to the south east that had been reclaimed. He noted that it was all
43 loamed and seeded.

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1 **THIBEAULT SAND AND GRAVEL, LLC, cont.**

2
3 Don Duhaime **MOVED** to grant the waiver to submitting the Traffic and Environmental
4 Impact Studies for Thibeault Sand and Gravel, LLC, Location: Parker Road, Tax
5 Map/Lot #6/14, Residential-Agricultural "R-A" District. David Litwinovich seconded
6 the motion and it **PASSED** unanimously.

7
8 Peter Hogan asked [how many acres were open.] Michael Thibeault answered that there
9 were about ten acres open. Peter Hogan pointed out that 2008 plans indicated that 60 acres were
10 open. Vinnie Iacozzi stated that it had been closed up considerably since 2008, pointing to the
11 reclamation he previously addressed. He identified the active and open 10 acres on the plan.
12 Peter Hogan commented that the change in open acres would change the bond dramatically.
13 Vinnie Iacozzi stated that it was easier to keep the bond the same.

14 Peter Hogan asked if the Board was interested in conducting a site walk; it was the
15 consensus of the Board that a site walk was not necessary.

16
17 Don Duhaime **MOVED** to not require a Groundwater CUP for Thibeault Sand and
18 Gravel, LLC, Location: Parker Road, Tax Map/Lot #6/14, Residential-Agricultural "R-
19 A" District. David Litwinovich seconded the motion and it **PASSED** unanimously.

20
21 Don Duhaime asked if the bond expired on January 19, 2012. Vinnie Iacozzi answered
22 yes and noted that the renewal paperwork had already been submitted.

23 The Board and applicant agreed to a pit end date of January 10, 2050.

24
25 Don Duhaime **MOVED** to approve the Earth Removal Application with associated plans
26 entitled "Construction Plans New Boston South Pit Parker Road New Boston, Hillsboro
27 County, New Hampshire for Thibeault Sand & Gravel LLC October, 2008", and to grant
28 an Earth Removal Permit to include the site specific items discussed at this hearing,
29 subject to:

30
31 **CONDITIONS PRECEDENT:**

- 32 1. Submission of any outstanding fees.
33 2. Submission of a driveway permit application (if applicable).
34 3. Submission of Alteration of Terrain Permit from NH DES.

35 The deadline for complying with the conditions precedent shall be **June 1, 2012**, the
36 confirmation of which shall be an administrative act, not requiring further action by the
37 Board. Should compliance not be confirmed by the deadline date, and a written request
38 for extension is not submitted prior to that date, the applicant is hereby put on notice that
39 the Planning Board may convene a hearing pursuant to RSA 676:4-a to revoke the
40 approval.

41
42 **CONDITIONS SUBSEQUENT AND ONGOING:**

- 43 1. Prior to the granting of any permit, or to the removal of any topsoil or other

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1 **THIBEAULT SAND AND GRAVEL, LLC, cont.**

2
3 overburden material from a new area within an existing excavation site, the
4 Applicant shall submit to the Regulator an acceptable bond with sufficient surety
5 as determined by the Regulator. The purposes of the bond are to guarantee
6 reclamation of the area and compliance with the permit. The surety must be
7 phased to coincide with the phasing of work, in an amount sufficient to guarantee
8 reclamation of the applicable section, to be released as sections are completed.
9 Prior to a new section being opened, new securities shall be posted. The surety
10 shall not be released until the Regulator is satisfied that all conditions of the site
11 reclamation plan have been complied with. This shall be determined at a final site
12 walk by the Regulator and/or its designee.

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

16 2. Amendments and Renewals

17 Permit holders wishing to alter the size or location of the excavation, the rate of
18 removal or the plan for reclamation shall apply for a renewal or amendment,
19 following the same procedures as those required for the original excavation
20 permit.

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

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

25 5. Inspections

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

30 6. Hours of operation

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

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

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THIBEAULT SAND AND GRAVEL, LLC, cont.

7. Maximum Excavation Limit

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

8. Waste Disposal

No disposal of any waste material, including solid and/or hazardous waste, septage, dredge spoils, or refuse shall be undertaken on the site without appropriate State approval under RSA 149:M, or other appropriate State regulations.

9. Tree cutting

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

10. Stopping of Removal/Excavation Operations

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

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

SITE SPECIFIC PERMIT CONDITIONS:

A. Approved routes for transportation of material

Parker Road to River Road

B. Number and type of vehicles to be used to transport material

20 to 30 Tri Axles and 25-35 Trailers

C. Equipment to be used for material removal

Front end loaders

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1 **THIBEAULT SAND AND GRAVEL, LLC, cont.**

2
3 D. Requirements for material processing

4
5 Processing will be primarily screening utilizing a reed or drum type screening plant
6 located close to the face of the pile. Approximately 750 ft away from Parker Road.

7
8 E. Requirements for temporary stockpiling of offsite materials

9
10 Loam for screen and reclamation purposes.
11 Erosion control will be according to NH DOT Practices.

12
13 F. Required plantings for reclamation

14
15 As shown on the plan.

16
17 G. Other requirements

18
19 N/A

20
21 The Earth Removal Permit is valid until such time as the Regulator determines the Earth
22 Removal Operation is no longer in compliance with the New Boston Earth Removal
23 Regulations; or, until such time as the operation shall be deemed to be abandoned as
24 defined in the Earth Removal Regulations; or, until such time as the owner informs the
25 Regulator that they will no longer be running the Earth Removal Operation; or, until such
26 time as the operation is depleted; or, until the completion date as determined by the
27 Regulator in the regulatory process, in accordance with RSA 155-E:8, in this case
28 **January 10, 2050**, whichever first occurs.

29
30 David Litwinovich seconded the motion and it **PASSED** unanimously.

31
32 The Coordinator asked what was going on with the north side of the Parker Road pit.
33 Vinnie Iacozzi answered nothing right now. The Coordinator asked if their intent was to close
34 that portion. Vinnie Iacozzi stated that they did not intend to close the pit. The Coordinator
35 asked if any material had been removed over the last few years. Vinnie Iacozzi answered no.
36 The Coordinator explained that if they wanted to keep it a pit they needed to remove something
37 otherwise it could be deemed abandoned. Vinnie Iacozzi stated that he would determine how to
38 proceed with the North Parker Road pit.

39
40 Don Duhaime **MOVED** to adjourn at 8:40 p.m. David Litwinovich seconded the motion
41 and it **PASSED** unanimously.

42
43 Respectfully Submitted, Valerie Diaz, Recording Clerk

Minutes Approved: 02/14/12