

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

1

November 27, 2012

1 The meeting was called to order at 7:00 p.m. by Planning Board Chairman Stu Lewin.
2 Present were regular members Mark Suennen and Don Duhaimé, alternate member David
3 Litwinovich and Ex-Officio Dwight Lovejoy. Also present were Planning Coordinator Nic
4 Strong, Planning Board Assistant Shannon Silver and Recording Clerk Valerie Diaz.

5
6 Present in the audience for part of the meeting were Ed Hunter, Building Inspector/Code
7 Enforcement Officer, Susan & Frank Woodward, Kelly Grimm, Tom Morgan, Peter Clark and
8 Jack Belletete.

9
10 The Chairman seated David Litwinovich as a full-voting member in Peter Hogan's
11 absence.

12
13 **BELLETETE'S INC.**
14 **Formerly REGGIE HOULE BUILDER, LLC**
15 **Formerly KAREN M. MORIN REVOCABLE TRUST**
16 Compliance/Public Hearing/Major Subdivision/5 Lots
17 Location: Greenfield Road (New Road: Daylily Lane)
18 Tax Map/Lot #7/74
19 Residential-Agricultural "R-A" District

20
21 Present in the audience were Ed Hunter, Building Inspector/Code Enforcement Officer,
22 Susan & Frank Woodward, Kelly Grimm, Tom Morgan, Peter Clark and Jack Belletete

23 The Chairman read the public hearing notice. He asked the applicant to say a few words
24 to the Board regarding the above-captioned matter.

25 Jack Belletete stated that he was present for the compliance and had been working with
26 the Road Agent and the Coordinator to make sure that all the paperwork was in order. He noted
27 that he had recently met with the Board for a site walk.

28 Jack Belletete acknowledged that there were some issues relative to slope easements with
29 a couple of the lots. The Chairman asked if the issue was that the easements went outside of the
30 areas shown on the plan. Jack Belletete stated that Tax Map/Lots #'s 7/74 and 7/74-2 had been
31 conveyed to others by Reggie Houle and, therefore, there was not a whole lot that he could do
32 with them as they had been conveyed. He did not believe there were any issues with the
33 previously mentioned lots. He continued that Tax Map/Lot #'s 7/74-3, 7/74-4 and 7/74-5 were
34 still owned by Belletete's Inc. and he would be able to make deed adjustments relative to the new
35 slope and drainage easements.

36 Jack Belletete referred the Board to Tax Map/Lot # 7/74 and stated that the toe of the
37 slope stopped at the right-of-way line; he identified the location on the plan. He explained that
38 the slope was built to be less steep than designed and ran onto the property. He continued that he
39 could not go back to the landowner and ask them to amend the easement as the bank that held the
40 mortgage would not be willing to make the change. He indicated that there were no drainage or
41 maintenance issues in the area in question that would affect the Town.

42 Jack Belletete pointed to Tax Map/Lot #7/74-2 and identified the location of the limit of
43 slope and drainage easement. He went on to identify an area of riprap for a culvert and stated

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

November 27, 2012

1 **BELLETETE'S INC., cont.**

2
3 that it was insignificant. He noted that riprap was located on the landowner's property as well as
4 the right-of-way.

5 The Chairman asked for questions and/or comments from the Board. Jack Belletete
6 stated that he did not have any problem making the amendments. The Coordinator asked if a
7 corrected plan sheet to be recorded would be submitted. Jack Belletete answered yes.

8 Mark Suennen asked for clarification that the applicant was confident that the Town
9 could maintain and/or replace the drainage structures located within the bounds of the existing
10 easements. Jack Belletete confirmed that the drainage structures could be maintained and/or
11 replaced. He noted that the drainage part of the easement was relative to a small amount of
12 riprap that was located outside of the limit. Mark Suennen asked if the property had been
13 conveyed with the riprap as it was currently. Jack Belletete suggested that the Board create
14 language requiring as-built plans to be prepared prior to any lots being conveyed because nothing
15 ever was built exactly as the plans showed. He advised that Tax Map/Lot #'s 7/74 and 7/74-2
16 referred back to the original approved plan and the approved plan showed that the toe of the
17 slope ran along the easement line, which he believed was insignificant.

18 Jack Belletete commented that he had worked hard over the last year with the Road
19 Agent and Town Engineer to make sure things were done properly.

20 Mark Suennen believed that the applicant was perfectly able and willing to make the
21 changes on Tax Map/Lot #'s 7/74-3, 7/74-4 and 7/74-5. He asked if the Road Agent was aware
22 of the situation. Jack Belletete answered that the Road Agent was fully aware of the situation.
23 Mark Suennen wondered if a letter should be written to the current residents of Daylily Lane
24 advising them of the situation and that in the event the Town needs to maintain these areas they
25 will only be maintained up to the Town's right-of-way. Jack Belletete stated that the
26 maintenance was a moot point as there would be nothing to maintain. Mark Suennen stated that
27 the water would flow in that direction and he could not say that there would be nothing to
28 maintain. Jack Belletete acknowledged Mark Suennen's position. The Chairman asked that a
29 note be made to relative to this issue in the future. The Coordinator thought that this issue had
30 been addressed in the Subdivision Regulations.

31 The Chairman asked for further comments and/or questions from the Board; there were
32 none.

33 The Chairman advised that the Road Agent was all set with the previous issue with
34 drainage grates. He added that he had looked at a couple of the grates and they appeared to be
35 consistent with other subdivisions.

36 The Chairman stated that the next issue was relative to money being provided in lieu of
37 work being done for completion of the work to Greenfield Road. He noted that everyone seemed
38 to agree with the proposal and asked if any Board members had any issues; there were no issues.
39 Don Duhaime asked if the work was something the Road Agent would complete in the near
40 future. Jack Belletete answered that it would not be completed until next year.

41 The Chairman noted that there was an issue relative to paving and it was his
42 understanding that the issue was that there was not enough of it. Don Duhaime commented that
43 the Chairman was absolutely correct and the Town Engineer should be held accountable for not

November 27, 2012

1 **BELLETETE'S INC., cont.**

2
3 watching the paver put down the right amount of wearing course. Jack Belletete pointed out that
4 the Town Engineer had been present for the entire time that the paving took place. Don
5 Duhaime suggested that the Board should address this matter with the Town Engineer. He stated
6 that the paver set their screen at 1.25" and the pavement was rolled down to 1". Jack Belletete
7 pointed out that the yield was 94% and that meant that if it had been exactly 1" the yield would
8 have been 100%. He went on to say that it was 6/100th's of a percent less than what the total
9 tonnage would be if it had been done exactly at 1". He stated that he had not paved last year
10 because the Town Engineer would not let him due to the temperature. He felt that the Town
11 Engineer should have some of the responsibility as he had been at the site the entire time. Don
12 Duhaime asked who had completed the paving. Jack Belletete answered that GMI had
13 completed the paving. The Chairman asked if it was standard to core test the pavement from two
14 points along the road. Mark Suennen answered that it was standard to core test one point in each
15 lane of the road. The Coordinator clarified that one point per a certain length of road was core
16 tested and she did not believe that it was done per lane. Jack Belletete pointed out that the binder
17 had been down for six years and it was in good shape, i.e., no cracks. He continued that the
18 wearing course was 94% of what was supposed to be. He reiterated that the Town Engineer had
19 been present making sure things were done according to the requirements. He noted that the
20 Town Engineer could have very easily said that the road needed to be thicker. He further pointed
21 out that the road in question only serviced a 5 lot subdivision. Jack Belletete begged the Board's
22 indulgence as he had stepped up to the plate and got this thing done. He continued that when he
23 first became involved in the project there was no bond because it had expired and if he had done
24 nothing it would have gone into foreclosure and the Town would have been responsible for the
25 project. Don Duhaime noted that he was aware that this was only a five lot subdivision but he
26 did not want any other projects or larger subdivisions to be able to produce a road with such thin
27 pavement. Mark Suennen asked if the project required a two year bond. The Coordinator
28 answered yes. Mark Suennen suggested that the Board make it incumbent upon the Town
29 Engineer to evaluate the road at 1 year and 9 months to ensure that it was holding up. Jack
30 Belletete did not have a problem with Mark Suennen's suggestion. Mark Suennen believed that
31 it should be the Town Engineer's responsibility to check the road if his subcontractor who
32 conducted the testing screwed it up in the first place. The Chairman asked if the revised bond
33 had been received. Jack Belletete handed the Coordinator a check in the amount of \$10K for the
34 bond. She noted that the check was \$500.00 short. Jack Belletete stated that he would send an
35 additional \$500.00 check in the mail the following day.

36 The Chairman asked if the certificate of bounds set had been received. The Coordinator
37 answered that Michael Dahlberg, LLS, would have to complete the certificate of bounds set.
38 Don Duhaime asked if all the granite bounds along the roadway had been set. Jack Belletete
39 answered yes.

40 The Chairman shared a copy of the conditions of approval with the applicant. Jack
41 Belletete reviewed the conditions and stated that he was all set with them.

42 The Chairman asked for further comments and/or questions from the Board. Mark
43 Suennen advised during the site walk the two existing driveways had been measured and it had

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

November 27, 2012

1 **BELLETETE'S INC., cont.**

2
3 been determined that they were sloped 1% in the wrong direction. He continued that Tax
4 Map/Lot #7/74-5 was also flat and requested that a condition of approval be that the driveway
5 apron meets the Town's standards. The Coordinator pointed out that the driveway apron was
6 part of the approval for the driveway permit. Jack Belletete asked if the Board wanted him to cut
7 out the existing driveway apron and re-grade it in the other direction. Mark Suennen answered
8 yes.

9 Kelly Grimm introduced himself as the property owner at Tax Map/Lot #7/74-2 and
10 asked to review the easements documents to get a better understanding of the concerns
11 previously addressed. Jack Belletete explained the drainage swale issue to Kelly Grimm. Kelly
12 Grimm asked if the easement issue would be a problem for him as a landowner wanting to sell
13 his property in the future. The Chairman answered no.

14 Susan Woodward of 107 Greenfield Road asked if the issues being discussed had
15 anything to do with the issues related to Greenfield Road. The Chairman answered no. He went
16 on to say that money had been given to the Town to fix the issues with Greenfield Road. He
17 suggested that Susan Woodward get in touch with the Road Agent with any questions as the
18 Town would be doing the work to fix the problems with Greenfield Road.

19 Frank Woodward of 107 Greenfield Road asked if there was a plan in place to fix the
20 issues with Greenfield Road. The Chairman again suggested that the Road Agent be contacted.
21 Frank Woodward advised that he had been very involved with the design phase of this
22 subdivision and referenced the Planning Board meeting of November 8, 2005, that showed his
23 involvement. He stated that he had spoken to the Road Agent when he had been hired one year
24 ago. He noted that a ditch located in front of his property had been filled with riprap and had
25 only been maintained once in the last seven years. He indicated that the ditch had been silted in
26 and was no longer a ditch. He suggested that culverts be maintained. The Chairman stated that
27 Mr. Woodward could contact the Board of Selectmen or the Road Agent to discuss this matter as
28 the road issues did not fall within the bounds of the Subdivision Regulations.

29
30 Mark Suennen **MOVED** to confirm compliance with the conditions subsequent to the
31 approval of the Major Subdivision/5 Lots of Tax Map/Lot #7/74, Belletete's Inc.,
32 (formerly Reggie Houle Builder, LLC, and formerly Karen M. Morin Revocable Trust)
33 and to release the financial security being held for the subdivision, subject to:
34

35 **CONDITIONS PRECEDENT:**

- 36 1. Submission of a revised subdivision plan for recording at the HCRD which shows
37 the Slope and Drainage easement lines encompassing the constructed slopes and
38 drainage areas and a revised Warranty Deed which will refer to the revised
39 subdivision plan.
40 2. Submission of financial security in the amount of \$25,100, and in the form of a
41 maintenance bond which will be retained for two years as a maintenance security.
42 3. Submission of the original certificate of bounds set for recording at the HCRD,
43 the cost of which shall be borne by the applicant.

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

November 27, 2012

1 **BELLETTETE'S INC., cont.**

- 2
3 4. Submission of the certified letter fee for this hearing in the amount of \$98.
4 5. Submission of any fees required for recording of the warranty deed for the road
5 and/or other documents at the HCRD.
6 6. Submission of \$10,500 for the remaining Greenfield Road offsite improvements.
7 Said improvements to be completed by the Town of New Boston. The
8 submission of the \$10,500 fulfills this applicant's obligation to those
9 improvements.

10 The deadline date for compliance with the conditions precedent shall be **March 27, 2013**,
11 confirmation of which shall be an administrative act, not requiring further action by the
12 Board. Should compliance not be confirmed by the deadline date and a written request
13 for extension is not submitted by that date, the applicant is hereby put on notice that the
14 Planning Board may convene a hearing under RSA 676:4-a to revoke the approval. Prior
15 to the expiration date of the two year maintenance bond, the Town's consulting engineer
16 shall conduct an inspection of the road and indicate that there are no deficiencies that
17 require repair or correction. The cost of the engineer's inspection shall be borne by the
18 applicant and paid prior to release of the security.

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

20
21 Dwight Lovejoy asked Mr. and Mrs. Woodward for their contact information so that they
22 could further discuss the Greenfield Road matter.

23
24 **Continued discussion, re: proposed Zoning Ordinance Amendments for 2013**

25
26 Present in the audience were Ed Hunter, Building Inspector/Code Enforcement Officer,
27 Peter Clark and John Bastoni.

28 Mark Suennen referred to proposed amendment #1 and stated that he had sent language
29 recommendations to the Coordinator based on the samples she had provided from other towns.
30 He pointed to 2, e, of proposed amendment #1 and explained that the proposed language gave the
31 Board the right to ask for more information if they needed it.

32 Mark Suennen referred to proposed amendment #1, 4, f, and stated that the proposed
33 language provided that a CUP went with the property and not with a landowner.

34 Mark Suennen pointed to proposed amendment #1, 5, b, and explained that the proposed
35 language ensured that a CUP would not cost the Town any money.

36 Mark Suennen referenced proposed amendment #1, 7, c, and indicated that a CUP was
37 good for two years.

38 Mark Suennen asked if there were any problems with the proposed changes he had
39 recommended. David Litwinovich commented that he did not have any problems with the
40 proposed changes but questioned how a property owner would become aware that a CUP was
41 tied to the property. Mark Suennen answered that the previous owner would have to disclose the
42 information. The Chairman stated that there would only be an issue if the new owner wanted to
43 use the CUP. He noted that if the new owners did not want to use the CUP it would lapse. Mark

November 27, 2012

1 **DISCUSSION RE: ZONING ORDINANCE AMENDMENTS, cont.**

2
3 Suennen asked if there was concern with the proposed language that required the new owner to
4 notify the Board that they owned a property that had a CUP. The Chairman answered that he
5 was not concerned. Mark Suennen asked if there was anything in the proposed language that
6 required the Planning Board or the Planning Department to alert a buyer to an existing CUP.
7 The Coordinator answered no and questioned if the language requiring the property to notify the
8 Planning Board of the change in ownership should remain in the proposed amendment. The
9 Chairman asked that when Town Counsel reviewed this proposed amendment he be asked to
10 look at this section specifically.

11 The Coordinator referred the Board to the handout from, *Innovative Land Use Planning*
12 *Techniques: A Handbook for Sustainable Development*, as well as the proposed amendment #1,
13 E, 1, a, b, c and d, the conditions to obtain a CUP. She indicated that applicants went through all
14 kinds of contortions to figure out a good way to answer the current a, b, c and d. She gave the
15 example of the need for a CUP to install a wetland crossing in order to achieve an additional lot
16 in order to sell it and noted that d, economic advantage alone is not reason for the proposed
17 construction, could not be used. She explained that by using the criteria suggested in the handout
18 it placed the burden of proof on the applicant. She continued that the applicant would need to
19 show that in installing the wetland crossing degradation to or loss of wetlands and buffers would
20 be minimized and adverse impacts to the functions and values of wetlands compensated for. The
21 Chairman asked if a, b, c and d would be replaced. The Coordinator answered that a, b, c and d
22 would be replaced with 1, 2, 3 and 4 of *Innovative Land Use Planning Techniques: A Handbook*
23 *for Sustainable Development* handout. Mark Suennen asked if items a – h under B, 1 and 2, of
24 the *Innovative Land Use Planning Techniques: A Handbook for Sustainable Development*
25 handout would be included in proposed amendment #1. The Coordinator answered yes. Mark
26 Suennen questioned if each applicant would be required to provide information to answer items a
27 – h under B, 1 and 2, of the *Innovative Land Use Planning Techniques: A Handbook for*
28 *Sustainable Development* handout. The Chairman asked for Mark Suennen’s suggestion on how
29 to do this differently. Mark Suennen suggested that items a – h be removed and only use the
30 language in B, 1, and B, 2. The Chairman asked if the language "potential topics would
31 include" or "potential topics might include" could be added. Mark Suennen answered yes. The
32 Chairman stated that he wondered what the Board would receive from applicants if a little
33 guidance was not provided. Mark Suennen commented that he would hate to have a Board,
34 either present or in the future, reject a perfectly good CUP because one of the enumerated items
35 was impacted despite the benefit for the whole. The Chairman asked what criteria Mark
36 Suennen would use to evaluate an applicant’s response to number 1. Mark Suennen answered
37 that he would ask specific questions of the applicant. The Chairman asked for confirmation that
38 Mark Suennen did not believe that a – h belonged in the regulations. Mark Suennen did not
39 believe that a –h belonged in the regulations. David Litwinovich suggested using the language,
40 “items to consider” instead of using “items to require”. Mark Suennen answered that he would
41 be okay with “items to be considered”.

42 The Coordinator asked if the Board ever struggled with the current CUP conditions and
43 noted that they did not need to change. Mark Suennen asked if the Board had ever denied a

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

November 27, 2012

1 **DISCUSSION RE: ZONING ORDINANCE AMENDMENTS, cont.**

2
3 CUP. The Coordinator answered no. The Chairman questioned if the Board should have denied
4 any past CUPs based on the current criteria. Mark Suennen answered no. The Chairman
5 commented that he had struggled with the condition that economic advantage alone was not
6 reason enough for proposed construction and he was okay with the proposed replacements.

7 The Chairman referred to proposed amendment #2 relative to logging operations and
8 asked for comments and/or questions; there were none.

9 The Chairman moved on to proposed amendment #3 and asked for an explanation from
10 the Coordinator. The Coordinator explained that proposed amendment #3 amended various
11 existing Sections to refer to the correct name of the Small Scale Planned Commercial District
12 and the Wetlands Conservation and Stream Corridor District. The Chairman asked for
13 comments and/or questions; there were none.

14 The Chairman referred to proposed amendment #4, definition of a yard sale. The
15 Chairman asked for comments and/or questions; there were none.

16 The Chairman moved on to Miscellaneous Business #11 as it was directly related to the
17 discussion of proposed Zoning Ordinance amendments.

18
19 11. Memorandum dated November 27, 2012, from Ed Hunter, Code Enforcement Officer, to
20 New Boston Planning Board, re: Sales of Vehicles on "R-A" Zoned Lots, for the Board's
21 review and discussion.

22
23 Present in the audience were Ed Hunter, Building Inspector/Code Enforcement Officer,
24 Peter Clark and John Bastoni.

25 The Chairman referred to Ed Hunter's memo and asked for the an explanation of the
26 difference between two "personally owned vehicles" and two "vehicles". Ed Hunter, Building
27 Inspector/Code Enforcement Officer, explained that he had used the language "personally owned
28 vehicles" because most people sold vehicles that they owned from their residential lot.

29 Ed Hunter, Building Inspector/Code Enforcement Officer, advised that a complaint had
30 been made with regard to a property owner who owned an out of town car dealership and sold
31 used cars from the dealership from his residential lot on a regular basis. He believed there was
32 another residence on River Road that utilized the internet to sell vehicles from their residential
33 lot.

34 The Chairman asked again why, Ed Hunter, Building Inspector/Code Enforcement
35 Officer, had used the language "personally owned vehicles". Ed Hunter, Building
36 Inspector/Code Enforcement Officer, said that he was open to other language and explained that
37 he used the language "personally owned vehicles" to distinguish them from vehicles that were
38 owned by a car dealership or LLC. He noted that State law allowed for the sale of up to four
39 vehicles per calendar year without being a licensed dealer. He went on to say that if more than
40 four vehicles were sold in a calendar year a property owner would be required to be licensed as
41 an auto dealership.

42 Mark Suennen asked Ed Hunter, Building Inspector/Code Enforcement Officer, for his
43 opinion on how serious he believed the complaint to be and if it was a real problem for the

November 27, 2012

1 **DISCUSSION RE: ZONING ORDINANCE AMENDMENTS, cont.**

2
3 Town. Ed Hunter, Building Inspector/Code Enforcement Officer, commented that he did not
4 know that it was particularly serious but explained that through his research he believed that it
5 could have an impact. He added that currently there was nothing in Zoning that allowed
6 him as the Code Enforcement Officer to do anything with regard to enforcement. Mark
7 Suennen questioned if the amendment tried to solve a State law problem with regard to the
8 number of vehicles allowed to be sold. Ed Hunter, Building Inspector/Code Enforcement
9 Officer, answered that it resolved it to a certain extent but it did not give much latitude.

10 Peter Clark of 6 Bedford Road stated that he had a problem with a residential property
11 owner using their home lot as an annex to sell cars from their car dealership. He stated that
12 currently there were no restrictions against this practice. Ed Hunter, Building Inspector/Code
13 Enforcement Officer, stated that the restriction only applied to the sale of more than four
14 vehicles. Peter Clark asked if the sale of vehicles owned by a car dealership from a Residential –
15 Agricultural “R-A” District lot violated current Zoning. The Planning Board Assistant
16 questioned whether the vehicles in question were personally owned by the property owner or if
17 they were owned by the dealership. Ed Hunter, Building Inspector/Code Enforcement Officer,
18 answered that he was unsure. Peter Clark suggested that the plates be run to confirm ownership.
19 Ed Hunter, Building Inspector/Code Enforcement Officer, noted that a lot of enforcement issues
20 came into light with regard to this matter, i.e., ownership, number of vehicles sold in a year and
21 whether the vehicles were actually sold and not just moved.

22 The Chairman asked the Coordinator for the date of the first public hearing on the
23 proposed Zoning amendments. The Coordinator answered that the first public hearing would
24 take place at the next meeting on December 18, 2012. The Chairman requested that the Planning
25 Office complete some research from other towns with regard to this issue.

26 Peter Clark stated that if it was not necessary to write another regulation he urged the
27 Board not to do so, however, it was inappropriate to have multiple cars being sold from the front
28 lawn of a Residential-Agricultural “R-A” property. He commented that he was thankful that the
29 Code Enforcement Officer was willing to resolve the issue.

30 The Chairman asked for the location of the property in question. Ed Hunter, Building
31 Inspector/Code Enforcement Officer, answered that the property in question was located at the
32 corner of Molly Stark and Bedford Road. The Chairman acknowledged that he was aware of the
33 property in question and had seen cars for sale. Peter Clark advised that he lived across the street
34 from the property in question. He stated that he could not tell the Board with absolute certainty
35 that the property owner had sold five cars and that the cars were owned by the dealership,
36 however, he did know that the cars had been advertised on the property owner’s car dealership
37 website. He added that over the course of the year there had probably been several dozen
38 different vehicles for sale at the property. He noted that there were a number of vehicles parked
39 behind the residence and vehicles were also moved around town. He stated that it was his
40 understanding that most of the vehicles were located in a barn in town. He expressed concern for
41 the value of his property being affected.

42 The Board agreed to place this proposed amendment on the schedule for the December
43 18, 2012, meeting to discuss further during the hearing on zoning amendments, noting that if if

November 27, 2012

1 **DISCUSSION RE: ZONING ORDINANCE AMENDMENTS, cont.**

2
3 needed to be removed following further discussion and review of research it could be deleted at
4 that hearing. Equally if it needed to be amended or changed it could be adjourned to a second
5 public hearing for further work.

6
7 **Continued discussion, re: Subdivision and Non-Residential Site Plan Review Regulation**
8 **Amendments**

9
10 Present in the audience was John Bastoni.

11 The Chairman asked if the Subdivision and Non-Residential Site Plan Review Regulation
12 Amendments had been handed out at the previous meeting. The Coordinator answered no and
13 stated that the proposed amendments included adding dam owners as abutters, referencing the
14 Active and Substantial statute and adding language from Town Counsel with regard to bonds.
15 She noted that the only amendments being proposed for the Non-Residential Site Plan Review
16 Regulations were relative to adding dam owners as abutters and adding the parallel parking space
17 size. She noted that she had listed the parallel parking size as 10' x 22'; however, Mark Suennen
18 had indicated that the standard size was 9' x 22'. She noted that the amendments were not tied to
19 a date certain and asked the Board to review the amendments and they could be discussed after
20 the Zoning amendments had been completed.

21 The Coordinator referred to a previously discussed matter with regard to surveyors
22 including a purpose on plans. She stated that the application form included a space for the
23 purpose of the plan to be described. She explained that over the years the Planning Office had
24 stopped providing the application form to the Board members as it never seemed relevant to do
25 so. She offered to copy the application form to the Board members. The Chairman asked that he
26 receive a copy of the application form.

27
28 **MISCELLANEOUS BUSINESS AND CORRESPONDENCE FOR THE MEETING OF**
29 **NOVEMBER 27, 2012.**

30
31 1. Approval of the October 23, 2012, minutes distributed by email.

32
33 Mark Suennen **MOVED** to approve the minutes of October 23, 2012, as written. Don
34 Duhaime seconded the motion and it **PASSED** unanimously.

35
36 2a. Email received November 19, 2012, from John P. Bastoni, to Shannon Silver, Planning
37 Board Assistant, re: 119 Laurel Lane, for the Board review and discussion. (John and
38 Linda Bastoni to be present)

39
40 2b. Attachments, re: 119 Laurel Lane, for the Board review and discussion.

41
42 Present in the audience was John Bastoni.

43 The Chairman addressed items 2a and 2b together as they were related.

November 27, 2012

1 **MISCELLANEOUS BUSINESS, cont.**
2

3 John Bastoni stated that he had filed a complaint with the Code Enforcement Officer in
4 January or February of 2011 and subsequently the Planning Board had a meeting to discuss the
5 complaint. He indicated that he had not had notice of the meeting and only recently reviewed the
6 minutes of that meeting.

7 John Bastoni did not agree with the grandfathering of Peter Beers' businesses based on
8 bond from 1982 as an auto dealer. He went on to say that even if he was grandfathered, his
9 complaint was relative to multiple businesses being operated out of a Residential-Agricultural
10 "R-A" District. He noted that a junk yard and two trucking/excavation businesses were being
11 operated out of the property and the lot contained associated equipment as well as junk vehicles.

12 John Bastoni advised that he had submitted the registrations for two tractor trailers to the
13 Code Enforcement Officer. He stated that the tractor trailer that was parked in the road was
14 registered to Peter Beers, doing business as, P.F. Beers at 1 Laurel Lane. He continued that the
15 other tractor trailer was registered to Thomas Olsen at 119 Laurel Lane; photos of the tractor
16 trailers had been submitted.

17 John Bastoni noted that one of his complaints was that a junk yard was being operated
18 from the property. He continued that the minutes from the January or February 2011 meeting
19 reflected that some Board members had considered it to be a similar business to an auto dealer
20 business. He noted that the definition of a junk yard was "an establishment or place of business
21 which is maintained operated, used for storing, keep or buying junk, i.e., scrap metal, used
22 appliances or for the maintenance or operation of an automotive recycling yard and included
23 garbage dumps and sanitary landfills". He pointed out that the definition did not include any
24 motor vehicle dealers registered with the Director of Motor Vehicles. He did not understand
25 how the Board could have drawn a parallel that the auto dealer was a similar business to a junk
26 yard. He advised that a junk business was required to have State DES license. He indicated that
27 he had inquired if Mr. Beers had obtained a license and was told no by the Code Enforcement
28 Officer.

29 John Bastoni noted that home businesses were intended to be entirely within a building
30 and not alter the character of the neighborhood. He stated that as a result of the businesses that
31 were operating his property had been de-valued. He explained that he had listed his property for
32 sale earlier in the year and received an email from his broker that stated although there were
33 many qualified buyers they had all cited the neighboring junk yard as a deal breaker.

34 The Chairman asked that Mr. Bastoni was maintaining that more than one business was
35 operating out of Peter Beers' home. John Bastoni answered yes. The Chairman asked if one of
36 the businesses was believed to be a junk yard. John Bastoni answered yes. He added that two
37 trucking and excavation businesses were also registered to the property. He pointed to
38 photographs of the property and noted that there were two excavators, dump trucks and six junk
39 vehicles at the property. He added that the junk vehicles were parked along the road which was
40 the only access to his property. The Chairman asked if the DOT was the licensing for the truck
41 and not the business. John Bastoni clarified that the registrations indicated that Mr. Beers was
42 "doing business as" and it represented a businesses headquarters.

43 The Chairman asked if a business was considered grandfathered if it had been in

November 27, 2012

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 operation prior to the implementation of Zoning. The Coordinator explained that if a business
4 was being operated prior to 1990 when the Zoning Ordinance was updated, a form was
5 distributed to the property owners that listed the business and years of operation. She continued
6 that by virtue of completing the form the business that was described was grandfathered. She
7 noted that the Town did not have a completed form for the property in question and this issue
8 had been addressed when the complaint was first discussed. She explained that historically when
9 this happened the Board required a property owner to bring in whatever information they had to
10 prove that the business had been in operation prior to Zoning. She stated that the Board had
11 received a piece of paper from the property owner that showed a bond had been in place for the
12 property in 1982. The Chairman asked if any business could operate at the property or if it had
13 to be the business that was grandfathered. The Coordinator answered that the business that had
14 been in operation prior to the Zoning was the business that was grandfathered.

15 The Chairman stated that this issue would not be resolved this evening. John Bastoni
16 acknowledged that he did not expect it to be resolved this evening. The Chairman stated that the
17 issue that needed to be addressed was if the businesses that were being operated would be
18 considered grandfathered as the only grandfathered business was an auto dealer and not
19 excavation/trucking or junk yard businesses. The Coordinator agreed that the issue would not be
20 resolved this evening as the property owner needed the opportunity to bring in proof of
21 operation. She continued that Peter Beers had been at the property for a very long time and had
22 always done something. She noted that there would be issues to deal with regard to length of
23 ownership and what people were accustomed to doing on their own property and if those things
24 rose to the level of Zoning. She continued that it could be an issue of having things piled up out
25 back and lots of people had things piled up out back. She added that some investigation needed
26 to happen. The Coordinator believed that the matter was in front of the Board this evening was
27 because the Code Enforcement Officer felt that his hands were tied based on the Board's
28 decision last year. She explained that by the Board determining that the property owner was
29 grandfathered the Code Enforcement Officer felt that he could not investigate further. The
30 Chairman stated that he did not want to second guess a decision that was made by the Board at a
31 meeting he had not attended, however, it appeared that based on the minutes of the last time this
32 was discussed and information received this evening there were things taking place now that had
33 not been happening in the past.

34 Dwight Lovejoy stated that he had spent time on this matter about a year and a half
35 earlier and the only thing that they could complain about was the parking of tractor trailers on the
36 Class VI road. John Bastoni advised that he had received a letter from the Code Enforcement
37 Officer that stated that tractor trailers were allowed to park on the road. Dwight Lovejoy
38 indicated that the tractor trailers were not allowed to park on the road. John Bastoni stated that
39 he had accompanied Mr. Beers to Hardy Metals in Northwood, NH, where Mr. Beers sold junk
40 vehicles. He continued that fluids from the vehicles was drained and contaminated the property.
41 He noted that complaints had also been filed with DES and the property owners at 113 Laurel
42 Lane had cited that after heavy rains, oil was visibly coming from Mr. Beers' driveway.

43 John Bastoni expressed his desire to resolve this matter. He stated that in 2004 when he

November 27, 2012

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 purchased his property, Mr. Beers' property was presentable farmland and since that time the
4 junk and trucking businesses had been expanded to the point where it had destroyed the character
5 of the neighborhood. He reiterated that his property value had been decreased as a result of the
6 businesses and he felt that there was just too much going on at the property to ignore.

7 The Chairman asked for comments and/or questions from the Board. Mark Suennen
8 stated that after reading through the minutes the pieces that he highlighted were that Don
9 Duhaime had said that an auto dealer was not the same as metal salvage. He believed that the
10 intent of the Board was to recognize that Mr. Beers had been an authorized automobile dealer
11 prior to Zoning and that was all he was grandfathered to do. He stated that if other businesses
12 were operating at the property it was worth an investigation. He added that the Code
13 Enforcement Officer had the right to conduct an investigation as the Board had only accepted an
14 automobile dealer as a pre-existing grandfathered business. Don Duhaime agreed the Code
15 Enforcement Officer should investigate further. He pointed out that the photograph of one of the
16 trucks revealed a Massachusetts phone number on the truck but it had a New Boston registration.
17 David Litwinovich agreed that further investigation was necessary as it appeared multiple
18 businesses were being operated from the property.

19 It was the consensus of the Board to further investigate the matter. John Bastoni thanked
20 the Board for their time.

- 21
22 3. Discussion at the request of the Planning Board Chairman, re: Wetland Crossing on Tax
23 Map/Lot #9/24-13, Wilson Hill Road, conditionally approved June 28, 2005, and
24 compliance confirmed December 14, 2010.

25
26 The Chairman noted that it appeared as if work had been done on the driveway which
27 may have impacted what had been designated as wetland areas. The Board asked that Ed
28 Hunter, Building Inspector and Code Enforcement Officer, take a look at the area when on his
29 next building inspection there.

- 30
31 4. Email received November 16, 2012, from James & Katherine Bath, to the New Boston
32 Planning Board, re: Shaky Pond update, for the Board's information.

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

- 36
37 5. Letter received November 21, 2012, from Bill Carpenter, Land Management Bureau,
38 State of New Hampshire, Division of Forest & Lands, to Stuart Lewin, Planning Board
39 Chair, re: Land Gift Offer to State of NH-Lang Station/New Boston, for the Board's
40 information.

41
42 The Coordinator explained that land from the Twin Bridge Subdivision was going to be
43 deeded to DRED, however, the State did not want the land. She indicated that the applicant

November 27, 2012

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 should come back to the Board with a Plan B for the open space. She stated that the matter
4 needed to be discussed at the next meeting as it was part of the subdivision approval.

5
6 6. Letter received November 26, 2012, from Karen O'Donnell BSN, CAPA, CEN, to New
7 Boston Planning Board, re: home business inquiry for the Board's review and discussion.

8
9 The Coordinator explained that the above-referenced business only through the telephone
10 and that there would be no signage, customers or employees.

11 It was determined that the standard letter be sent to Ms. O'Donnell making her aware that
12 she did not need a site plan currently, however, if things changed and there were to be customers,
13 signage or employees she would need to contact the Planning Department to begin the site plan
14 review process.

15
16 7. Article titled: *A Granite State Future Depends on Working Together*, by Jen Czysz,
17 published in the November/December 2012 issue of *New Hampshire Town & City*, for
18 the Board's information.

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

22
23 8. Memorandum dated November 27, 2012, from Nic Strong, Planning Coordinator, to Stu
24 Lewin, Chairman, and Planning Board Members, re: Discussion Item from Finance
25 Committee Meeting, for the Board's review and discussion.

26
27 The Coordinator stated that the Finance Committee had discussed the Planning
28 Department's budget and specifically talked about the "miscellaneous" line. She explained that
29 \$1K was carried in the budget for unforeseen expenses, i.e., work required by changes in law,
30 consultant fees, input sessions, guest speaker fees, etc.

31 The Coordinator noted that she had explained to the Finance Committee that the Board
32 set their goals in January of the next year and a lot of things were dependent on the Zoning
33 Ordinance amendments passing in March. She noted that the Finance Committee had suggested
34 the Board change their goal setting timeline so the budget could be more accurate. She also
35 thought that the "miscellaneous" line could be renamed to "special projects" which may more
36 accurately describe what the money will be used for and the Board could consider the change.
37 Don Duhaime commented that he did not believe anything needed to be changed.

38 The Coordinator was asked what happened to the funds that were not spent in the
39 "miscellaneous" line. The Coordinator answered that the money would be returned to the
40 general fund.

41 The Chairman wanted to discuss the matter further at the following meeting.

42
43 9. Memorandum dated November 27, 2012, from Nic Strong, Planning Coordinator, to

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

November 27, 2012

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 Planning Board Members, re: Goals for 2012, for the Board's review and discussion.

4
5 The Board agreed to discuss the above-reference Memorandum at the following meeting.

- 6
7 10. Memorandum dated November 27, 2012, from Ed Hunter, Code Enforcement Officer, to
8 New Boston Planning Board, re: Gravel Operation/Townes Family Trust, Tax Map/Lot
9 #10/73, for the Board's action.

10
11 The Coordinator advised that the Code Enforcement Officer had met with Scott
12 Tiedemann and confirmed that 1.98 acres of the gravel pit had been reclaimed. She explained
13 that a bond was currently set at \$1,500 per acre and the applicant was requesting that \$3,000 be
14 returned.

15
16 Mark Suennen **MOVED** to return \$3K of the reclamation bond for the gravel pit at Tax
17 Map/Lot #10/73, Lyndeborough Road, to the Townes Family Trust. Don Duhaime
18 seconded the motion and it **PASSED** unanimously.

- 19
20 12a. Draft newspaper notice, re: Mixed Use District, for the Board's information.

- 21
22 12b. Copy of Mixed use District Input Session and Survey/Evaluation results from October
23 20, 2012, prepared October 23, and November 27, 2012, by Nicola Strong, Planning
24 Coordinator, for the Board's information.

25
26 The Chairman addressed items 12a and 12b together as they were related.

27 The Coordinator stated that she had not written the article for the New Boston Bulletin
28 regarding the Mixed Use District in enough time for the December 2012 issue. She asked the
29 Board to review the article and get back to her with comments prior to the next meeting so that it
30 could be submitted for the January 2013 issue. The Board read the article and with one minor
31 change agreed to send it to the Bulletin.

32 The Board agreed that the above-referenced Survey/Evaluation results be posted on the
33 Town website.

- 34
35 13. Discussion re: Bob Waller, site plan, Tax Map/Lot #14/80, Meadow Road.

36
37 The Board noted that they had conducted a site walk of the property and noted further
38 that the storage trailers had been removed as required by the site plan approval but the contents
39 of said trailers were now strewn on the lawn. The Board wondered if that was acceptable. The
40 Coordinator noted that the Board's approved included the requirement to to remove the storage
41 trailers in a certain time frame but had not specified what should happen to the things that were
42 in the trailers. She stated that a home business was not allowed to have exterior storage so that
43 would be an enforcement matter.

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

November 27, 2012

1 **MISCELLANEOUS BUSINESS, cont.**

2

3 The Board noted that the applicant had met the letter of the Board's decision and the
4 Code Enforcement Officer should be told that the site should be maintained in accordance with
5 the site plan and Town regulations.

6

7 Mark Suennen **MOVED** that Bob Waller, 236 Meadow Road, Tax Map/Lot #14/80, had
8 complied with the letter of the conditions of the Non-Residential Site Plan Review for his
9 property, to remove three metal storage trailers in relation to the operation of an auto
10 restoration home business Don Duhaime seconded the motion and it **PASSED**
11 unanimously.

12

13 Don Duhaime **MOVED** to adjourn at 9:17 p.m. Mark Suennen seconded the motion and
14 it **PASSED** unanimously.

15

16 Respectfully Submitted,
17 Valerie Diaz, Recording Clerk

Minutes Approved:12/18/12