

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2014**

November 4, 2014

1 The meeting was called to order at 6:30 p.m. by Planning Board Chairman Peter Hogan.
2 Present were regular members Mark Suennen, David Litwinovich and Don Duhaime, alternate
3 member Joe Constance and ex-officio Rodney Towne. Also present were Planning Coordinator
4 Nic Strong, Planning Board Assistant Shannon Silver and Recording Clerk Valerie Diaz.

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6 Present in the audience for all or part of the meeting was Emile Bussiere.

7
8 **Discussion with Emile Bussiere, Jr., re: Indian Falls/Susan Road Connection - Outstanding**
9 **Items/Conditions Subsequent Deadline.**

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11 The Chairman read the public hearing notice. Present in the audience was Emile
12 Bussiere.

13 Emile Bussiere thanked the Board for scheduling and attending the special meeting. He
14 indicated that last summer he had requested an extension of the conditions subsequent deadline
15 from June 1, 2014, to June 1, 2015. He noted that the Board had granted an extension of the
16 deadline to November 15, 2014.

17 Emile Bussiere advised that he would not be able to complete the conditions by the
18 November 15, 2014, deadline. He pointed out that a tremendous amount of improvements had
19 been done to the road and noted that the cost for the road was over \$1 million. He added that
20 there was currently \$180K in escrow and that the work left to be done would cost less than
21 \$180K.

22 Emile Bussiere advised that the contractor he hired to construct the road, Thibeault Corp.,
23 had hired a subcontractor, Pandelena Construction, in September of 2014 to complete remaining
24 touch-up items contained in the preliminary punch list provided by the Town Engineer. He
25 stated that when the as-built was prepared it had been determined that there were more problems
26 with the road. He noted that one problematic area was located at the intersection of Susan Road
27 and Indian Falls Road where the pavement was 6" too high and subsequently needed to be
28 redone.

29 Emile Bussiere stated that he had attended a site walk with the Town Engineer and a
30 representative from Thibeault. He advised that following the site walk a final punch list was
31 generated by the Town Engineer and forwarded to the Board. He stated that the final punch list
32 contained a number of items left to complete and at the time he believed that those items could
33 be completed by the conditions subsequent deadline. He explained that Thibeault had attempted
34 to contact Pandelena Construction to finish the work but had not received a return phone call.

35 Emile Bussiere believed that he had done what he could reasonably do at this time to try
36 and get the remaining work completed; however, he knew at this point that he would not be able
37 to finish the work. He explained that Continental Paving could not apply the final binder coat on
38 the road until the problem areas were fixed. He stated that he had every bit of confidence that he
39 would have something in place by next spring to make sure that work would be completed. He
40 requested that the Board grant an extension of his conditions subsequent to July 1, 2015, as he
41 had originally requested.

42 Rodney Towne asked the Board if there were any advantages to not granting the
43 extension request. Mark Suennen answered an advantage of not granting the extension would be

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EMILE BUSSIERE, INDIAN FALLS/SUSAN ROAD, cont.

that the Board would not have to tell the Forest View II Subdivision applicant that the road would not be completed by November 15, 2014. Rodney Towne commented that he was not horribly concerned about the next five months; however, he believed that granting the extension to July 1, 2015, was too far out. He stated that there was no advantage to not extending the deadline request and explained if the Town called the bond they would not be able to get the work done right now either. Emile Bussiere noted that the reason he requested the deadline of July 1st was because he was uncertain of the spring weather conditions.

The Chairman asked if it was Emile Bussiere's intent to get work started as soon as possible. Emile Bussiere answered that he was frustrated that the work had not been completed and intended to have the work completed by July 2015 or June 1, 2015, if that was what the Board decided and again requested that the extension deadline of July 1, 2015, be granted.

Joe Constance asked if Rodney Towne was thinking of granting an end of May 2015 deadline extension. Rodney Towne answered yes and explained another development was hooked to this development. Emile Bussiere noted that a lot of the work, with the exception of the final binder coat of pavement, could be completed in advance of that final condition and be opened. He suggested that the Board create two deadlines for completion; an earlier deadline for the items that could be completed in advance of the final coat of pavement and a later deadline for the final binder coat of pavement. He noted that if the road was opened the other development would no longer be held up. Rodney Towne advised that he was not comfortable making a decision to accept a road that was not complete without input from the two other Selectmen. Emile Bussiere stated that the necessary work would be completed prior to submitting a plan to the Selectmen for approval. Rodney Towne commented that the suggestion was a possibility.

Joe Constance asked if Emile Bussiere was contractually stuck with Thibeault and Pandelena Construction. Emile Bussiere answered that he was not stuck with the contractors and that he was not concerned with getting someone else involved. Mark Suennen stated that it was not the Board's purview with regard to how a developer worked with his contractors.

Mark Suennen asked what the holdups were for opening the road for public travel if it was not accepted by the Selectmen, other than the final binder coat of pavement. Emile Bussiere answered that the road could not be opened for public travel without the acceptance of the Selectmen. Mark Suennen stated that Emile Bussiere's response was not entirely true. He went on to explain that there were developments on Twin Bridge that were not under the Selectmen's purview but were open to public travel. Emile Bussiere advised that he would have to maintain the road for public travel. He noted that there were some issues with slopes that were deemed dangerous because they were greater than 3:1. He further noted that signs had not been installed and that there was a question of whether some guardrails were too high.

Mark Suennen asked if the issue of the dangerous slopes had been worked out with the Road Agent and Town Engineer. Emile Bussiere advised that there was no question that the plan was to make the slopes 3:1 or less. Mark Suennen questioned the amount of time it would take to complete the work and noted that the start date was indefinite. Emile Bussiere stated that he had been told that the work would take 1 1/2 to 2 weeks to complete; however, it had been his

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experience that things were not always completed in the timeframe given and that was the reason he did not want to commit to completing the work in 1 1/2 to 2 weeks. He further stated other issues were meeting the requirement of 85% adequate growth and explained that it could not be obtained within 1 or 2 weeks. He commented that he was uncomfortable saying that the work could be completed in under 1 month.

The Chairman asked how much work could be completed between now and when the winter set in and could the work be completed after the snow melted during the months of April and May. Emile Bussiere answered that the only problem he had was mobilizing a crew two times to complete the work which would cost him more money. He acknowledged that the cost of the project was not a concern of the Board but believed a different result would not be achieved by mobilizing a crew twice. Mark Suennen believed that DES would prefer that the slopes not be touched until they could be stabilized and as such he agreed that the work could wait until spring. Rodney Towne agreed that not much could be accomplished during the next six weeks.

Don Duhaime believed it was reasonable to grant an extension of the conditions subsequent deadline to the end of May 2015. The Chairman stated that he would not be opposed to granting an additional extension to complete the final binder coat of pavement to July 1, 2015, if all of the other conditions were met by June 1, 2015. Rodney Towne and Joe Constance agreed that the Chairman's suggestion was reasonable.

Mark Suennen **MOVED** to extend the conditions subsequent deadline for Emile Bussiere from November 15, 2014, to June 1, 2015, and to rescind the Board's previous order that no further extensions would be granted because of the applicant's intent to finish under good weather, according to plan and open to public travel as quickly as possible. Rodney Towne seconded the motion and it **PASSED** unanimously.

Letter received October 22, 2014, from Robert Todd LLS/LPF, President, Todd Land Use Consultants, LLC, to New Boston Planning Board, re: Robert W. Nadeau, Tax Map/Lot #4/14, Route 136 a/k/a Francestown Road, request for an extension to the conditions precedent deadline of November 24, 2014, to February 24, 2014, for the Board's action.

The Chairman advised that the applicant was seeking an extension of the conditions precedent deadline of November 24, 2014, to February 24, 2015.

Mark Suennen asked explained if any work had been completed. The Coordinator answered that no work had been completed. She explained that the applicant had gone through a divorce and land had to be transferred into his name. She continued that the land was now in his name and he was ready to fulfill the conditions; however, could not do so by the November 24, 2014, deadline. She noted that he had previously received an extension to complete the wetland crossing to August 2015.

The Chairman asked for any comments and/or questions. Mark Suennen asked if the extension was for the subdivision and the CUP. The Coordinator answered yes.

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1 **NADEAU, ROBERT, cont.**

2
3 Mark Suennen asked if the required financial security had been submitted. The
4 Coordinator pointed out that submission of the bond was part of the conditions precedent that the
5 applicant was seeking to extend. Mark Suennen stated that he would be willing to grant the
6 extension but that the Town better see that money within the next two weeks. The Coordinator
7 again pointed out that the applicant was looking to extend the deadline for submission of the
8 condition precedent items which included the submission of the bond to February 2015. Mark
9 Suennen stated that he understood what the applicant was requesting. He continued that he did
10 not believe that the money was holding him up and that the other engineering items were causing
11 the delay. He stated that he was not about to let this go another five years. He added that he was
12 not going to let the money be the hold up. He stated that he believed that all the engineering and
13 plan stuff took some time and he was comfortable granting an extension for those items. The
14 Coordinator advised that she was pretty certain that because of the divorce and personal issues
15 the submission of the bond was the part of the conditions precedent that the applicant was having
16 trouble completing. Rodney Towne commented that he was not sure how the applicant would
17 find money that quickly if it was a problem now. Mark Suennen stated that it was not the
18 Board's problem.

19 The Planning Board Assistant stated that she did not believe that the money was
20 necessarily the reason for the holdup. She explained that Bod Todd, LLS, had to revise the plan,
21 easements and deeds. Rodney Towne believed that the bond should be put on the table earlier
22 than the date the applicant had requested. The Chairman pointed out that the purpose of the
23 bond was for the Town to complete work if something went wrong and the work could not be
24 completed by the applicant. He noted that if the applicant had not started any of the work by
25 August 2015 then nothing would be lost with the exception that the applicant would no longer
26 have a subdivision. Rodney Towne asked when the money became critical. The Chairman
27 answered that the money became critical when the work started. Rodney Towne stated that the
28 money was probably not critical by February 24, 2015, as work could not be started. The
29 Chairman agreed.

30 Mark Suennen asked when the Dredge and Fill Permit from NH DES expired for the
31 wetland crossing. The Coordinator was unsure; the Planning Board Assistant left the conference
32 room to retrieve the file on this matter.

33 Rodney Towne asked how many lots were in this subdivision. The Coordinator answered
34 that there were three lots. Rodney Towne asked if the wetland crossing was required to access
35 the three lots. Mark Suennen answered yes and added that there was a common driveway
36 easement. The Coordinator thought the crossing was only for one or two of the lots.

37 The Planning Board Assistant advised that the original Dredge and Fill expiration date
38 was January 20, 2015. She noted that Bob Todd, LLS's, office had requested an extension of the
39 expiration date and that she was unsure if that request had been approved yet.

40 The Chairman did not believe that the bond needed to be posted until February 2015. It
41 was Mark Suennen's opinion that the submission of the bond was a good faith effort on the part
42 of the applicant that he intended to complete all conditions precedent by February 2015. The
43 Chairman asked for the amount of the bond. Mark Suennen indicated that the amount of the

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1 **NADEAU, ROBERT, cont.**

2
3 bond was \$12K and would be submitted in the form of cash. The Chairman noted that the
4 applicant could request that the form of the bond be changed. Mark Suennen stated the applicant
5 was asking something of the Board and the Board was asking for something in return.

6 Rodney Towne asked for confirmation that the applicant had previously been granted
7 four extensions. Mark Suennen confirmed that the applicant had been granted four extensions.
8 The Chairman suggested that the applicant be granted one last extension to February 2015.
9 Rodney Towne noted that it was common practice of the Board to continue to grant extensions
10 and referred to the extension that was granted earlier in the evening. The Chairman pointed out
11 that the Board did not want to call the bond for the previously discussed subdivision because the
12 Town did not want to complete the construction of that road. Rodney Towne clarified that the
13 reason he granted the extension was because the Town could not build the road any faster than
14 the applicant could right now. He added that there was no reason to be a jerk if the Town could
15 not complete it either. The Chairman stated that the Board had "no horse in this race" if the
16 applicant did not build the wetland crossing. Rodney Towne agreed. Mark Suennen questioned
17 why the Chairman would not deny the extension request and revoke the CUP/Subdivision if that
18 was how he felt. He then suggested the Board's deadline be extended to match the State's
19 Dredge and Fill permit expiration date and that the Board require receipt of an extended Dredge
20 and Fill Permit.

21
22 Mark Suennen **MOVED** to grant an extension to the conditions precedent deadline to
23 January 20, 2015, with the additional condition that the applicant obtain an extension of
24 his wetland permit to allow for the construction to and through the conditions subsequent
25 date of August 24, 2015, for Robert Nadeau, Location: Route 136, a/k/a Francestown
26 Road, Tax/Map Lot #4/14, Residential-Agricultural "R-A" District. Rodney Towne
27 seconded the motion and it **PASSED** unanimously.

28
29 **Email request received October 17, 2014, from Marianna Sovic, Sunrise Homes, LLC,**
30 **Forest View II, for a request to the conditions subsequent deadline of November 15, 2014 to**
31 **November 15, 2015, for Forest View II, for the Board's action.**

32
33 The Chairman asked if Shiv Shrestha, Forest View II, was aware that Emile Bussiere
34 would be receiving an extension at the time the above-referenced request was submitted. The
35 Planning Board Assistant answered that he was aware that Emile Bussiere was coming in to
36 discuss the deadline extension request.

37 The Chairman pointed out that the two subdivisions were tightly linked and questioned if
38 the deadline should be farther out than November 15, 2015, as Emile Bussiere was granted a
39 longer extension. Mark Suennen noted that this was only the second deadline extension request
40 for Forest View II and further extensions could be discussed if necessary. He then asked if the
41 Chairman wanted to give the applicant an additional six month extension now. The Chairman
42 answered yes. Mark Suennen believed that the additional extension was very reasonable.

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1 **FOREST VIEW II, cont.**

2

3 David Litwinovich **MOVED** to grant the extension request for the conditions subsequent
4 date from November 15, 2014 to May 15, 2016, for Sunrise Homes, LLC, Forest View II.
5 Don Duhaime seconded the motion and it **PASSED** unanimously.

6

7 Rodney Towne **MOVED** to adjourn at 7:06 p.m. Mark Suennen seconded the motion
8 and it **PASSED** unanimously.

9

10

11 Respectfully submitted,
12 Valerie Diaz, Recording Clerk

Minutes Approved:
11.25.14