



**Planning Board**  
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Desiree Tumas, Administrator  
Mark Fougere, Certif. Planner  
Nancy Girard, Chair  
John Funk, Vice-chair  
Rachel Hatch, Select-Rep  
Dan Hudson, Member  
Marty Martindale, Member  
Dave Russell, Member  
John Weston, Member  
Jacqueline Heath, Alternate

**Minutes of the Meeting**  
**October 13, 2011**

**Member Attendance** Nancy Girard, Chair; Rachel Hatch, Select Rep.; Dan Hudson, Member; David Russell, Member; John Weston, Member; Mark Fougere, Town Planner; Desiree Tumas, Administrator; Absent from the meeting were John Funk, Vice-chair; Marty Martindale, Member

**Public Attendance** (As signed in) Douglas Isleib, Ryan Benson, James Barnes

**Open Meeting**  
Call to Order @7:03 pm  
Introduction of Board Members  
Explanation of Meeting Procedures

**Approval of Minutes**  
**September 08, 2011**

**D. Hudson moved to approve the September 08, 2011, Minutes of the Meeting as amended, D. Russell seconded the motion as stated; the motion passed with a favorable vote of 5-0.**

*N. Girard called to hear item 2 under the public hearing out of order. Board Members were agreeable to calling item 2 under public hearings out of order.*

**Public Hearing**

2. **PB Case #1111 (Original PB #1407) Ryan Benson/BMMC Contractor Yard/Robert & Dianna Vayda, Property Owner-** Notice is hereby given in accordance with RSA 676:4-a the Planning Board will hold a public hearing on October 13, 2011. Hearings begin at 7:00 pm, at the Academy Building Conference Room for the purpose of considering whether to revoke a plan previously-approved on October 11, 2007, and filed with the Belknap County Register of Deeds. The Board is considering revocation for the reasons stated below. Should a decision not be reached at the public hearing, this application will stay on the Planning Board agenda until such time as it is either approved or disapproved.
- Failure to restore the site to the conditioned requirements of the Planning Board approval granted, October 11, 2007.

N. Girard opened the public hearing and recognized Ryan Benson who was present to provide explanation as to why the site did not comply with the conditions of the original approval and why screening of the dirt pile located on the site had not begun.

R. Benson stated that he feels he has been unduly singled out and that he did not appreciate his name being "slandered" all over town and during meetings.

R. Benson explained he had agreed that he would meet with the Planning Administrator and ZBA Clerk if he was to move forward with the boat storage. If he were to keep the porta-potty onsite than he would meet with the Health Officer. If the dry storage/office shed described, as a "bob-house" were to remain R. Benson would apply for a building permit. The porta-potty, shed/office/bob-house and dumpster have all been removed from the site.

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R. Benson explained that he was of the opinion that the site was in compliance. The piles of materials that are considered, "construction debris" in R. Benson's opinion are usable materials. The composite decking materials and stair casing are from a job site and can be used at a later time. The pallets on the site are used to keep material and items off the ground. The logs and stumps are from the site when the contractor yard was first developed and the telephone poles that were noted to be on site were placed there by the workers who replaced the telephone pole following a couple auto accidents on the corner of Rte 140 and Halls Hill Road.

D. Isleib stated agreement with the potential use of the composite decking and the stair casing. J. Barnes agreed with the statements made by R. Benson.

N. Girard and Board Members reviewed the pictures taken periodically since April and explained due diligence on the Board's behalf to look into potential violations when they are brought to the Board's attention. The pictures depict there are or were in fact piles of unapproved materials and trash on the property.

N. Girard explained the site is highly visible at the corner of Rte 140 and Halls Hill Road and that the storage of boats on the site was brought to the Board's attention. In the process of reviewing storage of boats, it was noted that the site did not comply with the original conditions of approval.

It was noted that R. Benson did not attend the meeting in August or September to discuss the conditions of the site. It was agreed there was an issue with email delivery that interfered with R. Benson's notice of non-attendance in August. The Board received email 30 minutes before the meeting on September 8, 2011, that stated the site complied with the original conditions of approval.

Additionally, when R. Benson did not attend the meetings, the Board has no choice but to base their decision on the photo evidence provided.

The Board confirmed the last site visit was on September 9, 2011, when D. Russell, M. Martindale, and D. Tumas viewed the site in response to the email received that indicated the site was in compliance. Upon viewing the site and taking pictures, it was clear that the questionable piles were still on the site and screening of the dirt pile had not begun.

D. Tumas explained that there had been material/debris that was plowed under, covered and then pulled back out following the site visit by DES. The remaining pile of dirt that was due to be screened by the end of October is the material that was pulled back out. Whether or not the material plowed under encroached on the wetlands was questioned and it is the responsibility of NH DES to make an exact determination and that is why DES was called.

R. Benson disputes the allegation of illegal dumping stating that the materials are overburden from the site development.

Referring to the file photos taken on the site it was clear that there are stumps, wood stock materials asphalt and other materials visible in the pictures taken from on top of and behind the pile. The most recent photos show that there are stumps, logs and roots still piled on the site.

D. Hudson explained that at the September 8, 2011, meeting which R. Benson did not attend; the Board decided to hold off on making a ruling until it could be determined if the site was in compliance. The site was visited the following day and pictures were taken.

R. Benson went on to explain that he did not dump materials illegally and plow them under into the wetlands. R. Benson maintained the materials were from the site. R. Benson further explained that DES had come to the site and determined that the material did not encroach in the wetlands.

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D. Hudson questioned why the dirt pile had not been screening and why construction debris was brought to the site when it was clear from previous discussions that materials from job sites were not to be brought to the site.

R. Benson explained that there is a differing opinion as to usable material and construction debris. The windows and door were from a job where he replaced the door and windows and since they were in good condition, it is possible to recycle and reuse the material. The stair casing can be used for temporary purposes when building a deck to allow access during construction before the permanent stairs are constructed or installed. It was further explained that the bundle of composite decking is also usable material. Screening of the material has not been begun due to a lack of time and money.

Addressing the logs and stumps, R. Benson explained that he plans to give the logs to Mr. Potter to use for his wood burning heater. He does not understand why he cannot bring the wood from a felled tree, to cut up and give to another resident who can use it.

N. Girard asked what the approved materials and items were according to the October 2007, site plan; the approved materials as indicated on the plan are: gravel, loam, stone, mulch, plows, sander, skid steer, excavator, brick/hard granite and the 300 gallon diesel tank.

N. Girard reviewing the history explained that the Board approved a plan in 2007; there was then a proposed amended site plan applied for to store boats. When the hearing was scheduled, R. Benson did not attend the hearing to provide evidence supporting the proposal to store boats on the site. When this happened the Board determined it would be best to get the site in compliance with the original approval. This is where the Board is currently.

Based on the testimony given and pictures provided, N. Girard is inclined to visit the site with the code enforcement officer. The issue is that on September 8, 2011, email was sent 30 minutes before the meeting indicating the site was in compliance. However, R. Benson didn't attend the meeting to provide testimony during the public hearing.

R. Benson questioned what in the pictures was not in compliance; D. Hudson explained the pile was suppose to be screened and processed to loam by the end of October. The Board understands the financial constraints but the Board cannot continuously keep checking every month and taking pictures. There needs to be time parameters set and kept.

D. Hudson stated that the Board recognized the amount of work that has been done, and reiterated that there had been nothing done with the pile that was supposed to be screened and processed by the end of October.

J. Weston noted that he took issue with R. Benson's failure to attend both the August and September meetings, to explain what the materials were and why they are not construction debris as is believed by visual inspection. The Board is trying to work with R. Benson, and thus far, R. Benson agrees with the conditions outlined by the Board during a meeting and but then at the next meeting it is found that compliance had not been satisfied.

Missing the last two meetings has put the Board in a position to act in the best interest of the town and that is why the Board moved forward with the current action to conduct a public hearing to possibly revoke the original approval. At this point, the Board cannot keep amending the plan. The site needs to be in compliance and that is why the hearing is underway.

N. Girard called for further questions from the Board, hearing none; opened the public discussion recognizing Abutter Doug Isleib.

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D. Isleib stated that back in March, he received notification that the Board was going to conduct a meeting for the storage of boats, which is not considered an approved use on a contractor yard according to the zoning definition.

D. Isleib read the minutes of the meeting. Questioning why at first it was just the violation to store boats on the property. When the hearing was held additional violations were noted. Also discussions were held at the Board of Selectmen's meeting where a cease and desist was discussed.

D. Isleib went on to explain that he is an abutter and although he had seen the boats on the yard they were of no consequence to him and the rest of the lot looked like any other contractor yard. D. Isleib does not understand what the problem is if R. Benson finishes at a job for the day at a late hour and needs to unload what is in the truck to be disposed of later.

D. Isleib understands that stumps and logs are not supplies certainly, but it is unclear why neat piles of construction materials cannot be left on the site.

D. Isleib visited the site today and reviewed the photos on file. While at the site pictures were taken and D. Isleib wanted to make clear that R. Benson had no knowledge of his visit to the site. D. Isleib is unsure if R. Benson wants the pictures taken to be shared with the Board. In D. Isleib's opinion the site is one of the best kept in town.

D. Isleib explained there are other contractors that give trees/wood to Mr. Potter who burns them in his wood-burning heater.

N. Girard stated that D. Isleib, having served on the Board should know that the Board has to go on the information provided by the administrator and code enforcement. The Board cannot continuously go out to the site to confirm compliance with the conditions of approval.

The Board has made attempts since March of this year to gain compliance. R. Benson has been notified in writing every step of the way. The correspondence was sent certified/return receipt so the Board knows that the letters were received.

When the original approval was granted, the Board was very much in favor of the proposal and wanted R. Benson to be successful with his business. But then when boats were being stored and other unapproved materials are being stored on the site the Board is obligated to act.

N. Girard went on to explain that R. Benson submitted an application to amend a site plan to allow the storage of boats. The Board then looked closely at the current circumstances and conditions of compliance. Following discussions and consideration of R. Benson not attending the hearing, the Board discussed if adding additional impact to the site would be prudent. The Board then determined that if the site does not comply with the original approval, then there is no expectation that additional impact as requested would be in compliance.

R. Benson maintains that the site is in compliance and requests the Board to clarify what violations exist on the site.

N. Girard again went over the approved storage according to the site plan approved in 2007.

R. Benson disagreed with N. Girard's interpretation of the plan and indicated that the areas on the plan are general as are the descriptions of approved materials.

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R. Benson went on to state he was accused of dumping and covering over materials in the back portion of the approved area. The material has since been pulled back out onto the graveled area of the contractor yard and he would like to eventually screen the material. R. Benson maintains that he never did anything wrong and never filled any areas that he should not have. It was further explained that he has not reached the max width and depth of the site as approved in 2007.

D. Hudson disputed the claim explaining that during a site walk in June, measurements were taken and the lot is pretty much at the maximum surface area as was approved in 2007.

R. Benson stated agreement that he is at the maximum surface area for the gravel packed surface of the contractor yard. And, went on to explain when he pulled the materials back out onto the surface, a silt fence was put in place to minimize any runoff.

N. Girard requested submission of the pictures taken by D. Isleib as evidence; R. Benson stated agreement with the submission of the pictures.

D. Isleib stated that the zoning ordinance does not have a definition of contractor supplies and contractors do not necessarily know what supplies they may have.

N. Girard explained that previously there were materials on the site that were not contractor supplies and there was more was being stored there than should be.

D. Isleib stated that it must have been cleaned up, because the in his opinion the site is in good condition.

D. Tumas reminded the Board they had given R. Benson until the end of October to screen the grass covered pile of material that was pulled back onto the gravel surface.

R. Benson disputes that the pile is a violation.

D. Tumas explained screening the material by the end of October was not due to a violation, it was a condition set forth by the Planning Board during a public hearing to clean the site.

D. Isleib went on to explain the pictures provided.

- 1 of 10 Diesel tank; was supposed to be bermed, the tank is contained in what looks like the bottom half of a concrete septic tank and enclosed with four sides and a roof. It is agreed that the oil tank next to the diesel storage tank is not approved.
- 2 of 10 Storage container with stored equipment on top and other equipments stacked next to the container.
- 3 of 10 Block storage bin used for storing materials.
- 4 of 10 Pile of material that was pulled back to the gravel surface and was to be screened by the end of October.
- 5 of 10 Stone & board materials.
- 6 of 10 Board materials and logs.
- 7 of 10 Logs, stumps, stair casing, other materials.
- 8 of 10 Slightly to the left of 7 of 10.
- 9 of 10 Pallets and irrigation equipment.
- 10 of 10 Stock materials, shrink wrapped plows, sander, pallets, and blocks.

D. Russell explained that there has been a lack of communication by R. Benson. Adding that the escalation of the situation could have been avoided if R. Benson had attended the meetings in August and September.

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D. Russell went on to explain that R. Benson was unresponsive to the letters that had been sent and that were signed for when received. The lack of response and attention to the matter has made it more difficult for staff. It was additionally noted that R. Benson has had every opportunity to call the Planning Office or to come in and discuss with the Board the circumstances of the contractor yard.

It goes without saying that the Board does not want to revoke an approval, but that the unresponsiveness on the part of R. Benson had left the Board with no other options. R. Benson stated agreement that there has been a lack of communication from him.

R. Benson explained that the property has been on the market and it was expected that Zannah Richards the listing agent was going to attend the meeting and that it is unknown if he will be able to maintain the use of the contractor yard, once the property sells or if it goes into foreclosure. R. Benson went on to explain that initially he had helped to build the garage in exchange for use of the area for the contractor yard. Rent has also paid in exchange for use of the property. Adding that he has finally caught up on the rent and would like to continue using the property.

R. Hatch questioned if the tires were recycle material and where they came from. R. Benson explained the tires were usable, not recycle material. The tires were not for the Dodge pickup but were for a Ford truck also owned by R. Benson.

Rachel reiterated the statements made already that from the outside looking in, it would be easy enough to mistake the materials as construction debris and that she agrees the situation would not have escalated to the degree that it did, had R. Benson attended the August and September meetings it would have alleviated a lot of the guess work.

Addressing D. Isleib's comments, it is the responsibility of the Select Rep., to report to the Board of Selectmen. The report given at the BOS Meeting was a matter of fact reporting and not meant to be condescending in any way. The Planning Board reports are given once a month to keep the BOS informed of what the Planning Board is working on.

D. Russell redirected discussions to the Cease and Desist that is currently in the works with Town Counsel. During the site walk of September 9, 2011, it was the understanding of D. Russell, that both he and M. Martindale were impressed with the cleanup that had occurred. There were still items that were not in compliance. That being the case, it was understood that the Cease and Desist would be held.

N. Girard explained that the Board decided to do a site walk to follow up the email sent the night of the meeting in September to see if in fact the site complied with the original approval with the exception of the additional trailer; and if not, that the Board would move forward with the Cease and Desist.

Decision Letters from both August and September were read for the Board. J. Weston noted that the Board has since determined that some of the materials believed to be construction debris were in fact usable materials according to testimony provided by R. Benson.

R. Hatch pointed out that on September 9, 2011, without R. Benson attending the meetings the Board had to make a determination based on what was seen on the site.

N. Girard again reiterated the fact that the Board had received an email 30 minutes before a meeting and questioned, if the Board should have just accepted the letter without viewing the site before a determination. Upon viewing the site on September 9, 2011, it was believed by the Board, the materials that remained were not usable materials. The catalysis of the action was the failure of R. Benson to communicate to the Board and the Administrator, that caused the Board to take the action thus far.

N. Girard questioned what R. Benson's plans were for the remaining pile of materials due to be screened?

R. Benson explained that he would like to stabilize the bank around the contractor yard.

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D. Tumas stated that during a previous public hearing, the Board by motion and vote conditioned that the pile would be screened by the end of October.

R. Benson explained that he agreed to screen the material because he thought that he was in violation when he was accused of dumping in the wetlands. He believes that the material can legally be on the lot and that if he wanted he could move the pile back to where it was.

D. Tumas explained that DES was called because neither she or Bob Flanders are qualified to determine if the material plowed under encroached on the wetlands. DES determined that the pile of plowed material was close but did not encroach on the wetlands.

R. Benson disputes the statement and went on to explain, now that the surface of the contractor yard is at its maximum dimensions; he would like to stabilize the edge with the material.

D. Hudson explained he is not in favor of spreading the material on the site, he would like to see it gone; adding that if the material were to be used to stabilize the surface pack, it would put at least two locations within 25 feet of the wetlands.

D. Isleib discussed the 50' buffer in Gilmanton. Clarifying that the 50' setback for buildings from the wetlands or streams. D. Isleib went on to state that there is no issue with natural vegetative materials such as brush branches and leaves when dumped into the wetlands because they are naturally occurring.

D. Tumas reminded the Board of the creosote covered poles that are no longer visible on the site, are very dangerous to the environment. Creosote kills trees and contaminates the soil around the area when left on the ground. Photos taken on the site show the creosote covered poles and the trees above the poles that were dead and/or dying.

R. Benson explained that the poles were dumped on the site by "the people who do the telephone poles", when they replaced them following an accident at the corner of Rte 140 and Halls Hill Road. R. Vayda was asked, back when the poles were replaced if it would be okay if "they" left the cut poles on the lot and R. Vayda had no problem. Despite that, R. Benson did not own the poles, he stated that he had removed them from the site and disposed of them at a Barnstead facility.

Abutter, J. Barnes confirmed the statement made by R. Benson regarding the telephone poles being left on the site.

Board Members reiterated that again, R. Benson was providing new information that had not previously been presented to the Board.

N. Girard stated, regardless of the new information, it does not change the fact that R. Benson needs to have better communication and be responsible for notifying the Board when changes occur and be responsive to correspondence from the Planning Board.

D. Hudson questioned what to do with the pile of material, which, was to be screened and questioned the Board about the spreading of the materials on the site.

R. Benson explained the pile had not been screened due to a lack of time, equipment and money that prohibited him from getting the screening completed. The pile is stationary and has a silt fence behind it.

R. Hatch stated that she could appreciate the financial hardship, it was a condition by motion that the Board made and questioned why the Board was not made aware that it might be a problem?

During the July meeting, R. Benson believed that he would be able to screen the material and that he had done all the other work to bring the site into compliance such as adding the apron as required by NH DOT, removal of the porta potty, dumpster and the unapproved storage container.

J. Weston questioned if the material screened material could be sold.

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R. Benson stated that screened loam costs \$35-\$40/yard. If he could yield 50 yards, it would make some good money and if he added sand, he could double the amount. However, that he would need a screener and a job to use the material. Referencing a current job that he is doing in Massachusetts; if the job were closer, he could screen and use the material.

R. Benson stated that the Abutters have had no issue with the condition of the contractor yard and that "someone in this room" brought violations on the site from the storage of Boats to the Board's attention.

N. Girard asked R. Benson if the Board did not have a right to enforce its own regulations, adding that the Planning Board has worked over the past months attempting to get R. Benson involved and engaged to do what is right on the site.

N. Girard reminded R. Benson not to get angry with the Board because the Board was forced by his inattention to the matter which resulted in the pending revocation action.

D. Isleib questioned the statement made that "Abutters" had complained; D. Hudson explained that the site is a highly visible corner on a major route through town, adding that he could see how someone passing by could mistake the materials as construction debris. Most of the Board believed it to be construction debris until it was explained that the materials could be reused.

R. Hatch explained that as a Selectmen, it is her job to serve the people of the town. Having said that, it is also her job as a board member to report that the Planning Board is doing their job. The Planning Board is not available on a daily basis. The Administrator is available every day and if the Administrator was not doing her job, R. Hatch stated that disciplinary action would have to be taken. Part of the Administrator's job is to be the eyes and ears of the Planning Board.

R. Hatch went on to explain the Administrator was in no way, "a snitch or was picking on R. Benson"; she was doing her job. The Administrator does not live in Gilmanton and drives by the site on a daily basis on the way to work. R. Hatch stated if she had driven by the site and seen the things that prompted the attention of the Planning Board, she would have done the same and brought the information to the Board.

R. Hatch went on to explain that on the flipside, she would defend a resident if she felt that in any way they had been wronged. R. Hatch does not feel that R. Benson had been wronged in any way and questions why R. Benson keeps asking what he did wrong.

R. Hatch explained the lack of communication is what was "wrong". And now that they find that the some of the materials are reusable, she would defend that point. The point is there was a huge lack of communication on R. Benson's behalf.

R. Hatch made it clear that she does not want R. Benson to have ill feelings for an employee doing her job. She appreciates the job being done and reiterated that the Administrator is the eyes and ears of the Planning Board making similar reference to the Town Administrator to the BOS and the ZBA Clerk to the ZBA. It was made clear that it is not person specific; but if a violation of any kind is noticed or thought to be a violation, the proper authority must address the concern and make a determination.

R. Hatch made clear that both the Administrator and the Planning Board Members are doing an excellent job, the situation is rectifiable, and she does not want people leaving the meeting with ill feelings. We as a town are very fortunate to have the people we have and the make up of individuals on the Planning Board and appreciates the Administrator for the job that is being done.

R. Benson stated concern with statements made by the Administrator in correspondence.

N. Girard explained all correspondence; before mailing is approved by either the Chair or Vice-chair of the Board. Further adding any, correspondence received from the Administrator is to be considered from the Board. Letters are based on information from the hearings as well as observations made.

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J. Barnes stated that it seems like conclusions were made without all the information.

N. Girard stated that the Planning Board had meetings in August and September that R. Benson did not attend to answer questions that the Board had and as a result, the Board had to act with the information and pictures that were available.

Discussion ensued regarding the dumping and plowing under of materials and the questionable illegal dumping from discussions at the meeting in June.

D. Tumas explained that during the June or July meeting, the State RSA pertaining to illegal dumping was provided to both R. Benson and the Board Members.

R. Benson denies that he received a copy of the State RSA.

N. Girard redirected discussions to what has been done and explained that the remaining issue at this time was the pile of material that remains and was due to be screened by motion by the end of October. The Board's options are to uphold the motion to have the material screened by the end of October; or allow spreading of the material on the site to shore up the edge of the hard-pack surface of the contractor yard.

N. Girard called for comments from the Board; D. Russell stated that given the time of year and current economic conditions that he is inclined to allow the pile of material to be screened to remain throughout the winter.

D. Russell additionally noted that the site has been cleaned up and information provided that was not previously known to the Board with regard to the material piles that are on the lot.

N. Girard called for further discussion from the Board; D. Hudson stated some concern with the Board being in the same position come spring. The pile has been on the site for 4-years, it needs to be screened in a timely manner, the logs are not contractor supply, and they need to be removed.

D. Hudson added that before the meeting he was in favor of the Cease and Desist. Having received the information at the meeting, he is in favor of allowing the site to remain in the current condition, so long as the logs are removed and there is a deadline date to have the pile screened.

R. Benson stated agreement with D. Hudson's comments.

J. Weston stated agreement with the statements made by D. Hudson.

D. Hudson added that in the future there needs to be open lines of communication; if a potential violation is brought to the Board's attention that requires a public hearing, it is expected that R. Benson will be more responsive and will attend the hearing to provide explanation on the record.

D. Isleib questioned the ambiguity of "contractor materials" and if it would be helpful if designated areas were used and additionally questioned the addition of other materials on the site.

D. Hudson explained that the Board approved, concrete bins that would contain gravel, loam, stone and mulch. That was the original intent as approved by the Board. It is understood that the site is a work in progress. It is the Board's expectation that the site will comply with the conditions of approval.

N. Girard reiterated the need for open communication from R. Benson. She went on to explain that the Administrator is not his enemy and where the Board meets once a month, the Board relies on the Administrator to be the spokesperson when the Board needs to take action. When something is going on, the Board calls the Administrator; reminding R. Benson what R. Hatch had said.

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N. Girard went on to say that the Administrator is doing a great job for the Board and the Board has an obligation to uphold the regulations and ordinances and conduct meetings without animosity.

N. Girard revisited the comments made about the new information that was provided to the Board. She advised R. Benson he needs to come to the Board with a willingness to work with the Board and not against it.

D. Isleib stated that he has a lot of respect for the Building Inspector and that he is aware of the various types of contracting jobs R. Benson does and D. Isleib does not understand why the Building Inspector did not see the materials as useable.

D. Tumas explained it was not just the opinion of the Building Inspector so much as it was the condition of the site and lack of communication. The Board Members believed the materials to be construction debris and R. Benson did not attend the meeting in August or September or explain the situation and the Board has to act on the evidence provided.

Board Members went on to discuss extending the date to have the pile screened until sometime in the Spring of 2012. D. Hudson questioned when the best market was to sell the loam.

R. Benson explained the loam market picked up in the spring. He would like to possibly use some of the material to stabilize the gravel by creating a toed slope on the edge of the yard. It would mostly be used on the backside of the yard where the silt fence is located. Screened loam is not the only market that could use the material; there are times when people need fill as well.

N. Girard questioned the estimated total amount of material; R. Benson stated about 70 yards and that he would use approximately 20 yards to stabilize the edge of the gravel pack.

R. Hatch questioned if stabilizing the gravel pack edge would enlarge the surface area beyond the approved dimensions.

D. Hudson explained that considering how late in the season it is it would be difficult to seed the stabilizing area around the yard. In hindsight, the plan should have provided for stabilizing the edge.

R. Benson explained that since pulling the material back onto the gravel surface he would like to be able to stabilize the back portion of the yard so that it could be weed wacked once a month or however often is necessary.

It was agreed by all, that the growing season is done for the year and any new vegetative growth would have to wait until spring.

R. Hatch questioned if R. Benson had a plan for the materials.

R. Benson reiterated that he would like to use some of the material to stabilize the edge of the yard and screen the remaining.

D. Russell suggested the Board have R. Benson come back to the Board in May and provide a written plan of what the intentions are for the materials and include a list of materials that are expected to be stored on the site.

Wanting to make clear to R. Benson, D. Tumas explained that an application to amend an approved site plan would be required if there was any change to the original approval. It was noted that at any time M. Fougere and D. Tumas would be happy to meet with R. Benson to provide guidance.

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The Board discussed the status of the hearing and if they should continue the hearing until May. It was explained that the Statute allows the hearing to remain on the Agenda for as long as is necessary.

N. Girard called for further discussion, hearing none; entertained a motion to continue the hearing until May 10, 2012.

***D. Hudson moved to continue the public hearing until May 10, 2012, J. Weston seconded the motion as stated; the motion carried with a 4-0 vote; there was no vote noted by R. Hatch***

N. Girard called for any further discussion; R. Hatch stated to R. Benson that application to the Planning Board may have fees associated with submission, but it costs nothing to meet with M. Fougere, Town Planner and D. Tumas, Administrator. It was strongly recommends that R. Benson utilize the free of charge resources available.

N. Girard called for further discussion; R. Benson questioned if there was a copy on file of a plan made by R. Bartlett. R. Benson does not believe that copy had been submitted.

D. Tumas stated that a revised plan was submitted with the application, fees were paid and the scheduled hearing was noticed. D. Tumas could not recall if R. Benson's mother or sister brought the application in, but it was processed and R. Benson did not attend the hearing, which resulted in denial of the request to amend the site plan.

D. Hudson questioned the Board's ability to waive applications fees; R. Hatch explained that the request would have to be approved by the BOS and cautioned about precedence. D. Tumas added that typically, Non-profits pay the abutter fee but have the application fee waived.

D. Hudson stated he understood it was R. Benson's own inaction of not attending the meeting, but that he also understands the financial hardship.

N. Girard called for further discussion, hearing none; discussions were concluded and a 5-minute recess was called at 9:50 pm. The Meeting was called to order at 9:58 pm.

- 1. In accordance with RSA 675:6 & 7, the Planning Board will hold a public hearing on October 13, 2011, beginning at 7:00 pm in the Academy Building Conference Room on the adoption of the amended subdivision regulations.**

N. Girard opened the public hearing by reading comments submitted via email from J. Funk, Vice-chair; and N. Mitchell, Gilmanton Resident who were unable to attend.

The following non-substantive corrections were made:

- Page SUB-10: Add "Minor" to the opening paragraph of Section B.
- Page SUB-21: Change the word "four" to "five" to reflect the correct number of years at the end of the first sentence in Section XII.
- Adding definition: Reserve Strip or Spite Strip are a way of controlling access to a public streets shall be prohibited except where there placement is required for public safety reasons and approved by the Planning Board.

Board Members were provided a copy of the proposed application fee schedule to include in the approval of the proposed subdivision regulations. It was explained the proposed fee schedule is based on information received pertaining to other towns with similar size, development and population as well as discussions with the Assessing Department Staff and the Town Administrator.

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D. Tumas also explained that she has been working on a comprehensive application form that will help to guide applicants through the application process.

The public notice fee is an average based on the actual cost of notices and the mapping fee has been added to cover the municipal cost of updating the town tax maps following approval of a subdivision/lot line adjustment or site plan review.

Currently the town does not charge for or have an application for Voluntary Mergers. Using the OEP Model an application has been created and the proposed fee of \$25.00 to process the paperwork and have the merger recorded at the registry of deeds.

N. Girard mentioned the recent information pertaining to the reversal of involuntary mergers had been provided to the Assessing Department and the Town Administrator. It was confirmed that both had been given the information from the LGC Law Lecture.

N. Girard provided information pertaining to two legal decisions that were made the previous day. Board Members reviewed the information.

The Board briefly discussed the latitude now afforded the ZBA to use peer review during the public hearings. A further point of the regulation is that only one Board may request the peer review. In addition to the cost savings of a joint hearing, Board Members agree that the new law is another good reason to conduct joint hearings with the ZBA.

N. Girard redirected discussions back to the proposed fee schedule; there were no additional comments and a motion to approve the proposed subdivision regulations and fee schedule was entertained.

***D. Hudson moved that on October 13, 2011, after duly-noticed public hearing, the Planning Board approve and adopt the proposed Gilmanton Subdivision Regulations as amended in its entirety and as represented during the public hearing, D. Russell seconded the motion as stated; the motion passed with a 5-0 favorable vote.***

***D. Hudson moved that the Planning Board accept and adopt the proposed application fees as submitted, D. Russell seconded the motion as stated; the motion passed with a 5-0 favorable vote.***

Board Members signed the Certification of Adoption to be submitted to the Town Clerk for official Town Certification according to RSA 675:6.

D. Tumas explained that once the certification had been completed by the Town Clerk the new subdivision regulations will be in affect.

**Discussions**

**1. Rainbo Club - Survey of the current conditions.**

Rainbo Club has submitted a recording purposes only boundary and current conditions survey of the development.

Joe Hempel, Fire Chief and Bob Flanders, Building Inspector/Code Enforcement Officer toured the site with Al Spaulding for life and safety recommendations. The following safety requirements were requested and completed before the final plan submission.

- Widen and maintain the right of way to accommodate the width emergency vehicles without damaging the vehicles.
- Trim tree branches to a height that would accommodate passage of emergency vehicles without damaging the vehicles.

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- All rights of way are clearly marked with street signs at all intersecting rights of way. The signage and hardware was purchased through the State DOC at the Rainbo Fish and Game Club's expense.

Board Members are happy with the submitted plan and agree it is a benefit to the town to have the development surveyed for life and safety purposes.

Town Planner, M. Fougere requested an additional note stating, the access onto and throughout the site as depicted on the Plan submitted are rights of way and not to be construed as "Roads".

As mentioned, the plan submitted is for recording purposes only and there is no action required of the Planning Board.

**2. 2012 Budget Request Form**

D. Tumas explained that with the new fee schedule some of the budget line items will begin to support themselves instead of the tax payer.

- Mileage will be offset by income generated from Recording Fees.
- Advertising and Notices will be offset by income generated by the newly approved Public Notice Fee.
- The increase in the Abutter Fee will also cover the cost of postage.

It was additionally noted that the new Planning and Land Use Regulations have been ordered, but the cost is not reflected in the current year expenditures. The charge will be reflected when the books are received.

D. Hudson questioned why the Training line did not reflect payment for training completed to date.

D. Tumas will speak to T. Warren to ascertain why the Training does not reflect the cost of training already expended.

Reviewing the Advertising and Notices, D. Hudson questioned if the Board could encumber the remaining amount to cover the cost of notices for the proposed zoning amendments that will require notice for a public hearing.

***D. Hudson moved to encumber the remaining \$844.25 of the Advertising and Notice Line Item #01-41911-343-00 and to approve the proposed 2012 budget, D. Russell seconded the motion as stated; the motion passed with a 5-0 favorable vote.***

D. Tumas explained that she has created deposit slips and accounting spreadsheet as a matter of checks and balances for the revenue generated by applications. Line items reflecting the breakdown of income from applications have been added to the ledger. The results of the new accounting system will be apparent next year when the Board reviews the Budget for 2013.

D. Tumas explained how the breakdown of fees would allow for better financial accounting. Income from application fees, public notice, abutter fees and a mapping fee are listed individually.

**3. CIP Figures for 2012**

N. Girard read the email from Stan Bean and copy of the proposed FY 2012 figures were provided to the Board.

D. Tumas will print and bind copies of the CIP with the updated figures for the Budget Committee and members of the public that may attend.

N. Girard called for further comments, hearing none; discussions were concluded.

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**4. Land Use Law Update**

Information provided for Board information and review purposes.

**5. Letter of Non-compliance**

- a. **David Clairmont** – 411-01 & 03/Original Approval: 01/29/04. Issue of stockpiles. Request inspection to confirm compliance with the conditions of approval.
- b. **Paul Deforest** – 405-04/Original Approval: December 18, 2008. Request inspection to confirm compliance with the conditions of approval.
- c. **Mark Padula** – 412-17/Original Approval: August 13, 2009, Final plan never submitted. Request inspection to confirm compliance with the conditions of approval.
- d. **John & Claire Wilkens** – 414-79/Original Approval: July 09, 2009. Request inspection to confirm compliance with the conditions of approval.

D. Tumas explained the noted applications had not been closed due to various conditions of approval that were not confirmed as complete before the prior Administrator's departure. The Belknap County Registry of Deeds records were researched and there were no recordings of plans and or Notice of Decision that could be located.

D. Tumas requested approval to send a letter to the applicants indicating the information was not on file and request submission of the information.

Board Members were agreeable to the follow-up.

D. Isleib stated that he is concerned with the Board's additional oversight on the supposed unrecorded approvals mentioned. In addition, he questioned the ongoing work on the property across from Middle Route and went on to question why there has been no oversight on the R. Goodwin property.

D. Tumas explained that the site across from Middle Route had been questioned and when she looked into the matter found that the site is permitted for a timber harvest.

R. Hatch explained that the Code Enforcement Officer is working with R. Goodwin to clean the site up. It is an ongoing process.

D. Isleib also questioned why farms are able to keep old equipment and vehicles in visible sight and the eyesore that is created by the equipment that stands idle on the various farms in town. Adding that some of the farms are more of an eyesore than the Benson Contractor Yard.

R. Hatch stated that oversight of the farm equipment and vehicles was a good point that should be considered.

D. Tumas explained that the oversight on the Benson yard was because there was initially one boat then there were two and then more began to show up on the property. The Board has worked diligently since March of this year to get the site to the current condition.

R. Hatch supported the comments made by D. Tumas adding that at the onset all members viewed the materials as construction debris. R. Benson failed to attend two meetings to provide information about the materials. Now that explanation has been provided the Board agrees that some of the materials are reusable.

N. Girard redirected discussions to the requested oversight of the application decision letters that have yet to be recorded; Explaining that she did not recall final confirmation of the conditional approvals on the applications listed.

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**Correspondence**

1. **NH LGC – Fundamentals for Planning Boards & ZBA's. Saturday, October 29, 2011 @ LGC, 9 am – 12:15 pm**
2. **NH LGC – Annual Conference. November 16-17, 2011 @ Radisson Hotel Manchester**

Reminder of upcoming workshops and conferences for informational purposes only.

**Unscheduled Business**

- **Marshall Bishop – Gilmanton Winery**

D. Tumas explained, Marshall Bishop submitted a plan that did not have the path or bridge from the parking area. D. Tumas left a voicemail requesting an amended plan reflecting the conditions of the PB. Having not received a reply to the voicemail, follow-up will continue.

- **Brandon Deschuiteneer proposed site plan for a Contractor Yard/Landscaping business.**

D. Tumas explained she had received a site plan application for a proposed Contractor Yard/Landscaping business. Technical Review and a site walk will be scheduled and hearing will be November 10, 2011, pending the technical review. The proposal has received ZBA approval for the contractor yard.

- **Belmont Planning Board Agenda**

D. Tumas explained she noticed that AE Mitchell was scheduled for a hearing with the Belmont Planning Board. AE Mitchell owns and operates the excavation operation on Rte 106, in Gilmanton and owns abutting property in Belmont. Review of the Belmont assessing information determined that the subject property noted on the Belmont Planning Board Agenda does not abut the Town of Gilmanton.

- **Proposed Zoning Amendments for next month's meeting**

M. Fougere explained the Board will begin reviewing proposed zoning amendments at the November 10, 2011, meeting. As was previously discussed, M. Fougere wanted to confirm that the Board still wanted to propose the change of some special exceptions to conditional use permits that would be reviewed by the Planning Board in conjunction with the site plan applications.

Board Members stated agreement with the proposal.

**Adjournment**

***D. Russell moved to adjourn the meeting at 9:30 pm, J. Weston seconded the motion as stated; the motion passed with a 5-0 favorable vote.***

Respectfully submitted,

Desiree Tumas  
Administrator