



TOWN OF NEW DURHAM PLANNING BOARD PUBLIC HEARING NOTICE

TUESDAY, MAY 6, 2014

7:00 PM @ NEW DURHAM LIBRARY

REVOCAION OF SUBDIVISION KNOWN AS KODIAK WOODS

You are hereby notified that the New Durham Planning Board will hold a public hearing to consider Revocation of Recorded Subdivision Approval for the Kodiak Woods Subdivision located on Birch Hill Road in the Town of New Durham on Tuesday May 6, 2014 at 7:00 pm at the New Durham Public Library pursuant to RSA 676:4-a.

The Kodiak Woods Subdivision property is known as Map 239 Lots 001-000 through 001-023 and is shown on the tax map as Map 239 Lots 63 through 63.24.

Notice is further provided of the basis for such revocation as follows:

1. *Applicant has Failed to Perform Condition of the Approval Within a Reasonable Time Specified in the Approval.* RSA 676:4-a, I (c).
 - a. True Value Land and Homes, LLC as owner and as successor to the applicant has failed to perform conditions of approval specified in the Planning Board's November 15, 2011 Final Notice of Decision New Durham Planning Board Kodiak Woods Subdivision ("Notice of Decision").
 - b. Specifically Condition 9 of the November 15, 2011 Notice of Decision required that: "active and substantial development of Phase I shall be completed within 24 months of final approval of the subdivision by the New Durham Planning Board. Active and substantial development shall consist of the construction of all roads to gravel surface, and the completion of all associated stormwater management infrastructure, as determined by the Town Engineer."
 - c. On October 17, 2013, True Value Land and Homes, LLC submitted a request to extend the 'active and substantial' timeframe. However, on January 15, 2014, the applicant withdrew its request for an extension.
 - d. True Value Land and Homes, LLC has failed to construct all roads to gravel surface and complete all stormwater management infrastructure within the 24-month period as required by Condition 9 of the Board's November 15, 2011 Notice of Decision approving the subdivision.
2. *The time periods specified in RSA 674:39 have elapsed without any vesting of rights as set forth therein, and the plat, plan or other approval no longer conforms to applicable ordinances or regulations.* RSA 676:4-a, I (d).

- a. The Planning Board conditionally approved the Kodiak Woods Subdivision in its November 15, 2011 Notice of Decision.
 - b. Condition 9 of the Planning Board's November 15, 2011 Notice of Decision required active and substantial completion of the subdivision within 24-months including "construction of all roads to gravel surface, and the completion of all associated stormwater management infrastructure, as determined by the Town Engineer."
 - c. RSA 674:39, III authorizes the Planning Board to specify "as a condition of subdivision plat or site plan approval, ... the threshold levels of work that shall constitute" active and substantial development.
 - d. True Value Land and Homes, LLC as owner and as successor to the applicant has failed to comply with the 24-month time period for active and substantial completion of development as specified in RSA 674:39, I (a) and in the Board's November 15, 2011, Notice of Decision.
 - e. The subdivision does not comply with the following ordinances or regulations adopted subsequent to the first legal notice of the application:
 - (i) Street Design. Article VII (E)(3) (Streets shall not exceed 1,000 feet if a cul-de-sac without a Conditional Use Permit);
 - (ii) Stormwater Management and Erosion Control Ordinance (including steep slopes requirements. Article XIV. The subdivision exceeds the disturbance levels allowed by the ordinance and does not have an appropriate conditional use permit and Stormwater Management and Erosion and Sediment Control Plan required by the ordinance.
3. *The Applicant or successor in interest has failed to provide for the continuation of adequate security until such time as the work secured thereby has been completed. RSA 676:4-a, I (e).*
- a. Condition 5 of the Board's Notice of Decision required that the applicant post a fully executed performance bond in the amount of \$350,000 to ensure completion of all infrastructure improvements and landscaping in Phase I of the plans.
 - b. True Value Land and Homes, LLC as owner and successor to the Applicant has failed to post a performance bond to secure completion of all infrastructure improvements and landscaping in Phase I of the plans.

The plan has been recorded at the Strafford County Registry of Deeds, plan drawer 102 plan numbers 102,103, and 104. The property is owned by True Value Land and Homes, LLC and located on Birch Hill Road in New Durham, New Hampshire. The property is known as Map 239 Lots 001-000 through 001-023 and is shown on the tax map as Map 239 Lots 63 through 63.24.

Posted 4/11/14
Amy Smith