

MINUTES

NEW DURHAM PLANNING BOARD

NOVEMBER 18, 2008

Chairperson Bob Craycraft called the meeting to order at 7:20 PM.

Roll Call: Bob Craycraft (Chair), Paddy McHale (Vice-Chair), Cathy Orłowicz, David Bickford (Selectman's Representative), Ron Gehl (Selectman's Alternate), Paul Raslavicus

Others Present: Marcia Clark, Arthur Capello, Eileen Berry, Terry Jarvis, Dot Martin Veisel, Carol Allen, Mary McHale, Brenda Berube, Peter Rhoades

Public Input: Chair Bob Craycraft asked if there was any public input. There was none.

Impact Fee: Bruce Mayberry, consultant to the Board in developing an impact fee, presented the methodology and calculations he had used to develop a fee for capital costs for K-12 education. Board members asked a number of questions and discussed the preliminary findings.

Board members noted that some children from the Copple Crown village and Kings Highway area attend elementary school in Wolfeboro rather than New Durham. Mr. Mayberry said he would have to add that data into his calculations. Paddy McHale said that the Capital Improvement Subcommittee had received new information from the Governor Wentworth School District regarding school plans.

Mr. Mayberry said he would update all the information for the school district. Then he would generate several options for the Board to consider establishing a structure for the impact fee. The Board will need to choose the options it prefers. Mr. Mayberry said he expected to be able to generate that information by mid December.

Food Pantry: Bob Craycraft announced that he would recuse himself from participating in the decision as a Board member. He turned the chair over to Vice-chair Paddy McHale.

Paul Raslavicus asked for clarification on the status of the previous site plan application for a Community Center, and the status of the Food Pantry application.

Paddy McHale said the Board had made some decisions at the last meeting: the plat needed to be changed to remove the words "Not for Final Construction" and to change the completion date stated on the plan. The Board had agreed that they would wait until July 1, 2009 for paving of the parking area.

David Allen said the Community Center had been granted variances and a special exception to operate the center by the ZBA in 2006. He said they had filed an application with the Planning Board for site plan review and the Board had had a

couple of meetings with the applicants. However, the applicants became involved in other projects and decided not to pursue the Community Center application, so it was no longer active.

Mr. Allen noted that the Planning Board, at its November 10, 2008 meeting had decided that the Variance and Special Exceptions granted to the owner/applicant in 2006 were appropriate and acceptable for the Food Pantry. Therefore, the Food Pantry did not need to return to the ZBA for further action, and the Planning Board had begun discussion of the actual site plan application for the food pantry.

Paddy McHale said he was concerned that a couple of other regulatory factors had not been considered. He felt that the decision of the New Hampshire Supreme Court in Auger v. Strafford limited the Planning Board's ability to grant a waiver to the applicant regarding the time of paving the parking lot. He was concerned that the application did not address how the food Pantry would meet the requirements of the federal ADA (Disabilities Act). In addition, he was concerned that the wording of the Site Plan regulations in Section VIII.B.2 meant that the Building Inspector would not be able to issue a Certificate of Occupancy until all site improvements, including the paving of the parking lot, had been completed--unless the Planning Board waived that limitation of the regulations.

The Board discussed these issues at length.

There was additional discussion about the potential pollution from runoff on the unpaved parking area. Cathy Orlowicz suggested the Food Pantry could start work on the paving area and lay gravel before winter. Paddy McHale said he would like input from an expert or the Road Agent who was not present.

Paddy McHale moved to continue the public hearing on the Food Pantry site plan review in order to get an expert opinion on the potential impact of having a gravel parking lot for several months. There was no second, and the motion died.

Paul Raslavicus moved to ask legal counsel if the Planning Board can direct the Building Inspector to issue a Certificate of Occupancy when conditions precedent have been met, and prior to the completion of conditions subsequent, as allowed under RSA 674:44; or if Section VIII.2.b imposes stricter conditions than state law and the Planning Board must waive Section 8.2.b in accordance with the conditions of Section X.A in order to allow a Certificate of Occupancy prior to the completion of conditions subsequent.

Paddy McHale seconded. Yes: Cathy Orlowicz, Paddy McHale, Paul Raslavicus. No: David Bickford. Passed 3-1.

Cathy Orlowicz moved to amend the Planning Board decision of 11/10/2008 to read that the construction on the parking lot may be advanced as quickly as is acceptable to the Road Agent and shall be completed by July 1, 2009. Paddy McHale seconded. Unanimous with no abstentions.

Cathy Orlowicz asked if there were any other questions related to the application that any board member needed addressed. She said it would be unfair to the applicant to bring up new concerns at a next meeting.

Paul Raslavicus asked if the septic system is adequate for the site plan. Arthur Capello pointed out the ZBA had set a condition that no more than 30 people could be in the building at anyone time to address that concern. Mr. Raslavicus asked if the old underground tank would be removed. Terry Jarvis said the applicants would remove it prior to occupancy. Arthur Capello said it was a code requirement that it be done before a Certificate of Occupancy can be issued.

In public comment Bob Craycraft asked the board to ensure that all changes to the plat that had been discussed be completed, including parking completion date, correcting the pond maintenance and revegetation notes.

Peter Rhoades noted that Cathy Orlowicz works for the Road Agent and she made a motion to involve the Road Agent in oversight of the Parking Area. He felt this created an appearance of conflict of interest and therefore conflicted with the town Ethics Code. Ms. Orlowicz responded that she had had no conversation with the Road Agent regarding this issue. She added that a parking lot abutting a town road is within his area of responsibility and it is customary procedure for him to have oversight.

Paddy McHale asked the other members of the Board and no one felt there was an ethics problem.

Paul Raslavicus moved to continue the public hearing on the Food Pantry site plan review until December 2, 2008 for the purposes of getting advice from Town Counsel and the Road Agent. David Bickford seconded. Cathy Orlowicz abstained to avoid any concern about an ethics issue. Approved 3-0.

Dilapidated Building. David Bickford said he had seen the building on Map 9, Lot 6 and it is dilapidated and a health and safety risk. **Mr. Bickford moved to confirm that the structure on Map 9, Lot 6 on Route 11 is dilapidated and the Code Enforcement Officer should begin proceedings to have the building torn down.** Paddy McHale seconded. Unanimous with no abstentions.

Burned and Dilapidated Building Zoning amendment. Building Inspector Arthur Capello said he felt the need to involve the Planning Board in the process of condemning a building slowed down the process of protecting people from a threat to public health or safety.

Paddy McHale moved to amend Article III.A.1 by deleting the words " and further determined by the Planning Board at a duly noticed public meeting ", and to give public notice to hold public hearing on the proposal at the December 2, 2008 Planning Board meeting. David Bickford seconded. Unanimous with no abstentions.

Affordable Housing. Cathy Orlowicz said she had contacted Cynthia Copeland, Director of the Strafford Regional Planning Commission about grant funding regarding affordable housing. Ms. Copeland told her SRPC is working with the Town of Barrington to develop a model ordinance. Paddy McHale agreed to serve as a subcommittee to follow up with Ms. Copeland to include New Durham in the process.

Paddy McHale moved to adjourn at 10:13 PM. David Bickford seconded.
Unanimous with no abstentions.

Respectfully submitted,

David Allen
Land Use Administrative Assistant