

# DRAFT MINUTES

## NEW DURHAM PLANNING BOARD

### JULY 7, 2009

*(Please note: These are draft minutes prepared by staff from notes taken at the meeting. They have not been reviewed by the Board for accuracy, and should not be relied upon for accuracy. Reviewed, corrected, and approved minutes will be available at Town Hall and on the Town's website following the next scheduled Board meeting.)*

Chairperson Cathy Orlowicz called the meeting to order at 7:10 PM.

**Roll Call:** Cathy Orlowicz (Chair), Dot Veisel, David Bickford (Selectman's Representative), Paul Raslavicus, Scott Drummey (Alternate)

**Excused Absence:** Bob Craycraft (Vice-Chair)

**Others Present:** Tom McKay, Jack Crickett, Josie Crickett, Ann Zamzow, Paul Gelinas, Harry & Donna Smith, Ellen Phillips

Chairperson Cathy Orlowicz asked Scott Drummey to sit for Bob Craycraft.

**Public Input:** Chair Cathy Orlowicz asked if there was any public input. There was none.

**Minutes of June 16, 2009:** The following corrections were made:

Page 3, Parks and Recreation Space, line 8 should read “defines the space to be allotted”

Page 3, Parks and Recreation Space, line 11 should read “about kinds of ‘recreational uses’ that could be employed...”.

**David Bickford moved to accept the minutes of June 16, 2009 as amended.**

**Scott Drummey seconded. Approved unanimously with no abstentions.**

**Minutes of June 27 Site Walk. David Bickford moved to accept the minutes as printed. Scott Drummey seconded. Paul Raslavicus and Dot Veisel abstained as they were not at the site walk at that time. Approved 3-0.**

**O'Reilly Subdivision:** Cathy Orlowicz read a letter from Mark Weaver, attorney for James O'Reilly saying that Mr. O'Reilly wished to withdraw his application for a 21 lot conventional subdivision because of the current economy.

**David Bickford moved to accept the withdrawal by Mr. James O'Reilly of his application for a 21-lot subdivision of his property at 41 Copple Crown Road (Map 27A, Lot 6) in New Durham. Scott Drummey seconded. Dot Veisel**

**abstained as she was not a Board member when the application was discussed. Approved 4-0.**

**McKay Excavation Permit:** Chair Cathy Orlowicz read a response from Attorney Catherine Fillmore of the Local Government Center to her inquiry regarding participation of members of the public in site walks.

Mr. Jack Crickett asked permission to introduce 2 items for the discussion. Chair Orlowicz agreed. Mr. Crickett distributed a copy of a description from Wikipedia regarding "Conflict of Interest" and a letter to the Board suggesting that David Bickford has a conflict of interest and should step down. The alleged conflict is his vote as Selectmen on purchase of materials from Mr. McKay for the Town Highway Department. The letter also says that the removal of material from the pit has been done from parts of the pit that are outside the approved limits and contours.

Paul Raslavicus asked if the applicant had been granted the Phase II permit by the State. Paul Gelinis, on behalf of the applicant, said yes that was done in 1997 and the Planning Board were supplied with a copy at the time.

Board members Orlowicz, Drummey and Bickford participated in the site walk and said they saw no problems at the site. Dot Veisel said she visited the site later in the same day and tried to look specifically at the issues identified in the ordinance as significant. She said she did not see any problems either.

At 7:48 PM Chair Orlowicz asked the applicant to give the Board any additional information. Mr. Gelinis told the board that about 95,000 cubic yards is still available in Phase I: about half of that is in the mound barrier between North Shore Road and the pit. There is about 200,000 cubic yards in Phase II. They take out between 6,000 – 10,000 cubic yards per year.

The site specific permit was granted as part of their 1997 application. All their work is above the 737 foot level that was permitted by the Planning Board. This application is a renewal only. There are no changes in their plan. The plat they have submitted shows the actual current state of excavation.

At 7:57 PM Chair Orlowicz opened the issue for public comment. Josie Crickett asked if visits had been made by the Conservation Commission and the Building Inspector. Arthur Capello said he would visit the site on Saturday. David Allen reported that members of the Conservation Commission have been on site for other reasons and had submitted a letter saying they saw no concerns.

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Jack Crickett asked to see the approval letter from the state for the site specific plan for Phase II. David Allen said the Town's files were not available from that time period. Mr. Crickett also said he believes the applicant is excavating beyond the boundaries of his permit. Chair Orlowicz asked him what information or measurements he had to support that position. Mr. Crickett said he based that on his personal observations of the site.

Chair Orlowicz closed the public comment at 8 PM and requested comments from the Board. David Bickford noted that his participation in contracting with Mr. McKay was in a situation that had been open to the public for bids and was based on confirmation of a low bid and he did not feel it would affect his ability to act with impartiality. He added that he would in any case prefer to recuse himself from the discussion and from voting. Mr. Bickford left the room.

Arthur Capello said he would be visiting the site on Saturday, and he is not a surveyor and not capable of taking detailed measurements. Chair Orlowicz asked if he could do the measurements if she was able to find him the proper equipment. Mr. Capello said no because he does not have the necessary training.

Dot Veisel said that when she made her visit to the site she looked specifically regarding the issues identified in the town's ordinance and state law and saw nothing that raised concerns for her.

Paul Raslavicus asked if the state required a public hearing for renewal of the state license. Mr. Paul Gelinis responded that the state permitting process in 1997 included public hearings, but the state permit does not require periodic renewal or public hearing. He added that the town permitting only requires information about what has changed in the applicants plans. He pointed out that there have been no changes in their plans. They are just re-permitting for the same plans.

Paul Raslavicus asked if the amount of the Bond posted by the applicant is adequate for reclamation purposes. Mr. Allen reported that there is \$4,000 plus accrued interest bonded for reclamation. The amount is based on the assumption that reclamation work will be done by the owner. In addition there is loam stockpiled on the site for reclamation purposes.

**Paul Raslavicus moved to grant a temporary extension of the current excavation permit until July 22 for Mr. Charles McKay to excavate from the McKay Gravel Pit on Pine Point Road on Map 28, Lots 44 & 45; and to continue the application for renewal to the Planning Board workshop scheduled for Tuesday, July 21 at 7 PM. The purpose of the continuation is to**

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**allow time for Mr. Arthur Capello to complete his inspection and report to the Planning Board. Dot Veisel seconded. Motion approved unanimously with Mr. David Bickford recused.**

**Smith Home Occupation Permit:** Chair Orlowicz if any member of the Public saw a conflict of interest issue with this application. No one did. She asked the same question of Board members. There were no concerns expressed.

Ms. Orlowicz invited Mr. Smith to present their case. Mr. Orlowicz said that in the past, his wife had had a home occupation permit allowing her to operate her hair-dressing home business. She had been injured and had to close down the business for a couple of years while she recovered. Now she wants to renew the permit. Mr. Allen noted that two years had elapsed since the injury and after two years of non-use a permit expires.

Mr. Smith said his wife operated a hair salon in their house 5 days a week on Tuesday – Saturday. The business is conducted in one room that has direct access to the outdoors and is quite separated from the living area of the house. A rest room is easily accessible. There is a wooden ramp from ground level to floor level at the entrance.

Paul Raslavicus asked about lighting, signs, and emergency access. There is a light over the door and on a pole, gravel driveway which has served for an ambulance access when Mrs. Smith was injured, and a 4' x 3' sign on an oak tree near the road. A smaller sign is at the driveway entrance.

Arthur Capello will visit the site on Saturday.

**Scott Drummey moved to recommend to the Building Inspector that the application of Donna Smith for a Home Occupancy Permit to operate a Hair Salon at 15 Birch Hill Road (Tax Map 9, Lot 85) be approved. Paul Raslavicus seconded. Approved unanimously with no abstentions.**

**Workforce Housing:** The Board held a working session on workforce housing. The discussion focused on those areas of the Zoning Ordinance that may need to be changed to bring the town into compliance with SB 342 (2008). The Board agreed on 4 sections that must be changed:

- Article IV.A.1 which limits accessory apartments to family members;
- Article IV.A.2 which requires an accessory apartment to share a wall with the main house;

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- Article VII.A.3.c.v which requires a 300' setback for multifamily housing from a public right of way; and which also requires a 100' setback from a property line.

Cathy Orłowicz asked if it would be possible to do an analysis of the Town's current housing stock to see how much of it meets the legal guidelines for workforce housing. David Allen said it would be possible but he could not commit to a certain deadline for getting the information.

**Parks & Recreation Space:** Scott Drummey is working on a list of ideas to include in regulations regarding Parks & Recreation Space.

**Trailers in the Shorefront Zone:** Cathy Orłowicz distributed definitions of "trailers," "RV," "mobile home", etc. from state guidelines. She suggested this should help the board amend the Shorefront Protection Zone to re-establish its original intent of prohibiting trailer homes.

**Adjourn:** Scott Drummey moved to adjourn at 10:04 PM. Dot Veisel seconded. Approved unanimously.

Respectfully submitted,

David Allen  
Land Use Administrative Assistant

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