

# MINUTES

## NEW DURHAM PLANNING BOARD

### DECEMBER 15, 2009

Chairperson Cathy Orlowicz called the meeting to order at 7:07 PM.

**Roll Call:** Cathy Orlowicz (Chair), Bob Craycraft (Vice-Chair), Dot Veisel, David Bickford (Selectman's Representative), Paul Raslavicus, Scott Drummey (Alternate), Jeff Kratovil (Alternate).

**Others Present:** Anthony Eldridge, Jennifer Viarengo, Ryan Noonan, Bob Bickford, Nicholas Bickford, Meghan Bickford, Ezra Bickford

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

**Eldridge/Town of New Durham:** Cathy Orlowicz said she and Bob Craycraft would be recusing themselves from this discussion because they are both involved with the Meeting House property. She said in the absence of both chair and vice-chair of the board, Paul Raslavicus, as the senior member of the Board, would chair this issue.

Ms. Orlowicz and Mr. Craycraft stepped down and away from the table. Mr. Raslavicus assumed the chair and appointed Jeff Kratovil and Scott Drummey to sit for Mr. Craycraft and Ms. Orlowicz.

This application is for \_\_\_\_\_ located on \_\_\_\_\_ in New Durham, New Hampshire.

Staff David Allen reviewed the application with the Board. He explained the decision by the ZBA which had authorized a variance to Article IV.B that allows Map 7, Lot 19 to be reduced to 121,000 square feet instead of the approximately 150,000 square feet required by the Town's soil based lot size requirements. The ZBA decision also carries conditions that prohibit the Town from placing any septic system on the land being transferred; prohibit the Town from counting the land toward the septic capacity of Map 7, Lot 20; and allow the land to continue to serve as septic capacity for Map 7, Lot 19.

Board discussion was short and positive.

**Jeff Kratovil moved to approve \_\_\_\_\_ David Bickford seconded. Approved unanimously with no abstentions.**

Cathy Orlowicz and Bob Craycraft returned to the Board, and Jeff Kratovil and Scott Drummey resumed sitting as alternates.

**Stormwater Management:** Chair Orlowicz thanked Bob Craycraft for his work to get a grant to pay Appledore Engineering for assistance in writing the ordinance. She invited Jennifer Viarengo from Appledore to walk through the draft ordinance with the Board and share her thoughts about any questions or potential problems.

Ms. Viarengo applauded the Board for separating some parts of the guidelines out of the ordinance and placing them in regulation.

She suggested adding the term “regarding” to the definition of “disturbance”. She discussed activities excluded from the definition of disturbance and helped the board clarify that the exemption of reseeding or repair of a lawn is better based on whether changes in elevation and slope are involved rather than the size of the disturbance.

Board members noted that they had already agreed to exempt Agriculture and Forestry. During discussions Ms. Viarengo suggested exempting soil, geotechnical, or environmental testing or monitoring; and more generally any temporary disturbance which will be quickly returned to its previous state. Other suggestions for exemptions included excavation pits and emergency cleanup.

Ms. Viarengo discussed the different levels of disturbance identified in the draft ordinance. After considerable discussion the Board agreed by consensus to have three categories of disturbance rather than the five in the draft ordinance. “Exempt” and “Incidental” disturbances will stay as proposed. “Minor” and “Major” disturbances will be combined into a single category tentatively named “Non-incidentals”. The sizing of “Non-Incidental” disturbances will be clarified to include anything larger than “Incidental”, which then eliminates the need for the “Significant” disturbances of more than an acre, and also covers any disturbance that might occur in creating a new subdivision.

The ordinance will continue to allow the board to delegate review and approval authority to the Code Enforcement Officer for less complex applications and will allow the Board to do that by Regulation, making it easier to adjust as necessitated by experience.

Ms. Viarengo suggested that additional thought and research be done before finalizing the Stormwater Management Goals in Section F. There is not yet a lot of experience in Towns, especially as to what levels of suspended solids and pollutants

can reasonably be required to be removed on the site. She also clarified for the board that the “rate of runoff” is the significant factor to measure, instead of the total volume of runoff, because the rate determines how much water needs to be handled at any one time and therefore the capacity of the treatment device.

Ms. Viarengo suggested that the proposed 50’ no disturb vegetated buffer (in Section G.3.f(2)) could prove to be a problem in many single lot situations. The Board agreed by consensus to reduce it to 25’. She also advised the Board that because the amount of rainfall can vary significantly from year to year so that setting a standard of accommodating a year’s worth of sediment is not very helpful. It is more important that the devices be inspected regularly and cleaned as needed.

Ms. Viarengo suggested that the detailed listing of “Higher Potential Pollutant Loads” might fit better in the regulations, leaving a general description in the ordinance that refers to the ordinance. Board members agreed by consensus.

She pointed out several places in the ordinance where wording should be changed from “may” or “will” to the word “shall” which has a stricter definition legally. She also pointed out a few places in the draft ordinance that duplicated wording that had been moved into the regulations. Board members agreed to remove the duplication.

And finally, Ms. Viarengo urged the board to look carefully at RSA 674:21 II which is cited as the source of authority for this ordinance, to be sure that it allows for the delegation of authority to the Code Enforcement Officer and gives the Board the authority for all components of the draft ordinance.

The Board thanked Ms. Viarengo for her thorough assistance in reviewing the draft ordinance. She agreed to provide the Board with an edited draft that incorporates the substantive changes that were agreed to by Monday afternoon, December 21. She will not address formatting and grammatical issues that were raised in the discussion.

**Bob Craycraft moved to schedule the Stormwater Management Ordinance, as amended in this meeting, for public hearing on Tuesday, January 5. Dot Veisel seconded. Approved unanimously with no abstentions.**

**Workforce Housing Zoning Amendments:** The Board by consensus accepted the wording as proposed as the final wording to send to public hearing on January 5 as voted on at the December 8 meeting.

**Shore Front Protection Area Amendments.** The Board by consensus accepted the wording as proposed as the final wording to send to public hearing on January 5 as voted on at the December 8 meeting.

**Town Center Mixed Use Zoning District.** David Bickford said he had discussed the question of the boundaries of the district with his cousin and co-owner of Map 10, Lot 63 and that they agreed they would be agreeable to leaving the entire lot out of the new district and in the Residential-Agricultural-Recreation district.

Paul Raslavicus said that the Board had agreed to have the first 1200' included. He said that the included area within this lot would result, if subdivided, in about six 60,000 square foot lots which would greatly expand acreage available for business development in the town Center, and may enhance the value of this property to the owners.

David Allen stated that exclusion of this lot in the middle of the zoning district could be considered spot zoning. Other Board members agreed that the section of the lot nearest to Old Bay Road should be included. Chair Orlowicz said she believes there is a process for a property owner to petition to be included or excluded from a Zoning District. David Allen said he would get legal advice on the question.

Cathy Orlowicz proposed alternate language for the definition of "Adult Use Facilities". Board members preferred her definition with the addition of one phrase. It will now read:

"A variety of adult sexually-oriented businesses and services, including, but not limited to, movie theaters, bookstores, video stores, adult-only hotels or motel, peep shows, and erotic dancing establishments."

Board members also noted a couple of typographical and formatting errors needing correction. They the accepted the draft as amended as the final wording to send to public hearing on January 5 as voted on at the December 8 meeting.

**Delong Subdivision:** The Planning Board voted conditional approval of subdividing Map 5, Lot 29 on Quaker Road and owned by Mr. Tom Delong into 3 lots on June 7, 2007. David Allen reviewed the conditions of approval with the Board and pointed out that all conditions have been met.

**David Bickford moved to release the bond posted by Mr. Tom Delong for road and drainage work on Quaker Road, based on information from appropriate**

staff that all conditions of approval have been met. Dot Veisel seconded.  
Approved unanimously with no abstentions.

Bob Craycraft moved to adjourn at 10:23 PM. David Bickford seconded.  
Approved unanimously with no abstentions.

Respectfully submitted,

David Allen  
Land Use Administrative Assistant

Minutes approved February 2, 2010