

MINUTES

NEW DURHAM PLANNING BOARD

SEPTEMBER 4, 2007

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

Roll Call: Cathy Orlowicz (Chair), Bob Craycraft (Vice-Chair), Don Voltz, Peter Rhoades (Selectmen's Representative), Ron Gehl (Selectmen's Alternate), Paul Raslavicus (Alternate), **Excused Absence:** Duane Armstrong, Paul Gelinias, Jr. (Alternate) **Unexcused Absence:** Christopher LaPierre, (Alternate), George Gale (Alternate)

Others Present: Mike Gelinias, M. Hynes, K. Hynes, W. Kaspriski, Debbie Rouleau, Malcolm McNeill, Cindy Balcius, Tracy Tarr, Ernie Vachon, Tom DeLong, Jason Pahopek, David Mott, Robert Breudle, George Plante, Don Rhodes, Mark Foynes, Laurie Riley, David Riley, Chris Maynard, Carolyn Riley, Mark Fuller, Marcia Clark, Brian Crossan.

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

Kodiak/True Value: Continued Public Hearing on an application submitted by Donald A. Voltz of Lindon Design Associates, for a 24-lot Open Space Subdivision on behalf of applicant True Value Land and Homes, LLC of Rochester NH, for property located on Birch Hill Road (Tax Map 16, Lot #22) in New Durham.

Chair Orlowicz stepped down as a legal abutter. She passed the chair to Vice-Chair Bob Craycraft. Donald Voltz stepped down to represent the applicant. Ron Gehl, Selectmen's Alternate stepped in for Peter Rhoades in order to maintain continuity in representation. Acting Chair Craycraft asked Paul Raslavicus to sit in place of Cathy Orlowicz.

Mr. Craycraft summarized the status of the Kodiak proposal and noted the Board had asked the applicants to revise the number of lots and the length of the cul de sac downward. He noted that the Board had not seen the revised plan until this evening. He distributed correspondence between himself and David Allen that reflected the absence of adequate information ahead of time.

Attorney Malcolm McNeill presented the revised plan. He noted the many ways in which the applicant was responsive to the requests made by the Board at the August meeting. They reduced the number of lots from 24 to 23. They shortened the cul de sac by 130 feet.

They adjusted the shape of Lot 4, shifted the angle of the entrance road so headlights will not aim straight in the front picture window of the abutter's house; moved the back yards of several lots 50-75 feet further away from the deer wintering yards; and added a 5-foot wide pedestrian bikeway in two locations. And, he added they were adding a section to the homeowners' association documents that will prohibit picking mayflowers. And, they have done all this while staying under the 10,000 square foot wetlands disturbance cap discussed by DES and the Planning Board.

Don Voltz added that they intended to install 2 fire safety cisterns, located in such a way that no house would be more than 650' from a cistern. They are in discussion with the Fire Department on cistern capacity. Attorney McNeill requested Board assistance in getting Fire Department specifications. Mr. Craycraft agreed on behalf of the Board.

At 8:47 PM Vice-Chair Bob Craycraft opened the floor to public comment. Road Agent Mark Fuller said that he was comfortable with the total length of the shortened cul de sac.

Cathy Orlowicz spoke as an abutter saying she appreciated the fact that the developer had finally done something to address the concerns of the Foynes family. She wondered if the applicant would be willing to ask NHDES for a greater wetlands impact in order to move the driveway a bit further away from the Foynes. Mr. Foynes thanked Ms. Orlowicz for her support and said he would be willing to write to the appropriate person in NHDES to make the request.

There being no other public comment, Acting Chair Craycraft closed the public hearing at 8:57 PM.

Ron Gehl moved to approve the applicant's request to waive the 1000' foot maximum cul de sac length and set the maximum for this project at 1200'. Gehl said the reasons for agreeing to the extension are site specific and not a precedent for future applications. He said the primary reason is that the property is split down the middle by Wetlands D which is very wide and consumes several hundred feet of road length.

The waiver is necessary for the applicant to make reasonable productive use of the highlands to the west of Wetland D.

Paul Raslavicus seconded. Unanimous with no abstentions.

Bob Craycraft noted that Mark Foynes had expressed on several occasions his concern for the impact the proposed development would have on his property value. Craycraft suggested that the Board ask the Town Assessor for an opinion on this question.

Ron Gehl moved to extend the end of the review period from September 15, 2007 to October 15, 2007 with the agreement of the applicant. Paul Raslavicus seconded. Malcolm McNeill confirmed that the applicant was agreeable to this extension. Unanimous with no abstentions.

Ron Gehl moved to continue consideration of the proposal to the October 2 Planning Board meeting. Paul Raslavicus seconded. Unanimous with no abstentions.

DeLong: Continued Public Hearing regarding an application submitted by Long Ridge Construction, LLC c/o Thomas DeLong, 148 Swain Road, Barrington, NH 03825, for a 3 lot subdivision on property located on Quaker Road (Tax Map 5, Lot 29-2) in New Durham.

Cathy Orlowicz returned to the Chair. Don Voltz recused himself from this application because he did the work to locate the wetlands. Ms. Orlowicz asked Paul Raslavicus to sit for Don Voltz.

Tom DeLong reported that he had met with Mark Fuller, Road Agent, and the two had negotiated a plan for offsite drainage improvements and a 10' easement past the stone wall in case the Town wanted to widen the road in the future. Mark Fuller confirmed the agreement.

Cathy Orlowicz opened the issue for public comment at 8:45 PM. Ken Hynes asked the Road Agent to explain the changes on the culvert that empties toward Hynes' property, and asked if the Town needed an easement to carry out maintenance of the culvert on his property. Mr. Fuller indicated that state law gave the Highway Department that authority and no extra easement was needed. Ms. Orlowicz closed the public hearing at 8:47 PM.

Bob Craycraft said the Town should have Mr. DeLong post a performance bond and he asked Mr. Fuller to provide a dollar figure for the bond. Craycraft also noted that Mr. DeLong would need to post marker tags for the wetlands buffer area. David Allen will work with the Conservation Commission and the applicant to come up with an appropriate marker tag. Mr. Pahopek said he had done work with the Nature Conservancy and they have a specific protocol that he would use as a guide.

The Board agreed by consensus to use the Nature Conservancy protocol for marker tags.

Peter Rhoades moved to approve the application subject to the applicant meeting the following conditions:

- 1. Post bond with the Town of New Durham in an amount established by the Town of New Durham Road Agent in order to guarantee completion of all conditions;**
- 2. Move the existing Culvert #1 (driveway culvert on Map 5-29-2A) further away from Quaker Road by 10' more or less;**
- 3. Replace the existing Culvert #2 (culvert running from Map 5-29-2A to Map 5-38 (62 Quaker Road)) with a 24" diameter smooth bore (plastic) culvert, install a water detention area at the inlet of the culvert, and install an outlet spreader at the culvert outlet and cover it with rip rap;**
- 4. Construct a large detention pond on the inlet end of the existing Culvert #3 (culvert running from Map 5-29-2B to Map 5-37)**
- 5. Construct a swale 10' more or less in width behind the stone wall the length, draining southward into a detention area; and a swale 10' back draining northerly into the detention area at the inlet end of the culvert;**
- 6. Remove the existing 18" CMP Culvert #4 (culvert running from Map 5-29-2 to Map 5-36) and deliver it to a location approved by the Town of New Durham Road Agent;**
- 7. Replace the existing 18" CMP Culvert #5 (Culvert running from Map 5-29-2 to Map 5-35) with a 24" smooth bore (plastic) culvert, and cover the inlet and outlet areas with rip rap;**
- 8. Complete items 2-7 above to the specifications and approval of the Town of New Durham Road Agent;**
- 9. Deliver a written deeded easement which extends the Quaker Road right of way for the entire Quaker Road frontage of the subdivision to a line 10' beyond the existing stone wall to allow for the maintenance of the swale and detention pond, and to allow for future widening of Quaker Road;**
- 10. Install monuments to mark the intersection of the upland boundary of the no cut wetland buffer zone with the lot line on Lots 5-29-2A and 5-**

- 29-2B (excluding Lot 5-29-2), and show set monuments on the plan; and
11. Post marker tags of a design approved by the New Durham Land Use Administrative Assistant at intervals of 50' on the upland boundaries of the no cut buffer zone on Lots 5-29-2A and 5-29-2B, and add a note to the plan referencing the location of the marker tags.

Paul Raslavicus seconded. Unanimous with no abstentions.

Breudle: Acceptance and Public Hearing regarding an application to be submitted by Bruce Pahopek, Pahopek Land Surveyors, 42 Flagg Road, Rochester, NH on behalf of Sandy Breudle, 541 Kings Highway, New Durham for a 2-lot Subdivision on property located on 541 Kings Highway, (Tax Map 19 , Lot 8A) in New Durham, New Hampshire. The Public Hearing may be convened if the application is accepted as complete.

Don Voltz returned to the Board. Jason Pahopek presented a revised plan with corrections as requested by Town staff and answered board questions.

Don Voltz moved to accept the application as complete with the following conditions to be provided prior to approval:

1. The tree symbol is added to the plan legend;
2. Width and class of Kings Highway is added to the plan;
3. The identification numbers of all utility poles are added to the plan;
4. Test pit data are added to the plan;
5. Applicant submits an 11 x 17 vicinity map covering land within a 1000' radius of the subdivision, at a scale of 1" = 400'; and
6. North arrows are added to the vicinity map and the plan.

Peter Rhoades seconded. Unanimous with no abstentions.

Don Voltz moved to accept the request for waivers from the 2' contours and the current survey for the entire property. Paul Raslavicus seconded. Unanimous with no abstentions.

Mr. Pahopek briefly described the 3 lot subdivision plan.

Chair Cathy Orlowicz opened the issue for public comment at 9:32 PM.

Mark Fuller, Road Agent, reminded the Board that the last time the excavation permit for this sand and gravel pit was renewed he had asked Sandy Breudle to install a storm water turnout on Kings Highway just before the driveway into the gravel pit. She agreed to do so, but it has not yet been installed. Robert Breudle argued with Mr.

Fuller about this issue. Bob Craycraft suggested that the Board conduct a site visit so they can see for themselves.

Ms. Orlowicz closed the public session at 9:42 PM.

Don Voltz moved to schedule a site walk for Saturday, September 8 at 7:30 AM. Bob Craycraft seconded. Unanimous with no abstentions.

Don Voltz moved to continue the application until October 2, 2007. Bob Craycraft seconded. Unanimous with no abstentions.

Gelinas: Acceptance and Public Hearing regarding an application to be submitted by Lindon Design Associates, 291 Main St., Alton, NH on behalf of Mike Gelinas, 30 Ham Road, New Durham, NH for a 2-Lot Subdivision on property located on 30 Ham Road, (Tax Map 13 , Lot 10) in New Durham, New Hampshire. The Public Hearing may be convened if the application is accepted as complete.

Don Voltz recused himself from the Board to represent the applicant. Mr. Voltz delivered a revised plan to the Board that incorporated revisions requested by staff. He gave the board a letter requesting waivers from the requirement for a current survey of the entire parcel and for 2' topographical contours for the balance of the lot beyond what is needed to demonstrate the viability of the remainder lot.

Mr. Voltz presented a revised plan to the Board correcting items that had been requested by staff. He noted for the Board that the applicant had conducted a High Intensity Soil Sampling on the property because inaccuracies in the standard USDA soil maps would have made the subdivision more difficult.

Mr. Voltz also handed the board a request for waivers from the requirement for a current survey for the entire lot, and for 2' topographic contours on the balance of the land beyond the new lot and demonstrating viability of the remainder lot. Voltz clarified that the size of the entire lot prior to subdivision is 78 acres, not 81.

Bob Craycraft moved to grant waivers (as requested in the applicant's letter dated 8/10/2007) from the requirement for a current survey for the entire lot, and for 2' topographic contours on the balance of the land beyond the new lot and demonstrating viability of the remainder lot. Peter Rhoades seconded. Unanimous with no abstentions.

Bob Craycraft moved to accept the application as complete on the following conditions:

1. addition of the soil scientist's official stamp to the plan; and

2. Addition of the tree symbol to the legend.

Paul Raslavicus seconded. Unanimous with no abstentions.

Don Voltz briefly described the purpose of the subdivision as being to separate the existing house onto a new lot that Mr. Gelinis will sell to his son. Mr. Gelinis will build a new house for himself on the remainder lot. Board members asked a few questions which were answered to their satisfaction.

Chair Orlowicz opened the issue to public comment at 10:20 PM. Mark Fuller, Road Agent, said that he had no concerns. Mr. William Kaspriski asked to see the plans and said that he had no concerns or comments. There being no other public comment Ms. Orlowicz closed the public hearing at 10:21 PM.

Bob Craycraft moved to hold a site walk at 9 AM Saturday, September 8, 2007. Paul Raslavicus seconded. Unanimous with no abstentions.

Bob Craycraft moved to continue the application until October 2, 2007. Paul Raslavicus seconded. Unanimous with no abstentions.

Riley: Acceptance and Public Hearing regarding an application to be submitted by David and Laura Riley, 197 Birch Hill Road for a lot line adjustment on property located on Chamberlin Road, (Tax Map 11 , Lot 29-11) in New Durham, New Hampshire. The Lot Line Adjustment will move 17,671 square feet of land from Map 11, Lot 29-11 to Map 11, Lot 29G. The Public Hearing may be convened if the application is accepted as complete.

Don Voltz noted that he had done the survey on the site that created both of these lots. He was not involved in the creation of this plan. Chair Orlowicz asked the applicants if they had any concern about Mr. Voltz sitting on this application. They did not.

David Mott briefly presented the application. The layout for Chamberlin Way was changed after Map 11, Lots 29G and 29-11 were created. When a house was built on Lot 29G the setbacks were inadvertently measured from the actual Chamberlin Way right of way instead of the property line. As a result the house is within a few feet of the property line. In addition, because of the change in layout for Chamberlin Way both Map 11, Lot 29-11 and Lot 29G are inconveniently shaped. The purpose of the Lot Line Adjustment is to make Lot 29G more conforming in terms of building setbacks, and to square off both lots to more traditional shapes.

Mr. Mott presented a written request for waivers from the requirement for 2' topographic contours, the requirement to show ledge outcroppings. Mr. Voltz

requested that the test pit data from the earlier survey be added to this plan, and the calculations for minimum lot size also be added to this plan. He also noted that the 4000 square foot area for septic installation on Lot 29-11 was too close to the property line and he requested it be redrawn to set it back the required 30'.

Mr. Voltz moved to accept the request for a waiver from the 2' topographic contours, and from the requirement to show ledge outcroppings, conditional upon the filing of an updated written waiver request. Peter Rhoades seconded. Unanimous with no abstentions.

Don Voltz moved to accept the application as complete subject to the following conditions:

- 1. Test pit data from previous survey is added to the plan;**
- 2. Calculations for minimum lot size are added to the plan;**
- 3. 4000' septic installation area on Lot 29-11 is moved to meet all setback requirements;**
- 4. The professional seal of the preparer is added to the plan; and**
- 5. The name of Birch Hill Road is corrected on the plan.**

Peter Rhoades seconded. Unanimous with no abstentions.

Cathy Orlowicz opened the issue for public comment at 11:06 PM. There was no comment. She closed the public hearing at 11:07 PM.

Peter Rhoades moved to approve the Lot Line Adjustment subject to the following conditions:

- 1. Test pit data from previous survey is added to the plan;**
- 2. Calculations for minimum lot size are added to the plan;**
- 3. 4000' septic installation area on Lot 29-11 is moved to meet all setback requirements;**
- 4. The professional seal of the preparer is added to the plan;**
- 5. The name of Birch Hill Road is corrected on the plan;**
- 6. The setting of the pins; and**
- 7. Submission of an updated written waiver request.**

Don Voltz seconded. Unanimous with no abstentions

Horne: Review of an application submitted by Melody Horne, 81 Old Route 11 for a Home Occupation Permit to operate a water therapy service for dogs under the name of Doggie Dome Swim Spa.

Melody Horne explained her business providing swimming therapy for dogs. David Allen noted that the entire swimming pool area exceeds the maximum 1000 square feet allowed for a home business and that Ms. Horne had indicated that she uses only a part of the pool and room for her business that is less than 1000 square feet. Board members asked questions about health and licensing issues. Ms. Horne explained that she tests the water daily for chemicals, treats the area with ultraviolet light, and does a bacterial test monthly. She told the Board that no state permits are required.

Peter Rhoades moved to pass the application to the Building Inspector with the following comments:

1. **Basic business seems fine;**
2. **The business needs to be operated within the 1000 square foot maximum area of use requirement;**
3. **Please check to see if there are any similar facilities around the state and how they operate; and**
4. **Please verify that the business is in compliance with any applicable statutes and/or licensing requirements.**

Paul Raslavicus seconded. Unanimous with no abstentions.

Peter Rhoades left the meeting at 11:15 PM because of an early morning appointment.

New/Old Business:

1. Bruce Mayberry has been rescheduled to meet with the Board on September 25 to continue work on the Impact Fee ordinance;
2. **Don Voltz moved to approve a contract with the Strafford County Planning Commission for consultation services to develop Zoning Districts in the Town of New Durham at a cost not to exceed \$2860.**
Bob Craycraft seconded. Unanimous with no abstentions.

3. Don Voltz reported that he had no recollection of seeing a request for an excavation permit for Mr. Edwards in the area of the Chamberlin Way subdivision;
4. **The Board agreed by consensus that it would be respectful of abutters to notify them by Priority US Mail of any application for a Home Occupation Permit.**
5. Chair Orlowicz noted the OEP Annual Fall Zoning and Planning Conference and encouraged members to attend;

6. David Allen suggested to the Board that replacing the New Durham Subdivision Regulations with entirely new Regulations seemed to be too complex an approach. He recommended proceeding a step at a time and making several amendments over time. Board members agreed. Mr. Allen distributed a revision of the Subdivision Application checklist and asked that it be included in the September 11 agenda as a public hearing and then voted upon following the hearing.

Adjournment: Don Voltz moved to adjourn at 11:45 PM. Bob Craycraft seconded. Unanimous with no abstentions.

Respectfully submitted,

David Allen,
Land Use Administrative Assistant

Minutes Approved September 18, 2007