

MINUTES

NEW DURHAM PLANNING BOARD

FEBRUARY 16, 2010

Chairperson Cathy Orlowicz called the meeting to order at 7:08 PM.

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

Excused Absence: Paul Raslavicus, Bob Craycraft

Others Present: Mary Pinkham Langer

Public Input: Chair Cathy Orlowicz noted that Ryan Noonan, the videographer from Wolfeboro, was not present because of the weather, and therefore there would be no taping of the meeting. She asked if there was any public input. There was none.

She asked Scott Drummey to sit in for Bob Craycraft, and Jeff Kratovil to sit in for Paul Raslavicus. Ms. Orlowicz asked if there was any objection to holding the minutes and going straight to the discussion Excavation Regulations to minimize the time of Ms. Langer. No objection.

Excavation Regulations: Ms. Pinkham Langer joined the board at the table. She referenced two resources that would be helpful to the Board in revising the regulations. She said the Town of Alexandria had done a good job of separating town regulations from the state RSA and recommended review of their regs. She also referred to a handbook prepared by the Southwest Regional Planning Commission that addressed both Excavation regulations and the Alteration of Terrain Permit.

Highlights from the discussion include:

- Alterations of Terrain permits from NHDES are required for excavations of more than 100,000 square feet, or more than 50,000 square feet within the Shoreland Protection Zone.
 - The Alteration of Terrain Permit must be renewed every 5 years. Some board members felt the Town schedule should be changed to concur with the Alteration of Terrain Schedule.
 - RSA 155E establishes some exceptions to the Town's authority to regulation excavation, including minor topographical changes, agriculture and
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silviculture; sometimes these are called incidental excavations. The Town does have authority to issue guidelines in these circumstances and should consider doing so.

- The Town can require an engineering review of excavation plans at the owner's expense. Mary Pinkham-Langer said that any excavation site that is not a "bowl" that has greater than average potential for runoff, or that is close to a populated area might need engineering review.
- Any changes in the excavation plan that would increase the size of the excavation area, increase the rate of excavation, or will affect the reclamation plan should require an amended application.
- The Board should require safety requirements for anyone who is on the site, whether they are working or visiting.
- The issues that have most often been involved in problems with excavation sites include drainage and erosion, damage to nearby water wells—especially if blasting is involved, backhauling (bringing other materials into the excavation site), noise, blasting, and situations when the excavation pit is not a "bowl" shape.
- Any extraction of more than 1,000 cubic yards of material is taxable and requires filing a report with the Town.
- RSA 155E should be read in conjunction with RSA 72-B which deals with the taxation of excavations. The requirements of the two statutes complement each other.
- Sites owned and operated by the Town are not exempt from the minimum and express operation and reclamation requirements. The Board needs to check with LGC to find out if the Town is required to have a permit, or if a neighboring town that excavates in our Town needs a permit. If the Town site is solely for highway purposes it may be exempt.
- The law sets minimum buffers and hours of operation. The Town can increase those amounts.
- Anytime a slope in an excavation pit is steeper than 1:1 there must be a safety barrier at the top of the slope.
- Check into the Mining Safety regulations of MSha.
- The excavation permit requirements do not include granite quarries that are cutting dimension stone, i.e. stone for grave sites, for building construction, or

for granite curbing—unless the site is also crushing the granite for aggregate or other regulatable substances.

- The reclamation bonding should be based on the cost to the town of doing the reclamation if the owner abdicates that responsibility. The nature of the reclamation plan is dependent upon the topography of the site at the end of operations and on the soil types of the site. The determining factor is what needs to be done so that vegetative cover sufficient to prevent erosion is fully established on the site in as rapid as possible a manner. Some vegetation may take a year before you know it has taken hold. Some part of the bond needs to be kept by the town until that length of time has passed.
- The regulations need to state how close the excavation can come to the normal high water table. If an excavation uncovers water it is too deep and should stop immediately in that location.
- Check with Road agent if there are any parts of town where the roads cannot sustain nearby excavation, or the hauling of excavation materials by heavy trucks.
- Excavators can be directed to use specific roadways for their travel, and excluded from the use of certain roads. An excavator can also be required to establish a road bond if there is any concern about damage to roads.
- There are two related permits that also come into play. The Alteration of Terrain Permit is required any time there is cumulative digging of 100,000 square feet (i.e. 50,000 square feet the first year and 51,000 square feet the second year). It is also required if there are any signs of hydric soils on the property.
- The EPA requires a Stormwater Permit with a storm water management plan any time there is more than 1 acre of disturbance.
- Wolfeboro issues permits for 5 years; Farmington for 1 year, Alton 24 months with a yearly site visit.

Rules of Procedure: The Board agreed by consensus on replacing the word “furnished” with the word “distributed” in Section XXI.F; and to amend Section V.E. to read “...shall send a notice to the member stating that there have been three unexcused absences and asking if s/he does want to continue as a member...”

The Board discussed amendments to Section XVIII.A. designed to clarify that the Board of Selectmen has the authority to hire Planning Board staff. One member brought the Board’s attention to RSA 673:16.I. which says “Each local land use board

may appoint such employees as it deems necessary for its work who shall be subject to the same employment rules as other corresponding civil employees of the municipality.”

The Board decided to get legal advice from the Local Government Center before proceeding on this issue.

Adjourn: David Bickford moved to adjourn at 10:00 PM. Scott Drummey seconded. Approved unanimously with no abstentions.

Respectfully submitted,

David Allen
Land Use Administrative Assistant

Minutes approved as amended on March 2, 2010