

MINUTES

NEW DURHAM PLANNING BOARD

SEPTEMBER 7, 2010

Chairperson Paul Raslavicus called the meeting to order at 7:00 PM.

Roll Call: Paul Raslavicus (Chair), Scott Drummey, Jeff Kratovil (Alternate), David Bickford (Selectman's Representative) (arr. 7:07 PM), Bob Craycraft (Vice-Chair) (arr. 7:12 PM)

Excused Absence: Dot Veisel

Others Present: Samantha Cassell, Arthur Capello,

Public Input: Chair Paul Raslavicus asked Jeff Kratovil to sit on the Board in place of Dot Veisel. Mr. Raslavicus asked if there was any public input. There was none.

Cassell: Samantha Cassell, 291 Birch Hill Road (Map 244, Lot 064) presented her request for a home occupation permit to operate her hair and beauty salon out of her home. She proposes to upgrade her basement and set it up for business.

Building Inspector Arthur Capello said he had visited the site just before the meeting, and he noted that there is a great deal of work to be done before the house is ready to serve as a home occupation site. In addition to installing the walls and furnishing for the business, the basement needs a new window, and the bathroom will have to be upgraded. Ms. Cassel said she knew the work needed doing and it was her plan to start as soon as she had approval for the home occupation.

Jeff Kratovil asked why some information from Ms. Cassel's divorce decree was included in the packet. David Allen said that Ms. Cassell had considered applying for a permit a year ago. At that time, the house was still jointly held with her ex-husband. The divorce decree says she has full possession of the house, so the Home Occupancy application does not require his approval.

David Bickford moved to recommend to the Building Inspector that the permit be approved as soon as Ms. Cassel fully completes all improvements that he requests. Scott Drummey seconded. Approved unanimously with no abstentions.

Van Hertel: Chair Raslavicus invited Chris Berry, applicant's representative to speak on behalf of this application for a 3-lot subdivision of a lot at 80 Merrymeeting Road (Tax Map

233, Lot 008). Mr. Raslavicus noted that the Board had held a design review session on August 3 and that the Design Review phase was officially completed. Mr. Berry apologized for his absence at the site walk on August 14. He said he had needed to go to the Hospital Emergency Room and had not had the ability to contact the Board and let them know he was not able to be present.

Mr. Berry said he hoped the Board would be able to accept the application as complete at this meeting. He noted that at the Design Review meeting the Board had said it needed to approve Conditional Use Permits before it could approve the subdivision itself. He noted that Bob Craycraft had asked for an analysis of the small wetlands on the property to ensure that there were no vernal pools.

Mr. Berry said he had hired Marc Jacobs, a certified wetlands scientist to look at the property and Mr. Jacobs had verified that the wet areas were not vernal pools and had prepared a written report for the Board to that effect. Mr. Berry summarized the design of the 3-lot subdivision and submitted formal applications for Stormwater and Steep Slope permits with supporting documentation.

Mr. Berry told the Board that the stormwater protections that were included in the plan were based on the new stormwater regulations for the Alteration of Terrain Permit that were published by NHDES. The most significant protection was the plan for a 50' "level spreader". He explained to the Board that a "level spreader" is designed to spread moving storm water out over a wider spectrum so that the water will slow down and drop the sediment it is carrying into the spreader area where it can be cleaned out and returned to the property.

Mr. Berry explained to the Board that Merrymeeting Road that fronts on the proposed subdivision is a state road and therefore the driveway plan and stormwater plan must meet the needs of the Department of Transportation. He said the plan was designed to meet state specifications. These limit the number of driveway cuts into the state road. In order to protect the potential for additional subdivision of the larger lot, the applicant is proposing a shared driveway for two of the lots.

The town's driveway regulations limit the slope on a driveway to 15%. In order to plan for a driveway that meets town specifications, the applicants had to decide on an appropriate location for a house. They showed the house location on their plans and specified a design for the house based on a garage underneath the house. This design allows the garage entrance and therefore the driveway to be cut into the slope of the hill, thereby lowering the slope of the driveway.

Mr. Berry told the Board that because of the steep slopes on these lots, the options for building were more limited than on many lots, which in turn would most likely limit the market for them. Chairman Raslavicus noted that the buyer of a lot could work with the applicant's proposed plan, or they could return to the Planning Board with a different plan and a change in the conditional use permits. Mr. Berry said he would submit plans for stabilizing the land during and after construction. These plans would include immediate

seeding with rye grass that germinates in 3-4 days. He said he still needed to prepare a stormwater analysis for the Board, but wanted to get their buy in to the subdivision design plans before doing that analysis. He said the plans were based upon professional experience but might need some adjustments when the stormwater analysis is done, which he would do for the next Board meeting. He asked the Board what year storm event he should use for the analysis and final plan proposal. Bob Craycraft said the analysis should be for a 100-year storm and the design should meet the needs of a 50-year storm. He said this is specified in Article XIII.F.4 & 5. Mr. Craycraft added that he thought there would need to be more engineering done for the final design. Mr. Berry agreed, saying they did not want to expend that effort until they had preliminary agreement from the board for their plan.

There was additional Board dialogue on these issues and regarding the completeness of the materials that have been submitted. **Bob Craycraft moved to accept the application as complete on condition that the Stormwater Analysis is submitted to the Board before the next meeting date. Jeff Kratovil seconded. Approved unanimously with no abstentions.**

Chair Raslavicus said the Public Hearing would be continued to October 5 at 7 PM at the Public Library.

Mr. Raslavicus recessed the Board for five minutes at 8:50 PM.

Removing dwelling status from a House. David Allen said a resident had asked him for some help knowing what he needed to do so that a dwelling is no longer considered a dwelling under the terms of town ordinances and regulations. The resident wishes to merge two lots, each of which currently has a dwelling on it. Since he can only have one dwelling on the merged lot, he is prepared to take some facilities out of one of the dwellings so that it is no longer a dwelling. He will then use the de-commissioned structure as an accessory structure such as a bunkhouse for visiting grandchildren.

Bob Craycraft said he thought this would bring the lot very close to being a family compound. The Planning Board considered specifically authorizing family compounds a few years ago and decided it was something they did not want. Building Inspector Arthur Capello said that it was his view that removing the capacity for cooking food, by removing the stove and all wiring or gas pipes that could serve a stove from the structure, would make it no longer a dwelling. He said people often had refrigerators and toilets in structures that were not intended to be dwellings, but seldom a stove.

Subdivision Regulations: David Allen reminded the Board that when it was rewriting the regulations for an Open Space Conservation Subdivision it had consciously tried to move the subdivision process from one which starts with an applicant's development concept and moves from there to protecting the Town's natural resources to a process which starts with the Board identifying the natural resources that it wants to protect, and then asking the developer to design a development around those protections. He said that adding very much on to the requirements for the Conceptual Consultation stage could have the effect of encouraging the applicant to develop their plan before the Board has a chance to identify

resources it wants to protect—just the opposite. Allen suggested requiring a conceptual consultation for subdivisions over a certain size, as the Board had done for Open Space Conservation Subdivisions, would give the Board the opportunity to identify natural resources requiring protection early in the process.

Bob Craycraft said he thought the Board might need to amend the Zoning Ordinance in order to require the Conceptual Consultation phase. The requirement for Open Space Conservation subdivisions is in the ordinance, he said. The Board asked Mr. Allen to get legal guidance on this question from the Local Government Center.

Stormwater Regulations: Because of the time, Chair Raslavicus continued this discussion to the next Board meeting.

Minutes of August 17: The pages of these minutes were out of order and incomplete, making it impossible to read them. Chair Raslavicus continued action on these minutes to the next meeting.

Minutes of August 24: Scott Drummey moved to accept the minutes of August 24 as written. David Bickford seconded. Bob Craycraft abstained, as he was not at the meeting. Approved unanimously with no abstentions.

New Business: Time Limit for Conditional Approvals. Bob Craycraft said it was over two years since the Board had given conditional approval to the Kodiak Woods subdivision, and the applicant had not met any of the conditions of approval. He acknowledge that the Board had not set a time limit for completing the conditions, and he thought the Board could and should still take some action to require action by the applicant. The Board asked David Allen to get legal guidance on this question from the Local Government Center.

Proposed Changes to Ethics Ordinance: Paul Raslavicus reported to the Board that a suggestion had been made to the Ethics Committee to amend the Ethics Ordinance to limit its applicability to quasi-judicial actions of Town Boards, and to exclude legislative actions of Town Boards from coverage. He noted that the Planning Board had spent a great deal of time on this question during its work on the Town Center Ordinance and suggested that the Board should take a position for or against the proposed change, communicate its position in writing to the Ethics Committee, and authorize the chair to represent its opposition at the next Ethics Committee meetings. Discussion pro and con followed.

David Bickford said it was his understanding that Mr. Raslavicus had been appointed to the committee that wrote the ethics ordinance but had never participated in the process. He wondered if it was appropriate for him to get involved in the work of the Ethics Committee at this late stage. Mr. Raslavicus said he had been approached to serve on the Committee, had said he would need to give it some thought, and had heard no more about it, so he considered that he was never formally asked to be on the committee.

Scott Drummey moved that the Planning Board opposed the need to declare a conflict of interest or the need for recusal in matters of a legislative nature from

coverage by the Ethics Ordinance; authorize Chair Raslavicus to send the Chair's draft letter, with reference to Mr. Bickford's attendance at the 8/10/2010 Ethics Committee deleted, to the Ethics Committee; and authorize the chair to represent the Planning Board position at the Ethics Committee meeting. Bob Craycraft seconded. Yes: Drummey, Raslavicus, & Craycraft. No: Bickford. Abstain: Kratovil. Approved 3-1-1.

Scott Drummey moved to adjourn at 10:20 PM. Bob Craycraft seconded. Approved unanimously with no abstentions.

Respectfully submitted,

David Allen
Land Use Administrative Assistant

Minutes approved October 5, 2010

Town of New Durham