

# MINUTES

## NEW DURHAM PLANNING BOARD

### OCTOBER 19, 2010

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

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

**Others Present:** Mary McHale, David Allen

**Public Input:** Chair Paul Raslavicus asked if there was any public input. There was none.

**Minutes of October 5, 2010:** Board members made minor corrections to the draft minutes. **Scott Drummey moved to accept the minutes of October 5, 2010 as amended. Bob Craycraft seconded. Approved unanimously with no abstentions.**

**Kodiak Woods:** David Allen reminded the board that they had discussed issues related to the Kodiak Woods subdivision with legal counsel. In April, 2008 at the time of conditional approval, the Board had overlooked the need to set a timeline for meeting the conditions. Two and a half years later only one of 5 conditions precedent has been met. Chair Raslavicus asked Mr. Allen if he could get proper notice for a public hearing at the November 2 meeting. Mr. Allen said it would be a tight timeline but he would try. **Scott Drummey moved to hold a public hearing on the status of the Kodiak Woods subdivision approval on Tuesday, November 2 at the Public Library. Bob Craycraft seconded. Approved unanimously with no abstentions.**

**Red Oak LLC:** Paul Raslavicus reviewed the recent history of this subdivision application. Mr. Joshua Gruss had indicated to Mike Speltz of the Forest Society that the \$2.7 million current assessment of the property's value is far less than the \$4million that Mr. Gruss feels is the real value of the property. Mr. Gruss is willing to wait until the housing market improves in order to earn the \$4 million, and therefore he is no longer interested in pursuing a conservation solution. On behalf of Mr. Gruss, Attorney Malcolm McNeill had met with the Planning Board and had sent a written notice of Red Oak, LLC's withdrawal from seeking a conservation solution.

At the October 5 meeting the Board voted to end design review. However, the Town Subdivision Regulations require written notification to the applicant within 10 days of the Board decision and staff did not have time to accomplish that.

**David Bickford moved to rescind the Board's action of October 5 to end the design review period for the Red Oak Subdivision on Birch Hill Road. Scott Drummey seconded. Approved unanimously with no abstentions.**

**David Bickford moved to terminate the Design Review process for the subdivision application submitted on November 7, 2008 by Red Oak, LLC for a 216 unit Open Space subdivision on Birch Hill Road, Tax Map..., Lot). Scott Drummey seconded. Approved unanimously with no abstentions.**

**Van Hertel:** Chris Berry presented updates to the plan on behalf of the applicant. Chair Raslavicus told Mr. Berry that the board would hear and review the updates, but in light of receiving them at the meeting rather than 5 days in advance, the Board would probably not take final action on the application at this meeting.

At the October 5 meeting Mr. Berry told the Board they could not establish measures of substantial and active development on this project because all lots faced on an existing road built to state standards. David Allen reported he had asked that question of an attorney at the Local Government Center. The attorney agreed with Mr. Berry that in most such cases there would not be a need for measures of substantial and active development. The attorney told Mr. Allen, however, that there is no prohibition on a board from setting those measures, and if there were other issues such as stormwater management that the Board felt should be addressed in a timely manner so they are not left to individual lot purchasers, it would be quite appropriate for the Board to state those measures of substantial and active progress in its decision.

The Board and Mr. Berry also discussed the issue of timing for conditions precedent, and for substantial and active progress. After considerable discussion there was consensus that the best time marker would be the sale of the property, or the application for a building permit, whichever came first.

**Bob Craycraft moved to continue the public hearing on the Hertel application for a subdivision of the property at 30 Merrymeeting Road, Map Lot to 7 PM, November 2 at the Public Library. Scott Drummey seconded. Approved unanimously with no abstentions.**

**Bunkhouses:** Arthur Capello presented a draft definition of "bunkhouse" to the Board for consideration. The definition reads:

**Subdivision Regulations:** The Board reviewed the remaining proposed changes and was comfortable with them. They did not want to take any further action until they see a draft with all the changes and re-ordering of sections at the same time in one document. By

consensus the Board agreed to schedule a public hearing for Tuesday, November 2 at 7 pm at the Town Hall.

**Required Conceptual Conversation:** Bob Craycraft said he had been working to draft an amendment to the Zoning Ordinance that would require a subdivision applicant to participate in a conceptual conversation with the Board before submitting an application. He said it did not make sense for the board to require that in all cases, such as separating a single lot from a larger lot. He asked Board members to help come up with a set of criteria or triggers such as the number of lots, the need for a new road, the presence of prime agricultural soil, etc. He will bring a draft to the November 16 meeting.

**Stormwater Management:** Bob Craycraft is working on making the language in the Steep Slopes ordinance that relates to stormwater management consistent with the language in the Stormwater Management ordinance. He will bring a draft to the November 2, 2010 meeting.

**Building on a Class 6 Road:** David Bickford gave the Planning Board a heads up that the Board of Selectmen will be reviewing a request to build on a Class 6 road. The guidelines for building on Class 6 Roads suggest review and feedback to the BOS from the Planning Board.

**Scott Drummey moved to adjourn at 9:38 PM. Bob Craycraft seconded. Approved unanimously with no abstentions.**

Respectfully submitted,

David Allen  
Land Use Administrative Assistant