

# Draft Minutes

## New Durham Planning Board

### May 15, 2012

*(Please note: These are draft minutes prepared by staff from notes taken at the meeting. They have not been reviewed by the Board for accuracy, and should not be relied upon for accuracy. Reviewed, corrected, and approved minutes will be available at Town Hall and on the Town's website following the next scheduled Board meeting.)*

Chairperson Scott Drummey called the meeting to order at 7:04 PM.

**Roll Call:** Scott Drummey (Chair), David Bickford (Selectman's Representative), Bob Craycraft (Vice-Chair) @ 7:17 PM, Paul Raslavicus

**Excused Absence:** Dot Veisel

**Others Present:** Peter Pijoan (videographer), David Allen (staff)

**Public Input:** Chair Scott Drummey asked if there was any public input. Paul Raslavicus stepped down from the Board and asked to comment as a citizen. He expressed several concerns relating to the Board's handling of the Wayne & Patricia Edwards subdivision, including the following:

- RSA 676:4 allows the Board to take final action on a subdivision without public notice if all the issues related to the subdivision are administrative, and involve no judgment on the part of the Board;
- The Board exercised judgment in accepting the Road agent's report that the culvert under the road had been properly constructed;
- The Board exercised judgment in allowing the driveway culverts to be completed at the time of a driveway permit as recommended by the Road Agent;
- The Board exercised judgment in accepting an under the road culvert of different type and dimensions as delivered to the contractor by the Road Agent;

- The Board exercised judgment in changing the requirement for water quality buffer tags from condition precedent to condition subsequent because the town did not have the buffer tags available to the applicant.

Mr. Raslavicus added that there may be an additional defect. The minutes of July 5, 2011, when the subdivision was given conditional approval, continued the public hearing until August 16, 2012. However, it was held on June 5, 2011 instead without notifying abutters of the change of time.

Mr. Raslavicus criticized the Board on two accounts. He said they were neglectful of the protection of the wetlands lot into which the under the road culvert exits by not requiring review of the plan by a professional engineer. In addition, they did not limit the housing on new subdivision lots to single family houses as they had the authority to do.

Chair Scott Drummey noted that Mr. Raslavicus had the opportunity at the July, 2011 public hearing, and again at the April x and May 5, 2012 meetings to raise these concerns before the Board took final action and he did not do so.

Mr. Raslavicus returned to the Board. Chair Drummey asked Paul Groom to sit for the balance of the meeting for Dot Veisel who was absent.

**Site Plan Regulation Amendments:** The proposed amendment gives the Planning Board the authority to require a new site plan in situations in which a lot with an existing site plan is subdivided if it thinks the subdivision may reduce health, safety, or environmental protections to the site. Mr. Allen had edited the proposed amendment to reflect discussion by the Board at its May 3 meeting.

**Paul Raslavicus moved to approve the amendment with the language as presented by Mr. Allen. Craig Groom seconded. Approved 4-0 with Mr. Craycraft not yet present.**

**Land Use Actions on Lots that Cross Municipal Boundaries:** Mr. Craycraft arrived at the meeting.

Mr. Allen reported that at the request of the Board he had contacted the Local Government Center attorney for guidance in handling a property owner's request regarding a boundary line adjustment on a property that straddles the New Durham-Wolfeboro town line. The attorney referred him to RSA 674:53 which governs "Land Affected by Municipal Boundaries".

The boundary line adjustment is entirely within the Town of Wolfeboro, but the driveway access to the property in question is off of a road located in New Durham. The

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statute states that when a town (Wolfeboro) receives an application for a boundary line adjustment in such a situation, “the municipality receiving the application shall inquire in writing to the appropriate administrative officials in the adjoin municipality....as to the existence of facts or regulations which ....would preclude or affect such.... [a proposal].”

Mr. Allen has received no communication from the Town of Wolfeboro. The Board asked him to draft a letter for Chairman Drummey to send to Wolfeboro noting the statute and stating that the New Durham Planning Board’s reading of the law requires written communication to them from Wolfeboro.

**Robideau Site Plan:** Paul Raslavicus said he had noted a used skid steer for sale on the Route 11 site approved by the Board for Mr. Robideau to display and promote certain landscaping products. He asked that the Code Enforcement Officer check the site for compliance. Mr. Allen will convey the request.

**Time Limits on Site Plan Improvements:** This is another item regarding which the Board had asked Mr. Allen to confer with the LGC attorney. He was referred to RSA 674:39. This statute spells out the time limits for “active and substantial development” for both subdivisions and site plans. The Board has used it before in addressing subdivision plans. The same guidelines apply to site plans. The property owner has a five year exemption from any new ordinances or regulations if the owner if “active and substantial development” has begun on the site within 24 months of final approval of the subdivision or site plan. The Board should, in its approval of the site plan, spell out what “active and substantial development” means in each specific site plan. If this target is not met, the board can require the applicant can return with a new application that meets the terms and requirements of all ordinances and regulations in effect at the time of the recall.

**Granting of Easements:** Mr. Allen reported that in his conversations with the LGC attorney, the attorney stated that recent rulings by the New Hampshire Supreme Court disallow the granting of an easement to oneself. In both the Lee Turner and the Wayne & Patricia Edwards subdivisions, the Board required that the plans reflect the easements and the language of the easements be provided to the Board before final approval of the subdivision. The Board has already given final approval to the Edwards Subdivision so it cannot make any changes in conditions.

The Board can address the issue with the Turner subdivision. Mr. Allen has submitted the question to the Town’s attorney, Mr. Bart Mayer, Esq., and is waiting for his response and direction.

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**Subdivision of a Woodlot on a Private Road:** Mr. Allen asked questions regarding this issue to the LGC attorney who directed him to Town Counsel because the answers would depend upon town ordinances and regulations. Mr. Allen shared a copy of the letter he addressed to Mr. Mayer in which Mr. Allen spelled out the steps he thinks an applicant must pursue in order to subdivide a woodlot on a private road. In the letter he notes that these steps create a very risky investment path for a property owner, and he expects the owner will ask for ways to reduce his risk such as conditional approvals or other means. He asked Mr. Mayer for guidance on what requests the Board might expect, and how they should respond.

The Board discussed the possibility that such a plan might be considered scattered and premature. David Bickford cautioned the Board to get clear legal guidance before taking that step.

**Master Plan:** Board members reviewed the Executive Summary of the Master Plan implementation survey conducted in 2005 with an eye to understanding which questions might not need to be asked again, and what new questions might be needed. The review provoked considerable discussion and some preliminary understandings about the focus of a survey for the new master plan. The Board felt strongly that they needed to become clearer about what issues they needed answers to and how they would use the survey results before deciding on the content.

**Minutes:** Board members made minor edits to the minutes of May 1. **Bob Craycraft moved to accept the minutes of May 1 as amended. Craig Groom seconded. Approved 4-0. Paul Raslavicus abstained as he was not present at the meeting.**

**David Bickford moved to adjourn at 10:00 PM. Bob Craycraft seconded. Approved unanimously.**

Respectfully submitted,

David Allen  
Land Use Administrative Assistant

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