

**MINUTES
NEW DURHAM PLANNING BOARD
3 DECEMBER 2013**

Chair Craycraft called the meeting to order at 7:07 pm.

Roll Call: Bob Craycraft (Chair), Scott Drummey (Vice-Chair), Paul Raslavicus, Dot Veisel, David Swenson (Selectmen's Representative), Recording Secretary Amy Smith.

Excused Absences: Craig Groom, Terry Chabot, Cameron Quigley

Others Present: Code Enforcement Officer Arthur Capello, Videographer Jim Ladd, Atty. Arthur Hoover, Evan Goldner, Dennis Nayland, Kathleen & Christopher Cairns.

Public Input: There was no public input.

Water Monkey Camp at Cove Cottages Map 119 Lots 011 & 032 – See attached detailed summary

Code Enforcement Officer Arthur Capello stepped forward and stated, in his opinion, Water Monkey Camp is not a 'natural expansion' of the Cove Cottages camp rental business and would need a Site Plan Review. CEO Capello stated currently the cottages are being rented to families which would be considered residential use where Water Monkey Camp is an educational youth camp. CEO Capello referred to RSA 155-A which deals with the International Building Code.

Atty. Arthur Hoover stepped forward and introduced himself and Evan Goldner the founder of Water Monkey Camp. Atty. Hoover stated he is representing Russ Weldon, the owner of the property. Atty. Hoover stated the nature of the use of the cottages is not changing and he did not believe it should matter who the renters are. Atty. Hoover noted in both cases the use of the cottages is recreational. Atty. Hoover noted several items which, he felt, made Water Monkey Camp a 'safer' use of the property than renting the cottages out to families. Atty. Hoover stated no alcohol is allowed, all boats will be inspected by the State, the operators of the boats are commercially licensed, hours are regulated and Water Monkey Camp is fully insured. Atty. Hoover also stated there should be less vehicular traffic with Water Monkey Camp than with renting to families and he believed the camp participants will be better supervised. Atty. Hoover also noted that the camp has previously operated on Merrymeeting Lake from Birch Hill Camp.

Ms. Veisel asked if there would be any activity at Birch Hill Camp if the camp is moved to Cove Cottages. Mr. Goldner stated no. Ms. Veisel noted the Water Monkey Camp website referred to use of a field for outdoor activities and asked if this is the Town field. Mr. Goldner stated it is not the Town field but a field located on the property. Ms. Veisel asked about the dock on the property. Mr. Goldner stated the dock should fit four boats and he plans on having two or three. Mr. Swenson asked if Mr. Goldner would be using the marina wharf. Mr. Goldner stated he was not planning on it. Mr. Swenson questioned the planned hours of operation. Mr. Goldner stated 7

am – 10 pm. Mr. Swenson questioned Atty. Hoover's previous comments regarding the campers being 'supervised better' than other children and the quality of the Water Monkey Camp boats and operators compared to other boats and operators on the Lake. Attorney Hoover apologized for the generalization.

Mr. Raslavicus stated he is disturbed at the fact that Atty. Hoover was before the Board 15 October 2013 regarding the relocation of the Merrymeeting Lake Association meetinghouse onto the Cove Cottages property and there was absolutely no mention of Water Monkey Camp. Mr. Raslavicus also stated he agrees with CEO Capello that a Site Plan Review is required with a public hearing and full notification of abutters.

Audience member Chris Cairns stepped forward and stated he believes the Water Monkey Camp would be a change of use from the way the Cove Cottages have previously been operated. Mr. Cairns also stated he believes the wake from the operation causes a disruption to the natural shoreline. Ms. Veisel asked Mr. Goldner if there had been any incidents at the camp where the New Durham Police Department got involved. Mr. Goldner stated no. Chair Craycraft suggested any more discussion regarding the Water Monkey Camp take place at a public hearing.

Natural Expansion

Natural expansion was briefly discussed with CEO Capello. Mr. Capello referred to the International Building Code and noted anyone interested in looking at the code could come to his office. CEO Capello stated the Town does not have a definition of 'natural expansion' and it is a matter of opinion. CEO Capello noted the Water Monkey Camp is a good example of what he would not consider 'natural expansion' as the use is changing from residential to educational. CEO Capello stated in the case of the Flight Deck the use is already mercantile and it is still mercantile by the addition of the U-Haul rental. It was agreed that there is a degree of subjectivity involved. CEO Capello noted that he is charged with interpreting the laws but his decisions can be appealed to the Zoning Board of Adjustment.

Enforceability of Proposed Dark Skies/Lighting and Ridgeline Regulations

CEO Capello stated he does not believe either of the proposed regulations/ordinances are enforceable. Mr. Capello questioned who would be checking the luminaires or the angle of the ridges for cutting. Mr. Raslavicus noted there are 18 or 19 Towns in the State that currently have Lighting Regulations. CEO Capello stated there are many more that do not. CEO Capello asked if the Board was receiving many complaints about lighting issues and stated typically regulations are added or changed as a result of complaints. Chair Craycraft noted Lighting is discussed in the Master Plan. CEO Capello restated his opinion that the proposals are not enforceable.

Impact Fees

CEO Capello recommended that the Board review the amount currently being charged for Impact Fees and stated, he felt, the amount is steep. Board members asked Mr. Capello if he would get information from other Towns to see what they are charging. Chair Craycraft noted the Board's 2014 proposed budget includes money for Bruce Mayberry to update the Impact Fee

data. Mr. Swenson suggested looking into the wording of the Impact Fee Ordinance as he does not believe it is clear.

Voluntary Merger Form

Board members asked CEO Capello his opinion on the Voluntary Merger application form. Mr. Capello had some procedural questions. Board members agreed CEO Capello should work with Ms. Smith, with input from the Town Clerk, regarding the procedure.

At 8:26 pm Chair Craycraft called for a five minute recess.

At 8:33pm Chair Craycraft reconvened the meeting.

Site Plan Review Regulations – Edit

Ms. Smith passed out a draft section entitled ‘Pre-Application Phases’, consisting of five subsections, prepared by professional planner Elaine Planchet. Board members agreed to review this section after review of the 19 November 2013 draft of the entire Site Plan Review Regulations prepared by Ms. Planchet. Board members spent a considerable amount of time reviewing Sections II, II, and IV of the draft. Some typos were corrected and grammatical changes made. Board members asked Ms. Smith to get the opinion of the Code Enforcement Office regarding proposed changes to definition 11 – “Certificate of Occupancy” and definition 20 – “Family”. Due to time constraints Board members agreed to continue to review the remainder of the draft at home and discuss it at the 17 December 2013 meeting.

Ms. Smith suggested adding a disclaimer to the Land Use Board’s applications requiring all property owners to sign. Board members asked Ms. Smith to check with Local Government Center.

Review of Minutes

Board members reviewed the minutes of 19 November 2013. Chair Craycraft suggested, on page 2, first paragraph, last sentence, changing ‘that area’ to ‘Kings Highway’ for clarification. Board members agreed. **Ms. Veisel made a motion to approve the minutes of 19 November 2013 as amended. Mr. Raslavicus seconded the motion. The motion was approved with four affirmative votes (Craycraft, Raslavicus, Swenson, Veisel) and one abstention (Drumme).**

Kodiak Woods

Board members reviewed an e-mail from Town Attorney Justin Richardson regarding the request for extension from Brian Crossan regarding the Kodiak Woods subdivision. Board members also reviewed the Final Notice of Decision regarding the Kodiak Woods subdivision dated 15 November 2011. Board members agreed to discuss the issue further at the 17 December 2013 meeting. Board members asked Ms. Smith to contact Mr. Crossan and invite him to the meeting.

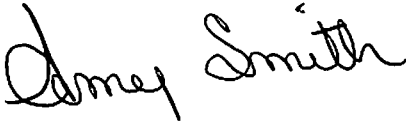
Miscellaneous

Ms. Veisel thanked Ms. Smith for the hard work, time and effort she has put into organizing the Land Use Office. Board members echoed Ms. Veisel's sentiment.

Chair Craycraft noted Ms. Smith found the 'Old Grave Yard' map. Ms. Smith stated she found the map in the upstairs back hall and contacted the Town Historian, Cathy Orlowicz, to see if she wanted the map. Ms. Orlowicz stated the map was actually requested by the Planning Board and belonged to the Town. Ms. Smith stated she hung the map up in her office if anyone would like to look at it.

At 10:02 pm Vice-Chair Drummey made a motion to adjourn. Mr. Swenson seconded the motion. The motion was unanimously approved.

Respectfully submitted,

A handwritten signature in cursive script that reads "Amy Smith".

Amy Smith
Recording Secretary

New Durham Planning Board

December 12, 2013

Suggested Changes to Minutes of Planning Board Meeting of 12/03/13

Given the initial topic of discussion at the above referenced Planning Board meeting and its potential for longer term issues, I believe that it is critical that the minutes from this meeting reflect, at least in an overview fashion, the factual discussion and the primary points of either facts in dispute or inaccuracies, generalizations, and / or misleading statements that were presented. It is not presented that these statements were intentionally made to present false information but that they were more made in the essence of trying to make a generic point but using generalities and, perhaps unintentional but nevertheless, implied incorrect information and / or conclusions.

I. Suggested Changes to Minutes – Section Water Monkey Camp

- A) The following is a suggested full replacement for the section of the minutes titled – Water Monkey Camp at Cover Cottages Map 119 Lot 011

As scheduled on the agenda Code Enforcement Officer Arthur Capello (CEO Capello) initiated discussions on his position as to how he approaches situations where “natural expansion” may be a factor. In attendance at the meeting also were individuals either as a representative (Atty. Arthur Hoover) of a property owner (Russ Weldon) where this issue may be a factor and a business owner (Evan Goldner) that would be a new user with a different use to that property and could be directly involved. Specifically addressed is the property currently named Cove Cottages located on Merrymeeting Lake and across the street of said lake and the business currently named Water Monkey Camp. Water Monkey Camp has previously operated from the Birch Hill Camp location and bused the campers to Merrymeeting Lake for their water activities while docking their boats at the Merrymeeting Marina docking facilities.

CEO Capello stated that in his opinion Water Monkey Camp is not a “natural expansion” of the residential rentals currently defined as the Cove Cottages. The current business involves cottages that are being rented to families which would be considered residential use whereas Water Monkey Camp is an educational youth camp. In determining the natural expansion application in this case CEO Capello referred to RSA 115-A which deals with the International Building Code.

Atty. Hoover stated that the nature of the use of the cottages is not changing and he did not believe it should matter who the renters are. Atty. Hoover also noted in both cases the use of the cottages is recreational. However, CEO Capello had specifically stated previously that the use was residential rentals and not stated that they were recreational use. Atty. Hoover tried to provide several points that he felt made the Water Monkey Camp a “safer” use of the property.

For purposes of conciseness the following table summarizes the discussions on this issue:

Position of Atty. Hoover Representing Cove Cottages Property Owner	Response by Planning Board Members and / or Town’s CEO
The issue is whether the contemplated use requires site plan review or whether a natural expansion, i.e. the issue is nature of use not who the renter is.	CEO Capello indicated that in his opinion it would require site plan review and is not a natural expansion. Opinion based on RSA 155-A, etc.

<p>Atty. Hoover felt that Water Monkey Camp is a "natural expansion" of Cove Cottages at Merrymeeting Lake as it is for recreational use.</p>	<p>CEO Capello stated it is currently residential rental use – not recreational use.</p>
<p>Atty. Hoover appeared before Planning Board on October 15, 2013 regarding the movement of the Merrymeeting Lake Association Building for the purposes of being used as a meeting area for family unions. Per Atty. Hoover, when he appeared previously on this issue he did not know that the owner was going to change the use to Water Monkey Camp and, therefore, at that time did not know it was an issue.</p> <p>Atty. Hoover indicated that there was nothing firm in place between property owner and Water Monkey Camp.</p> <p>Additionally a new and updated septic system is being installed for 10 bedroom and Atty. Hoover claimed that it is not an expansion but only a replacement.</p>	<p>PB Member Paul Raslavicus indicated that he felt that the planned change to the use to Water Monkey Camp was well known at the time Atty. Hoover represented the property owner when coming before the PB previously as to the move of the meeting house structure (October 15, 2013). Atty. Hoover tried to respond to this question by restricting it to only the meeting house move and he indicated he was not aware of Water Monkey Camp situation at that time.</p> <p>PB Member Raslavicus felt that the intent of use for Cove Cottages was known at that time. He felt that it is rather disturbing that the PB was not told when the prior approval for movement of the meeting house was requested that this Monkey Camp plan was not presented at that time.</p> <p>Other PB members noted that was not the question asked by PB Member Raslavicus.</p> <p>PB Member Swenson questioned whether the new septic system being installed is an exact size replacement of the current system. He believes that this is an expanded septic system which was initially denied by Atty. Hoover. However, upon further discussion Atty. Hoover did admit that it is not the exact same size as the current system, i.e. it is an expansion as it is going to be larger.</p>
<p>There was a concern by one of the lake residents concerning of use of meetinghouse by the lake association after it would be moved – Atty. Hoover indicated that has "all been taken care of". The lake association will be able to use the meeting house as to their needs.</p>	
<p>Atty. Hoover stated that all boats inspected by the state thereby making them the "safest boats on the lake"</p> <p>No comparative data was made</p>	<p>PB Member Swenson asked if there is information that Atty. Hoover has that implies boats on the lake are currently unsafe? Is there data to indicate that Monkey Camp boats are more safe than those operated by Merrymeeting Lake</p>

available to the PB from Atty. Hoover.	residents and are the safest on the lake?
Operators of the boats are licensed. Response was that Water Monkey Camp operators are required to obtain commercial licenses for boat operation.	PB Member Swenson indicated that all NH boat operators on the lake must be licensed.
Hours are regulated by Water Monkey Camp and there will be "no night time activities".	PB Member Swenson stated that based on the age group stated for the campers and other information on planned counselors it is difficult to believe that all campers and counselors are required to go to bed at sunset and no activities after sunset would be planned.
"There might be better supervision at the camp than what is there now" Atty. Hoover apologized for the generalization on this issue.	PB Member Swenson asked that given that the current use of Cove Cottages is for residential rentals as specifically stated in prior presentations to the Planning Board – is Atty. Hoover implying that there is not sufficient supervision currently?
"Better water quality protection"	PB Member Swenson asked that given that the public boat ramp is within feet of Cove Cottages, how can Atty. Hoover, as a representative of the current owner, assure that this would be the case? Is there a plan to monitor this and require better water quality?
Atty. Hoover stated that there would be less vehicular traffic with Water Monkey Camp than currently	No traffic pattern data was presented to the PB.
Atty. Hoover stated that the "lake will be safer".	PB Member Swenson wondered with increased boat activity from the camp how it can be safer and whether there is an implied statement that currently boats on the lake are unsafe.

Other questions from the Planning Board were asked by Ms. Veisel including if there would be any activity at Birch Hill Camp if the camp is moved to Cove Cottages. Mr. Goldner stated that Birch Hill Camp would not be used if Cove Cottages were used. Ms. Veisel also noted that Water Monkey Camp's website referred to use of a field for outdoor activities and asked if this is the Town field. Mr. Goldner stated it is not the Town field but a field located on the Cove Cottage property. Mr. Veisel asked about the current dock at Cove Cottages and Mr. Goldner stated that the dock fits four boats and he plans on having two or three. Mr. Swenson asked if Mr. Goldner would be using the marina wharf and Mr. Goldner stated he was not planning on it. Mr. Swenson questioned the planned hours of operation with Mr. Goldner stating it would be from 7 AM – 10 PM. Ms. Veisel asked if there has ever been any police activity with Mr. Goldner's operations and the response was that there has never been any disruptive behavior, i.e. never had police activity with Water Monkey Camp.

PB Member Swenson requested to clarify whether Cove Cottages would be available for residential rental use if they would be where Water Monkey Camp had their business. Atty. Hoover responded that the agreement would have the Cove Cottages be exclusively used by Water Monkey Camp for the summer season. The summer season was further defined by Atty. Hoover as the middle of May through the middle of September.

PB Members Raslavicus and Swenson stated that they wished to clarify to Atty. Hoover that when the PB approved the original request for the movement of the lake's meeting house that it was approved but not based on natural expansion. Approval on October 15, 2013 for this move was also granted on the basis that it was stated by the property owner's representative as needed for use for family reunions for the purposes of a place where the families could have a meal and enjoy their time together. This is clearly not the currently intended use. Therefore, a site plan review is likely to be required for the planned change in the Cove Cottage business. Atty. Hoover indicated that he may agree that a site plan review may be required but does not give up the right to appeal if the property owner so chooses. The PB indicated that is fine but that it may be in the owner's best interest to initiate the preparations and other activities necessary for the site review process.

Audience Member Chris Cairns, a property owner on Merrymeeting Lake, stated that he believes thw Water Monkey Camp would be a change of use from the way the Cove Cottages have previously been operated. Additionally, he believes that there would be shore line disruption from excessive wake / wave formation with the additional use of the boats thereby causing a disruption to the natural shoreline. The rationale presented was that family reunions are not the same as commercial enterprise and that wakeboard boats are different than the majority of boats on the lake, i.e. pleasure boats and fishing boats, etc.

Chair Craycraft suggested that any additional discussion on the Water Monkey Camp related to Planning Board action may need to take place at a public hearing.

All other parts of the minutes from the initial draft appear acceptable.

Swens