

DRAFT MINUTES

NEW DURHAM ZONING BOARD OF ADJUSTMENT

JUNE 8, 2011

Chairperson Larry Prelli called the meeting to order at 7:04 PM.

Roll Call: Larry Prelli (Chair), Mike Hoffman, Helen Wellman, Dave Shagoury

Others Present: Greg Poston, Mike Haskell, Pam Anderson, Kevin Rouleau, Paul Connolly, George Pelletieri

Four Member Board: Chair Larry Prelli noted for the applicants that the ZBA had four members of the board present for this evening's meeting. He said that applicants needed three favorable votes to win approval, and they have the right to have a 5-member board act on their request. All applicants indicated they would go forward with the four members present.

Mr. Prelli also noted that any applicant, board member, or member of the public concerned that a Board member might have a conflict of interest related to their application had the right to point that out and request the board member to recuse him/herself from participation. No concerns were expressed regarding conflict of interest.

O'Holleran: A request by Eileen O'Holleran for a variance from Article XIII.E.1 and XIII.G.2 to allow the disturbance of 16,930 square feet of steep slopes greater than 30% (instead of the allowed 6,000 square feet) in order to complete the development of a home site on property located on 261 North Shore Road, (Tax Map 102 , Lot 021) in New Durham, New Hampshire. Application zba.2011.02.

George Pelletieri and Paul Connolly presented the O'Holleran application. They pointed out that their client had purchased the lot in a state of massive disturbance to the ground. The previous owners had started developing the lot, removed extensive vegetation, disturbed significant amounts of the land, and then sold it with the development incomplete. As a result, the applicant must re-disturb the land in order to finish the development of structures and repair the damage to the landscape in order to properly manage stormwater on the lot.

They showed several photos to the board that demonstrated the current condition of the lot. They indicated they had submitted two separate shoreland applications to the New Hampshire DES and were working with them on approval.

The lot is very steep. It is impossible to develop without disturbance of steep slopes. The applicants are attempting to work with steep slope best management practices to ensure the future integrity of the lot. The existing driveway has a slope of 16-17%. They are removing this driveway and replacing it with a much shorter driveway in a slightly different location so that its slopes are 4-5%.

They plan to install a tramway from the garage to the house for access to the house for elderly parents, and heavy loads. This will eliminate the need for such a long driveway. They plan extensive landscaping in areas that were left disturbed by the previous owner in order to slow the movement of stormwater and hold the soil from erosion.

David Shagoury asked the location of the septic system, and how service people would access it for cleaning. The system is under the lower end of the existing driveway. Trucks can use the neighbors' driveways to access it. Mr. Haskell, abutter said he had verbally agreed to use of his driveway for this purpose and did not want to sign any formal agreements or easements.

Mr. Shagoury also noted that the tramway was vital equipment in the plan, and there must be a plan to ensure constant power in case of emergency. Mr. Connolly said there was a backup generator in the garage.

Larry Prelli moved to approve a variance from Article XIII.E.1 and XIII.G.2 for the property located on 261 North Shore Road, (Tax Map 102 , Lot 021) to allow the disturbance of 16,930 square feet of steep slopes greater than 30% (instead of the allowed 6,000 square feet). Helen Wellman seconded. Approved unanimously with no abstentions.

Dzierzek: A request by Priscilla Dzierzek for a Variance to allow the construction of a 4' x 16' addition and a 2' extension of a farmers' porch 2' beyond the existing impermeable patio surface addition within the Town of New Durham Shore Front Protection Zone on property located on 67 North Shore Road, (Tax Map 109 , Lot 028). Application zba.2011.03.

Pamela Anderson, daughter of Ms. Dzierzek presented the request. She said that her parents purchased the property 22 years ago. Her mother has increasing

limitations on her mobility. The remodeling plans will expand the bedroom from 9' x 9.5' to 12' x 9.5' to allow continued access to the bedroom with her mother's mobility limitations. They will also move the bedroom next to the bathroom so that it is easier to access.

Her parents want to remove the patio because slippery moss and weather conditions make it increasingly hazardous. The covered farmer's porch will be safer and more usable. They will add handrails for safer access. The additional 2' is needed so that the porch will not block the windows on that side of the house.

The changes will increase the gross impermeable surface from 23.1% to 26.4%. Stormwater runoff on one side of the roof will be diverted into two new dry wells at which will reduce the net impermeable surface to less than the current status. For this reason, they do not need a variance regarding impermeable surface.

They are taking two additional steps to improve stormwater management. They plan to place a water bar across the driveway diverting stormwater into rock-lined drains to slow its movement. An existing cement swale that serves to intensify stormwater flow onto the abutters' property and toward the lake is being eliminated and replaced with several steps of terracing. This will significantly slow water movement and allow more time for infiltration into the soil.

Chair Prelli opened the application for public comment. Mr. xx stated he was an abutter and had no concerns with the proposal. There was no other public comment.

Larry Prelli moved to approve a variance to Article IX.D.2 for the property located on 67 North Shore Road, (Tax Map 109 , Lot 028) to allow construction of a 4' x 16' addition and a 2' extension of a farmers' porch 2' beyond the existing impermeable patio surface addition within the Town of New Durham Shore Front Protection Zone. Mike Hoffman commented that this was a situation in which giving the applicant a little relief provides a great deal of help to a family working hard to protect the lake. He seconded the motion. Approved unanimously with no abstentions.

Rouleau: A request by Kevin Rouleau for a Special Exception to operate a business selling sheds, loam, firewood and related items in the Residential, Recreational, Agricultural Zone on property located on 184 Route 11 Road, (Tax Map 252 , Lot 069) in New Durham, New Hampshire. Application zba.2011.05.

Mr. Rouleau presented his own request. He has negotiated an agreement with Michelle Frost, the property owner, to provide property maintenance assistance in return for the opportunity to display sheds, firewood, loam and related materials for sale. Major construction related to the sheds, and storage of large amounts of firewood and loam will be done at Mr. Rouleau's personal property.

Mr. Rouleau will not be constructing any new buildings. Operating hours will be daytime only. The Planning Board has approved a site plan that requires a porta-potty, defined parking area, staked corners of the business area, and a revised site plan permit for any change in the business beyond the current proposal.

Larry Prelli moved to approve the Special Exception as presented in the application and approved by the Planning Board site plan. Helen Wellman seconded.

Ms. Wellman asked if the ZBA approval for a special exception was permanent. David Allen replied that it lasted as long as this particular business was operated on this site. ZBA actions follow the land, so it would continue with a new property owner or a new business owner. However, they also have a "use it or lose it" character, so if the business ceased operation for 12 months the special exception would end.

Larry Prelli expressed concern that the Zoning Ordinance did not provide clear criteria for approval of a Special Exception for Commercial Use. He understands that state law requires the zoning ordinance to provide specific guidance to the ZBA as to what conditions must be met in order for the ZBA to approve a special exception. He asked the Board to return to this question later and perhaps offer suggestions to the Planning Board.

The special exception was approved unanimously with no abstentions.

Minutes of November 10, 2010: Larry Prelli moved to approve the minutes of November 10, 2010 as presented. Helen Wellman seconded. Approved 2-0. Mike Hoffman abstained, as he was not present at the meeting. David Shagoury abstained, as he was not a member of the Board at that time.

Mike Hoffman moved to adjourn at 8:48 PM. David Shagoury seconded. Approved unanimously with no abstentions.

Respectfully submitted,

David Allen, Land Use Administrative Assistant