

Town of New Durham Planning Board Meeting

September 6, 2022

**APPROVED October 4, 2022**

**TOWN OF NEW DURHAM  
PLANNING BOARD MEETING**

**September 6, 2022, 7:00PM**

**New Durham Town Hall, New Durham, NH 03855**

**APPROVED October 4, 2022**

**PRESENT**

Jeff Allard, Planning Board Chair

Bob Craycraft, Planning Board Vice Chair

David Bickford, Planning Board member

Scott Drummey, Planning Board member

Marc DeCoff, Board of Selectmen representative

**ALSO PRESENT**

Robin McClain, Land Use Assistant

Josh Thibault, Varney Engineering, LLC

Tom Varney, Varney Engineering, LLC

Brad Jones, Jones and Beach Engineering

Gary Nadeau, applicant

Scott Weeden, resident

Sue Snow, resident

Peter Rhoades, applicant

Eugene Dean, applicant

Don Roberts

Bob Troendle, resident

John Chase, abutter

Dot Veisel, resident – via Zoom

Ron Gehl, resident – via Zoom

Terry Jarvis, resident – via Zoom

**CALL TO ORDER**

Chair Allard called the meeting to order at 7:00PM.

**AGENDA REVIEW**

No changes were made to the agenda.

**PUBLIC INPUT**

None.

***Continued Public Hearing of application for Site Plan Review for 4 self-storage and boat storage buildings, submitted by Jones and Beach Engineers Inc, representing GT Nadeau Properties, LLC for property located on Tash and Valley Road, Map 257 Lot 4.***

Chair Allard reopened the public hearing at 7:01PM.

Chair Allard stated that the Planning Board conducted a Site Walk relative to this application. Mr. Drummey stated the overall plan was reviewed, they walked into the entrance and followed the southwest border of the property to see how the berm would be constructed; they also discussed drainage around the pond; waiver requests for 100 year runoff events; it was confirmed by an engineer that the material on the lot was very porous, bank run gravel and no concerns with erosion.

Mr. Jones stated no changes were made to the plans at this point; they met with the Road Agent and there were concerns about sight distance on the road, so some changes will be made to the plans to take down the hill near the entrance a bit. Chair Allard asked if there will a retention pond and how a major storm event will be handled. Mr. Jones presented photos and documentation of other sites with similar retention ponds; he stated the retention pond will be constructed using cage with stone and drainage structure; there will also be an infiltration bottom at the pond. He explained the calculations made for how much the pond would hold in a 10 year storm. Mr. Jones confirmed that any water that goes over the outlet from the pond, it would head to the snowmobile trail and go into the State's drainage system. He stated it will be 300' from the Ela River at that point; he also stated the parking lot will be able to absorb a good amount of water.

The Board reviewed the Maintenance Log. It was noted utilities will be run underground from the pole indicated on the plans. Chair Allard asked about signage; Mr. Drummey confirmed there will be a permit process with the Building Inspector.

Mr. Bickford asked about the changes to the road. Mr. Jones outlined on the plans how the hill and curve would be reduced. Mr. Bickford stated he wants to be sure the sight lines are maintained open with the grounds and foliage even with future owners.

The Board discussed how the 100-year storm calculations are made. Mr. Jones stated his recommendations will be to avoid using sand on the parking lot during the winter to avoid clogging the drainage. The Board agreed there would be no onsite storage of de-icing materials.

Vice Chair Craycraft asked if there will be a gate at the entrance. Mr. Jones confirmed there would be a gate.

It was noted the Dark Skies Ordinance would require any night lighting be directed downward and below the horizontal plain.

Chair Allard opened the public hearing to input from the public.

Scott Weeden, abutter, asked to have a copy of the plans for review.

Sue Snow, abutter, stated there has been an increase in traffic in the area of the intersection in the last couple years; she stated they will also be able to see the buildings from their lot. She asked how the look of the neighborhood will be affected and if there was a traffic study done. Mr. Jones explained much of the area will remain buffered with trees and woods along all four sides of the lot; he stated as much vegetation will be maintained as possible. It was noted most of the buildings won't be seen until entering Tash Road.

Chair Allard closed the public hearing.

**Mr. Drummey motioned to approve the Site Plan for 4 self-storage and boat storage buildings, submitted by Jones and Beach Engineers Inc, representing GT Nadeau Properties, LLC for property located on Tash and Valley Road, Map 257 Lot 4, with the following conditions:**

- **The light pole indicated on the plan will be removed**
- **New Durham Sign Ordinance will be followed.**
- **The property owner will grade land needed to create additional sight distance from Tash to Valley Road and maintain in perpetuity, visual sight distance from the driveway to the intersection of Valley Road by cutting vegetation back as needed.**
- **No onsite storage of de-icing materials.**
- **A gate will be installed at the entrance so cars can enter up to the gate safely and not block Tash Road.**
- **Inspection and BMP fees need to be paid totaling \$85.**
- **Property owner must submit an annual maintenance log to the Building Inspector annually in December.**
- **The owner will sign a covenant to be recorded at the Strafford Registry of Deeds giving the Town the right to inspect storm water BMPs in the future with the Town's right running with the land.**
- **Owner must submit a signed copy of the Maintenance Manual.**
- **Property owner is to keep records of inspections of at least the most recent five years.**

**Mr. DeCoff amended the motion to be for 4 buildings with a total of 72 units. Mr. Bickford seconded the motion. Motion passed, 5-0-0.**

***IV. Continued Conceptual Consultation for the construction of three homes, for Peter Rhoades for property located on Bennett Road, Tax Map 264 Lots 16, 17, and 18.***

Chair Allard stated this case was forwarded from the Board of Selectmen. He explained this will be a discussion for the recommendations from the Planning Board for a request to build homes on a Class VI Road.

Peter Rhoades, applicant, stated the Board of Selectmen approved building three houses on this road four years ago with restriction; he stated the only restriction he couldn't achieve was signing an agreement by all property owners on the road. He explained he also proposed making the road a Class V Road, but the Board of Selectmen decided not to approve that proposal. Mr. Rhoades stated he met with the Building Inspector and Fire Chief to discuss concerns; Fire Chief Varney has no concerns and even though it is a non-maintained Town road, it would have to be maintained in an emergency.

The Board reviewed the maps and plans presented. Vice Chair Craycraft noted these roads are nowhere near being close to Class V standards and is not in favor of this. Mr. Bickford stated Class

VI and unmaintained roads are a lot of trouble for the Town; he suggested private roads are a different situation. It was confirmed this is a Class VI Town Road currently.

Chair Allard opened the discussion to input from members of the public.

John Chase, resident, stated Mr. Rhoades has brought this up in the past and the Board of Selectmen advised that the road needs to be brought up to Class V standards; he stated the Board had a number of reasons they denied the request in May 2021, indicating this is a “bait and switch”, essentially a development waiting to happen. He stated he doesn’t believe this is in the best interests of the Town, nor the interests of the people who live on the road as some people will chip in and others won’t. Mr. Chase stated subdivision requirements should also be met; he explained there were also concerns by the Fire Chief at that time about upgrading a portion of the road to Class V standards, leaving the remaining Class VI. The Board discussed the specifics of Class V and Class VI roads.

Mr. Rhoades asked the Board to look at the guidelines and see that his proposal meets all the guidelines. He referenced a case a few years ago for Corey White in which a road upgrade was approved. Vice Chair Craycraft stated that case being approved was a mistake in his opinion.

Terry Jarvis, resident, via Zoom, stated she is unable to hear all of the discussions and asked that speakers use the microphone available. Ms. Jarvis stated the Fire Chief has authority under RSA but she isn’t aware of the RSA which allows the Fire Chief to order road maintenance and upgrades. She asked if this proposal is a subdivision. Ms. Jarvis stated a past request brought to the legislative body to upgrade a Class VI to Class V Road was overwhelmingly defeated. She suggested the department heads put their recommendations in writing to become part of the record; she stated even if the Board of Selectmen agree with approving this, there are still ordinances which must be followed. She stated the White case referenced by Mr. Rhoades is not a fair comparison. Ms. Jarvis stated she doesn’t want to see premature development and an increased burden to the Town.

Ron Gehl, resident, via Zoom, stated the White case a few years ago went before the Zoning Board of Adjustment isn’t applicable here. He suggested the Board get input from the Fire Chief on this situation and to look at the record of the previous recommendation by the Board of Selectmen and there isn’t much difference in this proposal than the previous proposal.

Mr. Rhoades stated four years ago he went to the Board of Selectmen and a conditional approval was granted however he hasn’t been able to meet all the requirements; he explained he hasn’t been able to get a maintenance agreement signed. Mr. Rhoades stated the other option is to keep the road up to maintenance without everyone signing the agreement.

Chair Allard stated he wants to be sure they are consistent in how they handle these requests. It was noted there are 6 to 7 other Class VI roads within Town. Chair Allard noted there are two different aspects to consider including the Town’s regulations for Class V roads and subdivision regulations for Class V roads. He stated there is also the issue of additional development. Mr. Rhoades stated the proposal is for three lots. Chair Allard stated there are concerns with the Town having to maintain the road in the future as well as possible further development of

additional lots on Bennett Road; he stated the State gives clear guidance which is, to not do this type of approval as each time the Town says “yes”, it gets harder to say “no”. He stated he agrees the White case was a mistake. Chair Allard questioned whether the Fire Chief can truly compel the Town to do maintenance on a road. Mr. Bickford stated he agrees with the reasons for not allowing this type of thing; he stated the Town doesn’t need it and waivers and building permits should not be issued for this road.

Mr. DeCoff stated he believes the road should be brought up to Class V standards per the Roadway Related Subdivision Regulations; he stated there is pressure to develop more space within Town.

Vice Chair Craycraft stated he isn’t in favor of approving this request however if development is going to happen and lots subdivided in the future, the road should be brought up to Class V standards.

Mr. Drummey stated the Planning Board needs to be actively planning development; he stated they should not let it happen unregulated.

The Board discussed the Class V Road standards and regulations.

Chair Allard stated the options are to recommend the Board of Selectmen issue waivers and building permits; or recommend the Board of Selectmen issue waivers and permits only if the road is brought up to Class V standards and regulations; there is also the option to recommend the Board of Selectman not approve the current proposal and that this be made into a subdivision site plan application so it will be regulated as a zoning issue. Mr. Bickford suggested the only options for the Planning Board is yea or no to recommend the application presented; he explained this was the advice of Town Counsel. Chair Allard suggested the Planning Board advise the Board of Selectmen that this application looks like a subdivision and should be considered as such. Mr. Drummey stated this isn’t a subdivision application but the documents presented are for the road only.

Ms. Jarvis stated within the ordinances, there are variance requirements for property owners wanting to build on a Class VI Road or Class V road; she stated the Board of Selectmen cannot supersede the ordinance and the ordinance cannot supersede state statute. She explained even if the road is built to Class V standards but not accepted by the legislative body, variances would be needed.

Mr. Drummey stated he would want to investigate the variance issue; he stated if the road is upgraded it should be done to the higher standards. He stated the ordinance indicates subdivision and building has to be on a Class V Road, not just a road at Class V standards. Mr. Bickford noted a Class V road would have to be maintained by the Town; he stated this is a Class VI road they are asking to be approved for building on. He stated this should be “no” by the Board and perhaps have a further consultation discussion of development. Mr. Drummey and Chair Allard agreed.

Chair Allard summarized the consensus of the Board that they agree to not approve this; it will set a bad precedent and the State recommends against this type of development; he stated it opens up the possibility of further development without being under the subdivision regulations.

\*\*\*\*\*Board comments \*\*\*\*\*

Mr. Rhoades reiterated the Board of Selectmen had a set of guidelines in place for building on a Class VI road; he stated he was able to meet all but one of the guidelines and doesn't believe the Planning Board should be telling the Board of Selectmen to deny his application. Mr. Bickford stated the Planning Board doesn't have the same policies as the Board of Selectmen. Vice Chair Craycraft stated this application goes against everything the Planning Board works for as its not being properly planned. Mr. Gehl explained the guidelines Mr. Rhoades is referring to is just that; it is not a Board of Selectmen policy.

***V. Review and acceptance of application for Site Plan Review for outdoor and indoor storage of equipment, submitted by Varney Engineering LLC, on behalf of Eugene Dean, for property located at Route 11, Map 257 Lot 1.***

The Board reviewed the application for completeness. Vice Chair Craycraft stated a design review has to be done, noting it is required by the Site Plan Application regulations. The Board reviewed the regulation, and it was agreed a natural resource inventory is required and confirmed it was not included as part of the environmental impact assessment. The Board discussed whether there are additional requirements as it is located in the mixed use district. Ms. McClain noted fees have not been paid but the applicant has indicated it will be made tomorrow. The Board agreed to move ahead with the design review; an environmental impact study will be required.

**Vice Chair Craycraft motioned to approve the application as complete for the Design Review phase with the condition that a Natural Resource Inventory be submitted. Mr. Drummey seconded the motion. Motion passed, 5-0-0.**

Tom Varney, Varney Engineering, LLC, stated Mr. Dean would like to use the property for storage of carnival rides and equipment; he stated the large buildings will be erected for seasonal storage and a smaller building will be constructed at a later date for equipment maintenance. Truck trailers will be parked outside; the buildings will be located in the pit area which is screened from view of the road and neighbors. No signage will be on the property; lights and cameras will be installed for security measures; access will be from Valley Road and the property is in the aquifer protection zone. The Zoning Board of Adjustment approved a Special Excerpton on July 12, 2022. Mr. Varney presented maps and outlined the proposed location of buildings and parking along with drainage and culverts. It was noted there are also wetlands; he stated the drainage will continue to go where it has been going. The runoff will infiltrate into the

ground. Chair Allard asked what the “fueling pad” is. Mr. Varney stated its for putting fuel from a truck into equipment; fuel will not be stored on site. Chair Allard asked what type of products would be in the supply shop. Mr. Varney stated it would be usual shop materials; he explained the State of New Hampshire has requirements for storage and containment; he explained a concrete floor and storage cabinets are required. It was noted that tanks are inspected every two years as well and registration is required with the State.

Vice Chair Craycraft noted that per the ordinance, the maximum footprint of any individual building or structure is 6,000 square feet; he noted each building here is 12,000 so it exceeds the limit within the mixed use district. It was agreed by the Board that a variance would be needed as each building exceeds the limit. Mr. DeCoff questioned whether sprinklers will be needed. It was noted the structures proposed would be three sided pole barns with dirt floors. Chair Allard asked if the equipment would leak fluids into the ground. Mr. Dean explained the maximum amount of hydraulic fluid held by any one piece is 50 gallons but it can’t leak or it doesn’t run, so any issue is addressed immediately. Mr. Drummey noted the plans indicate a concrete foundation. It was clarified only the repair shop will have a concrete floor.

Chair Allard asked if a Site Walk should be done. The Board agreed a Site Walk would be beneficial. It was agreed no review by the Town Engineer would be necessary. Mr. Drummey stated he is concerned about oil, fluids and potential spills being close to the water. Mr. DeCoff stated any spills are handled and regulated by the State.

Vice Chair Craycraft noted this lot is in the aquifer overlay district and noted service stations and garages are prohibited; he asked what specifically is going to be done in the proposed repair garage. Mr. Dean stated it will be repair of lights, brakes, etc. on trailers; he explained he has a full industrial facility in Seabrook so this is for minor maintenance and repairs to keep the trailers running; he stated the most common materials will be brake fluids and grease. He confirmed oil changes and engine repairs won’t be taking place.

Chair Allard closed the public hearing at 10:20PM.

**Vice Chair Craycraft motioned to accept the Design Review as complete. Mr. DeCoff seconded. Motion passed, 5-0-0.**

The Site Walk was set for September 12, at 6:00PM.

## **OTHER**

Mr. Drummey stated the previous soil map delineated where the Aquifer Protection District and Wetland Protection Districts were located however the new soil map does not delineate where the soils are in these districts; he stated they need to request Strafford Regional Planning Commission add the soil types.

## **APPROVAL OF MINUTES**

Meeting of August 2, 2022 – Postponed.

Meeting of July 19, 2022 - – Postponed.

Town of New Durham Planning Board Meeting

September 6, 2022

**APPROVED October 4, 2022**

Meeting of. August 2, 2022– Postponed.

Meeting of August 10, 2022– Postponed.

Meeting of August 16, 2022– Postponed.

**ADJOURN**

**Mr. Drummey made a motion to adjourn. Mr. DeCoff seconded the motion. Motion passed, 5-0-0.**

The meeting was adjourned at 10:37PM.

Respectfully Submitted,

*Jennifer Riel*

Jennifer Riel, Recording Secretary