

*Planning Board Meeting  
July 18, 2017  
Approved*

**NEW DURHAM PLANNING BOARD  
New Durham Town Hall  
July 18, 2017, 7:00p.m.**

**Present**

Scott Drummey- Chair (arrived late 8:06 PM)  
Bob Craycraft, Vice-Chair  
Rod Doherty, Selectman  
Terry Chabot  
Jeff Allard, Alternate

**Excused Absence**

Dot Veisel, absent

**Also Present**

Laura Zuzgo, Administrative Assistant  
Cory White  
Jennifer White

**Call to Order**

Vice-Chair Craycraft called the meeting to order at 7:10pm.

**Approval of Minutes**

Meeting of June 20, 2017 – Edits were made. **Mr. Doherty made a motion to approve the minutes as amended. Ms. Chabot seconded the motion. Motion passed, 3-0-1.**  
Mr. Allard abstained.

Meeting of June 26, 2017 – Edits were made. Postponed for approval after further review.

**Correspondence**

Letter was received indicating the Strafford County Regional Planning Commission is looking for two members to be appointed to the commission.

An invoice was reviewed for the printing of the Master Plan books in the amount of \$1574.94 and is to be funded from the Master Plan CRF.

A publication was received from NH Department of Environmental Services regarding drinking water and distributed for review.

The New Hampshire Municipal Association publication, Town & City, was distributed for review.

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**Discussion: Building on Class VI Road**

A letter dated July 16, 2017 was received from Ron Gehl, chairman of the Conservation Commission. Vice-Chair Craycraft read the correspondence for the record. (*See attached.*)

Resident, Cory White explained his reasons for writing a letter to summarize past discussions and actions taken. He stated the recommendations given at the last Planning Board meeting were completed. He explained that at the last Board of Selectmen meeting it was determined that in order for a road to be truly discontinued, a vote is required by the Town, citing NH RSAs as well as determining the appropriate authority in approving building on the road. Copies of state law were distributed and reviewed. He noted that even if the road is officially discontinued, it does not prohibit the Planning Board from approving a building permit. Selectman Doherty asked for clarification on who owns the land if a road is discontinued. It was explained abutters still own up to the road and it remains Town property. There was also discussion of meeting requirements for safety equipment. Mr. Craycraft stated even without knowing the status of the road, it must be a Class V road in order to bring the property out of woodlot status.

Chair Drummey joined the meeting. He explained the status of the road must be brought up to Class V and the physical condition improved to meet the requirements for the property to come out of woodlot status. Mr. Craycraft referenced the woodlot status requirements and guidelines. The deeds and tax maps for the properties involved were reviewed and discussed. It was agreed legal counsel would be sought at this point regarding what needs to be done.

**Strafford Regional Planning Committee Appointments**

There was discussion of the duties and commitments for being part of this commission. Ms. Zuzgo will ask the Zoning Board and Conservation Commission if there is anyone interested in the appointments.

**Town Owned Properties**

The list of Town owned lots was reviewed and discussed. It was noted some abutters have expressed interest in purchasing lots. Chair Drummey explained they would classify the lots by whether they are buildable and submit their recommendations based on that.

**Adjourn**

**Ms. Chabot made a motion to adjourn. Mr. Craycraft seconded the motion. Motion passed, 5-0-0.**

The meeting was adjourned at 9:27pm.

Respectfully Submitted,

Jennifer Riel, Recording Secretary

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On Jul 16, 2017, at 10:45 PM, Ron Gehl <[rgehl@eosresearch.com](mailto:rgehl@eosresearch.com)> wrote:

Mr. Chairman,

First off, I'm copying Bob Craycraft on this as I believe he has some experience with Class VI and discontinued road issues in town. I am unable to make the Planning Board meeting on Tuesday night, but wanted to provide some information with respect to an issue that I believe you will be considering, for the purposes of providing feedback to the Board of Selectmen. I understand that a Mr. White is petitioning to allow construction on a property along the so-called Libby Road, a former town road that extends from the Jenkins Road to Ten Rod Road. Mr. White is petitioning the BOS under a procedure that is designated for Class VI roads; however, the road is no longer a Class VI road. As an aside, the Town of New Durham had a very important role in establishing current law regarding building along Class VI roads (*Vachon v. Town of New Durham, 1989*), where the state Supreme Court upheld the Town's right to restrict building more than 600 feet beyond the nearest Class V road.

Libby Road was discontinued by formal vote of Town Meeting (I'm afraid I don't recall the year) under RSA 231:43. I have attached the section regarding discontinued roads from *A Hard Road to Travel - New Hampshire Law of Local Highways, Streets and Trails*, the NH Municipal Association's well-respected treatise on road law in New Hampshire. My primary point here is that Libby Road is no longer a Class VI, town-designated road - rather, "all town responsibility ends and the public right of way ceases to exist", and "the right to use and possession returns to whoever holds title, which is presumed to be the highway's abutters". In other words, the so-called Libby Road is no longer a Class VI road; it is now a right-of-way to access properties along the former town road. As if to emphasize this, one property owner along the right-of-way even went so far as to place a storage unit right in the middle of the right-of-way (it's not there any more). Other lots along the right-of-way are clearly designated as "non-buildable" on their tax cards.

The lot is also a designated Woodlot under the New Durham zoning ordinance (Article IV B. 8.), tax card attached. Even if Libby Road were to be considered a Class VI road, the lot would not meet requirements for removal of its Woodlot designation. In summary, I do not believe any building can be allowed on this lot.

While I wouldn't be surprised if the Whites were led to believe that they could build on this lot (by the party that sold them the lot), this is clearly not the case.

Thank you,

Ron Gehl

<NH discontinuance-of-highways.pdf>

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