

**TOWN OF NEW DURHAM
PLANNING BOARD MEETING
September 15, 2020, 7:00p.m.
Virtual Meeting, New Durham, NH 03855
Approved Final 11-5-2020**

DRAFT: These minutes are strictly a draft copy and are awaiting amendment or approval at a subsequent, duly noticed public meeting. Amendments to these minutes will be noted in the minutes of said meeting. The draft will be posted on the website as a draft copy for public informational use only.

Under the emergency provisions of RSA 91A, this meeting took place electronically via Zoom.

*IN LIGHT OF THE COVID 19 (CORONA VIRUS) SOCIAL DISTANCING
ADVICE MADE BY THE GOVERNOR AND CDC, THE TOWN OF NEW DURHAM NH
FOLLOWING A DECLARATION OF EMERGENCY BY THE PLANNING BOARD
CHAIRPERSON, IS PROVIDING A MEETING PARTICIPATION VIA TELEPHONE
CONFERENCE FOR YOUR SAFETY.*

This meeting is for members and the public to utilize the Zoom platform to prepare for future meetings and public hearings. All members of the Planning Board and Town Administrator have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following. In accordance with Governor's Executive Order #12, pursuant to RSA 91-A: 2

Join Zoom Meeting

<https://us02web.zoom.us/j/89031890935?pwd=eWZ5emdvL3Z0cXE4OStlOGFXVnA4dz09>

Meeting ID: 890 3189 0935 Password: 238372

Or via telephone number: 1-646-558-8656;

Meeting ID: 890 3189 0935 Password: 238372

Technical difficulties contact Town Administrator Scott Kinmond at skinmond@newdurhamnh.us or by phone a 603-556-1516. Assistance with Zoom application please contact Brian Cauler at ndlanduse@newdurhamnh.us or contact Planning Board.

Note: Town of New Durham offers no security assurances to those connecting via PC to a third party software and hardware not configured or controlled by our IT Service provider.

PRESENT

Jeff Allard, Chair – via Zoom

Bob Craycraft, Vice Chair – via Zoom

Scott Drummey, member – via Zoom

Dorothy Veisel, Board of Selectmen representative – via Zoom

David Bickford, member– via Zoom

Town of New Durham Planning Board

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ALSO PRESENT

Scott Kinmond, Town Administrator – via Zoom

Tom Varney, Varney Engineering, LLC – via Zoom

Jane Varney-Stinson, Varney Engineering, LLC – via Zoom

Paul Raslavicus, resident – via Zoom

Paul Tzitzon, applicant– via Zoom

Kathy Dwyer-Hydorn, applicant– via Zoom

Denise Landis, resident – via Zoom

Jay Perkins – Resident of Exeter -via Zoom

CALL TO ORDER

Chair Allard called the meeting to order at 7:10pm.

Chair Allard confirmed the meeting was posted appropriately with access numbers. He stated that in the event the public is unable to access the meeting, it would be adjourned and rescheduled. Chair Allard stated all votes would be taken by roll call. Chair Allard asked Planning Board members to introduce themselves and identify anyone in the room with them, as well as applicants, applicants' representatives and members of the public.

Agenda Review

No changes were made.

Public Comment

None.

Public Hearing – Continued from 9/1/2020: Conditional Use Permit

Submitted by Varney Engineering LLC, for Kathy Dwyer-Hydorn and Paul Tzitzon, 320 Kings Highway, Map 209, Lot 034

Chair Allard stated a public hearing was held on September 1, 2020; after extensive discussion, the Board concurred a Site Walk would be necessary. The Site Walk was completed on September 8, 2020 with all members of the Planning Board present except Ms. Veisel due to medical reasons. Chair Allard asked if the applicants want to add any additional information.

Tom Varney, Varney Engineering, LLC, stated the plan is to build a cottage off Kings Highway on Shaw's Pond; this will include construction of an 850' long driveway and build a new house behind the 75' setback. The driveway would be constructed with the storm water measures as required by the Conditional Use Permit. Mr. Varney stated he input information into a software program which calculates the off-loading of phosphorus post-project versus pre-project; based on this calculation, the amount would be less going into the pond.

Mr. Craycraft stated he would be recusing himself from this case, as although he did attend the Site Walk, he wasn't involved in the first discussion on September 1.

Mr. Drummey stated after seeing the property, the amount of excavation which will be required is very extensive. He stated he is concerned about the power line going over the house and how

the right-of-way exists and would want to understand that better. Chair Allard stated his understanding is that there is no language in the deed which discusses a utility right-of-way. Ms. Hydorn stated she confirmed this with their attorney who did the title search and there are no easements on the property, with research going back 50 years. She stated she also contacted Dwight Jones, the previous owner and he confirmed there is no easement on the property which he was aware of. Ms. Hydorn stated in 1964 there was an easement which ran from 326 Kings Highway for 125'; in 2012 there was another easement granted from 326 Kings Highway for 225'. The Board discussed how this can be resolved; Chair Allard stated the telephone pole is currently located within the footprint of the new home and how would that be handled. Mr. Bickford suggested this may not be a Planning Board issue; it would be up to the property owner and the utility company. Ms. Hydorn stated she has left messages with the electric company but has had no response. Mr. Drummey stated it doesn't seem logical to allow something go forward which could disrupt power to other properties in the area. He suggested running this by Town Counsel. Mr. Varney stated usually when there is a power line, there is an easement, possibly going back to the 1930-40s; however he doesn't believe there is an easement for this property as the surveyor was unable to find one either.

Chair Allard stated the land is a long narrow lot; no wetlands; steep going down to where the house is to be located; the 50' and most of the next 25' to the shoreline is mostly preserved; the next 25' up to where the house is to be located is partially cut but behind that is largely cut which was believed by the property owners to be necessary. He stated there is little tree cover between the road and the house site. Chair Allard stated he would like to see the re-planting plan on the plot plan. Mr. Varney stated that would be part of the Shoreline Permit; he stated the 50' buffer zone is intact and from 50' to 100' is where trees are missing which they will have to address.

Mr. Bickford stated his concern is the width of the proposed house; he stated the setbacks were set for reasons of safety vehicles getting around the building and questions if this would be acceptable to the Fire Chief although the plans are within the regulations. The Board concurred a review by the Fire Chief would be necessary to ensure plan are compliant with building and fire codes.

Ms. Veisel noted the statement needs to be struck from the plans that the land had not been timbered in the last five years; all shoreline and septic permits from the State need to be provided.

Mr. Bickford asked what the replanting will consist of. Mr. Varney replied they are required to put in 1" diameter trees per order of the State of New Hampshire. Chair Allard stated he wants to be sure to include this requirement into their approval as well as he doesn't see the State enforcing their requirements very well.

Denise Landis, abutter, stated she has recently learned they need a new septic on their property and will be rebuilding a year-round house as well. Ms. Landis asked whether it is required that they, as abutters, should receive notice of logging on the property; she stated she is also unclear whether there is a utility easement from Eversource. Chair Allard confirmed there is no easement with Eversource and they aren't sure how that is going to be addressed at this point. He stated an Intent to Cut does not require notification to abutters but it does require public posting by the

Mr. Craycraft noted the regulations address timbering and pre/post development; he asked Mr. Varney if he included the timbering in the last five years as part of the calculations. He stated he wants to be sure the pre-construction erosion control measures are followed, as well as post-construction storm water management. He would also like to see something put in place for monitoring the Best Management Practices. He referred to Article VIII of the Stormwater Management and Erosion Control regulations.

Mr. Jay Perkins confirmed a consulting firm is not used by the Town to do the inspections and its on the property owner to conduct the inspections. The Board clarified that the property owner must conduct the maintenance and inspections and bring the Operations and Maintenance Manual to the Building Inspector to follow up with the BMPs and monitor the storm water plans.

Chair Allard closed the Public Hearing.

The Board reviewed the discussed conditions for approval of the application.

Mr. Bickford stated he would just like to point out that it's a sad point to urbanize the shorefront of these small lots and suggested they work more towards conserving these small lots. Chair Allard concurred and encouraged applicants to adhere to the setback requirements, suggesting if property owners work together, they can maximize the buffers to create privacy and maintain wildlife corridors. Ms. Veisel stated that 2,000 acres on Birch Ridge, and Widowmaker Farm, have been conserved in New Durham. And there has been a lot of good-faith effort to conserve land within the Town.

Mr. Drummey made a motion to approve the Conditional Use Permit for Kathy Dwyer-Hydorn and Paul Tzitzon, 320 Kings Highway, Map 209, Lot 034 with the following conditions:

- 1. The 50' waterfront buffer is to be maintained per RSA 483-B:9.5;**
- 2. The New Durham Fire Chief shall ensure that the proposed plan has appropriate emergency access for fire prevention and safety;**
- 3. Post construction – trees are replanted between the 50 and 150' buffers as required by NH DES;**
- 4. All shoreline and septic permits are obtained before a building permit is issued;**
- 5. The statement on the plan that "no timber has been cut in the last five years" be stricken;**
- 6. The New Durham Town Engineer ensures that the storm water regulations are followed pre-construction, during construction and post-construction with fees paid by the applicant, and that all silt fences and storm water control measures shown on the plan must be in place prior to start of construction;**
- 7. The applicants must sign the Town agreement allowing the Code Enforcement Officer to inspect the storm water Best Management Practices in perpetuity.**

Ms. Veisel seconded the motion. Roll Call: Mr. Drummey – aye; Ms. Veisel – aye; Mr. Bickford – aye; Vice-Chair Craycraft – abstained; Chair Allard – aye. Motion passed, 4-0-1.

Discussion of Impact Fees

Chair Allard stated he has not seen the final report. The Board concurred to postpone discussion until all members of the Board have had a chance to review the final report. Mr. Bickford noted the report is available for review by the public at the Town Hall.

Zoning Board/Planning Board Subcommittee Update

Mr. Drummey outlined some actions noted in the subcommittee discussions which need to be addressed by the Board: land use suitability map update; soil type update; storm water manual update; redevelopment and definition. Chair Allard suggested listing items which are minor and won't require a warrant article, and those items that will require a Public Hearing and a Warrant Article.

The Board discussed a variety of updates for the zoning ordinances; there was also discussion whether the Building Inspector keeps track of all the Conditional Use Permits and BMPs. Town Administrator Kinmond stated the building department should be self-sufficient based on fees and annual inspections should not be an expense paid by taxpayers. In most communities these inspections are done by an engineer, and paid for by the applicant. Chair Allard asked Town Administrator Kinmond to talk over the follow-up and inspection process with Mr. Abbott and either come back with the information or have Mr. Abbott meet with the Board. He stated they need to know if they are adequately collecting fees to cover the expenses.

Approval of Minutes

Meeting of July 21, 2020 – Edits were made. **Mr. Drummey made a motion to approve the minutes as amended. Mr. Bickord seconded the motion. Roll Call: Mr. Drummey – aye; Ms. Veisel – abstained; Mr. Bickford – aye; Vice-Chair Craycraft – aye; Chair Allard – aye. Motion passed, 4-0-1.**

Next Meeting

September 21, 2020, 7:00pm.

ADJOURN

Mr. Drummey made a motion to adjourn. Ms. Veisel seconded the motion. Roll Call: Mr. Drummey – aye; Ms. Veisel – aye; Mr. Bickford – aye; Vice-Chair Craycraft – aye; Chair Allard – aye. Motion passed, 5-0-0.

The meeting was adjourned at

Respectfully Submitted,

Jennifer L. Riel

Jennifer Riel, Recording Secretary