

**TOWN OF NEW DURHAM
PLANNING BOARD MEETING
September 5, 2023, 7:00 PM
New Durham Town Hall, New Durham, NH 03855**

PRESENT

Jeff Allard, Planning Board Chair
Bob Craycraft, Planning Board Vice Chair
Marc DeCoff, Board of Selectmen Representative
Scott Drummey, Planning Board Member
Anne Ross-Raymond, Planning Board Member

ALSO PRESENT

Susan Stillwell, Land Use Assistant
Tom Varney, Varney Engineering
Joe Opolski, applicant
Josh Thibeault, Varney Engineering
Paul Zuzgo, surveyor
Martin Wendt, applicant
Lesley Wendt, resident
Pam Wendt, resident
Peter Rhoades, applicant
Christine Bonoli-Stohlberg, applicant
Paul Raslavicus, resident – via Zoom
Nancy Rhoades, Madbury resident- via Zoom

CALL TO ORDER

Chair Allard called the meeting to order at 7:00 PM. Introductions were made of the Board members present.

AGENDA REVIEW

No changes were made to the agenda.

PUBLIC INPUT

None.

NEW/OLD BUSINESS

***CASE PB 2023-003 – Opolski – Map 101, Lot 039/008, 181 North Shore Road
Conditional Use Permit within Shorefront Conservation Area & Steep Slopes Conservation
District***

Chair Allard stated the Board has been on a Site Walk and received feedback from the Town Engineer, Weston and Sampson. Mr. Varney has submitted updated plans in response to the Engineer's data. He dug a test pit to determine the water table and changed the depth of the leach bed.

The Town Engineer requires that the design of the retaining wall be stamped by a structural engineer. Mr. Varney stated he designs retaining walls and confirmed that will be done.

Vice Chair Craycraft stated he has concerns about the retaining wall and asked how the retaining wall would withstand runoff flowing past the base of the wall. He stated after the recent major rain events, he is concerned about the amount of water flowing through which could undermine the base. The Town Engineer should evaluate this potential undercutting erosion concern. Chair Allard will contact the Town Engineer about final issues, including the retaining wall base. There was also discussion about the amount of runoff that would be running through the culvert; Chair Allard noted that should be reduced now due to the installation of a dry well.

The Board discussed possible conditions for approval: the retaining wall design to be stamped by a structural engineer. Particular concern is focused on the potential erosion of the base of the retaining wall near the incoming culvert water.

The Board agreed to continue the case until concerns are addressed by Weston and Sampson.

MOTION: To Continue Case 2023-003 – Opolski – Map 101, Lot 039/008, 181 North Shore Road, Conditional Use Permit within Shorefront Conservation Area to the Planning Board meeting of September 19, 2023, at 7:00 PM. Motion by Mr. Drummey. Second by Mr. DeCoff. Motion passed 5-0-0.

CASE PB 2023-005 – Wendt – Map 270, Lot 001, 398 Berry Road, Subdivision of Land

Chair Allard stated a Site Walk was done on August 9, 2023, and the Board reviewed the notes. Mr. Drummey noted the lot was recently clear-cut and the lot needs to be regraded to correct the slope so it goes away from the house. He stated the culvert down the road needs to be looked at by the Town; there are no wetlands noted on the lot. The Board reviewed the plans presented; it was noted a stone culvert was added to the plan. Spot elevations were also added. The Plan states that the 8-acre lot shall not be subdivided again.

The Board discussed conditions for possible approval: New Lot 270-1-1 cannot be subdivided again. This statement shall be included on the Deed.

MOTION To Approve the Subdivision of Map 270, Lot 001 and 270, Lot 001-1, 398 Berry Rd as proposed on Site Plan dated Sept 1, 2023, with the following conditions:

- The driveway is to be regraded to divert water to the wetland.
- A restriction must be added to the deed for Lot 270-001-1, that the lot shall not be subdivided again.

Motion by Ms. Ross-Raymond. Second by Mr. DeCoff. Motion passed 5-0-0.

***CASE PB 2023-006 – Bonoli – Map 240, Lot 048, 149 Merrymeeting Road.
Conditional Use Permit within Aquifer Protection Overlay, Conservation Focus Area District,
Shore Front Conservation Area, and Steep Slopes Conservation District***

The Board reviewed the application for completeness. It was confirmed there are no wetlands or vernal pools on the lot.

MOTION: To Accept the application for Case PB 2023-006 – Bonoli – Map 240, Lot 048, 149 Merrymeeting Road. Conditional Use Permit within Aquifer Protection Overlay, Conservation Focus Area District, Shore Front Conservation Area, and Steep Slopes Conservation District as complete. Motion by Mr. DeCoff. Second by Ms. Ross-Raymond. Motion passed 5-0-0

Tom Varney, representative for the applicant, presented the plans. He stated the existing mobile home will be replaced with a new 2-story house. Mr. Varney stated the New Durham Zoning Board of Adjustment granted variances in July. He stated the new house will be built on a full foundation and the house will be moved back from the water and remain within the boundary setbacks. The ZBA granted variances for 2 cars instead of 4 and setbacks for the leach bed from the road. The Conditional Use Permit is for the construction of the porous infiltration steps and patio near the water. It was confirmed a new well would be installed. The house will remain within the side setback; the steps will be removed, and trees will be removed but remain in compliance with NH DES Shoreline Permit requirement.

MOTION: To approve the application for Case PB 2023-006 – Bonoli – Map 240, Lot 048, 149 Merrymeeting Road for a Conditional Use Permit within the Aquifer Protection Overlay, Conservation Focus Area District, Shore Front Conservation Area, and Steep Slopes Conservation District, with the following conditions:

- **Homeowner must sign a covenant to be recorded at the Strafford County Registry of Deeds giving the Town the Right to inspect stormwater BMPs in the future with the Town's Right to inspect running with the land.**
- **Homeowner shall submit the signed O&M Plan for Best Management Practices and pay inspection fees for 3 BMPs annually.**
- **The Conditions listed by the Zoning Board Notice of Decision of July 11, 2023, shall be followed.**

Motion by Mr. Drummey. Second by Mr. DeCoff. Motion passed 5-0-0.

The Board took a short recess.

Rhoades Conceptual Consultation

Mr. Rhoades stated he is looking to build on a Class VI road. He stated he has gone before the Board of Selectmen as well as the Zoning Board of Adjustment. However, due to a technicality with the dates of legal submissions, his appeal for variances were denied. He stated the variances were to have building lots on a Class VI road. It was confirmed that these separate lots have

existed for years; the lots are in Current Use and he would pay for the removal of that status. Permission from the Board of Selectmen is needed in order to build on a Class VI road. Mr. Rhoades stated he has enough road frontage on the lots to build and he compared his proposed development to the Cory White development, a single house, of March 6, 2018, which was approved by the ZBA, 5-0-0. Mr. Rhoades stated his proposal is a positive improvement as it will be three houses on 56 acres and the road would only be widened. He confirmed none of the lots are in wood lot status. There is a proposed hammerhead for turning Fire Equipment around. Vice Chair Craycraft stated he wasn't happy with the building of the road to Class V standards with the White case and he is concerned about Mr. Rhoades' proposals, noting there is a regulation pertaining to cul-de-sacs within 1000' feet. He stated he views this as a phased subdivision and has reservations. Chair Allard asked how far the lots are from Jenkins Road. Mr. Rhoades stated it's about 1500'. Ms. Ross-Raymond stated currently these roads are impassable and not something houses should be built on. There was discussion about the Town's policies for building on Class VI roads. Chair Allard asked what would prevent these lots from being further divided in the future. Ms. Ross-Raymond explained the process for bringing a road up to Town standards and then voters have to vote to accept the road as a Town road. It turns out that Cory White never upgraded Libby Road to Class V standards. The Board agreed a Site Walk would be needed if the Board is going to consider making any recommendations in regard to Mr. Rhoades' proposal. Chair Allard stated the State of New Hampshire is very clear on regulations regarding building on Class VI roads for numerous safety reasons and the liabilities to towns. He stated this is the exact scenario the State warns against permitting and towns end up taking over roads; he stated just because something was allowed for one, doesn't make it right to be done again. Ms. Ross-Raymond stated the White case is a good example of why it shouldn't be allowed. Discussion ensued.

MOTION: To schedule a site walk to see the road status on Bennett and Libby Roads on September 13, 2023, at the intersection of Jenkins and Libby Roads. Motion by Mr. Drummey. Second by Mr. DeCoff. Motion passed 5-0-0.

Vote on New Durham Development sub-committee members

The Board reviewed and discussed appointments for the subcommittee.

MOTION: To Appoint Nancy Ahlin, Walter Ahlin, Linda Callaway, Stephennie Freeman, Cathryn Long, Paul Marker, Paul Perry, Mark Sullivan, and Russell Weldon as members of the New Durham Development sub-committee. Motion by Mr. Drummey. Second by Mr. DeCoff. Motion passed 5-0-0.

APPROVAL OF MINUTES

July 26, 2023 (site walk) – Postponed.

August 1, 2023– Postponed.

August 15, 2023 – Postponed.

Mail & Correspondence – None.

FUTURE MEETINGS

Site Walk – September 13, 2023,

Workshop – September 19, 2023

Business Meeting – October 3, 2023

ADJOURN

MOTION: To adjourn the meeting. Motion by Mr. Drummey. Second by Mr. DeCoff. Roll Call Vote: Ms. Ross-Raymond-aye; Mr. DeCoff-aye; Mr. Drummey-aye; Mr. Craycraft-aye; Chair Allard-aye. Motion passed 5-0-0.

The meeting was adjourned at 9:38 PM.

Respectfully Submitted,

Jennifer Riel

Jennifer Riel, Recording Secretary