

New Durham Planning Board Meeting
July 7, 2020
Approved 7-21-2020

NEW DURHAM PLANNING BOARD
New Durham Town Hall
July 7, 2020, 7:00p.m.
Final Approved 7-21-2020

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

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.

*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:

Join Zoom Meeting

<https://us02web.zoom.us/j/89948432487?pwd=aXowVVJjUGhzQVJwSExtbXQ4UUZUUT09>
Meeting ID: 899 4843 2487 Password: 057680

Or via telephone number: 1-646-558-8656; Meeting ID: 899 4843 2487 Password: 057680

*Any technically difficulties contact Town Administrator Scott Kinmond @ skinmond@newdurhamnh.us.
or 603-556-1516.*

PRESENT

Jeff Allard, Chair – via Zoom
Bob Craycraft, Vice Chair – via Zoom
Scott Drummey – via Zoom
Dorothy Veisel, Board of Selectmen representative – via Zoom
David Bickford, via Zoom

ALSO PRESENT

Scott Kinmond, Town Administrator – via Zoom
Katie Rogers, property owner – via Zoom
Tim Fillion, property owner – via Zoom
Mike Gelinas, resident – via Zoom

CALL TO ORDER

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

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 motions 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 any members of the public.

Agenda Review

No changes were made to the agenda.

Mr. Bickford stated he is an abutter to the properties in both of the upcoming agenda items, and asked if he should recuse himself from the discussions. Chair Allard stated it is his understanding that a recusal would be applicable in the case of a public hearing and doesn't disqualify him from a conceptual discussion. Ms. Veisel suggested that it would be more appropriate that a recusal be from the very beginning of any discussion. She stated the rules and procedures as well as the Ethics Policy were taken from the New Hampshire Municipal Association guidelines and referenced the Right-to-Know law. Chair Allard stated there is exception for properties like SELT and members should not recuse themselves unless believe they believe there is a conflict. Mr. Bickford stated they should look at the procedures to be sure. Chair Allard noted it does not specifically address this. Town Administrator Kinmond stated the rules and procedures can be more stringent relative to RSA 91:A and stated he would find it uncommon for a board to have procedures which would deviate from the Ethics Policy. Mr. Drummey noted an abutter is defined by RSA 672:3 or has a financial interest, "shall not participate in any discussion, hearing or other consideration by the Planning Board which involves that property" and stated Mr. Bickford shall not participate according to that rule. After discussion, Mr. Bickford stated he would recuse himself from the following discussions.

Consultation for Katie Rogers, Map 240, Lot 030 and Map 240, Lot 031, located at 160 Brackett Road New Durham, NH

Lot line adjustment to put in a 50ft wide driveway to 240-031; to build on both lots.

Tim Fillion, property owner, stated they recently purchased the property and the plan was for Kate's mother to buy lot 30 with them purchasing lot 31. He stated prior to purchase they realized there was a road frontage requirement which wouldn't allow building on lot 31 but they bought the property. He asked if they got a lot line adjustment, could they build on 31 and sell lot 30 back to Kate's mother. Ms. Rogers stated there is a right-of-way with access to lot, through lot 32. The Board reviewed and discussed the map and lots. Ms. Veisel noted the right-of-way is deeded. Chair Allard noted the only access to 31 would be over 30, or via the right-of-way over 32. Mr. Fillion stated he would like to avoid going over Lot 32 and keep the access over 30 to 31. Chair Allard noted lot 31 is landlocked and asked if it was in wood-lot status. Ms. Fillion replied it is in current use. Mr. Drummey stated there is no indication of wood-lot on the assessing card. Mr. Bickford stated this lot has been landlocked for a long time, predating wood-lot status in the 1970s. It was noted lot 31 is 19 acres and lot 30 is 4.4 acres. A total of 200' of road frontage is required for a lot of 2-5 acres. The current total of road frontage is 289' but that would not be enough to accommodate both lots. The 19 acre lot, if merged with the 4.4 acre

lot, would require road frontage of 400' to comply with the ordinance.

Mr. Craycraft suggested a road needs to be created to class V standards to give frontage to the back lot. Mr. Rogers asked if variances are ever granted on road frontage requirements. Mr. Drummey asked if it could be a class VI road. Mr. Craycraft confirmed class V is necessary. Chair Allard stated there is also a 1000' limit on a class V road. Mr. Craycraft explained if there is a preexisting lot on a class VI road, the Board of Selectman can grant permission to build a home on it, but the road must meet town standards.

He referenced section 5.C in regard to road frontage. The landowners inquired and the Board discussed whether a variance could be granted to the requirements for road frontage. Mr. Craycraft stated the only case he recalls was when a variance was requested to build on a woodlot, which was denied. He stated anyone can go before the Zoning Board of Adjustment for a variance but the amount of deviation from the regulations is going to be considered. Mr. Drummey noted even if they combined the lots, there would not be enough frontage.

Ms. Veisel suggested combining the lots, building a residence and then an accessory dwelling unit, which would be allowed by law. Mr. Drummey explained the lot would be big enough; Chair Allard stated combining the lots would make it non-conforming. Mr. Craycraft stated the final requirements for a class V road lay with the Highway Department. Chair Allard suggested pursuing the option of an ADU/in-law housing. He stated there are setback and septic requirements; if they can meet those requirements, they can put in a home with an ADU and outlined the three types allowed in Town. Mr. Drummey suggested considering the aspect of devaluing the property to the property owners if they won't allow development. Ms. Veisel recommended Mr. Fillion and Ms. Rogers review the ZBA criteria for a variance in order to see the aspects which will be considered.

Review SELT drainage slope construction easement for Map 244, Lot 007, Merry Meeting and Bracket Road

Chair Allard stated he is an abutter to SELT, as are hundreds of property owners in Town, and it was the conclusion of the Board that for properties like this, he and Mr. Bickford are so far from the area of interest that the usual conflict of interest rules don't apply. Chair Allard stated he feels he can discuss this topic without bias or conflict of interest. Mr. Bickford stated he objects as the rules are not written that way. Mr. Bickford stated he doesn't understand why this issue came back to the Planning Board. Chair Allard stated there was precedent within the State that said for these kinds of situations, and is comfortable going forward. It's a conservation property, it's been done before and is consistent with their procedures in the past. Chair Allard reiterated it's up to the individual member to recuse themselves. Ms. Veisel concurred with Chair Allard. Mr. Drummey stated he understands the context of this lot but the regulations do seem to be clear and suggested going point by point to determine the criteria for recusal. Mr. Craycraft stated he prefers better safe than sorry and suggested that Mr. Bickford and Chair Allard step down. He asked Mr. Gelinas if the parking lot is on the larger parcel or separate parcel. Chair Allard concurred with recusing himself from this discussion, and Mr. Bickford recused himself as well.

Vice Chair Craycraft stated this case came before the Board a couple months ago as a conceptual proposal for two parking lots. He stated they are small areas of disturbance below the threshold of requiring storm water management and a conditional use permit and will instead be overseen by the

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Building Inspector/Code Enforcement officer. Vice Chair Craycraft stated this is being reviewed in an advisory role for comment and suggestions by the Board. Mr. Gelinas stated the only issue they had was that the meeting minutes didn't indicate it was being turned over to the Code Enforcement Officer and the Code Enforcement Officer instructed Mr. Gelinas that it needs to be clarified in writing, that a Site Plan is not needed. Ms. Veisel stated when the Board of Selectmen discussed this, Chair Swenson raised the concern that the Planning Board should discuss having the Town Engineer look at the stormwater plans and make sure the water does not jeopardize the road in any way. She clarified that was meant as a suggestion.

Vice Chair Craycraft stated he has reviewed the plans as well as the site; the plans appear straightforward and there is some ditching in place now. Town Administrator Kinmond stated the Road Agent and NH DOT went to the site and talked about the stormwater, as well as the best route of travel. There was a suggestion to traverse a portion of Town land to let the water run down for better mitigation, instead of down Brackett Road. Mr. Gelinas stated he was at the meeting as well; if the drainage continues the way it is now, it would travel down the road about 300'. There is also an option of a culvert about 100' away but they don't want to overload the road and stated this is on the Board of Selectman meeting agenda for their next meeting. If they approve the ditch, it will be behind the stone wall to ensure less water on the road. Mr. Drummey stated the minutes of June 2, 2020 meeting indicate there was discussion that since the state gave the driveway permit, everything is moot with the Planning Board. Vice-Chair Craycraft stated he has been out to the area before; there were some concerns about leaching water at one time but it appeared to be organic decomposition from logging activities; the issues have been addressed and the drainage will be improved; he stated the work done by DOT satisfies his concerns. Town Administrator Kinmond stated the Code Enforcement Officer needs confirmation that a Site Plan is not needed, in writing; he stated the other piece was the Board of Selectmen is looking at it for the drainage easement but he doesn't see that as being under the purview of the Planning Board.

Mr. Drummey made a motion that the Planning Board determined a Site Plan is not needed for construction of drainage and slope easement for the South East Land Trust, on Map 240, Lot 007 and Map 229, Lot 016. Ms. Veisel seconded the motion. Roll Call: Mr. Craycraft – aye; Mr. Drummey – aye; Ms. Veisel – aye; Mr. Bickford – abstain; Chair Allard -abstain. Motion passed, 3-0-2.

The Board reviewed the map and lot numbers for accuracy. Mr. Drummey rescinded his motion.

Mr. Drummey made a motion that the Planning Board determined a Site Plan is not necessary for construction of drainage and slope easements for the South East Land Trust, public access parking lot on Birch Hill Road, and the corner of Merrymeeting and Brackett Road, both on Map 244, Lot 016. Ms. Veisel seconded the motion. Roll Call: Mr. Craycraft – aye; Mr. Drummey – aye; Ms. Veisel – aye; Mr. Bickford – abstain; Chair Allard -abstain. Motion passed, 3-0-2.

APPROVAL OF MINUTES

Meeting of May 19, 2020- Edits were made. **Mr. Drummey made a motion to approve the minutes as amended. Ms. Veisel seconded the motion. Roll Call: Mr. Craycraft – aye; Mr. Drummey –**

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aye; Ms. Veisel – aye; Mr. Bickford – aye; Chair Allard -aye. Motion passed, 5-0-0.

Meeting of June 2, 2020- Edits were made. **Ms. Veisel made a motion to approve the minutes as amended. Mr. Drummey seconded the motion. Roll Call: Mr. Craycraft – abstain; Mr. Drummey – aye; Ms. Veisel – aye; Mr. Bickford – aye; Chair Allard -aye. Motion passed, 4-0-1.**

Next Meeting

July 21, 2020, 7:00pm

Ms. Veisel asked for followup on the discussions of the joint committee. Chair Allard stated they had productive discussions and wants to review and prioritize the various issues; another meeting is next week. Ms. Veisel noted they also need to address impact fees; Chair Allard noted they need to work on getting an engineer for soil typing as well; he stated he obtained quotes but doesn't recall getting a contract in place. Town Administrator Kinmond stated he will look into it; he stated in order to encumber money from year to another, there needs to be a signed contract. Ms. Veisel stated that per Board of Selectman meeting minutes, the Planning Board confirmed funds were encumbered so there must be a contract on file. Chair Allard suggested that given the current situation and Town finances, perhaps they should consider holding off. Town Administrator Kinmond clarified that at the beginning of the COVID crisis, there were some projections indicating a revenue shortfall however there have been federal funds coming in and is awaiting the Tax Collector's report on the first tax billing this week. He stated that if there is a low delinquency rate, his recommendation to the Board will be to unfreeze spending. Mr. Drummey asked if a Town Engineer was hired and whether they could do the soil mapping. Town Administrator Kinmond stated he would look into whether that would be in their scope of work.

ADJOURN

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

The meeting was adjourned at 9:35pm.

Respectfully Submitted,

Jennifer Riel, Recording Secretary