

**TOWN OF NEW DURHAM  
PLANNING BOARD MEETING  
March 21, 2023, 7:00PM  
New Durham Town Hall, New Durham, NH 03855**

**PRESENT**

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

**ALSO PRESENT**

Nicole Zoltko, Town Administrator  
Susan Stillwell, Land Use Assistant  
Scott Lacroix, Building Inspector/Code Enforcement Officer  
Peter Varney, Fire Chief  
Courtney Grugnale, SRPC Housing Navigator  
Sue Johnson, resident  
Pete Johnson, resident  
David Collins, resident  
Rudy Rosiello, resident  
Mike Fillion, resident – via Zoom  
Scruton family, resident– via Zoom  
Dot Veisel, resident– via Zoom  
Fab Cusson, Bethel Builders – via Zoom  
Rollins Family, resident– via Zoom  
Wes Whittier, resident– via Zoom  
Terry Jarvis, ZBA member – via Zoom  
Mark and Lyn Sullivan– via Zoom

**CALL TO ORDER**

Mr. Craycraft called the meeting to order at 7:00PM.

Introductions were made by the Board members present.

**AGENDA REVIEW**

No changes were made.

**Selection of Board Positions**

Mr. Craycraft stated, per the Planning Board Rules of Procedures, assignments of Board member positions are to be made after the March elections but five members must be present and they need to wait until BOS selects their new representative. It was agreed to table this item until the April meeting and Mr. Allard would continue as chair in the interim.

### **2023. - Project, Priorities, and Next Steps**

The Board discussed possible projects and priorities for 2023 including:

Residential and Commercial Development; Major Commercial development that utilizes more water/septic than a single-family home is poorly defined in Town Zoning Ordinance

Wetlands Buffers: Need to examine existing buffer distances in Zoning Ordinances and determine if any changes should happen.

Workshop item for May 2nd. Invite Water Quality Committee and Mike Gelinas.

Short-term Rentals: have been waiting for State guidance has not been forthcoming so we need to act. CEO is looking at neighboring towns and how they handle this issue.

Septic Ordinance/Health Ordinance: many septic systems are old and may be out of compliance although specific information is lacking. Mr. DeCoff stated the Building Inspector is working on this project along with the Water Quality Committee. He stated one possible action is to have septic systems tested whenever tax card change takes place for a property.

Town Administrator Zoltko stated the Building Inspector is also researching how short-term rentals are being handled by other municipalities. She noted Ms. Grugnale is also available as a resource for these topics.

Chair Allard stated the Board of Selectmen recently proposed funding for a Public Safety Facility; he stated it was voted down and there were many concerns by residents about the project including costs and location; although there was a general consensus that something should be done to address the needs within Town. He stated it was suggested the Planning Board may need to take a more active role in looking at municipal planning.

Ms. Grugnale is planning a community engagement event concerning Commercial development for May; establish types of development the Town wants and then work on revisions to the Master Plan. She stated it would be a good time to put out the idea of a subcommittee involving residents.

Chair Allard suggested they consider looking at the regulations they can develop that will specifically address the issues that come with commercial development; he stated there is a lot of available land along Route 11 for development. Chair Allard will develop a draft charter with goals and objectives for the subcommittee.

### **Enforcement of State and New Durham building regulations**

Chair Allard stated he has had many discussions with the Board of Selectmen, as well as residents, about numerous instances where the Zoning Ordinance is not complied with; there are numerous structures and properties around Town which have structures that may be in violation of the ordinances. He stated Mr. DeCoff submitted a response to his concerns but doesn't believe the reasons behind the Town's actions are justified. Chair Allard stated there are many State laws

which are being continually violated; he would like to discuss this ongoing issue further with the Board about doing something to address the problems.

Chair Allard stated he has received a number of complaints about the sign at the Fish and Game; he clarified the Board does not have any enforcement authority and the Town can only exercise authority given to them by the State. He stated it's a real problem when ordinances are being disregarded.

**Following properties with the full Board:**

**a. The sign at the Farmington Fish and Game Club:**

Chair Allard stated signs are not allowed which are internally lit and it is clear the sign at the club, violates the ordinances. He stated the Building Inspector sent out a letter explaining why the permit was issued but he doesn't agree that it conforms to the ordinance. Chair Allard stated the example of the light at the General Store does not apply as it was grandfathered and done prior to the creation of the zoning ordinance.

Mr. Craycraft stated the ordinance has changed over time. However, in 2007 there was a conflict found within the ordinances and at that time it was determined that the more strict ordinance prevails. He stated the ordinance is clear that internal lighting is explicitly prohibited as well as flashing.

Terry Jarvis, resident, stated if there is a formal complaint and a question of compliance, an investigation should be done by the Code Enforcement officer; a cease-and-desist order is issued and the property owner has 30 days to appeal to the ZBA. Chair Allard stated he is not aware of that process but is aware of the process of filing a complaint of compliance with the ZBA. He stated there was no formal complaint of which he is aware. It was agreed to bring this issue to Town Counsel.

Liz Scruton, resident, stated she wrote a formal letter to the Town Administrator and Building Inspector regarding her concerns about compliance to the ordinances. She stated she received a response from the Building Inspector indicating the permit was issued as the sign complies with the size requirements, setbacks, and it is not a neon sign; however, that does not address other aspects of the ordinance.

**b. Past building permits issued for the following properties**

The Board reviewed a summary of properties outlined by Chair Allard, which he believes are not in compliance with Town and State regulations:

- i. 10 South Shore Road
- ii. 24 South Shore Road
- iii. 26 South Shore Road

- iv. 128 South Shore Road
  - v. 228 South Shore Road
  - vi. (300?) South Shore Road
  - vii. 362 South Shore Road
  - viii. (370?) South Shore Road
  - ix. Merrymeeting Lake Road – small side road across from Marsh Road
  - x. (96?) North Shore Road
  - xi. (98?) North Shore Road
  - xii. (100?) North Shore Road
- (NOTE: Some of the above addresses are not confirmed)

Mr. Johnson stated he does not own any of the properties listed however it seems to be an irrational opinion by a single board member. He stated it does not seem to be a Planning Board issue; he stated there needs to be facts presented. Chair Allard stated there are facts, as all construction within 75 feet of the water require a Conditional Use permit, which none of these properties have. He stated he is concerned about the lake being affected when construction is done without proper storm water management and protections in place.

Mr. Craycraft stated another issue is that up until a year ago, the Code Enforcement had not received a single of the required annual submissions of inspection summaries; he stated none had been received since 2007 and unfortunately believes stricter enforcement needs to come into play.

There was discussion about permits being issued just three weeks after an ordinance goes into effect. Town Administrator Zoltko explained the properties being looked at, were not only permits issued with the current Building Inspector but by prior individuals in that position; she clarified there is email documentation that shows the Board members, TA and Building Inspector, all agreed they were not clear when an ordinance goes into effect. She stated Town Counsel has specifically stated that certain properties on this list, had permits issued and the Town cannot revoke the permits. She agreed there has been some confusion and disorganization within the Town Hall for paperwork and filing in past years, but they have been actively working to improve the systems.

Mr. Johnson stated his property is on the list; he explained they had plans developed that would ultimately reduce the impermeable surface and move the structure back from the lake, but the needed variances were denied by the ZBA; he stated at that time they were advised to rebuilt on the same foot print, which is what they did but now it seems that they were given inconsistent advice, and were not told a Conditional Use permit was needed. Chair Allard stated his concern is not with owners and applicants and does not expect them to know all the regulations; however, he does expect the Town to know the proper procedures.

Fab Cusson, Bethel Builders, stated he has built many houses around the lake and explained the process is often a year and a half that includes evaluating the land, working with an architect and developing plans before they apply for a building permit. He stated they have a conundrum with whether to go to the State or municipalities first for various permits and it takes a lot of work

behind the scenes before a permit application is even submitted. Mr. Cusson stated he also works as a Building Inspector for another town and it's his interpretation that building codes should be proactive and not retroactive; he stated many of his customers spend upwards of \$25,000 to get to the point of a building permit and through that process, they are in communications with the Town, specifically the Building Inspector. He stated the Building Inspector is the "hand" of the Planning Board, doing inspections and handling issues. Mr. Cusson stated he is very concerned that three of the homes he has built are on this list and Chair Allard is suggesting numerous violations for these properties. Mr. Cusson replied that the exact ordinances for the specific properties should be provided to him with written documentation so he can review these with his clients and attorney. Mr. Cusson stated he has a problem with people going on the private properties; he stated if there is an issue, it is the job of the Building Inspector to do the follow-up. Chair Allard stated the issue is not with homeowners and builders but with the application of the requirements of the State and the Town; he stated the issues are real and legitimate.

Ms. Jarvis thanked Mr. Cusson for his comments; she stated she wants it to be clarified that this is not a new problem; it has been a long-term problem and (perhaps) the past Building Inspectors have not always been diligent in their work. She asked Chair Allard if he reviewed the Notice of Decision for all of the properties listed to see what variances were granted and confirmed all the processes for those were followed. Ms. Jarvis stated she wants to be sure due diligence is done before going after the cases. She stated most of these properties were handled by a different Building Inspector than the current one. Chair Allard stated to the best of his knowledge, 8 of the properties were permitted in the last year. He stated he has not looked up the cases but has discussed the properties with the Building Inspector and the Board of Selectmen and was told all were issued permits.

Mark Sullivan, resident, stated he has a background on numerous Town boards so has a background and understanding on cases; he stated he is concerned that the Planning Board seems to be increasingly adversarial. He stated there have been numerous meetings on how bylaws are interpreted and is concerned about that adversarial tone.

A resident raised concerns about the difficulty of getting information and preparing to go before the Zoning and Planning Boards. Chair Allard explained there is the opportunity for the public to go before the Technical Review Committee who can give advice and guidance through the processes of working with the Zoning and Planning Boards. Ms. Jarvis explained the Zoning Board is not permitted to do conceptual discussion; however, they can begin working through review of a case, the Board can state their concerns and applicants can come back with a revised plans with a new application which address the items of concern.

A resident stated there seems to be some internal communication issues within the Town, but it makes it hard and costly for the property owners.

Mr. Drummey stated they need to discuss these with the Building Inspector and determine if there are issues with the interpretation of the ordinances. Ms. Ross and Chair Allard agreed.

Ms. Jarvis stated she just went through one of the properties listed; she stated it would have been very easy for the applicants to revise their plans to be in compliance with the ordinance.

Ms. Ross suggested research be done on each property to ensure they are looking at the whole picture before discussing this with the Building Inspector.

Town Administrator Zoltko made a suggestion to the Board, that they need to consider when moving forward with their officer assignments, that there needs to be someone designated to be available to come in to sign paperwork when needed, respond to emails timely. She explained there are many deadlines with applications and notices, and not having follow up in a couple days is a huge communication problem. She explained they also need someone that can come in and work with the Land Use assistant through the necessary processes.

#### **NEXT MEETING**

April 4, 2023, 7:00PM, New Durham Town Hall

#### **ADJOURN**

**Mr. Drummey motioned to adjourn. Mr. DeCoff seconded the motion. Motion passed 5-0-0.**

The meeting was adjourned at 9:30PM.

Respectfully Submitted,

*Jennifer Riel*

Jennifer Riel, Recording Secretary