

**Durham Planning Board  
Meeting Minutes  
August 5<sup>th</sup> 2015 – AMENDED September 2<sup>nd</sup> 2015**

**Call to Order:** Vice Chairman Beaulieu called the meeting to Order at 7:00 p.m.

**Members Present:** Vice Chairman Todd Beaulieu, Anne Torregrossa, Mindy Woerter, Michael Fitzpatrick, John Simoneau

**Also Present:** Paul Baines, Codes Official. Jill Toher, Admin/Secretary excused.

**Establishment of Quorum:** Vice Chairman Beaulieu announced a Quorum has been met with five (5) members present.

**Public Present:** Samuel and Tania Zuckerman, Paul D. Reed, Spencer Reed, Stuart Davis, a/b/a Davis Land Surveying LLC.

**Pledge of Allegiance:** Completed.

**Amendments to Agenda:** Chairman Beaulieu welcomed John Simoneau as a full member to the Planning Board.

**Acceptance of Minutes:** Chairman Beaulieu moves the Acceptance of the Minutes to the end of the Agenda.

**Continuing Business:** None.

**New Business:** None.

**a. Conditional Use Permit – re: Home Occupation – Map #1, Lot #4 -  
Samuel and Tania Zuckerman – 245 Brown Road:**

Samuel Zuckerman personally appeared before the Board and stated the intended home occupation use would be for indoor administrative purposes. Ladders and other related equipment would be stored in the barn. Loading and unloading of vehicles would take place between 7:00 a.m., and 6:00 p.m., during weekdays. Work related vehicles would be parked in the designated parking area. UPS and Fedex delivery vehicles could make up to eight trips per month. The area in question is well buffered and abutters cannot see the house or barn, however in the winter after dark abutter's lighting can be seen. He currently has one full-time employee. Office functions will be performed in the home. All installations are performed off the premises. A general discussion followed regarding the clarification of the definition of a home occupation. The Applicant requested to Amend the Application to allow the same use on Saturdays. The Zuckerman's would like to purchase the property, but need to know if their intended Home Occupation meets the Land Use Criteria before moving forward with said purchase. A copy of said Agreement has been provided.

**Michael Fitzpatrick Moves** to find that the Home Occupation Application is complete. Chairman Beaulieu Second. Motion Carried 4-1 with Anne Torregrossa Opposing.

**Application Check List:**

- a. Complete
- b-1. Complete
- b-2. Complete
- b-3. Complete
- b-4. Complete
- b-5. Complete
- b-6. Complete
- b-7. Complete
- b-8. Complete
- b-9. Complete
- b-10. Complete
- b-11. Complete
- b-12. Complete
- b-13. Complete
- b-14. Complete, no signs requested.
- b-15. Complete, no additional lighting requested.
- b-16. Complete
- b-17. Complete
- b-18. Complete, no additional construction requested.
- b-19. Complete.
- b-20. Complete

**Mindy Woerter Moves** to find that the Application Check List is complete. Michael Fitzpatrick Second. Motion Carried 5-0.

Chairman Beaulieu requested that if there is anyone who wishes to address this application to come forward at this time. No one appeared.

The Board next reviewed the Approval Criteria Check List, hereinafter referred to as Attachment #1, for which the Zuckerman's provided Proposed Findings of Facts and Conclusions of Law, eight (8) pages including signature page, a copy of which is attached hereto and incorporated herein and made a part of these Minutes.

**Anne Torregrossa Moves to Find** that the Board Approve the Findings in Section A of the Proposed Findings of Fact and Conclusions of Law. Michael Fitzpatrick Second. Motion Carried 5-0.

**Chairman Todd Beaulieu Moves** that the Board Adopt the Findings in Section B of the Proposed Findings of Fact and Conclusions of Law. Michael Fitzpatrick Second. Motion Carried 5-0.

**Anne Torregrossa Moves to Find** that the Board Approve the Findings in Section C of the proposed Findings of Fact and Conclusions of Law. Michael Fitzpatrick Second. Motion Carried 5-0.

**Chairman Beaulieu Moves** that the Board Adopt the Findings in Section D of the Proposed Findings of Fact and Conclusions of Law. Mindy Woerter Second. Motion Carried 5-0.

**Anne Torregrossa Moves** to Adopt the Findings in Section E of the Proposed Findings of Fact and Conclusions of Law. Michael Fitzpatrick Second. Motion Carried 5-0.

**Chairman Todd Beaulieu Moves** to Adopt the Findings in Section F of the Proposed Findings of Fact and Conclusions of Law. Michael Fitzpatrick Second. Motion Carried 5-0.

**Mindy Woerter Moves** to Adopt the Findings in Section G of the Proposed Findings of Fact and Conclusions of Law. Chairman Todd Beaulieu Second. Motion Carried 5-0.

**Mindy Woerter Moves** to Adopt the Findings in Section H of the Proposed Findings of Fact and Conclusions of Law. Michael Fitzpatrick Second. Motion Carried 5-0.

**Anne Torregrossa Moves** to Adopt the Findings in Section G of the Proposed Findings of Fact and Conclusions of Law. Michael Fitzpatrick Second. Motion Carried 5-0.

**Chairman Todd Beaulieu Moves** to Adopt the Findings in Section H of the Proposed Findings of Fact and Conclusions of Law. John Simoneau Second. Motion Carried 5-0.

**Anne Torregrossa Moves** to Adopt the Findings in Section I of the Proposed Findings and Fact and Conclusions of Law. Mindy Woerter Second. Motion Carried 5-0.

**Anne Torregrossa Moves** to Adopt the Findings in Section J of the Proposed Findings of Fact and Conclusions of Law. Mindy Woerter Second. Motion Carried 5-0.

**Mindy Woerter Moves** to Adopt the Findings in Section K of the Proposed Findings of Fact and Conclusions of Law. John Simoneau Second. Motion Carried 5-0.

**Anne Torregrossa Moves** to Adopt the Findings in Section L of the Proposed Findings of Fact and Conclusions of Law. Mindy Woerter Second. Motion Carried 5-0.

**Mindy Woerter Moves** to Adopt the Findings in Section M of the Proposed Findings of Fact and Conclusions of Law. John Simoneau Second. Motion Carried 5-0.

**Anne Torregrossa Moves** to Adopt the Findings in Section N of the Proposed Findings of Fact and Conclusions of Law. Chairman Beaulieu Second,. Motion Carried 5-0.

**Chairman Beaulieu Moves** to Adopt the Findings in Section O of the Proposed Findings of Fact and Conclusions of Law. Mindy Woerter Second. Motion Carried 5-0.

**Anne Torregrossa Moves** to Adopt the Findings in Section P of the Proposed Findings of Fact and Conclusions of Law. Michael Fitzpatrick Second. Motion Carried.

The Board next reviewed the Zuckerman's Proposed Findings of Fact and Conclusions of Law for the General Performance Standards Supplemental for a Home , a copy of which, five (5) pages, is attached hereto and incorporated herein and referred to as Attachment #2. and made a part of these Minutes.

**Chairman Beaulieu Moves** to Adopt the Findings in Section A of the Proposed Findings of Fact and Conclusions of Law in Section A of the General Performance Standards Supplemental. Anne Torregrossa Second. Motion Carried 5-0.

**Anne Torregrossa Moves** to Find that this is a commercial use but meets the standard in Section B because existing buffering is sufficient to screen from residential use and adequately minimizes impacts from loading and unloading and vehicle parking. Michael Fitzpatrick Second. Motion Carried 5-0.

**Anne Torregrossa Moves** to Adopt the Findings in Section C-1, in the Proposed Findings of Fact and Conclusions of Law of the General Performance Standards Supplemental. John Simoneau Second. Motion Carried 5-0.

**Anne Torregrossa Moves** to Adopt the Findings in Section C-2, in the Proposed Findings of Fact and Conclusions of Law of the General Performance Standards Supplemental. Chairman Beaulieu second,. Motion Carried 5-0.

**Anne Torregrossa Moves** to Adopt the Findings in Section D, in the Proposed Findings of Fact and Conclusions of Law of the General Performance Standards Supplemental. Michael Fitzpatrick Second. Motion Carried 5-0.

**Anne Torregrossa Moves** to Adopt the Findings in Section E in the Proposed Findings of Fact and Conclusions of Law of the General Performance Standards Supplemental. John Simoneau Second. Motion Carried 5-0.

**Anne Torregrossa Moves** to Adopt the Findings in Section F in the Proposed Findings of Fact and Conclusions of Law of the General Performance Standards Supplemental. Mindy Woerter Second. Motion Carried 5-0.

**Michael Fitzpatrick Moves** to Adopt the Findings in Section G in the Proposed Findings of Fact and Conclusions of Law of the General Performance Standards Supplemental. Anne Torregrossa Second. Motion Carried 5-0.

**Anne Torregrossa Moves** to Adopt the Findings in Section H in the Proposed Findings of Fact and Conclusions of Law of the General Performance Standards Supplemental. Mindy Woerter Second. Motion Carried 5-0.

**Chairman Beaulieu Moves** to Adopt the Findings in Section I in the Proposed Findings of Fact and Conclusions of Law of the General Performance Standards Supplemental. Mindy Woerter Second. Motion Carried 5-0.

**Anne Torregrossa Moves** to adopt the Findings in Section J in the Proposed Findings of Fact and Conclusions of Law of the General Performance Standards Supplemental. Mindy Woerter Second. Motion Carried 5-0.

**Michael Fitzpatrick Moves** to Adopt the Findings in Section K in the Proposed Findings of Fact and Conclusions of Law of the General Performance Standards Supplemental. Mindy Woerter Second. Motion Carried 5-0.

**Michael Fitzpatrick Moves** to Adopt the Findings in Section L in the Proposed Findings of Fact and Conclusions of Law of the General Performance Standards Supplemental. Mindy Woerter Second,. Motion Carried 5-0.

**John Simoneau Moves** to Adopt the Findings in Section M in the Proposed Findings of Fact and Conclusions of Law of the General Performance Standards Supplemental. Chairman Beaulieu Second. Motion Carried 5-0.

**Anne Torregrossa Moves** to Adopt the Findings in Section N in the Proposed Findings of Fact and Conclusions of Law in the General Performance Standards Supplemental. Michael Fitzpatrick Second. Motion Carried 5-0.

**Chairman Beaulieu Moves** to Adopt the Findings in Section O in the Proposed Findings of Fact and Conclusions of Law in the General Performance Standards Supplemental. Michael Fitzpatrick Second. Motion Carried 5-0.

**Michael Fitzpatrick Moves** to Adopt the Findings in Section P in the Proposed Findings of Fact and Conclusions of Law in the General Performance Standards Supplemental.

**Michael Fitzpatrick Moves** to Adopt the Findings in Section II, Specific Performance Standards, Specific Activities and Land Uses, #1 through #5, in the Proposed Findings of Fact and Conclusions of Law. Chairman Beaulieu Second. Motion Carried 4-1, with Anne Torregrossa Opposing.

**Anne Torregrossa Moves to Grant** the Conditional Use Permit with the condition of the applicants obtaining full right, title and interest to the property. Mindy Woerter Second. Motion Carried 5-0.

**b. Back Lot Permit Application – re: Map #3, Lot #71-B (portion of) -  
Paul D. Jr., and Tracy L. Reed – 34 Firewood Lane:**

Paul Reed addressed the Board regarding the conveyance of a piece of land known as Lot #71-B, a portion of, to his son Spencer Reed which was surveyed by Stuart Davis, d/b/a Davis Land Surveying, LLC dated August 5<sup>th</sup> 2015, as his son would like to build a home there. Paul Reed represented that all abutters were notified. Along with the completed Back Lot Permit Application, the following attachments were provided: Survey, Map containing said lot, Warranty Deed, Description of the 8.5 Acre parcel, 2013 National Flood Map and abutters list.

Paul Reed reviewed the history of prior lot divisions and purchase from Koenigs as well as a detailed history of Fire Wood Lane, as it pertains to the history of it's construction. A very lengthy discussion followed along with a comprehensive review of information contained in the Ordinance.

It was the general consensus of the Board that Lot #71-B is a family owned back lot because it has been held for five years and has been transferred to his son, Spencer Reed.

**Anne Torregrossa Moves to Find** that the Planning Board does not have standing or jurisdiction because the back lot is family owned. Michael Fitzpatrick Second. Motion Carried 5-0.

**Codes Official – Discussion regarding Conditions of Approval** – The Codes Official requested the Board's input regarding existing Conditional Use Permits. Should a resident request to change an item or items in the existing Conditional Use Permit, and the change or changes requested still meets the Ordinance's approval criteria, does the Board deem it necessary for the resident to re-appear before the Board.

A lengthy discussion followed. Mike Fitzpatrick opined that if the item (or items) was contentious during the original application process, than the applicant should re-appear regarding the proposed change. The hypothetical discussed was buffering and would the

Board need to have the applicant re-appear if the requested change in buffering still meets the Permit Conditions and the approval criteria in the Ordinance. Mike Fitzpatrick continued by stating if the Permit Condition lists trees and the applicant wants to change it to a fence, then the Board has the option to Amend the Conditional Use Permit. Anne Torregrossa stated that if the language in the Conditional Use Permit was specific, then any changes should come back before the Board. It was the general consensus of the remainder of the Board to have the applicant re-appear under that type of Condition.

**Codes Official – Discussion of Temporary Use Permits** – The Codes Official stated he issued a Temporary Use Permit in accordance with the Ordinance applying Section Two of the General Performance Standards, which are not in the Conditional Use section of the Ordinance. The Board reviewed Section Two of the General Performance Standards, regarding temporary activities. A lengthy discussion followed. It was the general consensus of the Board that the General Performance Standards as it applies to a temporary use that includes the exchange of money should stand alone. The Board began the discussion of adding an Events Permit.

**Acceptance of Minutes – Anne Torregrossa Moves** to Table the Acceptance of the Minutes to the next meeting. Michael Fitzpatrick Second. Motion Carried 4-0, with John Simoneau Abstaining.

**Chairman's Comments:** Chairman Beaulieu announced the following:

- a. **Land Use Ordinance WORKSHOP, Tuesday, September 9<sup>th</sup> at 6:00 p.m.**
- b. **Next Meeting – Wednesday, September 2<sup>nd</sup> 2015 at 7:00 p.m.**
- c. **Applications Due – Nine sets with supporting documentation) by Monday, August 24<sup>th</sup> 2015 by 4:30 p.m., at the Town Office.**

**Adjournment: Mike Fitzpatrick Moves** to Adjourn at 9:05 p.m. John Simoneau Second. Motion Carried 5-0.

Respectfully submitted,

---

Jill S. Toher  
Admin/Secretary

Attachment #1 – Approval Criteria, Section V, Tania and Sam Zuckerman - Home Occupation, 8 pages.

Attachment #2 – General Performance Standards Supplemental – Tania and Sam Zuckerman 5 pages.

Attachment #2 – Signature Page (page #5)

Planning Board Minutes 8-5-2015

General Performance Standards Supplemental  
Home Occupation -  
Findings of Fact and Conclusions of Law

Tania & Sam Zuckerman

---

Todd Beaulieu, Chairman

---

Anne Torregrossa, Vice Chairman

---

Michael Fitzpatrick

---

Mindy Woerter

---

John Simoneau

Attachment #1 – Signature Page (page 8)

Planning Board Minutes 8-5-2015

Approval Criteria, Section V.  
Home Occupation  
Findings of Fact and Conclusions of Law

Tania & Sam Zuckerman

---

Todd Beaulieu, Chairman

---

Anne Torregrossa, Vice Chairman

---

Michael Fitzpatrick

---

Mindy Woerter

---

John Simoneau