

**Durham Planning Board  
Meeting Minutes  
January 7<sup>th</sup> 2015 – Amended February 4<sup>th</sup> 2015**

**Call to Order:** Chairman Joe Tomm called the meeting to Order at 7:00 p.m.

**Members Present:** Chairman Joseph Tomm, Vice Chairman Todd Beaulieu, Anne Torregrossa, Michael Fitzpatrick. Mindy Woerter excused.

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

**Establishment of Quorum:** Chairman Tomm announced a Quorum has been met with four (4) members present. Chairman Tomm announced he will be recusing himself from voting tonight.

**Public Present:** Mike Sundberg, 215 Meadow Road, Beth Boepple, Esquire, Robert and Kelly Burnham.

**Public Comments:** Mike Sundberg through his attorney, Elizabeth Boepple, from Lambert Coffin in Portland, Maine requested to be heard regarding his concerns about the Conditional Use Application for the Burnham's garage.

**Pledge of Allegiance:** Completed.

**Amendments to Agenda:** None.

**Acceptance of Minutes:** Move to end of meeting.

**Continuing Business:** Earl Crandall, III, tabled as applicant did not attend tonight's meeting.

**New Business:** Conditional Use Application from Robert and Kelly Burnham for garage, 208 Meadow Road, Map #3, Lot #7-C.

Robert Burnham stated he would like to run a repair shop from his home in his existing garage which has one lift and two bays. His wife, Kelly owns and operates a hair salon in their home which was granted a Conditional Use Permit previously.

The Board reviewed the Application Check List. Findings are below.

- a. Complete
- b. Complete
- b-1. Complete
- b-2. Complete
- b-3. Complete
- b-4. Complete

- b-5. Approximately ½ in Rural Residential; Approximately ½ in Resource Protection.
- b-6. Waived based on receipt of a copy of the Deed.
- b-7. Complete
- b-8. Complete
- b-9. Complete based on current and proposed parking areas including parking dimensions be added.
- b-10. Complete
- b-11. Not Applicable
- b-12. Complete
- b-13. Complete
- b-14. Complete based on new sign location be added to map.
- b-15. Incomplete; pending upon submission of Deed.
- b-16. Complete
- b-17. Not Applicable
- b-18. Not Applicable
- b-19. Not Applicable
- b-20. Complete

**Anne Torregrossa Moves** to find the Application Check List is complete with exceptions as noted. Vice Chairman Beaulieu Second. Motion Carried with Chairman Tomm abstaining.

Mike Sundberg, whose land abuts the Burnham property, through his attorney voiced a number of concerns including:

1. A complete copy of the Burnham Conditional Use Application and supporting documentation was not made available to Mr. Sundberg.
2. A required buffer area needs to be shown on the site plan in accordance with the Ordinances General Performance Standards, Article #8, as, in her opinion, the tree line depicted does not satisfy the requirement stating that a landscape screen is needed to shield a business from abutters.
3. Attorney Boepple questioned whether the requested Conditional Use Permit for a Home Occupation should be changed to Commercial Use as he is advertising his business.

The Codes Official and Attorney Boepple engaged in a lengthy exchange regarding the interpretation of the definition of a buffer and Home Occupation vs. Commercial use.

In addition, Attorney Boepple stated the following items were not fully addressed in the Conditional Use Application: and voiced the following concerns on behalf of Mr. Sundberg: Condition of vehicles parked, Noise, Hazardous Waste, Maximum Lot Coverage calculations for all structures, effect on Quality of Life, amount of Additional Traffic expected to be generated, Impervious Material(s), potential effect on ground water, potential effect on wetland area, well location(s) for the Burnhams and abutters not depicted on site plan per the Ordinance's Approval Criteria Section #5, page #32; Section #6 – 5-B, 5-C and 5-L.

Attorney Boepple also raised the question how this business fits into the Town's Comprehensive Plan.

After discussion and review of the Land Use Ordinance criteria, the Board deemed the Burnham's Conditional Use Application be changed from a Home Occupation to a Commercial Use as the garage is more than thirty (30%) percent of the dwelling area.

The Board next reviewed the Application Approval Criteria Check List based on the information provided. Findings are below.

- A. **Anne Torregrossa Moves** that based on four parking spaces with a total of six vehicles, it will not result in undue water or air pollution. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.
- B. **Vice Chairman Beaulieu Moves** the applicant has sufficient water available for the reasonable foreseeable needs of the proposed use, including fire protection. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.
- C. **Anne Torregrossa Moves** the property is not on an aquifer and will not diminish the water supply. Vice Chairman Beaulieu Second. Motion Carried with Chairman Tomm Abstaining.
- D. **Vice Chairman Beaulieu Moves** that it will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.
- E. **Vice Chairman Beaulieu Moves** that it will not cause highway or public road congestion or unsafe conditions with respect to use of the highway or public road existing or proposed. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining,.
- F. **Anne Torregrossa Moves** that considering there will be no added plumbing required and no employees this is not applicable. Vice Chairman Beaulieu Second. Motion Carried with Chairman Tomm Abstaining.
- G. **Anne Torregrossa Moves** based on the scale of additional waste generated it will not cause an unreasonable burden on the ability to to dispose of solid waste and/or sewage as municipal services as municipal services are not utilized. Vice Chairman Beaulieu Second. Motion Carried with Chairman Tomm Abstaining.
- H. **Anne Torregrossa Proposes** the applicants come back with landscaping and **Table** until landscaping plan is submitted. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

I. **Anne Torregrossa Proposes** to table this until we have a landscape plan to include buffers and copy of Deed. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

J. **Vice Chairman Beaulieu Moves** the applicant complies with "J". Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

K. **Vice Chairman Beaulieu Moves** that this is not applicable. Anne Torregrossa Second. Motion Carried with Chairman Tomm Abstaining.

L. **Vice Chairman Beaulieu Moves** the applicant is going to comply with "L". Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

M. **Anne Torregrossa Moves** to find that this is not applicable as the garage nor parking is not in the flood plain. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

N. **Anne Torregrossa Moves** the applicant complies. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

O. **Anne Torregrossa Moves** to find it meets the noise standards and **FURTHER MOVES** the permit be granted conditional as long as it is meeting the noise standards in this Ordinance. Vice Chairman Beaulieu Second. Motion Carried with Chairman Tomm Abstaining.

**Anne Torregrossa Moves** to find that it meets the odor requirements in this ordinance, but to impose a condition that it stay within the odor criteria as set forth in the Land Use Ordinance and to make odor a condition on the permit . Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

**Vice Chairman Beaulieu Moves** glare is no problem. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

**Anne Torregrossa Moves** to find that this is met but the vibration standards set forth in the Ordinance be a condition on this permit. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

**Anne Torregrossa Proposes** we **Table** this until we have a landscape plan to include buffer areas. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

P. **Mike Fitzpatrick Moves** that the scale of this project will not place an excessive burden on the Town. Vice Chairman Beaulieu Second. Motion Carried with Chairman Tomm Abstaining.

**General Performance Standards:** (no check list available)

**Anne Torregrossa Moves** to find that he proposed project meets this criteria air emissions criteria based on the small scale of it and the fact that they will have to stay in compliance with DEP Standards independent of ours.. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

**Sec. C-1. Anne Torregrossa Moves** to find that Cemeteries does not apply. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

**Sec. C-2. Anne Torregrossa Moves** to find that Construction or Plumbing does not apply as no additional construction or plumbing is necessary. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

**B. Anne Torregrossa Moves** to find that “B” does not apply because there will be less than 200 gallons stored on the property. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

**F. Anne Torregrossa Moves** to **Table** until we have a landscaping plan. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

**G. Anne Torregrossa Moves** to find that based on the information provided to us that the location and the size of the sign meets the criteria. Mike Fitzpatrick Second. Motion Carried.

**H. Anne Torregrossa Moves** to find the soils does not apply as is not rated severe or very severe for the proposed activity and there is no construction going on. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

**I. Anne Torregrossa Moves** to find soil erosion does not apply as there will be no additional soil removal, removal of vegetation or construction. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining,.

**J. Anne Torregrossa Moves** to find that lot size, road frontage, sides, road setbacks, structure, height, dwelling unit, lot coverage, and rural residential does not appear to be more than ten (10%) percent, **Tabling** spacial requirements until we have information on impervious surface and lot coverage are done. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

**K. Anne Torregrossa Moves** to find that this does not apply because no materials will be stored outdoors. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

**L. Anne Torregrossa Moves** to find that this does not apply because there is no outdoor storage or underground petroleum storage proposed. Vice Chairman Beaulieu Second. Motion Carried with Chairman Tomm Abstaining.

**M. Anne Torregrossa Moves** to find that this does not apply because they are not within 250 feet of any pond or lesser water bodies nor 100 feet from any pond, stream nor lesser water body. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

**N.** Previously addressed.

**O. Anne Torregrossa Moves** to find that the applicant meets the water quality standards because nothing shall be discharged onto the ground or surrounding area and all location and storage of any liquid, gas or solid materials that could impact these concerns will be appropriately handled. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

**P. Anne Torregrossa Moves** to find that “P” does not apply as there are no granite post or markers over one hundred years or of anything of historical significance on the property. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

**Anne Torregrossa Moves to Table this Application** pending receipt of additional information from the applicant. Vice Chairman Beaulieu Second. Motion Carried with Chairman Tomm Abstaining.

#### **Chairman's Comments:**

Chairman Tomm announced the following:

**a. The next regular meeting will be held on Wednesday, February 4<sup>th</sup> 2015 at the Town Office beginning at 7:00 p.m.**

**b. Applications including nine (9) sets of supporting documentation are due at the Town Office by Monday, January 26<sup>th</sup> 2015 by 4:30 p.m.**

The Codes Official raised some questions regarding the procedure for accepting town roads. Chairman Tomm stated he will forward the inspection information he has regarding Sand Hill Road to all concerned.

**Accept Resignation of Chairman Joseph Tomm:** Chairman Tomm thanked both present and past Board members during his eight year tenure.

**Michael Fitzpatrick Moves** to accept the resignation of Joseph Tomm with regret. Vice Chairman Beaulieu Second. Motion Carried with Joseph Tomm abstaining.

**Election of New Planning Board Chairman:** Tabled until February meeting. Vice Chairman Todd Beaulieu will act as Interim Chairman.

**Approval of December 3<sup>rd</sup> 2014 Regular Meeting Minutes:** Anne Torregrossa stated the fourth paragraph from bottom on page two should be changed from “ the applicant” to “the Board” may need an attorney's opinion ...”

**Anne Torregrossa Moves** to approve the Minutes of December 3<sup>rd</sup> 2014 with that one modification. Vice Chairman Beaulieu Second. Motion Carried.

**Approval of October 15<sup>th</sup> 2014 Workshop Minutes:**

**Anne Torregrossa Moves** to adopt the minutes taking out #1 through #21 in the Workshop Minutes and insert “changes as noted in the red line version.” Vice Chairman Beaulieu Second. Motion Carried.

**Adjournment:** **Anne Torregrossa Moves** to Adjourn at 9:50 p.m. Michael Fitzpatrick Second. Motion Carried.

Respectfully submitted,

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Jill S. Toher, Admin/Secretary