

**Durham Planning Board
Meeting Minutes
December 3rd 2014
AMENDED January 7th 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, Mindy Woerter, Michael Fitzpatrick.

Also Present: Jill Toher, Admin/Secretary.

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

Public Present: Earl P. Crandall III, 98 Swamp Road.

Pledge of Allegiance: Completed.

Chairman's Comments: Chairman Tomm announced that John Ackerman who resigned as of October 31st 2014 due to poor health passed away on November 29th 2014 and added the Planning Board will miss him dearly. Chairman Tomm then called for a Moment of Silence in John Ackerman's memory.

Amendments to Agenda: Hold off on approving October 15th 2014 Workshop Minutes until the January 3rd 2015 meeting.

Acceptance of Minutes:

Vice Chairman Beaulieu Moves to Approve the September 3rd 2014 Minutes as presented. Chairman Tomm Second. Motion Carried with Mike Fitzpatrick Abstaining.

Anne Torregrossa Moves to Approve the October 1st 2014 Minutes subject to corrections previously discussed on page 2. Mindy Woerter Second. Motion Carried with Mike Fitzpatrick Abstaining.

Anne Torregrossa Moves to Approve the November 5th 2014 Meeting Minutes subject to the corrections previously discussed on page 2 and page 3-I. Mike Fitzpatrick Second. Motion Carried with Chairman Tomm Abstaining.

Continuing Business: None.

**New Business: Conditional Use Permit to create a back lot from Earl P. Crandall III
Map #5 – Lot #68-A – 98 Swamp Road**

Earl Crandall came before the Board and stated he would like to create a five acre second back lot not including a right of way.

He stated he sold the front lot, then sold the cabin with 2.7 acres. He further stated the last split of the parcel was approximately seven or eight years ago. He advised that there is approximately 17 acres remaining and intends to have this land surveyed in order to carve out his new back lot, once the Board approves his proposed plan.

The right of way would need to be extended to the new proposed back lot and contends the remaining portion of the existing 17 acre lot would still be a family owned back lot. He advised that a Kevlar copy was filed a number of years ago which depicted the right of way plans.

The Codes Official stated there are some peculiarities inasmuch as the right of way needs to be perpendicular to the proposed lot. He continued by referencing the Ordinance which states the 300 foot frontage is set only when the permit to build is issued. Because of the current dog-leg shape configuration of the front lot, it will cause the proposed lot to have a little more than the required 300 foot frontage because of the 200 foot perpendicular square-off requirement. There will need to be a deeded right of way into lot number three, which he is proposing to create.

A very lengthy discussion followed. The diagram presented does not show the right of way and he did not present the deed to it. Mr. Crandall contends the Kevlar copy has this information. There are two surveys from Dirigo dated June 17th 2003, each having different information. It was determined the applicant provided an incomplete survey tonight. The applicant will need to include Section 6, B-1, 2, 3 and 4 on the plan subject to Road Construction in Section "C".

The discussion continued. It was noted that the Town may need an attorney to decide if this is just a back lot or a family back lot. See the Back Lot Ordinance ss. 6-B items 1, 2, 3, and 4. The question was raised as to whether the proposed lot would create a subdivision.

The Codes Official stated that language in the deed should contain "you, your heirs and assigns" which are the criteria for being considered a family lot. See Family Owned Back Lots definition - Section A 1-I. The Codes Official stated that only those items listed is what the applicant needs to bring forward for approval. The right of way is only taken into consideration when the building permit is issued and that approval is determined by the Roads Committee. Another lengthy discussion followed.

Chairman Tomm contends that an additional 300 foot right of way needs to be shown on the plan, and that right of way needs to be deeded according to the Ordinance.

The Codes Official stated that the Planning Board can issue a conditional use permit for another back lot, provided it meets all criteria for further permitting for the building of a new dwelling which would be issued by the Codes Official, pursuant to an updated survey.

The Codes Official contends only Section 6 of the Back Lot Ordinance, items A and B, needs to be considered by the Planning Board, which is the proposed right of way and dimensional requirements be provided.

Chairman Tomm stated the Kevlar survey (which may contain additional information) needs to be produced, a copy of the deeded right of way needs to be produced, a signed road agreement needs to be produced. Tonight, there are three signed return receipts for mailed abutter notifications that have not been produced. These items are part of the burden of proof the applicant needs to provide.

Vice Chairman Beaulieu stated that the only additional requirement regarding the right of way is to provide an updated right of way extending to the proposed new back lot.

Chairman Tomm Moves to Table Mr. Crandall's Conditional Use Application pending the Applicant's providing the missing information per the Back Lot Ordinance Section B-1, 2, 3, 4, re-send notifications to the abutters, then place Mr. Crandall's application, providing the missing information is complete, with nine (9) sets of all information nine days be received at the Town Office prior to that meeting, then place again on the agenda. Mike Fitzpatrick Second. Motion Carried.

Other Business: Codes Official Baines advised that there are two other Conditional Use Permit Requests which should be ready for the January 7th 2015 meeting.

Action Items Review: Set Agenda for continuing Ordinance Review

Chairman's Comments:

Chairman Tomm announced the following:

- a. **Next Regular Meeting – Wednesday, January 7th 2015 at 7:00 p.m.**
- b. **Applications Due – Nine (9) Sets due by Monday, December 29th 2014 by 4:30 p.m., at the Town Office**

Adjournment:

Anne Torregrossa Moves to Adjourn at 8:23 p.m. Mike Fitzpatrick Second. Motion Carried.

Respectfully submitted,

Jill S. Toher, Admin/Secretary