



# TOWN OF DURHAM SELECT BOARD

630 Hallowell Road, Durham, Maine 04222

11/28/23 6:30 PM

## MEETING MINUTES

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### 1. Call to Order & Establishment of Quorum, Pledge of Allegiance

In Attendance: Joe Tomm, Chair, Josh Klein-Golden, Heather Roy, Joe Roy and Jerry Douglass (Town Manager).

**Absent:** Rich George, Vice-Chair (excused)

**Guest(s):** Michael Malloy (Auburn Attorney), Paul First (Representing the Board of Appeals) and Terry Free (Applicant)

### 2. Amendments to Agenda: None

### 3. Public Comments: Limited to 3 Minutes Per Person – None

### 4. Reports: Road Commissioner, Fire Chief

#### Road Commissioner (Calvin Beaumier)

- ◆ Working on preparedness on winter operations – all plows and wings have been mounted on the trucks, trucks have been calibrated and the drivers have conducted trial runs.
- ◆ Public Works attended a Roadway Fundamentals class in Saco.
- ◆ Busy working on fall cleanup at town properties and cemeteries.
- ◆ Working with MMA Loss Mitigation Department on property deficiencies and repair issues from their inspection this past summer.
- ◆ Continuing work on the 2024 Budget and met with the CIP Committee to go over the 2024 Capital requests.

#### Fire Chief (Rob Tripp)

- ◆ Ken Scribner retired from Durham Fire with decades of service, including Deputy Chief and Senior Engineer.
- ◆ Durham Fire was awarded a \$20,000 grant from Androscoggin County EMA for the purchase of radios.
- ◆ Chief participated in training at LL Bean's new headquarters with Freeport Fire.
- ◆ Saturday, December 16<sup>th</sup> at 6pm the Durham Fire Honor Guard will post the colors at the Maine Mariners Hockey Game.
- ◆ Three of our members have upgraded their EMS license to an advanced level.

### 5. New Business:

**12 Rabbit Road Set Back Violation** – Michael Malloy (Lawyer from Auburn) representing applicants - Terry and Eileen Free.

- Asking the Select Board to authorize Town staff to issue a no action letter, that the Town does not intend to take any enforcement action against the garage that was

built within a setback requirement (a small corner of the garage that's within six (6) feet of the property boundary and the setback requirement is twenty (20) feet.

- The applicants went before the Board of Appeals seeking a variance last week that was unsuccessful. The Board went through all the factors for a variance; first finding that there were no other violations of town code at this property; no enforcement action is currently pending; the Board found that this setback constitutes a hardship upon the property owners because it prevents them from selling and passing clear title to the property. It is also a hardship on a young couple who want to move to town and purchase this property because they cannot get title insurance for their acquisition loan. The one stumbling block for the Board of Appeals was whether the applicants bore some responsibility because they applied for a Building Permit.
- Paul First (representing the Board of Appeals) stated that the Board of Appeals recommended that the Select Board consider the request of a no action letter.

**Joe Roy motions** to have the Board discuss the consideration of recommending the request. **Heather Roy seconds.** The Board is concerned about setting a precedent. It is in our ordinance and in the Board's ability to grant no action letters on occasion such as this, where it is needed. A fine is certainly an appropriate action that the Board should consider in regard to ensuring the precedent is addressed. The fine would not exceed \$5000.

**Joe Roy motions** to accept the recommendation of a no action letter with the condition that the use of the garage cannot change from its current use and to assess a fine for the current violation. **Joe Roy withdraws his motion** so the Board can discuss the amount of the fine. The Board discussed a fine of \$2000, finding this amount to be both reasonable and deterrent to future citizens.

**Josh Klein-Golden motions** to accept the recommendation of a no action letter subject to the condition that the town reserves the right to take action should the nature of the use of the building change from what it currently is today and in addition a \$2000 fine be levied and the issuance of the letter of no action be submitted after the fine is paid in full. **Heather Roy seconds** for discussion. **Heather Roy motioned to amend** that the word expansion be added - that the town reserves the right to take action should the nature of the use or expansion of the building change from what it is today.

**Josh Klein-Golden motions** to accept the recommendation of a no action letter subject to the condition that the town reserves the right to take action should the nature of the use or expansion of the building change from what it currently is today and in addition a \$2000 fine be levied and the issuance of the letter of no action be submitted after the fine is paid in full. **Heather Roy seconds.** Motion carries 4 – 0.

The applicant paid the fine before leaving the meeting and the Town Manager will draft the no action letter and the Select Board members will sign and submit the letter.

## 6. Manager's Report:

- ◆ Solid Waste Contract is ready to go and will be mailed out this week, and bids will be due on Thursday, December 21<sup>st</sup> at 3pm. The Town Website and MMA Website will post the RFP's.

## 7. Consent Agenda:

- ◆ Approve SB Meeting Minutes from October 10<sup>th</sup> & 24<sup>th</sup> and November 14<sup>th</sup>, 2023.
- ◆ Approve and Sign November 17<sup>th</sup> and 28<sup>th</sup>, 2023 Payroll and AP Warrant

**Joe Tomm moves** to accept the consent agenda and the meeting minutes as presented, **Joe Roy seconds.** Motion carries 4 – 0.

## **8. Board Member Reports:**

Jerry Douglass (Town Manager) – an opportunity for the Board members to report on anything that they are hearing from their constituents that is outside of what is discussed on the agenda.

Josh Klein-Golden – Androscoggin County has decided to dedicate a patrol on Route 4 – Turner, Livermore Falls area. Would like the Sheriff’s Office to commit to more patrolling for the Town of Durham roads.

## **9. Upcoming Meeting(s) and Town News:**

- ◆ **CIP Committee Meeting 11-30-23, Town Hall @ 6pm**
- ◆ **Planning Board Meeting 12-06-23, Town Hall @ 6:30pm**
- ◆ **Select Board Meeting 12-12-23 & 12-26-23, Town Hall @ 6:30pm**

## **10. Adjourn**

**Joe Roy motions** to adjourn the meeting, **Heather Roy seconds**. Motion carries 4 – 0. Meeting adjourned at 7:46pm.