



Town Of Durham

Planning Board Minutes

Town Offices, 6:30 pm
September 6, 2023

1. Roll Call & Determination of a Quorum

In attendance: John Talbot (Chair), Juliet Caplinger (Vice Chair), Allan Purinton, Tyler Hutchison, Brian Lanoie, and George Theborge (Town Planner).

Absent: Anne Torregrossa (Alternate).

Guest(s): Kenneth and Gwenn Huot (Applicant: Durham Leisure Campground) and Richard Meek, Civil Engineer for TERRADYN CONSULTANTS, LLC (Ruby Farmview)

2. Amendments to the Agenda: None

3. Acceptance of the Minutes of prior meeting (August 2, 2023)

Alan Purinton moved to accept the August 2nd, 2023 meeting minutes, Tyler Hutchison seconded, and the motion carried with 4 votes and 1 abstention (Juliet Caplinger).

4. Informational Exchange on Non-Agenda Items:

a.) **Town Officials – None**

b.) **Residents -** Rebekah Polster (525 Meadow Road) – Questions about possible subdivisions near Swamp Road and wanted to know how many new building permits are allowed per year.

c.) **Non-residents – None**

5. Old Business

a.) **Public hearing on Conditional Use Application for Expansion of the Leisure Campground for 112 RV sites, Map 2, Lot 13 (Public comment will be taken)**

Town Planner Comments:

- The Planning Board bylaws provide that the Chairman is to describe the purpose of the public hearing and the procedures to be followed.
- Per those bylaws, the Board may receive oral or documentary evidence but shall exclude irrelevant, or unduly repetitious evidence. The Chairman shall make a determination of the relevance of any evidence or testimony and that determination can be challenged by a motion of any Board member subject to a majority vote of the Board members.
- Every party shall have the right to present its case in the order determined by the Chairman and without interruption.

- The Chairman may impose such reasonable time limits as may be necessary to ensure that all parties have an adequate opportunity to be heard.
- Every party shall have the right to submit rebuttal evidence and to conduct cross examination of any other party through the Chair, provided however, that the Chairman may impose such other reasonable limitations as may be necessary to prevent an abuse of process.
- An aggrieved party is defined as any person who can demonstrate that he or she will suffer a particularized injury by issuance or non-issuance of the license/permit approval in question. A particularized injury is one that directly operates against a party's property, pecuniary or personal rights. An injury suffered by all of the citizens of the Town in an equal and proportionate manner is not a particularized injury (Section 19.7 Durham Land Use Ordinance).
- Comments and questions should be focused on helping the Planning Board determine whether the application meets the adopted conditional use criteria as opposed to debating Town growth management policies which are set at Town Meeting and must be followed by the Planning Board.
- The application and staff comments were made available on the Town website and the purpose of the public hearing is to receive public input on the application and not to have an explanation of the process and Ordinance requirements.
- These procedures and limitations on public input are required to ensure that the applicant and affected parties are given due process and the legal deadlines for a Planning Board decision on the application can be met.

The Vice Chair, Juliet Caplinger, recused herself from the Board review panel, because she is an abutter to the property of the Durham Leisure Campground.

Applicant (Petitioner): Kenneth and Gwenn Huot, 24 Leisure Lane, Durham, ME 04222

- The applicants would like to expand their thirty-six (36) sites, by adding another forty (40) sites for a total of 76 sites. (Note: Site 35 is not used/total actual sites is 77)
- They are proposing to have 4,000 square feet per campsite.
- They are currently having issues with large camping units (40 feet or larger) wanting to camp there, as well as tiny homes.
- They would like to extend the current 12 week stay period.
- They would like to accommodate more seasonal campers rather than transit campers.
- Currently they do not have tent sites, and nine (9) campsites are grandfathered for year-round stay, they would like to add an additional 21 sites for year-round.
- They would like to have sites available from early April to late October (weather permitting), instead of the 12-week period (May 15th through September 15th).

The Board opened the Public Hearing at 6:54 pm.

Fran Kelley (11 Leisure Lane) – abutter to the property, only concern is the possible increase of traffic and pulling large camper units onto Route 136. The campground is very quiet and a good neighbor

Public Hearing is closed at 6:58 pm.

b.) Substantive Review of Conditional Use Application for Expansion of the Leisure Campground for 112 RV sites, Map 2, Lot 13 (Public comment will be taken).

Town Planner Comments:

- The Planning Board conducted a site walk for the Leisure Campground application on August 16 from 5:30 to 6:30 p.m. John Talbot, Brian Lanoie, and Tyler Hutchison attended. A photographic record of the site features observed by Board members during the site visit was included in the packet.
- On August 2 the Planning Board reviewed the application and had numerous questions about the existing use and proposed expansion. The packet contained copies of the Planning Board and Board of Appeals past decisions and approval conditions.
- In April of 1986, the Planning Board approved a conditional use permit for 110 campground sites with a maximum of 40 to be installed in the first year and with an 11 pm curfew.
- In June of 1986, the Board of Appeals denied an appeal filed by neighbors of the project to overturn the Planning Board decision.
- In March of 1987, the Planning Board and prior owner affirmed agreement to a campground discontinuance provision (one year) and requirement for Planning Board approval of any transfer of campground ownership.
- In October of 2016, the current applicant applied for and received Planning Board conditional use approval to expand from 9 sites to 34 sites with a finding that the campground was required to comply with the seasonal time limits of the Ordinance which were applied as an approval condition along with all other campground requirements contained therein.
- In November of 2016, the Board of appeals denied a variance request to reduce the required 100-foot property line setback for campsites. In that variance request, the current applicant requested relief from the time limits of the Ordinance, which the Board also denied. The record indicates that when the current applicant acquired the property, there were 9 licensed sites.
- In April of 2017, the applicant obtained ownership of a Town-owned property and received Planning Board conditional use approval to add 2 more campsites. That approval again reiterated the seasonal time of occupancy limits of the Ordinance being applicable to the campground as an approval condition.
- On August 15, the applicant submitted a revised “Existing Conditions Plan” showing a fall zone around the cell tower. The updated plan also indicates that the applicant is now requesting approval of 40 new campsites or a total of 76. The revised plan does not differentiate between existing or proposed seasonal and year-round campsites.
- On August 28, the applicant provided the following additional submissions:
 - Updated corporate filing report (2022);
 - Campground addressing and site numbering diagram;
 - HHE-606 State of Maine Health Inspection Program License Application for Campground & Event Camping; and,
 - Color-coded diagram showing the proposed year-round and seasonal campsites and utility lines.

- On September 6, the Board received a certification letter from a company that conducted a review of the tower and stated that it meets all required codes and provided an inspection record.
- On September 6, the Board received a letter from MDOT confirming that they do not have a permit for that site, they consider it to be grandfathered and they don't believe that the proposed expansion of the campground raises any issues for the MDOT.
- On September 6, the chairman of the Board received an email from the Fire Chief stating that if the applicants provide a water storage tank with a 2000-gallon capacity with hook ups for the Fire Department that would satisfy his concern for fire safety.

Section 7.4 CONDITIONAL USE REVIEW CRITERIA

A. Review Criteria: Before it issues a conditional use permit, the Planning Board shall find, as a matter of fact, that the proposed use meets the following criteria:

- 1. Public Health Impacts:** The proposed use will not create unsanitary or unhealthful conditions by reason of sewage disposal, emissions to the air or water, or other aspects of its design or operation.

Motion made by Allan Purinton: The applicant has satisfied a reasonable burden of proof of compliance with the criterion for public health impacts.

Motion seconded by Tyler Hutchison.

- The applicant submitted an HHE 606 State of Maine Health Inspection Program License Application for Campground & Event Camping for "41 or more RV sites in an existing RV park."

Allan Purinton amended his motion: Under (item i) the HHE 606 application must be approved by the State prior to any additional work. Motion seconded by Brian Lanoie: 4 Votes to deny: 0

- 2. Traffic Safety Impacts:** The proposed use will not create unsafe vehicular or pedestrian traffic conditions when added to existing and foreseeable traffic in its vicinity.

The Board discussed possible signage to help indicate that a campground is present and help to keep the speed down on the main road.

Motion made by Allan Purinton: The applicant has satisfied a reasonable burden of proof of compliance with the criterion for traffic safety impacts.

Motion seconded by Tyler Hutchison: Votes to approve: 4 Votes to deny: 0

- 3. Public Safety Impacts:** The proposed use will not create public safety problems which would be substantially different from those created by existing uses in the neighborhood or require a substantially greater degree of municipal services than existing uses in the neighborhood.

Motion made by Allan Purinton: The applicant has satisfied a reasonable burden of proof of compliance with the criterion for public safety impacts.

Motion seconded by Tyler Hutchison: Votes to approve: 4 Votes to deny: 0

4. **Environmental Impacts:** The proposed use will not result in sedimentation or erosion or have an adverse effect on water supplies.

Motion made by John Talbot: The applicant has satisfied a reasonable burden of proof of compliance with the criterion for environmental impacts.

Motion seconded by Brian Lanoie: Votes to approve: 4 Votes to deny: 0

5. **Scale & Intensity of Use:** The proposed use will be compatible with existing uses in the neighborhood, with respect to physical size, visual impact, intensity of use, and proximity to other structures.

The Board made amendments to the draft findings for item d.) change 400 feet to 100 feet. Add item f.) In addition to the Google Maps, the Board has also reviewed the applicant's plans.

Motion made by Tyler Hutchison: The applicant has satisfied a reasonable burden of proof of compliance with the criterion for scale and intensity of use.

Motion seconded by Brian Lanoie: Votes to approve: 4 Votes to deny: 0

6. **Noise & Hours of Operation:** The proposed use will be compatible with existing uses in the neighborhood, with respect to the generation of noise and hours of operation.

Motion made by Allan Purinton: The applicant has satisfied a reasonable burden of proof of the compliance with the criterion for noise and hours of operation.

Motion seconded by Tyler Hutchison: Votes to approve: 4 Votes to deny: 0

The applicant has stated that they live on the property and manage the noise control.

7. **Right, Title, or Interest:** The applicant has sufficient right, title or interest in the site of the proposed use to be able to carry out the proposed use.

Motion made by John Talbot: The applicant has satisfied a reasonable burden of proof of compliance with the criterion for right, title, or interest.

Motion seconded by Allan Purinton: Votes to approve: 4 Votes to deny: 0

8. **Financial & Technical Ability:** The applicant has the financial and technical ability to meet the standards of this Section and to comply with any conditions imposed by the Planning Board pursuant to subsection 7.5.

Motion made by Brian Lanoie: The applicant has satisfied a reasonable burden of proof of compliance with the criterion for financial & technical ability.

The Board noted that there was a discrepancy of \$25,000 between the applicant's resources and project costs in the original estimate, but due to the change in number of sites from 112 sites to 40 new sites that isn't an issue.

Motion seconded by Tyler Hutchison: Votes to approve: 4 Votes to deny: 0

Section 7.5 CONDITIONS OF APPROVAL

A. Planning Board Approval Conditions: Upon consideration of the criteria listed in subsection 7.4, the Planning Board may by majority vote attach such conditions, in addition to those required by other provisions of this Ordinance, as it finds necessary to ensure compliance with those criteria and all other applicable requirements of this Ordinance. Violation of any of those conditions shall be a violation of this Ordinance.

1. No construction to commence until the applicant has applied for and received Planning Board site plan approval for the project infrastructure.
2. The project shall comply with all DHHS requirements for wastewater disposal, public water systems, and campgrounds.
3. The project must comply with all the requirements of Section 5.8 A. through I. for campgrounds, except for the following:
4. Sites 1 through 37 (site 35 is missing) are approved for year-round RV and Park Model RV use and the cabin at 33 Leisure Lane is approved for year-round use.
5. Sites 38 through 77 are approved for seasonal use from April 1 through October 31.
6. Pool hours are 9:00 to dusk.
7. Quiet time is 10:00 pm to 7:00 am.

Motion made by Tyler Hutchison: To apply the following conditions of approval to the permit for conditional use.

Motion seconded by Allan Purinton:

8. Motion to amend made by Tyler Hutchison:

Item #4: Sites 1 through 21 and Sites 28 through 37 are approved for year-round RV and Park Model RV use and the cabin at 33 Leisure Lane is approved for year-round use.

Item #5: Sites 22 through 27 and Sites 38 through 77 are approved for seasonal use from April 1 through October 31.

Add Item #8 Seasonal sites will have a limit of a 7-month stay and year-round sites will have a limit of a 12-month stay.

Motion seconded by Allan Purinton: Votes to approve: 4 Votes to deny: 0

6. Other Business:

a. Subdivision Sketch Plan Review for 4 Additional Lots, Ruby Farmview Subdivision, Map 5, Lot 78B (Public comment will not be taken)

Mr. Talbot stated to the Board and applicant that he is a customer of Copp Excavation and he has no prejudice towards the applicant's proposed project. He is asking the applicant and the Board if they are comfortable with him remaining on the Board for this plan review. The applicant has no issues with Mr. Talbot remaining on the Board for this review.

Motion made by Allan Purinton: To allow John Talbot to continue with the process for Ruby Farmview Subdivision amendment review.

Motion seconded by Juliet Caplinger: Votes to approve: 4 Votes to deny: 0

Applicant: Richard Meek, Civil Engineer for TERRADYN CONSULTANTS, LLC, on behalf of Michael Copp, developer/landowner of subdivision.

- Proposing to construct about 700 feet of road, intersecting with the existing Ruby Lane.
- Proposing to create four new lots, each consisting of 90,000 square feet of area that includes 300 linear feet of frontage and a minimum of 40,000 square feet of contiguous buildable area.
- A wetland delineation was conducted in the spring.

Town Planner comments:

- The applicant is seeking sketch plan review of a four-lot expansion of the existing subdivision.
- Sketch plan review is an opportunity for the applicant and Board to informally discuss pursuit of a subdivision development plan on the subject property.
- General information related to the property in question is provided to have an informed discussion.
- The main purpose is to ensure that the applicant and Board are "on the same page" in terms of ordinance requirements and the subdivision review process.
- The meeting also provides opportunities to flag key issues that will come up during a future application process.
- Sketch plan review is also an opportunity to explore any intention of the applicant to request any waivers of procedures, submissions, or performance standards and general reasons for doing so.
- No notice to abutting property owners is required at this informal stage of the subdivision review process.

- No decisions, whether express or implied can be made at this stage of the review process.
- The Ruby Farmview Subdivision was approved on December 5, 2018 and was amended in May of 2021.
- Under Title 38, § 482, if the applicant creates 15 or more lots in any 5-year period, a site location permit from the Maine DEP will be required.
- If the applicant pursues development of the four new lots before December 5 of 2023, they will need a site location permit.
- The applicant should be aware of new procedural forms and administrative provisions being used by the Planning Board and staff.

The Board scheduled a site walk for Wednesday, September 20th at Ruby Farmview on Ruby Lane from 5 to 6 pm.

7. Adjourn

Allan Purinton motioned to adjourn the meeting. Juliet Caplinger seconded, motion carried 5 – 0. Meeting adjourned at 9:02 pm.