



**TOWN OF DURHAM**  
8 NEWMARKET RD  
DURHAM, NH 03824-2898  
603/868-8064  
[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

***Town Planner's Recommendation***  
**Wednesday, February 25, 2015**

X. **257 Newmarket Road – Two New 3-Unit Buildings**. Site plan for construction of two multi-dwelling buildings with three two-bedroom units each. The site contains an existing student housing building. Christopher Meyer and Edward Marquardt, Seacoast OPM of Durham, owner; Matt Silva, coordinator; Dennis Quintal, engineer; Roscoe Blaisdell, surveyor; Nick Isaak, architect. Tax Map 18, Lot 3-2. Rural Zoning District.

➤ I recommend approval as stated below

Please note the following:

- I have signoffs from the Police Chief and the Town Engineer. I have not received comments/signoffs from the Deputy Fire Chief nor Building Official. If I receive any comments I will forward them via email (If I do not receive signoffs from any particular department, then I conclude that the plans are acceptable).
- The abutter to the south requested moving the leach field. The surveyor, Roscoe Blaisdell said, “The septic location by far exceeds NHDES lot line setback requirements. Because of ledge in other areas this is the most practical location.” The Town Engineer concurs.
- Does the board wish to establish more elaborate blasting protocols than as specified by the Fire Department? It is likely that blasting will occur with the ledge outcroppings.

**\*Draft\***

**NOTICE OF DECISION**

**Project Name:** 257 Newmarket Road  
**Project Description:** Site Plan for two new multi-dwelling buildings  
**Applicant:** Chris Meyer and Edward Marquardt  
**Property Owner:** Chris Meyer and Edward Marquardt  
**Engineer:** Dennis Quintal  
**Surveyor:** Roscoe Blaisdell  
**Map and Lot:** Map 18, Lot 3-2  
**Zoning:** Rural  
**Date of approval:** February 25, 2015

## **PRECEDENT CONDITIONS**

[Office use only. Date certified: \_\_\_\_\_; CO signed off \_\_\_\_\_;  
As-built's received? \_\_\_\_\_; All surety returned: \_\_\_\_\_]

All of the precedent conditions below must be met by the applicant, at the expense of the applicant, prior to the plans being certified by the Town Planner. Certification of the plans is required prior to issuance of a building permit or performing any significant site work. Once these precedent conditions are met and the plans are certified the approval is considered final. Note that no precedent conditions involve actual construction (except where otherwise specified). All work shall be completed prior to issuance of a certificate of occupancy unless otherwise specified or a surety acceptable to the Town is posted. "Applicant," herein refers to the applicant and his/her/their/its agents, successors and assigns.

Please note. If all of the precedent conditions are not met within 6 calendar months to the day of the board's approval - by August 25, 2015 (or as extended) - the Planning Board's approval will be considered to have lapsed. Extension(s) may be granted by the Planning Board for reasonable cause. **It is the sole responsibility of the applicant (or his/her agent) to ensure that the precedent conditions are met by this deadline.** See RSA 674:39 on vesting. **No changes to the plans that were reviewed and approved by the Planning Board on February 25, 2015(stamped January 29, 2015) may be made except for the specific required changes that follow.**

### **Plan modifications**

Plan modifications. Make the following modifications to the plans/plan set that were reviewed and approved by the Planning Board (Items do not need to be physically constructed as a precedent condition):

- 1) Bicycle Racks. Provide details of type of racks with number of slots to be installed.
- 2) Landscaping buffer. Expand the arborvitae (consistent with arrangement as now shown) along the southerly boundary another 110 feet or so to the southeasterly corner to provide a full buffer to the residential abutter to the south. (One of the houses to the south is located close to this corner.)

*[The variance stated: "Visual buffering between the applicant and the abutter must be agreed upon by both the applicant and the abutter. If no agreement can be reached, the Planning Board will define the buffering."]*

- 3) Irrigation. Show information for how new plants will be irrigated.
- 4) Recycling. The applicant shall coordinate with Public Works to clarify the type of recycling structure to be installed next to the dumpster.
- 5) Transformer. Show where any transformers and utility structures will be located, Include appropriate landscaping and/or fencing in front of and on the sides of the electrical transformer to screen them.
- 6) Dumpster. Show more precisely how the dumpster pad will be situated on the site. It is placed at an odd angle behind grass on the site plan. Specify the material and color for the 8 foot fencing.

- 7) Permeable pavers. Provide a detail for how the pavers will be installed.
- 8) Lighting. A separate special shield shall be installed at the back of the pole light fixtures to provide additional screening of the light source from the residential abutter to the south, extending down behind the light at least 1 foot. The plans show a boundary for lighting around the lights with a 0.5 foot candle. This is low level and appropriate, but it should be confirmed by the lighting supplier/contractor. The 2009 variance approval states, *“The ZBA directs the Planning Board to pay particular attention to directional lighting to minimize light pollution on the abutter.”*  
  
*[I recommend a special shield be retrofitted to these lights due to the proximity of a residential abutter. The lighting sheets provide for an optional shield but this does not seem adequate.]*
- 9) Lights. Provide cut sheets for the wall mounted lights. The light elements shall be shielded.
- 10) ADA markings. Show all ADA markings and signage, including ramps, striping, truncated domes, etc. (check with the Code Enforcement Department with any questions)
- 11) Fire Requirements. Modify site plans as specified by the Fire Department for access, hydrants, etc.
- 12) Approval block. Change the approval block on each page of drawings to read: “Final Approval by Durham Planning Board. Certified by Michael Behrendt, Town Planner  
\_\_\_\_\_ Date \_\_\_\_\_”

**Notes on plans**

Notes on plans. Add the following notes on the plans/plan set

- 1) Inspections. “All inspection/observation services for the installation of water, wastewater, stormwater management, porous pavement, and other infrastructure shall be performed by authorized representatives of the Town of Durham as stipulated by the Durham Department of Public Works. The Developer shall reimburse the Town for all associated inspection/observation costs.”
- 2) Road maintenance. “The use of sodium-chloride-based materials/salt for winter road maintenance shall be the minimum necessary for roadway safety.”
- 3) Underground utilities. “All new utility piping and wiring shall be located underground.”
- 4) Natural features. “Preservation of Natural Features. Grading and clearing shall be minimized in order to avoid undue erosion or interruption of natural drainage ways. Particular attention shall be given to natural features suitable as buffer strips. The applicant shall use construction methods which cause the least possible disturbance to the environment. Clearing limits shall be established in the field and approved by the Tree Warden prior to commencement of clearing.”

- 5) Debris. “No cut trees, stumps, debris, junk, rubbish, or other waste materials shall be buried in the land, or left or deposited on site at the time the certificate of occupancy is issued, or at any time after that.”
- 6) Fertilizer. “Low phosphorus/slow release nitrogen fertilizers for landscaping materials shall be used.”
- 7) Fire access. “Access into the site for fire apparatus shall be maintained at all times during the construction process. Please contact the Fire Department at 868-5531 with any questions about access requirements”.
- 8) Building Code. “This approval is for the site plan only. Life safety code and building code review will be required as part of the building permit process when the construction plans are submitted. Various requirements regarding the building design may be specified at that time. The applicant is strongly encouraged to meet with Building and Fire Officials early to expedite the review process.”
- 9) Buffer. “The existing vegetative buffer along the southerly side of the site shall be preserved in perpetuity to buffer the residential abutter to the south. Dead, diseased, and invasive vegetation may be removed as reasonably needed.
- 10) Construction hours. “All outside construction activity related to the development of this site is restricted to the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday and 9:00 a.m. to 6:00 p.m. Saturday”.
- 11) Additional information. “For more information about this site plan, or to see the complete plan set, contact the Town of Durham Planning Department, 15 Newmarket Road, Durham, NH 03824. (603) 868-8064.”
- 12) Dwelling units/beds. “No additional dwelling units or beds may be established on this parcel without specific new approval from the Planning Board. This specification is made pursuant to the Planning Board’s detailed review of the project and a determination that the number of units/beds approved is the maximum appropriate for the parcel”.
- 13) Signage. “The Building Official administers the Town of Durham Sign Ordinance. A sign permit must be obtained prior to installation of any signs on site”.
- 14) Notice of decision. “It is the applicant’s, site contractor’s, and building contractor’s responsibility to follow all requirements related to this site plan approval. Please review these plans and the Planning Board Notice of Decision carefully. Contact the Durham Planning Department at (603) 868-8064 with any questions or concerns.”
- 15) SWPPP. "This project will disturb over one acre of ground cover or meets other thresholds related to permit criteria for EPA National Pollutant Discharge Elimination System (NPDES) compliance. The site contractor is responsible for development and implementation of a Storm Water Pollution Prevention Plan (SWPPP), submission of a Notice of Intent (NOI) to EPA, inspection and maintenance of sediment control measures, documentation of maintenance activities, and submission a Notice of Termination (NOT) to EPA. The site contractor is also responsible to comply with all other Federal, State and Local stormwater or NPDES requirements."

- 16) Erosion and sedimentation. “All erosion and sedimentation control structures shall remain in place and be maintained until vegetation is established and the ground surface is stabilized. Erosion and sedimentation control measures shall be monitored by the applicant on a periodic basis during construction and any deficiencies shall be corrected as soon as possible.”
- 17) “The provision for maintenance of landscaping materials as specified in Section 175-124 – Maintenance Requirements of the Article XXII – Landscaping in the Durham Zoning Ordinance, shall apply.”
- 18) Blasting. “Blasting and on-site chipping (of stone) is restricted to the hours of 9:00 a.m. to 5:00 p.m. Monday through Friday. The applicant shall follow the protocols of the Durham Fire Department and notify all residential abutters when blasting will occur.
- 19) Construction Management. “The applicant/contractor shall hold weekly meetings with the Town Engineer and other appropriate Town departments to discuss the construction process and the schedule for the upcoming week.”
- 20) Fire Inspections. “The Town of Durham Fire Code Official, or designee, shall perform on-site inspections during fire code and life-safety matters. The applicant shall pay the costs of any supplemental staff hired by the Town to assist the Fire Department in its inspection of this project.”
- 21) Tree protection. “Best management practices shall be followed for the protection of existing trees and vegetation that are planned to be preserved. Also, the provisions of Section 175-123 – Protection During Construction under Article XXII - Landscaping of the Durham Zoning Ordinance shall be followed.”

**Other precedent conditions**

- 1) Energy Checklist. Meet with a representative of the Energy Committee and the Building Official and specify any changes that will be made to the plans or buildings. The applicant is not required to make any specific changes except where otherwise required by law.
- 2) Other permits. All required state and federal permits – including subsurface/septic, as appropriate - shall be obtained with copies of permits delivered to the Planning Department.
- 3) Number of residents. Per the 2009 variance, the applicant shall confirm with the Building Official each semester the number of residents in the new buildings.
- 4) Addressing. Develop a numbering system for the buildings to be approved by the Fire and Police Departments.
- 5) Public Works Inspection fees. The applicant shall sign the Agreement for Payment of Inspection Fees and make a cash deposit to cover the expected costs of inspections, in an amount that is determined by the Public Works Department. The inspections will be conducted by the Durham Public Works Department or its designee. The applicant must pay for inspections - at an hourly rate as determined by the Public Works Department - of the site, including all new infrastructure serving the site.)

- 6) NHDOT Driveway permit. Obtain a driveway permit from the New Hampshire Department of Transportation. Any significant changes to the plans as approved by the Planning Board shall be submitted to the Planning Board for review. In the event of such review, no notices or public hearing shall be required (unless otherwise stipulated by the Planning Board).
  
- 7) Construction Guarantee. The applicant shall post an acceptable surety to be approved by the Town Engineer (and the Town Business Manager for form and type). The surety shall be in an amount sufficient to ensure the completion of all roads, water service, sewage disposal, drainage, erosion control, and other infrastructure/improvements, and shall be effective until work is completed by the applicant. The surety may be released in phases as portions of the secured improvements are finalized. A cash deposit or letter of credit is an acceptable form.
  
- 8) Contact Information. The applicant shall provide primary and secondary contact information to the Police Department, for 24-hour contact if needed.
  
- 9) Architectural plans. Submit two final sets of 11x17 paper copies in color of the approved architectural elevations in color [one for the Building Official].
  
- 10) Final drawings. The following complete sets of final approved drawings shall be submitted for signature (except the electronic version) by the Town Planner: a) one large set of mylars; b) one large set of black line drawings; c) one set of 11"x17" drawings; plus d) one electronic version by pdf or CD. Each individual sheet in every set of drawings must be stamped and signed by the land surveyor, engineer, or architect responsible for the plans. *Please note.* If there are significant changes to be made to the plans, as specified above, one full size paper check print must be sent to the Planning Department for review prior to producing these final drawings.
  
- 11) Signature. Signature by the applicant below acknowledging that all terms and conditions of this approval herein are acceptable.

\_\_\_\_\_  
Christopher Meyer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Seacoast OPM Realty, LLC

\_\_\_\_\_  
Date

\_\_\_\_\_  
Peter Wolfe, Planning Board Chair or designee

\_\_\_\_\_  
Date

**SUBSEQUENT AND GENERAL TERMS AND CONDITIONS**

All of the conditions below are also attached to this approval.

**Conditions to be met prior to commencing any site work**

- 1) Site work. No significant site work or ground disturbance may be undertaken until:
  - a) all of the precedent conditions are met;
  - b) the preconstruction meeting with Town staff has taken place (See below);
  - c) limits of clearing have been established in the field and approved by the Public Works Department; and
  - d) all appropriate erosion and sedimentation control structures are in place.
  - e) These erosion and sedimentation control measures and designation of the limits of clearing must be in place prior to the pre-construction meeting in order that they may be inspected at the meeting.
- 2) Preconstruction meeting. Contact Michael Behrendt, the Town Planner, at (603) 868-8064 to arrange for the preconstruction meeting.

**Conditions to be met prior to issuance of any certificate of occupancy**

- 1) Tenant leases. Draft tenant leases shall be submitted to the Town Planner. See waste material, inspection of units, and parking permits, below.
- 2) Waste material. The tenant leases shall reference the Durham Town Code Section 118:11 for Offensive Material (Waste Material).
- 3) Inspection of units. The tenant leases shall include notice that Durham Town Officials may randomly inspect any residential units annually. Five percent of the units, or as determined by the Town, shall be inspected annually. Inspections shall be randomly selected by the Durham Building Official/Health Officer (DHO) and may be scheduled with minimum notice as stated in the lease.
- 4) Parking permits. The applicant shall not sell or otherwise provide parking permits to non-tenants other than employees or courtesy officers. The tenant leases shall also stipulate that tenants may not sell or convey their parking permits.
- 5) As-built drawings. One set of full size, one set of 11" x 17", and one electronic copy of as-built ("record") drawings of all buildings, structures, infrastructure, utilities, drainage structures, roads, parking areas, and other pertinent elements shall be provided prior to the certificate of occupancy (unless a surety to cover the cost of the as-built drawings is given). The plans shall be stamped and signed by the Engineer or Surveyor and include the following language or comparable: "This as-built drawing substantially conforms with the final plans approved by the Town of Durham Planning Board and certified by the Planning Department except for the following significant modifications: ....". If no significant modifications were made simply state "none". Otherwise, itemize the modifications on the as-built or on an accompanying letter.
- 6) Improvements. All on-site and off-site improvements included in this approval shall be completed prior to issuance of a certificate of occupancy unless an acceptable surety is posted.

- 7) Fees. All outstanding fees shall be paid.
- 8) Other applicable requirements. All other applicable requirements of this site plan, this Notice of Decision, and other terms and conditions must be satisfied prior to issuance of a certificate of occupancy.
- 9) Maintenance Guarantee. The applicant shall post an acceptable surety to be approved by the Town Engineer (and the Town Business Manager for form and type) to guarantee that all site work is installed in a correct and workmanlike manner. The surety shall be in an amount of two percent of the estimated site improvement costs and shall remain in effect for two years after site improvements are completed. If repairs are subsequently needed and are not satisfactorily installed by the developer, then the surety may be used to complete/install the improvements. A cash deposit or letter of credit is an acceptable form.
- 10) Landscaping Guarantee. The applicant shall post an acceptable surety to be approved by the Tree Warden/Director of Public Works (and the Town Business Manager for form and type) to guarantee the success of the landscaping materials. The guarantee shall be for a period of two years commencing from the time the certificate of occupancy is issued or installation of the landscaping materials, whichever occurs later. If replacements of any materials are subsequently needed, as reasonably determined by the Tree Warden/Director of Public Works, within this two-year period then the applicant shall promptly replace those materials (subject to weather constraints). If the applicant does not replace those materials within a reasonable period as determined by the Tree Warden/Director of Public Works then the Town may use the guarantee to pay for and install the materials. This guarantee and/or the other guarantees specified above may be combined at the discretion of the Business Manager. A cash deposit or letter of credit is an acceptable form.

**Other terms and conditions**

- 1) Recording. This notice of decision must be recorded at the Registry of Deeds within 14 days of certification of the plans.
- 2) Energy Code. Building construction shall be in compliance with the energy efficient standards of Chapter 38 of the Town of Durham Code of Ordinances.
- 3) Security Recommendations. The Durham Police chief recommends (but none of this is required) that the applicant install video monitoring in any interior common stairwells or hallways or exterior walkways for theft prevention and resident safety and to enhance the police department's ability to resolve criminal acts. It is also recommended that hardware include window locks, dead bolts for doors, interior door hinges and well lit interior corridors, and that all common building entrances have locks that automatically catch when the door closes.
- 4) Landscaping and security. The Police Chief requests that landscaping be maintained/trimmed so that intruders are easily observable by maximizing visibility of people at all building entrances, and eliminating darkened areas.
- 5) Radio coverage. The requirements of the Durham Public Safety Amplification ordinance, Section 68-4 F., regarding installation of a radio repeater system for



emergency service, shall be satisfied. Coordinate with the Fire Department during the building application process to determine if this ordinance applies.

- 6) Waste management. The waste management plan shall include single-stream recycling. The property owner's waste management hauler's name, account number, and phone number shall be provided to the Durham Building Official/Health Officer (DHO) so that the DHO can call and order an emergency pick up if necessary. The DHO is authorized to request this service at the applicant's expense should it be deemed necessary. The DHO is authorized to contact the waste management hauler only after first contacting the property owner and allowing the property owner to order a pick up.
- 7) Sprinklers. All buildings within the development shall have sprinkler systems if so determined by the Durham Fire Department.
- 8) Minor changes. Minor modifications to the approved plans may be approved by the Town Planner, pursuant to the Planning Board's Rules of Procedure. More significant modifications and amendments shall be brought to the Planning Board for review and approval.
- 9) Weekend clean ups. The applicant is strongly encouraged (in accordance with Chapter 118 of the Durham Town Code) to inspect and to clean up the site, as needed, on Friday, Saturday, and Sunday mornings.
- 10) Execution. The project must be built and executed exactly as specified in the approved application package unless changes are approved by the Town as provided in this document (See Minor Changes provision herein).
- 11) Approval. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall be determining.
- 12) Violations. In the event of any violations of these conditions of approval or of any pertinent local, state, or federal laws – such as those regarding erosion and sedimentation control, wetlands, stormwater management, construction, and general site development standards – the Town reserves the right to take any appropriate permissible action, including, but not limited to, assessing a fine from the construction compliance deposit, withholding building permits, withholding certificates of occupancy, withholding driveway permits, revocations of permits/approvals, referring violations to other agencies, and calling of sureties.
- 13) Variance – multiunit dwellings. A variance was granted on November 10, 2009 to allow two new buildings (per this plan) with 3-units each, for a total of six new dwelling units. All will be 2-bedroom (or less) units.
- 14) Variance - number of students. The 2009 variance limits the number of students in the existing building to 15 and to 12 in each new building.

- 15) School Impact Fee Waiver. This approval includes a waiver from the school impact fees (Ordinance 75-9 B) as specified immediately below. This/these waiver(s) was/were granted upon a finding that specific circumstances relative to the site plan or the conditions of the land in the site plan indicate that the waiver will properly carry out the spirit and intent of these regulations. However, the appropriate fee(s) shall be paid for any grade school students who live at the site for whom the Town must provide educational services.

Findings of fact. As part of this review and approval the Durham Planning Board finds the following: **A)** The applicant submitted an application, supporting documents, and plans for the project; **B)** The Planning Board accepted the application as complete; **C)** The Planning Board held one or more continuous public hearing(s) on the application; **D)** The applicant revised and updated the plans and other documentation numerous times pursuant to comments from the Planning Board, public, and Technical Review Group, and other Town boards and committees; **E)** The Planning Board reviewed the application in accordance with state law, the Durham Zoning Ordinance, the Durham Site Plan Regulations, and other applicable law and found that the application meets all requirements (except where waivers or variances may have been granted); **F)** Variance conditions. Several conditions were included in the 2009 variance, including adding a visual screen, verifying the number of residents each semester, buffering for an abutter, the Planning Board addressing property management for security, and lighting. **G)** This project is not considered to be a Development of Regional Impact; and **H)** The Planning Board duly approved the application as stated herein,. Substantial records are maintained of the process and documentation submitted in the Planning Department. A record of documentation and a timeline of the project will be prepared as needed.