

Zoning Board - Meeting Minutes - July 14, 2026

Town of Durham

July 14, 2026 at 7:00 PM

DRAFT — Not yet approved

Meeting Minutes

Meeting called to order at 7:00 PM by Chair Neil Niman.

Members Present:

- Neil Niman (Chair) — Present
- Mark Morong (Vice Chair) — Present
- James Bubar (Member) — Present
- Kevin Lemieux (Member) — Present
- Daniel Bean (Alternate Member) — Present (Seated as voting member)
- Chris Sterndale (Alternate Member) — Absent (non-voting)
- Marjorie Smith (Alternate Member) — Absent (non-voting)
- Joseph Warzin (Member) — Absent

Also present: Audrey Cline (Code Enforcement Officer)

Chair Neil Niman introduced the board members and Code Enforcement Officer Audrey Cline. Chair Niman took a moment to thank Micah Warnock, who recently stepped down from the board, for his many years of service. It was announced that an agenda item related to property on Riverview Court was removed because the town withdrew its administrative decision, making the appeal moot. Chair Niman also noted that regular member Joseph Warzin could not attend, so alternate member Daniel Bean would be seated as a voting member for all matters.

Mark Morong: Motion to adopt the agenda.; Second: Kevin Lemieux; Vote: 5-0-0 — PASSED

The board opened a public hearing for an application for a variance submitted by David and Karen Della Penta for property located at 561 Bay Road. Attorney Kevin Baum, landscape architect Devin Heffernan, and engineer Eric Weinrub presented the application. Mr. Baum explained that some grading required to move the home out of the wetland buffer falls within the buffer zone, putting the project in a "donut hole" with the regulations. Mr. Weinrub stated that the original landscaping plan included aggressive retaining walls, but the owners redesigned it to feature a graded slope with reclaimed boulders to allow them to age in place. Mr. Heffernan noted the applicants agreed to stop mowing and fertilizing the flagged wetland area and offered to oversee it with a native meadow mix. The board asked about stormwater management, and Mr. Weinrub explained that stone drip edges and heavy vegetation would slow runoff and promote infiltration.

James Bubar: Motion to open the public hearing.; Second: Kevin Lemieux; Vote: 5-0-0 — PASSED

1 No members of the public spoke.

2
3 **James Bubar: Motion to close the public hearing.; Second: Kevin Lemieux; Vote: 5-0-0 —**
4 **PASSED**

5
6 **James Bubar: Motion to reopen the public hearing.; Second: Daniel Bean; Vote: 5-0-0 —**
7 **PASSED**

8
9 **Kevin Lemieux: Motion to close the public hearing.; Second: James Bubar; Vote: 5-0-0 —**
10 **PASSED**

11
12 During deliberation, Vice Chair Mark Morong struggled to identify a hardship but acknowledged
13 the new plan was an aesthetic improvement over retaining walls. Kevin Lemieux felt the effort to
14 restore the native meadow was a positive trade-off. Chair Niman suggested the hardship was that
15 the zoning ordinance forced the construction of retaining walls, which limited the owners' ability
16 to enjoy the natural setting of their property. James Bubar expressed concern about granting a
17 permanent variance for a temporary mobility issue.

18
19 **Mark Morong: Motion to approve the variance submitted by David and Karen Della Penta**
20 **for variance from Article 13, Section 175-60B11 and Section 175-65A to permit grading**
21 **within the 100-foot wetland buffer beyond the necessary to support a structure outside of**
22 **the WCOD and to permit soil disturbance within 50 feet of the wetland buffer reference**
23 **line, the property shown on text map 239, lot 9, located at 561 Bay Road and is in the**
24 **residence RC district.; Second: Kevin Lemieux; Vote: 4-1-0 (Daniel Bean-Yes, James**
25 **Bubar-No, Kevin Lemieux-Yes, Mark Morong-Yes, Neil Niman-Yes) — PASSED**

26
27 The board next considered an application for a variance from Benjamin Siegel to remove an
28 existing structure and construct a new single-family home at 26 Colony Cove Road. Attorney
29 Kevin Baum, owner Benjamin Siegel, architect Nick Isaac, and engineer Mike Sievert presented
30 the application. Mr. Baum explained the goal was to keep the home largely within the existing
31 footprint to limit disturbance. Mr. Sievert noted the lot is exceptionally narrow and contains a
32 seasonal home damaged by fire. He stated the existing septic system in the front yard prevents
33 moving the house backward, and the proposal reduces the north side setback to 9.6 feet. Vice
34 Chair Morong questioned the necessity of the expansion and the placement of a proposed
35 bulkhead. Ms. Cline noted that basements require egress, but an egress window might suffice
36 instead of a bulkhead. The applicant confirmed they had received state shoreland approval and
37 were awaiting a wetland permit.

38
39 Vicki Randall of 19 Colony Cove Road stated she supports a new build but expressed concern
40 about the size of the structure on the small lot, the impact on Little Bay views, blockage of
41 natural sunlight, and potential impacts on property values.

42
43 David Hadley of Edgeley Garrison Road recommended granting the variance. He noted the
44 neighborhood's history as a seasonal campground and stated that almost every house in Colony
45 Cove is nonconforming. He believed the new construction would improve the neighborhood and
46 increase property values.

Kevin Lemieux: Motion to close the public hearing.; Second: Daniel Bean; Vote: 5-0-0 — PASSED

In deliberation, Mr. Bubar noted the lot would never be approved today and that replacing a derelict building addresses a public safety issue. Mr. Lemieux felt the setback reduction was reasonable given the lot's constraints. Vice Chair Morong argued the house could be built slightly narrower to stay within the existing setbacks. Mr. Bean stated he would support the variance only if the bulkhead did not encroach further into the setback. The board agreed to condition the variance on the house maintaining specific distances from the lot lines.

James Bubar: Motion to approve the petition submitted on behalf of Benjamin Siegel, Durham, New Hampshire, for an application for variance from Article 12.1, Section 175-54, Table of Dimensions, Article 14, Section 175-74.A.1, and Article 9, Section 175-30.3.C and D, to remove the existing structure and construct a new two and a half story single family home with the distance from the house to the north lot line being not less than 9.6 feet and the distance to the south lot line being not less than 8.3 feet.; Second: Daniel Bean; Vote: 4-1-0 (Daniel Bean-Yes, James Bubar-Yes, Kevin Lemieux-Yes, Mark Morong-No, Neil Niman-Yes) — PASSED

Timothy Collins presented an application on behalf of Al Graziano for a variance to allow a 24-foot wide driveway at 361 Durham Point Road. Mr. Collins explained the property includes a working farm on conservation land, and a 24-foot driveway is necessary for farm equipment and trailers to safely navigate the steep incline from the road. The board questioned why the farm equipment could not use an existing access road off Adams Point Road; Mr. Collins stated the conservation trust did not allow it. The board noted that the 24-foot driveway had already been installed without proper permits, resulting in a notice of violation from Public Works. Members expressed frustration that the applicant had not provided engineering data to justify the excessive width on a historic road. Mr. Bubar pointed out that equipment coming and going would not be wider than 12 feet.

Kevin Lemieux: Motion to close the public hearing.; Second: James Bubar; Vote: 5-0-0 — PASSED

The board unanimously agreed there was no hardship justifying the variance. Mr. Bubar stated a standard 12-foot driveway is adequate for residential and emergency uses. Chair Niman noted the applicant created their own hardship by not utilizing the Adams Point Road access and that a 24-foot driveway violates the spirit of the ordinance to maintain a rural feel.

Mark Morong: Motion to deny the petition submitted by Timothy Collins, Quincy, Massachusetts, on behalf of Al Graziano, Durham, New Hampshire, for an application for variance from Article 21, Section 175-111C2A and B and Section 175-112 to allow the size of a 24-foot wide driveway, the property involved is shown on tax map 230 lot 7-1 located at 361 Durham Point Road and is in residence CRC zoning district.; Second: Kevin Lemieux; Vote: 5-0-0 — PASSED

1 Jeffrey Soule presented an application for a variance for property located at 6 Stevens Way. Mr.
2 Soule explained the owners wish to build a 12x26 foot addition to expand their kitchen and
3 master bathroom. Because the lot is shaped like a parallelogram, the addition would encroach
4 into the 20-foot side setback. Mr. Soule noted the addition is over 200 feet from the nearest
5 neighbor's house and faces conservation land, so it will not impact abutters or the neighborhood's
6 character.

7
8 **James Bubar: Motion to close the public hearing.; Second: Kevin Lemieux; Vote: 5-0-0 —**
9 **PASSED**

10
11 The board agreed the hardship was the angled shape of the lot and the existing placement of the
12 house, noting the addition would not be visible to the public or negatively impact neighbors.

13
14 **Mark Morong: Motion to approve the petition submitted by Jeffrey and Christine Sol 6**
15 **Stevens Way, Durham, New Hampshire, application for a variance from Article 12.1,**
16 **Section 175-54, Table of Dimensions, RB Zone, minimum 20-foot setback property is shown**
17 **on Tax Map 220, Lot 7, located at 6 Stevens Ways, and is the residence BRB zoning**
18 **district.; Second: Kevin Lemieux; Vote: 5-0-0 — PASSED**

19
20 Robert Kendall presented an application for a variance to install a 12x12 storage shed at 5 Fox
21 Hill Road. Mr. Kendall explained that his newly built house sits at the back of a steep lot, leaving
22 no space behind it for a shed. The proposed location is in front of the house, tucked behind rocks
23 and a hill. He explained that due to the elevation and vegetation, the shed would not be visible
24 from the street and keeps the structure further away from the nearby estuary.

25
26 **Mark Morong: Motion to close the public hearing.; Second: Kevin Lemieux; Vote: 5-0-0 —**
27 **PASSED**

28
29 The board agreed the ordinance was not designed for steep, uniquely shaped lots like this one.
30 They felt the proposed location was practical, well-screened, and beneficial for protecting the
31 estuary. Mr. Bubar requested a condition ensuring the natural vegetative screening is maintained.

32
33 **Neil Niman: Motion to approve the application for variance from Article 20 standards for**
34 **specific uses, Section B, accessory buildings for single-family use, the building shall not be**
35 **located forward of the front facade of the house, the property shown on text map 215, Lot**
36 **36, located at 5 Fox Hill Road, Durham, and is in Residence B, RB Zoning District, subject**
37 **to the owner of the property maintaining the natural vegetative screening for as long as the**
38 **shed is located on the front of the property.; Second: Kevin Lemieux; Vote: 5-0-0 —**
39 **PASSED**

40
41 Amit Joglacar and his builder, Frank Eitler, presented an application for a special exception to
42 supply a building with heat at 56 Ross Road. Mr. Joglacar explained he recently replaced an old
43 shed with a slightly larger one to use as a golf simulator. Because the electronic equipment
44 requires climate control, he requested permission to install a mini-split unit. The shed will not
45 have water or sewer connections. Mr. Eitler confirmed the mini-split condenser will be small and
46 not visible from the street.

Mark Morong: Motion to close the public hearing.; Second: James Bubar; Vote: 5-0-0 — PASSED

The board briefly agreed the request was reasonable, would not impact the neighborhood, and posed no threat to public health or safety.

Neil Niman: Motion to approve the application for special exception from Article 20, Standards for Specific Uses, Section 175-109B, Accessory Buildings for Single-Family Use, the building shall not be supplied with water, sewage, or heat unless approved by special exception, the property shown on tax map 232, law 30, and is in the rural Arizona district.; Second: Kevin Lemieux; Vote: 5-0-0 — PASSED

Neil Niman: Motion to adjourn.; Second: Kevin Lemieux; Vote: 5-0-0 — PASSED

The meeting adjourned at approximately 10:36 PM.