

**DURHAM PLANNING BOARD MINUTES
WEDNESDAY, AUGUST 14, 2002 - 7:00 P.M.
DURHAM TOWN HALL - TOWN COUNCIL CHAMBERS**

MEMBERS PRESENT: Dave Pease, Chair; Rachel Rouillard, Vice Chair; Neil Wylie; Suzanne Loder; Amanda Merrill; David W. Watt; Annmarie Harris, Town Council Representative; Arthur Grant, Alternate Town Council Representative; Julian Smith, Alternate;

MEMBERS ABSENT: Tracey Wood, Alternate

OTHERS PRESENT: Jim Campbell, Town Planner; Interested Members of the Public

Chair Pease called the meeting to order at 7:02 PM

Chair Pease stated that Arthur Grant would be a voting member until Annmarie Harris arrived at the meeting

I. Approval of Agenda

Amanda Merrill MOVED to approve the agenda, Arthur Grant SECONDED the motion and it PASSED unanimously.

II. Report of the Planner

Jim Campbell reported on the following:

- Work is progressing on the draft Zoning Map, and he will be submitting it to Strafford Regional Planning next week.
- He reported on his monthly meeting with Doug Bencks on Aug. 9 and spoke about their discussion of the work on the gas station, the UNH Police station facility issue, the possible cellular facility on the water tank, and the preliminary study for an on campus parking garage.
- As it is budget season, he requested that any suggestions for additions to the budget be submitted to him.
- The August 19, 2002 Town Council meeting will have the Continued Public Hearing on the Allen Farm Planned Unit Development, and the Public Hearing for the Spruce Wood Amended Conditional Use Permit on the agenda. The first read of the proposed Zoning ordinance amendment regarding the alcohol issue will be at the first Sept. Town Council meeting.

Annmarie Harris joined the meeting at 7:06

In response to a question from Amanda Merrill, Jim Campbell stated that Administrator Selig and Paul Beaudoin have been working on the CIP and they will be presenting it to the Board and the Department Heads

III. Approval of Minutes

Minutes from June 12, 2002:

The Board discussed amendments to the Minutes of June 12, 2002. It was the consensus of the Board that some of the comments and motions as reported in the minutes needed to be verified with the tape recording of the meeting and clarified.

David Watt MOVED to table the Approval of the Minutes of June 12, 2002 pending a draft revision. Neil Wylie SECONDED the motion and it PASSED unanimously.

Minutes from June 26, 2002

The Board discussed amendments to the Minutes of June 26, 2002. It was the consensus of the Board that some of the comments and motions as reported in the minutes needed to be verified with the tape recording of the meeting and clarified, particularly in regard to item VIII.

Neil Wylie MOVED to table the Approval of the Minutes of June 26, 2002 pending a draft revision. David Watt SECONDED the motion and it PASSED unanimously.

Minutes from July 10, 2002 and July 24, 2002

Neil Wylie MOVED to amend the agenda to address the Approval of the July 10, 2002 and July 24, 2002 Minutes at no later than 9:45 PM. Annmarie Harris SECONDED the motion and it PASSED unanimously.

IV. Public Hearing Presentation by the Oyster River Cooperative School District on a proposed new maintenance facility to be located on Coe Drive.

David Watt MOVED to open the Public Hearing. Suzanne Loder SECONDED the motion and it PASSED unanimously.

Blaine Cox, Business Administrator for the Oyster River School District, introduced Michael Witcher, from Witcher Builders, and Superintendent Tom Carroll. He gave a brief introduction of the plan for a new maintenance facility.

Michael Witcher presented the site plan and building elevation of the proposed maintenance facility on Coe Drive. He also spoke about the concession and public restrooms that will be included on the back side of the building adjacent to the playing field. He spoke about the wetland setback, the sewer/water and utility configuration, landscaping and the building layout.

Arthur Grant suggested that the power line be buried along with the water line in the trench that will be dug, if doing so is allowed by regulation. Mr. Witcher stated that they have yet to meet with PSNH to determine if they could bury the line so the submitted plan proposes an overhead line, although this could be changed.

Mr. Witcher identified and spoke about the wetland delineation, the parking lot, and the drainage configuration on the plan.

Neil Wylie stated that the building should be adequately screened from the neighbors as well as from Coe Drive. In response to question from Neil Wylie, Mr. Witcher stated that there is no landscaping plan, but that a great amount of the wooded area on several sides of the building site will not be disturbed. He stated that the building was designed to look like a residential building so that it would fit in with other buildings in the area.

In response to a question from Arthur Grant, Mr. Witcher stated that the salt storage area would be contained and a roof would be added, noting that adding the roof was not part of his proposal.

The Board discussed with Mr. Witcher the possible visual impact of the building from Coe Drive and tree coverage on the site.

Chair Pease noted that review of this site plan was not within the jurisdiction of the Planning Board, and that the only requirement of the School District was to have this Public Hearing.

In response to a question from Amanda Merrill, Tom Carroll spoke about who might utilize the concession facilities.

Chair Pease asked if there were any abutters to this property present at the meeting. No one present at the meeting indicated that they were an abutter. Jim Campbell stated that several abutters had visited the Planning Office to review the file and the few that he had spoken to did not convey any opposition to the project.

Suzanne Loder urged the School District Department to consider installing the utilities underground as it may prevent accidents, similar to those that have occurred in the past, that result from having overhead power lines.

Neil Wylie noted that if this were a private development, having the utilities installed underground on the site would be a requirement. Chair Pease noted that a landscaping would also be a requirement.

Annmarie Harris MOVED to close the Public Hearing. Amanda Merrill SECONDED the motion and it PASSED unanimously.

It was the consensus of the Board that Jim Campbell should send a letter to the School District stating that the Board recommended that the proposed facility have the utilities installed underground, landscaping, and salt containment.

- V. **Public Hearing of Appeal** on the Technical Review Committee Decision of July 10, 2002, to approve the creation of a 15-minute loading zone in the parking lot of the Durham Community Church. The petition of appeal was submitted by William F. Hall, Durham, New Hampshire. The property involved is located on Main Street, is shown on Tax Map 5, Lot 2-8, and is located in the Residential A and Limited Business Zoning District.

Jim Campbell gave a brief overview of the Appeal of the Technical Review Committee decision. He stated that Bill Hall submitted the Appeal on the basis that the loading zone is not permitted within the 10' setback adjacent to his property line.

Amanda Merrill MOVED to open the Public Hearing. Neil Wylie SECONDED the motion and it PASSED unanimously.

Bill Hall, 3 Smith Park Lane, spoke about the configuration of the loading zone and why he believed the loading zone is not permitted. He also spoke about the traffic problems that have occurred as a result of the lack of parking enforcement by the church.

Betsy Horskin, Smith Park Lane, spoke about the configuration of Smith Park Lane and how parking in the loading zone and firelane hinders vehicular access, particularly by emergency vehicles. She also spoke about the lack of parking enforcement by the church.

Tom Madson, Board of Stewards for the Durham Community Church, spoke briefly about the history of how the loading zone came to be located where it is currently.

Dennis Matthews, Chair of the Board of Stewards for the Durham Community Church, spoke to support the Church's efforts to enforce parking. He urged the Board to affirm the decision made by the Technical Review Committee. He stated that he felt it would be better to have the loading zone where it is and have it well marked, than to leave parking on that side of the building at the discretion of delivery people.

Stuart Bauder, Chair of the Durham Community Church Council, spoke to support the Church's interest in the safety of the public and desire to maintain good relations with their neighbors. He urged the Board to uphold the decision made by the Technical Review Committee.

Jim Campbell stated that it was the Traffic Safety Committee, not the Technical Review Committee that originally had reviewed the loading zone in 1999. In response to a question from Rachel Rouillard, He stated that the Committee had only recommended the location of the loading zone, although the Church took this as approval of the zone and lined it. He noted that the Traffic Safety Committee gave only a recommendation because they did not have the authority to give approval of the loading zone.

Mr. Hall spoke further about the parking problems affecting the neighborhood that have occurred as a result of the church not enforcing parking restrictions.

David Watt MOVED to close the Public Hearing. Rachel Rouillard SECONDED the motion and it PASSED unanimously.

Neil Wylie stated that if the loading zone was indeed within the setback, that would require a variance. He suggested that the loading zone might be relocated.

Annmarie Harris suggested a different location for the loading zone, and also suggested access by way of Mill Pond Road be improved so that there would be an additional emergency route to Smith Park Lane.

Rachel Rouillard suggested that the loading zone be relocated.

David Watt stated that he would like to know how the property is defined to determine if the loading zone should be considered commercial.

Jim Campbell spoke about the factors behind the current location of the loading zone.

Amanda Merrill stated that she would like to know if an alternate location of the loading zone would be feasible and would address the concerns of the neighbors.

Suzanne Loder stated that she felt the loading zone should be relocated to the lower Church parking lot.

In response to question from Julian Smith, Jim Campbell spoke about the Church's right, responsibility and methods to enforce the parking restrictions.

Suzanne Loder stated that if parking is prohibited within the setback adjacent to Mr. Hall's property, she felt that there is a parking enforcement issue with regard to the entire area of Smith Park Lane around the loading zone as well.

Chair Pease stated that the current approved site plan for the Church does not show a loading zone where the loading zone is currently located. He stated that the Planning Board would not have had the authority to approve the loading zone as part of the site plan if it was located within the setback and was for a commercial use.

Neil Wylie stated that the proper procedure for having the loading zone approved would be for the Church to apply for a variance to the setback, or apply to the Planning Board for amendment to the site plan to allow a loading zone elsewhere.

Jim Campbell spoke about the reasoning behind the Technical Review committee's decision.

The Board discussed the Zoning ordinance in regard to how it might define a loading zone.

Neil Wylie MOVED to Continue Deliberation on the Appeal of the Technical Review Committee decision. David Watt SECONDED the motion and it FAILED on a vote of 3-4 (Suzanne Loder, Annmarie Harris, Chair Pease, Rachel Rouillard were opposed)

Suzanne Loder MOVED that the Durham Planning Board grant the Appeal of the Technical Review Committee Decision of July 10, 2002 approving the creation of a 15-minute loading zone in the parking lot of the Durham Community Church, as it is in violation of the setback requirement and was not included in the approved site plan, and that the Board require that the loading zone be removed from its current location. Rachel Rouillard SECONDED the motion and it PASSED unanimously.

- VI. **Acceptance Consideration of a Subdivision and Boundary Line Adjustment** submitted by Doucet Survey, Newmarket, NH, on behalf of Charles & Susan Gonet and Edward Ricker, Durham, NH, for the purpose of re-apportioning the area between three existing lots. No new buildable lots will be created. The properties are located on Dame Road, are shown as Tax Map 19, Lots 1-2, 4-0 and 2-0 and are in the Rural Zoning District.

Jim Campbell spoke about the application for subdivision and boundary line adjustment of the 30 acre Gonet parcel that proposes the creation of a 25.8 acre lot that the Nature Conservancy has agreed to purchase and the contribution of .5 acres of land to the existing Ricker property.

Bill Doucet spoke briefly about the subdivision plan.

Jim Campbell spoke about the informational materials that have been submitted for the application. He stated that in his opinion the application was ready for acceptance and should be scheduled for Public Hearing at the August 28, 2002 meeting of the Board.

Neil Wylie MOVED to accept the Application for Subdivision and Boundary Line Adjustment submitted by Doucet Survey, Newmarket, NH, on behalf of Charles & Susan Gonet and Edward Ricker, Durham, NH, for the purpose of re-apportioning the area between three existing lots. No new buildable lots will be created. The properties are located on Dame Road, are shown as Tax Map 19, Lots 1-2, 4-0 and 2-0 and are in the Rural Zoning District. Annmarie Harris SECONDED the motion and it PASSED unanimously.

It was the consensus of the Board that a site walk would not be necessary for this application.

Chair Pease stated that purchase of the property by the Nature Conservancy does not guarantee that the land will not be developed.

Bill Doucet stated that the Nature Conservancy and Charles and Susan Gonet would be amenable to typical conditions of approval that would ensure the property would not be developed. He stated that public access to the property would not be prohibited, but parking areas on the roadside would not be provided for those wishing to access the land.

The Board discussed if they should amend the agenda as there were several other items on the agenda that needed to be addressed this evening and the order of the day was to move to consideration of the remaining Minutes at no later than 9:45 PM. It was the consensus of the Board that they should decide this matter after a brief recess.

Chair Pease declared a 5 minute recess at 9:45 PM

The Board discussed how they wished proceed in lieu of the order of the day.

Neil Wylie MOVED to amend the agenda by moving the Approval of the Minutes from July 10, 2002 and July 24, 2002 to the August 18, 2000 agenda, by moving items IX and X, Continued Deliberations on the Durham Crossing project, to items VII and VIII respectively, and by moving items VII and VIII, Continued Deliberation on the Fitts Farm project, to items IX and X to be addressed during this meeting regardless of the hour. Suzanne Loder SECONDED the motion and it PASSED unanimously.

VII. Continued Deliberation on an Amended Application for a Conditional Use Permit

submitted by MJS Engineering, PC, Newmarket, NH, on behalf of EPB Properties, Inc., and Fall Line Properties, Inc., Portsmouth, NH, for the purpose of constructing a Planned Unit Development in the Limited Business District. The property is located on Main Street/Dover Road, is shown as Tax Map 4, Lots 50-0, 51-0, 52-0 and-53-0 and is in the Limited Business Zoning District.

The Board reviewed the draft Findings of Facts and Notice of Decision of Denial for the Amended Application for a Conditional Use Permit. They reviewed the findings, as presented in the draft, of the CUP requirements that the applicant had failed to meet, and reviewed the wording of such findings.

Annmarie Harris MOVED that the Durham Planning Board accept the draft Findings of Fact and Notice of Decision of Denial for the Amended Application for a Conditional Use Permit as amended. Neil Wylie SECONDED the motion and it PASSED 4-3 (David Watt, Rachel Rouillard, and Chair Pease were opposed)

VIII. Continued Deliberation on an Amended Application for Site Plan Review submitted by MJS Engineering, PC, Newmarket, NH, on behalf of EPB Properties, Inc., and Fall Line Properties, Inc., Portsmouth, NH, for the purpose of constructing a Planned Unit Development. The proposed area has been designed to support commercial units and multi-family housing units. The property is located on Main Street/Dover Road, is shown as Tax Map 4, Lots 50-0, 51-0, 52-0 and-53-0 and is in the Limited Business Zoning District.

The Board reviewed the draft Findings of Fact and Notice of Decision of Denial for the Amended Application for Site Plan Review. They discussed changes and corrections to the submitted documents and plans as listed in the draft. They reviewed the Planned Unit Development requirements the applicant had failed to meet and the wording of such findings as presented in the draft. They discussed corrections and changes to the Notice of Denial section presented in the draft.

Neil Wylie MOVED that the Durham Planning Board accept the draft Findings of Fact and Notice of Decision of Denial for the Amended Application for Site Review as amended. Annmarie Harris SECONDED the motion and it PASSED 4-3 (David Watt, Rachel Rouillard, and Chair Pease were opposed)

- IX. **Continued Deliberation on an Application for Boundary Line Adjustment** submitted by Smithfield Construction, Portsmouth, New Hampshire. The properties involved are located on Edgewood Road, are shown on Tax Map 1, Lots 16-20, 16-21, 16-5 and 16-6 and are located in the Residence A Zoning District.

Rachel Rouillard recused herself from this discussion as she is an abutter to the property.

Rachel Rouillard left the meeting at 11:00 PM

Chair Pease stated that Julian Smith would be a voting member for this application.

The Board reviewed the draft Findings of Fact and Conditions of Approval for Approval of an Application for Boundary Line Adjustment and discussed changes and corrections to the draft. It was the consensus of the Board to add to the Conditions of Approval that the Boundary Line Adjustment would be conditional upon the approval of the Site Plan.

Neil Wylie MOVED that the Durham Planning Board approve the Findings of Fact and Conditions of Approval for the Approval of the Application for Boundary Line Adjustment as amended. Julian Smith SECONDED the motion and it PASSED unanimously.

- X. **Continued Deliberation on an Application for Site Review** submitted by Smithfield Construction, Portsmouth, New Hampshire, for the purpose of constructing twelve elderly housing units. The properties involved are located on Edgewood Road, are shown on Tax Map 1, Lots 16-20 and 16-21 and are located in the Residence A Zoning District.

Neil Wylie stated that he would like the elements and format of the original site plan findings of fact to be incorporated into the draft Findings of Fact and Conditions of Approval for Approval of an Application for Site Review. He suggested that they request an extension from Joe Caldarola on this application so that the draft can be revised.

David Watt stated that he would like to know if the merger of condo association legality issue regarding the addition of land, as mentioned in the letter from John Ryan, was also relevant to the removal of land. Joe Caldarola stated that he would have John Ryan send a letter to the Board addressing this issue.

Joe Caldarola indicated that he would be willing to give the Board an extension on this application.

XI. Adjournment

David Watt MOVED to adjourn. Neil Wylie SECONDED the motion and it PASSED unanimously.

The meeting adjourned at 11:15 PM