

DURHAM PLANNING BOARD MINUTES
WEDNESDAY, SEPTEMBER 11, 2002 – 7:00 P.M.
DURHAM TOWN HALL – TOWN COUNCIL CHAMBERS

MEMBERS PRESENT:

Dave Pease, Chair; Rachel Rouillard; Suzanne Loder; Neil Wylie, Amanda Merrill; Arthur Grant, Town Council Rep.; Tracy Wood, Alternate; Julian Smith, Alternate; David Watt (arrived at 7:30 PM)

MEMBERS ABSENT:

Annmarie Harris, Alternate Town Council Rep.

OTHERS PRESENT:

Jim Campbell, Planner; Interested Members of the Public

Chair Pease called the meeting to order at 7:03 PM

I. Moment of Silence

Chair Pease stated that a moment of silence would be observed for the victims and heroes of September 11, 2001.

II. Approval of Agenda

Suzanne Loder MOVED to approve the agenda. Amanda Merrill SECONDED the motion and it PASSED unanimously

Chair Pease announced that Arthur Grant is now the Town Council Representative to the Planning Board, and Annmarie Harris is now the Alternate Town Council Representative.

III. Report of the Planner

Jim Campbell reported on the following:

- He urged the Board to attend to approval of the accumulated minutes this evening.
- He will be out of the office on Sept. 12 & 13th. He stated that anyone having materials to submit for the Zoning Rewrite packet should submit them to Karen Edwards.
- There will be a new 14 lot subdivision application on the next agenda, for Craig Meadows off of Fairchild Drive.
- The Municipal Law Lecture Series will begin soon. He suggested having a Board member attend each week and report to the Board, because the Lectures are on Wednesday evenings.
- Any suggestions for additions to the Planning Board budget should be submitted to him by Monday.
- The CIP will be presented to the Planning Board by Administrator Selig and Paul Beaudoin at the next meeting.

In response to a question from Chair Pease, Jim Campbell stated that the meeting with the University/College communities is still scheduled for on September 24th at 7:00 PM in Concord.

- IV. Public Hearing on an Application for Subdivision** submitted by David M. Garvey, Garvey & Co. Ltd., Durham, New Hampshire, on behalf of Rockingham Properties I LLC, Belmont, Massachusetts, to create 15 new lots of which 12 are to be commercial use and 3 are to be residential use. The property involved is shown on Tax Map 11, Lots 8-1 and 9-1, is located along Dover Road and Stone Quarry Drive and is in the Limited Business Zoning District and the Residence B Zoning District.

Neil Wylie MOVED to open the Public Hearing. Rachel Rouillard SECONDED the motion and it PASSED unanimously

Dave Garvey gave a presentation of the proposed plan for a 12 lot commercial subdivision.

Jim Campbell spoke about the waivers that were requested by the applicant.

Mr. Garvey spoke about the size of the proposed road off of Stone Quarry Drive. In response to a question from Arthur Grant, he spoke about the frontages of the lots in the Residence B district.

The Board members discussed with Mr. Garvey the frontage measurements of the RB district lots with respect to the Zoning Ordinance requirements for frontage and setbacks in the RB district. They also discussed the closest proximity of the subdivided property to route 4.

Mr. Garvey spoke about the visibility from route 4 of the structures that would be built in the subdivision.

In response to a question from Arthur Grant, Chair Pease spoke about the weight of the Master Plan in consideration of this application. Arthur Grant stated that his concern was that the Master Plan recommends there be no residential development in this area, and this recommendation would be the guideline for the development of the new zoning district. Chair Pease stated that the lots are not defined as residential as part of the subdivision, rather they are currently permitted to be residentially developed because of how they are zoned.

The Board members discussed the proposed lots in the RB zone in the context of there being a possibility that the right to residentially develop those properties might be grandfathered.

In response to a question from Suzanne Loder, Mr. Garvey spoke about the marketing study on which he based the decision to accommodate small office space development. In response to another question from Suzanne Loder, Mr. Garvey stated that adequate screening of the buildings would be an issue to be addressed during site review.

Arthur Grant spoke about the recommendations in the Master Plan for the new zoning district in regard to the proposed lots in the Limited Business District. Chair Pease spoke in response to the recommendations cited by Arthur Grant.

The Board members discussed which recommendations in the Master Plan were applicable to this property.

In response to a question from Rachel Rouillard, Mr. Garvey spoke about the structures that he anticipated will be built on the subdivided lots.

Mr. Garvey spoke about the design standards that they have considered imposing for structures. He stated that standards could be also included for landscaping.

Jim Campbell spoke about Bob Levesque's assessment of the drainage situation for the site.

Tracy Wood stated that she questioned the assessment that the site has adequate drainage, as it currently is completely vegetated and this will change when the property is developed. She stated that she is concerned about contamination of the wetlands from the drainage off of the site.

Mr. Garvey spoke further about Bob Levesque's drainage recommendations for the site.

Amanda Merrill requested more information be submitted about the marketing study.

Neil Wylie spoke about the issue of granting waivers for this application considering that the Board knows what the Master Plan recommends for this area, yet the Zoning Ordinance does not yet reflect these recommendations.

The Board members discussed with Mr. Garvey the logistics of getting the water/sewer line extension and road opening permit approved with regard to the subdivision approval process.

In response to a question from Rachel Rouillard, Mr. Garvey spoke about what trees and features on the property that will be preserved.

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

It was the consensus of the Board that there should be an agreement negotiated with the applicant about the lots in the RB district, regarding the issue that those lots might be developed residentially. Mr. Garvey stated that he would meet with Jim Campbell to negotiate an agreement addressing this issue. He also stated that he would speak to Jonathan Schwartz, Rockingham Properties Inc., about getting additional information on the market survey.

- V. Approval of Minutes -** June 12, 2002; June 26, 2002; July 10, 2002; July 24, 2002; August 14, 2002; August 28, 2002

Minutes from August 28, 2002

The Board discussed the following amendments:

Page 2: paragraph 3, replace "from Tracy Wood" with "from Amanda Merrill."

Page 3: paragraph 8, replace “Chair Pease asked” with “David Watt asked.”

Last paragraph, strike entire paragraph starting “In response to a question from Arthur Grant” and insert “Amanda Merrill requested clarification of the overlap between the baseball/softball fields with the soccer fields”

Page 5: motion at end of page, “conservation party” changed to “conservation organization”

Chair Pease suggested there should be an indication included in the minutes of who prepared the minutes. Jim Campbell suggested that this be indicated by listing the minute taker under ‘Others Present’

Arthur Grant MOVED to approve as amended the minutes, of August 28, 2002. David Watt SECONDED the motion and it PASSED 5-0-2. (Neil Wylie and Rachel Rouillard abstained because they were not present at the August 28, 2002 meeting)

Minutes from August 14, 2002

The Board discussed the following amendments:

Page 3: paragraph 7, replace “utilize” with “operate”

paragraph 10, after “landscaping” add “plan”

Page 5: paragraph 3, starting “Rachel Rouillard suggested” strike entirely.

paragraph 9, starting “Suzanne Loder stated” strike “she felt.”

paragraph 10, starting “Jim Campbell spoke” add to end of sentence “in that they made a distinction between religious and commercial uses.”

Page 6: paragraph 8, starting “Bill Doucet stated” replace “parking areas on the roadside would not be provided” with “no provision for parking would be provided”

Page 7: paragraph 1, strike “in lieu of the order of the day.”

Suzanne Loder MOVED to approve as amended the minutes of August 14, 2002. Arthur Grant SECONDED the motion and it PASSED unanimously

Minutes from July 24, 2002

The Board discussed the following amendments:

Page 3: paragraph 3, starting “Neil Wylie said” replace “stance” with “ordinance language”

paragraph 5, starting “Rachel Rouillard felt” strike “felt” and “any”

paragraph 7, starting “Tracy Wood” replace “said she would...from the Ordinance” with “asked whether a lack of language addressing the sale of alcohol would constitute a prohibition”

paragraph 8, starting “Julian Smith felt” replace “felt” with “suggested” and “spacial” with “spatial”

Page 5: paragraph 2, starting “Annmarie Harris asked” replace “that it does add...to allow that” with “realizing the estates full appraised value and it could be inconsistent with Mr. Herbert’s fiduciary interest to allow that.”

paragraph 5, starting “Jim Campbell asked” replace “state” with “estate”

Page 6: paragraph 5, starting “Chair Pease” strike “just” and put the remainder of the sentence in parenthesis.

Page 7: 1st motion, replace “Tracy Wood” with “Neil Wylie”

Page 9: paragraph 9, starting “Neil Wylie said” replace “application” with “road construction”

Page 10: paragraph 7, starting “Neil Wylie asked” add “of one occupant” after “allows for 55 years of age”; add “Commission” after “Human Rights”; add “in its zoning ordinance” after “the restriction”; replace “everyone for” with “all residents to be”
paragraph 12, starting “Attorney John Ryan” add “association” after “within the condominium”

Page 11: paragraph 2, starting “Chair Pease said” add “55 or older” after “100% occupancy”
paragraph 6, starting “Regarding the revised” add “on the plan” after “station two”; strike “to less than 1%”

Suzanne Loder MOVED to approve as amended the minutes of July 24, 2002. Neil Wylie SECONDED the motion and it PASSED 4-0-3 (Amanda Merrill, David Watt, Arthur Grant abstained because they were not present at the July 24, 2002 meeting)

Minutes from July 10, 2002

The Board discussed the following amendments:

Page 2: last bullet, replace “Ireman” with “Eyerman”

Page 3: paragraph 1, replace “of tidal influence” with “subject to tidal influence”

paragraph 2, replace “State Tax” with “Estate Tax”

paragraph 3, strike “size of the”

paragraph 6, starting “Julian Smith stated” replace “constructed” with “constructive”

Page 4: paragraph 2, starting “Arthur Grant stated” replace “they scheduled” with “the Board scheduled”; replace “they have a” with “the Town has a”

paragraph 8, starting “David Watt felt” replace “felt” with “said that”; replace “problems that dealt with the outlook of that denial” with “policy issues not previously discussed.

paragraph 9, strike entirely the 2 comments made by Amanda Merrill and Tracy Wood.

Page 5: paragraph 2, replace “they shouldn’t utilize the amount of 20%” with “the Board should not use the”; strike “final”

paragraph 6, strike entirely

paragraph 7, replace “discern” with “determine whether”; strike “that” after “for denial”

paragraph 8, replace “they” with “the Board”

Page 6: paragraph 2, starting “Chair Pease stated” add to last sentence in paragraph “to purchase open space land as a mitigative measure.”

paragraph 4, replace “they have in the town” with “currently permitted in the Town”

paragraph 6, replace “lieu” with “light”; strike “he felt”

paragraph 8, replace “at the discretion of the Town rules and the chair.” with “subject to the Planning Board’s rules and the discretion of the Chair.”

paragraph 9, replace “conforming” with “holding”

Page 7: paragraph 1, after “because” replace “they” with “the Board”

paragraph 3, starting “Rachel Rouillard suggested” strike entirely

paragraph 6, starting “Tracy Wood spoke” strike entirely

Page 8: paragraph 6, starting “Chair Pease stated” replace “have stricken” with “strike”
paragraph 8, replace “make a suggestion. He suggested” with “suggest”; after “liquor
Commission” add “on all Durham alcohol licensing hearings”

Page 9: paragraph 9, after “Technical Review Committee” add “hearing”

***David Watt MOVED to approve as amended the minutes of July 10, 2002. Amanda Merrill
SECONDED the motion and it PASSED 6-0-1 (Neil Wylie abstained because he was not
present at the July 10, 2002 meeting)***

Chair Pease declared a 5 minute recess at 9:05 PM

VI. Conceptual Consultation submitted by Paul Berton, Fall Line Properties, Portsmouth, New Hampshire. This is a non-binding pre-application (Conceptual Consultation) meeting to discuss the proposed use of the property on Main Street/Dover Road, Map 4, Lots 50-0, 51-0, 52-0 and 53-0, located in the Limited Business Zoning District. **(NO LATER THAN 9 PM)**

Paul Berton gave a presentation about the proposed use of the property on Main Street/Dover Road for a Hotel facility.

Amanda Merrill stated that she would like to know more about the marketing research Mr. Berton used in his decision to pursue development of a hotel. She stated that she had made an informal inquiry and received negative feedback about the feasibility of the market supporting a hotel on that site.

In response to a question from Amanda Merrill, Mr. Berton stated that his initial research stated that the market would support a 60% occupancy rate. He stated that he did not envision having this hotel be part of a hotel chain.

In response to a question from Rachel Rouillard, Mr. Berton spoke about why he was not proposing facilities for those needing extended stay accommodations. Mr. Berton stated that he decided to not include a restaurant in the hotel, because of the market research he has conducted. He spoke about the parking accommodations.

Mike Sievert, MJS Engineering, spoke about the site configuration. He spoke about the proposed impervious surface on the site.

Mr. Burton spoke about the building configuration.

In response to a question from Arthur Grant, Mr. Sievert spoke about screening options for the site. He spoke about the parking configuration and building access.

Mr. Burton stated that the proposed building would be 3 stories, close to 35', high.

Jim Campbell spoke about the possible screening around the building in regards to necessary emergency exit paths.

Jim Jelmsberg, 29 Park Court, suggested that if a hotel franchise were to run the facility, that it should be a credible one. He stated that his concern was that in the situation of financial hardship the building might turn into student housing. He stated that he believed a 60 unit hotel would be rather large for this property.

Mr. Sievert spoke about the snow storage areas on the site.

Chair Pease suggested that, instead of having the preexisting buildings on the site be long term rentals, that they might be incorporated into the hotel by having them be short term living facilities.

Suzanne Loder stated that she was concerned about the proposed lack of greenery on the site.

In response to a question from Jim Jelmsberg, Mr. Berton spoke about the justification for the proposed building configuration.

In response to a question from Suzanne Loder, Mr. Berton spoke about why he felt the hotel and adjacent student residences would be compatible.

VII. Other Business

A. New Business

1) Consideration of a Request for Extension of Time to Fulfill Conditions of Approval for Allen Farm Subdivision.

Arthur Grant MOVED that the Durham Planning Board grant an extension of 90 days to fulfill the Conditions of Approval for the Allen Farm Subdivision. David Watt SECONDED the motion and it PASSED unanimously.

2) Consideration of a request for Technical Review Committee Review of an amendment to an approved Site Plan for the Mill Rd. Plaza.

Jim Campbell gave an overview of the Mill Road Plaza plan and the proposed amendment to the plan. He spoke about issues with the possibility that added flow to College Brook might be created

Dave Garvey spoke about the site drainage in regard to the proposed amendment to the plan.

In response to a question from Neil Wylie, Mr. Garvey spoke about the leasing of parking spaces in the lot, and parking problems in the lot.

The Board members discussed if the application should be reviewed by the Technical Review Committee considering the environmental implications of the proposed amendment, and considering the need to expedite the application. They discussed the feasibility of expediting the application if it was on the Planning Board agenda.

Mr. Garvey spoke about why he believed the application should be reviewed by the Technical Review Committee and not the Planning Board.

The Board members discussed the possibility of having this application on the Planning Board agenda.

Rachel Rouillard MOVED to deny the request for Technical Review Committee Review of an amendment to an approved Site Plan for the Mill Rd. Plaza. Neil Wylie SECONDED the motion and it PASSED unanimously.

B. Old Business

David Watt MOVED to continue Approval of Minutes from June 12, 2002 and June 26, 2002 until the September 25, 2002 meeting. Arthur Grant SECONDED the motion and it PASSED unanimously.

Chair Pease stated that he did not think the draft sign ordinance in the zoning rewrite packet reflected the content of the draft sign ordinance that was prepared with the assistance of Duane Hyde and Mr. Garvey.

Jim Campbell stated that the ordinance in the packet was what he had on file.

Chair Pease stated that the draft ordinance in the packet seemed very similar to the current sign ordinance.

Mr. Garvey stated that the draft he helped prepare was significantly different from the current ordinance.

Chair Pease suggested that the sign ordinance issue be addressed at the next Zoning Rewrite meeting.

The Board discussed if they should review 4.04 of the Subdivision Regulations addressing “scattered and premature development of land”

Arthur Grant suggested that this topic be discussed at the next meeting

Chair Pease spoke about the issue of implementing interim Conditional Use Permit and Planned Use Development language in the Zoning Ordinance.

Arthur Grant suggested that the Planning Board might consider recommending to the Town Council the revocation of the Conditional Use Permit and Planned Use Development portions of the ordinance.

Chair Pease stated that he would like to address this at the next Zoning Rewrite meeting.

VIII. Adjournment

Suzanne Loder MOVED to adjourn. David Watt SECONDED the motion and it PASSED unanimously

The meeting adjourned at 10:32 PM.