

These minutes were approved at the October 23, 2002 meeting

**DURHAM PLANNING BOARD MINUTES
WEDNESDAY, SEPTEMBER 25, 2002 – 7:00 P.M.
DURHAM TOWN HALL – TOWN COUNCIL CHAMBERS**

MEMBERS PRESENT:

Dave Pease, Chair; Suzanne Loder; Neil Wylie, Amanda Merrill; David Watt; Arthur Grant, Town Council Rep.; Julian Smith, Alternate;

MEMBERS ABSENT:

Rachel Rouillard; Annmarie Harris, Alternate Town Council Rep.; Tracy Wood, Alternate

MINUTES PREPARED BY:

Carrie White

OTHERS PRESENT:

Jim Campbell, Planner; Todd Selig, Town Administrator; Interested Members of the Public

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

I. Approval of Agenda

Arthur Grant MOVED to approve the agenda. Neil Wylie SECONDED the motion.

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

The motion PASSED unanimously.

II. Report of the Planner

Jim Campbell reported on the following:

- Last night Dave Pease, Amanda Merrill, and he attended the meeting, at the Office of State Planning, of planning board members and planners from communities with colleges/universities. He spoke briefly about some of the topics they discussed, and stated that Steve Whitman will be preparing minutes from that meeting.
- Tomorrow he will be gone for most of the day as he will be attending the Seacoast Regional Smart Growth Roundtable in Hampton.
- Any Planning Board members wanting to watch the Randall Arendt video on Conservation Subdivisions, it is available in his office.
- The 2002-2003 NH Planning and Land Use Regulation handbooks have been ordered for the Planning Board members, and they will be arriving shortly.

- Strafford Regional Planning Commission is in the process of completing two how-to series “Get the Development you planned for” and “Maintain rural character through transportation design”. He spoke briefly about both series.
- There will be an audio/visual training conference sponsored by the American Planning Association that will be held at Strafford Regional Planning Commission on October 2, 2002 from 4 PM to 5 PM. He spoke briefly about the topics that will be discussed at the conference.
- A volunteer from the Planning Board is still needed to attend the Municipal Law Lecture Series.
- Town Administrator Todd Selig and Town Business Manager Paul Beaudoin are present at the meeting to introduce the CIP to the Planning Board.
- He received an e-mail from Concord 20/20, an organization was formed to look at the next 20 years of development in Concord. The organization will be putting on the “Transportation Toolkit Series” of workshops starting October 9, 2002. He spoke about the some of the workshops that will be part of the series.

Chair Pease noted for the public in attendance, that item V. for the proposed Subdivision off Fairchild Drive, will not have a Public Hearing this evening. He stated that if it is accepted a Public Hearing will be scheduled.

Neil Wylie noted that the room is full and beyond capacity with members of the public, which is not uncommon for Planning Board meetings. He stated that he believed that the Town processes would run more smoothly if better accommodations for the public were provided at the meetings.

III. Approval of Minutes February 27, 2002; June 12, 2002; June 26, 2002;
September 11, 2002

Minutes from February 27, 2002

In response to a question from David Watt, Chair Pease stated that they would be able to conduct business on these minutes because a quorum is present at the meeting, although all but 2 members will have to abstain from voting on the minutes.

Jim Campbell stated that references in the minutes to “site review” should be changes to “site plan review”

Amanda Merrill stated that on page 3 “Don Brag” should be “Don Brautigam.”

Arthur Grant suggested that excerpts from the Public Hearing on the Moratorium might be transcribed to have a record of this discussion with a greater amount of detail than the minutes can reflect.

Chair Pease stated that the Secretary’s signature line needs to be added to the end of the minutes, and the minute taker needs to be added on the front page.

David Watt MOVED to approve as amended the minutes from February 27, 2002. Suzanne Loder SECONDED the motion and it PASSED 2-0-5 (Chair Pease abstained because he was not present at the Feb 27 meeting. Neil Wylie, Amanda Merrill, Arthur Grant, Julian Smith abstained as they were not members of the Board when the Feb 27 meeting occurred)

Minutes from June 12, 2002

Neil Wylie stated that on page 6, last paragraph in the sentence starting “Jim Campbell replied” the line “in their current existence” should be replaced with “with the proposed changes.” Amanda Merrill stated that in the same paragraph, sentence starting “Neil Wylie asked” the line “would there be” should be replaced with “whether there would be.”

Neil Wylie stated that on page 7, first paragraph in the sentence starting “Mr. Caldarola explained” the words “nothing has” should be replaced with “no changes have”, the line “nothing to the corner of” should be omitted and the words “has been” should be changed to “has not been.”

Amanda Merrill stated that on page 7, 3rd paragraph, sentence starting “Arthur Grant expressed” the words “if there” should be replaced with “ and whether there would be.” She stated that in the next paragraph, 1st sentence, the word “maximum” should be changed to “minimum.”

David Watt stated that on page 9, 7th paragraph, in the line reporting those who voted in opposition, “Arthur Grant” should be changed to “Annmarie Harris.”

Neil Wylie MOVED to approve as amended the minutes of June 12, 2002. Amanda Merrill SECONDED the motion and it PASSED unanimously.

Minutes from June 26, 2002

Neil Wylie stated that Page 2, 3rd bullet, “Policy for the Process” should be changes to “policy for the process for commenting on UNH projects.”

Neil Wylie stated that on page 2, in the last paragraph should be added “Documentation of 100% ownership was requested and Mr. McEneaney said he would provide it.”

David Watt stated that in the 2nd paragraph under item III, sentence starting “the lots are” the line “are in excess of” should be changed to “exceed” and “in size” should be inserted after “5 acres.”

Chair Pease stated that on page 3, 1st paragraph, sentence starting “he said that”, the word “on” should be replaced with “and” and the word “the” before “criteria” should be replaced with “these”

Neil Wylie stated that on page 3, 2nd paragraph from the bottom, sentence starting “Neil Wylie asked” the line “would have to propose a changing to a district that exists, or” should be omitted, “it” should be omitted, the “a” before “changing” should be omitted, and “other” should be omitted.

David Watt stated that on page 4, 2nd paragraph, “Dave” should be changed to “Mr.”, and “a member of the public” should be omitted.

Arthur Grant stated that on page 4, 2nd paragraph from the bottom, sentence starting “he questioned” the word “chosen” should be changed to “open.” Neil Wylie stated that in the same paragraph, 1st sentence, that “read from” should be changed to “referred to” and the line “and said it was an ongoing issue” should be omitted.

Julian Smith stated that on page 5, 3rd paragraph. “he felt that the” should be omitted and “by the fact that” should be replaced with “because.”

Amanda Merrill suggested that an appropriate location for inserting the formula for Rule A and Rule B would be near her statement on page 5, paragraph 6.

David Watt stated that on page 5, last paragraph that “which would be the recreation areas” should be omitted.

Amanda Merrill stated that on page 7, 2nd paragraph that “Amanda Merrill” should be replaced with “Neil Wylie.”

Chair Pease stated that the minute taker needs to be added to the front page.

***Amanda Merrill MOVED to approve as amended the minutes from June 26, 2002.
Suzanne Loder SECONDED the motion and it PASSED unanimously.***

Minutes from September 11, 2002

Chair Pease stated that the minute taker should be added to the front page.

Neil Wylie stated that on page 2, 3rd paragraph from the bottom, “residentially develop those properties” should be replaced with “build residences on them”, and “grandfathered” should be replaced with “vested.”

Amanda Merrill stated that on page 2, paragraph 3 starting “Dave Garvey gave” the number “12” should be changed to “15” and “commercial” should be omitted.

Neil Wylie stated that on page 3, 1st paragraph, the word “recommendations” should be replaced with “recommended zones.”

Arthur Grant stated that on page 6, paragraph 3 and 4, the word “proposed” should be changed to “possible.”

Chair Pease stated that the last sentence on page 6, starting “Jim Campbell spoke” should be omitted.

Suzanne Loder MOVED to approve as amended the minutes of September 11, 2002. Amanda Merrill SECONDED the motion and it PASSED unanimously.

IV. Acceptance Consideration and Public Hearing on an Application for Site Plan Review submitted by David M. Garvey, Garvey & Co. Ltd., Durham, New Hampshire on behalf of Colonial Durham Associates, New York, New York, to amend a previously approved parking plan. The property involved is shown on Tax Map 5, Lot 1-1, is located at Mill Road Plaza and is in the Central Business Zoning District. **(NO LATER THAN 8 PM)**

Chair Pease recused himself from this discussion. He stated that David Watt would be acting as Chair Pro Tem for this application.

Jim Campbell gave an overview of the application with regard to the approved 1978 site plan and the proposed amendments to the site plan.

Bill Tanguay, an attorney representing Colonial Durham Associates, spoke about the approved 1978 site plan, and the owner’s vested right, according to RSA 674:39, to complete the construction on the approved plan. He stated that according to RSA 674:19, this parcel, which was approved under a previous set of zoning regulations, does not have to comply with the new zoning regulations unless there is a substantial difference in what is being proposed. He stated that the amendment proposed is a small change to the plan, and is not substantially different than what was approved previously.

Dave Garvey spoke about the configuration of the lot according to the original site plan. He spoke about the proposed amendment to the site plan. He stated that the proposed area to be added to the plan is .02% of the entire site. He spoke about the calculations of the drainage study. He spoke about the parking and pavement on the original site plan and for the proposed amended plan. He spoke about the multiple uses of the Mill Plaza parking lot, and why they want to expand the current parking area. In response to a question from Amanda Merrill, he stated that Keith Weston from American Engineering did the drainage study.

Arthur Grant asked about the existing drainage in the parking lot. Mr. Garvey stated that the storm drains run down the hill and eventually the runoff ends up in College Brook.

In response to a question from Neil Wylie, Mr. Garvey stated that it was not their intent, by proposing this amendment to the site plan, to abandon the right to construct the upper parking lot that is on the approved plan. He stated that approximately 270 spaces are required for the current commercial use on the site.

Neil Wylie asked if, in review of the 1978 plan, there was discussion of renting surplus parking spaces. Mr. Garvey stated that there was not.

In response to a question from David Watt, Mr. Garvey stated that if proposed parking area is built, 361 of the total 370 parking spaces that were approved, would be completed.

Mr. Garvey spoke about the snow storage and removal for the site. Neil Wylie spoke about his concern with the current snow storage area and the snow impact on College Brook.

In response to a question from Julian Smith, Mr. Garvey stated that approximately 30 parking spots are currently rented out, and all 31 of the proposed new spaces will also be rented out.

Julian Smith stated that it seemed to him the use of the proposed parking is different from that which was originally intended for the plaza.

Jim Campbell asked the Board if sufficient information had been submitted with the application to consider acceptance.

Bob Levesque, Town Engineer, spoke about the drainage situation on the site, particularly with concern to impact on College Brook. He spoke about recommendations that he had for improving the drainage system to lessen the impact on the water quality of College Brook from the parking lot. In response to a question from Arthur Grant, he stated that there is not a way to drain the property into a part of the municipal drainage system without serious impacts. He spoke about the benefits of improving the drainage system so that it does not drain directly into College Brook, and instead utilizes a filtering system.

Arthur Grant asked how much it would cost to install drainage system that filters runoff . Bob Levesque stated that to install such a system in the end of the parking lot would cost about \$5000. He spoke about how this type of drainage system functions.

Keith Weston, American Engineers, stated that there is a catch basin at the lower end of the lot. He stated that he was quoted \$12,000 for installing the type of drainage basin Bob Levesque spoke about.

Amanda Merrill asked about the study that would be done by John Harwood of Strafford Regional Planning. Jim Campbell stated that John Harwood would review the original file, should the owner come back before the Board to extend the 1978 site plan beyond what is currently proposed.

Neil Wylie MOVED to accept the Application for Site Plan Review submitted by David M. Garvey, Garvey & Co. Ltd., Durham, New Hampshire on behalf of Colonial Durham Associates, New York, New York, to amend a previously approved parking plan. Suzanne Loder SECONDED the motion and it PASSED unanimously.

Suzanne Loder MOVED to open the Public Hearing. Amanda Merrill SECONDED the motion and it PASSED unanimously.

Jim Campbell read a letter submitted by Walter & Emma Rous, Adams Point Road, which spoke about Mr. Garvey's service to the community by making parking available in the Mill Plaza for several days for the Durham Chavurah attending high holiday services at the Campus Ministry Building.

Jim Campbell read a letter submitted by Mrs. Nobel K. Peterson, 17 Bagdad Road, which spoke about the support given to the Durham chapter of the American Red Cross by accommodating the Durham/UNH Blood Drive in the Mill Road Plaza.

John Hart, Associate Professor of Horticulture Technology at UNH, read a prepared statement that he submitted to the public record. He spoke about the importance of restoring College Brook, and protecting it from runoff that will be produced by increasing the Mill Road parking area.

Joshua Meyrowitz, 7 Chesley Drive, spoke about concerns that he has with the impact of the Mill Plaza on surrounding neighborhood and the environment. He spoke about increased flow impact on College Brook. He spoke about the recommendations in the Master Plan regarding College Brook and the greenway.

Lyman Mower, 11 Faculty Road, spoke about this recollection of the 1978 site plan review with regard to the parking area. He stated the he believed that the renting of parking is a change of purpose from the originally intended use of the parking area.

Dave Havland, 5 Chesley Drive, spoke about the importance of the Mill Plaza to the Community. He spoke about the importance of the Master Plan's recommendations that pertain to College Brook and the greenway. He stated that he believes it would be unwise to allow the area adjacent to College Brook to be added to the plan.

Eric Lund, 31 Faculty Road, stated that he is concerned with the sand and silt runoff generated by the area at the edge of the lot that was inadvertently bulldozed. He urged to Board to consider changes to EPA or Federal regulations since 1978 that might affect the approved plan.

Peter Anderson, 6 Chesley Drive, stated that it is important to maintain the buffer between College Brook and the Mill Plaza. He spoke about the increased flow impact on College Brook that he has observed in his lifetime. He spoke about concerns that he has with the amount of parking lot runoff containing pollutants, being contributed to College Brook.

Paula Roy, 22 Davis Ave., stated that she has an issue with the fact that it took 24 years to address the need for additional parking spaces that will not be used by the Mill Plaza patrons, but will be rented out.

Beth Olshansky, 122 Packers Falls Road, stated that if the 1978 plan does not meet the current regulations, she does not believe the Board should allow the plan to be made larger by amending it. She states that, if the plan is not amended, she hopes that there will be restoration of the hillside that was bulldozed.

Joan Grath, 360 Durham Point Road, spoke about her experience serving on the Master Plan Committee for the Downtown Commercial Core and the interest in the restoration of College Brook.

Jim Campbell read a letter submitted by Thomas Lee, Associate Professor of Natural Resources at UNH, that spoke about his concerns with the negative impacts on College Brook and the greenway, which would be worsened by the expansion of the parking area.

Mr. Tanguay spoke about the issues that he believed were not in the scope of the Planning Board's review of this application.

Mr. Garvey stated that the issue for consideration is not who is parking in the lot. He stated that due to the unintentional bulldozing there has been some silt runoff, and it would be in everyone's best interest to pave that area as soon as possible. He spoke about the routine trash maintenance at the plaza.

In response to a question from Arthur Grant, Mr. Garvey stated that the area they are proposing to add to the site plan is the area that was accidentally bulldozed.

Arthur Grant MOVED to close the Public Hearing. Suzanne Loder SECONDED the motion and it PASSED unanimously.

Neil Wylie MOVED to postpone deliberation on the Application for Site Plan Review to the October 9, 2002 agenda. Amanda Merrill SECONDED the motion and it PASSED 6-1 (Julian Smith was opposed).

David Watt declared a 5 minute recess at 9:24 PM.

Chair Pease returned to the table.

- V. Acceptance Consideration of an Application for Subdivision** submitted by David M. Garvey, Garvey & Co. Ltd., Durham, New Hampshire, and Stonemark Management Co. Inc., Stratham, New Hampshire on behalf of Calibogue Ltd., Hilton Head Island, South Carolina, to create 14 new residential lots. The property involved is shown on Tax Map 1, Lot 6-8, is located off of Fairchild Drive and is in the Residence A Zoning District.

Dave Garvey spoke about the proposed 14 lot subdivision off Fairchild Drive.

Jim Campbell stated that the applicant has provided the additional information that he had requested. He stated that he has spoken to the Fire Department and they have no problems or objections to the plan at this point. He suggested that the Board should

officially request the applicant to perform a traffic analysis. He stated that if there are no problems after reviewing the Town Engineer's report, that they should consider acceptance of the application.

In response to a question from Arthur Grant, Jim Campbell spoke about the issue he had mentioned in his memorandum about the amount of open space provided on the original plan.

Mr. Garvey spoke briefly about the open space as proposed on the plan.

Bob Levesque spoke about the concern that he had with the cul-de-sac, and the sight distance of the proposed intersection. He stated that having a one-way roadway without an intersection, and modifying the cul-de-sac would be acceptable to the Public Works Department. He stated that the road is a Town road, and they could authorize the applicant to upgrade the road.

Suzanne Loder requested that Bob Levesque review his memorandum to the Board.

Bob Levesque reviewed the comments he made in his memorandum about the proposed subdivision regarding the roadway, drainage, water and sewer.

In response to a question from Neil Wylie, Dave Garvey stated that a traffic analysis is underway.

Chair Pease asked if the wetland delineations were done according to Durham standards or State standards. Mr. Garvey stated that he believed that the standards for Durham were used. Chair Pease stated that they would need be sure of that, as the two standards were different.

Chair Pease stated that not all of the lot is displayed on the plan, and that there is property belonging to the lot which is not contiguous. He stated that he believed that this issue should be resolved as part of the subdivision process.

Jim Bolduc, Stonemark Management Co. Inc, stated that the two parcels were joined by an easement.

Mr. Garvey suggested that they submit, as part of the plan, a separate sheet with the other section of the parcel.

Mr. Bolduc stated it would be no problem to have that information for the next meeting.

***Arthur Grant MOVED to defer consideration of the Application for Subdivision.
Julian Smith SECONDED the motion.***

Arthur Grant stated that he would like the applicant to resolve the issue with the road before the Board gets into the process of reviewing the application.

Jim Bolduc stated that they have no problem with redesigning the intersection, they would just like some guidance from the Board.

Mr. Garvey stated that the plan is complete, and he believed that the road changes should be part of the Board's deliberation.

Chair Pease stated that he is concerned that until the plan is final, that the Public Hearing will be kept open, and doing so might prolong the process.

Jim Campbell stated that he made the suggestion to review Bob Levesque's comments before acceptance so that the Board might be able to give guidance to the applicant regarding necessary changes. He stated that it was not his intent to forestall the acceptance of the application.

Neil Wylie stated that they should move forward with accepting the application.

Suzanne Loder stated that they should not delay acceptance of this application.

The Motion FAILED 2-5 (Chair Pease, David Watt, Suzanne Loder, Amanda Merrill, Neil Wylie were opposed.)

David Watt MOVED to accept the Application for Subdivision submitted by David M. Garvey, Garvey & Co. Ltd., Durham, New Hampshire, and Stonemark Management Co. Inc., Stratham, New Hampshire on behalf of Calibogue Ltd., Hilton Head Island, South Carolina, to create 14 new residential lots. Suzanne Loder SECONDED the motion and it PASSED 6-1 (Arthur Grant was opposed.)

It was the consensus of the Board to schedule the Public Hearing on this application for October 23, 2002 and to hold a site walk on October 21, 2002 at 8:30 am.

- VI. **Deliberation 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.

Suzanne Loder MOVED to postpone Deliberation on an Application for Subdivision until the October 9, 2002 meeting. Amanda Merrill SECONDED the motion and it PASSED unanimously.

- VII. **Discussion of Draft CIP.** Paul Beaudoin and Todd Selig will be attending to introduce the draft CIP.

Administrator Selig gave an introduction to the presentation of the draft CIP.

Paul Beaudoin, Town Business Manager, reviewed the Core Purpose, Values, and Goals Statement established by the Town Council. He spoke about how the CIP data is presented. He reviewed the information presented in the CIP report.

Arthur Grant asked if the tax rate projection in the CIP takes into consideration the revaluation. Paul Beaudoin stated that it takes into consideration the assessment data collected this year, and the data that will be collected next year will not add additional tax base. He spoke briefly about the assessment process for next year.

Arthur Grant noted that the library funding is included in the CIP for planning purposes only.

In response to a question from Arthur Grant, Administrator Selig spoke about why the conservation land purchase was projected for 2003.

Suzanne Loder spoke about the consideration of taking advantage of current the low interest rates to fund projects.

Arthur Grant suggested continuing the presentation to the next meeting as the first item on the agenda. It was the consensus of the Board that this should be done.

Paul Beaudoin requested that the Board members review the CIP and make notes to discuss at the next meeting.

VIII. Adjournment

David Watt MOVED to adjourn, Amanda Merrill SECONDED the motion and it PASSED unanimously.

The meeting adjourned at 10:53 PM.

Dave Watt, Secretary
Durham Planning Board