

*These minutes were approved at the September 14, 2005 meeting.*

**DURHAM PLANNING BOARD MINUTES  
WEDNESDAY, JUNE 22, 2005  
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL**

**PRESENT MEMBERS:** Arthur Grant; Nick Isaak; Kevin Webb; Richard Kelley;  
Richard Ozenich; Councilor Gerald Needell

**PRESENT ALTERNATES:** Councilor Diana Carroll; Bill McGowan; Susan Fuller,  
Lorne Parnell

**MEMBERS ABSENT:** Stephen Roberts

**OTHERS PRESENT:** Jim Campbell, Planner; Town Attorney Walter Mitchell;  
Victoria Parmele, Minutes Taker

**I. Call to Order**

**II. Approval of Agenda**

*Councilor Needell MOVED to approve the Agenda as submitted. The motion was SECONDED by Kevin Webb, and PASSED unanimously 7-0.*

Chair Kelley said that alternate Bill McGowan would be filling in for Steve Roberts.

**III. Approval of Minutes**

April 13th, 2005 Minutes

Page 1, 1st paragraph, should be Bill McGowan

Page 5, 8th paragraph, should be Chair Roberts

Page 7, 7th paragraph, should read "Mr. Kelley asked for a table.."

*Nick Isaak MOVED to approve the April 13, 2005 Minutes as amended. Bill McGowan SECONDED the motion, and it PASSED 4-0-3, with Kevin Webb and Councilor Needell abstaining because of their absence from the April 13, 2005 meeting, and Arthur Grant abstaining because he was not on the Board at the time of the meeting.*

**IV. Report of Planner**

- Mr. Campbell said the Town Council had addressed the proposed Zoning amendments

for the first time on Monday. He said the amendments had been split up into sections, and said a series of hearings would be held on them. He said the first public hearing was scheduled for July 11th, and would cover the Housekeeping amendments and the Nonresidential zoning district provisions. He said it was important that Board members attend this and other hearings, noting he would be on vacation for the July 11th meeting, but he said planning consultant Mark Eyerma would be present.

- Mr. Campbell said an additional public hearing was held on the proposed Impact Fee Ordinance at Monday's Town Council meeting. He said there were no further comments, and the Council went on to pass the ordinance.
- Mr. Campbell provided details on the most recent Traffic Safety Committee meeting. He said they discussed the Main Street conceptual design, removal of a guardrail on Durham Point Road; crosswalk and lighting issues; pedestrian signs; the Madbury Road crossover at the Post Office; and school warning lights on Woodman and Dennison.

- V. **Public Hearing** on a petition submitted by the Charlotte Chase Estate, Durham, New Hampshire, to remove two oak trees, remove and reconstruct existing stone wall after removal of perennial flowers & shrubs, and reconstruct part of a stone wall after closing an existing driveway along the property at 177 Durham Point Road which is considered a scenic road in accordance with RSA 231:158. This is being proposed to fulfill a condition of subdivision approval.

Mr. David Chase spoke. He said that on Feb 23<sup>rd</sup> 2005, the Planning Board had approved his family's proposed minor subdivision, which created two lots out of one. He noted a condition had been placed on this approval that, before the driveway permit for the subdivision was approved by the Town Engineer, the applicants had to develop a plan showing the improvements to maximize sight distance at the driveway. He said plans on this had been developed and presented to the Town Engineer, and said he was there that evening to discuss aspects of the proposed work that fell under the Town's scenic roads provisions. He noted that Durham Point Road had been designated as a scenic road in 1973.

Mr. Paul Conley, the engineer for the Chases, described the proposed plan to Board members. He said he and Town Engineer Bob Levesque had met at the site and had discussed the natural and man-made variables there, and had tried to reach a consensus on what should be done to maximize the sight distance while keeping in mind that this was a scenic road. He said it was a delicate balancing act, and described the proposed design, which would result in approximately 325 ft. of sight distance in the easterly direction. He said this would require removal of only 2 trees, noting that if a third tree was removed, the sight distance could actually be made greater. Mr. Conley next described several scenarios that had been considered for improving the sight distance to the west. He said the one that was favored, and recommended to the Town, was to keep the trees, deconstruct the stone wall and move it back 2 to 12 ft. out of the line of sight, and then reconstruct it. He provided additional details on proposed changes concerning the shrubs and flowers at that location.

Mr. Conley said he had submitted the proposed plan to Mr. Levesque, had discussed it with him, and on June 20<sup>th</sup> received notice from him that although the plan did not meet the ASHTO or Town sight distances requirements, it did improve the sight distance greatly, and for that reason, he endorsed the plan.

Mr. Isaak asked what the height of the stone wall was, and Mr. Conley said it was between 2 \_ and 3 \_ ft. high. He said the height eye level at the driveway was 3.75 ft., noting the stone wall started from 2 ft. higher than the road.

Mr. McGowan asked what the sight distance was if the two trees were not removed, and was told it was 250 ft.

Mr. Grant asked if pruning the two oaks without removing them would improve the sight distance.

Mr. Conley said it was the girth of the trunks, not the limbs, that blocked the line of sight toward Durham Point.

Councilor Needell asked if it was correct that the existing driveway entrance was not changing.

Mr. Conley said it would remain there, but would be somewhat enlarged.

Councilor Needell asked if this driveway currently in use was considered unsafe. He said that obviously, all the driveways along Durham Point Road didn't have the best possible sight lines.

Mr. Conley said safe sight distance had everything to do with reaction time. He noted that ASHTO and Town provisions both took into consideration bad road and weather conditions, and slower reaction times.

Councilor Needell noted the only reason this particular driveway was being scrutinized was because of the subdivision application, and asked if this had been a historically dangerous intersection.

Chair Kelley said during the initial hearings there were those who felt public safety was an issue due to the sight distance at this location. He said several possible locations for the driveway were looked at.

Councilor Needell asked if this concern was because of expected increased use, or because there was the opportunity there to correct it because of the application.

Chair Kelley said he couldn't speculate why it was brought up, and noted it was brought up by the public. He asked Mr. Conley if consideration had been given to trimming the lower branch off of the largest tree to the east, located between the driveway and the two trees that had been recommended for removal. He noted that he had gone there and saw

there might be some benefit from this. He also said that looking to the east, it looked like two of the trees were one tree. He then asked what the sight distance to the west was, if none of the improvements were made.

Mr. Conley said it was about 200 ft.

Mr. Webb asked if according to the plan and looking to the west, the cedars and maples would not be removed. Mr. Conley said this was correct, and Mr. Webb asked if he had taken into consideration that these trees would grow over time, and might therefore become a problem.

Mr. Conley said he had considered this, and said he didn't expect that the cedar would get that big, although the maple tree could if it lived that long. He said in developing the plan, they had decided to let the next generation deal with this.

There was discussion about the present sight distance to the west. Chair Kelley asked if the work planned to improve the sight distance to the west was in the right of way.

Mr. Conley said it was on the Chase property. He provided details on this, and there was discussion on this.

Chair Kelley opened the public hearing.

**Ed Valena, Bagdad Road** said he drove on this road a lot, and said the Board should tread lightly on the Town's scenic roads. He said he understood there were safety issues, but said if safety improvements were taken too far, they could wind up with something like the Packers Falls bridge.

**Diane Carson, 163 Durham Point Rd** said she was an abutter, and questioned what taking down the trees and stone wall would do to the historical integrity of the road. She noted a lot of trees had already been lost from Durham Point Road, and said there seemed to be a cavalier attitude about making changes to the road. She said the safety issue should be a concern, but said the real concern was not the sight distance problem because of trees or a stone wall, but was the fact that this was a curvy road with many houses on it, and cars drove fast on the road. She said speeding was the main issue, not the trees and stone wall. Ms. Carson noted other roads and driveways in the area where visibility was compromised, and asked at what point the Town suddenly had set a new standard. She asked if all properties on Durham Point Road would now have to be looked at. She said she respected the Chase's right to subdivide their property, but questioned making a decision to meet the needs of one family, as opposed to one that would benefit the entire community in allowing the enjoyment of Durham Point Road. She said the concern brought before the Board was a concern of an individual, and said as a safety issue, it needed to be considered by the Board. But she said this was a community, and whatever decision the Board made should be made considering this was an historic road, the taxes paid by property owners on this road were inflated because of this, and the greatest good was for the entire community.

Chair Kelley said concerning the point made about the Board having set a new standard, it was when an application came before the Board that it had to look at the subdivision criteria, and said these were not applied to all the homes along the road.

**Nancy Sandberg, 15 Langley Road** said she had spoken before the Board on this property in February, concerning public safety concerns. She said while the plan that was proposed was an improvement, the sight distances still would not meet either Town standards or State standards. She said with the speed at which the cars drove, the limited sight distance, and the very great drop in grade, there were still safety issues, and she said she hoped and prayed that no accident would occur there.

Mrs. Sandberg also said she was present to speak on the scenic road issue. She said that several years back she had worked hard to have Durham Point Road designated as a scenic road, and said she cared deeply about how it looked. She said she was concerned that its special character must not be destroyed, and said she hoped there could be another solution. She said what had been presented that evening was not a good compromise, and said she wished the Board had been able to deny this application.

**Walter Rous, Adams Point Road** said he was there to speak as a user of Durham Point Road. He said he disagreed with the premise of the engineering plan. He said he had checked the sight distances at the driveway, and had seen that the sight distance to the east was better than the one to the west. He said he disagreed with the idea of taking the two trees down to the west, and said removing the limb on the tree that, according to the plan, would remain would do the most to improve visibility, and would cause the least damage to the scenic road. He said that to the west, shaving the grade 3 ft. back, along with the foliage, would do the most to improve the sight distance, with the least impact. He said causing the least amount of impact to the scenic road should be the goal.

**Jean Neeland, 199 Durham Point Road** said she had very strong feelings about Durham Point Road, and wanted to see its beauty preserved. She asked if there might be a more appropriate design, and said she hoped the trees could stay. She said if people had to go more slowly in this area, perhaps they would enjoy them more.

Mr. Kelley read a letter from **Michael and Cheryl Hoffman, 300 Durham Point Road**. The Hoffman's said the proposed plan was in conflict with the community's intent concerning scenic roads, as articulated in the 2000 Master Plan. They said residents had witnessed the debacle over the Packers Falls Bridge, which was not constructed in synch with community values. They said Durham Point Road was a country road, and the incremental widening and straightening of it created higher speeds that created more traffic and endangered pedestrians, bicyclists and others.

The Hoffman's said there were no traffic tie-ups on Durham Point Road and said there was no need to move traffic more quickly there. They said many communities, including Durham, had spent significant funds on traffic calming measures. They said the current plan was an over-design that degraded the aesthetic nature of the road. They noted that the proposed driveway modifications without tree removal and moving of the stone wall

would result in sight distances consistent with the average driveway on Durham Point. They asked the Board to keep the roadway design in synch with community values.

Councilor Needell asked if by taking out the trees, this would essentially be making people feel more comfortable about driving faster in that area. He said if this were the case, it would negate the benefits of the improvement in the sight distance.

Mr. Conley said this was a valid point, but said conversely, when calming measures were implemented speeds usually decreased. He said he would argue that some calming measures were already in place there, and also noted there was a process where Towns could post speed limits slower than the State minimum. He said he had not pursued this option, and said the proposed plan reflected a delicate balance he had tried to achieve. He said at 25 mph, the safe sight distance became less, - down to 250-275 ft.

Chair Kelley asked if the Chases knew of the historical significance of the stone wall or the plantings in that area.

Mr. Chase said he had lived at the location since 1936, and said the wall existed there at that time and had not changed since then. He provided details on changes to the roadway and accesses to the property since that time.

Mr. Grant asked what the land between the stone wall and road would be if the stone wall were moved back.

Mr. Conley said the perennials could be re-established without impeding sight distance, noting the soil would need to be stabilized with perennials or grass. He said the larger brush would need to be removed.

Mr. Grant asked how far the road right of way intruded onto the property, and Mr. Conley said it was defined by the stone wall.

Chair Kelley asked for an estimate of the depth to ledge in that area, and Mr. Conley said he had found signs of it at about 18 inches. He noted there was some exposed ledge nearby.

Chair Kelley noted that the vegetation out there at present was about as high as the stone wall, and impacted the sight distance.

Ms. Neeland asked that they not blast the ledge, noting that there was a lot of ledge throughout the area, and impacts of the blasting could be felt by surrounding properties.

Councilor Needell asked what the Board's options were, and also asked what happened if it rejected the plan.

Chair Kelley said the Board could accept the plan as proposed, accept an amended plan, or not accept the plan and not require the applicant to do anything more. He said the

subdivision plan had been approved, conditional upon a driveway permit being granted by the Public Works Department. He said the Board was now involved because the work to be done would be on a scenic road. But he said the Board could find that it was not in the best interest of the Town to go forward with the proposed plan.

Councilor Needell asked for clarification as to whether rejecting the plan would deny the Chases the ability to use the new lot.

Chair Kelley said he did not believe so, and Mr. Webb said that was also his interpretation.

Councilor Needell asked Mr. Chase if he would be concerned about safety if the plan were not adopted.

Mr. Chase said he would like to leave things as they were, and said if the Board agreed with this, he would be fine with that decision. He said they were not present to try to change Durham Point Road.

Mr. Webb noted that Mrs. Sandberg had not been satisfied with the plan that was proposed, and asked her if she had another plan in mind that that would meet both the goals of improving safety while protecting aesthetic values.

Mrs. Sandberg said her concern was that the approval of a subdivision using the existing dysfunctional driveway would indicate an increased usage of the unsafe driveway, and this would jeopardize the public. She said there was no place on the property line to develop a safe driveway, which was why she had asked the Board to deny the subdivision application.

Mr. Webb said they were beyond that, because the Board had approved the subdivision plan. He asked Mrs. Sandberg if she had another plan for improving the sight distance.

Mrs. Sandberg said she did not.

Mr. Isaak asked if there were any traffic mitigation signs there at present.

Mr. Chase said that because his mother had had impaired hearing, a "deaf person" sign was placed at the top of the hill heading west into Town. He also noted that as a young person and throughout his life, living at that location, he knew of no accidents that had occurred on that section of Durham Point Road.

Mr. Isaak asked if there was any other way to mitigate the safety issues, besides the proposed plan.

Mr. Campbell said he believed that would be an issue for the Traffic Safety Committee.

**Beth Olshansky, Packers Falls Road** suggested that cautionary yellow signs, hidden

driveway signs, etc. were options that wouldn't detract from the scenic road.

Mr. Rous noted that although he had not been authorized by the **Eeleys** to say this, but said based on conversations with them, he believed they would be just as happy if no changes were made to the scenic road.

Councilor Carroll said that if someone received a traffic violation on a scenic road, she assumed they paid the same amount as if they were on a non-scenic road. She suggested that perhaps something could be worked out concerning scenic roads specifically. She also said that if it were well known that fines would be charged for speeding in this area, people would slow down.

Councilor Needell asked if the Traffic Safety Committee had commented on this during the subdivision application process. He also asked if the Committee had considered lowering the speed limit in this area to below 35 mph, to mitigate some of the safety issues in the entire area.

There was discussion on accident reports for Durham Point Road.

Mr. Webb said it would be helpful if the Board could see the branch on the tree to the east that had been discussed that evening.

Mr. Conley said he believed that branch was higher than 3.75 ft., so was not considered part of the canopy. There was discussion about this with Chair Kelley.

Jerry Chase said he had looked at the site the previous day, and said something that had not been brought up previously was that the widening of the common drive would provide a much better angle, so that someone making a turn out of the driveway would not be doing so at a 90 degree angle. He said this increased the sight distance, explaining that someone making a turn would already be turned in that direction because of the widened driveway. He also said that in looking toward the trees to the east, he had noticed a large limb and a couple of others on the two trees. He said it was the Chases' desire not to remove the trees. He also said that perhaps there could be a sign to lower the speed, including a blind drive sign. But he noted that the driveway had been in use since the 1950's, and there had never been any accidents there.

Ms. Carson described the speed limit signs on Durham Point Road, noting portions of it were already posted at 25 mph. She said this would be a good thing to consider in the area of the Chase property.

Mr. Ozenich asked what the extent of the subdivision was, and was told one lot had been turned into two. He said requiring the larger sight distance didn't seem right to him.

Mr. Parnell said he lived in that area, and had looked at the lines of sight recently. He said from what he had seen, it seemed that removing the mature oak trees to the east would not significantly increase safety, and said this should therefore be reconsidered.



***Mr. Grant MOVED to close the public hearing. Councilor Needell SECONDED the motion, and it PASSED unanimously 7-0.***

Mr. Grant said if the Board voted to not accept the plan, he believed it would also have to vote to remove the condition. He said the condition was imposed based on the safety issues, noting the Board had thought safety issues were otherwise being addressed minimally in the subdivision application. He thanked the Chases and Mr. Conley for presenting a well thought-out plan, but said that with all the other problems on Durham Point Road, he would rather not see the proposed change made.

***Arthur Grant MOVED to reject the plan, and remove the condition. The motion was SECONDED by Richard Ozenich.***

Councilor Needell agreed that the Town would be best served by not implementing the plan, but he asked if there would be an improvement to the sight line if the vegetation between the road and stone wall were trimmed. There was discussion about this.

Mr. Webb said he was in general support of Mr. Grant's motion, but said he believed there was no need to remove the conditions of approval, because the conditions had been met. He said the Board could reject the plan and recommend to the Town Engineer that the driveway permit be issued, with no other improvements. But he said he also thought the Board might want to consider recommending some possible compromise actions, like removal of branches, trimming of vegetation, etc.

Chair Kelley said the conditions never said that the proposals in the plan had to be implemented.

Mr. Grant suggested that the Board check with the Town Attorney as to whether the Board needed to remove the prior condition.

Town Attorney Mitchell said he didn't think this would be necessary, because he thought the Board's intent, in whatever final action it would take, would be clear in the very extensive minutes that this Board took.

Mr. Grant said he would therefore withdraw his motion.

Mr. Campbell also noted the Board, in granting waivers on the subdivision application, had granted a waiver of the sight distance requirements.

Mr. Isaak said he agreed with what others had said, but said he thought the Board still needed to seek another way to mitigate the speed issues on the road.

Mr. Campbell said he had taken note of this, and would bring it up at the Traffic Safety Committee. There was discussion about this.

Chair Kelley said he agreed with what Mr. Parnell had said, and said he saw very little

value in removing the trees to the east. But he said the sight distance to the west was very much compromised by the topography and the vegetative growth in front of the driveway. He said he would support a motion to make the improvements to the east to make the improvements to the west to maintain the trees, relocate the stone wall, not remove the ledge, in order to get some improvements in that direction.

Mr. Webb said he would support such a motion, as well as the present motion.

Chair Kelley said he would argue that although the Board had addressed the concern of one individual about public safety, this was an issue for all, and had to be weighed against the aesthetic value of this road to the community.

Councilor Needell asked if the shrubbery to the west were removed, if the sight distance would improve. There was discussion on this.

Mr. Isaak noted the vegetation would grow back, so perpetual care would be required. He said for that reason he thought signage would be a better way to go.

Chair Kelley agreed, and said this matter should go before the Traffic Safety Committee regardless of the outcome at the Planning Board meeting.

Councilor Needell said he didn't see that the increase in the use of the driveway as a result of the subdivision rose to the occasion of having to change Durham Point Road. He said it was not as if a new driveway was being added.

Chair Kelley said one could argue that it almost was a new driveway because of the increase in traffic on it. There was discussion about this.

***Kevin Webb MOVED that the Planning Board deny the request for sight distance improvement submitted by the Charlotte Chase Estate, Durham, New Hampshire, to remove two oak trees, remove and reconstruct existing stone wall after removal of perennial flowers & shrubs, and reconstruct part of a stone wall after closing an existing driveway along the property at 177 Durham Point Road which is considered a scenic road in accordance with RSA 231:158. This is being done to fulfill a condition of subdivision approval, and at the same time send a recommendation to the Town Engineer to issue a driveway permit for this subdivision with no improvements made.***

Mr. McGowan asked if the Board wanted to keep the part about removal of perennial flowers and reconstruction of the stone wall. He said that as part of the driveway work, this work was still going to be done. He also noted the Board had talked about removal of some limbs. There was detailed discussion about this.

Mr. Campbell noted that a condition of approval was that the plan had to show the applicants were closing off the driveway and rebuilding the stone wall. He said they were not planning on tearing down the wall, so he did not think they needed approval from the Town for what they were doing.

***Kevin Webb MOVED to amend the original motion, and approve the portion of the petition that refers to the closing of the driveway and reconstructing the stone wall, which conforms to the conditions of the subdivision application, and to deny the rest of the request for sight distance improvement. The motion was SECONDED by Arthur Grant, and PASSED 6-1, with Richard Kelley voting against the motion.***

- VI. Continued Public Hearing on an Application for Site Plan Review** submitted by Courthouse Ventures, LLC, Hampton Falls, New Hampshire to demolish the current motor vehicle service facility and replace it with a retail motor fuel outlet which includes a 2,992 square foot convenience store with an attached 1,100 square foot coffee/donut shop. The property involved is shown on Tax Map 5, Lot 4-2, is located at 2 Dover Road and is in the Limited Business Zoning District
- VII. Continued Public Hearing on an Application for Conditional Use Permit** submitted by Courthouse Ventures, LLC, Hampton Falls, New Hampshire to demolish the current motor vehicle service facility and replace it with a retail motor fuel outlet which includes a 2,992 square foot convenience store with an attached 1,100 square foot coffee/donut shop. The property involved is shown on Tax Map 5, Lot 4-2, is located at 2 Dover Road and is in the Limited Business Zoning District

It was noted that both applications would be addressed together.

***Councilor Needell MOVED to open the continued public hearing. The motion was SECONDED by Arthur Grant, and PASSED unanimously 7-0.***

Mr. Montiero, the engineer representing the applicant, reviewed the results of the previous meetings with the Board. He said it had been agreed that the site layout was satisfactory, noting that he had received a memo from the Town Engineer that the updated aspects of the site plan that addressed previous concerns had been approved. Mr. Montiero said the two outstanding issues were traffic and access, and architectural design. He said traffic and access issues would be addressed in July, when the applicant's consultant would be present, and said they would focus on architecture at the present meeting, and hopefully could finalize discussion on it.

Mr. Montiero noted that the applicant had been asked to try to “dazzle” the Board with a revised architectural design. He said a new architect had been hired to accomplish this, and was at the meeting to present the design he had developed.

Shannon Alter, of TMS Architects, presented a series of photos which showed how the design was developed, and the final design that came out of this process. Among other things, he showed photos of surrounding properties, noting the architectural elements of the courthouse and the new hotel across the street. He described the proposed design for the facility, from various angles, and described the construction materials he recommended for the facility. He showed the finished building in relation to the other buildings. Mr. Alter then answered questions from Board members.

Ms. Fuller said she liked what she had seen of the architectural design, but said the sign that was proposed looked commercial, and asked it could be tied in better to the overall design.

Mr. Alter said the sign had been previously approved by the ZBA. He said they were trying to have the building fit in while recognizing that Irving needed some kind of branding ability.

Mr. Webb said there was still a wide blue stripe on the canopy, and said he didn't care for it. He also noted the pumps had a rocket look which was very incongruous.

Walter Eutize of Irving Oil said the company had given up most of its branding already. He said that without having any name on the canopy, the color was needed. He also said all of the new pumps looked like that.

Mr. Alter noted the blue stripes had been an issue. He said he liked the blue, aesthetically, and said it was a branding element. He noted other establishments in the area had color. He said if that was a sticking point, there could be further discussion on it.

Chair Kelley noted Mr. Alter had said he wanted to incorporate in the design many of the elements of the courthouse. He asked what the sign would be on the building.

Mr. Alter described the sign, and said it would resemble the sign on the courthouse building. He said it was a nice element.

Chair Kelley said he liked it. He also asked what the lintels proposed over the window would be made of.

Mr. Alter said he would like to get something close to the courthouse in color and texture so it wouldn't look like a slab of concrete

Chair Kelley asked what the vertical elements where the brick ended would be composed of, and Mr. Alter provided details on this.

Councilor Needell thanked the applicant for responding to the Board's request, and said it had made a huge improvement in the approach that had now been brought forward.

Chair Kelley asked if any members of the public wished to speak in favor of the proposal, or against it.

**Susan MacDonald, Laurel Lane** asked if this would be a 24 /7 facility.

Mr. Eutize said that initially, it wouldn't be, and said this would depend on whether there was the demand for it. He provided details on this.

Ms. MacDonald asked if the lights would be on if the station wasn't open, and was told

only the security lights would be on. She also asked about the windows and what they faced, as well as what the height of the canopy over the gas tanks would be. Mr. Montiero provided details on this.

Ms. MacDonald said that personally speaking, she was opposed to this building and to any to any kind of building there. She said the Town needed to think 50 years out about having a place to expand the Town Hall building, and questioned where else the Town would be able to go to add on to the community's center. She said she was also against this for reasons having to do with traffic, and also noted there were already 4 or 5 convenience stores within a mile.

**Nancy Sandberg, 15 Langley Road** said she had followed the progress of the application, and had come to look at the revised architectural plan. She noted that as part of developing the 2000 Master Plan, this corner had been studied extensively. She said that as co-chair of the Route 108 limited business district subcommittee, she had spent many hours on this. She said the subcommittee had been very concerned about improving the transition from Coes Corner to the Historic District, and felt it was terribly important that the architectural guidelines be set up for this district. She said she was pleased that the applicant had attempted to respect the Historic District, and to recognize the unique nature of the courthouse building, which was one of three structures in the entire state with a curved front. She said a development right next door to it needed to be very sympathetic to its architectural elements.

Mrs. Sandberg said the proportions of the building needed further work. She also said the subcommittee's highest recommendation was acquisition of the property for long term use of the Town's citizens, and said she thought the Town needed to take the longer view. She noted that the Board had a legitimate application before it, but said she had wanted the Board to hear her perspective. She said that during the Master Plan process, she had listened for hours to Durham residents who described what they envisioned for this location.

She said that one thing that the subcommittee envisioned was the traffic issues in this area over time, and said it had been committed to not letting residents be deprived of having this useful part of Town, which would meet people's needs, safely. She said the subcommittee had recommended that the number of turns in the area be kept to a minimum, so the traffic patterns there would be safe. She said she understood that the traffic issues would be taken up at another meeting, but said it was important that this area be pedestrian friendly. She said the subcommittee had a vision that the buildings in this area should be located closer to the street, which would have a traffic calming effect. She also said they had wanted the sidewalks to be wider. She said a greater use of brick would be important, as part of the design of the building.

**Walter Rous** said he thought the building design was commendable, but also said he wondered about the "front door" of Durham being a large, paved area. He said he saw a big void, and said the Board should look carefully at this. He also said he had some questions about the grade elevations, and Mr. Alter provided details on this.

Chair Kelley said there was approximately 200 ft. of frontage, and about 145 ft. of it would be vegetated, according to the landscape plan.

Mr. Alter noted, in response to the comment about the need for more brick, that the goal had been to not compete with the courthouse. He said in leaving the brick at a certain height on the new building, this allowed it to kneel down, in a sense, to the courthouse. He said he had tried putting more brick on the building, and it had not looked good.

**Beth Olshansky, Packers Falls Road** said she would save her comments on traffic issues. She said she agreed that the architectural design was a vast improvement, and noted she liked the idea of pulling in the courthouse features. But she said if they were really going for an historic look, the shape of the building wasn't especially historic looking. She noted an old gas station on Route 101 in Bedford which was two simple brick capes that were offset from one another. She provided additional details on this, and said it looked old fashioned. She said she liked the inclusion of the wrought iron elements in the current design, and asked if there could be more of this.

Ms. Olshansky read a letter from Mara Witzling which objected to the subdivision application. She said she was an art historian and professor of art history. She said the site under consideration was the gateway to Durham, and said two of the properties there, the courthouse and town offices, were being used in a way that denoted civic pride. She asked if the Town really wanted to add another building that further emphasized the visual sense of Gasoline Alley, and also asked if that was what they want to leave to the Town's children. She said there was a unique opportunity to tie the two existing civic structures together with a new building, something that effectively marked the entrance to the community and expressed positive physical values, or instead there could be an eyesore that established early 21st century commercialism.

**Bill Hall** noted the comments that had been made about the eastern side of the building, but said people would never see this. He provided details on this. He noted Mrs. Sandberg had brought up some things he had been concerned about concerning traffic issues. He said in the last month, there had been two serious traffic problems at the intersection because of events at the Whittemore Center. But he said before the Planning Board discussed traffic issues concerning this application, it should take a stand on the northern connector. He said the problems at this intersection had nothing to do with the Irving application, but had to do with the Whittemore Center.

Mr. Hall said it would have been great if the Town had gotten some parking as a result of this development. But he said that because of the Town Council, the Town ended up with nothing. He said the applicant tried for four months in good faith to give the Town parking around the court house. He said this was as good a proposal as the Town was going to get, and was what the Master Plan people thought would be here. He said the Town Council had recently voted 6-2 not to pursue anything more here, and said he didn't understand why people were still bringing it up.

**Arthur Grant** *MOVED to continue the public hearing to July 13<sup>th</sup>, 2005, and to*

***continue Board discussion at this time. Councilor Needell SECONDED the motion.***

Councilor Carroll said she thought the design was better, but said it would be nice if the pumps could be moved back. She said she understood it was a gas station. She said if the convenience store could be brought up to Route 108 and pivoted, people would see the back of the store, which would be brick, and would have windows similar to the courthouse, so they would be looking at two attractive brick buildings in a row. She provided additional details on this. She said she didn't know if this was workable, but said it would make it a much more attractive area.

Chair Kelley asked if this layout had been considered.

Mr. Montiero said the concerns about site circulation impacted how the site was laid out. He said the primary objective was safety, and said the present layout was considered the best for achieving this. He provided details on why the canopy was located the way it was. He also noted that Irving was, after all, in the business of selling gas, and said the canopy worked well if it was close to the driveway, with the goal to get cars in and out as fast as possible without interfering with other uses on the property. He said he appreciated the comment, but didn't think it would work, and said the applicant would rather focus on how they could make the canopy more attractive. He said the current design of the building had somewhat of an historic, train station look, and he described some of the elements of the canopy that pertained to this, Mr. Montiero said they were hoping to get some kind of consensus from the Board on the plan that evening, whether good or bad.

Chair Kelley said the Board would probably be able to provide this that evening, but he said that prior to voting on the motion, he would like to give the applicant some feedback from Board members. He also noted an increasing number of letters that needed to be read.

Ms. Fuller said generally speaking, the design was a great improvement, and said her only question was how big the blue section of the canopy was. Told it was 1.4 ft. wide, she said she didn't particularly object to the blue color, but said if the rest of the Board did, a white stripe with a Blue Canoe logo might work.

Mr. Isaak said he greatly appreciated the effort the applicant had made, and said the design had come a long way. He said the only real issues he had were color issues, which perhaps could be discussed later. He said the canopy was the hard part, and said he appreciated the brackets that had been added to make it look less top-heavy. There was additional discussion on the canopy design.

Mr. Isaak said although he would prefer a different use at this location, that was water under the bridge, and said the Board had to make the facility as attractive as it could. He noted that it might be better not to have two cupolas, which almost drew more attention to the canopy.

Mr. Ozenich agreed he didn't like the color. He said the Board should provide some suggestions for the applicant. He questioned whether the lighted signs were necessary, and said he liked the flagpole design.

Mr. Grant said this was a much improved design, and said he was comfortable with most of its features. He said he agreed that the two cupolas was a bit much, and detracted from the cupola on the main building.

Mr. Webb said he agreed that the design was a great improvement. He said his main concern was the width of the blue band around the canopy, and said he would feel better if it could be cut in half. He said he didn't want to deny Irving all of the blue color, and said a width of 6-8 inches would be good. He also said it would be good if there was a way to put in pumps that fit in better.

Chair Kelley said he liked what had been done, and said he appreciated the applicant's patience. He said the only thing to point out was that on Dover Road, one would see the back of the building, about 150 ft. away. He asked if the applicant could extend the brick a bit further, in an effort to give the appearance that it was a brick building. He said he liked the absence of the blue stripe.

Councilor Carroll said it was a much better design but said the materials to be used were another consideration. She asked whether the lintels on the building would look the same as those on the courthouse, and noted this would depend on the materials that were used. She also noted that she was at the Newmarket Irving Station in the middle of the day recently, and the lights were not on. She said she was very pleased to see this, and said it was really important not to have lighting on 24 hours a day.

Mr. Montiero noted they were moving forward on the lighting plan.

Councilor Needell said this design represented a big step forward, and gave him confidence that they could satisfy the design constraints. He said he would defer to others on the Board who knew more about architecture, but said he was pleased to see the sensitivity that had gone into the design. He said he hoped the applicant was getting the consensus on the architecture from the Board that he was looking for.

Mr. McGowan said that overall, he was pleased with what he saw. He said the applicant had listened to the Board

Mr. Parnell noted that although he had missed the last meeting, he was pleased to see that the "dazzle" issue had come up, and was also pleased that Irving had decided to take steps to enhance its image in the Town by doing something that would be of benefit to them and the Town. He also said it was important that the brick fit in with the old brick that was on the courthouse, and said he presumed this would be something that would blend in, and would not be an eyesore.

Mr. Alter said they proposed a brick that looked older, and said there would also be a



darkened mortar between the bricks.

Mr. Webb said he was having a hard time seeing how the new buildings lined up in elevation relative to the surrounding buildings. There was discussion about this. He asked how much of the yellow siding would be visible, and if it would truly be masked, as Mr. Hall had stated.

Mr. Montero said they would modify the profile in order to show this.

Letters from the following members of the public were then read into the public record by Board members.

Susan Richmond;

Robin Rousseau;

M/M Hans Heilbronner

Susan and David Richmond (second letter);

Donna Brown;

Joy Winston, 16 Griffiths Drive

Morgan Dudley.

*These letters are available to read at the Town Hall office.*

Chair Kelley thanked the applicant and consultants for all their efforts in addressing the aesthetic concerns of the Board.

***The motion to continue the public hearing PASSED unanimously.***

Mr. Webb noted the issue of loss of a full service gas station had been raised several times, and asked if the Town Attorney could look into this for the Board.

Attorney Mitchell said he had looked at this after the last Board meeting. He said as far as he could find, there was nothing in State law that required this, but said there was a requirement in the federal Americans with Disabilities Act. He said he had sent an outline to Mr. Campbell on what the requirement was, and noted there were some exceptions, that said a business didn't have to provide full service if there was only one person on duty.

Mr. Webb asked Attorney Mitchell if he could determine, for a future meeting, whether the Board could reasonably condition approval on some sort of full service being made available for handicapped people.

***Kevin Webb MOVED to continue the meeting for ten more minutes, in order to address a New Business item. The motion was SECONDED by Bill McGowan and PASSED unanimously.***

## **VIII. Other Business**

B. New Business: Request for Site Plan Review before the Technical Review

Committee by the Town of Durham for 15 Newmarket Road, Map 5, Lot 4-11.

Chair Kelley said this request related to the parking lot, and asked Mr. Campbell to describe the situation.

Mr. Campbell said the Town had reclaimed the back parking lot, and said there would be 35 new parking spaces when it was completed. He provided details on the design for the site, noting that the Board had been concerned that projects that came before it have some green space. He provided some detail on the green space that was proposed for the site, and there was discussion on this, including what the budget was for the project. Mr. Campbell said that because the work involved extending the use, it was better to pass this by the Planning Board, whether the full Board or the Technical Review Committee. He said Town staff would rather handle it through the Technical Review Committee.

***Arthur Grant MOVED to handle the site plan review before the Technical Review Committee. Richard Ozenich SECONDED the motion.***

Councilor Needell asked if in past practice, this kind of thing would go before the Technical Review Committee, if it involved a private owner.

Chair Kelley said an applicant could request that, and Mr. Campbell noted this was not automatic.

Chair Kelley said he would speak against the motion, or possibly amend it. He said the Board had heard so much from residents about the importance of this area of Town, and said he believed the full Planning Board should therefore weigh in on this. He suggested that the Technical Review Committee, in a sense as the applicant, could make its recommendation to the Board.

Mr. Grant and Mr. Ozenich said they would accept that as an amendment.

There was discussion about this by Board members and Mr. Campbell.

Mr. Webb said he agreed with the amendment. He noted that a few years back, a parking lot was expanded at Mill Road Plaza, and it turned into a big problem. He said he didn't think it would play very well if the Town were basically to approve its own actions, and said the Town should not be in this position.

Councilor Carroll said she wanted to be clear as to whether this was going to be a "permanent" parking lot, and said if so, the Board should make it as attractive as possible.

Mr. Isaak asked if a lighting plan had been developed yet, and Mr. Campbell said it had not.

Councilor Needell said he tended to agree that it made sense for the site plan to come to the Board, but he said it was simpler to say the Board wanted to do it that way, and also questioned whether it was legal to do what Chair Kelley had suggested.

There was discussion on this.

***Kevin Webb MOVED to deny the Request for Site Plan Review before the Technical Review Committee by the Town of Durham for 15 Newmarket Road, Map 5, Lot 4-11. Bill McGowan SECONDED the motion, and it PASSED 5-2, with Arthur Grant and Richard Ozenich voting against the motion.***

**IX. Approval of Minutes**

April 20, 2005

April 27, 2005

May 4, 2005

Postponed

**X. Adjournment**

***Richard Ozenich MOVED to adjourn the meeting. The motion was SECONDED by Arthur Grant, and PASSED unanimously 7-0.***

Adjournment at 10:30 pm

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W. Arthur Grant, Secretary