

These minutes were approved at the February 13, 2008 meeting.

**DURHAM PLANNING BOARD
WEDNESDAY, DECEMBER 12, 2007
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL
7:00 P.M.**

MEMBERS PRESENT: Chair Bill McGowan (arrived late); Richard Kelley; Steve Roberts; Susan Fuller; Lorne Parnell (arrived late), Councilor Jerry Needell

ALTERNATES PRESENT:

MEMBERS ABSENT: Annmarie Harris; Councilor Diana Carroll; Doug Greene, Wayne Lewis

ALSO PRESENT: Town Engineer Dave Cedarholm

I. Call to Order

The meeting was called to order at 7:08 pm by Susan Fuller, who was serving as Chair in place of Mr. McGowan.

II. Approval of Agenda

Richard Kelley MOVED to approve the Agenda, as revised by removing Agenda Item VII, the Mill Plaza discussion.

Mr. Campbell said this was in the Agenda as a placeholder, and hadn't been taken off.

Steve Roberts SECONDED the motion, and it PASSED unanimously 4-0.

III. Report of the Planner

Chair Bill McGowan arrived at the meeting at 7:11 pm.

Mr. Campbell provided the following updates for the Board:

- Mr. Campbell said there was a letter from Stonemark Management that he would like to discuss with the Board under New Business.
- He said he had gone to an educational session on the revised State Shoreland Protection Act. He said there were some good changes to it, and provided some details on this. He said Durham's shoreland protection overlay ordinance would have to be changed a bit as a result. He said the hope was to bring Arlene from NHDES to do a tri-town education session with Lee and Madbury on the changes.

There was discussion on possible coordination of the changes to the Shoreland Protection Act with local ordinance changes.

- Mr. Campbell said he had ordered extra booklets on the land use law seminars held the previous fall. He also said he had copies for Planning Board members of *“Uncommon Ground: Working Together to Reach Conservation and Development Goals”*.
- Mr. Campbell said the Economic Development Committee had recently held its first formal meeting, with Chris Mueller as Chair, Jason Lenk as Vice Chair, and Karl Van Asselt as Secretary. He said the next meeting of the EDC would be on Friday, and said there would be an update on the work of the Housing taskforce. He said the EDC would also be reviewing the map of Town owned properties that might be available for development.
- Mr. Campbell provided details on the development of the draft guidelines for the architectural standards for Stone Quarry Drive. There was brief discussion on the process involved with this. He noted that the 4 year exemption from the subdivision regulations for this project would run out next year. He said he was working with the developers to make sure what they were doing fit with the old subdivision regulations. He said the Town would need to make sure that that the work was substantially complete by the time the exemption ran out, and he provided details on this.

Councilor Needell said he would like to get a copy of the old subdivision regulations.

- Mr. Campbell said that at the most recent meeting with University planner Doug Bencks, they had spoken about the traffic model that would be done.

He said the University was doing some utility mapping using GIS. He said they also discussed the issue of representation on the MPO Technical Advisory Committee, and the fact that there was only one member of the Strafford Regional Planning Commission from Durham. He said there had been an idea to have a representative from the University on the Commission to represent Durham's interests, but he said there had been no final decision on this yet. He said if this did happen, the University would pay a 1/3 of the Town's SRPC dues.

Mr. Campbell said he would be giving a presentation to the Town Council on the issue of transfer of density/ development rights, at the meeting the following Monday. He said it was a good educational opportunity concerning this subject.

- IV. Continued Public Hearing on a Conservation Subdivision Application** submitted by Joseph Caldarola, Portsmouth, New Hampshire for subdivision of one lot into 9 lots. The property involved is shown on Tax Map 10, Lot 7-0, is located at the corner of Bagdad Road and Canney Road and is in the Residential B Zoning District. (The applicant has requested that this application be continued to the January 9, 2008 meeting.)

Richard Kelley MOVED to continue to the January 9, 2008 Planning Board

meeting the public hearing on a Conservation Subdivision Application submitted by Joseph Caldarola, Portsmouth, New Hampshire for subdivision of one lot into 9 lots, at the request of the applicant. Susan Fuller SECONDED the motion, and it PASSED unanimously 5-0.

Chair McGowan asked if the drainage report would be ready by that meeting, and Mr. Campbell said it would be.

- V. **Discussion of possible amendments to the Zoning Ordinance.** The Board will be discussing the draft amendments to the parking section of the ordinance and changes to the definitions.

Mr. Campbell noted recently proposed language changes to the Off-Street Parking and Loading draft:

Page 1

- **Section 175-111 A :** “The nine (9) foot vehicle parking width may be reduced to eight (8) feet, *with an 8 ft access aisle*, in order to comply with accessibility requirements under ADA.....”

It was noted that that was the typical van parking stall.

- **Section 175-111 E:** “Parking spaces, excluding employee parking, shall be on the same lot with the main building unless arrangements have been made for shared parking on another property and approved by the Planning Board. Mr. Campbell said it had recently been proposed that “excluding employee parking” should be removed.

Page 2

- **Section 175-111 F:** Mr. Campbell said a recent proposal was to change the language from “For all uses required to provide ten or more parking spaces...” to “For all parking facilities that provide ten or more parking spaces...”
- **Section 175-111 G b:** “A paved hard surface (concrete, asphalt, porous asphalt or cement, interlocking brick, etc.) Mr. Campbell said it had been proposed to remove the word “paved” from this sentence.

There was discussion that the Minutes from a previous meeting indicated there had been discussion on using the word “gravel” for this section, which addressed parking areas and driveways for multiunit developments and all nonresidential uses. Board members said they actually wanted non-gravel, hard surfaces for these uses.

Ms. Fuller noted that the Board had approved a gravel parking area for a nonresidential office use application that came before the Board a few months back. She asked if this kind of thing would be allowed on a case by case basis. There was discussion on this.

Councilor Needell asked if the Board was comfortable with saying all nonresidential uses were required to have hard/paved surfaces. He said this made sense for multiunit developments, but said he was concerned about having it be a requirement for all nonresidential uses.

There was discussion on this.

Mr. Kelley noted that if this wasn't required, conceivably there could be gravel parking spaces for something like a redeveloped Mill Plaza. He said he saw it as a public safety issue, in that it was easier to clear a hard surface than a gravel surface.

Councilor Needell said he was trying to open the door for something like a single family use on Route 108 changing to a nonresidential use, where a paved surface wasn't really necessary.

Mr. Kelley suggested there could be language that would allow an applicant to get a waiver from the Planning Board for something like this.

Mr. Roberts noted that Emery Farms was allowed to have gravel parking, in its recent application. He said there could be other uses of this size, which would require about the same amount of parking.

Mr. Kelley said he could support language that would allow the Planning Board to grant a waiver to allow gravel parking, on a case by case basis.

Mr. Roberts noted that installing a non paved surface professionally could be almost as complicated as a paved surface, and involved more than just putting some gravel down.

Ms. Fuller and Councilor Needell agreed the waiver idea was a good way to address this.

There was discussion as to whether the conditional use process allowed the Board to waive things like this.

Councilor Needell noted that with the height requirement in the Zoning Ordinance, there were no guidelines in the Ordinance to tell the Planning Board how to apply it. He said with the gravel parking issue as well, the question was whether it made sense to provide guidance as to why the Board should or should not grant a waiver concerning this.

Mr. Roberts noted again the importance of installing a non-paved surface properly.

Mr. Kelley said he had offered the waiver idea as a compromise, but said he didn't necessarily support it. He said he thought the language was fine without it.

Councilor Needell determined that a residential gravel driveway wouldn't have to meet the kind of performance standards that would be required for a nonresidential use. There was discussion on this.

Mr. Kelley noted that a gravel drive would require maintenance, whereas eventually the asphalt would pay for itself.

After further discussion, the Board agreed to leave the language as it was (**But did they agree to take the word “paved” out?**).

- **Section 111- G d :** Existing language in draft: “Appropriate bumper guards or curbs where needed to define parking spaces or limits of paved areas, or to prevent vehicles from projecting into any setback or other portion of a lot where parking is prohibited.”

Mr. Kelley noted that the developer for the Irving Station had installed guardrail posts on a 2 to 1 slope, and he noted that these posts were no longer vertical. He said this was something to keep in mind, and said they could have been installed differently

Page 3

- **Section 111-G 7:** Proposed language in the draft: “Only eighty percent (80%) of the Pervious surface treatments for driveways, parking lots, and loading areas will be included in the calculation of the total developed area of the parcel.”

Councilor Needell said the impervious surface ratio was needed, but said he thought the pervious surface situation should be treated on a case by case basis as to how it counted, and what it meant. He provided details on his perspective concerning this.

Mr. Kelley said he thought a carrot was needed to encourage the use of pervious surfaces, given that there was a premium associated with installing it. He said the impervious ratio allows them to build a bigger building.

Councilor Needell asked whether that was in fact a good thing, and elaborated on this.

Mr. Roberts said perhaps this should depend on the particular location, noting that in one location, where there was enough land, the ratio of the driveway and parking lot to the total lot was probably immaterial. He said on the other hand, in a compact, downtown area, having a lot of pervious pavement might be a better approach. He provided further details on this.

Mr. Campbell said unless a development was already over its allowed impervious ratio, if the Planning Board granted leeway with porous pavement, this would allow a developer to build a bigger building.

There was detailed discussion on this.

Mr. Kelley said there also might be a situation where a developer installed a pervious surface system on a piece of land where it wouldn't work, in order to gain the impervious surface bonus, and then the pavement system failed.

Councilor Needell said in some instances, installing a pervious surface might be a good design practice, and no incentive would be needed for this to happen. But he said the question was whether the wording in # 7 encouraged larger buildings, and more coverage of a lot.

He said there were two intents of the impervious surface ratio, one of which was to control runoff and to allow groundwater recharge. He said the second intent was aesthetic, and was to preserve some open space. He said that part wasn't really dealt with at all in these provisions, and said it was the part he was troubled with. He said it seemed like the proposed wording was opening the door to allowing a bigger building, and said he wasn't sure that was what the Board wanted it to say.

Mr. Roberts agreed, but said there were lots where there simply wasn't room. He said he would hate to tie a developer down and not allow pervious pavement to be used. He said with other situations where there was enough room on a lot, design requirements should be used.

Mr. Kelley said that the Town currently didn't have a stormwater ordinance, and Mr. Campbell noted that there was a stormwater ordinance in draft form. Mr. Kelley said perhaps that was where this issue should be tackled. He noted that in Massachusetts, there was a requirement to remove 80% of total suspended solids from storm water. He said there was a credit system, and depending on what structure was used, a certain amount of credit could be received. He said perhaps such a system could be used as part of in Durham's stormwater ordinance, and said it would accomplish the goals of treating stormwater, recharging groundwater, and minimizing runoff leaving the site.

He provided further details on how this could work, and said as part of this approach, a developer would do very well by adopting a pervious surface for parking. He noted that in most stormwater ordinances, there was a requirement for recharge, which was based on the particular soils on a site, and the amount of impervious cover.

Councilor Needell said an approach like this would prevent someone from installing pervious pavement just to get the bonus. He said this sounded like a good approach, stating that he wasn't sure the Board wanted to get into the business of granting more covered space just because someone was willing to put in more pervious surface.

There was further discussion on the existing definition of "impervious surface ratio" in the Ordinance, and that the wording needed to change somehow.

Mr. Kelley suggested that the definition could be changed to say that it did include pervious roadway surface treatments. He said the Board could then fight the battle concerning the stormwater ordinance on another day.

Mr. Roberts said there needed to be at least some acknowledgement concerning pervious pavement in the Ordinance under the parking requirements.

Councilor Needell said the stormwater ordinance was a good place to incentivise using pervious surface for the allowed area to be covered. He said with this approach, the Board wasn't necessarily granting any bonus of additional coverage area; something he wasn't sure was a good thing to be encouraging.

There was discussion about what districts the stormwater ordinance would apply to, and it was noted that it would apply to all of the Town's districts.

Mr. Kelley said he thought it was ok to remove Section 175-111 G 7 entirely.

Councilor Needell said he thought the key distinction to be made was that a pervious surface was a stormwater treatment device, and was not a device for granting extra paved surface or impervious building surface.

Mr. Campbell went through the definition of "impervious surface", and whether pervious surface treatments should be included as one of the impervious surfaces listed there. It was agreed to put it there for the time being.

Councilor Needell said the other possible change would be to change the Ordinance so there was a paved surface ratio, rather than an impervious surface ratio, which would include pervious and impervious pavement.

Mr. Roberts recommended having an impervious surface ratio and a pervious surface ratio, and leaving the definition alone. He provided details on this.

There was continued discussion on whether the Board wanted to grant a bonus for pervious surfaces.

- **Section 175-111 G 8:** Existing wording in the draft: "Vegetated swales should be considered as an alternative to curbs and gutters when considering storm water treatment options. Where curbs or tire stops are needed, gaps or breaks in the material should be allowed for storm water to pass through."

There was discussion that this provision also probably belonged in the stormwater ordinance.

Mr. Parnell arrived at the meeting at 8:15 pm.

Mr. Kelley reviewed for Mr. Parnell the discussion the Board had been having about how to treat pervious surface treatments in the draft Off-street Parking and Loading

provisions of the Zoning Ordinance. He said there had been discussion as to whether allowing pervious pavement would allow a developer more development on a parcel. He said he had suggested that pervious pavement should be addressed instead in the Stormwater ordinance, which was presently in draft form.

Councilor Needell said the incentive for a developer would be the ability to satisfy the regulations, but said this wouldn't necessarily involve some kind of bonus for the developer.

Mr. Parnell said he would tend to favor addressing this in the stormwater ordinance, in that pervious pavement had to do with stormwater management. But he said he didn't see what the incentive would be.

Mr. Kelley said most stormwater ordinances were moving to more performance based criteria. He said depending on what technology was used, a certain number of points could be obtained, recognizing that a minimum number of total points was required. He said pervious pavement would get a development there a lot quicker.

Chair McGowan said the Board would start with Section 175-111 G 7 and 8 the next time they looked at the draft Off-Street Parking and Loading requirements.

Mr. Roberts suggested that the Parking and Stormwater provisions of the Ordinance should be looked at together.

Councilor Needell noted that at the most recent Town Council meeting, there was some discussion on possible Zoning changes, specifically Mixed use development in the OR-Route 108 District. He said he had explained to the Council that the Planning Board was working on these pieces, and said the Council had said it would therefore defer to the Planning Board on this.

There was discussion on what the Planning Board was doing concerning this.

Councilor Needell said if the Board decided to split Mixed use with retail from Mixed use with professional office space, the Council had said it was only the retail piece that it wanted to have removed from the OR-Route 108 District. He also said the Council was working on the definition of wholesale sales, and said there would also be a discussion by the Council on the issue of transfer of development rights.

The Board stood in recess from 8:21 to 8:30 pm

- VI. Continued Public Hearing on an Application for Site Plan Review** submitted by Thomas Christie, Slania Enterprises, Durham, New Hampshire, to build a mixed-use, three-story building with three units and commercial space. The property involved is shown on Tax Map 4, Lots 9-0, is located at 12 Jenkins Court, and is in the Central Business Zoning District.

Councilor Needell recused himself from the discussion on this application.

Mr. Christie reviewed the process he had been going through concerning the stormwater drainage aspect of the application. He said the Town Engineer had previously determined that his stormwater management plan was insufficient. He said he had therefore considered the idea of using a tank, as suggested by Mr. Cedarholm, and tying it into a storm drain. He said it had been suggested that a leaching type of tank could be used, and he said test pits were done, which Mr. Johnson had witnessed. But he said the conclusion was that it would be better to have a tank that held the water and then released it into the catch basin at the southeast corner of the property.

He said he had wanted to be sure that whatever was done would meet his needs. He said he had suggested that the catch basin be looked at to be sure it was able to receive the runoff. He said it had then been determined that the catch basin was insufficient, and he said it was the Town's position is that it would need to be replaced.

Mr. Christie said he had no degree of certainty that even if his stormwater plan included a new catch basin it would be sufficient. He provided some history on this catch basin, explaining that it had been rebuilt by the Town in 1999, during the time he had constructed building #2 on his property.

He said it was difficult to see why he would need to do anything to that catch basin now, and said there was no data that actually said that it was too small. He said he had met again with Mr. Cedarholm, along with Town Administrator Todd Selig and Mr. Campbell, and said he was told the Town didn't want to do anything with the catch basin.

Mr. Christie said he would therefore like to come back with a revised plan, that would include a smaller building, which would fill in the front of Jenkins Court, with the frontage facing Jenkins Court. He said this plan would not involve an increase in impervious area, so he wouldn't need to deal with the drainage issue. He said although he would like to do the full building, he didn't see a way that he could do that, financially speaking. He said it wasn't just the spending on the catch basin he concerned with, and said he didn't see an end to spending on engineering issues.

He provided further details on why going through with the holding tank and the reconstruction of the catch basin wasn't worth it to him. He also noted that with a smaller project, he wouldn't have to move the water lines. He said he understood the importance of drainage, but said he was not in a position where he felt he had the ability to tackle that issue.

Mr. Kelley asked Mr. Cedarholm if a solution was possible concerning the catch basin.

Mr. Cedarholm said this would be a simple stormwater system involving a small holding tank and the catch basin, and said he hadn't wavered in what he had recommended. He said right now there was one catch basin, which was sufficient for the job it had to do now, but he said with this proposed development, it would receive

a pretty steady slug of water, and wouldn't hold up over several years. He said it had been put there to drain a very small area. He said it was on the Christie property and was his responsibility.

Mr. Kelley asked approximately where the holding tank was proposed to be located, and Mr. Cedarholm said he didn't know. He said it would cost approximately \$2500 for construction work on the catch basin, and perhaps \$1000 for the engineering work.

Mr. Kelley asked whether a 1000 gallon tank would be sufficient, and Mr. Cedarholm said he didn't know.

Mr. Kelley asked whether, if the applicant was willing to put in a tank and either hook up to a new catch basin on his property, or connect to the existing catch basin adjacent to the curb line in the parking lot, that would be sufficient.

Mr. Cedarholm said yes, and said the only stipulation he would put on the new catch basin was that it should have a 24 inch deep sump. He said the outlet pipe was 12 inches. He said the catch basin next to the curb was 12 inches as well, and said it flowed east into Pettee Brook.

Mr. McGowan asked if all the water on the site flowed into the catch basin in question.

Mr. Cedarholm said that of the water currently on the site, very little went to the catch basin on the corner. He said the original intent might have been that it go there, but he said most of it headed down the sidewalk and down the curb to the Jenkins Court/Pettee Brook Lane intersection.

Mr. McGowan noted that this was a public hearing, but that no members of the public were present.

Mr. Kelley asked if what Mr. Cedarholm was looking for was for the applicant to be able to match the existing peak flow coming off the site, and Mr. Cedarholm, said that was correct. He said this was not a water quality issue, it was a stormwater discharge issue. He said the concern was that right now, the catch basin received little water, with most of it being seepage from the ground. He said if it received consistent flow, its structure would deteriorate, and there would be more turbulent water leaving it.

Mr. Parnell asked if this catch basin was originally set up to handle all the water coming off the site.

Mr. Cedarholm, said the original design of the site showed a culvert inlet and did not include a catch basin on that corner. He said he didn't know how it had become a catch basin. He also said he didn't know how the Town got involved in installing it, stating that the history on this was not well recorded.

There was discussion on what size tank was needed, and Mr. Cedarholm said the

applicant's engineer would have to figure that out. He said he couldn't imagine needing anything larger than 2000 gallons, and said he thought 1000 gallons might be enough.

Mr. Roberts asked Mr. Cedarholm whether there was sufficient pipe capacity so no underground piping would need to be redone as part of this project.

Mr. Cedarholm said that was correct.

Mr. Christie said it was well documented how this catch basin had come into existence, and said the Town had constructed it, providing some details on this. He said he didn't want to get into a battle about this, and said that was why he was happy to go with half a building.

He noted that the Town had brought in a 6 inch water line when the infrastructure was put in on his site, and said he felt the situation with the catch basin was similar. He said if the Town had rebuilt the catch basin knowing that it was going to have to take all that water at some point, he thought the Town should apologize for putting in an inadequate catch basin.

Mr. Kelley asked how the tank would be sized, and Mr. Cedarholm provided details on this. Mr. Kelley asked if the assumptions in the drainage analysis done by the applicant's engineer were reasonable.

Mr. Cedarholm said yes, but said it contained no stormwater management infrastructure. He said there were calculations, but no implementation.

Mr. Kelley asked Mr. Cedarholm whether he thought that given the proximity to the brook, the flow from the Christie property was long gone out to the river, prior to the peak flow moving down the brook.

Mr. Cedarholm said he would need to run an analysis in order to be able to know this.

Mr. McGowan said if this hearing was continued to a future date, hopefully the Board would see a different design from Mr. Christie.

Mr. Campbell said either the applicant could come back with a revised plan, or he could put in a holding tank that connected to the catch basin. He said the Board had heard that he was not going to do the latter, and instead would amend his application. He said Mr. Christie would be reducing the scale of the project, and said he therefore didn't see that there would be a problem with amending the application.

Mr. Roberts said this was an unfortunate turn of events. He said from his perspective, the return on investment on the property would pay for the catch basin.

Mr. Christie agreed, but said the numbers weren't as simple as that. He noted that he had variances, so could expand the building in the future. But he said right now it was more economical to go with a smaller design. He said the biggest issue with the catch basin was not wanting to disrupt the tenant in the building right now. He noted that

the pipe that connected to it ran along the edge of the property.

Mr. Parnell said he would recommend that Mr. Christie come back with a reduced application, and asked how soon that might happen.

Mr. Christie he would be back on January 9th.

Mr. Kelley said he was troubled by the fact that Mr. Christie felt this was what he had to do, especially given some of the things that had been outlined that evening, and the amount of storm water involved. He provided details on this, but said the thing he struggled with was that there was a reason for the storm water regulations.

Mr. Christie said he respect that. But he said if there was that small an amount of water involved, and the catch basin was there, how could it be determined that the structure would or wouldn't be able to handle it.

Mr. Kelley provided some details on how the hydrolic performance of the catch basin could be determined.

Ms. Fuller noted that if Mr. Christie was going to build half a building now, and add more later, he would still have to address the catch basin issue down the road.

Mr. Christie said he had thought about the variables that were involved.

Mr. Kelley said the deal breaker seemed to be the catch basin.

Mr. Christie said yes, but he said it was also a philosophical point, in that the catch basin that was installed was supposed to be able to drain the whole lot, which at the time included a parking lot, and now he was being told the catch basin was no good.

Mr. Campbell asked why the Town had put the catch basin on Mr. Christie's property.

Mr. Christie provided details on this, and said it was a moral issue for him.

Mr. Roberts asked Mr. Christie whether, if the Town put in the catch basin, he would put in the tank.

There was discussion that the Town had put in the original catch basin, but it was on Mr. Christie's property.

Mr. McGowan said perhaps Mr. Christie could go back and talk to Administrator Selig so perhaps this could go forward. He said if not, the Board would plan to see a reduced plan at the next meeting, in January.

Richard Kelley MOVED to continue the Public Hearing on an Application for Site Plan Review submitted by Thomas Christie, Slania Enterprises, Durham, New Hampshire, to build a mixed-use, three-story building with three units and

commercial space to the January 9, 2007 Planning Board meeting. Steve Roberts SECONDED the motion, and it PASSED unanimously 5-0.

VII. Mill Plaza Study Committee Discussion

Postponed

VIII. Other Business

A. Old Business

B. New Business: Appoint a representative to the Traffic Model Working Group

Mr. Kelley discussed the fact that he had some reservations about the traffic model itself, including the software that was being utilized.

Mr. Roberts said it was originally proposed that an independent RFP was needed, from outside the University in order to represent the Town's interests on transportation issue. He also said something more useful than a sophisticated traffic model was needed, such as someone with the experience to provide the Planning Board with new ideas on traffic issues.. He said he was glad to have Mr. Kelley represent the Planning Board, but said he liked the earlier concept the Board had had concerning studying the Town's traffic issues.

Mr. Kelley said that regarding the software, one thing that was favorable about it was that it was the same software Strafford Regional Planning Commissions used. He said this meant that the Commission's data and the Town data could work together.

Mr. Roberts said a simpler, more direct approach was needed, and said software could be used as a check, rather than the other way around. He said traffic consultant Steve Pernaw seemed to do things that way.

Mr. Kelley said he had done some research into the company involved, and said the employees came out of several different disciplines, which was intriguing. He said they would be working for the Town as well, so if the Board wanted them to run the model on the night of a UNH hockey game, this could be done. He said the model was sophisticated enough so that a variety of scenarios would be possible.

Mr. Kelley said he would be happy to serve on the Committee.

Discussion on Stonemark Management Development

Richard Kelley MOVED to grant a 6 month extension to Stonemark Management for their Madbury Road development, given the current situation in the courts. Steve Roberts SECONDED the motion.

Councilor Needell receive clarification that this kind of thing had been done before.

The motion PASSED unanimously 6-0.

Councilor Needell said he would like to discuss with the Board the fact that there currently wasn't a policy where the Findings of Fact and Conditions of Approval that were developed for an application were then circulated to Town staff for comment. He said the question was whether this should happen, and if so, at what stage in the process it should occur.

Mr. Kelley asked how this issue had come up, and Councilor Needell noted discussion that had occurred concerning the Perley Lane subdivision, and said the question was how this might be avoided in the future. He said the comments the Board got from Town staff usually occurred earlier in the application review process. He said perhaps the kind of thing he was talking about could occur on a case by case basis.

Mr. Kelley suggested that at the next Town staff meeting, the idea Councilor Needell had spoken of should be raised, to see how they felt about it.

There was discussion that Town staff liked the property management plan approach the Board had included in recent plans. There was also discussion on the importance of defining phasing and completion of work for particular projects.

Mr. Parnell said he didn't think it was appropriate to get comments from Town staff on the Findings of Fact and Conditions of Approval after they had been developed. He said if the Board had concerns as to whether staff would feel a particular condition was appropriate, it should discuss this with staff before finalizing things. He also said that the issue of substantial completion of a project was a broader issue than would be addressed in comments on the Findings of Fact.

Councilor Needell said enforcement of the Findings of Fact and Conditions of Approval fell to Town staff, and largely to code enforcement. He said in an ideal world, before draft FOF and COA were developed, the Board should make sure it would be putting things in them that would be enforceable, and could see the implications of them fully. He said he didn't see that the Board tended to do that.

Mr. Kelley said he didn't think the Board had asked anything extraordinary of Town staff, and said the only big leap the Board had made was with the property management plan. He said he heard Councilor Needell's concern, and said he would share this concern if he felt the Board was doing something unreasonable.

Councilor Needell said he was trying to prevent the Board from doing something unreasonable.

Mr. Campbell noted that he sent copies of memos on applications to Town staff. He said he could also provide them with copies of draft Findings of Fact and Conditions of Approval.

Mr. Kelley requested that Mr. Campbell ask the Town Engineer or the Public Works

Director to provide copies to Board members of the Water and Sewer Committee meeting minutes. He noted that he used to attend these meetings but was unable to so now. He said there were important issues on the agendas of this committee, and said it was critical for the Planning Board to understand what was going on there, in order to plan for the future.

Mr. Roberts agreed, noting especially that water was such a critical issue, and that the relationship with the State concerning this issue was uncertain.

Mr. McGowan asked if there were minutes of other committees that the Board should perhaps get, and there was discussion.

Mr. Campbell noted that two representatives to the Strafford Regional Planning Commission were still needed. He also said the Council had not reappointed him to the MPO Technical Advisory Committee, and was trying to find someone else to fill that position.

Mr. Kelley said from his observation when he served briefly on the Strafford Regional Planning Commission, there were people on the Commission who had served on it for a long time, and said their towns' needs were more likely to be addressed. He said for some reason, there seemed to be a revolving door in terms of representation from Durham. He also noted that new Durham representatives who showed up at meetings tended to talk about problems the Town was having with the University. He said the commissioners heard this from every Durham representative that showed up there.

Mr. McGowan said he would talk with Mr. Campbell about what was involved.

C. Next meeting of the Board: January 9, 2008

IX. Approval of Minutes –

October 10, 2007

Page 1, last full paragraph, should read “..mixed use with parking should no longer be a conditional use, and should not be allowed in the Route 108 District.”

Page 2, 2nd paragraph from bottom, should read “..had been approved by the Town of Epping..”

Replace spelling of “Rozine” with “Roseen” throughout

Page 5, 5th paragraph, should read “..that he had only endorsed the concept.”

Page 6, 1st full paragraph, as well as 3rd full paragraph from bottom, should read “Eric Weinrich”

Page 7, bottom paragraph, should read “..that the Planning was taking it seriously.”

Page 9, 3rd full paragraph, should read “Mr. Kelley said he felt comfortable that for smaller projects...”

Page 15, 1st full paragraph, should read “...the previous evening, Mr. Campbell said he thought the Planning Board.....“ 3rd full paragraph, should read “Chair McGowan...”

Richard Kelley MOVED to approve the October 10, 2007 Minutes as amended. Councilor Needell SECONDED the motion, and it PASSED unanimously 6-0.

October 17, 2007

Page 5, 3rd paragraph from bottom, should read “He said although he personally would like to see..”

Page 7, 3rd full paragraph, should read “..although he realized businesses wanted it.”

Page 8, 1st full paragraph, should read “...Mr. Johnson counted the whole awning as....”

3rd paragraph from bottom, should read “..should be allowed by conditional use, if it...”

Page 11, 3rd paragraph from bottom, should read “...of the Zoning Ordinance, instead of the intent of the Ordinance, was discussed.”

Page 12, last paragraph before the motion to adjourn, should read “He noted that the Zoning Ordinance allowed.....”

The Board decided not to approve these Minutes until there were enough members present who had attended that meeting to vote on them.

October 24, 2007

Under Call to Order, should read “Chair McGowan called the meeting to order at 7:03 pm.”

Page 7, under Item # 12 toward the top of that page, there should be an Item # 13 “A Public Hearing was held on October 24, 2007.....”

Page 9, 5th paragraph from bottom, should read “..would essentially be a new structure that needed to follow the Durham historic motif.”

Page 11, 2nd paragraph from bottom, should read “..given the location of the site relative....”

Richard Kelley MOVED to approve the October 24, 2007 Minutes as amended.

Lorne Parnell SECONDED the motion, and it PASSED 5-0-1, with Councilor Needell abstaining because of his absence from that meeting.

X. Adjournment

Susan Fuller MOVED to adjourn the meeting. Richard Kelley SECONDED the motion, and it PASSED unanimously 6-0.

Adjournment at 10:09 pm

Victoria Parmele, Minutes taker