

This set of minutes was approved at the February 11, 2009 Planning Board meeting

**DURHAM PLANNING BOARD
WEDNESDAY, JANUARY 14, 2009
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL
MINUTES
7:00 P.M.**

REGULAR MEMBERS PRESENT: Chair Bill McGowan; Vice Chair Lorne Parnell; Secretary Susan Fuller; Steve Roberts; Richard Ozenich; Richard Kelley; Councilor Julian Smith

ALTERNATES PRESENT: Councilor Jerry Needell; Kevin Gardner

MEMBERS ABSENT: Wayne Lewis

I. Call to Order

II. Approval of Agenda

Susan Fuller MOVED to approve the Agenda. Richard Kelley SECONDED the motion, and it PASSED unanimously 7-0.

III. Report of the Planner

Mr. Campbell noted that the meeting was not being shown live that evening because of the School Budget meeting. He said the meeting was being taped, and would be available for re-broadcast.

He said the Planning Board terms of Chair McGowan, Mr. Roberts and Mr. Lewis were ending in April, and said they should think about what their plans were.

He said he had met with University planner Doug Bencks, and noted that a memo had been provided to Board members on what had been covered at this meeting.

Mr. Campbell said his Planner's Report to the Board outlined various meetings he had recently attended. He noted that one meeting was with the EDC, which among other things, was working with a UNH marketing class that would eventually be developing a market pan for the Town.

He said the Town Council had recently approved a proposal to have two citizen alternates on the EDC. He said those positions were therefore now available for residents to fill.

There was discussion that Mr. Campbell and Code Administrator Tom Johnson would be

meeting with the owner of 26 Strafford Ave regarding a proposal. Mr. Campbell said he would keep the Board updated on this.

- IV. Acceptance Consideration of a Site Plan Review Application** submitted by Peter Murphy, Newburyport, Massachusetts, for the demolition of the current structures and the construction of a 4-unit building which would create 16 bedrooms with 32 occupants. The basement area may be used for storage, coin-operated laundry, accessory office and workshop for building maintenance. The property involved is shown on Tax Map 2, Lot 12-8, is located at 22 Rosemary Lane and is in the Central Business Zoning District.
- V. Acceptance Consideration of a Conditional Use Permit Application** submitted by Peter Murphy, Newburyport, Massachusetts, for the demolition of the current structures and the construction of a 4-unit building which would create 16 bedrooms with 32 occupants. The basement area may be used for storage, coin-operated laundry, accessory office and workshop for building maintenance. The property involved is shown on Tax Map 2, Lot 12-8, is located at 22 Rosemary Lane and is in the Central Business Zoning District.

Councilor Needell recused himself from discussion of this application.

Mike Sievert of MJS Engineering represented the applicant. He said the applicant proposed to remove the existing structure and garage on the 5300 sf site and build a 4-unit, 3-story townhouse style building. He said there would be 4 bedrooms per unit, for a total of 16 bedrooms. He said the lot was 60 ft deep, and said there was currently a 5 occupant building there, as well as 2 paved parking spaces of standard dimensions and 4-5 unofficial spaces across the front of the property. He said the site was served by sewer and water.

Mr. Sievert said the current parking spaces would be removed, and said pervious pavers would be placed at the front of the lot for storm water management purposes. He said cars would not be allowed to park there, and said a temporary drop off area was planned. He also said plantings would be placed in the back of the site to create more of a buffer area. He noted that currently, there wasn't much of a buffer, and that the area near Pettee Brook was in pretty bad shape.

He spoke briefly about the low impact development storm water management strategies that would be used, and said the management would be more than occurred there right now, and would be designed to treat the runoff. He said he would provide more details on this later.

Mr. Sievert said variances had been required, and were granted by the ZBA. He also said a conditional use permit was required because the property was located in the shoreland protection overlay district and the wetland conservation overlay district.

Mr. Kelley asked if any work would occur in the floodplain.

Mr. Sievert said the berm, which had previous been called the rain garden, was on sheet C-2, and said it would be placed right at the flood line. He explained that the area would be more of a vegetated swale, and said hardly any work would be done in the flood zone other than plantings.

Mr. Campbell asked if had been decided where the sewer line would go.

Mr. Sievert said the preference now was to go to Rosemary Lane. He explained that the existing line on the property was in the back right hand corner out to the edge of the brook, and said there was an existing sewer manhole there. He said the plan had previously been to tie into that sewer line, but said they had found out that this line was not in good condition and needed to be replaced. He noted that a wetland permit would have been needed for this.

Mr. Campbell also said this approach would have required that work be done in the flood zone.

Mr. Kelley said the narrative the applicant had submitted said that the 6 inch sewer line would be replaced with an 8 inch line.

Mr. Sievert provided clarification that the plan was to replace it with a 6 inch line, and he said it was thought this would be fine, unless the Department of Public Works felt differently.

Mr. Parnell asked for a brief description of the stormwater management system.

Mr. Sievert said a rain garden wouldn't be used because it wouldn't work well in this instance. He said there wasn't enough depth to the soil before hitting the water table, explaining that at least 16 inches of material was needed to support the growth of vegetation and the under-drain system. He said in this location, the water table would be up into that area, so the area would end up being a wetland, and wouldn't work.

He said instead, they were planning to stretch the swale out a bit and install a stone rock spillway through the berm to allow the water to seep out through the spillway as it came up and down in the storm event. He said it would be somewhat like a small vegetated detention pond, but not as elaborate. He provided details on this.

He noted that they had originally designed the rain garden system just for the rainwater on the roof, but said the Public Works Department also wanted to see the initial first flush of a one inch storm on the front of the property go through the back area. He said there would therefore be a storm water management system out front to treat the stormwater as well as the system in the back to treat it.

He said it would be a pretty low maintenance swale in the back, given the treatment the stormwater would already have received in the front of the lot. He noted that runoff from the roof presumably wouldn't have much sediment in it.

Chair McGowan asked about upkeep of the vegetation in the swale.

Mr. Sievert said it would be trimmed, but never cut down.

There was discussion that the Conservation Commission would also do a review of the applications, and that there would be a joint site walk.

Mr. Gardner said it sounded like the infiltration planned in front was a significant part of the

stormwater plan now, as compared to before.

Mr. Sievert said a rain garden was a great approach when it worked, but he said it wouldn't work at this site, noting there was no outlet for any kind of basin approach. He said they were trying to use the berm and rip rap to slow the storm water down, and to avoid having to put in a storm water management structure that would have to be maintained. He also said it wasn't expected that the swale in the back would get an abundance of water.

Councilor Smith noted that there would be a retaining wall, and asked if some fill might therefore be put in there, which could filter water and slow it down.

Mr. Sievert said the retaining wall was from the adjacent property and would simply remain there. He said it allowed a little more ability to work on the corner for the swale, but said he didn't want to raise the ground level above the basement floor level, because if there was water there, it could come back into the building. He said it wasn't necessary to address a higher storm event in that area, noting that only the back roof runoff was going into the swale, while the front roof runoff would go into the pervious paver system.

Councilor Smith said he understood not wanting to have water above the basement floor because of the problems this could cause, and noted that he had personal experience regarding this. He asked if what was proposed with the swale would improve the quality of water entering the degraded Pettee Brook as compared to the present situation, and Mr. Sievert said it definitely would improve the water quality.

Councilor Smith noted that almost anything would be an improvement over what occurred there now.

Mr. Roberts said he assumed that the pavers would have the sub-base necessary to support the jacks for the Fire Department's Ladder #1 truck required for the three story building

Mr. Sievert said there would be 12 inches of larger stone, 4 inches of smaller stone, and a 6 inch paver.

Mr. Kelley said he would be looking to see a few deeds back for the property, if possible. He also noted that in the application narrative for the conditional use permit, there was discussion regarding impacts from the development. He said there were currently 5 residents living on the property, but said there could be as many as 30 occupants, and said he would like to see how there would be no measurable increase in noise and traffic.

He said the narrative also discussed a management office, and said he would like to see more details on hours of operation and other aspects of management of the property. He said he would like to see a security and management plan for the building.

Mr. Kelley said that regarding the condition "Preservation of natural, cultural, historic and scenic resources", anything would be an improvement over the present situation. He noted that the narrative said "The orientation of the building and associated site grading were designed

to.....preserve the existing tree line”. He said he wasn’t sure he agreed with that statement, looking at the existing conditions and the site plan. He said it looked like there weren’t that many trees that would be left there, but said an aggressive landscaping plan could alleviate that. Councilor Julian Smith said the University property on the other side of the brook had a lawn right down to the water, and there were no trees and no plantings. He said there was nothing to stop stormwater runoff there, and said perhaps the developer or the Conservation Commission could ask the University to provide some plantings.

Mr. Kelley said given the proximity to Pettee Brook, and the waivers and variances associated with shoreland and wetlands, a plan for storm water treatment as well as a maintenance plan were needed.

He noted that a sign needed to be put up concerning the upcoming public hearing.

There was discussion about waivers the applicant had requested

Mr. Campbell said the new electric utilities would go underground but said the applicant had requested a waiver from 9.06 B regarding having to take the utility pole out. He said the Planning Board generally waived that requirement.

Mr. Parnell noted that there was also a waiver request concerning the school impact fee.

Mr. Kelley asked for more specifics on what Mr. Murphy’s plans were for the basement level area. He said a concern was that there could be party areas there.

Mr. Sievert said he wasn’t at the staff meeting where this issue, among others, was discussed. But he said that as requested, the specific habitable areas of the building had been shown. He provided details on this and on some design changes that had been made to improve the functionality of the building for residents and the building manager. He noted that among other things, there would be individual trash storage areas for each of the units, and the trash would then be collected by the building manager.

Councilor Julian Smith asked if there would be a pricing structure to make it possible that there might not always be double occupancy of the units.

Mr. Sievert said yes, stating that 32 residents was the maximum number of residents that would be possible, but said there might not always be 8 students in each unit, and said there could be as few as 16 residents living in the building.

Mr. Kelley asked if the residents of the building would be able to exit the trash and laundry area and access the storage and mechanical area of the basement, and Mr. Murphy said no. Mr. Kelley asked why four exterior doors were needed to access that one area, rather than having one or two.

There was discussion. Mr. Sievert said the original thinking was that some future use might mean there would be separate units there on the first floor.

Mr. Murphy provided details on how the idea of having four exterior doors had developed, including the thought that the building might be condominimized at some point in the future. But he said he could live with the two doors on each side and a few windows.

Mr. Campbell noted that Code Administrator/Enforcement Officer Tom Johnson had brought up this idea.

Mr. Kelley said what ever worked for Mr. Murphy was fine with him.

Mr. Campbell said the application was complete, and he suggested that the Board accept it and schedule a public hearing and a site walk.

Richard Kelley MOVED to accept for consideration the Conditional Use Permit Application and the Site Plan Application submitted by Peter Murphy, Newburyport, Massachusetts, for the demolition of the current structures and the construction of a 4-unit building which would create 16 bedrooms with 32 occupants. The basement area may be used for storage, coin-operated laundry, accessory office and workshop for building maintenance. The property involved is shown on Tax Map 2, Lot 12-8, located at 22 Rosemary Lane and is in the Central Business Zoning District. Councilor Smith SECONDED the motion, and it PASSED unanimously 7-0.

The Board agreed that the site walk would take place on Jan 24th at 9:00 am.

Councilor Needell returned to the table at this time.

VI. Discussion of Amended Shoreland Protection Overlay District and Set Date for Public Hearing.

There was discussion that the local shoreland protection overlay district provisions of the Zoning Ordinance were being revised to make them consistent with the changes to the State's Comprehensive Shoreland Protection Act. Mr. Campbell said there had been two Conservation Commission meetings on this. He said at the first meeting, the Commission had suggested changes to the document. He said he incorporated these changes, and said at the second meeting, the Commission had said it was satisfied with the changes.

Mr. Roberts said he saw a conflict between the local ordinance and the State's provisions, noting Section 175-71 B 3, 8 and 11 on pages 2 and 3. He said he didn't see that these provisions were in the State's Shoreland Protection Act, and also said they conflicted with the assignment of responsibility to the Conservation Commission. He provided details on this, and said 8 and 11 should not be in the local shoreland provisions because they were covered elsewhere. He said this needed to be researched more.

Mr. Campbell noted that Section 175-71 B 11 applied just to the construction of nature trails and paths in the shoreland zone, not anywhere else in Town.

Mr. Roberts said he didn't see anything in RSA 483-B concerning this, and Mr. Campbell noted

that the Town could go beyond and above the State's provisions.

Mr. Roberts said he thought there needed to be discussion, and a memorandum of understanding reached on this issue.

Mr. Campbell said the wording in Section 175-71 B 11 concerning the construction of nature trails and paths had already been in the local shoreland protection provisions of the Zoning Ordinance. He noted that the review was pretty narrow if it went to the Planning Board, and would be concerned only with erosion control measures.

He also said the wording in Section 175-71 B 8 regarding the replacement of existing docks was already in the Ordinance. But he said he would have no problem with removing it, stating that this kind of review already went through the Code Administrator and the Conservation Commission.

Councilor Needell asked whether if the language was removed, the review would still be done by the Conservation Commission.

Mr. Campbell said yes, stating that the dock permit wouldn't be granted by the NHDES Wetland Bureau without the review by the Conservation Commission.

Mr. Kelley said if this wording was not a change, a question was why the Planning Board hadn't been asked for advice on erosion control in the past.

There was discussion about this, and about the Code Administrator's role in the process. It was noted that if #8 was taken out, the process would be the same as it had been in the past.

Councilor Needell said it was important to explain in writing that the review would occur, but would take place someplace else.

Chair McGowan said if the Board didn't specify that #8 was permitted in Section 175-71 B, how would one know it was permitted? He noted that Section 175-73, Prohibited Uses in the SPO District, said that any use not identified as a permitted use or a conditional use was prohibited.

Mr. Roberts asked Mr. Campbell to correct the amendments and to bring them back to the Board.

There was further discussion. Mr. Kelley said Chair McGowan had made a good point. He said he thought the language should stay, and additional language should be considered that would say the review wouldn't come through the Planning Board.

Councilor Needell suggested that the language in 175-71 B should be left as it was for 1-7 and 9, and the same language should be repeated separately for 8, but without referring to the Planning Board.

Councilor Julian Smith recommended that Section 175-75.2 c on page 6 should read "No natural ground cover shall be removed except as necessary for a maximum six (6) foot width path to

water....”.

Board members agreed with this change.

Councilor Needell recommended that 175-74 A 4 and B 3 should say “Oyster River Reservoir Dam to Lee Town Line“. It was noted that this language from the Conservation Commission was intended to provide greater protection for a public water supply.

Board members agreed with this change.

Councilor Needell asked if the intent of the wording “except for Pettee Brook and College Brook” in Section 175-75.1 A was that there was no waterfront buffer requirement for these streams. He said this wasn’t clear.

Mr. Campbell said he didn’t think there was a buffer requirement for those streams, and said the Conservation Commission had asked that this language be put in.

Mr. Roberts agreed that this needed to be clarified.

Mr. Campbell said he didn’t think the Conservation Commission wanted to require a buffer for these streams, given the fact that there was a more urbanized area involved. But he noted that there was still a 25 ft setback requirement for these streams.

There was discussion. Mr. Kelley asked Mr. Campbell to find out what the Conservation Commission had in mind with this wording.

Mr. Campbell said he would check with them, but said this would probably take awhile. He also said that if the Board didn’t want to exempt Pettee Brook and College Brook from the waterfront buffer requirements, the wording for this would have to be developed.

Mr. Gardner said having buffer requirements for these streams would be very beneficial from a water quality perspective.

Mr. Campbell said such requirements would mean that anyone in that area who wanted to do anything with their buildings would have to consider the waterfront buffer. He said he wanted to be sure this was what people wanted.

Chair McGowan said given the location, he wasn’t sure about the water quality issue. He asked if there was a waterfront buffer on the University property across from the applicant’s property, and there was discussion.

On another issue, Councilor Smith suggested that 175-75.1 A 2 b on page 6 should say “Stumps and their root systems and rocks shall be left intact....”

Councilor Needell asked if it was intended that Pettee Brook and College Brook would also be exempt from 175-75.1 B.

There was discussion that given the language in that section, the intention was probably to exempt them.

Councilor Needell said it would be a good idea to clarify with the Conservation Commission that this was their intent. He noted that he had not been on the Conservation Commission when the draft ordinance was discussed.

It was noted that the Conservation Commission would not be meeting before the public hearing, but that they could come to the hearing itself.

Mr. Campbell said it was important to get the wording in this Ordinance right.

There was brief discussion about whether 175-75.1 concerning impervious surfaces conflicted with other local regulations.

Councilor Julian Smith asked whether a lot within the protected shoreland with 50% exposed ledge or glacial erratics could be built on, or if some of this ledge would have to be covered over with pervious surface.

Mr. Gardner said he believed that any land in its natural state was considered pervious.

Councilor Needell asked where 175-75.1 A 2 d addressed the structure itself. There was detailed discussion that the language in a through d referred to the performance standards for the SPO district, and that this language indicated that structures could not encroach into the buffer area.

Mr. Parnell noted that these performance standards applied to existing structures as well, and asked who would enforce this.

Councilor Needell asked if there was an inconsistency between the language in 175-75.1 D on Forestry and the requirement for the maintenance of the waterfront buffer. He asked why a selective cutting forestry operation couldn't be done within 50 feet of the reference line as long as the scoring outlined in 175-75.1 A d was followed

Mr. Parnell said he thought there could be a bit of a conflict, but said he thought the intent of the waterfront buffer provisions was to allow a homeowner to do a bit of selective cutting, and that the language in 175 75.1 D was a blanket restriction concerning logging within 50 ft of the reference line.

There was discussion.

Councilor Needell questioned the logic of the wording in Section 175. 75.1: "All buildings and structures, whether vacant or with a new or existing structure be erected, altered, enlarged, or moved on all land, within the SPO District, shall be used in accordance with the following specific performance standards". He asked if the intent of this was that regardless of whether there were buildings and structures involved, the waterfront buffer had to be maintained by these

rules, which in part were a simplification of the basal area law as used in forestry. He said the intent of the wording wasn't clear.

There was discussion that the draft shoreland protection ordinance wasn't ready.

Councilor Needell suggested that the wording in Section 175 75.1 also covered forestry, in the sense that even if forestry took place on a parcel, one would still be bound by the waterfront buffer requirement.

Mr. Parnell agreed, and suggested that the 175 75.1 D on forestry could therefore be taken out.

There was further discussion.

Councilor Needell said with a forest tract, the question was whether the intent was that regardless of the forestry rules, the property owner still had to maintain the waterfront buffer. He suggested that the new rules, including the pseudo basal area law, covered that buffer sufficiently so the sentence in the forestry section wasn't needed. He said any parcel along the shoreland was already covered by the rule.

Mr. Campbell said if a property owner was doing forestry in the shoreland area, that activity was exempted, except for the last 50 ft. He said he thought this requirement was needed.

Councilor Needell asked if it would be better if the wording in 175-75.1 D on forestry actually said that the waterfront buffer as described in 175.75.1 A would be maintained. He said in this way, a person doing forestry on a tract that had shoreland should be able to do the same trimming as someone who was not doing forestry, as long as the proper scoring concerning trees could be maintained.

Mr. Parnell noted that 175-75.1 B 5 regarding dead, diseased and unsafe trees within the natural woodland buffer of 150 ft. represented another potential conflict with 175-75.1 D.

Councilor Julian Smith said the wording on impervious surfaces in 175-75.1 I "shall be composed of impervious surface" meant "shall be covered by manmade impervious surfaces".

There was discussion that this wording came from the State. It was noted that a manmade surface could be pervious.

Mr. Campbell said the Town's definition of impervious referred to manmade surfaces, and didn't mention ledge.

Chair McGowan asked what the next step was.

Board members and Mr. Campbell agreed that the draft ordinance was not ready to send on to public hearing. Mr. Campbell asked Board members to send him their comments so they could review a revised draft at a future meeting.

VII. Other Business

A. Old Business

B. New Business

1. Request for technical Review for changes to building exterior of Holiday Inn Express, Map 4, Lot 50-0A.

Mike Zimmerman said he was the project manager, and explained that Holiday Inn Express was currently undergoing a re-branding. He said the franchise holder had been instructed to change the façade lighting of the building to comply with the franchise requirements. He noted that a request to change the signage had been handled by the signage company and was submitted in a separate document that had been approved.

He spoke in detail about the lighting that was proposed, which included the installation of three 150 watt uplights, and two 70 watt downlights. He said the color of the light that was proposed was blue. He said he assumed it was the uplights that were of concern, not the downlights. He said the uplights would have a narrow lens, and were intended to indicate the location of the building. He said the light was not intended to act as a spotlight and instead was intended to wash the face of the building with light. He said he had tried to indicate how many foot candles would be present at the roof line of the building, using photometric data.

Councilor Smith said the chart indicated that no light would shine up beyond the building into the sky, but would shine against the building.

Mr. Zimmerman said that was correct, and said the data indicated that only 2 foot candles would reach beyond the roof of the building. He also said it was hoped that when the installation was done, the light could be turned as close as possible to the face of the building to minimize the 2 foot candles. He noted that the data provided assumed that the light was pointing straight up.

Councilor Smith asked if it would be possible to install the light 6 inches further out from the building so it could be tilted more toward the building.

Mr. Zimmerman said there was an option for an extended arm, and said this was something he would have to discuss with Holiday Inn. He said he had been told there was no precedent for this across the country and that it would have to be applied for.

Mr. Roberts spoke about the application process for the hotel project. He also noted that this was one of the heaviest volume traffic areas in the community, and that the Board had promised the pocket neighborhood that the approval granted for the development would not be changed. He asked if there was a financial need to make this change now for the survival of the business, and if doing so would increase the occupancy percentage.

Andrew Bailey, the general manager of the Holiday Inn Express said that potentially, more lights could better identify them as a hotel.

Mr. Roberts noted that for the Irving project, the Board had forced the company to use downward lighting only, and to change the lumen levels. He said given the fact that the Holiday Inn Express was located at a cross-roads, the question was how much more illumination was needed. He also noted that it faced the Historic District.

Mr. Kelley noted the specifics in the Findings of Fact and Conditions of Approval for the original hotel project, including the HDC and lighting plan reviews that were done. He said he could sympathize with the desire to expedite the process, but said he couldn't support that. He said the applicant would have to go to the HDC and to the Planning Board concerning an amendment to the original site plan approval.

Mr. Campbell said the building itself wasn't in the HDC except for a section of the parking lot, but said the applicant would have to come in for an amended site plan review by the Planning Board.

Mr. Kelley said this would give the residents a chance to comment on it as well.

Councilor Smith said he could understand why a corporation would want to have this kind of light branding to attract people driving by on an interstate, but said that in a Town like Durham, on this road, there wouldn't be a lot of people looking for those blue lights.

Mr. Zimmermann said that was a good point, but he said the blue light look would become associated with Holiday Inn Express, so that over time, people looking to stay there would be looking for it as they drove around Durham.

Councilor Smith said the blue light would still be on the façade, but said the only issue was how much would get into the sky and be reflected into the neighborhood.

There was discussion about the location of the pocket neighborhoods.

Councilor Needell said he agreed that this shouldn't go to the Technical Review Committee. He also noted that the Zoning Ordinance had a specific prohibition of franchise architecture in the Courthouse District, under Section 175 45 F 6.

Mr. Zimmerman said a question was therefore whether blue lighting was considered franchise architecture.

Councilor Needell said two questions were whether the lights had to be blue and whether there was a reason they had to point up.

Mr. Campbell noted that a lighting ordinance had been drafted, but had not been adopted.

Mr. Zimmerman said he didn't know if Holiday Inn thought the lighting had to be blue, and said he would have to look into this. He noted that the proposal did have two downlights.

Councilor Needell said a question was whether just the two downlights would be sufficient.

Chair McGowan suggested that temporary lights could be mounted at the hotel to get an idea of how they would look.

Mr. Zimmerman said this could be arranged, and also said a lumen counter could be used. He asked if the Board's concern was night sky protection and/or aesthetics and was told the concern was both of these things.

There was discussion on the new sign planned for the hotel. Mr. Bailey said it would be the same size as the current sign, and would be white with a new logo. He said the sign would improve the image of the brand.

Councilor Smith said the permitting of the former Hotel NH had been a long process, and noted that originally it had not been a franchise hotel. He said the Irving station was a franchise, and the initial plans for the site were typical of a franchise. He said an architect had been hired to make some changes to make the development look less like an Irving station than other Irving stations. He said as part of this, some lighting changes had been made. He said this was a difficult issue for Durham.

Mr. Zimmerman said Mr. Bailey had a great relationship with the Town of Durham. He said it seemed that the Town's initial misgivings about the hotel had been allayed over time, and that the hotel had been a good partner. He said they were not trying to force anything on the Town, and wanted to follow the correct procedures to come to an agreement.

There was discussion on the current lighting of the building. Mr. Parnell said it was hard to see how this would look, and asked if there were other Holiday Inns in the area with this kind of lighting.

Mr. Zimmerman said he had seen them in New York, but hadn't seen them in New England yet.

Chair McGowan suggested that it would be good if the Board could see some pictures of other Holiday Inns that had these lights.

Mr. Zimmerman said he could get some photos.

Mr. Roberts said he had been pleased with the existing image of the hotel, and said the Town was proud to have it in Durham. He said he would hate to see this change.

Mr. Zimmerman said it was his hope that they could come to an amicable conclusion. He asked whether, if the uplights didn't exist and there were just the two blue downlights, this would still have to go to the Planning Board.

Mr. Kelley said if there were just the two blue downlights, he would have no issue with this. He said it was the uplighting that was of concern.

Mr. Roberts agreed, and there was further discussion.

Richard Kelley MOVED to deny the Request for Technical Review for changes to the building exterior of Holiday Inn Express. Richard Ozenich SECONDED the motion.

Mr. Ozenich noted the concerns previously expressed by residents regarding the original hotel project. He said when this went to the Planning Board, there should be a site walk, and said abutters in the neighborhood should be notified.

The motion PASSED unanimously 7-0.

Break from 9:03- 9:08

2. Request for extension on Conditions of Approval for 12 Jenkins Court Site Plan, Map 4, Lot 9-0.

Mr. Campbell recommended that the Board grant the request. He said progress on meeting the conditions of approval had been made, although the process was a slow one. He said hopefully there could be an agreement and the Town would have a new building.

Richard Kelley MOVED at the request of the applicant to approve the extension on the Conditions of Approval for one year from January 16, 2009 to January 16, 2010 for the 12 Jenkins Court Site Plan, as outlined in the letter to the Planning Board dated January 9, 2009. Councilor Smith SECONDED the motion, and it PASSED unanimously 7-0.

VIII. Approval of Minutes

November 12, 2008 Minutes

Page 1, bottom of page, should read "...had given Powerspan an access permit for a 35000 sf building, but would not give a permit for that size building to Chinburg Builders."

Susan Fuller MOVED to approve the November 12, 2008 Minutes as amended. Richard Kelley SECONDED the motion, and it PASSED unanimously 7-0.

December 10, 2008 Minutes

Page 3, 7th full paragraph, should read "Vice Chair Parnell asked if there were any..."

Page 16, 2nd paragraph from bottom, should read "He said one area was the one on Mill Road that had recently been..."

Page 17, 2nd full paragraph should read "Mr. Roberts said he felt this possible Zoning change needed..."

Susan Fuller MOVED to approve the December 10, 2008 Minutes as amended. Councilor Smith SECONDED the motion, and it PASSED 6-0-1, with Richard Kelley abstaining due to his absence from that meeting.

Mr. Campbell said that on January 28th, Eric Chinburg would be present to discuss with the Board his ideas for development of the Durham Business Park.

Mr. Roberts said recent discussion by the Conservation Commission on this issue had included whether relief would be needed from the new Town-wide wetland setback requirements. Mr. Campbell said because of these Ordinance changes as well as physical changes on the ground, there were now 3 building sites instead of 5.

Mr. Roberts said The Conservation Commission hadn't thrown the development ideas out, and said the concern was that it be done right, and that the Planning Board be involved in some way.

Mr. Campbell said this was what the Board would be discussing with Mr. Chinburg.

Ms. Fuller asked if there would be a site plan application coming forward regarding the Houghton Hardware building, and Mr. Campbell said not quite yet.

There was discussion that Mark Henderson's Ballard building project was planning to move forward, and that he wanted to start construction by June 1st.

Richard Ozenich MOVED to adjourn the meeting. Richard Kelley SECONDED the motion, and it PASSED unanimously 7-0.

Adjournment at 9:25 pm

Victoria Parmele, Minutes taker