

These minutes were approved at the June 24, 2009 meeting.

**Durham Planning Board
Wednesday May 13 2009
Durham Town Hall - Council Chambers
MINUTES
6:30 pm**

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

ALTERNATES PRESENT: Kevin Gardener

MEMBERS ABSENT: Councilor Neil Niman, Wayne Lewis

I. Call to Order

II. Approval of Agenda

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

II. Report of the Planner

Mr. Campbell reviewed the various pieces of information that had come in for the Board, related to the applications currently before them.

He noted that there were 2 alternate member positions available on the EDC.

Mr. Campbell said on May 12th, he'd attended a presentation on a great marketing plan that students at the UNH Whittemore School had developed for the Town.

He said the deadline for receiving responses for the Central Business District RFP was May 29th, and said he expected to see a lot of bids.

Mr Campbell said there would be two new applications for the Board's May 27th meeting, a site plan application to allow additional parking spaces at Mill Plaza, and a conditional use permit to convert a 2 bay garage into apartments.

He said the Energy Committee would be holding a tour of the new River's Edge apartments on May 18th at 4 pm, to look at the innovative energy features of this development. He said Planning Board members were welcome to attend.

IV. Appoint One Member to the Historic District Commission

Chair Parnell noted that Ms. Fuller was the current Planning Board representative to the HDC, and

did not wish to be re-appointed.

After discussion, Mr. Campbell said Planning Board members could take more time to see who would be willing to serve on the Commission.

- V. Continued Public Hearing on an Application for Site Plan Review** submitted by 10 Pettee Brook Lane LLC, Durham, New Hampshire to demolish and redevelop a former hardware store into a new three-story, mixed use building. The property involved is shown on Tax Map 4, Lot 8-0, is located at 6 Jenkins Court, and is in the Central Business Zoning District.

Richard Kelley MOVED to continue the public hearing. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

Mike Sievert of MJS Engineering represented the applicant, Mathew Crape. He said he would address issues that had been discussed at the site walk, and would update everyone on the additional information that had been provided to the Board. He said there hadn't been any changes to the site plan, but said he had brought some elevation views of the project.

He noted that he had previously been asked if the Fire Department's comments had been addressed. He said a letter indicating that the Department had no issues with the application had been submitted. He also spoke about the letter from the Police Department, and said the project would be in conformance with their concerns in regard to property management during and after construction.

Mr. Sievert said all of the easements in regard to utilities, drainage and sewer were shown on the plan, and had been there since the original submission. He noted that these were there for planning and design purposes and were not set in concrete. He said if slight changes concerning them were needed, this could be done. He said all the easements had been discussed with the appropriate property owners and abutters.

He said the sewer had been discussed and approved by the Public Works Department, and was under review for approval by the State. He also said the drainage design had been fully engineered and approved by the Public Works Department, and exceeded the current water quality requirements. He noted that it would also meet the new MS4 water quality requirements.

Mr. Sievert said landscaping issues had been addressed. He also said there was adequate pedestrian access as a result of the sidewalks that had been added, and he provided details on this. He noted that the issue of a construction phasing plan had been discussed at the site walk, and said a preliminary plan for this had been submitted. He said it indicated that there would be some temporary road closures, and also provided details on the sequencing and timing of construction as well as the location of fencing. He said the Public Works Department had reviewed this plan on a preliminary basis, and he explained that there would still need to be a preconstruction meeting to set the final sequencing and timing of construction.

Mr. Sievert said he had submitted more detailed information on utilities to the Planning Board, and could answer questions on this.

Chair Parnell asked if the Board had any comments to make before hearing from members of the public. There were no comments, and he then asked if there were any members of the public who would like to speak in favor of the project, against it, or would like to express some concerns about it.

Councilor Diana Carroll, 54 Canney Road, noted that she was speaking as a resident, not as a member of the Town Council, and said she had some concerns about the project but was not speaking against it. She said she had been very pleased to attend the site walk and look at the issues on the site.

She said it was wonderful that the applicant had agreed to bury utilities on the property underground, and also would work with owners of nearby properties concerning this. She said this was the direction the Town was moving in, and said it would improve the appearance of the downtown area tremendously.

Councilor Carroll suggested that Mr. Campbell and the Planning Board should take leadership on this issue. She said this was a perfect opportunity to see if other businesses downtown could put their utility lines underground as well.

She said this proposed development was also a great opportunity to look at that back side of Main Street, which she described as an unsightly area for one to travel on the way to Main Street. She said it was important to get the neighboring properties involved. She said if this were to come up as a beautification project, it would be too expensive, but said now that a part of the area was going to be developed, it was a good time to look at the larger area behind Main Street.

Councilor Carroll said this was a large building that was proposed, and said she didn't have a firm position on that. She said as good as the computer generated photo was, it was still a little difficult to know how it would look. She suggested that floating some balloons could help to show what the roof level would be, and she urged the Planning Board to look at this carefully. She said the building could be out of scale, like Holloway Commons. She noted that it wasn't yet known what was planned for the surrounding area, and how the 6 Jenkins Court building and others in the area might balance out.

She said the detailing of the proposed building was very nice, and said it looked like some real thought had gone into this.

Councilor Carroll said that in regard to the management of the property, she believed, as she had when she was on the Planning Board, that there was a need for a caring adult presence on a regular basis in a building where students lived. She said this was extremely important, especially with the great number of students living downtown, and she spoke in some detail on this. She noted that Mr. Crape had spoken about the idea of having resident advisors, and she said a management plan that included this was important.

She noted that the apartments in the proposed development would be set up for six students, and she questioned how this would work, with six people living together in a fairly confined space. She said this seemed to be pushing the limits, for any age group, and said the Board should think about this.

Councilor Carroll said in order to keep the general goal of what people were striving for downtown, a question was how to create development that resulted in a vibrant downtown that was for residents as well as students. She said it was important that as new buildings came in downtown, that the Town ended up with as many win-win situations as possible.

Councilor Robin Mower, 11 Faculty Road, said she would like to echo many of the comments that Councilor Carroll had made. She said she was glad to see that the utility lines would be buried, and she urged the Planning Board to make sure that others considering projects downtown do the same.

She said she was not against the project, but said it did raise some issues about what was being created downtown. She noted that because of the challenging times economically, this could impact some innovative energy efficiency goals, but said this remained to be seen.

She said a question for the Board was what the balance should be downtown concerning student residences, other residences and other uses downtown. She said she had spoken with Mr. Crape about possibly going for a variance for the same number of students but smaller units, an idea that the Council had discussed as a possible Zoning change for the future. She said she guessed that this option didn't seem feasible for this project because of the economics, but said she wanted the public to know that some of these ideas had been considered.

Councilor Mower said there were many positive thing about the project, including an attempt to achieve a high level of aesthetics. She also noted that the height of the building was necessary in order to hide some of the building operation equipment needed at the top of the building.

Mr. Gardner said he understood what Councilor Mower was saying about the desirability of having a good mix of housing opportunities in town. But he said the owner didn't have any control over who rents there. He asked what the Planning Board could do in this kind of instance.

Councilor Mower said she had raised this issue because the Planning Board would be in a position to change the Zoning for the Central Business District. She said it was important to keep in mind what the impacts might be of some of the choices they might be facing, when they heard that some members of the public were concerned about high concentrations of students downtown. She noted that property owners of course had the right to do this kind of development downtown.

Councilor Carroll said it appeared that an apartment with six bedrooms was intended for students.

Tom Christie, Jenkins Court, noted that he was an abutter, and said he had prepared a number of questions concerning the application. He said the first was whether there was a new driveway permit in place for the project, and said he believed the answer from the Town Engineer was that there was no permit on file. He said the site plan application therefore shouldn't be before the Planning Board yet.

Mr. Campbell explained that the permit needed to be obtained before approval of the site plan application, and that said the approval would not be given until the plan was signed.

Mr. Christie discussed his concerns about allowing the sewer line to run under the new building, and suggested there was a third option, which was to have the sewer run in the alley between the copy center and the new building, toward Young's, which would be entirely within the existing parcel.

He also said that regarding stormwater drainage, the water clearly would be flowing at a greater rate than it would if it was sheeting across the ground. He also asked the Board if it would be better to have a reduction in the rate of that flow, rather than a 0% increase. He said the Zoning Ordinance allowed and encouraged this, which was something similar to what he did on his property.

Mr. Christie said that concerning landscaping on the site, he saw a requirement in the Ordinance that there be landscaping in the public away along the front, in a pedestrian area. He said just because there were zero setbacks, this didn't mean that landscaping didn't need to be included. He said absent this being in the plan, a variance was required. He said it was premature for the Board to act on this, given this.

He noted that Councilor Carroll had spoke about the issue of alleyways, and said he was concerned about the new alleyway underneath the building that would result from the proposed development. He said he wasn't sure it was the best alternative.

Mr. Christie said although the Public Works Department said everything was ok with the application, the Planning Board had the opportunity to disagree with this, and ask for something different. He said two especially important issues with this application were the height waiver request, and the parking waiver request. He said there was an economic aspect of this, and he suggested that the scope of the project could be downsized and still be economic.

He said there would be a whole other floor level in addition to the area that would hide the mechanicals on top of the building.

He said the plan proposed vegetation for a space that would only be 4 ft wide, and he noted that with his own recent site plan application, he was told by the Public Works Department that he would have a hard time growing vegetation in an area that was 6 ft wide. He read a memo from Mr. Cedarholm concerning this issue in regard to his own application.

Mr. Christie also read into the record a memo from Mr. Cedarholm dated May 5, 2008 regarding stormwater management, in regard to his own site plan application. Mr. Christie said that concerning stormwater management on the applicant's site, if there was flooding in the area and that site flooded, and the only suggestion was that the applicant would retain water from the current impervious areas, the question was when water in the area would be retained, and when the problem would begin to be solved.

He said the developer had the right to develop his property, but only if that development met

what was outlined in the Master Plan, the Site Plan Regulations and the Zoning Ordinance. He also said he would like to see a project on the site. But he said the Board had some latitude concerning things like granting a waiver from the parking requirements, etc., and said there was no right for the developer to develop the property if the Board felt there were aspects of the plan like parking that were not correct. He spoke in some detail on this.

Mr. Christie said he would submit his comments to the Board in letter form. He said his last concern was that when he had in recent years selected an engineer to develop the plans for his new building on Jenkins Court, he did not select MJS Engineering because of a possible conflict of interest. He said he had received phone calls from people voicing concerns about the present application before the Board, and a possible conflict of interest because MJS Engineering represented the applicant. He noted that Planning Board members were appointed by members of the Town Council.

Mr. Christie asked Mr. Campbell if there was the need for a landscaping plan.

There was discussion between Chair Parnell and Mr. Campbell about the best way to respond to the issues Mr. Christie had raised. Mr. Campbell said he didn't think this response should occur during the Public Hearing.

Mr. Christie said he had thought his discussion with Mr. Campbell and Mr. Johnson would have generated a memo to the Planning Board on the issues he had raised.

Chair Parnell said the Board would address these issues during the deliberation.

Mr. Christie said he thought there needed to be a discussion and a decision about whether the application was complete, before closing the Public Hearing.

Mr. McGowan pointed out that the notes from the meeting between Mr. Christie and town staff were in Mr. Campbell's latest memo to the Board.

Mike Hoffman, 300 Durham Point Road, said he was a member of the Durham Energy Committee, but said the comments he was about to make were based on his own thoughts. He said he felt the proposed project was in keeping with the mission of the Energy Committee, and with the idea of infill development. He said he agreed that the utility lines should be buried underground throughout the Central Business District. He noted that he was a fire fighter, and said this was a life safety issue because it was unsafe to have overhead lines in front of 3-4 story buildings. He said underground utilities should be a requirement of future zoning.

Mr. Hoffman said he was very much in favor of green technologies like spray foam insulation. He said the Town should be creating incentives for developers to do these kinds of things. He also said the idea of having reduced parking for the development was in keeping with the mission of the Energy Committee. He noted that when he had lived in Colorado, there were two parking areas on the edge of the town, and residents took buses into town, which was wonderful. He said the proposed development on Jenkins Court would be pedestrian friendly, and said this would be a good trial to see how this kind of thing worked in Durham.

Mr. Hoffman said he appreciated the architecture of the building, and said he didn't see its proposed height as being out of scale. He said while he continued to think that Holloway Commons was out of scale, he'd come to feel that Libby's had been a positive addition to the Town. He said he thought residents would see the proposed development in the same way

Councilor Smith MOVED to close the Public Hearing. Richard Kelley SECONDED the motion.

Mr. Kelley asked if the application was technically complete.

Mr. Campbell said that technically it was complete, although noting that there might be some issues with some of the submissions.

The motion PASSED unanimously 7-0.

Mr. Kelley said he thought the Board should continue with the other applications, and deliberate on the 6 Jenkins Court application later.

Mr. Roberts said he wanted to have the opportunity to do a spreadsheet on the comments that had been received, and the various aspects of the Ordinance/regulations involved with them.

Mr. Parnell said the Board would defer deliberation on the application until later in the meeting, or the next meeting.

VI. Public Hearing on an Application for Site Plan Review submitted by Thomas Christie, Slania Enterprises, Durham, New Hampshire, to build an addition onto a commercial building to be used for mixed use commercial/residential. The proposed addition will be 14' x 72' or 1,008 square feet. 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.

Mr. Roberts asked Mr. Christie if he was planning to remove or modify the existing deck. Mr. Christie said it would be removed as part of the site plan approval for 14 Jenkins Court. He said the purpose of the 10 ft x 32 ft space was to allow handicap access, an enclosed staircase, etc.

Mr. McGowan asked if there would be coordination between building this addition and Mr. Christie's new building that had been approved by the Board.

Mr. Christie said yes, and explained that the plan was to do the addition first and then the new building.

Mr. Roberts asked Mr. Christie if he planned to weave together the architectural style of the addition with the style for the new building as well as with the styles of his two existing buildings.

Mr. Christie spoke about the fact that originally, there was going to be one building on the site with interesting architectural details. He said he planned to continue with the flat roof style, and provided other details on his plans for the buildings. He noted concerns expressed about gutters, and said he was leaning toward a flat roof for that reason.

Mr. Roberts asked if any of the brick would be matched, or if the match would be with the siding on the newer building.

Mr. Christie said his intention was to match the proposed addition with the building it was going on, on the side that would face another building. But he said the façade would be brick.

Richard Kelley MOVED to open the Public Hearing on the Site Plan Review application submitted by Thomas Christie, Slania Enterprises, Durham, New Hampshire, to build a 14' x 72' or 1,008 square feet addition onto a commercial building to be used for mixed use commercial/residential at the property shown on Tax Map 4, Lots 9-0 and located at 12 Jenkins Court in the Central Business Zoning District. Bill McGowan SECONDED the motion, and it PASSED unanimously 7-0.

Chair Parnell asked if there were any members of the public who wished to speak in favor of or against the application, or wished to express concerns about the project. There was no response.

Richard Kelley MOVED to close the Public Hearing. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.

Chair Parnell suggested that the Board could begin deliberations.

Mr. Kelley asked Mr. Christie to shed some light on the water system impact analysis.

Mr. Christie said before the project could be built, the Town needed to know there was enough water. He said Underwood Engineering had done a model run, and had determined that there was sufficient flow to serve the additional capacity that would result from the addition.

He said there would be one additional apartment, and 4 new bedrooms in the existing apartments. He noted that he had been approved for 4 people per apartment previously, before the density requirements were changed, and said he could have a lot more people in his building than there currently were, under the current Ordinance. He said he had been renting to three people for a three bedroom apartment, and said this would allow him to have 4 people per apartment.

Mr. Campbell noted that the new apartment would need parking. He said three residents would need three parking spaces.

Mr. Christie said the safe way would be to handle this through a waiver request. But he said the property was previously granted a variance from the parking requirement, and said this ran with the property.

Mr. Campbell noted that if the Planning Board granted a waiver, the applicant would be charged a parking fee for the parking that was not provided. There was discussion on this with Mr. Christie.

Mr. Campbell said the variance was a kind of a blanket statement regarding the parking provision.

Mr. Kelley suggested that the Board could grant a waiver in addition to the variance.

There was discussion about what the average height of the building was, and that the plans should say 36 ft so the applicant wouldn't have to come back to the Planning Board concerning this.

Mr. Kelley asked Mr. Christie if he had seen the Findings of Fact and Conditions of Approval, and Mr. Christie said he had seen those other than the ones the Board was now discussing.

Mr. Kelley noted that the Public Works Department was looking for a new sewer discharge permit and water system impact analysis, and had said these could be handled as conditions of approval. He noted that the Public Works Department didn't mention anything on stormwater.

Mr. Campbell said the Public Works Department was well aware that when the 14 Jenkins Court drainage plan was approved, this additional area had been factored in. He said there were slight modifications to this, and said this would be finalized with DPW. He said that was why he had put the language in the way it was written, which was similar to the language in the previous approval.

Mr. Christie said he would have asked for the expansion with the previous approval, but was concerned that the expansion would have been more than what was envisioned for infill.

Mr. Campbell said he didn't think the applicant would need an additional water permit, but said he would need a sewer permit. He said the Board could include language in its motion that these issues were being looked at, and he provided details on this.

Mr. Kelley provided specific language concerning this for the Conditions of Approval: "The applicant will provide a sewer discharge permit application and a water system impact analysis for review and approval by the Department of Public Works prior to signature."

There was discussion on whether the school impact fee should be imposed for this application. Mr. Campbell suggested that the Board should use basically the same language as had been used for the 14 Jenkins Court application. He said if a family did move in there, the owner would have to pay the impact fee. He suggested that it could be included as a waiver request.

There was discussion by the Board that the as-built construction drawings would be included in the file for this application.

Mr. Gardner said there seemed to be concerns about student housing downtown, yet the Board was incentivizing this by providing waivers. He asked how this practice had started and why it

persisted, and noted that he was not speaking about that issue for this application in particular. He asked whether the Board and the Town wanted workforce housing.

There was discussion on this, and on the current disincentive for non-student housing.

Mr. Ozenich noted that at Fitts Farm, where he lived, the condo association was required to do an inventory of residents to see if they had children. But he said the student housing developments in Town didn't provide this kind of information.

Ms. Fuller asked why developers building for families were being penalized with an impact fee, when in reality, Durham would welcome and needed to have families with children moving in. She said perhaps the Board could take a look at this, if it was having unintended consequences.

Mr. Roberts asked Mr. Christie if he would be doing construction planning.

Mr. Christie said will he would be doing the addition first, and then would fill in the space between his two buildings.

Mr. Campbell noted that Police Chief Dave Kurz had said that for any construction that required road closure, advance notice would have to be provided. He also said he imagined that there would be a pre-construction meeting.

Mr. Christie said he didn't expect that the road would need to be closed for the construction of the addition.

Findings of Fact

1. The applicant submitted an Application for Site Plan Review on April 6, 2009.
2. The applicant submitted a deed for the property on April 6, 2009.
3. The applicant submitted on April 6, 2009, a Site Plan entitled "Proposed Site Plan for Slania Enterprises, Inc., Jenkins Court and Pettee Brook Lane, Durham, New Hampshire" prepared by KEM Land Survey Inc., Dover, New Hampshire, dated April 2009.
4. The applicant submitted a letter of intent with waiver request on April 6, 2009.
5. The applicant submitted a Landscape Plan on October 25, 2007.
6. A Site Walk was conducted on May 8, 2009.
7. A Public Hearing was held on May 13, 2009 and there was no testimony from the public.
8. The Planning Board exempted the applicant from providing parking.
9. The applicant requested, and the Board granted, a request for a height up to 36 feet.

Waivers

The Board granted waivers from the following:

- Sections 7.02(D)(3)(a-3), Section 7.02(D)(4)(d,i &q), and Section 9.03, 9.04 and 9.05 of the Site Plan Regulations.

- Town Code Section 75-12, the School Impact Fee

Conditions of Approval - (to be met prior to Signature)

1. The applicant shall supply one mylar and one paper copy of the Site Plan for signature by the Planning Board Chair.
2. All plans must be stamped by the appropriate professionals.
3. The applicant shall provide a drainage plan/details prepared by a New Hampshire Licensed Engineer to balance pre and post development flows to 2% of the 2, 10, and 25 year events.
4. The applicant shall provide a new sewer discharge application with an initial assessment of flow, engineered plans and specifications for review and approval by the Department of Public Works. The applicant shall provide a water system impact analysis for review and approval by the Department of Public Works.

Conditions to be Met Subsequent to the Signature of Approval on the Site Plan:

1. These Findings of Fact and Conditions of Approval shall be recorded with the Strafford County Registry of Deeds, at the applicant's expense, within seven (7) days of the Chair's signature on the Plan.
2. All permits must be obtained by the applicant from the CEO/Building Inspector prior to the commencement of any work.
3. The parking fee shall be paid at the time of the issuance of the Certificate of Occupancy
4. The applicant shall provide as-built construction drawings, plan and profile, of all infrastructure improvements at a scale of 1" to 20', including, underground utilities (sewer lines, storm drains, water lines, electrical, phone, cable, natural gas lines, etc.)

Richard Kelley MOVED to approve the Findings of Fact and Conditions of Approval, as amended, for the Site Plan Review application submitted by Thomas Christie, Slania Enterprises, Durham, New Hampshire, to build a 14' x 72' or 1,008 square feet addition onto a commercial building to be used for mixed use commercial/residential at the property shown on Tax Map 4, Lots 9-0 and located at 12 Jenkins Court in the Central Business Zoning District. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.

- VII. Public Hearing on a Conditional Use Permit Application** submitted by Steven F. Kimball, Auburn, New Hampshire for the replacement of one existing, single-family home with another single-family home and for the renovation of a second, existing single-family home. The property involved is shown on Tax Map 2, Lot 6-0, is located at 20 Strafford Avenue and is in the Professional Office Zoning District.

Steve Kimball spoke before the Board, and first spoke about waivers requested from Sections 7.02 D 4 (d) and 7.02 D 4 (q) under the Submission Requirements for a site plan application.

He noted that he had revised the description of the project so it matched what he was planning to do. He also said he had decided not to do paving on the site, and said that instead gravel would be used to maintain drainage.

He also said he had decided to use the existing foundation placement in the northeast corner so there would be no additional incursion onto the wetland.

Mr. Roberts asked if there was any way to move the building off of the buffer.

Mr. Kimball said the buffer was already disturbed, and said he therefore didn't see any particular reason to move it out of the buffer. He explained that he would actually like to move the building further north, to maximize the distance between the two buildings, but he explained that this would push it further into the buffer.

He said the shed in front of the building would be used for a garage and said this was outside the buffer. He also said the existing driveways would be used, so this too would not disturb the buffer. He said that hopefully the plan had mitigated any concerns about the buffer.

Mr. Roberts said he had provided the Conservation Commission with information on what was proposed, and said he thought he had heard Mr. Kimball say that the building would not be in the buffer. There was discussion.

Mr. Kelley said if the footprint of the proposed building in the boundary survey was correct, the applicant did have room to put the building back to the wetland setback line. He said it looked like there was about 10 ft.

Mr. Kimball said there was a little space there, but said he had concerns that it sloped up, so he'd have to dig into the bank or raise the foundation up high in order to construct the building.

Mr. Kelley said the encroachment that was proposed didn't concern him, but said a question was how accurate the delineation of the wetland boundary, and hence the setback was.

Mr. Roberts said his only concern regarding the wetland buffer was that the Conservation Commission should look at this issue. He asked that approval of the application be postponed to the Board's next meeting, so the Commission would have an opportunity to do so at its next meeting. He said it was a fairness issue, in that the Commission hadn't seen what was proposed.

He described the existing drainage from the site relative to the wetland

Mr. Kimball noted that this was an existing condition with the current building. He said the drainage was what it was, and he wasn't re-engineering the site.

Mr. Ozenich suggested that the Board could approve the application conditional upon the Conservation Commission giving it the ok.

Richard Kelley MOVED to open the Public Hearing on a Conditional Use Permit Application submitted by Steven F. Kimball, Auburn, New Hampshire for the replacement of one existing, single-family home with another single-family home and for the renovation of a second, existing single-family home at the property shown on Tax Map 2, Lot 6-0, located at 20 Strafford Avenue in the Professional Office Zoning District.
Councilor Smith SECONDED the motion, and it PASSED unanimously 7-0.

Chair Parnell asked if there were any members of the public who were for, against, or had concerns about the application. There was no response.

Richard Kelley MOVED to close the Public Hearing. Bill McGowan SECONDED the motion, and it PASSED unanimously 7-0.

There was continued discussion with Mr. Kimball about the fact that a corner of the new building would be in the wetland buffer.

Mr. Kelley said if Mr. Kimball wanted to get approval for his application that evening, it was clear that the building would have to be located outside of the wetland setback. He said that if he didn't want to do this, he saw no way around having the Conservation Commission review the plan and provide its advice concerning it.

Mr. Gardner suggested that perhaps this could be a condition of approval.

Mr. Parnell asked Mr. Kimball whether he was willing to move the building in order to get it out of the wetland buffer.

Mr. Kimball said he didn't think that would resolve anything. He said the shed would be moved, and said the only changes to the site including the expansion would happen outside the buffer, so he didn't see why this would be a concern for the Conservation Commission. He said the building corner already sat on the buffer, and he wanted it to stay there, and said he therefore didn't see that there was a big issue.

Ms. Fuller asked Mr. Roberts if he would like to have the opportunity to present the plan to the Conservation Commission in order to make sure they were on the same playing field.

Mr. Roberts said when the Ordinance was written, the language concerning wetlands was stronger than he would have written. He also said he didn't see that there was an issue with moving the house over somewhat, but said he wasn't the landowner.

There was detailed discussion with Mr. Kimball about whether he would have an issue with Mr. Roberts providing the Conservation Commission with information on what was proposed before he (Mr. Kimball) came back before the Board.

Mr. Kimball said this would continue the delay. He also noted that there wasn't a change of use,

so wasn't sure the requirement applied.

Mr. Kelley said any use within the buffer zone required that the Board get the advice of the Conservation Commission. He also noted the standards that applied in determining whether the conditional use permit regarding the wetland buffer should be granted. He said one of these was whether there was an alternative feasible location on the parcel that was outside of the wetlands conservation overlay district. He said a shift of 4-5 ft was involved.

Mr. Roberts said he had looked at the site, and didn't see that there was an issue with moving the corner of the house.

There was discussion that the extension on the back sat on a frost wall, but there was no basement. Mr. Kimball said he didn't want to move the building closer to the house, but asked whether, if he did agree to do this, the rest of the proposed changes would be acceptable.

Mr. Roberts received clarification on the most recent drawing concerning the location of the buildings on the site, which did show the corner of the building within the buffer. He then said if Mr. Kimball did agree to move the building, this would no longer be an issue for the Conservation Commission to consider.

Mr. Kimball received clarification that there could be a condition in the motion to approve the conditional use application that stated that the building would be moved out of the buffer. He said he was agreeable to this as long as he didn't have to generate a new plan that evening.

Mr. Kelley said it appeared that the building would have to slide toward Strafford Ave about 10 ft to give Mr. Kimball the 24 ft he wanted.

Chair Parnell went through the Conditional Use Checklist.

Findings of Fact

1. The applicant submitted an Application for Conditional Use Permit with supporting documents on April 8, 2009.
2. The applicant submitted the deed for the property on April 8, 2009.
3. The applicant submitted a letter of intent on April 8, 2009.
4. The applicant submitted answers to the approval criteria of 175-23 on April 8, 2009.
5. The applicant submitted a site plan entitled "Standard Boundary Survey, Tax Map 2-Lot 6-0, Kimball Property" on April 29, 2009.
6. The applicant submitted a Subcatchment report on April 29, 2009.
7. The applicant submitted photos of the existing buildings on the property on April 29, 2009.
8. A Site Walk of the property was performed on May 8, 2009.
9. The applicant submitted a letter of proposed improvements on May 13, 2009.
10. The applicant submitted a waiver request on May 13, 2009.
11. A Public Hearing was held on May 13, 2009 and there was no testimony from the public.

Waivers

The Board granted waivers from the following:

Sections 7.02(D)(4)(d) and 7.02(D)(4)(q) of the Durham Site Plan Regulations regarding the requirement for a plan showing two foot contours and the locations of all buildings, wells and leach fields within 150 feet.

Conditions of Approval - (to be met prior to Signature)

1. These Findings of Fact and Conditions of Approval shall be recorded with the Strafford County Registry of Deeds, at the applicant's expense.
2. A building permit shall be submitted to and approved by the Code Enforcement Officer for any new construction. All appropriate building codes shall be met.
3. The building permit shall show the foundation, new house and shed outside of the wetland buffer.
4. The applicant shall meet with the Durham Fire Department to ensure that all fire and life safety codes are met.
5. A Conditional Use Permit shall be issued by the Zoning Administrator.

Bill McGowan MOVED to approve the Findings of Fact and Conditions of Approval for the a Conditional Use Permit Application submitted by Steven F. Kimball, Auburn, New Hampshire for the replacement of one existing, single-family home with another single-family home and for the renovation of a second, existing single-family home at the property shown on Tax Map 2, Lot 6-0, located at 20 Strafford Avenue in the Professional Office Zoning District. Richard Kelley SECONDED the motion, and it PASSED unanimously 7-0.

Recess from 9:16 to 9:25 pm

VIII. Public Hearing Presentation on a proposal for the construction of a new 21,500 square-foot, one-story research facility, referred to as the Turbulence Research Facility, on Waterworks Road upon the University of New Hampshire campus.

University Planner Doug Bencks said this would be a brand new research facility, and would entail one big piece of equipment. He said there had been an extensive consideration of where to site the facility. He said the site chosen was University land, near the water treatment plant and the railroad tracks, well outside the College Woods natural area. He said this was found to be the best site for the building, which would be about the size of a football field.

He said it would be a unique facility. He explained that the purpose of the wind tunnel among other things was to study turbulent air flow over water and turbulent flow in transitions from solid to water surfaces . He explained that some of the issues to be studied had to do with

climate change.

He said the equipment would run infrequently and for short periods of time. He said there would be limited water usage and sewer usage, but said he would go through the Town's Water and Sewer Committee. He said there would be no wetland impacts. .

Mr. Roberts asked about the anticipated noise level.

Mr. Bencks said because this was a unique facility, it was hard to be specific on this. But he said it needed to be a very airtight building, and he also said the equipment inside would be well insulated.

Mr. Joe Klewicki, Dean of the College of Engineering and Physical Sciences, said the noise generated would depend on a number of factors. He spoke about the variable frequency drive fans used for the wind tunnel, and explained how they might cause some noise, depending on how the drive was constructed. He said the primary concern would be to isolate vibration that occurred, but noted that it should be operable without the need for hearing protection inside the building.

He also said filters would be used to mitigate the noise heard outside the building, if necessary, but said they would first need to install the equipment in order to see what the noise level would actually be.

Mr. Kelley asked what the chiller would be used for, and was told that it would keep the air stream at the correct temperature, Mr. Kelley noted that there were not large doors to access the facility, and asked if they would be suitable.

Mr. Klewicki said there would be a removable section of the wall that would be utilized if they needed to bring something big into the building. But he said for the most part, he didn't envision this happening.

Mr. Kelley asked if a special permit was needed to bring the large equipment to be used in the building into Durham.

Mr. Klewicki said the vendors hadn't indicated anything about this. There was discussion.

Ms. Fuller asked if this would be permanent facility, and was told yes. She noted that there were some remnants of old UNH projects in Durham.

Mr. Bencks said this was one of the issues that had been discussed. He said there was substantial interest beyond UNH in the work that would be happening at the facility. But he said they were planning that if 10-20 years from now the research ended, the building would be adaptable enough so there could be other uses for it.

Mr. Ozenich asked about power usage at the facility, and Mr. Bencks said it would use a lot of power. He said the utilities would go underground.

Mr. Campbell asked if there be only UNH researchers working at the facility.

Mr. Klewicki said they anticipated a significant amount of use by researchers around the world because this was such a unique facility. He also said they hoped to make it available to aircraft and auto companies, among others. He said there would be studies on a wide variety of phenomena, including power generation, transportation, , atmospheric phenomena, modeling of cities, military issues, sair flow over forest canopies. etc.

Mr. Parnell asked if this was a project that was likely to have an impact on Durham, and Mr. Bencks said no.

In response to question from Mr. Roberts regarding possible use of innovative stormwater treatment approaches recommended by the UNH Stormwater Center, Mr. Bencks said the pavement around the building would be limited to a small driveway area. He said the main issue was how roof runoff would be handled. He said UNH was hiring a design build firm but said there were still a lot of technical issues to work out.

IX. Other Business

A. Old Business: Committee Rep Reports

Mr. Gardner said the Energy chapter for the Master Plan was the most significant thing the Committee was working on. He provided details on this, and said by May 29th, there should be someone on board to help the committee with actually writing the chapter. He noted that energy issues would be blended in with other chapters in the Master Plan.

Ms. Fuller said the EDC was still working on its strategic plan. She also said they had been talking a lot about the dam at the HDC.

Mr. Ozenich said he would consider being on the HDC.

Mr. Kelley said the Lamprey River Advisory Committee had met the previous evening. He said the Wiswall wetland permit would soon be in hand, and said the bridge removal would start in August. He noted that the LRAC had provided some funds for historic mitigation at the site, and said they wanted to get started on having a committee start working on a design for the park sooner rather than later. He discussed some of the things that would be involved with this park.

Mr. Kelley said the In-stream flow study was supposed to be done by October.

Mr. Roberts said Beryl Harper of the Conservation Commission was doing a site analysis of how some of the Town's recreation/conservation sites would be managed. He noted that there were weekly walks taking place on these sites, and said the idea with developing the usage plans was to make these properties more accessible to residents.

Mr. Gardner asked that information on these walks be provided in the Friday Updates.

Councilor Smith said the Traffic Safety Committee had recently met, and he said there had been discussion on the idea of new crosswalks on Mill Road. He also said there was discussion on the Safe Routes to Schools program.

Mr. Campbell said the Committee would have a meeting soon about the loading zone issue on Jenkins Court. He provided details on this, and noted that there were only three loading zones in Durham, and two of them were on Jenkins Court, in poor locations. He said he thought there would be a suggestion to get rid of the one the Board had been discussing, and to make the other one an all day loading zone.

Ms. Fuller said she liked idea of making Jenkins Court into a pedestrian street.

Mr. Campbell noted that this idea had been suggested years ago. He also said there would be a consultant looking at the Central Business District and the community core, and said this would be a great opportunity to look at Jenkins Court. He said there were a lot of improvements that could be made there.

There was discussion on this.

There was discussion about whether a parking garage would be needed for the new business school the University was planning downtown.

Mr. Campbell said it didn't look like the Pettee Brook parking lot would be big enough for a parking garage. He noted that there had been discussion on the need for a parking garage if Mill Plaza was redeveloped, and said this discussion would continue. He also said if there was a hotel/conference center downtown, there would definitely be a need for a parking garage.

Mr. Roberts said these things related to the issue of the size of the proposed building on Jenkins Court.

Ms. Fuller said the only way to have hopes for a mixed population downtown was to have a developer who proposed an incentive for themselves to build something besides student housing.

There was discussion that Durham would be obligated to provide Zoning changes that would allow some kind of workforce housing by January of 2010.

Mr. Gardner said it was up to the Planning Board to figure out how this would work, and how these incentives could be provided.

Councilor Smith asked if the Board would consider changing the permitted uses in some of the Town's districts, including the Rural district, where there might be more land available for workforce housing, and especially housing on Wildcat transit routes. He said a question was whether the Town would allow duplexes and small apartment

buildings in an area that was now single family residential.

Mr. Roberts said buffers could be used as part of this.

Chair Parnell said this was an issue the Board would be looking at.

Mr. Ozenich asked why there wasn't some kind of committee to look at these kinds of things. He said there wasn't any organized word coming in to tell the Board what to do, and said the Board operated largely in a vacuum. But he said they had done a pretty good job anyway over the past few years, with projects like the hotel and the Irving station. He asked if they were supposed to do this with the downtown as well.

Mr. Gardner said he thought Mr. Crape might be wise to break his building into smaller units, and also to rent to families with less than six children if the student population dried up.

Mr. Roberts said there were university towns that had this kind of housing. He said there were 5,000 students coming into Durham every day, and said that was bad planning that created added traffic and lost tax revenues.

Mr. Ozenich said the parking garage in Portsmouth had kept that town vibrant for many years.

B. New Business:

C. Next meeting of the Board: **May 27, 2009**

X. Approval of Minutes – No minutes

XI. Adjournment

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

Adjournment at 10:07 pm

Victoria Parmele, Minutes taker

Stephen Roberts, Secretary