

*These minutes were approved at the March 9, 2010 meeting.*

**DURHAM PLANNING BOARD  
WEDNESDAY, JANUARY 27, 2010  
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL  
7:00 P.M.  
MINUTES**

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

**ALTERNATES PRESENT:** Wayne Lewis

**MEMBERS ABSENT:** Richard Kelley; Kevin Gardner; Councilor Neil Niman

**I. Call to Order**

Chair Parnell called the meeting to order at 7:00 p.m.

**II. Approval of Agenda**

*Bill McGowan MOVED to approve the Agenda. Richard Ozenich SECONDED the motion, and it PASSED unanimously 6-0.*

Ms. Fuller arrived at the meeting at 7:07 pm.

Chair Parnell said Mr. Lewis would sit in for Mr. Kelley.

**III. Report of the Planner**

Mr. Campbell said the EDC had recently met with representatives from the Northeast Rehabilitation Health Network about possible plans to build a 31 bed facility at the Durham Business Park site. He noted that the company was also looking at possibly locating at the Pease Tradeport, and said Durham was their second choice.

He said one issue regarding possibly locating at the Business Park was the fact that the facility planned wouldn't be a hospital, but would involve inpatient care. He said right now, according to the Table of Uses, only outpatient medical facilities were allowed at the Business Park.

Mr. Campbell noted that while this was a Town owned property, Northeast Rehab would seek a variance to allow this use. He said if things didn't work out within the next few months concerning locating at Pease, they would be coming to the Planning Board with a site plan application.

He said the EDC had recently had a discussion with Kevin Gardner, who was on the

steering committee for a UNH effort to create a launching pad for clean tech businesses in NH. Mr. Campbell noted that Governor Lynch had recently made an announcement concerning this initiative, which the State was putting \$750,000 into. He said it would be a cooperative effort among UNH faculty, students and entrepreneurs to try to get various clean tech businesses started. He said if the program was successful, it would continue the following year.

Mr. Campbell spoke about the \$100,000 Safe Routes to School grant the Town had applied for. He said if the grant was not received during this grant round, the advisory committee would reapply, and would also develop goals to be incorporated into projects that would be put into the CIP.

Mr. Campbell said the Water Resource Protection subcommittee would come to the Planning Board's quarterly planning meeting to discuss with the Board possible amendments to the site plan review regulations concerning storm water management. He said they would provide the Board with a draft of these proposed amendments before that meeting.

Mr. Roberts said it was possible that there would also be a draft of an update to the aquifer protection regulations for the quarterly planning meeting.

Mr. Campbell noted that the Seacoast Repertory Theatre had submitted paperwork asking for a continuance for their application.

He said he had provided the Board with draft Findings of Fact and Conditions of Approval for the Pasay application, which reflected recommendations from Attorney Mitchell.

He said Joe Caldarola had asked for an extension of one month for the conditions of approval for his Perley Lane subdivision application. He explained that Mr. Caldarola believed that there would be agreement with Mr. Cedarholm regarding the drainage, but wanted the extension just in case there was not. Mr. Campbell also noted that some interest had been expressed in some of the lots in the subdivision.

- IV. Acceptance & Public Hearing on an Application for Site Plan** submitted by 50 Newmarket Road Inc., Portsmouth, New Hampshire for the expansion of a non-conforming use of a performing arts facility with temporary housing for actors. The property involved is shown on Tax Map 6, Lot 9-8, is located at 50 Newmarket Road and is in the Residence B Zoning District.
- V. Continued Public Hearing on an Application for Conditional Use Permit** submitted by 50 Newmarket Road Inc., Portsmouth, New Hampshire for the expansion of a non-conforming use of a performing arts facility with temporary housing for actors. The property involved is shown on Tax Map 6, Lot 9-8, is located at 50 Newmarket Road and is in the Residence B Zoning District.

*Councilor Smith MOVED to accept the applicant's request for a continuance until the February 10, 2010 meeting. Richard Ozenich SECONDED the motion.*

Mr. Campbell said the attorney for the abutter was having discussions with Seacoast Repertory Theatre about possible changes to the development plans concerning lighting, more landscaping, etc.

Chair Parnell said in essence Seacoast Rep was trying to reach an agreement with the abutter, and then would come before the Planning Board concerning these two applications.

***The motion PASSED unanimously 7-0.***

Mr. Campbell noted that the time limit for the Conditional Use Permit application was running out, and said he would need to get an official letter from Seacoast Rep concerning an extension.

Councilor Smith asked that Mr. Campbell send a letter to the applicants asking for an extension of the time limit for the application.

**VI. Acceptance Consideration of an Application for Site Plan Review** submitted by Bill Hersman, Xemed Holdings LLC, Durham, New Hampshire for the construction of a larger building on a lot to continue the existing commercial use. The construction will be phased to build and occupy the new building, followed by the demolition of the existing building and subsequent completion of the front parking spaces. The property involved is shown on Tax Map 2, Lot 8-3, is located at 16 Strafford Avenue and is in the Professional Office Zoning District.

John DeStefano of DeStefano & Associates said his company was in charge of planning, design and construction of the proposed new building on the site. He noted that they hoped to start construction in March, so would like to move the process along. He said Town staff had reviewed the application, and said their comments had been addressed.

He said the site, containing about a half an acre, was located almost directly across from the New England Center. He explained that the building and garage currently on the site used by Xemed for research and some assembly of prototypes was inadequate for that use. He said the applicant would therefore like to build a larger facility.

Mr. DeStefano said the building footprint for the new building would be about 3300 sf , and would contain two finished floors. He said the driveway would be located in approximately the same location that it was now, but would also circle around the building. He said there would be parking in front and in back.

He explained that this design was being used in part because Mr. Hersman wanted to maintain use of the existing building on the site while the new building was being constructed. He said once the back portion was completed, the existing building would be demolished, allowing the front of the building to be finished.

Mr. DeStefano said the site would be pretty full with the new building. He said in order to address runoff, all of the parking at the back of the site would be comprised of porous pavement, which would allow percolation of rainwater. He said there would be a filter

system under the pavement that would include perforated pipe that would collect the water and carry it out to the front.

He also said that at the suggestion of Town Engineer Dave Cedarholm, there would be a rain garden in front, with filtration media under it. He said water collected there would be piped through the Dimambro property and would outlet about 20 feet from the edge of a wetland. He explained that there was no place on the site to outlet anything.

He said there were 24 parking spaces proposed, which met the Zoning Ordinance. He noted that the Ordinance allowed a minimum of 16 spaces, but said 24 spaces was thought to be appropriate.

Mr. DeStefano said there would be a dumpster in the back with a screen enclosure. He also said power would be brought in from the neighbors to the south, where there was three phase power. He noted that there wasn't currently three phase power out on the street. He said a new pole would be put on the property line and said the wiring would then go underground from there to the new building.

He stated again that the concerns of Town staff had pretty much been addressed, but noted that this hadn't yet been reflected in the materials provided to the Board. He noted that a fire truck was able to make it 360 degrees around the site.

Bill Schoonmaker, the architect for the project, said the plan was to have a building roughly about 4 ft above grade to the first level, and said the basement was about 2/3 down, so 2/3 of the first floor would be below grade. He said there was the main level, an office level, and an attic level that would be used as storage space.

He said the footprint of the new building was about 3300 sf, and would measure 62 ft by 48 ft. He said the idea was to create a high quality building that had a somewhat contemporary character, with nothing too outrageous in terms of design. He said clapboard siding was imagined, with perhaps some accent shingles. He said most of the windows would be operable.

He said there would be a loading dock in front, and also said there would be an accessible ramp to get up to the entrance, as well as stairs. He said at the back of the site, the entrance would be at grade.

He said the midpoint of the roof was roughly 31.6 ft high, and said to the ridge was another 6 ft or so, which meant it was 37-38 ft up to the ridge.

Mr. Campbell said this would require a waiver because it was over 30 ft. He said the applicant also had the option of dropping the height 1.6 ft.

Mr. Schoonmaker said perhaps the height could be dropped.

The engineer for the applicant noted that there were some logistical issues because of the existing facility on the site. He said Mr. Dimambro had given permission in writing to allow use of 10 ft of his property as an easement during construction, which would make it easier

to get to the back of the property. He said with this approach, the employees would be able to work in the existing building during the construction process.

Councilor Smith said it would be a pretty tight fit trying to put in the new building on the site. He asked if much of the outside would be finished after taking down the old building.

The applicant's engineer said they would be able to get in there. He spoke briefly about some ledge removal that would be done.

Councilor Smith asked if a retaining wall would need to be constructed on the side of the Dimambro property, which he said was fairly low, and the engineer said no.

Mr. Roberts asked if Mr. Cedarholm had responded regarding the stormwater requirements for the site.

The applicant's engineer said a storm water management plan had been submitted, and said the last time they had talked with Mr. Cedarholm, he was happy with it. He confirmed that Mr. Cedarholm had reviewed the plan.

Mr. Campbell said he would get something on this from Mr. Cedarholm.

Mr. Roberts asked how many employees Mr. Hersman intend to have at the facility.

Mr. Hersman said there were now 9 employees now, and said he was constructing this new building for expected future expansion of the company. He said there would be one shift per day, and said two shifts were not part of his strategic plans.

Mr. Ozenich asked if solvents were used at the facility that needed special storage.

Mr. Hersman said a small amount of solvent was used, and noted that he had filed with the State as a small quantity generator of hazardous waste.

Chair Parnell asked what would happen to the front of the site when the building was taken down, and was told that parking spaces would be put in there, which together with the spaces at the back of the site would total 24 spaces.

Mr. Campbell said for the type of use they would have, they needed to have either one space per employee, or one space per 400 sf of gross floor area, whichever was greater. He provided details on this, and said 24 spaces was a good number.

Mr. Hersman noted that in addition to the employees, he also incorporated 3 students into the research during the school year and in the summer. He said the parking proposed would therefore allow some flexibility concerning this.

Mr. Roberts asked what would be done with solvents used at the facility, after they were used, and Mr. Hersman said they would be transported off site by a professional company.

Mr. Roberts asked if there would be any venting of solvents into the atmosphere.

Mr. Hersman noted that the solvent used was alcohol, and said right now it was used in the garage. He said the new facility would have a positive flow work area for using the solvents, and said venting would occur up the stack there.

Mr. Roberts asked if there would be a stack for solvent exhausts for alcohol, and Mr. Hersman said there would be a stack for whatever usage they would have. Mr. Roberts said it would be good to have a record of how much venting would occur, and Mr. Hersman said he could provide that.

Chair Parnell asked if the work done at the new facility would be different than the work now done in the existing building.

Mr. Hersman said they would be working on the next generation of the instrument that had previously been developed, which could involve some additional partners. He also said they were moving toward ISO 9000 certification and provided some details on this.

Mr. Roberts asked if there would be any vapor degreasing, and Mr. Hersman said no. He said the alcohol was used to clean specialized glassware, and said this was not done at an industrial scale. He said there were very refined types of operations at the facility.

Mr. Roberts noted his own experience with the regulations concerning venting of solvents, and Mr. Hersman said he would look into them.

Mr. Ozenich asked about the loading dock, and it was determined that it would be flush with the face of the building.

Mr. Schoonmaker explained that this would be a completely enclosed loading dock, and wouldn't involve a dock in front of the garage door.

In answer to questions from the Board, Mr. Hersman said the device constructed at the facility was a little bigger than a refrigerator, and weighted about a thousand pounds.

There was discussion on how loading would occur, and should occur in order to meet OSHA regulations.

Councilor Smith noted that Mr. Schoonmaker had suggested that the roof pitch could be lowered rather than asking for a waiver. He asked how complicated the waiver process would be for a slightly higher roof.

Mr. Campbell suggested looking at buildings in the surrounding area, and how a slightly higher roof would look compared to them. He noted that the additional height went toward having an additional floor.

Councilor Smith asked what the third floor would be used for, and was assured it would not be used for student apartments. Mr. Schoonmaker said the dormer on the third floor was for the appearance of the building, and said it would also provide light. He said the expectation was that this area would house the mechanical systems and would provide storage.

Mr. Campbell said the application was complete.

***Councilor Smith MOVED to accept the Application for Site Plan Review submitted by Bill Hersman, Xemed Holdings LLC, Durham, New Hampshire for the construction of a larger building on a lot to continue the existing commercial use. The construction will be phased to build and occupy the new building, followed by the demolition of the existing building and subsequent completion of the front parking spaces. The property involved is shown on Tax Map 2, Lot 8-3, is located at 16 Strafford Avenue and is in the Professional Office Zoning District, and schedule a public hearing for Feb 10<sup>th</sup>. Bill McGowan SECONDED the motion, and it PASSED unanimously 7-0.***

It was agreed that a site walk would be held on February 6<sup>th</sup> at 9 am.

Mr. Campbell asked Mr. Hersman to bring a photo of the finished instrument that was produced by Xemed.

Mr. Roberts asked if there would be any painting of finished surfaces at the facility, and Mr. Hersman said he didn't intend to do any of this.

Chair Parnell asked if the Board could perhaps see the inside of the existing building, to get a better idea of what the company did.

There was further discussion on the venting issue, with Mr. Roberts providing details on this.

## **VII. Other Business**

### **A. Old Business: Discuss Final Findings of Fact & Conditions of Approval for Pasay Properties LLC**

Mr. Campbell noted that the Board had been unclear as to what should be filed with the County Registry of Deeds concerning this application. He said he had contacted the Board's counsel, Attorney Walter Mitchell, and said the final Findings of Fact and Conditions of Approval reflected Attorney Mitchell's recommendations on how to handle this.

#### **Findings of Fact**

1. The Zoning Board granted the new owner of Map 18, Lot 3-2 a variance on November 10, 2009 for the building of two additional 3-unit apartment buildings.
2. The new owner of the smaller lot submitted a request to amend the original Findings of Fact and Conditions of Approval to delete Condition #5 on November 16, 2009.
3. A public hearing was held by the Planning Board on this request on December 9, 2009, and the public hearing was continued until January 13, 2010 at which time the public hearing was closed.
4. The Planning Board held a site walk on the property on January 9, 2010.
5. The Planning Board received a letter from an abutter on January 11, 2010.

6. At the January 13, 2010 meeting the Planning Board approved the request to delete Condition #5 from the previously approved Findings of Fact and Conditions of Approval recorded in the Strafford County Registry of Deeds on April 25, 2003, Book 2735, Page 0386.

**Conditions of Approval**

1. These Findings of Fact and Conditions of Approval shall be recorded in the Strafford County Registry of Deeds, and the applicant shall request the registry specially index this document by reference to the earlier recorded plan.

*Councilor Smith MOVED to approve a Request to Amend a Previously Approved Subdivision Condition of Approval submitted by Stan Pasay, Pasay Properties LLC, Newfields, New Hampshire in order to construct two additional 3-unit apartment buildings. The property involved is shown on Tax Map 18, Lots 3-2, is located at 257 Newmarket Road and is in the Rural Zoning District. Susan Fuller SECONDED the motion, and it PASSED 6-0-1, with Bill McGowan abstaining because of his absence from the meeting where this was discussed.*

**B. New Business: Request for Extension on the Geoff Sawyer/Great Bay Animal Hospital Boundary Line Adjustment Conditions of Approval.**

Mr. Campbell noted that a detailed explanation had been provided on the need for the extension. He said the applicant needed an additional 6 months to cover all of the bases, and said they were working with Mr. Johnson to figure out a plan of attack.

Councilor Smith asked if Mr. Johnson was satisfied that the applicant needed more time, and Mr. Campbell said yes.

*Bill McGowan MOVED to grant a 6 month extension on the Conditions of Approval for the Geoff Sawyer/Great Bay Animal Hospital Boundary Line Adjustment. Councilor Smith SECONDED the motion, and it PASSED 6-0-1, with Susan Fuller abstaining.*

**Request for Extension on the Sophie Lane Subdivision Conditions of Approval.**

*Councilor Smith MOVED to grant a 90 day extension on the Conditions of Approval for the Sophie Lane Subdivision. Susan Fuller SECONDED the motion, and it PASSED 6-0-1, with Richard Ozenich abstaining.*

**C. Next meeting of the Board: February 10, 2010**

**VIII. Approval of Minutes – No minutes**

**IX. Adjournment**

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



Adjournment at 8:00 pm  
Victoria Parmele, Minutes taker

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Stephen Roberts, Secretary