

These minutes were approved at the August 12, 2015 meeting.

DURHAM PLANNING BOARD
Wednesday, June 10, 2015
Town Council Chambers 7:00 pm
MINUTES

MEMBERS PRESENT: Andrew Corrow, Chair
Lorne Parnell
Councilor Julian Smith, Council Representative to the Planning Board
Wayne Lewis, alternate
Linda Tatarczuch, alternate
Barbara Dill, alternate

MEMBERS ABSENT Peter Wolfe; Bill McGowan; Richard Kelley; Councilor Kitty Marple, alternate Council Representative to the Planning Board

I. Call to Order

Chair Corrow called the meeting to order at 7:01 pm.

II. Roll Call

The roll call was taken

III. Seating of Alternates

Chair Corrow said Mr. Lewis would sit in for Mr. Wolfe, Ms. Tatarczuch would sit in for Mr. McGowan, and Ms. Dill would sit in for Mr. Kelley.

IV. Approval of Agenda

Councilor Smith MOVED to approve the Agenda. Wayne Lewis SECONDED the motion, and it PASSED unanimously 6-0.

V. Town Planner's Report

There was no report because Mr. Behrendt was on vacation

VI. Reports from Board Members who serve on Other Committees

Councilor Smith said at the Town Council meeting on June 1st, the Council discussed preliminary ideas of process and standards for reappointment of board and committee members. He provided some details on this, and said he hoped there would be a formal document on this soon. There was discussion about how many criteria were being considered. Mr. Parnell said he believed there were 4 criteria to be used, and Chair Corrow noted that they were sent out to the chairs of various boards and committees.

VII. Public Comments

No members of the public came forward to speak.

VIII. Review of Minutes

January 28 Minutes

Page 1, line 37, should say Councilor Smith MOVED to approve the Agenda. David Williams SECONDED the motion.

Page 9, line 23, should say "Vision" chapter

Page 11, line 28, should say "Councilor Smith MOVED to amend the Agenda..."

Page 3, line 33, should say "Councilor Smith confirmed with the Planner that the application was complete. "

Councilor Smith MOVED to adopt the January 28, 2015 Minutes as amended. Lorne Parnell SECONDED the motion, and it PASSED 4-0-2, with Wayne Lewis and Linda Tatarczuch abstaining because they were not at this meeting.

February 11 2015

Page 8, line, line 9 and line 16 should say "Kostis"

Page 19, line 14, should say "Chair Wolfe"

Councilor Smith MOVED to approve the February 11, 2015 Minutes as amended. Lorne Parnell SECONDED the motion and it PASSED 5-0-1 with Mr. Lewis abstaining because of his absence from this meeting.

February 25, 2015

The vote on these Minutes was postponed because there wasn't a sufficient number of Planning Board members present who had been at that meeting.

- IX. Public Hearing - Edgewood Road and Emerson Road Subdivision. 4-lot subdivision and boundary line** adjustment and conditional use for a wetland crossing, a road widening, and construction of a shared driveway in the Wetland Conservation Overlay District. Jack Farrell, applicant. County Line Holdings, LLC and Mark Morong 1991 Trust, owners. David Vincent, surveyor. Map 1, Lot 15-0. Residence A Zoning District.

Chair Corrow said Mr. Farrell would not be at the meeting. He said no new documentation on the application had been provided.

Councilor Smith MOVED to open the Public Hearing. Linda Tatarczuch SECONDED the motion and it PASSED unanimously 6-0.

No members of the public came forward to speak on the application.

Councilor Smith MOVED to continue the Public Hearing to June 24, 2015. Lorne Parnell SECONDED the motion and it PASSED unanimously 6-0.

- X. Public Hearing –Mill Plaza Redevelopment.** Design Review (preliminary application) for significant redevelopment of Mill Plaza Shopping Center site including commercial space (existing and new), an addition to the existing Durham Marketplace building, new buildings, 442 beds in new residential buildings, greenspaces and plazas, and change in the layout and number of parking spaces.

Colonial Durham Associates, LP, c/o John Pinto, owner. Sean McCauley, representative. Joseph Persechino, Tighe & Bond, Design Engineer. Adam Wagner, DeStefano Architects, Architect. Tax Map 5, Lot 1-1. Central Business Zoning District.

Attorney Robert Dietel represented the applicant. He said the applicant had filed two Appeals in Superior Court, and said there were also motions to consolidate the Appeals. He said the applicant was asking now that the design review application be tabled until these Appeals were resolved. He said the applicant was fine with Mr. Behrendt's recommendations, with the exception of the timelines for getting back to the Planning Board. He said condition #3 could create confusion on this, and might result in a tight window. He spoke about a possible simpler solution.

Mr. Parnell said he could see that there was confusion with condition #3. There was detailed discussion on the conditions, and on how to possibly amend condition #3. Ms. Tatarczuch said the Board didn't know where the verbiage had come from, and if Mr. Behrendt had done these conditions in collaboration with the Town Attorney. She suggested waiting until Mr. Behrendt was back because it might not be appropriate to change the language. Mr. Parnell agreed, as did Councilor Smith.

Councilor Smith MOVED to open the Public Hearing. Linda Tatarczuch SECONDED the motion and it PASSED unanimously 6-0.

Robin Mower, Faculty Road, asked what "tabling" meant in this instance. Attorney Dietel said the applicant saw it as a pause in the process. He said once the appeal process was resolved, the application would go back into action. Ms. Mower said she agreed with the idea of waiting to hear from Mr. Behrendt, and also said the Board should get something in writing.

Councilor Smith MOVED to continue the Public Hearing until June 25, 2015.

Attorney Dietel said he was ok with this

Linda Tatarczuch SECONDED the motion and it PASSED unanimously 6-0.

- XI. River's Edge Apartments – Amendment and Conditional use to combine apartments.** 277 Main Street Application regarding an approved site plan for a 48-unit multi-dwelling project with 114 occupants/beds. An amendment to the approval for all two-bedroom units and a conditional use – required to expand a nonconforming use - to consolidate two pairs of two-bedroom dwelling units into two four-bedroom dwelling units. Ralph Paving c/o Rivers Edge LLC, property owner. Tax Map 9, Lot 8-2. Office Research/Light Industry Zoning District.

Mr. Pavone spoke before the Planning Board, and explained that this amendment was proposed because 2 bedroom apartments were less desirable than 4 bedroom units. He said there was no economic benefit to what was proposed other than being able to rent the units more easily. He said the students seemed to like them. He said the work would involve removing one of the kitchens and leaving the other as it was, and removing a dividing wall. He noted that this combining of some 2-bedroom units had been done last year, after submitting the plans to Tom Johnson and getting approved. He said the same plans for this current combination of 2-bedroom units was submitted this year and he was told to come before the Planning Board.

There was discussion about where the space from getting rid of one of the kitchens would go. Mr. Pavone also noted that the remaining kitchen in the units would be remodeled. Ms. Tatarczuch asked if there was an engineering report that the walls being removed weren't load bearing walls. Mr. Pavone said he would provide an engineered drawing on this, and noted that steel was being used.

He explained that the 4-bedroom units would have 5 occupants, based on the currently allowed 3 person occupancy for some of the 2-bedroom units being combined. But he said there would be no overall increase in occupancy at the development, and said it would stay at 112. He also said there would be room to do three more 4-bedroom units after this.

Lorne Parnell MOVED to accept the application, and schedule the Public Hearing for June 24 2015. Councilor Smith SECONDED the motion and it PASSED unanimously 6-0.

Mr. Pavone said he was on a tight schedule, to get ready for occupancy in September. He noted that the proposed units had already been rented out. He said he'd submitted the plans for them in February but they weren't denied until two weeks ago.

There was further discussion. Ms. Tatarczuch said the number of beds would be there, even if this application hadn't been approved by then. She also said the reality was that the review process could be lengthy, and said hopefully it was the result of due diligence on behalf of the community. Chair Corrow said the Planning Board needed to check with Mr. Behrendt on the rationale for this coming to the Planning Board. There was discussion on whether there were 112 or 114 occupants permitted. Mr. Pavone said the change from 114 to 112 occupants occurred as a result of a variance received last year.

- XII. 15 Madbury Road – Conversion of porch.** A conditional use to expand a nonconforming use –slightly enlarging and closing in a glassed-in porch. *Residence, single family* is not permitted in the Central Business District. GP Madbury 15, LLC, c/o Ken Rubin and Fred Kell, property owner; Mike Sievert, MJS Engineering, Design Engineer. Central Business District. Tax Map 2, Lot 12-5.

Barret Bilotta said they acquired this property and another, both of which had frontage on Mathes Terrace, with the intent to keep both of them in the Four-square architectural style. He said the 15 Madbury Road property had gone through a period of not being used, and said the plan now was to bring it into code compliance. He provided details on the work to be done including replacing the roof, siding, energy systems, sprinklering, etc. He also said the plan was to remove the existing solarium, because it wasn't in keeping with the character of the buildings around it, and didn't serve a purpose. He said using the same footprint, they would like to build a normal extension to the house that fit with it.

There was discussion about the design. Mr. Bilotta said the extension would be a 4 season room and said the foundation would have a crawl space. He said the number of occupants would remain the same as previously. Councilor Smith asked what the purpose of the room was. Mr. Bilotta said it would be an appendage to the existing living room and was not a bedroom.

Ms. Tatarczuch said she assumed that this new space would make the building more energy efficient. Mr. Sievert provided additional details on what was proposed. He said all of the solarium would be torn off except for the floor space. There was discussion about why it was

called a porch on application. Councilor Smith asked why they weren't removing the solarium and going back to the exterior design the building once had. Mr. Bilotta said it was thought there would be more value in making the living room larger.

It was noted that there was a sliding glass door and window right now between the solarium and the living room. Mr. Sievert said it might continue to be a separate room, and there was discussion. Mr. Bilotta said it was not intended to be a bedroom, and said there would be 6 residents living in the house. Mr. Sievert questioned why it would matter if it was a bedroom.

Councilor Smith said there would need to be a condition of approval that specified how many occupants there would be.

Mr. Parnell asked why the Planning Board was looking at this application. There was discussion. Mr. Bilotta said he didn't understand why there was a restriction on occupancy when the Zoning Ordinance defined it per the square footage of the building. He said it seemed like an undue burden.

Councilor Smith MOVED to accept the application, and to schedule a Public Hearing for June 24, 2015. Lorne Parnell SECONDED the motion, and it PASSED unanimously 6-0.

- XIII. The Lodges – Amendments and Conditional Use to add Beds and Landscaping.** 259 Mast Road. Application for amendments and conditional use to add 26 beds and landscaping and make other changes to the approved site plan for a 142 unit/460 bed housing development. A conditional use is needed to expand *residence, multi-unit*, a nonconforming use. Peak Campus Development, LLC, c/o Jonathon Barge and Jeff Githens, developer. Tax Map 13, Lot 6-1. Office Research Light Industry Zoning District.

Chair Corrow said the applicant wasn't present tonight, and would be at the meeting on June 24th. There was discussion that the hand-drawn shrubs and trees in the landscaping plan were the additions.

Lorne Parnell MOVED to accept the Application for amendments and conditional use to add 26 beds and landscaping and make other changes to the approved site plan for a 142 unit/460 bed housing development, and set the Public Hearing for June 24, 2015. Councilor Smith SECONDED the motion and it PASSED unanimously 6-0.

- XIV. Recreation Chapter of the Master Plan.** The draft has been revised pursuant to Planning Board direction on May 27 (The public hearing has been closed).

Chair Corrow noted that the Planning Board had received the revised draft of the chapter. He asked if members of the Board had any questions/comments about it. Councilor Smith said he was still a bit puzzled by the continued language in the Vision statement and he provided details on this. He said he hoped Durham would have the things described in the vision in the future, but didn't support the way it was being said. But he said he was ready to endorse the chapter, and hoped someone would fix the document.

Councilor Smith MOVED to accept the revised draft of the Recreation chapter. Wayne Lewis SECONDED the motion and it PASSED unanimously 6-0.

- XV. Automobile Service Facility – 3 Dover Road.** Redevelopment of former Cumberland Farms

property into facility with 3 service bays, an office and 12 parking spaces. James Mitchell, Tropic Star Development, applicant; Cumberland Farms, property owner; Barry Gier and Mr. Lewis Morrill, Jones & Beach, Design Engineers. Map 4, Lot 49. Courthouse Zoning District. *Recommended action:* No action is needed.

Chair Corrow noted that this application had been withdrawn by the applicant. He noted the letter to Mr. Behrendt from Scott Mitchell. Ms. Tatarczuch also noted the letter from Mr. Wolfe to Mr. Mitchell in response, which pointed out some of the inaccuracies in Mr. Mitchell's letter.

Linda Tatarczuch MOVED that the Planning Board recognizes Peter Wolfe's response to Mr. Mitchell's letter. Councilor Smith SECONDED the motion and it PASSED 5-1, with Lorne Parnell voting against it.

Mr. Parnell said he didn't object to what Mr. Wolfe had said. But he said he thought that at some point, the Planning Board should have a discussion on the way the application turned out. He said this site had become derelict, and said the Board should discuss how it might handle things like this in the future. He said instead of responding as Mr. Wolfe did, the Planning Board could have been proactive to try to prevent this project from being withdrawn.

He said Mr. Mitchell said the Board overstepped the boundaries by asking to set up an architectural review committee, and Mr. Wolfe replied correctly that Mr. Mitchell was requested to do this. He said something went wrong with the process, and he suggested that in the future, with a difficult site like this, they not get hung up on short term issues that came up. Mr. Corrow agreed. Mr. Lewis asked if the issues with access, involving the Holiday Inn, were resolved, and there was further discussion.

XVI. Election of Vice Chair and Secretary of the Planning Board

Chair Corrow noted that Board members filling these positions had to be full members of the Planning Board. There was discussion about whether any alternates were prepared to step up to become full members. Mr. Parnell noted that this had tended to happen in the past based on seniority. Councilor Smith asked Mr. Lewis if he was ready to step up, including considerations about his travel schedule. Mr. Lewis said he was gone from Durham for at least 90 days out of the year, which was the main reason he hadn't become a full member. He said he didn't think it was fair to do so when he was gone for this length of time.

Ms. Tatarczuch said she had considered being a full member, but said at this point she couldn't do it. She said she didn't feel she was conversant enough in the engineering and zoning aspects of applications to be a regular member, and also said a new job position she had taken was relatively time consuming. Ms. Dill agreed with what Ms. Tatarczuch had said about being technically prepared, and said she would like to be a voting member when she was more prepared.

Chair Corrow said Mr. Kelley had requested a hiatus from the Planning Board. He said he would be speaking with him, and would ask him to stay on the Board and come to meetings when he could.

Ms. Tatarczuch said one of the issues the Board had faced was plans that came before it, and public declarations from a developer that were not absolutely replicated in the plans and the written application. She said these things carried the legal weight of a project, and said the Planning Board would need Town staff/the TRG more and more in terms of reviewing these plans.

Chair Corrow recommended that the Board postpone making the appointments until the meeting on June 24th.

Mr. Parnell asked if perhaps Councilor Smith could be the Planning Board Secretary. Councilor Smith said no, explaining that it would be hard for him to do minutes of site walks because of his hearing problem.

Councilor Smith MOVED to postpone the appointment of the Vice Chair and Secretary to June 24 2015. Lorne Parnell SECONDED the motion and it PASSED unanimously 6-0.

XVII. Other Business

There was further discussion about vacant seats on the Planning Board. Chair Corrow suggested that these be advertised.

XVIII. Adjournment

Councilor Smith MOVED to adjourn the meeting. Linda Tatarczuch SECONDED the motion, and it PASSED unanimously 6-0.

Adjournment at 8:41 pm

Victoria Parmele, Minutes taker

Andrew Corrow, Secretary