

*These minutes were approved at the January 23, 2019 meeting.*

**DURHAM PLANNING BOARD**  
**Wednesday, October 10, 2018**  
**Town Council Chambers, Durham Town Hall**  
**7:00 p.m.**  
**MINUTES**

**MEMBERS PRESENT:**

Barbara Dill, Vice Chair  
James Bubar, Secretary  
Lorne Parnell  
Bill McGowan (arrived at 7:45 pm)  
Nathaniel Morneault, alternate  
Mike Lambert, alternate  
Councilor Carden Welsh, Council Representative to the  
Planning Board  
Councilor Sally Tobias, alternate Council Representative to  
the Planning Board

**MEMBERS ABSENT**

Paul Rasmussen, Chair

**I. Call to Order**

Ms. Dill called the meeting to order at 7:00 pm, and noted that she would be serving as Chair for the meeting.

**II. Roll Call and Seating of Alternates**

Both Mr. Morneault and Mr. Lambert were seated as regular members for the meeting.

**III. Approval of Agenda**

*Lorne Parnell MOVED to approve the Agenda. Nate Morenault SECONDED the motion and it PASSED unanimously 6-0.*

**IV. Town Planner's Report**

Mr. Behrendt noted that Bob Brown had resigned for personal reasons, and said he would be missed. He said the Board would recognize Mr. Brown for his service at a future meeting. He said there was now one regular member vacancy. He said the next meeting would be a workshop to discuss some general planning issues. He also said there was an extra meeting scheduled for November 7<sup>th</sup>, and the regularly scheduled meeting on November 14<sup>th</sup>.

Chair Dill suggested having the workshop on November 7<sup>th</sup>, and the regular meeting on October 24<sup>th</sup>. Other Board members were in agreement with this.

***Lorne Parnell MOVED that the next meeting, October 24<sup>th</sup> is a regular meeting, and the Planning Board workshop is postponed to the meeting on November 7<sup>th</sup>. Nate Morneault SECONDED the motion and it PASSED unanimously 6-0.***

## **V. Reports from Board Members who serve on Other Committees**

Councilor Welsh provided details on the update Dr. Morse, Supervisor of the ORSD, provided at the recent Council meeting on plans to build a new Middle School. He said this would go to the voters in March of 2020. He also said the Council adopted an ordinance that required dog owners to clean up after their dogs on Town property, and to dispose of the waste properly.

Chair Dill said at the Energy Committee meeting, Harry Tobias was voted in as Chair, and Mary Downes was voted in as Vice Chair. She said they also discussed plans for doing community outreach, including tours of solar installations so people could learn more about solar.

## **VI. Public Comments**

**Joshua Meyrowitz, Chesley Drive**, noted a recent memo from contract planner Rick Taintor to the Planning Board about resuming review of the Colonial Durham site plan. He spoke about the fact that discussions with Hannaford were not yet resolved and asked what the justification was for resuming review of a plan that didn't yet exist. He spoke further on this, and said he was speaking for many residents who felt the review should be delayed. He said he hoped there would be a new plan.

He said the second thing he wanted to mention was the great work Councilor Tobias and others had done on the proposed Zoning amendments for the downtown, including finding a way to create a new category of occupant between family and unrelated. He said it seemed that there could be a way to figure out how to document relationships, and said doing this would benefit the Town, the tenants and the landlords.

**Malcolm Sandberg, Langley Road**, asked if the Board would consider moving Item XIII up on the Agenda so people who were present for the public hearing could have their issues heard.

After discussion, the Board agreed to amend the agenda in this way.

***Jim Bubar MOVED to amend the Agenda so Item XIII, the public hearing on the draft Energy Ordinance will be placed ahead of the discussion on the downtown Zoning amendments. Councilor Welsh SECONDED the motion and it PASSED unanimously 6-0.***

**Beth Olshansky, Packers Falls Road**, said she agreed with Mr. Meyrowitz regarding the Mill Plaza situation, and said she was puzzled about having a public hearing when there wasn't a plan. She said perhaps the Board should check with the developer on this.

**VIII. Emery Farm – New Farmstand.** 147 Piscataqua Road. Amendment to approved 2007 site plan for new 3,378 square foot farmstand building, new driveway, and other site changes. David Hills, applicant. Civilworks, engineer. Map 11, Lot 22-3. Residence Coastal District..

Holly Philbrook and Brad Towle, the operators of Emery Farm came before the Planning Board. Ms. Philbrook read a letter from the applicant, David Hills, which noted that the current farm stand had outgrown its usefulness, and said a new farm stand would be built in 2019. She said the plan had been revised somewhat as compared to the plan the Board had received earlier, and explained that the position of the building on the plan had been tweaked so that a portion of it didn't need to be chopped because of the conservation easement, and wetland setbacks.

Mr. Behrendt said he'd work with the applicant to make an itemized list of changes from the last plan. Mr. Parnell asked if there was any limit on doing the project, given when was approved previously.

Ms. Philbrook said the driveway was redone, and widened and said this fell within what had been approved previously. She noted in response to a question from Mr. Bubar that they hoped to be open year round, and to have a café and bathroom facilities. Mr. Bubar asked if there was an issue concerning the entrance and egress off of Route 4, and Ms. Philbrook said not that she was aware of. Mr. Parnell said given that some paving would be done as part of what was proposed, it might be a good idea to look at having one entrance lane and two exit lanes.

Councilor Welsh asked if it was expected that any variances would be needed, Ms. Philbrook said she didn't think so. Mr. Behrendt noted the variance granted a number of years ago to allow a new building to encroach into the wetland buffer, and said he'd include this in the next packet.

***Lorne Parnell MOVED to schedule the Public Hearing for October 24, 2018 and to schedule a site walk. Jim Bubar SECONDED the motion and PASSED unanimously 6-0.***

Mr. Bubar said he was unclear about the pasturing of animals on the site relative to where the wetland was. There was discussion, and Ms. Philbrook said that would be shown at the site walk. She said the plan for the animals was more or less what it was now. It was noted that the barns, which had existed for a number of years, were in the wetland buffer.

There was brief discussion about a water line shown on the plan that ran through the property, from a reservoir in Madbury on its way to Portsmouth.

It was agreed that the site walk would take place at 4:00 pm on October 24<sup>th</sup>.

Ms. Philbrook and Mr. Towle said they'd appreciate the Board's consideration in completing its review of the application, because they were eager to get work started soon in order to be able to open on May 1<sup>st</sup>, 2019.

- IX. **Wooden Nutmeg Farm Condominium – Lot Line Adjustment.** Bay Road. Lot line adjustment among several properties on Tax Map 20: Lots 3-2A, 3-2B, 3-2C, 6, 7-2, and 7-3. Bill Doucet, Doucet Survey, surveyor. Residence Coastal District.

Surveyor Bill Doucet first noted the existing and proposed lot configurations. He said the existing configuration was irregular, and said what was proposed was to try to make them more consistent with how the property owners lived on the properties and enjoyed them. He noted that some Zoning relief was necessary in order to proceed with the lot line adjustment, and said the ZBA approved the requested relief.

Mr. Bubar asked whether if the lot line adjustment was approved, this would allow for the creation of an additional building lot. Mr. Doucet said there were no plans for this now and said he didn't believe there were any plans for the future. He said he thought that if the porkchop lot provision was used once, it couldn't be used in the future. Mr. Behrendt noted that the lot that was acquiring additional land had very little frontage so it would be difficult to subdivide it. He said a new lot would need a variance for frontage.

Mr. Parnell said it was difficult to assume that what was proposed would not be a better configuration. He noted that the original lot configuration was complicated and asked for some history on why it was like that and why the change was proposed now.

Mr. Doucet provided some history. He said the original subdivision had more irregular lots than what was shown on the original plan now, and explained that there was an attempt to simplify things a few years ago, but only some lot owners were on board with making changes. He said there was now buy-in from all of them. He said the original developer's vision was based on trying to provide all of the lots, including on the other side of Bay Road with a feeling of having shorefront ownership, with view easements, using the porkchop provision to meet frontage requirements, and other means. He said the use of the land and access to it wasn't considered as important.

Mr. Doucet provided details on the proposed reconfiguration, and there was brief discussion on this.

Mr. McGowan arrived at 7:45 pm.

***Lorne. Parnell MOVED to accept the Application for Lot line Adjustment among several properties of the Wooden Nutmeg Farm Condominium, listed on Tax Map 20 as Lots 3-2A, 3-2B, 3-2C, 6, 7-2, and 7-3, and to schedule a Public Hearing for Oct 24, 2018. The properties are located on Bay Road in the Residence Coastal District. Nate Morneault SECONDED the motion and it PASSED unanimously 7-0.***

Mr. Doucet suggested that he could put lot lines on an aerial photo if that would be helpful to the Planning Board.

- X. Public Hearing - 74 Main Street – Mixed-Use Building.** Design review site plan application for new four-story mixed use building on new lot being created from recent 2-lot subdivision. Douglas Clark, applicant. Mike Sievert, MJS Engineering, engineer. Lisa DeStefano, DeStefano Architects, architect. Sean O’Connell, Shaheen & Gordon, attorney. Town and Campus, Inc. c/o Jess Gangwer, property owner. Map 2, Lot 14-1. Central Business District.

Mr. Clark said the ZBA meeting last night wasn’t terribly helpful. He said the plan provided this evening complied with the proposed Zoning Ordinance, and included 12 residential units. He noted that the Current Ordinance allowed 7 units.

Councilor Welsh asked how many rooms were expected in each apartment, Mr. Clark said all but one were proposed to be one bedroom or studio apartments, and he spoke further on this. He said the remaining unit would have two bedrooms, and said he planned to live in that apartment with his wife. There was discussion. Mr. Clark said it was imperative to address/define cohabiting people who were not married, and said these couples were needed in order to be able to create a diverse downtown.

There was discussion about the fact that in the provision that there could be a maximum of 3 unrelated people living in an apartment didn’t apply in the Central Business District. But it was noted that the minimum habitable floor area per person requirement applied everywhere, with 600 sf per occupant now required, and 450 sf proposed. There was discussion that 900 sf was a lot of space for a couple. Mr. Clark said Councilor Lawson had said that 450 sf per person might be a bit high, and spoke about bringing this down to something a couple could afford, such as 350 sf per person, or having a new tenant class that allowed a couple to live there even though they weren’t married.

Mr. Behrendt noted that with the current Zoning Ordinance, for two related people there was no minimum floor area for the occupants. But he said for any unrelated household of 2 or more, the minimum floor area requirement per person applied. He said there was therefore a suggestion to create a third category of occupants, and said this could be discussed with the Town Attorney.

Mr. Morneault said many of the homebuyers he dealt with in the real estate business were couples that weren’t married, and said it was definitely an issue for rentals as well. Mr. Behrendt said it seemed that this would be a challenging issue from a legal perspective.

Councilor Welsh asked about possibly moving away from square footage, and thinking in terms of rooms. There was detailed discussion about this, and about how bringing the minimum habitable floor area from 600 sf down to 450 sf impacted the commercial space issue.

Mr. Sievert asked for some general feedback on the building, in terms of its size, number of stories, etc. He said it was realized that Mr. Clark had some hurdles to get over with the possible Zoning changes, variances, etc. He also said it was a tight lot, and noted that there had been some discussion about the park out front and some things they could work on with the Town on to make it better.

***Jim Bubar MOVED to open the Public Hearing. Lorne Parnell SECONDED the motion and it PASSED unanimously 7-0.***

**Jay Michael, Main Street**, said the concept was great, and said he and other property owners downtown grappled with the same issues. He said he was in favor of the idea of changing the housing types and the people who would live in them, which would also support businesses downtown. He said he wasn't interested in renting to students. He said he'd like to see support for this proposal, and to see people figure out ways to do this that could change the Town in a positive way.

**Beth Olshansky, Packers Falls Road**, asked for more details on the building. It was explained that the entire first floor would be comprised of two restaurant spaces, and the front half of the second floor would be event space with a grand stairway. Mr. Clark said there would be conference space at the back of that floor, as well as office space. He said there would be 6 apartments on the 3<sup>rd</sup> floor, and 3 apartments on the roof. He said there would be commercial space on the first and second floors.

Mr. Clark said he was looking for feedback on the apartment sizes and the architecture. He asked if people thought the building looked enough like a New England building, and spoke about needing to blend with other buildings in the area. Councilor Tobias said it reminded her of a mill building that was redone.

**Robin Mower, Britton Lane**, asked if it would be possible to see an image of the building from Main St, face on. Mr. Clark said they hadn't done that yet since things were still at the conceptual stage.

Mr. Bubar said he wasn't sure that the Planning Board should be talking about this, noting that it had been suggested that they shouldn't be talking about the Colonial Durham application. There was discussion, and Mr. Behrendt said this was a preliminary application, so the discussion could be fairly freewheeling. He noted that it wasn't appropriate to have a formal application if it didn't meet the Zoning Ordinance. He said the project would be subject to the Architectural Regulations. Mr. Clark said he didn't want any surprises when he came back with a formal application.

Ms. Olshansky said the feel of the building was very blockish, like a parking garage. She said she also wondered about the idea of the building fitting in with the Kostis building, which she said she didn't find attractive. She said a design with more of a New England feel would appeal to her more.

Mr. Behrendt said he'd heard some comments like Ms. Olshansky's that the building seemed a bit blockish, including the large and white element of the building. He said it wouldn't be that big a deal to make adjustments to these things as long as the floor plans worked. He noted pages 6-7 of the Architecture Regulations, which showed downtown buildings like the Town and Campus building and other buildings that provided a good template for this. There was further discussion.

Ms. Mower said she remembered discussion about the new Town Hall building, and the Polly's Pockets building, and the idea of echoing elements of mill buildings. She said granite lintels provided a wonderful echo of mill buildings, and said there didn't need to be clapboards and peaked roofs. She said some architectural genres didn't stand the test of time well, and noted as an example that the white element in the proposed building might fade in value over time. She spoke about having a better quality New England vernacular instead of a more modern design, unless the design was extraordinary.

Councilor Welsh said the white element in the design had an Italianate look, but said the rest looked like a mill building. Mr. Clark said he thought the windows looked cool on top, and that the white was something to break up the blocks so the rectangle had some interest. Ms. Mower said the white jumped out and agreed about the Italianate look.

Mr. Behrendt said the Architectural Regulations provided very good guidance, and said he'd be glad to meet with Mr. Clark. Mr. Sievert said the windows were very big intentionally to provide the loft feel on the top floor. Mr. Clark said he didn't want it to be a dark building. There was discussion about the windows, and Councilor Welsh and Councilor Tobias said they liked them. Mr. Morneault said he liked the building, including the white part and the brick.

Councilor Welsh said he thought Mr. Clark should talk with Mr. Behrendt about the building design. Mr. Behrendt suggested a possible subcommittee. Mr. Sievert said he was hesitant about that idea, but suggested that Mr. Clark could work with Mr. Behrendt and the Architectural Regulations.

Ms. Dill said she thought the white part of the building was overly powerful, and said it needed to come down in tone so the building didn't look like a parking garage. Councilor Tobias suggested that the white area could instead be natural wood or a composite material.

Mr. Clark asked about being able to put in small balconies, fronting the college. Mr. Behrendt suggested that he, Mr. Clark and the architect could look at the Architectural Regulations, and said he didn't see that there would be problems getting where Mr. Clark needed to get to.

Councilor Welsh asked if any of the landscaping had been planned out yet. Mr. Clark said thought was being given to putting pervious pavers between buildings, and said there had been discussion with Jess Gangwer about creating a pedestrian way, and putting as much parking as possible in the back. He spoke briefly about possible drainage plans.

Asked about the parking, Mr. Clark said the restaurant would seat 120 people, and would require 40 or so parking spaces. He said he was in discussion with neighbors concerning finding places for the parking. He noted that the restaurant would be open for lunch, but said more than 60% of the customers would be walking there on foot.

***Bill McGowan MOVED to close the Design Review. Jim Bubar SECONDED the motion and it PASSED unanimously 7-0.***

- XI. Public Hearing - Mill Plaza Redevelopment.** 7 Mill Road. 1) Site plan review and 2) Conditional Use for mixed use and activity within the wetland and shoreland overlay districts. Colonial Durham Assoc., LP, property owner. Sean McCauley, agent. Joe Persechino, Tighe & Bond, engineer. Steve Cecil and Emily Innes, Harriman, site planner. Ari Pollack, attorney. (Rick Taintor is serving as the Town's Contract Planner.) Central Business District. Map 5, Lot 1-1.

***POSTPONED TO NOVEMBER 14 AT APPLICANT'S REQUEST***

- XIII. Public Hearing - Solar Energy Systems – Revised Draft.** Proposed amendments to the Zoning Ordinance to accommodate solar energy systems as accessory uses and principal uses. The Energy Committee presented a draft ordinance to the Planning Board on April 11. The Planning Board made a few changes and held a public hearing on the draft on April 25. The board closed the hearing and has been working on a revised draft since that time. The revised draft is now presented for a new public hearing

**Chris Skoglund, Packers Falls Road,** read a letter into the public record.

We, as residents of Durham, NH, feel that the Solar Energy Systems – Proposed Zoning Amendment, when concerning residential solar installations, should not be restricted for aesthetic reasons as has been requested by other stakeholders. Solar energy systems are an important means to increase our local and state energy independence, improve air quality by reducing the burning of fuels to produce heat and electricity, and reducing the causes of climate change.

As Durham has a long history of protecting its natural resources, and is in fact almost entirely powered by rooftop and ground mounted solar energy systems, the final version of the zoning amendment should protect properties owners' right to install solar on their own site or allow larger systems to be installed, allowing multiple businesses and homeowners to benefit from the energy production (i.e., group net-metering). To this end, the final language of the amendment should allow solar to be placed where systems are best able to capture the sun's energy given the conditions of the site and buildings, and not simply sited where they will be least visible on the landscape.

We understand that the addition of solar to the landscape will be a change to the traditional appearance of Durham, but we also recognize that the utilization of this technology is critical to protect human and environmental health going forward.

Thank you for your consideration,  
Allison Brisson Durham, NH

Anita Mathur Durham, NH

Beverly Lauer Durham, NH	Chris Skoglund Durham, NH
ChrisAnn Wiechert Durham, NH	Christine Pilar Durham, NH
Courtney Bent Durham, NH	Cristina Brisotti Durham, NH
Dave Hamilton Durham, NH	Erica Skoglund Durham, NH
Harry Tobias Durham, NH	Heather Curran Durham, NH
Jennifer Pavlik Durham, NH	Kandie Bonica Durham, NH
Katia Sowers Durham, NH	Kristina Jorgensen Durham, NH
Lisa Hamilton Durham, NH	Mary Caldwell Durham, NH
Mary Malone Durham, NH	Megan Carney Durham, NH
Michael Anderson Durham, NH	Mike Mangan Durham, NH
Olivia Devlin Durham, NH	Patricia Jancsy Durham, NH
Rebecca Earle Durham, NH	Rebecca Kell Dover, NH
Sascha Barth Durham, NH	Sean Curran Durham, NH
Shannon Rogers Durham, NH	Stefanie Griffin Durham, NH
Steve Wishengrad Durham, NH	Yusi Turell Durham, NH

**Malcolm Sandberg, Langley Road** said the most remarkable element of the solar ordinance review process was that there had only been one person speaking in opposition to solar power or other alternative energy production. He said they were all on the same team on this, but said people also wanted to protect their assets. He said concerns had focused on the amount of restrictions in place to protect against unanticipated consequences of allowing any and all installations. But he said the Town had adopted many regulations to protect ambiance in neighborhoods, concerning trash collection, unregistered vehicles, the location of sheds and other accessory structures, signs, etc. He said these regulations could be viewed as an annoyance or as useful guidelines, and said some were adopted after the problem occurred. He said some people had described solar arrays as beautiful, while others had spoken about possible negative aesthetic impacts.

Mr. Sandberg said he was a strong advocate of solar energy, and recognized the threats concerning climate change. He noted that he owned a solar tracker, and said since installing it he hadn't purchased any electricity, and had reduced his fuel oil consumption by about 80%. But he said he was also speaking as someone who saw the need for reasonable restrictions in the Zoning Ordinance. He said has they encouraged alternative energy in Durham, it was important to do so with the benefit of hindsight, and to preserve what was good while laying the groundwork for the future.

**Robin Mower, Britton Lane**, read her letter into the public record:

In 2014, Tom Johnson, our former Town Director of Zoning, forwarded to me a note consisting of typewritten text for a speech given by UNH campus architect Eric Huddleston to the Town of Durham, probably in 1930. At the time, Durham had no zoning. On the back of the speech a handwritten note reads: "Talk given by ETH to the Town of Durham that resulted in promoting a planning board and zoning (about 1930)."

Here are a couple of excerpts from that speech: Just stop for a moment and think of some of the physical attributes that New Hampshire possesses which attract the tourist because they are

unique. – Winding pine and birch bordered roads. – Stone walls. – Old farm houses with attached barns and outbuildings all painted white. – And many others. Are we safeguarding these values? No — we are wiping them off the face of the earth and at the present rate and unless we intelligently plan our development program and conserve our assets we will soon have a rural section standardized in character to that of other states. /.../ One other phase of zoning I wish to emphasize — that of the roadsides leading into our villages and cities. [J. Frederick Larson, architect, of Hanover] stated his conviction that the counties and the towns and villages should assume more responsibility for the beautification and preservation of the natural scenery within their boundaries. They should,’ he said, ‘restrict the spoiling of roadsides between towns...’ /.../ In Durham, we are now engaged in the preparation of a zoning ordinance which we hope will serve as a Master Plan in protecting the interests of the Town as a whole. Simple restrictions governing the use of property adjacent to the main roads passing through the Town should prove of lasting benefit in preserving its New England character.

So what has a speech from the 1930s to do with the subject of tonight’s public hearing? The aesthetics of New Hampshire are valued today not only by residents but by tourists important to our economy, by historians, and by experts in a field where visual aesthetics and human psychology intersect—as well as by solar ordinances in other New Hampshire towns, as I will detail later. Protecting the scenic vistas along our gateways is a goal that deserves respect. Coming back to 2018: We are probably all aware of the report issued this week by the Intergovernmental Panel on Climate Change concluding that the global warming picture is far worse than previously thought. As the New York Times reported, “Absent aggressive action, many effects once expected only several decades in the future will arrive by 2040.”

Even those of us who have expressed concern about Durham’s scenic roads “get it.” We All want Durham to move forward with meaningful renewable energy initiatives. But the community does hold two competing values, as do many individual residents. The challenge is taking meaningful action to support one without completely disregarding the other. No regulation is at one extreme, but is objectively clear. Overregulation is at the other but is a subjective perception. The question should not be whether either “side” prevails. We have just witnessed extreme division and backlash on the national political arena. Surely we do not have to succumb to that scenario. If we knew for certain that setting an “anything goes” policy for solar energy systems would be the silver bullet or the most significant path to managing climate change, many more of us would be willing to sacrifice aesthetics. But that single approach doesn’t come with a guarantee. Other effective steps to combat climate change are more difficult to achieve—and often not given priority—because they require changes in our behavior.

I am as worried as the next person about what we are facing. I applaud the boldness of California’s leadership and think it might be the only truly defensible route—partly because as a society we don’t take the simplest behavioral steps that collectively could make an impact. On the other hand, I am not willing to accept any and all intrusions of industrial structures on the scenic vistas of Durham that make my heart sing if we haven’t also done our best to attack the problem from other angles. We know that Durham’s actions can have a ripple effect on other communities, both positive and negative. We know that our own community has diverse opinions about the visual impact of solar installations. We must assume that others traveling through Durham will, as well. We have an opportunity to be bold enough to inspire but not too bold to make people shake their heads.

So I would make the following points:

- We already regulate impacts on our neighbors, even for somewhat minor measures including the aesthetics of homeowners' fences;
- Any property owner who is serious about installing solar panels is likely to: (a) figure out how to do it while complying with a reasonable ordinance, or (b) if required to do so, be willing to make the effort to go through the Zoning Board to obtain a variance just as homeowners do who want to build in out wetlands;
- The amount of solar energy generation derived from unrestricted installation in this small town is unlikely alone to offset our myriad daily energy-squandering practices, and
  - Our planet's ability to stall, let alone reverse, global warming does not depend on the Town of Durham's allowing unrestricted solar installations.

Widespread solar and other renewable energy generation measures are necessary but not sufficient to mitigate climate change. Consumption is the other side of the equation. The sheer visibility of numerous solar panels might lead to greater energy use awareness and behavioral changes, but perhaps it would be just too attractive and easy for people to leave it there, to ignore the harder work that remains.

The energy chapter of the Master Plan lays out the community's challenge: "...a balancing act [requiring] collaborative discussion leading to broad agreement as the most effective way of achieving the vision of this Chapter." Recently adopted Master Plan chapters, as well as surveys and forums from which the Plan was developed, as well as past Master Plans have continuously and repeatedly reflected the community's deep appreciation for our natural setting, gateways (whether or not defined as such), and scenic vistas. The Planning Board has both the authority and the obligation to protect those scenic vistas. The Master Plan forum held in May 2017 provided reinforcement for the community's commitment to protecting gateways.

Other New Hampshire towns, such as Hollis and Alton, incorporate protection of local aesthetic values, as stated in the goals section of their solar ordinances, adopted in 2017: Alton 1. To allow for the use of Solar Energy Systems in the community while maintaining Alton's scenic vistas and protecting property values. 2. To preserve the community's rural character, particularly as seen from public roads. Hollis a. Allow for the use of Solar Energy Systems in the community while maintaining Hollis's scenic vistas. b. Preserve the community's rural character, particularly as seen from public roads. c. Minimize potential adverse impacts of Solar Energy Systems in the community by ensuring that such facilities are properly screened and are properly sited within existing topographic features of the property. It is within your purview to regulate for the protection of the fast-vanishing visual features valued by a significant portion of our community, even as you work toward facilitating critical steps to safeguard our future.

Ms. Mower said Hollis and Alton probably exemplified the steps a previous speaker spoke skeptically about, concerning protection of property values, which might have less importance relative to climate change. She said the hard work was trying to figure out some way to make bold, meaningful enough steps without completely sacrificing what it meant to live in Durham today, and to share our values.

**Bill Hall, Smith Park Lane** said solar took money from the people below the mean income and gave it to people above the mean income. He noted the two energy bills the Governor had vetoed, one regarding solar energy, and said the veto was not overruled. He said solar didn't begin to keep up with increased demands on power, and said it would require 10,000 arrays such as the one Durham had at the gravel pit to power the state. He spoke in some detail about the importance of having a robust electric grid. He said before

solar got a foothold, net metering would be stopped because he said he believed it wasn't legal. He said the real answer to power in NH was the hydropower electricity from Canada, which was clean solar energy, and said the State would probably also need nuclear power to supplement that. He said the numbers for solar didn't work.

Chris Skoglund said that regarding net metering, the Public Utilities Commission in 2017 found that there was no shifting of the burden of the costs for maintaining the grid to rate payers who didn't have solar. He also said the PUC changed the rate structure so a portion of the cost for distribution was put on new solar systems. He spoke further on this, and said net metering was not going away. He said the price of solar had come down considerably, including the cost of storage, and said in the era of solar 3.0, the State was reviewing things like how to change rates, and credit solar when it was producing electricity at times of high demand. He urged the Planning Board to focus on how to allow solar technologies in the ordinance, while avoiding the political arguments in the State that had now largely been addressed.

**Sasha Bart, Packers Falls Road** noted that he'd submitted a letter today. He said Durham residents thought of themselves as a welcoming, forward thinking community, and said it was therefore important to be open to change and the future. He said a lot of people in Town didn't appreciate the restrictive level of the current proposal for the solar ordinance. He said most existing structures had not been built with solar in mind. so needed more leeway than the current proposal provided He said he agreed that future development should be built with certain levels of solar planning, including ample room for arrays in backyards. But he said it was cost prohibitive to install units on smaller lots, or shaded lots that worked properly.

He said he'd been traveling up and down Packers Falls Road for 10 years, and said he didn't move there because of the scenic views. He said that road felt like an organic, blue collar road, and said he'd made a decision not to move into a more scenic area. He said his solar tracker was no less beautiful and no more offensive than RVs, mobile homes, homes with vinyl siding, etc.

Bill Hall said when someone bought power from the grid, half the bill supported the distribution costs, and said solar didn't pay any of that. He spoke about the importance of hardening the grid, with surge protectors, standardize transformers, etc. He suggested that solar would never become a serious factor, and said it hadn't even kept up with increased demand.

**Beth Olshansky, Packers Falls Road**, read her letter into the public record.

As I have already submitted many suggested revisions for the Draft Solar Ordinance, I will use this opportunity to share some thoughts moving forward.

First, as PB discussions proceed, I hope we can resist the urge to polarize our community into "pro" and "anti" factions. As I watched the Sept. 26 solar discussion, I noticed that some members of the Planning Board used terms like "pro-solar people" or "solar supporters." I want to make it clear that even those who have come forward with specific recommendations regarding aesthetics are "pro-solar." Please do not try to pigeonhole us in a way that is not

only inaccurate, but also serves to polarize the community. While the solar discussion is difficult and nuanced, let's not fall into the unproductive polarizing behaviors we see in Washington DC. We are all pro solar, even those who care about aesthetics as well.

Charlie Forcey, former Chair of the Durham Energy Committee and well-respected member of the community, was wise to propose a Purpose Statement in the proposed solar ordinance that sought to find Balance. After the installation on Packers Falls Road, he realized that an ordinance without restrictions would sour the enthusiasm of many Durham residents for solar and had the potential to turn some Durham residents against solar. I hope the members of this Board will recognize and honor Charlie's wisdom to find a moderate and balanced approach.

The Planning Board has the difficult task of finding a nuanced position that will reflect the values of the entire community. Durham has decades of history documenting its commitment to both its natural and scenic resources. Longtime resident Dudley recalls that this value system existed as long as she can remember, some 80 years ago.

More recently, we find evidence in the 2000 Master Plan under Scenic Views: "The landscape of an area defines its cultural, natural, and historical heritage and thus provides the members of a community with a sense of identity. Durham's identity is marked by the views of and from roadways, the major rivers, and the Great and Little Bays. In addition, the areas of historical and existing agricultural operations create a pastoral landscape that helps to define the community." Under Important aspects of views, listed are the following items which all affirm Durham's longstanding commitment to preserve our viewsheds:

- Continuous views that "follow" you as you travel along the road or are deep views.
- Lack of scattered development or other disturbances in views.
- Durham has four locally designated scenic roads – Bennett Road, Packers Falls Road, Durham Point Road, and Bay Road – and a Federally designated scenic river – the Lamprey River.

I recall a few years ago, during discussions about replacing the Packers Falls Road Bridge, John Kraus, then a Town Councilor, observed, "In Durham, our bridges are our cathedrals." He was referring to our longstanding commitment and passion for preserving our scenic vistas. To many, Durham's natural beauty serves as food for the soul. Why can we not create a solar ordinance that encourages solar while still honoring what has been and remains dear to so many residents here in Durham? While some might say, "that was then, this is now," I would like to refer you to statements in the Future Land Use Master Plan Chapter approved by the Planning Board just last January 2018:

"Balance: The master plan vision stresses the importance of a balanced approach when integrating community priorities."

"Quality of Place: The Durham community deeply values aesthetic and the character of the landscape. The community treasures the town's history, rural setting, and cultural, educational, and agricultural resources." "When asked what they love most about Durham and what they hope for its future, participants spoke overwhelmingly about the town's character and appearance." "Natural features and resources should be preserved and a lower population density maintained in outlying areas with development subtly integrated into the environment. In residential areas, thoughtful zoning contributes to maintaining the character of a neighborhood."

"Rural resources: Durham is a community with abundant natural resources. Scenic views of Little Bay, the Oyster and Lamprey rivers, and numerous farms, forests, wetlands, and conserved properties contribute to Durham's special identity."

The Future Land Use Chapter even recommends that we create a Gateway Overlay District. “Balance Recommendations: Gateway Design Overlay District: The community places high value on Durham’s natural beauty, and residents consider the views along major transportation corridors to be important gateways. Implementing a design overlay district along these corridors could balance the rights of property owners to develop their land while ensuring that any development will be of high-quality design.”

In the Meeting Summary of Land Use Forum May 2017 under What we love about this community, it states: We deeply value the natural environment and beauty of this place. Under Ten years from now we hope.... We will have preserved: “Our natural resources and open spaces and given them priority when making planning decisions.” Under What we are doing well? “Participants recognize and are pleased that Durham has preserved a significant amount of land and protected the area’s natural beauty.” Let’s not turn our backs on Durham’s longstanding commitment to preserve our scenic viewsheds.

The most recent report on climate change acknowledges that if we are to realize critical goals, it will take a huge national and international commitment from policy-makers, from industry, and from innovators. Whether Durham allows solar trackers in one’s front yard or backyards is not going to be a global game changer since most solar systems in Durham are likely to be roof-mounted (especially given new roof-mounted technologies such as that install at the Great Bay Discovery Center. Yet those decisions will significantly impact our community. For this reason, I do hope the PB will carefully consider recommendations that will serve to preserve those most vulnerable scenic places. I would also like to remind the PB that our ordinance should set out a clear vision and regulations that are aligned with the Purpose Statement. Those residents who are not able to meet those regulations can always seek relief at the ZBA, which regularly grants relief to those who have no other options. If we are serious about preserving our town’s character and scenic places, we would be wise to set out clear guidelines that can be waived under certain circumstances.

Finally, perhaps I mistakenly heard at the last PB meeting that Mary Downes was asked to review an earlier draft of the ordinance to offer her opinion on what should stay and what should go, a draft that did not include residents’ most recent recommendations. I hope that does not mean residents’ comments will not be considered. Myself and several others spent many hours going through the draft ordinance, thinking about implications while driving around town, and then trying to offer some constructive feedback. If all those comments are going to be ignored, without even discussion, it begs the question of why the public should bother participating in the public hearing process at all. If the PB did not want to receive further recommendations, the public hearing should have been closed a month ago, prior to residents laboring over the most recent draft to offer recommendations. I urge the Planning Board to follow the path originally described to the public in which residents’ specific comments and recommendations would be integrated into a draft document and then would be discussed, comment by comment by members of the Planning Board. I know it is an arduous process and I thank you in advance for your endless hours of service.

***Nate Morneault MOVED to Close the Public Hearing. Bill McGowan SECONDED the motion and it PASSED unanimously 6-0.***

Mr. Behrendt said he had included comments from members of the public in the September 12<sup>th</sup> version of the draft ordinance, and said he’d add the additional comments

that had been received for the Board to review at its next meeting. There was discussion about revising the format so the document would be clear enough for the Board to read, and also providing a clean copy without the additions. It was noted that the Board would continue its discussion on the draft ordinance at the November 7<sup>th</sup> meeting.

**XII. Downtown Zoning Amendments.** Continued discussion on amendments to the Zoning Ordinance including changes to Section 175-7 Definitions; Section 175-42 Central Business District regarding the front entrance, number of stories, configuration of uses, and related issues; Section 175-54 Table of Dimensions regarding minimum lot area per dwelling unit in the CB District; Section 175-55 adding a reference; Section 175-56 General Dimensional Standards regarding minimum habitable floor area per occupant; and Section 175-112 Central Business District Special Conditions regarding the parking exemption.

Mr. Behrendt said the Planning Board had closed the public hearing, and he also noted that the Board had a 30-day extension to submit its comments to the Town Council. He said the Board's comments/recommendations could be significant without having to do another hearing because this was a Council Zoning change proposal.

Mr. Parnell said he wasn't at the last meeting but watched it on DCAT, and said he was a bit unsure as to what Councilor Lawson had proposed in terms of changes. There was detailed discussion about this.

Mr. Parnell said he thought defining things like the number of bedrooms was the prerogative of a developer and shouldn't be in the Zoning Ordinance. He said the issue that seemed to come up the most was how to address two unrelated people who were a couple, and he suggested having no occupancy standard for two people or fewer. There was discussion about this, concerning finding ways to have units that wouldn't be rented to students.

Councilor Tobias spoke in detail about the need to include considerations about bedrooms because the situation was different in Durham than it was in other towns because of student renters. There was discussion among other things about the fact that this wouldn't guarantee that students wouldn't live in two bedroom apartments in Durham.

Councilor Welsh reviewed the August 20<sup>th</sup> Council Communication on 5 proposed Zoning changes.

- 1200 sf of lot area per one dwelling unit – proposed change to 600 sf
- 600 sf of habitable area in a unit down to 400-450 sf, in order to allow more people in smaller units. Councilor Welsh spoke about recent discussion on number of bedrooms as well.

There was discussion about the habitable area per unit change. Mr. Parnell repeated his suggestion about having no occupancy standard for two people or fewer. There was

detailed discussion about this, and about the idea of saying two unrelated people, or “household” could live in a 400-450 sf unit, just as a married couple would. There was discussion about the idea that for a household with 3 or more unrelated people downtown, the sf of habitable floor area per occupant would kick in.

Councilor Welsh also noted the Council’s proposal to decrease the occupant density to 300 sf in developments that were limited to three stories when two thirds of the space was office/ commercial, in order to entice developers to do more commercial development. He said in other words, a developer could have more units if there were two floors of commercial space. He said with more and smaller units as a result of something like this, renters other than students might be attracted to live there. Councilor Tobias noted that these would be units that would work in the future, whatever happened with the student population.

Councilor Welsh said another proposal was to allow the developer more flexibility when configuring space, provided that the office/retail space fronted on the street. There was discussion that this would create the opportunity, for example, to configure the residential space on the back portion of the building, with commercial in the front. Mr. Parnell noted that this recommendation would allow the Planning Board more flexibility to review and approve variations in the office/ retail and residential configuration for projects.

Councilor Welsh said the Council Communication also recommended a change to the parking requirements so that the Planning Board didn’t have to grant a waiver to a developer to buy out of having to provide some parking spaces. He said it was hoped that this would encourage more underground parking. There was discussion about the fact that parking as a commercial use was not allowed anymore on the ground floor. Councilor Tobias spoke further about the reason for this proposed change.

Mr. Parnell suggested increasing parking fees and there was discussion about the idea that there needed to be some connection between the \$35,000 cost per parking space and the fee. Mr. Behrendt considered whether it was fair to make a developer pay a fee that was based on the cost of a structured parking space. Councilor Tobias said space was limited downtown, and said she thought this was an impact fee to get developers help to pay for structured parking there. She spoke further on this and there was discussion.

Mr. Behrendt spoke about some other items regarding the Zoning changes that he’d noted in an email to the Board.

There was some additional discussion about the two bedroom limitation. Mr. Behrendt said he’d put something together on what the Board had discussed this evening.

#### **XIV. Other Business**

**Discussion of Mill Plaza:** Mr. Parnell noted the letter from Mr. Taintor which said the Board had a site plan in front of it that it could review and then provide comments to the applicant for incorporation into a new plan. He asked Mr. Behrendt to tell Mr. Taintor that he did not see things developing like that. He said if there was another plan, it should

be presented, or the process should be started over again. He said he wouldn't waste time discussing something that wasn't a serious proposal.

Ms. Dill said she totally agreed with Mr. Parnell, and said the Board should have more information at the very least. Councilor Welsh asked if the timeframe was driving the review of the plan. There was discussion that Mr. Taintor should come to the next meeting to explain what was going on.

**XV. Review of Minutes (new):**

June 27, 2018

Postponed

July 11, 2018

Postponed

**XVI. Adjournment**

Adjournment at 10:36 pm

Victoria Parmele, Minutes taker

***Nate Morneault MOVED to adjourn the meeting. Bill McGowan SECONDED the motion and it PASSED unanimously 7-0.***

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James Bubar, Secretary