

*These minutes were approved at the March 13, 2019.*

**DURHAM PLANNING BOARD**  
**Wednesday, December 12, 2018**  
**Town Council Chambers 7:00 p.m.**  
**MINUTES**

**MEMBERS PRESENT:** Paul Rasmussen, Chair  
Barbara Dill, Vice Chair  
Lorne Parnell  
Bill McGowan  
James Bubar  
Michael Lambert, alternate  
Sally Tobias, alternate Council Representative to the Planning Board

**MEMBERS ABSENT** Nathaniel Morneault, alternate  
Carden Welsh, Council Representative to the Planning Board

**I. Call to Order**

Chair Rasmussen called the meeting to order at 7:00 pm

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

The roll call was taken. Mr. Behrendt noted that Councilor Welsh couldn't make the meeting. He also said Mr. Lambert would serve as a regular member for the meeting.

**III. Approval of Agenda**

*Bill McGowan MOVED to Approve the Agenda as submitted. Jim Bubar SECONDED the motion and it PASSED unanimously 7-0.*

**IV. Town Planner's Report**

Mr. Behrendt said he was still working with the Agricultural Commission on the draft agriculture ordinance. He said they were making good progress, and said hopefully the Planning Board would see it in a few months.

**V. Public Comments**

There were no public comments.

**VI. Reports from Board Members who serve on Other Committees**

Councilor Tobias said there had been 4 Council meetings since the last Planning Board meeting, and said most of them had involved discussion about the 2019 Budget. She said the Council had also had the first reading of the proposed Zoning changes for the downtown, and said the public hearing on this would take place next Monday. She said the Council had before it a request to bond \$2.68 million for a new force main project.

Mr. Bubar said there was discussion at the most recent Agricultural Commission meeting about plans for next year's Farm Day, which was scheduled for August 17<sup>th</sup> 2019. He also noted that the summer Farmers Market would be held at the Town Hall parking lot. He said the Commission was trying to help shepherd a decision on putting in bee/butterfly friendly landscaping along Route 108 next spring, from the pumping station to the Route 4 overpass, once the RiverWoods project was done. He said this landscaping, with wildflowers, etc. would require very little maintenance, and said people seemed to be quite supportive of the idea.

Mr. McGowan said at its most recent meeting, the HDC approved proposed window changes for two properties. He said other issues discussed included a new house on Newmarket Road next to the General Sullivan House, which people would be able to see from Old Landing.

Ms. Dill said the recent solar tour was very successful, and said there was a story about it in the Friday Update. She said she hoped another solar tour would be scheduled in the spring.

**VII. Public Comments**

There were no public comments.

**VI. Recognition of Bob Brown for his service to the Planning Board**

Chair Rasmussen thanked Mr. Brown for his service to the Town, as a Planning Board member and also as Secretary of the Board. Mr. Brown said it was a pleasure to serve on the Planning Board and to be a part of the critical work the Planning Board did. He spoke about the importance of planning for the future, and noted that he had several grandchildren who lived in the area.

**VIII. Review of Minutes (old):**

**IX. Public Hearing – 215 and 221 Packers Falls Road – Lot Line Adjustment.** Lot line adjustment between 215 Packers Falls Road, Map 17, Lot 13-2 and 221 Packers Falls Road, Map 17, Lot 13-1. Arne, LLC, c/o Ray Donahue, owner of both lots. Scott Boudreau, surveyor. Rural District..

Mr. Boudreau explained that the current lot line between the two tracts cut through the existing dwelling, and said the Lot Line Adjustment would move the lot line away from the existing dwelling so it was entirely on one lot. He said the frontage along Packers Falls Road would remain the same.

Mr. Behrendt said the application was complete.

***Bill McGowan MOVED to Open the Public Hearing. Lorne Parnell SECONDED the motion and it PASSED unanimously 7-0.***

There were no members of the public who came forward to speak.

***Bill McGowan MOVED to close the Public Hearing. Lorne Parnell SECONDED the motion and it PASSED unanimously 7-0.***

Mr. Parnell asked how, as far as the Town was concerned, this situation occurred where there was a lot line going through the house, Mr. Behrendt said the house was built in 1910, and said there had probably been two or three lots owned by the same party, so there may not have been a concern about the issue. There was discussion about the fact that one of the lot lines was an old stone wall.

Mr. Bubar noted that there was a well close to the existing house, and asked if it was capped. He was told that it was an irrigation well and wasn't used for anything now.

***Lorne Parnell MOVED to approve a Lot line Adjustment between 215 Packers Falls Road, Map 17, Lot 13-2 and 221 Packers Falls Road, Map 17, Lot 13-1, according to the Notice of Decision and conditions in it received this evening. The application was submitted by Ray Donahue, owner of both of the lots. The properties are located in the Rural Zoning District. Councilor Tobias SECONDED the motion and it PASSED unanimously 7-0.***

- X. 48 Edgewood Road – 2-Lot Subdivision.** Subdivision of 2.16 acre lot. Geoffrey Lombard and Jane Miller, property owners. Paul Dobberstein, Ambit Engineering, surveyor. Map 1, Lot 16-2. Residence A District

Mr. Dobberstein referenced the existing conditions plan, and said the lot was current wooded with a lot of immature trees. He said one of the two new lots would have 20,500 sf and just over 100 ft of frontage, and said the remaining lot would have 73,583 sf and 122 ft of frontage. He said both lots had the required 20,000 sf. and also had sufficient usable area for building, based on the soils. He said the lots would be served by water and sewer, and he spoke briefly on this. He said an existing shed would be moved to a location on the remainder lot or would be removed.

He noted that two waivers were being requested, and said one of them was concerning having to have all of the property lines surveyed. He said enough of the property had been surveyed so that there was confidence that the survey of record was correct. He

spoke further on this, and noted that nothing could happen on the remainder property without coming back to the Planning Board because of wetlands on the property, so having to survey the entire parcel didn't serve a purpose with this application.

Mr. Dobberstein said the second waiver requested was concerned with having to depict the proposed improvements to the new lot, and said there wasn't a plan for this yet.

The Board had no issues with the waivers being requested.

***Bill McGowan MOVED to grant a waiver from having to show topographic, wetland, and site features for the entire parcel; and from having to complete a boundary survey. Barbara Dill SECONDED the motion and it PASSED unanimously 7-0.***

***Lorne Parnell MOVED to accept an application submitted by Geoffrey Lombard and Jane Miller for a 2-Lot Subdivision of a 2.16 acre lot, and to schedule a public hearing for January 9<sup>th</sup>, 2019. The property is located at 48 Edgewood Road. Map 1, Lot 16-2 in the Residence A District. Bill McGowan SECONDED the motion and it PASSED unanimously 7-0.***

A site walk was scheduled for the next day at 3 pm.

- XI. 56 Dover Road – Sign Master Plan.** Sign master plan for up to six commercial tenants. Six signs are proposed including one freestanding pylon-style directory sign. Land Options, LLC, property owner. Sundance Sign Company c/o Chris Mulcahy and Mr. Leary, designer. Map 11, Lot 8. *Recommended action:* Discuss application and schedule a public hearing for January 9, 2019.

Mr. Leary said 6 signs were proposed for the sign master plan, and said several of them were directional. He described the proposed free standing pylon sign out by the road, which would have 6 panels for the individual tenants. He said there would be a wall sign on the building for the Douglas Group, and also said there would be a small entry sign for the front entrance, and another entry sign for multiple units at the back of the building. He also noted the existing RiverWoods sign.

There was discussion about why the Planning Board reviewed sign master plans. Mr. Behrendt said where there were multiple tenants on a site or a building, an applicant needed to prepare the master plan because those situations were all unique as to where signs would be located and how they would function. He said the Board had a lot of discretion over reviewing the size of signs, lighting, etc., as spelled out in the Zoning Ordinance.

Chair Rasmussen said the stack of 6 tenant signs looked to be about the size of the Madbury Commons free standing sign. Mr. Behrendt said it was actually significantly larger, with each tenant sign being 12 inches high and just under 5 sf. He said there would be a recycled wood beam on the top, and said the whole sign would be lit from above. Mr. Leary said the sides would be barn beams if they could get them, and said if

they couldn't, they'd be made of PVC. He said they'd be painted black and would have a rustic feel to them.

It was noted that there would be a total of 60 sf for that sign, and that there was no restriction on the size of the individual panels, but the maximum size allowed for the whole sign by conditional use was 100 sf. Mr. Parnell said he didn't see a lot for the Planning Board to deal with concerning the proposed signs, and there was further discussion.

Mr. Behrendt asked what the Board thought about the overall sign, and Board members said they had no issues with it. Mr. Behrendt provided suggestions to make the signage not look like each panel was a banner. Mr. Dobberstein noted that Keller Williams and the Douglas Group had a certain look that they wanted to keep. There was discussion about increasing the border.

Mr. Behrendt also provided some other suggestions concerning signage proposed in the sign master plan, and there was some discussion on this.

Chair Rasmussen said the public hearing would be held on January 9<sup>th</sup>, 2019.

**XII. 50 Langley Road – Conditional Use.** Conditional use for installation of various structures around an existing cabin within the 125 foot buffer of the Shoreland Protection Overlay District and the 100-foot buffer of the Wetland Conservation Overlay District. First Ranger LLC, c/o Carol Ann Fenton, property owner. Mr. Sievert, MJS Engineering, design engineer. Robbi Woodburn, landscape architect. Map 12, Lot 13-1. Residence Coastal District.

Ms. Woodburn noted that the property was previously a buffalo farm. He said the Fentons were making architectural improvements to the main structure and the camp, and she noted that the camp was right on the water. She said Langley Road came down to the farm, which had about 68 acres. She said 3 acres of the property was excluded from the conservation easement held by the Nature Conservancy on the rest of the property.

She said the property sat within Durham's shoreland zone and wetland zone. She said the owners had a previous approval to replace the septic leach field, which was located in the field above the cabin. She said the applicants were concerned that the grass wasn't well established, and because of slope, surface runoff ran under the cabin into the water. She said they wanted to improve the entrance to the cabin, without wet grass, and also wanted to address erosion issues.

Ms. Woodburn said the landscaping plan she'd developed was reviewed by the Conservation Commission, and said they passed it onto the Planning Board but also asked that it be reviewed with the Nature Conservancy. She said the Nature Conservancy had some concerns about the original plan, and wanted to make it simpler. She said they didn't like the turn-around proposed, and wanted to keep the gravel driveway as it was.

She also said the Nature Conservancy also didn't like the idea of taking all the drainage above and putting it to one side, so had asked that it be split. She said they didn't like the drainage pipe outlet being as low in the field as was proposed. She said they also didn't want to see the plantings close to the camp itself by the water because of possible soil disturbance. She said the applicant agreed with that.

She showed the new plan, said the plantings proposed in the courtyard had been removed from the plan. She also said the drainage pipe wouldn't be used, and said when drainage came across the driveway toward the house, it would hit the trench and the water would then either percolate or continue along and daylight at the edge of a natural vegetated area that was higher and away from the shoreland. She said this was a great idea, and said the runoff would disperse before it got to the water.

Ms. Woodburn said the retaining wall was still included but had more of a natural contour to it, and also said it didn't help create a courtyard as it did in the original plan. She said native grasses would be left and would be mowed once a year, which would slow down drainage coming across from the field. She said the Nature Conservancy didn't want to bring soils into the buffer zone, and spoke about careful planting that would be done using native plants. She said the proposed berm was removed from the plan. She also said the gravel road had a gravel turnaround area, where grass had overgrown it, and said this would be used instead of creating a new turn-around.

There was discussion about the design process, and how it had gone. Ms. Woodburn said everyone was trying hard to keep the character of the place, and said the revised landscaping plan was a better solution for the applicant. There was brief discussion about how roof drainage would be accommodated.

Chair Rasmussen said the public hearing would be held on January 9<sup>th</sup>, 2019. A site walk was scheduled for December 13<sup>th</sup> at 2 pm.

**XIII. 18 Main Street - Parking Lot.** Site plan and conditional use for proposed 40-space parking lot to be built behind existing 4-unit building. Toomerfs, LLC c/o Peter Murphy, property owner. Mr. Sievert, MJS Engineering, engineer. Robbi Woodburn, landscape architect. Map 4, Lot 55. Church Hill District.

Mr. Sievert first noted that the proposed entrance to the parking lot from Cowell Drive was recently denied by the ZBA. He said the applicant now proposed that the entrance would be off of 18 Main St. He said they were still proposing to have a split entrance, with a new access road in, and utilizing the existing exit and entrance as an exit. He said nothing had changed on the plan since the last meeting when the application was before the Board, but said the drainage had been redesigned a bit.

He said there had been one meeting with the HDC, where the applicant was asked to look at some other options for it. He said the applicant would like to go with the entrance as it was now proposed, noting that they'd been through Technical Review Group meetings, where the design was pretty well received. He said the applicant was working out some

access issues with the Fire Department, and was working out details of the final grading and the sidewalk design with the DPW. He noted that in the spring, the DPW would be replacing the entire sidewalk from the Post Office to the top of the hill on Main St. He spoke further about plans for the sidewalk and how it related to the applicant's proposed access.

Mr. Behrendt said the application was ready for acceptance. He suggested that the Board might want to see more details later on the grading and retaining walls.

Mr. Parnell ask Mr. Sievert if they were proposing a right turn only to get in, and a right turn only to get out. Mr. Sievert said yes.

Mr. McGowan noted that the HDC had concerns about the historical significance of the stone wall.

***Bill McGowan MOVED to accept as complete the Site plan and Conditional Use applications submitted by Toomerfs, LLC c/o Peter Murphy for a proposed 40-space parking lot to be built behind existing 4-unit building. The property is located at 18 Main St, Map 4, Lot 55, in the Church Hill Zoning District. Barbara Dill SECONDED the motion, and it PASSED unanimously 7-0.***

Chair Rasmussen said the HDC decision to look at the plan again in February was a concern, noting that the Board would get into the public hearing and then the HDC might create significant changes. Mr. McGowan said the HDC felt the same way about getting into the application while the Planning Board was dealing with it. There was discussion. Mr. Behrendt said both Boards had seen the application, and said if everything was in order the Board could take action on January 9<sup>th</sup>, but would be subject to the HDC decision. He said any changes from the HDC would then have to come back to the Planning Board for review.

Mr. Sievert said the HDC had said the existing driveway could be widened all the way to the westerly side. He said he'd looked at that approach but said it didn't work, and said he would prove that. He said there was a large tree line there and said if they cut into that bank, all the trees, etc. would have to go. He said there might be another option that he and Ms. Woodburn would look at, and said if it was possible, he would present it. He spoke further on this.

Mr. McGowan asked whether if the utility pole wasn't there, it would be easier. Mr. Sievert said yes, but also said the utility pole would have to move east, right in front of an historic building, and said it would be much better to keep the pole in place where it was and work around it. Mr. Bubar asked about going underground with the utilities for a two pole section. There was further discussion.

There was discussion about some of the parking being a principal use, and some being an accessory use, and about whether the entire project should be considered a conditional use. Mr. Behrendt said the parking lot was a conditional use, and said while the driveway

access wasn't part of that, as a practical matter the whole thing should be looked at as a conditional use.

Mr. Behrendt said the plan was to keep two separate access points, with two driveways rather than one. He asked if the new entrance could be narrower than 13 ft wide. Mr. Sievert said it needed to be determined if there was enough turning radius for the Fire Department in order to answer that question.

Mr. Behrendt said it would be nice to include paving stones in the access design if possible. Mr. Murphy said there could be pavers.

There was discussion about whether people would be able to see cars in the parking lot from Main St., and how screening could help block the view. It was noted that people wouldn't be able to see more cars than were visible today, but that screening could improve upon that.

There was discussion about the location of the drainage basin. Mr. Sievert explained that he had to move it forward after the variance wasn't received. He said the TRG had discussed whether the Zoning Ordinance would allow it to be put at the back of the lot, and said if it did, there could be more parking spaces. He said he didn't know the answer on this yet, and said right now there were 3-4 fewer spaces proposed than had been proposed before. He noted that there had been concerns from neighbors about drainage, so the stormwater management plan had been oversized so that it would hold more water and treat it for a longer period of time.

The Board agreed that there would be a site walk on December 19<sup>th</sup>.

**XIV. 25 Madbury Road – Changes to the Building.** Site plan for expansion and reconfiguration of building housing Kappa Delta Sorority, minor site changes, and conditional use for expansion of use and construction within the Wetland Conservation Overlay District. The square footage will be doubled approximately and one floor will be added. The number of beds will not increase but the bedrooms will be reconfigured. Alpha Sigma House Corporation of Kappa Delta Sorority, owner. Art Guadano, AG Architects, architect. Mr. Sievert, MJS Engineering, engineer. Map 2, Lot 12-2. Central Business District.

Mr. Sievert said the proposal would expand the existing building to the northwesterly corner, and said the remainder of the project was reconfiguration and expansion of the second floor. He said dormers would be tucked into a new roof. He said there would be an underground drainage system under the patio area. He noted that a Conditional Use permit was required for the proposed expansion and construction because it would be located within the wetland overlay, and a Conditional Use permit was also required because of the proposed height of just under 35 ft.

Mr. Guadano said the expansion and reconfiguration of the building was being done to provide better living conditions. He also said there would be a new accessible entrance on the north side, and living spaces that would meet accessibility requirements.

Mr. Sievert said the application got a variance to be able to consider the existing basement to in fact be a basement and not a story. He said the TRG had no real issues with the application, and said the stormwater management plan would be worked out with the DPW. He noted the stormwater management plan for Madbury Commons, which was located behind the applicant's property. He said the drainage from the new building area would be collected in a gutter and would go into a closed underground drainage system which would outlet to wetlands. He said the design would meet the Town's regulations.

He said the applicant was asking for a waiver regarding having to do a boundary survey. He said it didn't look like Code Administrator Audrey Cline supported this waiver at the TRG meeting. Mr. Behrendt said Ms. Cline and perhaps Town Engineer April Talon felt the boundary survey was needed because there was a fair amount of activity involved with the application, which would be quite close to the side lot line.

Mr. Sievert said the building was 3-5 ft off of the property line. Mr. Guadano said three sides of the property, including the boundary shared with Madbury Commons had been surveyed so were well defined. He said the applicant was asking for the waiver given this and given the \$5,000 cost for surveying the other boundary. There was further discussion.

Mr. Guadano provided details on the calculation of the mean grade elevation, and said it came to a little over 34.5 ft. He said they took the conservative approach, and tried to keep the same massing and scale as the surrounding buildings, where there were fraternities and student apartments. He also noted that the building height would be lower than Madbury Commons, which was right behind the property and had 4-5 stories.

He noted the building elevations that showed what the redevelopment would look like, and spoke briefly about them. He said the grade in the front hadn't changed, and said the applicant felt it was a basement and the ZBA had agreed. He said they had worked to make the new 3<sup>rd</sup> story look like an attic space.

Mr. Parnell said it was difficult to grant a waiver without hearing from the abutter about the property line in question. Mr. Behrendt asked what the likelihood was that construction would be close to the lot line. Mr. Sievert said surveyor Bill Doucette was pretty confident that the pins had been located, and didn't think the line would change by more than a foot, and perhaps less. He said this could potentially impact the patio, but not the building.

Mr. Parnell said it would be difficult to approve a site plan with that uncertainty. Mr. Behrendt agreed that this would be difficult because a 3 story building was involved.

There was discussion that the Board could accept the application as complete, subject to getting a boundary survey done. Mr. McGowan said he would think the applicant would want to have this survey done in order to prevent any problems down the road.

***Lorne Parnell MOVED to accept a Site Plan application submitted by Alpha Sigma House Corporation of Kappa Delta Sorority for expansion and reconfiguration of the building housing Kappa Delta Sorority, minor site changes, and conditional use for expansion of use and construction within the Wetland Conservation Overlay District, subject to receiving a survey plan; and to schedule a site walk for December 19<sup>th</sup>, 2018 at 3 pm. The property is located at 25 Madbury Road, Map 2, Lot 12-2. Central Business District. Bill McGowan SECONDED the motion and it PASSED unanimously 7-0.***

Mr. Behrendt asked whether given the tightness of the site, construction staging details should be provided. Mr. Guadano said he would do that. He also explained that they were looking at doing the construction in two or possibly three stages, with the first stage starting in March to construct the addition. He spoke further, and said he could present more on this at the next meeting.

**XV. Parking Section of Zoning Ordinance – Proposed Revisions.** Changes to the existing ordinance proposed by Audrey Cline, Building Official; April Talon, Town Engineer; and Michael Behrendt, Town Planner.

Mr. Parnell asked whether the Board had to address these proposed revisions when there were already a number of applications before them.

Mr. Behrendt explained that when multiple zoning amendments were made to the Zoning Ordinance a year ago, some things were taken out of the Zoning Ordinance and put in the Site Plan Regulations, which needed to be put back. He said it was also realized in going through the parking provisions of the Zoning Ordinance that a number of improvements could be made to them.

Chair Rasmussen said his thought in putting this on the agenda was to put the proposed changes in front of the Board for discussion on whether the changes were as simple as was proposed. He asked if the Board wanted to address them this evening.

There was discussion, including discussion about the idea of allowing a maximum of 3 parking spaces on a single family lot per dwelling unit. It was noted that this was intended to make it easier for Ms. Cline to manage single family properties with students living in them. Mr. Parnell said this was intended to solve a problem with student housing, and said he was against having such a provision for the whole Town. Chair Rasmussen said if it was applied to the whole town, a lot of residents wouldn't be happy. Councilor Tobias said the provision seemed a bit restrictive.

There was discussion about whether there were other ways to help Ms. Cline do her job. Chair Rasmussen said he was hearing that the Board thought the proposed revisions to

the parking provisions needed more work. Mr. Parnell said his main concerns were that the Board didn't have time to deal with the provisions at the January 9<sup>th</sup> meeting, and also that there needed to be some serious internal discussion about the proposal before the Board considered scheduling a public hearing. He said what the Board put out in the proposal was something they should agree on.

Chair Rasmussen proposed to put the proposal on the agenda for the January 23, 2019 meeting, when the Board would look at it again, and change it to something that seemed to be a little more balanced for the entire Town.

**XVI. Solar Energy Systems – Revised Draft.** Proposed amendments to the Zoning Ordinance to accommodate solar energy systems as accessory uses and principal uses. The Planning Board is discussing a revised draft of the ordinance that was presented for a public hearing on September 12, September 26, and October 10 including public comments that were submitted (The public hearing is closed).

Chair Rasmussen said some Board members had said they didn't have the energy to address the draft this evening. There was discussion about scheduling a separate meeting for this to go over the draft ordinance.

## **XVII. Other Business**

### **Discussion whether or not to include a sign-in sheet for public hearings**

Ms. Dill said she was not in favor of having a sign-up sheet for public hearings.

Chair Rasmussen said the benefit of having a sign-up sheet was knowing how many people were present for particular hearings on applications, etc.

Councilor Tobias said the Board was clear in its discussion on this that a sign-up sheet was a tool for the Chair to be able to organize a meeting, but was flexible and wasn't meant to limit comments from the public.

Mr. Bubar said he didn't have a problem with a sign-up sheet, but said he thought the Board would be better served if the Chair asked for a show of hands. He said he thought there would be resistance to the sign-up sheet so it wouldn't serve its purpose.

Chair Rasmussen said the Board had agreed to use a sign-up sheet to get a feel as to whether an agenda needed to be modified; had agreed that a time limit on comments would be used at the discretion of the chair; and that everyone would get a chance to speak once before a member someone could speak a second time. There was further discussion. Mr. Behrendt spoke about how it might be good to ask for a show of hands.

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

July 25, 2018

***Lorne Parnell MOVED to approve the July 25, 2018 Minutes as submitted. Jim Bubar SECONDED the motion and it PASSED unanimously 7-0.***

August 8, 2018

Page 2, line 37, Page 3, line 11, Page 8, line 8 should read “Chair Rasmussen”

Page 4, line 4, should say Mr. Behrendt

Page 8, line 8, take out wording out “GET PART ABOUT CONDITIONS”

***Lorne MOVED to approve the August 8, 2018 Minutes as amended. Bill McGowan SECONDED the motion and it PASSED unanimously 7-0.***

August 22, 2018

***Bill McGowan MOVED to approve the August 22, 2018 Minutes as submitted. Lorne Parnell SECONDED the motion and it PASSED 6-1, with Barbara Dill and Mike Lambert abstaining because of their absence from the meeting.***

**XIX. Adjournment**

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

Adjournment at 10:04 pm

Victoria Parmele, Minutes taker

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James Bubar, Secretary