

These minutes were approved at the July 10, 2019 meeting.

DURHAM PLANNING BOARD
Wednesday, March 27, 2019
Town Council Chambers, Durham Town Hall
7:00 pm
MINUTES

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

MEMBERS ABSENT: Nathaniel Morneault, alternate

OTHERS PRESENT: Michael Behrendt, Town Planner

I. Call to Order

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

II. Roll Call and Seating of Alternates

Mr. Lambert was seated as a voting member for the meeting.

III. Approval of Agenda

Barbara Dill MOVED to amend the Agenda to postpone discussion on the Rules of Procedure so she and Mr. Behrendt could work on them more. Councilor Welsh SECONDED the motion.

Mr. Parnell suggested that the Board could provide its comments on the Rules of Procedure this evening.

The motion PASSED 4-3, with Lorne Parnell, Jim Bubar and Chair Rasmussen voting against it.

IV. Town Planner's Report

Mr. Behrendt updated the Board on agenda items before the Planning Board now and in the coming weeks.

V. Reports from Board Members who serve on Other Committees

Mr. Parnell said the EDC interviewed two candidates for Executive Director at its recent meeting.

Councilor Tobias said Sarah Wrightsman, Executive Director of the Seacoast Workforce Housing Coalition also spoke to the EDC, and said she might speak with the Planning Board at some point.

Councilor Welsh said at the most recent Council meeting, they agreed that there would be a committee where members of the Town and UNH as well as undergraduate and graduate students could meet on a regular basis to communicate on various issues.

Chair Rasmussen said he'd recently provided Jen Berry with recommendations on two new applications for positions on the Planning Board: Richard Kelley for the regular position and Sarah Wrightsman for the alternate position. He noted that Nate Morneault was not reapplying to be on the Board because of his schedule.

VI. Public Comments

VII. Review of Minutes (old):

VIII. Public Hearing - 149 Mill Road Lot Line Adjustment. Lot line adjustment between 149 Mill Road, Map 14, Lot 7-5 owned by Scott (and Claire) Righini and vacant lot on Map 14, Lot 7-7 owned by Adam, Jade, and Troy Fogg. Adam Fogg, Atlantic Survey, surveyor. Recommended action: Final action.

Barbara Dill MOVED to Open the Public Hearing. Bill McGowan SECONDED the motion and it PASSED unanimously

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

Barbara Dill MOVED to Close the Public Hearing. Councilor Welsh SECONDED the motion and it PASSED unanimously

Lorne Parnell MOVED to approve the application for Lot Line Adjustment between 149 Mill Road, Map 14, Lot 7-5 owned by Scott (and Claire) Righini and the vacant lot on Map 14, Lot 7-7 owned by Adam, Jade, and Troy Fogg, with the conditions included in the Notice of Decision as of this evening. Jim. Bubar SECONDED the motion and it PASSED unanimously

Councilor Welsh noted for the public that there had been a site walk this afternoon.

IX. Public Hearing – UNH Spaulding Hall Expansion and Renovation. Review and opportunity to provide nonbinding comments to the University in accordance with RSA 674:54 – Governmental Land Uses. \$86 million project for 50,000 square foot addition and major renovation of existing 83,000 square foot Spaulding Hall biology facility. Presentation by Doug Bencks, University Architect and Director of Campus Planning. Recommended action: Offer any nonbinding comments.

Mr. Bencks noted the package that had been provided to the Board on the project. He said it was a major state project, and said he was optimistic that the funding would be received. He said regardless of that, the University had put \$51 million in place for the design and first phase of the project, which was the expansion. He said state funding would help pay for renovation of the existing building. He said the plan was to start the utility work this summer, and do building construction this fall. He noted that science buildings were very complex, and said some of the University's critical programs were housed there.

There was discussion about the buried portions of College Brook in the area. Mr. Bencks said construction would come close to College Brook, but no closer than to the banks, and said the brook would be protected. He said there would be no wetland area that was formally impacted by the project, and also said no alteration of terrain permit would be required. He said it was recognized that this was a sensitive area, and said UNH would ensure that the brook wasn't impacted.

Mr. Bencks reviewed the regrading that was proposed. He also discussed the proposed rain garden. He said although there were no requirements to do stormwater management because of the existing impermeable surfaces, a rain garden would be part of the project to enhance the existing conditions. He noted that a lot of water went directly into the brook now through a hard pipe, and said water would be directed into the ground instead. He said not all of the hard pipe drainage was being eliminated, and spoke further on this.

He said because of the utility work, there would be quite a bit of land disturbance. He provided details on the heating and cooling for the building, and said energy would be provided primarily from landfill gas. There was discussion about the fact that solar panels didn't make sense for the core of the campus, so would not be used for the project.

He described the planned interior of the building. And then reviewed the building elevations for the exterior of the building.

Mr. Parnell asked how heavy equipment would access the site, and how this would connect with Durham streets. Mr. Bencks said the only way get in there was to come in from the west, down College Road, then on Academic Way, and a walkway. Mr. Parnell asked if there was a way to enforce this so trucks didn't come through Town. Mr. Bencks said the general contractor would get directions on this.

Mr. Bubar asked where the workforce would park during construction, Mr. Bencks said there was a parking area out to the west, and said they would be shuttled into the site.

There was discussion about the drainage pipe that would run into the rain garden. Mr. Bencks explained that no chemical materials or hazards could be put down the drains, and provided details on how the water was managed. Mr. Bubar asked about biological wastewater, and asked if water quality measurements would be done to determine the water quality before and after it left the University.

Mr. Bencks said College Brook was the most carefully studied water in the state, but said he hadn't seen the water quality data on this. He spoke about how things had been cleaned up immensely compared to what happened to wastewater in the past. He said the most serious water quality issues today had to do with erosion.

Councilor Welsh noted that studies of Mill Pond found pollution in the sediment, which probably came from the University.

Mr. Parnell asked about the expected schedule for the project. Mr. Bencks said utility work would be done this summer, building construction would happen in the fall, and the addition would be completed in the summer of 2021. He said depending on getting funding from the state, it was expected that the renovation would be done in 2023-2024.

Councilor Welsh said this project anticipated that more students would be interested in the biological sciences. Mr. Bencks said the idea was to provide a bigger pipeline of graduates in biotech and bioengineering.

Mr. Bubar asked if the labs that were there now would remain. Mr. Bencks said the labs would be moved to buildings that would provide better access for people who wanted to get water testing done.

- X. Public Hearing - Solar Energy Systems – Revised Draft.** Proposed amendments to the Zoning Ordinance to accommodate solar energy systems as accessory uses and principal uses. Recommended action: Initiate amendments or make additional changes.

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

Malcolm Sandberg, Langley Road thanked Board members for their diligence, and the opportunity to provide more input to make the ordinance as efficient and effective as possible. He said the definitions, etc. seemed to be getting more and more complex. He said there were really just two categories of solar, as an accessory use or a principal use, and he noted examples of each.

Mr. Bubar asked where a shared system would fit into this, and there was discussion with Mr. Sandberg about this. Mr. Sandberg said his biggest concern with the draft ordinance in regard to principal and accessory uses was the Table of Uses. He said the problem he had was with enterprise solar systems being allowed as a conditional use in the Rural and RC zones. He spoke in some detail on this. He said for shared solar systems installed for the benefit of a neighborhood as part of a residential subdivision, the scale of the system could be limited, and it could be allowed by Special Exception. There was discussion about using the Special Exception process for shared systems.

Mr. Sandberg reviewed in some detail the proposed changes to the Ordinance he'd provided in writing.

John Carroll, Canney Road said he was there as a member of the Agricultural Commission and said he represented them in speaking tonight. He said they had

requested that the public hearing be continued to the following meeting so the Commission could have the chance at its next meeting to discuss the pros and cons of the draft ordinance related to agriculture. He said there was no question that solar arrays could be quite compatible with agricultural uses, but not automatically so. He said it was important to look at where the uses might be incompatible, and he noted that Vermont was showing the way on this issue. He said the Commission needed more time to look at all of this.

Councilor Welsh asked what the Commission was most concerned about. Mr. Carroll said if an array was put in in the wrong way, the land could no longer be used for agriculture. He said grazing, sometimes with cattle and sheep was often compatible with solar. But he said they didn't want to find themselves losing some of the best agricultural land in the Town because of the way an array was established. He said he was expressing this as a general concern right now, but said more specifics would be provided within two weeks.

Robin Mower, Britton Lane, said she appreciated Mr. Sandberg's suggestions about sharing of systems in residential areas. She said her focus now was primarily on how the draft ordinance addressed enterprise systems. She read from her letter which elaborated on the following points.

She said enterprise systems should be prohibited in all residential zones. She said a residential zone was expected to remain residential, and said commercial intrusions were inappropriate and destroyed community trust in the basic protections one might reasonably expect.

She said the minimum setback for enterprise systems should be more than 100 feet and perhaps proportional to the scale of the proposed system.

She said buffering of enterprise systems and installations along the Town's scenic roads and gateways should be better defined.

She said the placement of enterprise systems raised questions about the common good, i.e., the benefit and interests of all.

Beth Olshansky, Packers Falls Road, said what the Planning Board had put together on free standing solar arrays worked better now, and said she appreciated finding a good balance on this. She read from her detailed letter about preserving rural character, and provided several recommendations .

Among them was: "Placement along Designated Scenic Roads. In instances where any portion of a house is within the front yard setback along a Designated Scenic Road (Bay Road, Durham Point Road, Mast Road, Bennett Road, and Packers Falls Road), no part of a freestanding solar system (of any height) shall be placed closer to the front property line than the fully enclosed part of the house furthest from the street. In instances where a freestanding solar system is to be placed in a side yard more than 30 feet from the house

and is visible from the road, the freestanding solar system shall meet the 100-foot setback established in Section 5c for fields.”

Ms. Olshansky also said all freestanding enterprise systems should be conditional uses where allowed. She said she was concerned about the change for freestanding enterprise systems from Conditional Use to Permitted in the R and RC zones for properties with commercial agriculture. She said she understood that the intent was to support local farmers and help preserve farmland, but said this change in policy could have serious unintended consequences.

She said buffering needed to be better defined within the Solar Ordinance, and provided details on this. She also said the 100-ft setback should be revisited for freestanding systems in open fields. She said while 100 feet sounded like a lot, it was actually a very short distance. She said potentially huge systems stretching over acres would have to be on a large parcel, and said a larger setback, say 200 feet, would allow for less of an “in-your face” visual impact.

Ms. Olshansky said of 40 houses in Durham located within the front yard setback, about half of them were appropriate for some sort of solar array. But she said about half of those, or 10 properties, would need some added protection of existing scenic views. She said there wasn’t a lot of rural character left, so it was worth digging into detail for those properties.

Ms. Olshansky said she’d like to see “carport” renamed “solar carport”, and broken down into two categories: 1) building-mounted for those solar carports attached to the house and 2) freestanding for those that are unattached.

Diana Carrol, Canney Road read from her detailed letter. She said she believed it was possible to find a balance between free standing solar systems and sustaining Durham’s scenic landscapes.

She said regarding the issue of houses located close to road, she thought that what Ms. Olshansky had suggested would make a difference. She said the revised draft ordinance dealt with this, but in one area didn’t go far enough, for situations where a house was set close to the road with a wide side yard or possible field. She said placing a free standing solar system there might very well interrupt the viewscape, and alter a person’s experience traveling along that road.

Ms. Carroll suggested that there could be a site walk where the homeowner, solar installer and members of the Planning Board and Town staff could see where the solar system would be placed. She said there could be discussion among these people that could alter the plan for the freestanding solar array, and preserve the viewscape.

She said she was very concerned about having viable farmland in Durham, noting that the Town had much more of it than most NH towns. She said protection of this farmland was of the utmost importance. She noted a recent situation in Durham where a resident

received a tailored brochure that offered to purchase her open land and put a solar installation on it.

Ms. Carroll said that made her anxious, especially if this use was permitted by zoning. She said at the least it needed to be a Conditional use. She said it also must be clear that the farmland could not be destroyed, i.e., the sell-off of topsoil, bulldozing the land, etc.) if solar systems were installed

Sarah Sherman Packers Falls Road, said she appreciated the civility of this discussion. She said she lived in an old property like Ms. Olshansky had described, and said the kinds of compromises Ms. Olshansky and Mr. Sandberg had talked about seemed reasonable. She said she hoped the Planning Board would take them into consideration. She said she loved the feeling of the historical continuity down her road, and said protecting that would be very valuable.. She said it wasn't that no freestanding systems would be allowed. She said people tended to be polarized, and said she liked finding compromise.

Chair Rasmussen said the Board needed to decide whether to continue the Public Hearing. Councilor Welsh said he thought they should wait in order to get input from the Agricultural Commission. He said some good points were raised tonight concerning solar together with agricultural uses, and said the Agricultural Commission had expertise on this issue that the Planning Board didn't have. He said the Board would also have time to consider what had come up today.

After further discussion, it was agreed that the Public Hearing would stay open.

There was discussion about out of state corporations possibly wanting to do enterprise solar on some properties in Durham. Mr. Behrendt noted that the ordinance draft was published, so the enterprise solar provisions applied to what might come in.

Bill McGowan MOVED to continue the Public Hearing to April 10, 2019. Barbara Dill SECONDED the motion and it PASSED unanimously 7-0.

- XI. Rules of Procedure.** Review of proposed new set of Planning Board Rules of Procedure. Recommended action: Set public hearing once draft acceptable.

Postponed

- XII. Other Business**

- XIII. Review of Minutes (new):**

November 14, 2018:

Page 1, Lorne Parnell should be noted as present at the meeting; remove "Councilor" before Carden Welsh and Sally Tobias

Page 4, line 17, should say "...the Board review the plan this evening."

Page 5, line 1, Lorne Parnell MOVED to continue the Public Hearing to a date following an agreement reached between Colonial Durham and Hannaford.” Line 6, should read “..would be notified about the hearing on February 17th.

Page 7, line 30, take out CHECK; line 11, should say “..he believed...”

Page 8, line , should read “.. the Hetzel ceilings were low...”

Page 9, line 37, should read “...vertical iconic element, and noted the...”

Lorne Parnell MOVED to approve the November 14, 2018 Minutes as amended.

Councilor Welsh SECONDED the motion and it PASSED unanimously 7-0.

February 13, 2019

Page 1, remove “Councilor” before Carden Welsh and Sally Tobias; remove “Bill McGowan arrived at 8:03 pm

Page 2, line 3, should read “Ms. Dill said at the recent...”; line 25, should say “Steve Riker”; line 39 should read “...turf reinforcement mat up slope...”

Page 4, line 32, should read “Mike Sievert, MJS Engineering...” ; line 37, should read “Mr. Sievert”; line 38, should read “..provide an 11-13 ft buffer...”

Page 5, line 13, should read “..aisle widths were reduced to 22 ft...”

Page 7, line 17, should read “Jose Calvo”; line 18 should read “Kennibunk”

Page 8, line 12, should read “Jose Calvo”

Page 15, line 31, should read “FAILED”

Page 17, line 34, should read “SECONDED”

Chair Rasmussen MOVED to accept the February 13, 2019 Minutes as amended, Barbara Dill SECONDED the motion and it PASSED 7-0.

March 13, 2019 Site walk minutes

Line 3, should read “Steve Riker led the group...”; line 10 should read “riprap”

Chair Rasmussen MOVED to approve the March 13, 2019 Site Walk Minutes.

Councilor Welsh SECONDED the motion and it PASSED 5-0-2, with Lorne Parnell and Bill McGowan abstaining because of their absence from the meeting.

XIV. Adjournment

Bill McGowan MOVED to adjourn the meeting. Lorne Parnell SECONDED the motion and it PASSED unanimously 7-0.

Adjournment at 9:12 pm.

Victoria Parmele, Minutes taker

Richard Kelley, Secretary