

These minutes were approved at the May 12, 2021 meeting.

DURHAM PLANNING BOARD
Wednesday, April 14, 2021
Town Council Chambers, Durham Town Hall

Note: Some members attended via zoom due to the Coronavirus pandemic.

MEMBERS PRESENT: Paul Rasmussen (Chair), Lorne Parnell (Vice Chair), Richard Kelley (Secretary), James Bubar, Barbara Dill, Bill McGowan (arrived at approximately 7:30 p.m.) and Sally Tobias (Council Rep);

ALTERNATES PRESENT: Nicholas Germain, Heather Grant, Chuck Hotchkiss and Ray Philpot;

ALSO PRESENT: Town Planner Michael Behrendt

I. Call to Order

Chair Rasmussen called the meeting to order at 7:01 p.m.

II. Roll Call & Seating of Alternates

Roll call was taken and Chair Rasmussen seated Ms. Grant, filling in for Mr. McGowan until he arrives. He welcomed new alternate members Nick Germain and Chuck Hotchkiss (Town Council Rep) – who will fill in when needed for Ms. Tobias.

III. Approval of Agenda

The Chair proposed adding two items to the agenda under Other Business: 1.) Postponement of the Board's workshop and 2.) A discussion of the definition of parking in light of issues that arose at last night's Zoning Board meeting.

Mr. Parnell MOVED to approve the agenda as amended; SECONDED by Ms. Tobias, APPROVED unanimously by roll call vote, 7-0.

[Voting yes: Chair Rasmussen, Lorne Parnell, Richard Kelley, James Bubar, Barbara Dill, Alternate Heather Grant, and Sally Tobias.]

Vice-Chair Parnell said it should be noted Item X. on tonight's agenda has been postponed by the applicant to May 12th.

IV. Town Planner's Report

Mr. Behrendt addressed the postponement of Item X (Public Hearing for 19-21 Main Street parking lot). He said the Planning Board determined at its meeting last month that the principal use for this project was surface parking, in response to a legal challenge from a number of abutters. A few abutters appealed the decision to the Zoning Board and last night, the ZBA voted 3-2 with the appellants. The ZBA found that the principal use is structured

parking, which is not allowed in the Church Hill Zone. The applicants are now deliberating next steps.

Mr. Behrendt said the Mill Plaza and Gerrish Drive projects are on the agenda for April 28th. On May 12th, the Board will hold its annual meeting, at which time officers will be elected. Board members will also be appointed to other committees, if they have an interest. Members are not required but are invited to volunteer as PB representatives on Energy, Conservation, Integrated Waste Management, etc.

In response to a question from Ms. Tobias, it was confirmed that alternate members are eligible to serve as Planning Board reps on other committees and commissions.

V. Reports from Board Members Serving on Other Committees

Councilor Tobias said at their April 5th meeting, Town Council approved Amendment one to the Oyster River Dam Feasibility Study in the amount of \$43,920. This is to expand the study to determine the effects and feasibility of retaining the dam without a dredge.

Reporting on the Traffic Safety Committee, Vice Chair Parnell said there were traffic concerns expressed by Public Works and police regarding a project at 74 Main Street, specifically during the laydown along Pettee Brook Lane. In addition, new signalization will be installed at the Route 4/108 interchange this summer and at the same time, a sidewalk will be constructed from Riverwoods to connect with the existing Main Street sidewalk.

Chair Rasmussen said the Agricultural Commission will hold an informational workshop on May 10 – to get public feedback and explain proposed RC and rural re-zoning along route 4. Maps will be available on the Agriculture's webpage in the next few days.

Ms. Dill said the Energy Committee has appointed Jim Lawson as the new Town Council representative. Also, she will not be renewing her service on the Energy Committee and hopes a new volunteer will come forward.

Reporting on Integrated Waste Management, Mr. Kelley shared results of a winter compost challenge – during which seven families segregated their compostable waste from solid waste at the transfer station for six weeks. They generated a total of 750 pounds of waste, with 325 pounds (40%) being compostable. This is a win for the environment (since solid waste can create methane gas) and a financial win for the town, since they don't have to pay tipping fees on the solid waste. Residents can learn more on the town's website/ Integrated Waste Management page.

Ms. Tobias said the Housing Sub-Committee discussed potential areas for improvement in zoning and also the MTAG (Municipal Technical Assistance Grant) application. As part of the application, a specific problem statement needs to be developed. The Sub-Committee will work on a statement to be presented to the Planning Board, Town Council and Economic Development Committee at a future date.

VI. Public Comments: There were none at this time.

VI. Review of Minutes (old)

VIII. Public Hearing – Yates Electric – New Building. 88A Dover Road (behind Police Station). Site plan for new 1,800 square foot storage building/garage and driveway. Coyote Court, LLC, c/o William and Nancy Yates, owners. Bob Scholefield, applicant. Map 11, Lot 4-2. Office Research (OR) District. Recommended action: Final action

Since the plan has changed significantly from a month ago, Chair Rasmussen asked the applicant to update the Board. Erik Saari from Altus Engineering in Portsmouth came forward on behalf of the applicant.

He showed updated site plans for 88A Dover Road, 108; the site is just under 2 acres, accessed by a common drive with the police station. Currently there is a building used by Yates Electric, as well as paved parking, septic and well. There are wetlands on both sides of the property and a wooded upland.

The applicant is proposing a new 1800-square-foot building. The building has been rotated about 90-degrees from the last plan, with proposed 24-foot paved access in front. The reason for the change was to allow any future development in back not to be blocked by a building. A primary concern of the site was stormwater management. The existing site, built before the days of stormwater management, has no retention or treatment of any kind. The goal now is to capture and treat as much stormwater as possible.

The proposal adds a swale that is tributary to a rain garden. A drip strip from the building will convey water to a pipe in back. In total, 74% of the site's runoff will be captured, collected and treated, including from all new impervious surfaces. The rain garden exceeds requirements. There are no impacts to the wetland buffer.

Mr. Behrendt asked Mr. Saari if the proposed bollards in front of the building are necessary.

Mr. Saari said with overhead doors he generally recommends bollards in order to prevent any vehicles from hitting the building, if a driver turns too sharply.

Chair Rasmussen MOVED to open the Public Hearing; SECONDED by Mr. Parnell, APPROVED unanimously by roll call vote, 7-0.

With no one from the public coming forward, ***Chair Rasmussen MOVED to close the Public Hearing; SECONDED by Ms. Grant, APPROVED unanimously by roll call vote, 7-0.***

[Voting yes to the above two motions: Chair Rasmussen, Lorne Parnell, Richard Kelley, James Bubar, Barbara Dill, Alternate Heather Grant and Sally Tobias.]

Mr. Kelley asked if the applicant had time to review the conditions outlined by Mr. Behrendt and the applicant responded yes, they have no issues with the conditions.

Mr. Bubar thanked the applicants for their extensive response to improving stormwater management on the site.

With no further discussion, Mr. Kelley MOVED to approve the Yates Electric application at 88A Dover Road. This is a site plan for a new 1800-square-foot storage building, garage, driveway and associated stormwater improvements (Map 11, Lot 4-2), located in the OR district; SECONDED by Mr. Parnell, APPROVED unanimously by roll call vote, 7-0.

[Voting yes: Chair Rasmussen, Lorne Parnell, Richard Kelley, James Bubar, Barbara Dill, Alternate Heather Grant and Sally Tobias.]

IX. Public Hearing – 74 Main Street – Design Review. Preliminary site plan and conditional use application for demolition of current wood frame building and construction of a 5-story mixed-use building with commercial use, 15 residential units and 13 shared parking spaces. Doug Clark, applicant. Mike Sievert, Horizons Engineering. Map 2, Lot 14-1-1. Central Business Zone. *Recommended action: Formal application for April 28*

Chair Rasmussen said he has not yet heard from the State regarding his work on Pettee Brook, so he will recuse himself from this item and pass the gavel to Vice Chair Parnell.

Before opening the public hearing, Vice Chair Parnell noted that Mr. McGowan had arrived at the meeting and Ms. Grant will remain seated as an alternate for Mr. Rasmussen.

Mr. Clark was invited to come forward with a brief recap. He said they've been advised and encouraged by town staff to fully develop this lot because it's an important gateway to downtown. The goal is to build something iconic that is in keeping with the Master Plan. The applicant is awaiting a change in a zoning ordinance currently before Town Council.

As time goes on, construction costs are escalating faster than predicted, which means the project may need to be scaled back and possibly the fifth floor will be eliminated. The proposed use of the fifth floor as a meeting space with an overlook of the town and the park are not possible with the adopted setbacks. The meeting space will likely be moved to the fourth floor.

Mr. Bubar referenced an email from Sam Gangwer and asked how potential construction coordination issues will be addressed.

Mr. Clark replied the plans are in the preliminary design stage and there will be more coordination once plans are finalized. Engineer Mike Sievert is working on a construction management plan that will allow full access to Aroma Joe's during construction. The applicant will address Aroma Joe's required parking spaces and he will reach out to Mr. Gangwer.

Vice-Chair Parnell said he hopes Mr. Clark will deal with the issues raised before coming back to the Planning Board for a final review and Mr. Clark agreed he would.

Mr. Bubar MOVED to open the Public Hearing; SECONDED by Ms. Tobias, APPROVED unanimously by roll call vote, 7-0.

[Voting yes: Vice-Chair Lorne Parnell, James Bubar, Barbara Dill, Alternate Heather Grant, Richard Kelley, Bill McGowan and Sally Tobias.]

Public Comments (summarized below)

Eric Lund: said he's in favor of the general proposal since there's a longstanding need for housing in Durham that serves the University's young faculty and research scientists or roughly the 25-54 age range. When he sought to buy affordable housing in 1998, it was difficult; but it's much worse today. He referenced an earlier view expressed by Chair Rasmussen that growing downtown (where infrastructure already exists) is preferable to growing on large lots on the fringes of town. He said a more diverse population is needed downtown.

Joshua Meyrowitz: said he supports the project. He showed photos of the area and said he does not believe a five-story building would be out of place. He then spoke of predicted dropping enrollments at the University due to a number of reasons and said the town needs to "think of a different future" and provide housing for non-students. He believes Mr. Clark's proposal will help re-colonize downtown for non-student adults and give them more dining and entertainment options. Mr. Meyrowitz recommends the Board give special consideration to the plans since they create an iconic building with meeting space.

Beth Olshansky: said she thinks the concept of building housing for non-students is refreshing and she supports it. She asked Mr. Clark how he proposes to build something that would not allow student renters.

Mr. Clark said he's building one and two-bedroom apartments with a design that is "un-student friendly," i.e., there is more living space than bedroom space. He's also hoping to do income verification to find tenants who don't need a guarantor. He currently has a waiting list and said there are many university staff members, empty nesters and young or active retirees looking for something other than a big house in a neighborhood or a 55-plus community.

Beth Olshansky: said that pending downtown zoning changes, she's in favor of eliminating the fifth floor. She said the current Master Plan focuses on three-stories, with an occasional fourth floor. She believes if a fifth floor were to be allowed, the building would need to be set back considerably. She appreciates that Mr. Clark is seeking to distinguish the building from campus and wants to set a welcoming entrance to the downtown.

Samuel Gangwer: asked if Mr. Clark could reach out to him and his family so they can discuss the project.

Mr. Kelley asked if they could discuss parking, in light of all the project design work already done and downtown parking shortages.

Mr. Clark said their goal is to have one parking space for each unit. If there's no fifth floor, the building would have 12 units and 12 parking spaces. He's been vocal about the need for municipal parking and has advocated for 66 Main Street or C lot in partnership with UNH. He said he can't imagine how Durham can have the type of downtown it envisions without adding some type of municipal parking with a minimum of a couple hundred parking spaces.

Mr. Bubar asked Mr. Behrendt if the applicant has provided all documents to move to the next review stage. Mr. Behrendt replied they would need to submit revised architectural and floor plans, plus a drainage plan. It was decided the applicant will try to submit a formal application for the May 12th meeting.

Ms. Tobias MOVED to close the Public Hearing; SECONDED by Mr. McGowan, APPROVED unanimously by roll call vote, 7-0.

[Voting yes: Vice-Chair Lorne Parnell, James Bubar, Barbara Dill, Alternate Heather Grant, Richard Kelley, Bill McGowan and Sally Tobias.]

X. Public Hearing: 19-21 Main Street – Parking Lot. Formal application for site plan and conditional use for parking lot on four lots and reconfiguration of the entrance. Presentation of peer reviews for traffic and drainage studies. Toomerfs, LLC c/o Pete Murphy and Tim Murphy, owners. Mike Sievert, engineer. Robbi Woodburn, Landscape Architect. Map 5, Lots 1-9, 1-10, 1-15 and 1-16. Church Hill District. Recommended Action: Continue to May 12. **POSTPONED**

Mr. Rasmussen resumed chairing the meeting.

XI. Other Business

Chair Rasmussen said Mr. Behrendt sent out a memo recommending the PB workshop on May 26th be postponed due to the density of the agenda in coming weeks. The Board can re-schedule the workshop now or leave it open to a time when the agenda is lighter.

Chair Rasmussen said workshops are generally for extra training and growing members' skill sets. Mr. Behrendt said it can include procedural issues or discussing zoning amendments.

Ms. Dill raised the issue that more priority should be given to board workshops. She said the one scheduled for October 2020 never took place and she believes it's been a year or more since the last one. There are several new members who could possibly benefit from training.

Mr. Germain said he would welcome the training and Mr. Behrendt said he also does one-on-one orientation with each new member and will be doing that soon.

After some discussion, it was decided that Mr. Kelley will work with Mr. Behrendt to develop a 30-to-40-minute presentation on Understanding Plans 101, i.e., how to look at subdivision plans, lot line revisions and do larger site plan reviews. Once the presentation is ready, a workshop date will be scheduled.

Chair Rasmussen confirmed there are potentially three working meetings in May: the 12th, 19th and 26th – since it appears there will be four major projects at that time.

He then turned to a discussion about the definition of structured parking that took place during last night's ZBA meeting. In watching the video, he said some comments from board members raised a red flag. There's a "reasonable person test" required in zoning and he said last night two ZBA members were confused by the definition of structured parking. The members said both definitions for parking were met, when it should have been an either/or situation. Given that, he believes it's imperative to correct those definitions to avoid more confusion.

Chair Rasmussen submitted some proposed revisions to Planning Board members late this afternoon, as a starting point. He would like to get feedback tonight so that he and Mr. Behrendt can draft some changes.

Ms. Dill said she hadn't had time to review the draft sent today and she does not believe the Planning Board should open discussion on this tonight – until all members have had a chance to watch the meeting.

At issue is the current definition of structured parking and surface parking, specifically at existing grade.

Mr. Bubar said a strict interpretation of the definition would include homeowner's garages. Later in the discussion, Ms. Dill disagreed and said the ZBA application affected principal use and homeowner garages are considered accessory use.

Mr. Hotchkiss said he watched the entire ZBA meeting and while he agrees the definition needs to be addressed, he cautioned against rushing to change it. He said the Planning Board should take their time and get it right.

Vice-Chair Parnell asked if there are other definitions that need to be revised. He would like to look at everything at once, not just the one definition of parking. Mr. Behrendt said he has a running list of zoning revisions that he intended to bring forward at a later date.

After some discussion, consensus was reached that Mr. Behrendt will work with Chair Rasmussen and a small sub-committee (including Ms. Dill and Mr. Hotchkiss) to draft changes to zoning definitions to be brought forward at the May 12th meeting, with May 19th as a back-up date.

XII. Review of Minutes (new) February 10, 2021, March 10, 2021, March 24, 2021 Site Walk

Feb. 10, 2021 Minutes – Mr. Kelley said his notes showed Mr. Bubar arrived at 7:13 p.m. and Ms. Dill arrived at 8:45 p.m.

Mr. Bubar MOVED to approve the Feb. 10th minutes as amended; SECONDED by Ms. Tobias, APPROVED unanimously by roll call vote, 7-0.

March 10, 2021 Minutes – Mr. McGowan MOVED to approve the March 10th minutes as submitted; SECONDED by Mr. Parnell, APPROVED unanimously by roll call vote, 7-0.

[Voting yes on the two motions above: Chair Rasmussen, Lorne Parnell, Richard Kelley, James Bubar, Barbara Dill, Bill McGowan and Sally Tobias.]

March 24 Site Walk at Yates Electric – attended by five members and Mr. Behrendt. Chair Rasmussen MOVED to approve the minutes as submitted; SECONDED by Mr. Bubar, APPROVED by roll call vote, 4-0-3.

*[Voting yes: Chair Rasmussen, James Bubar, Lorne Parnell and Sally Tobias.
Abstaining: Barbara Dill, Richard Kelley and Bill McGowan]*

XIII. Chair Rasmussen MOVED to adjourn the meeting at 8:31 p.m.; SECONDED by Ms. Dill, APPROVED unanimously by roll call vote, 7-0.

[Voting yes: Chair Rasmussen, Lorne Parnell, Richard Kelley, James Bubar, Barbara Dill, Bill McGowan and Sally Tobias.]

Respectfully submitted,
Lucie Bryar, Minute Taker
Durham Planning Board

Note: These written minutes are intended as a general summary of the meeting. For more complete information, please refer to the DCAT22 On Demand videotape of the entire proceedings on the town of Durham website.

Richard Kelley, Secretary