

These minutes were approved at the March 23, 2022 meeting.

TOWN OF DURHAM
DURHAM PLANNING BOARD
Wednesday February 9, 2022
Town Council Chambers, Durham Town Hall
7:00 pm

MEMBERS PRESENT: Paul Rasmussen (Chair), Lorne Parnell (Vice-Chair), Heather Grant, James Bubar, Sally Tobias (Council Rep), Richard Kelley, Ellie Lonske (Alternate), Chuck Hotchkiss (Alternate Council Rep), Nicholas Germain (Alternate); Barbara Dill (Alternate-Remote)

MEMBERS ABSENT: William McGowan

ALSO PRESENT: Town Planner Michael Berendt, Contract Planner Rick Taintor

I. Call to Order

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

II. Roll Call and Seating of Alternates

Chair Rasmussen took roll call and seated Barbara Dill for Bill McGowan. Ms. Dill is remote by preference.

III. Approval of Agenda

Mr. Kelley MOVED to approve the Agenda for tonight's meeting; SECONDED by Vice-Chair Parnell; Roll Call Vote: Heather Grant-aye, James Bubar-aye, Paul Rasmussen-aye, Lorne Parnell-aye, Sally Tobias-aye, Richard Kelley-aye, Barbara Dill-aye; APPROVED 7-0, Motion carries.

IV. Town Planner's Report

Mr. Michael Behrendt stated the Historic District/Heritage Commission is having a special meeting tomorrow night to discuss Mill Pond Dam for March referendum; Conservation Commission having special meeting February 14th for same purpose; no public input at meetings. State Farm Insurance setting up office at 23 Main Street; Julien Icher working with Heritage Commission on Lafayette Trail Marker. February 23, 2022 Meeting: 74 Main Street, 19 Main Street, Eversource Tree Trimming.

V. Reports from Board Members who serve on Other Committees

Reporting from Energy Committee: Ms. Lonske said the Committee is trying to communicate better with residents on energy conservation; asked Town Council to increase Committee membership.

Reporting from Town Council: Councilor Tobias said the Town Council met Monday February 7th and had unanimous consent agenda to increase Energy Committee membership from 9-11; presentation from Duane Hyde re Pike Property; discussion about the Marquis de Lafayette; annual discussion on performance evaluation for Town Administrator Todd Selig.

Reporting from Solid Waste Advisory Committee: Mr. Kelley said he felt there was some value to getting together with the Energy Committee on expanding checklist.

VI. Public Comments

Emily Friedrichs said she submitted an application this week for the vacancy on the Planning Board as an Alternate; looking forward to more involvement in the community and being of service to the Town.

VII. Review of Minutes (old): Site Walk Minutes of January 12, 2022
Minutes not included in packet, postponed until next meeting.

VIII. 4 Old Landing Road – Expansion of Multi-Unit Residence. 4 Old Landing Road. Site plan and conditional use to add two 4-bedroom apartments in the attic to existing house with eight 2-bedroom units. Mark Henderson, property owner. Nick Isaak, architect. Map 5, Lot 6-1. Courthouse District. Recommended action: Accept as complete and schedule public hearing.

Mark Henderson said 4 Old Landing Road currently has 8 two-bedroom units with a very large attic space; application is to build 2 additional apartments on third floor with 2 bedrooms each; no change to building footprint. Building recently purchased and Fire Department concerned about sprinkler system; makes sense to add sprinkler system and addresses second means of access; safety measures being added with facelift of property.

Mr. Behrendt recommended acceptance with comments: Applicant not changing size just adding attic spaces and believes parking requirements still met. Will need a plan for a water line per Town Engineer, otherwise no need for Site Plan; nothing non-conforming but suggest a Planning Board site walk.

Vice-Chair Parnell asked why this was conditional use; Mr. Behrendt said multi-unit use is not allowed in Courthouse District, but Zoning Ordinance allows expansion of non-conforming use by 50% by CU. Mr. Henderson said he has contracted to do a full site plan.

Mr. Kelley MOVED to accept the application for 4 Old Landing Road Expansion of Multi-Unit Residence located at Map 5, Lot 6-1 in Courthouse District and schedule Public Hearing for February 23, 2022; SECONDED by Vice-Chair Parnell; Roll Call Vote: Heather Grant-aye, James Bubar-aye, Paul Rasmussen-aye, Lorne Parnell-aye, Sally Tobias-aye, Richard Kelley-aye, Barbara Dill-aye; APPROVED 7-0, Motion carries.

Chair Rasmussen scheduled 4 Old Landing Road Site Walk for February 23, 2022 at 3:00 pm.

IX. Pike Property – 2-Lot Subdivision. 275 and 279 Packers Falls Road. Lot line adjustment between two existing lots and 2-lot subdivision of larger existing lot. It is proposed that the resultant 36-acre lot would be conveyed to the Town of Durham and a conservation easement would be held by the Southeast Land Trust (SELT). The site is located just east of Thompson Forest. Duane Hyde c/o SELT, applicant. Pike Family Trust, property owner. Map 14, Lots 10-2 and 10-3. Rural District. Recommended action: Accept as complete and schedule public hearing.

Daniel O’Lone, Project Manager from Berry Survey & Engineering, said this is a 2-pronged project with a lot line division and subsequent sub-division. Mr. Behrendt said it was submitted as 2 applications and the Board’s final action can be separate or combined.

Mr. O’Lone said surveys of both lots were completed; the first one is Map 14, Lots 10-2 and 10-3 revising lines in a few areas. Lot 10-3 will be reduced to 4 acres in size from 5.14 acres with slight shape shift; Lot 10-2 will be subdivided into 2 lots with waivers for lot-line perimeters, stone wall, and wetlands with water features on lot.

Chair Rasmussen asked Mr. Behrendt if road access would be needed here. Mr. Behrendt said the Ordinance requires 50 ft of frontage, but it is unlikely there will ever be a driveway; will be placed in Conservation but applicant needs this to be approved as a potentially buildable lot for their funding. Mr. O’Lone said that has to do with subdivision project.

Chair Rasmussen said a non-conforming lot is being created to be used as future residence with conforming lot transferred to the Town, and the person paying taxes here gets the short end of the stick. Mr. Behrendt said there is not really a good alternative, and no matter what the house is non-conforming.

Mr. O’Lone said for the Subdivision, the parcel will be subdivided using Porkchop Plot Ordinance; smaller lot with 3.45 acres, remaining land by river 36.16 acres; 3 waivers for subdivision. Full wetlands and water features with ledge and rock outcroppings; test pits created for lots. Sheet 1 is for recording with boundary information and easements near road for access and overhead utilities; Sheet 2 topography of whole lot. Have variance from Zoning Board for proposed boundary line being 34.48 ft from existing house; no encroachments and each lot has onsite water/sewer; anticipate NHDES approval for 3.45 acre lot.

Chair Rasmussen asked if the application was complete, and Mr. Behrendt said the application is complete with requests for waivers.

Mr. Kelley MOVED to accept the Pike Property 2-lot subdivision at 275 – 279 Packers Falls Road, for a lot line adjustment and subdivision application located on Tax Map 14, Lots

10-2 and 10-3 and schedule Public Hearing for February 23, 2022; SECONDED by Mr. Bubar; Roll Call Vote: Heather Grant-aye, James Bubar-aye, Paul Rasmussen-aye, Lorne Parnell-aye, Sally Tobias-aye, Richard Kelley-aye, Barbara Dill-aye; APPROVED 7-0, Motion carries.

Chair Rasmussen scheduled a site walk for Pike Property 2-Lot Subdivision for February 19, 2022 at 11:00 am.

- X. **15 Newmarket Road – Food Truck Court.** Preliminary application (for discussion only) to create a food truck court at 15 Newmarket Road, the old Durham Town Offices. The development would be created behind the building including food trucks, shed pavilions, a landscaped community gathering space, reuse of the salt shed and old ORYA building, and other site changes. Scott and Karen Letourneau, applicants. William and Carrie Salas, property owners. Map 5, Lot 4-10. Recommended action: Provide nonbinding comments.

Scott Letourneau said the concept for the Tideline Public House is for a brick-and-mortar taproom, with bakery or retail shops, and 6-8 food trucks onsite as a family-friendly, community outdoor gathering space with indoor and outdoor dining. The Old Town Hall has 7,000 sq ft of indoor space and they would like to put in a taproom with bar and seating, lounging area, and entertainments. A grassy, landscaped area would be created behind the building up to the current treed median with outdoor picnic tables, fire pits, and child play areas. The building would be surrounded with a patio/garden area with food trucks to one side. Business hours would be from 11:00 am to 9:00 pm, hoping to target locals and non-locals commuting through Durham. He said he and his wife just moved back from Bend, OR where there are about 10 taproom/food truck courts featuring more than 50 trucks and none of the businesses have failed.

Mr. Letourneau said they plan to eventually rehabilitate the old Salt Shed and add a glass-front rollup door with additional indoor covered seating and possible antique woodstove. Tideline would provide beverages with a minimal bar menu and provide all amenities. Truck operators would provide food and staff trucks and be tenants on a month-to-month lease of an RV-style pad with a base rate including power and city water. Food Truck Vendors would come here to stay and vehicle maintenance will be provided. These amenities will require Planning Board and Historical District Commission approval.

Mr. Letourneau said old site plans from 1971 show a 3-sided garage next to the Salt Shed with historical precedent for a structure along that property line and showed concept pavilion shed roofs and woodshed concepts for dry wood storage for fire pits and woodstove. He said clear boundaries will be needed around certain parts of property and a dumpster enclosure will be added somewhere on the site.

Mr. Letourneau said there are a lot of potential benefits to Durham and the Historical District with a highly visible and greatly underutilized public office becoming a public community gathering place; will also enhance street appeal with full landscaping on street side; creates a

more walkable and bikeable gathering place with 20-25 jobs added; building will need a sprinkler suppression system for change of use and an assembly permit.

Mr. Letourneau emphasized their commitment to sustainability, changing pavement into permeable area, explore adding EV charging stations, bike racks, adding solar, and partner with area businesses to use composting as much as possible. The community commitment could be a hosting spot for all sorts of community events and charity events, and become a true destination as a first-in-the-region type of business which will benefit other Durham businesses

Questions: Mr. Bubar said if food trucks are permanently there, they may need vehicle registration in Durham. He said he liked the approach to sustainability but was concerned about fire pits and wood stoves as an environmental issue. Mr. Letourneau said he is already working on a rental agreement which will require vendor vehicles remain registered, road-worthy, and licensed, and is willing to engage in discussion regarding fire pits.

Mr. Kelley asked if he intended to abandon the curb cut on the left side of the building, and Mr. Letourneau said yes it would be used for service vehicles only. Mr. Kelley asked the approximate number of parking spaces that would remain for site use; Mr. Letourneau said 35-40 with on-street parking nearby. Mr. Behrendt said parking responsibilities are in Site Plan Regulations and the Board could waive or adjust them. Mr. Bubar said he would like to hear from Police and Fire.

Councilor Tobias said this is an excellent idea in the location and a good spot for trails and downtown connections; idea is forward-thinking, and this could be a successful business adding more vibrancy to our Historic District and making Durham a destination. Ms. Dill said this is the most refreshing business plan she has seen in a long time, and the name Tideline Public House also has historical connotations.

Mr. Bubar asked for clarification that the entire sanitary aspect of the area would be provided by the applicants. Mr. Letourneau said our plan is to provide areas for garbage disposal, recycling, and composting for the public, with most food truck vendors taking care of waste they generate.

Chair Rasmussen said he is encouraged to see such a creative repurposing of the Old Town Hall transitioning one public venue into another.

XI. Public Hearing - Mill Plaza Redevelopment. 7 Mill Road. Continued review of application for site plan and conditional use for mixed-use redevelopment project, drive-through facility for bank, and activity within the wetland and shoreland overlay districts. Colonial Durham Associates, property owner. Sean McCauley, agent. Joe Persechino, Tighe & Bond, engineer. Emily Innes and Sharon Ames, Harriman, project designer. Rick Taintor is serving as the Town's Contract Planner. Central Business District. Map 5, Lot 1-1. Recommended action: Determine the next steps in the review.

Mr. Behrendt left the table at 8:19 pm replaced by Contract Planner Rick Taintor.

Attorney Ari Pollack said since the last meeting the Conservation Commission met on the application and further reviewed CU permits for WCOD/SPOD with a written report sent to the Planning Board. Complaints were made to NHDES regarding snowplow methods on Mill Plaza and followed by an inspection; DES concluded no current water quality or wetland violations.

Attorney Pollack said they have convened at least 5 community meetings to discuss project goals, building layouts, architecture, and mitigation of environmental/economic/social impacts. He reviewed all developments and changes made to the project over the years and listed all design modifications made by the applicant to improve their design and address myriad public issues and concerns.

Vice-Chair Parnell MOVED to reopen the Public Hearing for Mill Plaza Redevelopment; SECONDED by Mr. Bubar; Roll Call Vote: Heather Grant-aye, James Bubar-aye, Paul Rasmussen-aye, Lorne Parnell-aye, Sally Tobias-aye, Richard Kelley-aye, Barbara Dill-aye; APPROVED 7-0, Motion carries.

The Public Hearing was reopened at 8:32 pm.

Eric Lund said in his opinion this project does not satisfy several CU criteria and he still has concerns re mixed-use. He said there is no feasible way of getting a second vehicle access; student housing is substantially closer to abutters on Faculty Road and Chesley Drive; forested hillside will be blasted away conflicting with preservation of natural resources; appraisal report neglected to include pertinent data.

Beth Olshansky read a letter written to the Planning Board in which she enumerated promises made by CDA to work with the community to create a Village Center which has not turned out the way residents had hoped. She said the massive buildings are out of character with current buildings onsite and modest homes in abutting faculty neighborhood, and it would be an absolute shame if this ill-conceived project is approved. She said it is poor planning to locate student housing so close to a faculty neighborhood which will have a highly negative impact on the lives of so many Durham residents, and asked the Planning Board to use the zoning tools afforded by CU to turn down this oversized horrific plan.

Joshua Meyrowitz asked whether the Planning Board finished getting answers to key questions and asked that the Planning Board look at the facts: fiscal impact analysis, UNH enrollment projections, scale of buildings, flooding from higher peak flows, and CDA promises versus reality. He asked the Board to check his claims, review his submissions to date, and determine whether they have gotten the answers to key questions needed.

Nicholas Lower said he grew up in Durham and felt any development should be an extension of downtown, benefit the whole community, and protect the local environment. He asked how

connected the development will be to downtown, and Chair Rasmussen said all the current connections will still be there in some form, possibly changing the ramp to a staircase.

Deborah Hirsch Mayer urged the Planning Board not to close the Public Hearing and said there is a tradition in Durham that deliberations can begin with Public Hearing still open. She agreed there are still a lot of unanswered questions and still things the Board does not have facts on: no input from Durham Police, no true pedestrian study, could have a more comprehensive Site Walk and additional studies on full impact of Stormwater problems. She said this is a horrendous project and the chance of a lifetime to ruin our Town and hoped the Planning Board would turn down the project.

Emily Friedrichs said in terms of the Master Plan, workforce housing would be a positive impact on the community. Chair Rasmussen said workforce housing is the rent that gets charged below a certain level. Councilor Tobias said developers can see tax credits for workforce housing to mitigate their costs, and it is an intentional thing on the side of the developer.

Glendowlyn Howard said she submitted a letter before the Planning Board January 12th meeting outlining concerns about the increase in density over the years of students in the inner core of Durham, and said this project essentially transitions it to be all students instead of any family housing. She said the amount of trash on the roads in town is horrendous and asked if there is a proposal for managing trash. Mr. Taintor said it was presented as part of the Property Management Plan.

Robin Mower presented 3-D renderings of the project provided over 3 years ago showing the entire width of the redevelopment and said we do not have a current complete set of 3-D images which is needed. She said in the proposed current design Buildings B and C do not meet CU criteria #4 for character of building and structure. She provided a sandwich of neighborhood building styles showing the contrast with Orion 25-35 Main Street on left, Building B Mill Plaza in the middle, and 13 Faculty Road (abutting home) on right.

Ms. Mower provided comments regarding project materials, design details, and project budgets and reviewed architectural design standards. She provided images of Student Housing in more urban environments and reviewed Site Plan Regulations regarding waivers and said aspects of the architecture have never been dealt with in a meaningful way and listed regulations that had not been met. She said the Planning Board should know we still have questions and are missing information; she asked that detailed specs be incorporated in Conditions of Approval and require they be presented to the Planning Board or Town Planner before final approval is actually given.

Attorney Pollack said versions of ordinances and regulations that apply to this vested interest were discussed in the past and there is a need to be careful about which version of these documents applies. Ms. Mower said she has been very careful to reference applicable ordinances.

Nathan Fennessy said the Planning Board has a Site Plan application and four different CU permit applications, and said his clients feel leaving the Public Hearing open is appropriate. He said as you move into deliberations, it is important to remember it is the applicant's burden to demonstrate they meet all the criteria and reviewed questions the Planning Board should consider in making that determination, including site suitability, impacts on abutters, compatibility with established neighborhoods, protection of wetlands and floodplains, impact on property values, and economic and fiscal impact on the Town. He said the concerns raised by his clients 6 years ago have still not been addressed, and he urged the Planning Board to deny the application.

Attorney Pollack said he did not see the point to leaving the Public Hearing open; the issues are still the same and have been responded to, many subjected to peer review, and experts were made available. There have been over 300 submissions over a 7-year period and significant effort made on behalf of the applicant, Planning Board, and Town staff.

Robin Mower mentioned a letter received from Hannah Bogle who expressed concern over the loss of the ramp from the plaza to Main Street.

William Woodward said Hannah Bogle is not alone and many people who use that path feel steps would not be convenient. He also said there will be a fiscal impact on senior citizens who rent rooms to students in their homes, and said he hoped this project would not go through.

Chair Rasmussen said the Board needs to decide what to do with the Public Hearing; Mr. Taintor recommends we close it and I tend to agree. If the Board feels something is lacking, we can use precedent or subsequent conditions to control that with a "no" vote. Mr. Kelley said his only reservation is deliberations would begin without hearing from Alternates. Vice-Chair Parnell said he does not think closing the Public Hearing impacts whether or not Alternates speak.

Mr. Kelley MOVED to close the Public Hearing for Mill Plaza Redevelopment; SECONDED by Vice-Chair Parnell;

The Planning Board discussed the pros and cons of leaving the Public Hearing open and decided to close the Public Hearing and to allow Alternates to speak during deliberations.

Roll Call Vote: Heather Grant-aye, James Bubar-aye, Paul Rasmussen-aye, Lorne Parnell-aye, Sally Tobias-aye, Richard Kelley-aye, Barbara Dill-aye; APPROVED 7-0, Motion carries.

Chair Rasmussen closed the Public Hearing for Mill Plaza Redevelopment at 9:56 pm.

Ellie Lonske left the meeting at 9:58 pm; Mr. Taintor left the meeting and Mr. Behrendt returned to the table.

XII. Other Business

XIII. Review of Minutes (new): January 12, 2022

Approval of the Regular Meeting Minutes of January 12, 2022

Mr. Bubar said he provided a few minor comments to Karen which were incorporated.

Vice-Chair Parnell MOVED to approve the Regular Meeting Minutes of January 12, 2022; SECONDED by Mr. Bubar; Roll Call Vote: Heather Grant-aye, James Bubar-aye, Paul Rasmussen-aye, Lorne Parnell-aye, Sally Tobias-aye, Richard Kelley-nay, Barbara Dill-abstain; APPROVED 5-1 with 1 abstention, motion carries.

XIV. Adjournment

Ms. Grant MOVED to adjourn the meeting; SECONDED by Mr. Bubar; Roll-Call Vote: Heather Grant-aye, James Bubar-aye, Paul Rasmussen-aye, Lorne Parnell-aye, Sally Tobias-aye, Richard Kelley-aye, Barbara Dill-aye; APPROVED 7-0, motion carries.

Chair Rasmussen adjourned the meeting at 10:00 pm.

Respectfully submitted,
Patricia Denmark, Minute Taker
Durham Planning Board

Richard Kelley, Secretary