

These minutes were approved at the June 22, 2022 meeting.

**TOWN OF DURHAM
DURHAM PLANNING BOARD**

**Wednesday May 25, 2022
Town Council Chambers, Durham Town Hall
7:00 pm**

MEMBERS PRESENT: Paul Rasmussen (Chair), Heather Grant (Vice Chair), Lorne Parnell, Barbara Dill (Alternate), Chuck Hotchkiss (Alternate Council Rep), William McGowan, Nicholas Germain (Alternate-Remote), Emily Friedrichs (Alternate-arrived late)

ABSENT: Sally Tobias (Council Rep)

ALSO PRESENT: Town Planner Michael Behrendt (Remote)

I. Call to Order

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

II. Roll Call and Seating of Alternates

Chair Rasmussen took roll call: Chuck Hotchkiss will be sitting in for Sally Tobias as Council Rep; Nicholas Germain is remote as he is on call.

III. Approval of Agenda

Vice-Chair Parnell MOVED to approve the Agenda as distributed; SECONDED by Mr. Kelley; APPROVED by a vote of 7-0, Motion carries.

IV. Town Planner's Report

Michael Behrendt said for the June 8 meeting: 19 Main Street Parking Lot, small application for addition to Great Bay Clinic (requires CU), revised draft of Solar Ordinance.

V. Reports from Board Members who serve on Other Committees

Reporting from the Town Council: Mr. Hotchkiss said the Council met on May 16 and approved the purchase of a Street Sweeper; grant application for new roof for Bickford Chesley House at Wagon Hill; funding for a culvert project on Littlehale Creek; new Lafayette plaque put up; Council sent letter to Pease Development Authority opposing propositions for Air Cargo operations at Pease; Council Goals approved for 2022/2023.

Reporting from the Conservation Commission: Mr. Bubar said the Conservation Commission met Monday and discussed WCOD/SPOD and possible amendments to the 4 Conditions; discussed responsibility of the Conservation Commission.

Emily Friedrichs arrived at 7.06 pm.

VI. Public Comments

No Public Comments.

VII. Review of Minutes: April 20, 2022; April 16, 2022, Site Walk Minutes

Meeting Minutes of April 20, 2022

Chair Rasmussen asked if there were any further changes not submitted to Karen.

Mr. Bubar MOVED to approve the minutes of April 20, 2022, as amended; SECONDED by Vice-Chair Grant; APPROVED by a vote of 6-0 with 1 abstention; Motion carries.

Dover Point Road Site Walk Minutes of April 16, 2022

Mr. Kelley MOVED to approve the Dover Point Road Site Walk minutes of April 16, 2022; SECONDED by Mr. Hotchkiss; APPROVED by a vote of 6-0 with 1 abstention; Motion carries.

Oyster River Road Site Walk Minutes of April 16, 2022

Mr. Bubar MOVED to approve the Oyster River Road Site Walk minutes of April 20, 2022; SECONDED by Vice-Chair Grant; APPROVED by a vote of 5-0 with 2 abstentions; Motion carries.

VIII. Mill Plaza Redevelopment. 7 Mill Road. 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. **The public hearing is closed.** **Recommended action:** Finalize review.

Chair Rasmussen said Mr. Taintor is in Zoom, and tonight the Board is taking action on the Notice of Decision. Mr. Taintor said he started his Notice of Decision for this project in late 2020 from perspective that it would be approved. He said when he rewrote the Notice of Decision to reflect denial, he deleted 21 pages of precedent and subsequent conditions no longer relevant to the Notice.

Mr. Taintor made several points: (1) Date of decision should probably be corrected to "dates of decision" March 9, April 2, and May 11, with another line stating date of this Notice as May 25, 2022; (2) Non-conforming Site Conditions included due to amount of public testimony about existing conditions that did not comply, and to explain that Site Plan Approval by the Board would supersede any prior violations; (3) under findings for Mixed-Use Residential CU Permit, two sections highlighted in red added after last meeting discussion.

Mr. Taintor asked to make changes on page 2 of 3 and page 3 of 3 under general CU criteria and asked that the language in paragraph 4 on page 3 of 3 be made more specific. He said 3 changes to consider might be (1) change in dates of decision, (2) possibly removing section C on page 7 under Non-Conforming Site Conditions; (3) slight change of wording on page 3 of 3. He said the task of the Board tonight is to look at this to see if there are any other changes and he will finalize the Notice of Decision. The applicant was present on Zoom.

Mr. Kelley asked about the dates of decision, and Mr. Taintor said those dates are recorded as dates separate decisions were made. Mr. Kelley asked that for the record the 21 pages deleted, as well as the section under Non-Conforming Site Conditions, be included for the Town's information and the document marked as *Draft*.

Mr. Kelley MOVED that the Notice of Decision as amended this evening for a Mixed-Use Redevelopment of an existing shopping center to include 80,250 sq ft of commercial, retail office floor area, 250 beds, 372 parking spaces located at 7 Mill Road, Tax Map 5, Lot 1-1 in the Central Business District be approved as amended by the Board this evening; SECONDED by Mr. McGowan; APPROVED by a vote of 7-0; Motion carries.

Mr. Parnell commented that he felt this was a very comprehensive, well-prepared document.

IX. Public Hearing - 74 Main Street – Mixed-Use Building. Site plan and conditional use application for demolition of current wood frame building and construction of a 4-story mixed-use building with nonresidential uses, 12 residential units, and 5 parking spaces. Minor site changes are also proposed for the adjacent lot at 72 Main Street. Doug Clark, applicant. Jerry Pucillo, consultant with Centergreen, representing Foundation for Civic Leadership/Democracy House, a potential partner in project. Mike Sievert, Horizons Engineering. Zach Smith, Bergmeyer Architects. Map 2, Lot 14-1-1. Central Business Zone. Recommended action: Review and continue to another meeting.

Doug Clark said his team has been working with abutters to meet all concerns and requirements; biggest issues were related to Site Plans. Mr. Pucillo clarified that they have not made a final agreement with abutters.

Mike Sievert said the latest site plan shows original existing pavement and configuration in back to better define existing conditions between properties, and dimensions were added to clarify distances between the buildings. He said they went back to a 90-degree access off Pettee Brook Lane with full 20-ft access to both parking lots; some parking laid out under the building; removed existing trash area for 72 Main Street and made a combined trash receptacle near top left.

Mr. Sievert said the hatched area is a pervious/porous block drive and parking area; borings from original soils there are much more favorable for stormwater, as there is zero filtration in park area and ledge under the center area. He said, ideally, he would like to have the pervious pavers on 72

Main Street as well. Utilities for 72 Main Street (sewer & electric) run along property line; additional easement added to get out to Pettee Brook; water line would have to be re-located in alley way, with new water line for 74 Main directly off Pettee Brook and transformer in corner. Parking area in park eliminated; parking added along Main Street, with some sort of loading zone on Main at certain hours. Details were pulled back in from original plan; biggest issue is solving the drainage.

Questions: Mx. Friedrichs asked if there was any chance some of the runoff could be directed to the park. Chair Rasmussen that would mean running it across the parking with constant ice in winter. Mr. Sievert said soils in the park will not drain anything, and runoff goes into the drainage system not the sewer system; stormwater will be taken care of on our site reducing peak flow and volume.

Chair Rasmussen asked about 1/3 of the roof being green, and Mr. Pucillo said they are considering doing a purple roof with pavers that absorb the water on the roof which evaporates over time, combined with some green plant materials.

Mr. Kelley said this is a new parking concept and asked when they would get a Site Plan. Mr. Sievert said this will be the new Site Plan and this solution works, but he is looking for more feedback from the Board and the abutter so he can finalize the design. Mr. McGowan said a lot of ledge was mentioned and asked if there will be blasting. Mr. Pucillo said no blasting, but they will be hoeing at it. Mr. Kelley said with a pneumatic hammer the ledge would need to be fractured enough to allow that and asked how much ledge needed to be removed. Mr. Sievert said there is ledge on about 2/3 of that building.

Mr. Behrendt said the loading zone is show in the front and extending into the park, and the Town Administrator and DPW need more information. He said the applicant will need to show it is warranted to be approved in that location and asked if the pavers in the back would allow for loading. Mr. Sievert said it would support loading but would mean more maintenance for the applicant. Mr. Germain asked about using the pavers if the abutter does not; Mr. Sievert said they would still use them and would install the pavers for the abutters.

Chair Rasmussen opened the Public Hearing at 7:50 pm.

Suzanne Brunelle of Devine Millimet, Attorney for abutters at 72 Main Street, said the loading zone is a deal-breaker for them as there is not enough room there for big trucks that come into businesses at 72 Main. She asked for the dimensions of the compact parking spaces and asked about the water and sewer lines. Mr. Sievert said the sewer comes out of the foundation in corner of building and that is why it runs along the property line; the water line for 72 Main will run down the alleyway underground.

Mr. Sievert said the drainage system is under the porous pavers and entirely on 74 Main property, though they would like to extend it to 72 Main under the parking triangle area. He said the whole

system is 30-36 inches underground, sewer is 6 ft below ground, and water line will be at 5 ft. Attorney Brunelle asked about the sharing proposed in the easement area. Mr. Pucillo suggested it would be beneficial to both parties if it runs down the middle of the easement, or closer to our building if not agreeable. The parties then discussed the distances of varying widths between the two buildings.

Attorney Brunelle said our issues are with parking generally, during construction and post-construction. Mr. Pucillo said during construction they agreed to park 72 Main in parking area and are working with the Town to lease parking. Mx. Friedrichs asked about number of parking spaces; Mr. Sievert said there are at least 3 spaces near the park and 3 existing on Main Street. Attorney Brunelle said delivery issues are key with Town wanting to close out their property in front.

Mr. Behrendt asked if the loading zone would be better on Pettee Brook, and Chair Rasmussen it is a no-parking zone because that space is needed there to make the turn. Mr. Kelley said on parking he would like to see the survey plan with the Site Plan to delineate the existing spaces and asked if they are striped-out there. Mr. Sievert said they are not, but he will measure it. Mr. Kelley asked that Mr. Sievert use a 9 ft wide stall and do the math to have an existing number to start with. He felt the 3 stalls on the Town line do not really function as parking and are not safe.

Sam Gangwer of 72 Main Street said those 3 spots actually exist and they are metered. He said there is no concrete planter as shown on the plans between buildings, just pavement up to the edge of the building and they have been plowing there since 1972. He said for deliveries they get large trucks in there every day with 2 restaurants and a community center, and said he needs to be able to have deliveries.

Mr. Behrendt asked Mr. Gangwer about the various places around the property where he gets deliveries and what hours serve the businesses there. Mr. Gangwer said basically 9 am to 5 pm. Chair Rasmussen said he has seen trucks parked everywhere around there wherever there is a big enough gap without cars. He said he saw 6 trucks unloading all at once and said the small loading zone there cannot support 6 trucks.

Mr. Kelley stated that his youngest son worked at 72 Main Street, and if perceived as a conflict he would recuse himself. There were no objections from the Board, applicant, or abutters.

Mr. Behrendt said he understands that the applicant would like to prepare fully engineered plans but are working on agreement with the Gangwers and said the Board would proceed as they are able. He said the applicant met with the Town Administrator and DPW and still need to figure out the loading zone in front. Mr. Pucillo said applicant intends to do a fully engineered plan specifically for our property and feels they are at a decision point.

Mx. Friedrichs asked if the applicant had approached the bank abutter about possibly leasing parking spaces there. Mr. Pucillo said the bank was purchased by M&T Bank, and he spoke directly

to the owner in Buffalo, NY expressing an interest on our behalf as well as abutters for parking during and after construction, and he was asked to wait at least 6 months.

Chair Rasmussen continued the Public Hearing for 74 Main Street to June 8, 2022.

- X. **15 Newmarket Road – Tideline Public House**. Site plan application to create a tap room (serving beer and wine), store and food truck court with 8 food trucks, covered pavilions, a landscaped community gathering space, and other site changes behind the old Durham Town Offices. Scott and Karen Letourneau, applicants. William and Carrie Salas, current property owners. Mike Sievert, Horizons Engineering. Map 5, Lot 4-10. **Recommended action:** Accept as complete and schedule a site walk and public hearing.

Mr. Sievert said this site was the old Town Hall and showed the existing conditions plan which was just surveyed. He said the proposal is to convert the existing main structure and other structures there from an existing office space to a mixed use of Tap Room, retail store, and possible offices, including renovation of the entire interior and exterior of the existing building. The Tap Room will take up most of the first and second floors with a small mercantile area on side corner.

Mr. Sievert showed the outdoor gathering space and said the hatching is stone dust or stone with tables and fire pits; brick walkway; grass areas and large outdoor food truck area for up to 8 trucks on compacted gravel. Salt shed will be converted to a secondary seating bar area; old Oyster River Garage Building will be used for storage, bathrooms, and possible dish washing area; trying to maintain the parking area except close to building, which is being changed to pervious and impervious areas, reducing impervious pavement there; showed a plan with all utility changes for water, sewer, gas and electric to all truck spots.

Mr. Kelly asked about a timeline. Scott Letourneau said he would close on the property on June 1st with a carpenter/contractor lined up to start some demo in first few weeks of June. He said if they can get a demolition permit, they will start on the inside while finalizing the rest of the Site Plan and HDC considerations. He said they were budgeting and planning for a minimum of 4 months to completion and hopefully no longer than 6 months.

Chair Rasmussen asked the zone for this area and Mr. Behrendt said it was Courthouse District. Mr. Bubar raised the issue of parking and expressed concern there is not enough infrastructure to be successful with all the food trucks. He asked if the Planning Department had done calculations to determine what the parking requirement is, and if the applicant made any determination of expectations. Chair Rasmussen said they need to know the capacity of the Tap Room.

Mr. Sievert said the restaurant/bar area requires 45 spaces and 27 are proposed because of spaces being taken away in front, then Town's easement looking to be relocated to another site at some point. Mr. Bubar said that is 26 spaces short, and Mr. Sievert said there about 30 more

spaces along Schoolhouse and Mill Roads. Mr. Letourneau said there are 13 on Schoolhouse and 17 on Mill Pond Road; he said it is also unknown what percent of our customers will be biking or walking. He said the Town has also indicated it is willing to use the current easement for those 9 spots in exchange for 10 spots elsewhere and said he will be working on the Town's long-term needs for Courthouse parking.

Vice-Chair Grant asked who else parks in the lot behind the Courthouse, and Mr. Letourneau said it has been used as leased student parking but that expired on May 25th. Chair Rasmussen said he was looking a foot traffic specifically for the trucks between the salt shed and garage and said it appears there is only 6 ft between trucks. Mr. Letourneau said it should be 8 ft: 4 trucks with 2 8-ft walkways between.

Chair Rasmussen suggested going down to 7 trucks and making a u-shaped area there. Mr. Letourneau said the problem with a u-shape is if one of the trucks needs to get out you would probably need to move both of the others with a building on either side and a retaining wall behind. He said the original description talks about pavilions covering the trucks, but that would have required a variance because of setbacks.

Ms. Dill asked how the trucks would get in place. Mr. Letourneau said some are actually trucks that drive and some are trailers that can be backed in or maneuvered with electric dollies. Ms. Dill said the shrubs are in the way of the trucks, and Mr. Letourneau said they are moveable on castors and used to delineate parking. He said the 3-D images show minor cosmetic changes: the 6x6 ft shed is in back along the Salt Shed; entrance at Schoolhouse Lane and extending brick entrance at the top; removal of ticket booth; wood storage area covered with an extending roof with supporting posts.

Mr. Sievert said these images are the newest with relatively minor changes, and they got new information from the Liquor Commission about how to set up the outdoor space. Mr. Parnell asked what they expected for hours of food truck service. Mr. Letourneau said approximately 11:00 am to 9:00 pm, potentially open earlier if a food truck wants to serve breakfast fare. He said he does not want to cause late-night revelry for his neighbors or the Town and said the whole thing would shut down at 9:00 or 10:00 pm; open 7 days/week if they can find the staff.

Mx. Friedrichs asked the applicant if they had looked into the availability of food trucks in New Hampshire that works with their business model. Mr. Letourneau said this will probably be an entirely new concept for most truck owners and said he had spoken to some, and they are excited about possible year-round wages. He said he is focusing on a lot of amenities for truck operators and expects when he shows this presentation and walks them through the easy arrangement and convenience of the utilities, this will be an attractive place for them.

Mx. Friedrichs asked if there had been any thoughts on cold weather outdoor heating. Mr. Letourneau said there is close to 3,000 sq ft in the main building available year-round, and the Salt Shed with a rolldown door, overhead propane heaters and big antique wood stove for 20-25

people also open year-round. He said if New Hampshire people are as hardy as in Oregon they will sit outside around a wood fire.

Ms. Dill asked about a fence. Mr. Letourneau said there are 2 spots where they are proposing a fence of some sort with materials mostly up to HDC to determine. The Board discussed a white picket fence versus metal and granite. Chair Rasmussen said metal and granite fences have a better chance of surviving outside a wine and beer bar. Mr. Letourneau said the fence there is to bound the grassy area and hopefully a kids play area which will connect to the side of the building in front of a tree, with a bike rack on grassy area if allowed.

Mr. Letourneau said there would be a main pedestrian entrance from Town Landing and Wedgewood area and Mill Pond Road area, and on Newmarket Roadside where the current curb cut will be another main pedestrian entrance. He said the entrances would be wide inviting people to come through but with a boundary on either side and signage saying no alcohol beyond this point to show the Liquor Commission they have a containment zone; also add possible rope line under the trees to keep people from going in and out to parking.

Mx. Friedrichs asked if there was any additional landscaping not depicted yet. Mr. Letourneau said he did not think that was a Planning Board purview but is planning to improve the landscape and the Newmarket Roadside and possibly adding more trees. Ms. Dill said it looks like you are taking out trees along Newmarket Road. Mr. Letourneau said hopefully not and said there is a potential for putting a concrete planter with small trees in the striped areas of the parking lot to act as bollards.

Mr. Behrendt asked if it would make sense to move the 4 trucks back closer to the property line and Mr. Letourneau said the idea is to put utilities behind against the retaining wall with trucks as far back as possible. He said the service window on trucks is generally on the passenger side and those trucks will need to be specifically oriented, depending on whether they are actual trucks or trailers. He said in Oregon they have gravitated towards trailers.

Mr. Kelley asked the purpose of leaving the curb cut to the north of the building, and Mr. Letourneau said for trucks to come and go (service vehicles only) with removable bollards and potentially for emergencies. Mr. Behrendt asked if the dumpster could be moved closer to the lot line and possibly allow another parking space. Mr. Letourneau said he spoke with Mr. Weber about the dumpster, and he was amenable to moving it to the property line, but he has not spoken with Mr. York specifically about the dumpster.

The Board discussed required distances from the lot line, and Mr. Behrendt said 20 ft from the rear and 10 ft from the side in the Site Plan regulations. He said a dumpster is not considered a structure and if there is a fence no higher than 6 ft no setback is needed or push it northerly and ask for a waiver.

Mr. Kelley said there are not many catch basins on the Site Plan but there are a lot of pipes feeding them and we do not know where they go. Mr. Sievert said they plan to investigate that when they are working in there and clean that up. Mr. Kelley said there is one catch basin in lower left with 3 unknown connections. Mr. Sievert said he thinks one goes to the NW catch basin near the Salt Shed, and the other could be into a buried structure in the parking lot. He said they will be digging them up and doing some camera work.

Mr. Kelley said the idea here is to service the trailers with a common propane tank but there is natural gas on Mill Road. Mr. Letourneau said that, unfortunately, all trucks and trailers are equipped and set up to be mobile, so their equipment has propane nozzles and burners. Mr. Sievert said the tanks are direct-bury with bollards for connectors sticking up, with all electricity and gas connections, water, and spigot connections behind the trailers.

Mr. Kelley asked if the sewer service laterals need to be so far separate or can they share a trench and wye-out to their locations. Mr. Sievert said he thinks they can, and Mr. Kelley said the terminus points are then yet to be determined. Mr. Letourneau said they are planning to put 2 restrooms at the left corner of the garage that will need water and sewer. Mr. Sievert said you cannot run sewage through a grease trap and said there is new water service to existing building and trailers.

Mr. Behrendt said the application is complete, and said on June 8 they have the Solar Ordinance, the addition to Great Bay Kennel, 74 Main Street, and 19 Main Street. Chair Rasmussen asked that the Solar Ordinance be pushed back to June 22. Vice-Chair Grant asked about a Site Walk.

Mr. Kelley MOVED that the Board accept the site plan application for 15 Newmarket Road – Tideline Public House and schedule a Public Hearing for June 8, 2022; SECONDED by Mr. Bubar; APPROVED by a vote of 7-0; Motion carries.

The Board discussed the possible dates and times for a Site Walk and agreed on June 8, 2022 at 6:00 pm before the meeting.

Mx. Friedrichs asked about safety issues with Schoolhouse Road and signage and who would be responsible. Mr. Behrendt said the Planning Board should definitely take a look at that, with the Council making final roadway decisions. Chair Rasmussen pointed out that Route 108 was out of Planning Board jurisdiction. Ms. Dill asked about the Traffic Safety Committee and Mr. Behrendt said they would probably look at that as well.

XI. Other Business

XII. Review of Minutes (new): April 27, 2022

Meeting Minutes of April 27, 2022

Ms. Dill said her corrections were sent to Karen.

Mr. Parnell MOVED to approve the minutes of April 27, 2022, as amended; SECONDED by Vice-Chair Grant; APPROVED by a vote of 4-0 with 3 abstentions; Motion carries.

XIII. Adjournment

Mr. Kelley MOVED to adjourn the meeting; SECONDED by Vice-Chair Grant; APPROVED 7-0, Motion carries.

Chair Rasmussen adjourned the meeting at 9:23 pm.

Respectfully submitted,

Patricia Denmark, Minute Taker
Durham Planning Board