

These minutes were approved at the July 27, 2022 meeting.

**TOWN OF DURHAM
DURHAM PLANNING BOARD**

**Wednesday June 22, 2022
Town Council Chambers, Durham Town Hall
7:00 pm**

MEMBERS PRESENT: Paul Rasmussen (Chair), Heather Grant (Vice Chair), Lorne Parnell, Sally Tobias (Council Rep), James Bubar, William McGowan, Nicholas Germain (Alternate), Emily Friedrichs (Alternate), Chuck Hotchkiss (Alternate Council Rep)

ABSENT: Barbara Dill (Alternate)

ALSO PRESENT: Town Planner Michael Behrendt

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 called the roll: no Alternates need to be seated.

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

Mr. Behrendt said there was nothing to report.

V. Reports from Board Members who serve on Other Committees

Reporting from the Town Council: Councilor Tobias said the Council met Monday; Kyle Pimentel from Strafford Regional Planning Commission gave a presentation on a Ground Water Modeling Study they did; request for extension to review solar ordinance granted.

Reporting from the Housing Task Force Committee: Vice-Chair Grant said the Committee continued review of zoning for housing and encouraged reductions in lot sizes to add more density for reasonably-priced housing.

Reporting from the AG Commission: Chair Rasmussen said the AG Committee met and mostly discussed plans for Farm Day and activities.

Mx. Friedrichs said ze attended the first Community Power Public Information Session for an hour which was thorough and informative; second session July 6, 2022 at 7:00 pm.

VI. Public Comments

No Public Comments.

VII. Review of Minutes: (Old)

VIII. Public Hearing - Great Bay Animal Hospital Addition. 31 Newmarket Road. Site plan and conditional use application for 575 square foot addition behind existing animal hospital. James McKiernan, DVM, applicant and property owner. Mike Sievert, engineer. Map 108, Lot 81. Residence Coastal Zone. Recommended action: Final action.

Mr. Kelley recused himself from this item and left the table at 7:07 pm. Chair Rasmussen seated Nicholas Germain for Richard Kelley for this one item.

Mike Sievert of Horizons Engineering, representing Great Bay Animal Hospital and Dr. McKiernan, said the proposal is just to add a small addition 46 ft long x 12.5 ft wide of 575 sq ft at the back of the existing building to provide exam rooms, surgery room, and expansion of pharmacy. Parking meets all requirements; septic discussed at last meeting; went through TRG information and all set with DPW. He said this is a Site Plan and conditional use because located in Residence Coastal Zone. Mr. Bubar asked for confirmation that the existing leach field is sufficient for the addition and Mr. Sievert said it was.

Vice-Chair Parnell MOVED to open the Public Hearing for Great Bay Animal Hospital Addition; SECONDED by Mr. Germain; APPROVED by a vote of 7-0, Motion carries.

Chair Rasmussen opened the Public Hearing at 7:10 pm.

Vice-Chair Parnell MOVED to close the Public Hearing for Great Bay Animal Hospital Addition; SECONDED by Vice-Chair Grant; APPROVED by a vote of 7-0, Motion carries.

Chair Rasmussen closed the Public Hearing at 7:10 pm.

Mr. Behrendt affirmed that all notices and paperwork were complete.

Review of Conditional Use Criteria

Item 1. Site Suitability: Chair Rasmussen said this was a minor extension of an existing use with no reason to be unsuitable; Vice-Chair Grant agreed.

Item 2. External Impacts: Addition on back side of property far from abutters and public and least obtrusive part of the business.

Item 3. Character of Site Development: Addition located behind clinic, consistent with existing building.

Item 4. Character of Buildings & Structures: Consistent with existing structure.

Item 5. Preservation of Resources: None there being lost.

Item 6. Impact on Property Values: Values will go up.

Item 7. Availability of Public Services & Facilities: On their own utilities.

Item 8. Fiscal Impacts: None.

Vice-Chair Parnell MOVED that the Planning Board approve the Site Plan and CU application for a 575 sq ft addition behind existing Animal Hospital on Map 108, Lot 81 in Residence Coastal Zone, according to Notice of Decision prepared by this date; SECONDED by Mr. McGowan; APPROVED by a vote of 7-0, Motion carries.

Mr. Kelley returned to the table at 7:17 pm.

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, representing Foundation for Civic Leadership/Democracy House, applicant. Mike Sievert, Horizons Engineering. Zach Smith, Winter-Holben Architects. Map 106, Lot 59. Central Business Zone. Recommended action: Discuss and continue public hearing

Mike Sievert, Horizons Engineering, said there is a new Site Plan showing drainage and utilities; no change from existing conditions but added more offsite conditions showing surrounding area. Design has gone to a porous parking area with access from Pettee Brook, all porous concrete block pavers with a constructed surface underneath and concrete slab up against and under the building; plan shows transformer in upper right corner and dumpster area; no changes on adjacent property to parking spaces.

Mr. Sievert said the loading area was moved to the other side of the Bank property, 50-60 ft long to east of end of current location, at 66 Main Street entrance; will free up 3 more spaces in front and eliminate 2 spaces. He said he kept the drainage basins along edges of impervious parking; utilities still running in same direction with possible connection of sewer in corner of the adjacent property; possible option to bring sewer along property line to a manhole off property in back.

Chair Rasmussen said from Town's perspective the sewer is part of our drainage solution and ensuring it gets put back properly is of great concern. Mr. Sievert said it would be done by a private contractor and could be a condition of approval. He said right now the water line comes in on diagonal under the porous area, then down cutting into corner on adjacent property; are proposing to move the water line between the buildings and tie into present water line; would move Gangwer water line onto their property completely outside the porous pavement. Have not furthered any conversation about the adjacent property for extending drainage so it was cut off outside the easement.

Mr. Sievert said because of the 5% slope from under building to catch basin, a barrier has to be put in to control water flow and prevent ponding. Moving the building gave more room for stormwater storage under porous pavers with ability to pick up roof drain runoff and inlet into this system; added ½ inch lip on edge of porous pavers to prevent sand and silts washing off Gangwer property from clogging there and added a catch basin.

Mx. Friedrichs asked if the 50 or 100-year storm data was used for drainage calculations. Mr. Sievert said up to 100 years using a very slow infiltration rate, and drainage report includes runoff from back of Gangwer parking lot. He said applicant would be able to incorporate the other parking lot into the rear of this system with an agreement, then get rid of catch basin and pipes; DPW accepted the concept and reviewed the drainage design and believe it to be a good solution.

Mr. Bubar asked about storms and Mr. Sievert said the area can be plowed with no problem and snow would be removed from the property. Mr. Bubar asked that the non-paver piece in the upper right be explained. Mr. Sievert said the little curved island at traffic entrance is to keep cars from driving straight in; sidewalk goes straight across at same elevation with no ADA tip-down; need a concrete or granite edge there to put stone pavers up against and can slightly slope access area in towards property to catch basin instead of onto street.

Mr. Kelley said the plan here is grading, drainage, and utilities and your intent as described is not shown on the plan with grades not legible. Mr. Sievert said he would probably break this into two plans - a grading plan and a utilities plan. He said the concrete pad under the building runs out at 5% then starts to lessen to catch basin (low point). Mr. Kelley said the grading needs to be tweaked a bit and asked about the column to hold up the upper floors; Mr. Sievert said it is a spread footing pretty close to the ledge.

Mr. Kelley said detail sheet 502 shows typical impermeable membrane and check dam on the left and asked for a description of the layers. Mr. Sievert said 4 ¼-inch pavers on top, 2-inch layer of stone bedding, 4-inch layer of #57 stone, 18-inch layer of larger stone base (storage area), barrier under which wraps up a 4-inch CPP under-drain; hashed lines represent level water surface, impermeable membrane holds water in and carries into other basins, meeting volume and peak runoff. Mr. Kelley questioned the various catch basins and piping surveyed on the plan.

Mx. Friedrichs felt some work needed to be done in terms of meeting the Town's architectural standards regarding exterior architecture. Mr. Pucillo said these were just elevations and not renderings. Mr. Sievert said the leg off the back is the new stairway which used to be internal and was turned 90 degrees. He said Architect Zach Smith is available on Zoom for any questions. Mr. Smith said he tried work with scale here and tried to use materials that match some of Main Street especially at street level.

Mr. Bubar asked about current parking area near the park, and Mr. Sievert said it will be replaced with grass, curbing, and sidewalk which needs to be finalized; applicant negotiating with Town about whether they should do more there. Mr. Kelley asked that parking stall dimensions be added. Mr. Hotchkiss asked if the appearance of the stair tower was changed with the 90-degree shift. Mr. Smith said the appearance remains the same as designed with 4x8-ft dark gray panels and will get revisited now that it is a more prominent player.

Chair Rasmussen reopened the Public Hearing at 8:12 pm.

Attorney Suzanne Brunelle, on behalf of the Gangwers, said she would like dimensions shown on parking spaces and on the building itself, as well as dimensions for entrance way. She said there are 2 new items on the plan shown as water service TBR and gravity sewer. Mr. Sievert said the water service is to be removed; new water line between the buildings; gravity sewer replaced or upgraded, with sewer replaced down along property line and across easement to tie in.

Attorney Brunelle said she thinks the Gangwers are okay with the pavers in their back parking as well, but the lip is a concern for water flowing back onto their area which looks like it is in the easement. Mr. Sievert said there is an underground catch basin with a grate at the surface. He said the owner of 74 Main Street would replace the pavement if there were an opportunity to expand porous pavers.

Attorney Brunelle said she does not have her clients' opinion on new location of loading zone being proposed and asked the status for approval. Mr. Behrendt said the staff is good with it; the park will be expanded, and parking offsite removed and closed in, with 2 spaces added on Main Street; loading zone is just beyond Bank entrance approximately 2 ½-3 parking spaces long. Mr. Parnell said it sounds like it is in front of the existing Bank between the entrance and exit.

Attorney Brunelle said she is still looking for termination of existing easement and proposed new easements including plans with details; still addressing access and maintenance from Pettee Brook; rights of parties in easement areas; moving and maintenance of all utilities; parking easements, snow removal and clearing of access way; agreement regarding dumpster; parking during and after construction and loading zone. Mr. Kelley said he would like to see a finished floor elevation on grading plan as well as existing, and sill elevations on abutters' building and their locations.

Mr. Sievert said he does not typically put dimensions on buildings, but he will add parking space dimensions. Attorney Brunelle stressed the importance of the size of the building to the whole easement area and said it needs to be clear. Mr. Kelley also expressed concerns about the dimensions of the perimeter of the building, or where the face is relative to the existing building and said it will be critical to set the building in the right place. Mr. Pucillo said that is what they have been trying to do and the building fits. Mr. Kelley asked the timetable for the project.

Mr. Pucillo said his understanding is one more potential meeting with the Planning Board in 2 weeks and hope all is resolved by then. He said issues with abutters are still being worked on but do not impact the Board's decision-making. Mr. Kelley said if approving a site plan showing work on an adjacent parcel, assurances would be needed from the abutter granting you construction easements with appropriate concurrences by landowner. Mr. Sievert said the sewer will not extend onto the Bank's property, and the landowners did not engage with me to encroach on their property, so I eliminated them from the plan.

Chair Rasmussen said there are so many things with these plans that were supposed to be fixed and have not been, and he would like to see a fixed set of plans before talk of a final date. Mr. Sievert said the applicant needs a final decision by neighbors in order to finalize plans and 2 weeks is not enough. Mr. Pucillo said he has real issues with the current proposal from neighbors that needs to be worked out, and said all changes asked for so far have been made. Chair Rasmussen asked that they tighten up dimensions and make the plans easier to read.

Mr. Sievert said a huge step was made coming up with a design very close to DPW acceptance, and he would clean up the plans; a surveyor will need to determine the easements. He said he is working on preparing construction management plans, but if he does not get more agreement he will move forward with this plan and drainage as it is on applicant's site. Mr. Kelley asked if adjacent landowners have an easement for sewer to be there if agreement cannot be reached, and Mr. Sievert said they do.

Mr. Pucillo said the issue with the existing easement is that it was ill-defined, so everything was relocated: pathways created in and out of property, brought water lines through the easement area, all agreed to or worked through with abutters. Attorney Brunelle said the building is not on applicant's property but in the easement so they cannot have the current plan.

Mr. Behrendt said as far as the Board is concerned the applicant has one or two approaches: (1) present a plan with no changes on Gangwer property from existing conditions and show only activity on their property and present for final action; the easement area is not the Town's issue, can have issues with applicant afterwards, or (2) present a plan that has activity on Gangwer property with written approval from Gangwers.

Chair Rasmussen said the outer dimensions of the building have changed with the stairway turned, and updated arch renderings are needed as well. He said the applicant has made advances, but the advances and the site plan are still out of sync. Mr. Sievert asked the next

meeting date to be set for 2 weeks unless extended. Mr. Behrendt said July 13 will be a busy agenda.

Chair Rasmussen continued the Public Hearing for 74 Main Street to July 13, 2022 at 6:00 pm.

- X. **19-21 Main Street – Parking Lot.** Formal site plan and conditional use application for parking lot as principal use on four lots and reconfiguration of the entrance. Toomerfs, LLC c/o Pete Murphy and Tim Murphy, owners. Mike Sievert, engineer. Robbi Woodburn, Landscape Architect. Map 108, Lots 13, 12, 11, and 10. Church Hill District. ***The Public Hearing is adjourned until July 27. The Planning Board is beginning its final deliberations.***

Chair Rasmussen passed the gavel to Vice-Chair Grant and recused himself from this project.

Vice-Chair Grant seated Nicholas Germain for Paul Rasmussen and said the Board will be focusing on deliberations for CU application review first.

Review of Conditional Use (CU) Criteria

Item 1. Site Suitability: a. Adequate pedestrian and vehicular access; b. adequate public services; c. absence of environmental constraints, flood plain, steep slopes, etc.

Councilor Tobias said a Traffic Study was done assuming users as students for long-term parking. Mr. Parnell said he thought there was adequate access for intended use and Mr. Bubar said improving the entrance makes it easier to access public services. Mr. Kelley said there was a lot of discussion about steep slopes, and it needs to be addressed. Vice-Chair Grant said the impact of steep slopes can be substantially mitigated in terms of engineering and design. Mr. Kelley said applicant's plan to mitigate is to raise the grade, which brings in subsequent impacts that need to be addressed. Mr. Bubar said this is CU and there are approved uses in this zone. Mr. Hotchkiss said it seems other uses would use less fill (terraced).

Mx. Friedrichs said his concern is with the riparian buffer, and exact numbers for distance to the impacted area from College Brook are needed to know whether the distance would be adequate for this site. Mr. Kelley said there is a buffer being provided, much greater than what surrounds it, and did not feel it was a concern due to its distance from neighboring properties. The Board agreed there was adequate availability of utilities to serve intended use.

Item 2. External Impacts: External impacts of proposed use on abutting properties no greater than adjacent or existing uses; scale shall not affect surrounding environment.

Mr. Hotchkiss said with regard to appropriate and orderly development of use of land, order implies logic, and he does not see any logic to this parking lot. He asked why take a piece of property where the Master Plan calls for a pedestrian-oriented downtown and use it to put cars in long-term storage, steep slopes or not. Mx. Friedrichs said dedicating that large a parcel to a

parking lot impacts the Town's ability to develop downtown fully. Mr. Bubar said this is not really developing the commercial area.

Councilor Tobias said there is a need to develop our downtown and more mixed-use residential will need parking. Mx. Friedrichs said it is at odds with our Master Plan and being a more pedestrian-oriented center and Board would need evidence of lack of parking to determine whether that is the most valuable use in a limited district. Mr. Parnell said this is private property, and though we may disagree with whether a parking lot is a good decision or not, we are now determining whether it passes CU. Mr. Hotchkiss said he would be more sympathetic if parking were clearly related to some other activity.

Vice-Chair Grant said what worries her is what could be put there instead of a parking lot might be worse for abutters. Councilor Tobias said the Board has to take into consideration the impact is no greater than existing uses. Mr. Hotchkiss said he was not sure it was the Town's job to fix the problem for students with no parking. Vice-Chair Grant said overnight parking is not available for an adult looking for an apartment. Mr. Kelley said he was impressed by the lengths the applicant went to minimize any external impacts compared to other applications.

Mr. Bubar said regarding the appropriateness of size, elevation, and design, this is an engineered pile of dirt, and he is still struggling with this being called Surface Parking. Mr. Parnell agreed. Mr. Bubar said also adding a retaining wall causes a real concern and he does not agree with comments on steep slopes, and he has yet to see an accurate representation; it looks to be coming close to level with Faculty Road. He said he does agree with Mr. Kelley that the applicant has done a lot of work.

Vice-Chair Grant said it is now 9:30 pm and asked the Board how much longer they wished to go. Mr. Kelley said he would stay until 10:00 pm but they would not finish tonight. Mr. Behrendt said the Board can continue discussion to July 13, make a decision, and he will give the Board a draft notice on July 27, 2022.

Item 3. Character of Site Development: Proposed layout and design not incompatible with established character of neighborhood; mitigate any impacts.

Mr. Behrendt said under Item 3 it is worth discussing the buffering the applicant provides for adjacent properties. Vice-Chair Grant said they have shrunk the footprint to allow for a larger buffer. Mr. Parnell said he had no issues with this particular criterion. Vice-Chair Grant said one abutter is in favor of this project and has appeared before the Board many times.

Mx. Friedrichs said ze struggles with the nature of this neighborhood and said ze calculated the square footage of different uses and found this development footprint to be 10 times greater than the median footprint for development in the zone. Mr. Kelley said this was a large parcel to begin with, and if the Town wants to keep Church Hill Woods the way it is they will have to purchase it; the owner has the right to develop as he sees fit as long as in compliance with Zoning

Regulations. Councilor Tobias said the parking lot is a much lower impact than what could be put there.

Item 4. Character of Buildings & Structures: Not incompatible with established character of neighborhood (scale, height, massing, etc).

Mr. Parnell said he has no problems with first 3 criteria but does with this criterion regarding scale in particular. He said the aerial photo shows this as essentially all of the Church Hill District, and it stands out that this is a very, very large parking lot. He said it is too big horizontally and too big vertically, and that is his issue. Mr. Hotchkiss said there were plenty of public comments about the scale.

Item 5. Preservation of Resources: To preserve the natural, cultural, historic, and scenic resources of the site; preserve and not degrade floodplains, wetlands, mature tree lines, scenic views, and viewsheds.

Mr. Bubar said the Site Plan Regulations clearly call out that extensive grading and filling shall be avoided, and 15,000 cu yds is a lot of fill in less than an acre of land. Vice-Chair Grant said it seems big to the Board but not as related to other projects or construction. Mr. Kelley asked Mr. Bubar how he sees that fit into Item 5; Mr. Bubar said preservation of natural, cultural, historic resources and Site Plan Regulations Section 8.1 with purpose to protect, preserve, enhance Durham's rich and varied natural resources. Mr. Friedrichs said his concern about the riparian buffer for College Brook ties in again here.

Councilor Tobias said the Board needs to be careful here as this is directed at "identified" natural resources. Mr. Kelley said he agrees with historic and cultural but asked about natural and scenic resources, and Councilor Tobias said this district is zoned for business. The Board continued to discuss preservation of resources; Mr. Bubar said our job is to support the regulations to the best of our ability. Vice-Chair Grant said the Board can waive requirements based on existing topography, geographical features, etc.

Chair Rasmussen returned to the table at 9:51 pm.

XI. Other Business

XII. Review of Minutes (new): April 13, 2022, May 25, 2022, June 8, 2022 Site Walk Meeting Minutes of April 13, 2022

Mr. Kelley MOVED to approve the minutes of April 13, 2022 as amended; SECONDED by Mr. Bubar; APPROVED by a vote of 6-0, with 1 abstention, Motion carries.

Meeting Minutes of May 25, 2022

Mr. Bubar corrected the spelling of the Town Planner's name.

Mr. Bubar MOVED to approve the minutes of May 25, 2022 as amended; SECONDED by Mr. Bubar; APPROVED by a vote of 6-0, with 1 abstention, Motion carries.

Site Walk Minutes of June 8, 2022

Mr. Kelley corrected the spelling of his name.

Chair Rasmussen MOVED to approve the minutes of the June 8, 2022 Site Walk as amended; SECONDED by Vice-Chair Grant; APPROVED by a vote of 6-0, with 1 abstention, Motion carries.

Chair Rasmussen said on July 11, 2022 he will be in front of the Town Council for an annual review and asked that any questions, statements, or comments to be passed on to the Town Council by Board members be forwarded to him.

XIII. Adjournment

Mr. McGowan MOVED to adjourn the meeting; SECONDED by Councilor Tobias; APPROVED 7-0, Motion carries.

Chair Rasmussen adjourned the meeting at 9:58 pm.

Respectfully submitted,

Patricia Denmark, Minute Taker
Durham Planning Board

James Bubar, Secretary