

These minutes were approved at the March 8, 2023 meeting.

**TOWN OF DURHAM
DURHAM PLANNING BOARD**

**Wednesday, February 22, 2023
Town Council Chambers, Durham Town Hall
7:00 pm**

MEMBERS PRESENT: Paul Rasmussen (Chair), Heather Grant (Vice Chair), James Bubar, William McGowan, Sally Tobias (Council Rep), Peyton McManus (Alternate), Barbara Dill (Alternate); Richard Kelley (arrived at 7:01 pm); Emily Friedrichs (arriving late)

EXCUSED: Chuck Hotchkiss (Alternate Council Rep)

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 seated Barbara Dill for Emily Friedrichs.

III. Approval of Agenda

Mr. McGowan MOVED to approve the Agenda as presented; SECONDED by Mr. Bubar; APPROVED 7-0, Motion carries.

IV. Town Planner's Report

Michael Behrendt said the Town was accepted for the \$25,000 Housing Grant and will need to get moving on that.

V. Reports from Board Members who serve on Other Committees

Reporting from Town Council: Councilor Tobias said the Council met Monday and approved the amended version of the Durham Community Power Electric Aggregation on unanimous consent; received yearly financial report from Gail Jablonski (came in under Budget), used reserves last year to pay some Tax Abatements with Eversource; approved and adopted Veterans Tax Credit.

Reporting from IWMAC: Ms. Dill said IWMAC met and discussed plans for Earth Day (Saturday, April 22) at 66 Main Street based heavily on sustainability.

VI. Public Comments

No Public comments.

VII. Review of Minutes (old): January 11, 2023

Approval of the Minutes of January 11, 2023

Vice-Chair Grant said these minutes were held over from the last meeting so Emily could re-review; Mr. Behrendt said comments Mx. Friedrichs sent in are fine.

Chair Rasmussen MOVED to accept the Meeting Minutes of January 11, 2023 with corrections; SECONDED by Vice-chair Grant; APPROVED 7-0, Motion carries.

VIII. Recognition of Nick Germain. Mr. Germain is a former Planning Board member.

Chair Rasmussen presented a certificate to Nick Germain thanking him for all the time he spent learning with the Planning Board. Mr. Germain said it was his pleasure, apologized for his appointment being cut short, and said he would be back some day.

IX. Review of Definitions in Zoning Ordinance. Continuing review of the Zoning Ordinance section by section as part of the zoning rewrite. Recommended action: Discuss and continue the review.

Ms. Dill asked about the process and Chair Rasmussen said the Definitions were sent out and everyone commented back with changes and the Board is now going through and talking about the things identified. He said the Board has already gone through A and B and are now continuing the conversation at C. Mr. Behrendt asked that any grammatical corrections be sent to him.

Mr. Bubar asked when the Board would see what was agreed on; Mr. Behrendt said he was keeping track but suggested not spending a lot of time on that. Vice-Chair Grant said the reprint has to cover all comments added since the beginning, including those from Robin Mower. Mr. Behrendt said he would incorporate the rest of Ms. Mower's comments in the next draft. The Board agreed to not bring a revised version of changes to each meeting, but Mr. Behrendt would provide one if requested.

Emily Friedrichs arrived at the Planning Board Meeting at 7:15 pm.

The Board started with *Campground* and discussed the use as commercial or non-profit versus private property. Mx. Friedrichs said any public land would not be affected by this ordinance. Mr. Kelley said it was not listed in Table of Uses and Chair Rasmussen said because they are disallowed everywhere; just trying to correct the definition to differentiate between commercial and private property. Board agreed to: *Any commercial use of land designed to accommodate camping sites.*

Canopy: Chair Rasmussen said Mr. Behrendt put together a new definition for Canopy and eliminated Awning and Marquee. Mr. Kelley said he did not support removal of the three different items; Mx. Friedrichs suggested adding "similar to an awning or marquee" in the definition.

Caretaker Apartment: Chair Rasmussen asked why it was needed and why non-residential use was specified. Mr. Behrendt said as an accessory use for commercial or multi-family, and the last sentence could be deleted. Chair Rasmussen suggested “accessory to a commercial use” and change “of the entity occupying the principal use” to *by a representative of the owner*. Mr. Bubar suggested removing “responsible for maintaining the property” and just saying *an individual maintaining the property*; Ms. Dill preferred “person” to *individual*.

Mr. Kelley said in the Table of Uses it reads: “caretaker apartment within a non-residential use”. Mr. Behrendt said change to Caretaker Apartment, fix the table, and move it to *Uses Accessory to Any Allowed Use*. Chair Rasmussen said in typical residential use it would be an ADU and allowed under ADU rules. The Board agreed to delete *Category of Use*.

Child Care Center: Vice-Chair Grant said childcare centers are in multiple places and only two should be needed. Mr. Behrendt said a lot comes from the State and said Councilor Hotchkiss pointed out removing non-residential and suggested “a facility for the daytime care of”. Chair Rasmussen said from a land use perspective these definitions are for professional licensing and not meant for land uses; just call it Day Care and merge everything together.

Councilor Tobias said there is a difference between Day Care Centers and home-operated day care. Mr. Behrendt said in Article 20, Standards for Specific Uses there is Child Care Center and Child Care Home with specific provisions. A Child Care Center has an outdoor play area and a drop off; Child Care Home is in a home with up to X number of people; makes sense to have two separate definitions; could be Day Care Center and Child Care Home.

Ms. Dill said there is also the issue of how many children you have in the care of one adult; Chair Rasmussen said it was six but that is from the State. Mr. McManus said in the Table of Uses it is permitted across everything for not more than six and more than six, so 2 different things. Chair Rasmussen said both are allowed anywhere in the Table of Uses but in the Zoning Ordinance there are 2 sets of requirements. Mr. Behrendt said 2 categories: Day Care Center and Day Care Home; Chair Rasmussen asked that this be pulled back in when the State definitions are provided by Mr. Behrendt.

Club: Mr. Behrendt said this is included under Institutional Uses; Chair Rasmussen said an organization like the Elks. Councilor Tobias asked if the last sentence was needed, and said Elks do have a liquor license and there have been private clubs. Mr. Behrendt pointed out this says, “not for profit”.

Co-Housing: Councilor Tobias said this sounds like a condominium complex to me. Mr. Kelley said if Co-Housing only shows up in the definitions does the Board need to word-smith it. Mr. Behrendt said he did not think so but it could be useful as a reference. After further discussion, the Board agreed to delete Co-Housing as a definition.

Common Open Space: Mx. Friedrichs said zir definition is substantially different. Chair Rasmussen said common open space only exists when it is more than 3 lots; a subdivision with less than 3 lots does not have common open space; also that definition is not the definition of common open space but of the conserved land in a conservation subdivision. After further discussion the Board agreed to delete the definition for Common Open Space which is defined in detail under *Conservation Subdivision*.

Community Center: Mr. Kelley said under Table of Uses it is listed under Institutional Uses right after club. Mr. Behrendt said it is usually accessory to a residential development. Vice-chair Grant said the definition was fine and says what it needs to say.

Conditional Use: Mr. Bubar said this is well-defined in the Ordinance. Councilor Tobias said she agreed that this is an over-simplification of the definition and that the Conditional Use Criteria should be referred to. Mr. Behrendt suggested referencing Article VII. Mx. Friedrichs suggested: "a use which is not normally compatible with the permitted uses in the area, but which under certain circumstances may be managed to ensure that said use will not cause undue adverse impact to the surrounding area." Mr. Behrendt said either definition would work fine. The Board agreed to reference Article VII which gives the whole process of the criteria, and agreed to delete *Conditional Use Permit*.

Condominium: Vice-Chair Grant said there is something different in New Hampshire in describing condominiums and the State has some kind of Homeowners Association (HOA) document. Mr. Behrendt said there could be a residential subdivision with an HOA that is not condos. Chair Rasmussen said anything with co-ownership legally in New Hampshire are condominiums. Corrections were made to the wording in blue: and/or was changed to *and*; "undivided" deleted.

Conference Center: The Board discussed whether the definition was needed but it was included in the Table of Uses. Mr. Kelley asked where it was allowed and Mr. Behrendt said in commercial zones. The Board discussed the wording and agreed to end the definition after "seminars"; Chair Rasmussen suggested: "a facility used for conferences and seminars that does not include overnight accommodations."

Conservation Activities: The Board agreed with Ms. Mower's recommendation to let the Conservation Commission address this definition.

Conservation Subdivision: The Board discussed ending the definition after "Section 175-107"; Chair Rasmussen said the trigger is more than 3 lots and it is really just a sub-category of a subdivision. Mr. Kelley said that is the way land is subdivided in Durham. Mr. Behrendt said it is the substantial open space that separates them. The Board agreed to delete "substantial" from the rest of the definition.

Contiguous: The Board agreed to remove "adjoining". *Contributing Structure:* No changes were made to the wording. *Convenience Store with Gasoline Sales:* Chair Rasmussen said the Board

already had this conversation and are now saying *Gas Station*. Mr. Behrendt said it is listed in the Table of Uses. Chair Rasmussen said a convenience store is just a store and does not need to be called out; the Board agreed to delete this definition.

Corner Clearance: Mr. Kelley said this definition could be outdated and should be looked at by the Town Engineer. Mr. Behrendt said he would check to make sure it was still relevant. Chair Rasmussen said it is for the engineer doing the sitework and should probably be elsewhere.

Craft Shop with Accessory Production: Mr. Behrendt said the Board talked about craft shop, gallery, and museum. He said he and Councilor Hotchkiss suggested to keep Museum, get rid of Gallery, roll it into Craft Shop, and redefine Art Center. Chair Rasmussen recommended looking at it in the final copy.

The Board agreed to eliminate *Curb Level* and *Curb Line* from the definitions.

Conventional Subdivision: Mx. Friedrichs asked if removing the word “residential” also covered commercial and industrial subdivisions. Mr. Behrendt said it would be residential but that is not included under definition of Conservation Subdivision, and said they would be treated the same.

XI. Other Business

XII. Review of Minutes (new):

XIII. Adjournment

Mr. McGowan MOVED to adjourn the Planning Board Meeting; SECONDED by Mr. Bubar; APPROVED 4-3, Motion carries.

Chair Rasmussen adjourned the meeting at 9:00 pm.

Respectfully submitted,

Patricia Denmark, Minute Taker
Durham Planning Board