

*These minutes were approved at the May 10, 2023 meeting.*

**TOWN OF DURHAM  
DURHAM PLANNING BOARD**

**Wednesday, April 12, 2023  
Town Council Chambers, Durham Town Hall  
7:00 pm**

**MEMBERS PRESENT:** Paul Rasmussen (Chair), Heather Grant (Vice Chair), Sally Tobias, Barbara Dill (Alternate) Chuck Hotchkiss (Alternate Council Rep), Emily Friedrichs (Council Rep); William McGowan (arrived late)

**EXCUSED:** James Bubar, Richard Kelley, Peyton McManus (Alternate)

**ALSO PRESENT:** Town Planner Michael Behrendt

**I. Call to Order**

Chair Paul Rasmussen called the meeting to order at 7:01 pm.

**II. Roll Call and Seating of Alternates**

Chair Rasmussen seated Barbara Dill for Peyton McManus.

**III. Approval of Agenda**

***Vice-Chair Grant MOVED to approve the Agenda as presented; SECONDED by Ms. Tobias; APPROVED 5-0, Motion carries.***

**IV. Town Planner's Report**

Mr. Behrendt said the next meeting on April 26 will include small CU projects; May 10 is annual meeting to elect officers and member appointments to boards; May 24 annual workshop meeting to discuss general planning issues, with guest Bart McDonough, Town Planner for Newmarket.

**V. Reports from Board Members who serve on Other Committees**

Reporting from Town Council: Councilor Friedrichs said the first meeting was held Monday, appointed members to various committees; ze will serve as Council Rep to Planning Board with Chuck Hotchkiss as Alternate; began to look at Town Council goals.

Reporting from Housing Task Force (HTF): Vice-Chair Grant said HTF met and reviewed proposal for candidate to do Phase I Data Collection for housing analysis in Durham.

Reporting from IWMAC: Ms. Dill said she was unable to attend the IWMAC meeting, but they continued working on Earth Day April 22, 2023.

Reporting from Energy Committee: Councilor Friedrichs said the committee met last week and discussed plans for Earth Day; April 22 from 10 am – 2 pm at 66 Main Street with April 29<sup>th</sup> rain date.

Recent Town Council Meeting: Councilor Hotchkiss added that the Council had a presentation from Brian Goetz, Deputy Director of Portsmouth Public Works, re construction access planned for Wagon Hill.

## **VI. Public Comments**

No Public Comments.

## **VII. Review of Minutes (old):**

**VIII. 74 Main Street – Amendment.** Amendment to approved site plan and conditional use for construction of a 4-story mixed-use building with office, retail/restaurant, and residential units. Changes to building footprint, upper floor plans, drainage plan, and minor site changes. Doug Clark and Jerry Pucillo of Foundation for Civic Leadership/Democracy House, applicants. Mike Sievert, Horizons Engineering. Jason Cohen and Tim Digan, Bergmeyer Architects. Map 106, Lot 59. Central Business Zone. Recommended action: Discuss amendment and set public hearing.

Mike Sievert of Horizons Engineering presented an Amended Site Plan and CU permit application for 74 Main Street. Changes include northeasterly corner filled in, removed 982 sq ft drive underneath, also in basement; 6-ft cantilever removed through all upper floors (691 sq ft), storage will be underground. The parking system is now flat, re-laid drainage pipes in slightly deeper system and revised drainage report.

Mr. Sievert said he met with DPW and went through a TRG meeting. From this plan forward nothing has changed, only footprint and building changes; utilities are in the same location, offsite improvements made and changes in construction staging.

Councilor Friedrichs asked for a 3-D visualization and the new building total height of the building. Mr. Behrendt said maximum for CU is 50 ft and the elevation has not changed (54.6 ft); maximum height is to the eaves for a flat roof. Vice-Chair Grant said the overhang area gave some difference to the façade which is now more of a mass. Mr. Sievert said the stair tower will be about 50% jogged out by 6 or 7 ft; Mr. Pucillo said changes were made as abutters indicated they were not in favor of the overhang and it was moved back to easement line.

Councilor Friedrichs said the view approaching on Pettee Brook was visually more pleasing with the windows on the other side; Mr. Pucillo said the windows are at landing on each floor and Chair Rasmussen said the windows would then not be moved straight over and would be offset by half a floor. The Board agreed to wait for the color rendering. Ms. Tobias said removal of the overhang is not affecting what the Board already approved.

Mr. McGowan arrived at the meeting at approximately 7:20 pm.

Chair Rasmussen asked about the truck turn-around; Mr. Sievert said a 30-ft single-unit truck can make the turn by going up over the curbing; changed at TRG meeting to low-profile sloped granite curb. Chair Rasmussen said they would probably not pull in at all and provider would haul out to street. Councilor Friedrichs asked about bike parking and Mr. Sievert said bikes can be stored in a large room in the basement and more detail would be provided at the next meeting.

Mr. Behrendt asked for an explanation of how problems with either water or sewer on the Gangwer property would be taken care of. Mr. Sievert said water has a sleeve that goes underneath from the property line to the water main out in the street, would have to dig down to main and pull a new pipe through the sleeve; also have a sleeve for the sewer line which crossed the adjacent property; sewer and water are 5-6 ft deep; all electrical for this project is underground.

Chair Rasmussen scheduled the 74 Main Street Public Hearing for April 26, 2023.

**IX. *Public Hearing - Climate Action Master Plan.*** Review of a draft climate adaptation plan. This plan was prepared by Strafford Regional Planning Commission. Presentation by Jen Czysz, Autumn Scott, and Kyle Pimental, SRPC. The draft may be approved as a master plan chapter or an administrative plan. *Recommended action:* Continue or close public hearing. Discuss proposed plan.

***Vice-Chair Grant MOVED that the Planning Board open the Public Hearing for Climate Action Master Plan; SECONDED by Ms. Tobias; APPROVED 6-0, Motion carries.***

Chair Rasmussen said there was a written submission by Robin Mower and minor comments from the AG Commission. He said Robin's comments reinforce his thinking that this makes a much better Administrative Plan than a Master Plan Chapter as not everything is under the purview of the Planning Board.

Councilor Friedrichs said ze thinks of the Master Plan (MP) as inspirational and setting a vision for the community. Ms. Dill said her support for having it as its own chapter in the Master Plan is that it puts it out there as something to aspire to and refer back to. Councilor Friedrichs agreed and said it is also more front and center to the public whereas an administrative document might be buried.

Chair Rasmussen said in RSA 674:2 paragraph 1 he is getting hung up about future jurisdiction under the Planning Board; he read the paragraph in full. Ms. Dill said climate change does not start or end at town borders and said she liked that this was regional. Vice-Chair Grant said roads, infrastructure, etc. are not in Planning Board jurisdiction. Mr. Behrendt said in New Hampshire it is the Planning Board that adopts the Master Plan.

Councilor Friedrichs asked that the professional planners explain why they used the language they did. Autumn Scott of Strafford Regional Planning Commission (SRPC) said most of the goals and recommendations came from outreach and participation; professional planners who worked on the plan interpreted desires from the residents into actions.

SRPC Executive Director Jen Czysz said typically in the Master Plan process there are elements that do take the whole community to implement but it is the Planning Board that espouses these policies for a community that will have some nexus with land use and development. She said there are interrelationships of so much that falls under Planning Board purview. Vice-Chair Grant said the parts that are the Planning Board's responsibility should be somehow separated.

Ms. Tobias said much of our MP is aspirational and not even necessarily possible or probable, involves individual community involvement and businesses, and is a goal we are reaching for. She said there could be aspects of a development that are helping or hindering any challenges in the future related to climate change, and people need to have access to that.

Chair Rasmussen said Todd Selig said if the PB declines to make it a chapter he will adopt it as an administrative plan, though he prefers it to be a chapter. Ms. Dill asked about a graphic that appears in the document 3 times but is unreadable. She also felt the vision statement should start with "The Town of Durham is deeply committed to addressing climate change" to make a stronger statement.

Ms. Scott said the vision was developed by the public at forums and can be addressed by the Board if you approve this as a Master Plan Chapter. Mr. Behrendt asked that grammar corrections and comments be sent to him.

Chair Rasmussen said the Board can either spend all their time editing then take a vote up or down, or first decide *if* it will be going into the Master Plan then put the effort into editing. The Board agreed to first decide whether or not Climate Change would be a chapter in the MP. Ms. Scott said additional comments from Teresa Walker were already added in and the latest draft which was sent to Mr. Behrendt.

Chair Rasmussen asked for a show of hands wanting this to be part of the Master Plan; 4 members raised their hands, enough to carry the vote. He recommended just editing recommendations and goals and not background information. Ms. Dill said there is one place where it seems there is some missing text. Chair Rasmussen asked about doing the editing as Part 2 of the workshop May 24, and the Board agreed.

Mr. Behrendt said the Board could keep the Public Hearing open for more public comments. Ms. Czysz said the editorial items could be emailed to her or Autumn Scott to make corrections. Chair Rasmussen said the Public Hearing would be kept open until the May 24<sup>th</sup> Workshop meeting.

- X. Amendments to WCOD and SPOD.** Amendments to the Wetland Conservation and Shoreland Protection Overlay Districts proposed by the Conservation Commission. Recommended action: Schedule public hearing when appropriate.

Chair Rasmussen said these amendments were proposed by the Conservation Commission and a Sub-Committee was set up to work on updating WCOD and SPOD zoning. He said he and Emily worked on that Sub-Committee and there were two phases to the effort: (1) develop a new set of the 4 criteria for CU to better meet Conservation Commission needs; (2) do a comprehensive rewrite of all Conservation Commission Overlay Districts, potentially merging SPOD and WCOD.

Mr. Behrendt felt the result was quite good and said it was approved unanimously by the Conservation Commission. He said currently with CU you have the 4 criteria as well as the 8 general CU criteria, one of which deals with natural resources. He said impacting a very high value wetland and having adverse detrimental impacts could result in unacceptable impact to the area and may need more analysis to be provided, which needs to be in the language. He said it is likely in future the 8 CU general criteria will be taken out of SPOD and WCOD.

Councilor Friedrichs said the applicant is not expected to address this criterion unless the Town requests a third-party review and suggested adding a sentence at the end of #4. Chair Rasmussen said it would be dependent on the scope of the project and the wetland being affected. Chair Rasmussen said the Conservation Commission can make a recommendation but cannot force an action, and it is the Planning Board who must make the decision. Mr. Behrendt suggested saying the burden is not on the applicant to demonstrate this provision is met. The Board agreed this needs to be clear and discussed possible language.

Vice-Chair Grant said it can be put into force as a fairly clear paragraph. Councilor Friedrichs said the Board needed to look at whether the adverse impacts were substantial. Mr. Behrendt said the advantage of coming up with some language tonight is that the public can comment on it; he said the key is to add a second sentence that describes the intent. He said the subcommittee wrestled with “fair” or *reasonable*, and “workable” or *practical*. Ms. Tobias said *practicable* is a term people understand and “fair” should be *reasonable*.

After discussion the Board agreed on *workable*, and under (c) *reasonable to expect the applicant to utilize*. Councilor Hotchkiss suggested: “when in the opinion of the Planning Board this criterion is not met, the applicant may be required to provide supporting documentation; Planning Board is the arbitrator taking in Conservation Commission recommendations.

Chair Rasmussen scheduled the Public Hearing for Amendments to WCOD and SPOD for April 26, 2023.

- XI. Review of Definitions in Zoning Ordinance.** Continuing review of the Zoning Ordinance section by section as part of the zoning rewrite. Recommended action: Ongoing review.

Chair Rasmussen continued the review of definitions in the Zoning Ordinance

*Lot Coverage* – no comments.

Mr. McGowan left the Planning Board meeting at 8:54 pm.

*Lot Frontage* – Board discussed use of word “squiggly” and changed to “highly irregular”. Ms. Dill asked the meaning of “one or more chords”; Chair Rasmussen said it is geometry and is a line segment joining 2 points on any curve changing curves to straight lines. The Board discussed “coterminous” and the sentence was rewritten to: “the line where the lot is shared with the street right-of-way”; “along the junction” was deleted as well as “unusually” in third sentence.

*Lot Line* – Councilor Hotchkiss suggested swapping nos. 2 and 3 to put Lot Line after Side Lot Line

*Lowest Floor* – Chair Rasmussen said the first part is the lowest area not a garage or storage area; Ms. Dill said it goes on to say that it is *not* the lowest floor. Chair Rasmussen said the lowest floor is the lowest floor in which there is habitable space. Councilor Friedrichs said the lowest floor is used in Certification Records, in terms of floods. Mr. Behrendt said lowest floor is defined under flood hazard, and the Board agreed to delete the definition here.

## **XII. Other Business**

Davis Court Application: The Board discussed in depth whether adding 7 spaces to Davis Court should be Minor Site or come to the Board for review. Vice-Chair Grant said the back area is pretty much dedicated to parking and the front area is green lawn. Concerns were raised about stormwater and the Board decided to have the application come to the Board for review.

## **XIII. Review of Minutes (new):**

### Approval of the Meeting Minutes of March 8, 2023

Corrections were sent to Karen by Councilor Friedrichs, Ms. Dill, and Councilor Hotchkiss. Vice-Chair Grant raised an issue on page 4, paragraph 20 but no changes made.

**Tom DeCapo** presented himself as a possible candidate to be an Alternate Member of the Planning Board. He said he just moved his principal residence to Durham and was recently retired as a partner at a large international law firm out of Boston for the past 30 years.

Chair Rasmussen said he would be meeting with Tom after adjournment.

***Councilor Friedrichs MOVED that the Planning Board approve the minutes of March 8, 2023 as amended; SECONDED by Ms. Dill; APPROVED 5-0, Motion carries.***

## **XIV. Adjournment**

***Vice-Chair Grant MOVED to adjourn the Planning Board Meeting; SECONDED by Ms. Tobias; APPROVED 5-0, Motion carries.***

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Chair Rasmussen adjourned the meeting at 9:29 pm.

Respectfully submitted,

Patricia Denmark, Minute Taker

Durham Planning Board