

These minutes were approved at the June 14, 2023 meeting.

**TOWN OF DURHAM
DURHAM PLANNING BOARD**

Wednesday, May 10, 2023

Town Council Chambers, Durham Town Hall

7:00 pm

MEMBERS PRESENT: Paul Rasmussen (Chair), Heather Grant (Vice Chair), Sally Tobias, Peyton McManus, Emily Friedrichs (Council Rep), William McGowan, Tom DeCapo (Alternate), Chuck Hotchkiss (Alternate Council Rep); Richard Kelley (arrived late)

ALSO PRESENT: Town Planner Michael Behrendt

I. Call to Order

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

II. Roll Call and Seating of Alternates

Acting Chair Rasmussen seated Tom DeCapo for Richard Kelley until he arrives.

III. Approval of Agenda

Ms. Tobias asked that agenda item *XI. Other Business* be moved before *X. Review of Definitions in Zoning Ordinance*.

Chair Rasmussen MOVED to approve the Agenda as modified; SECONDED by Mx. Friedrichs; APPROVED 7-0, Motion carries.

IV. Town Planner's Report

Mr. Behrendt said there is a Workshop Meeting in 2 weeks and Board does not review applications at workshops; once/year at second meeting in May; no new applications for June; believe Tideline Public House got a temporary certificate of occupancy and hopes to open in next few weeks with a few outstanding conditions still to be met.

Project Updates: Met onsite with Jerry Pucillo at 74 Main Street; Gerrish Drive appeal postponed 2 weeks; Mill Plaza to go to NH Supreme Court with attorney commentaries due in July; 19 Main Street Parking Lot waiting on Judge's decision.

V. Reports from Board Members who serve on Other Committees

Reporting from Housing Task Force: Vice-Chair Grant said HTF met Monday and had Architect Ken Weston from UNH Campus speak on West Edge Project, challenged with timeframe getting concept approved; structured parking is in the plans; also talked about public outreach.

Reporting from Town Council: Councilor Friedrichs said there was a presentation from UNH on West Edge with financing still being worked out and transportation a big issue; presentation from Durham

and UNH Police Departments re Emergency Planning; worked on Council Goals; approved new appointees.

Energy Committee: Councilor Friedrichs said they are gearing up for Durham Day; looked at plan to achieve Durham's Carbon Emission Reduction Goals as well as funding; reviewed RSA 79-E re barriers to electrification weatherization. Mr. McManus asked about the West Edge Project and Councilor Friedrichs said they are interested in an innovative lab space on campus for experimentation working with UNH faculty and students; also need grad student and entry-level faculty housing.

Ms. Tobias said they have been working on this since 2018 to create more business/mixed-use in an underused area with undervalued buildings; benefit to Town as University land with a land lease to tech companies.

Mr. Behrendt said Planning Board Administrative Assistant Andrea Novotney would be leaving in a few weeks to return to her old job in Epsom.

VI. Public Comments – None

VII. Review of Minutes (old):

Mr. Kelley arrived at the Planning Board meeting at 7:18 pm.

VIII. Public Hearing - Longmarsh Road – Conditional Use. Conditional use to install driveway, drainage structures, and utilities in Wetland Conservation Overlay District. Vacant lot on northerly side of road near Newmarket Road. Map 118, Lot 3. Ted Mulligan, SEJ Properties Inc, property owner. Steve Riker, wetland scientist, Ambit Engineering. Residence B District. Recommended action: Final action.

Councilor Friedrichs said the driveway curves around to get as far away from WCOD as possible but that is also an impact area for DES related to curb cuts. Mr. Riker said they did not consider distance of curb cuts there and placed the driveway in area of least impact using least square footage of wetland to get to upland area; some relates to placement of the house and garage as well as the slope.

Mr. Kelley asked the load rating for the grate over the culvert; Mr. Riker said he is not the engineer on the project. Chair Rasmussen said on Sheet C-3, Note 4 refers to a design load of H20 loading; Mr. Kelley said that is very acceptable loading. Councilor Friedrichs asked for an explanation of how the culvert operates. Mr. Riker said it is commonly referred to as an open-bottom box with native soil on bottom to facilitate organism movement; drainage analysis done specifically to size the culvert; NH Fish & Game are supporting this structure. Mr. Kelley asked if

DES said anything about the D50 6-in riprap lining the surface; Mr. Riker said they would be using a rounded river rock instead.

WCOD CU Criteria:

- (1) No alternative location on parcel outside WCOD. Chair Rasmussen said the wetland runs right along the road.
- (2) Amount of soil disturbance minimum necessary for construction and operation of facilities. Chair Rasmussen said there was no other way in.
- (3) Location, design, construction, and maintenance of facilities will minimize any detrimental impact. Board agreed.
- (4) Restoration activities will leave site as near as possible to condition and grade at time of application. Vice-Chair Grant said it is mitigating as nearly as possible.

Basic CU Criteria:

- (1) Site Suitability: Chair Rasmussen said it is a Residence B lot for a single-family house; Vice-Chair Grant agreed it was suitable.
- (2) External Impacts on abutting properties: Chair Rasmussen said it is a single-family home in a Residence B District.
- (3) Character of Site Development: Chair Rasmussen said the Board does not really get into this. Mr. Behrendt said the 8 general criteria only have to do with the issue of wetland crossing and buffer.
- (4) Character of Buildings & Structures: Culvert is a wildlife-friendly design.
- (5) Preservation of natural, cultural, resources, etc.: Preserving wildlife as much as possible here.
- (6) Impact on property values: Board agreed it was negative.
- (7) Availability of public services and facilities: Single-family house in RB zone.
- (8) Fiscal Impacts: None.

Mr. Kelley MOVED that the Planning Board approve the CU to install a driveway, drainage structures, and utilities in the WCOD, vacant lot shown as Map 118, Lot 3, in Residence B District and close the Public Hearing; SECONDED by Mr. McGowan; APPROVED 7-0, Motion carries.

Chair Rasmussen closed the Public Hearing at 7:36 pm.

- IX. Annual Meeting.** Election of officers, appointment of board members to committees, and discussion of goals for the coming year.

Election of Officers:

Ms. Tobias MOVED to nominate Paul Rasmussen as Chairman of the Planning Board; SECONDED by Ms. Grant; APPROVED 7-0, Motion carries.

Chairman of the Planning Board: Paul Rasmussen

Chair Rasmussen MOVED to nominate Heather Grant as Vice-Chairman of the Planning Board; SECONDED by Ms. Tobias; APPROVED 7-0, Motion carries.

Vice-Chairman of the Planning Board: Heather Grant

Chair Rasmussen MOVED to nominate Peyton McManus as Secretary of the Planning Board; SECONDED by Ms. Tobias; APPROVED 7-0, Motion carries.

Secretary of the Planning Board: Peyton McManus

Appointment of Board Members to Committees:

Housing Task Force (HTF): Paul Rasmussen

Traffic Safety Committee: Peyton McManus

Integrated Waste Management Advisory Committee (IWMAC): Heather Grant

Technical Review Group (TRG): Sally Tobias (Minor Site)

Historic District Commission/Heritage Commission (HDC): Bill McGowan

Energy Committee: Emily Friedrichs

Conservation Commission: Richard Kelley

Agricultural Commission: Tom DeCapo

Planning Board Goals

Chair Rasmussen asked Mr. Behrendt if any West Edge Zoning would need to be done; Mr. Behrendt said when the project is underway the Board will want to write a PUD Ordinance. Mr. Kelley asked if UNH could create their own PUD RFP and put it out to developers; Mr. Behrendt said no as most of the project will be subject to Town Zoning and be taxable.

Chair Rasmussen said the Town has zoned all of UNH properties RA so they have to come to the town for rezoning before they can do anything and that is why they need the PUD. Mr. Kelley recommended the Board do a PUD Primer describing what it is all about and what it hopes to accomplish. Chair Rasmussen suggested covering PUD toward the end of the year.

Mr. McManus asked the process for the Zoning Review; Mr. Behrendt said it was recently agreed it would be better to pass each section on to the Town Council as completed; definitions will be forwarded when finished. Vice-Chair Grant said a change was sent via email this week about not

having to post for Zoning Meetings and just needing to make announcements digitally for those meetings. Chair Rasmussen suggested conditions for West Edge regarding connectivity; Mr. Behrendt said the Board would have the ability to require that as part of the proposal.

XI. Other Business

ATO Fraternity – 18 Garrison Avenue. Request for extension of timeframe for conditional use approvals.

Chair Rasmussen said the stated reason for the request for extension: *owner was unable to finalize and meet desired budget and select a Contractor.* Asked that the extension commence by November 15, 2024 with a certificate of occupancy to be issued by November 1, 2027; recommended by the Town Planner.

Councilor Friedrichs asked how often this happens; Mr. Kelley said requests are usually accommodated. Chair Rasmussen said lining up construction is an issue and taking longer than anticipated. Ms. Tobias felt the request was reasonable and Chair Rasmussen said he was happy to hear they were still interested. Vice-Chair Grant said she would only ask how they have maintained the property; fence is still around parcel and looks like they are charging for parking.

Mr. Behrendt said the Town does have financial surety and said he would convey the issues to owners; he said the property is messy but not unsafe. Mr. Kelley said he would like to see the site. The Board agreed members should visit the site individually and bring the matter up at the Workshop Meeting May 14, 2023 to make a final decision.

The Board reopened Public Comments.

Matthias Dean Carpentier said he and his wife moved to 265 Packers Falls Road at the end of 2020; he is an engineer working in the solar industry and is interested in the Planning Board or other committees and how he can contribute. He said he had already spoken with Emily Friedrichs; Mr. Behrendt asked that he be contacted outside meeting time to discuss boards and committees. Chair Rasmussen said the Town Council assigns/approves members in the end.

Mr. Carpentier said he attended an Energy Committee meeting and was happy to hear they were talking about EV chargers which he is working on at a national level. Councilor Friedrichs said to apply to the Planning Board as an Alternate he would need to meet with Chair Rasmussen. Mr. Carpentier said he planned to apply. Chair Rasmussen also recommended he attend Durham Day.

Bill McGowan left the Planning Board meeting at 8:22 pm.

X. Review of Definitions in Zoning Ordinance. Review of the Zoning Ordinance as part of the zoning rewrite. Recommended action: Ongoing review.

Chair Rasmussen seated Tom DeCapo for Bill McGowan for the rest of the night.

Maintenance – Board deleted this definition.

Manufactured Housing – Mr. Behrendt explained that what were once called Mobile Homes are now Manufactured Homes and must have a steel chassis; not modular which is a misuse of the term. Mr. McManus asked if it would change if it were put on a foundation; Mr. Behrendt said it would still be manufactured housing and is only allowed in the Rural Zone; modular housing is considered stick-built and is allowed everywhere.

The Board discussed the definition; Mr. McManus asked about tiny homes and Councilor Hotchkiss stated that manufactured housing needs to be 40 body ft or more in length and 8 body ft or more in width; he added that modular homes were not in the ordinance and did not need to be defined at this time. Mr. Behrendt suggested adding Manufactured housing does not include pre-site built, prefabricated, or modular housing. Ms. Tobias read RSA 674:31 in full.

Mr. Carpentier said he has heard this issue come up before and in 1976 HUD had issues with trailers because of asbestos and lead and by-laws and zoning boards became more specific about dimensions as it is a viewshed issue. Mr. Kelley asked if the issues with mobile homes were with nomenclature or structure and Mr. Behrendt said with the aesthetics of the structure. The Board agreed to add: *(formerly known as a mobile home)* to the definition.

Manufacturing, Light – Correct grammatical errors, delete “produced off the site”, add “specified in Article XX”, delete *See Article XX*.

Marine Sales & Services – No changes.

Marquee – Already taken care of.

Master Plan – Added to last line “as laid out in RSA 674-2 Master Plan”.

Councilor Friedrichs asked that the Board consider adding a definition for *Maximum Extent Practicable* as in Site Regulations. Mr. Behrendt said in his experience the problem with “practicable” means possible or feasible; practical and workable are better. Mr. Kelley said “to the extent possible” limits those possibilities. Vice-Chair Grant said the Board needs to determine where it would apply and why we would need it defined. Councilor Friedrichs said it is already defined in the Site Regulations and should be kept consistent. The Board agreed to move on and come back to it.

Mining – Chair Rasmussen said it has to be allowed somewhere; Mr. Behrendt said excavation and/or mining is only allowed by CU and in Rural Zone. Vice-Chair Grant suggested: “mining is the practice of extracting useful minerals from the earth”; Mr. Behrendt said, “commercial extraction of minerals from the earth”.

Minor Site Committee – No changes.

Councilor Friedrichs said *Mitigation* is described in the Site Regulations and it would be useful to include here. Chair Rasmussen suggested removing *Mitigation* from the other places as it does not need to be defined.

Mixed Use with Parking – Combined (Parking and Office) with (Parking and Office/Retail); changed “Office Research” to CU in Table of Uses.

Motel – Already covered. Councilor Friedrichs said Motels are not allowed anywhere in Durham. Mr. Behrendt recommended deleting “access from exterior corridors or walkways” as well as “of less than 30 consecutive days”.

Motor Vehicle Sales & Service – No comments.

Neighborhood – Board agreed to start here at the beginning of the next review of definitions.

Neon – No changes.

Noncontributing Structures – For Historic Overlay District; moved to HDC section.

Nursery or Preschool – Board agreed to come back to *Nursery* and *Neighborhood*.

Nursing Home – Chair Rasmussen recommended adding a period after first sentence; rest is just confusing: “a facility licensed by the State as a Nursing Home.”

Councilor Friedrichs asked that *Native Plants* be added to definitions; it is defined in Site Regulations and a reference book is provided in the WCOD section: both definitions should be the same. The Board agreed to tweak the definition in WCOD.

XII. Review of Minutes (new): March 22, 2023 and April 12, 2023

Approval of the minutes of Planning Board Meeting of March 22, 2023:

Chair Rasmussen MOVED that the Planning Board accept the meeting minutes of March 22, 2023; SECONDED by Mr. Kelley; APPROVED 6-0 with 1 abstention, Motion carries.

Approval of the minutes of Planning Board Meeting of April 12, 2023:

Chair Rasmussen MOVED that the Planning Board accept the meeting minutes of April 12, 2023; SECONDED by Vice-Chair Grant; APPROVED 4-0 with 3 abstentions, Motion carries.

XIII. Adjournment

Mr. DeCapo MOVED to adjourn the Planning Board Meeting; SECONDED by Vice-Chair Grant; APPROVED 7-0, Motion carries.

Chair Rasmussen adjourned the meeting at 9:26 pm.

Respectfully submitted,

Patricia Denmark, Minute Taker
Durham Planning Board