

*These minutes were approved at the August 9, 2023 meeting.*

**TOWN OF DURHAM  
DURHAM PLANNING BOARD**

**Wednesday, June 21, 2023  
Town Council Chambers, Durham Town Hall  
7:00 pm**

**MEMBERS PRESENT:** Paul Rasmussen (Chair), Heather Grant (Vice Chair), Sally Tobias, Peyton McManus, William McGowan, Emily Friedrichs (Council Rep), Chuck Hotchkiss (Alternate Council Rep)

**EXCUSED:** Richard Kelley, Tom DeCapo (Alternate), Chris McClain (Alternate)

**ALSO PRESENT:** Town Planner Michael Behrendt

**I. Call to Order**

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

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

Chair Rasmussen called the roll; no Alternates to seat; 6 voting members present.

**III. Approval of Agenda**

***Mr. McGowan MOVED to approve the Agenda for June 21, 2023 as presented; SECONDED by Mr. McManus; APPROVED 6-0, Motion carries.***

**IV. Town Planner's Report**

Nothing to Report.

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

Reporting from IWMAC: Vice-Chair Grant said there have been 2 meetings: (1) talked about Durham Day focusing on family and activities; (2) talked with DPW about improvements and efficiencies, looked at 2024 Budget; purchasing compacters; Bulky Waste picked up 110 tons non-student; 21 tons student, down from last year.

Reporting from Energy Committee: Councilor Friedrichs said the Energy Committee met last night and reviewed Town Goals to reduce carbon footprint of built environment; analyzing buying out solar array, analyze additional town properties for potential solar, and analyze demand for EV charging stations; funding sources available; application put in to fund contracted position to help property owners weatherize and electrify their buildings.

**VI. Public Comments – None**

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

**VIII. Tideline Public House – Amendment.** 15 Newmarket Road. Amendment to allow for up to three temporary pop-up vendors of food, goods, and services on site in addition to seven approved food trucks and approved mixed uses inside building. Scott and Karen Letourneau, applicant and property owner. Map 108, Lot 69. Courthouse Zone. Recommended action: Set public hearing for July 12.

Chair Rasmussen asked why this was coming to the Planning Board and not just being handled by staff. Mr. Behrendt said it is always a judgement whether something is an administrative modification done at staff level or a Planning Board modification where the Board makes a judgement. He said the site is a little tight and he thought the wisdom of the Board would be helpful with types of vendors, their locations, and how they are managed.

Chair Rasmussen said Mr. Letourneau is requesting up to 3 pop-up vendors but locations are unclear. Mr. Letourneau said the site was originally approved for up to 8 food trucks, and a pushcart vendor with baked goods has already set up several days on the site; possibly a pop-up tent for bicycle repair or other non-food vendors, non-profits and different non-profit activities. Possible locations: on the brick patio, area right along building, on bark chips, near kids' playground, or next to the Salt Shed in storage area.

Ms. Tobias said the pop-up vendors would not be there all the time depending on arrangements made with a particular vendor; Mr. Letourneau agreed and predicted most likely on weekends depending on the weather. Mr. Behrendt said the Board can ask for a Planning Board modification and could act on this tonight. Ms. Tobias did not see a problem and said it would add more vibrancy to the area.

Chair Rasmussen asked if the Board wanted a Public Hearing. Mr. McGowan said he did not feel a Public Hearing was needed but pointed out that it was advertised on the agenda for July 12; Chair Rasmussen agreed that should be honored; Mr. Behrendt said it was a recommended action only. Mr. Letourneau said he had no plans to add another food truck with utilities despite the original approval; only the bicycle repair would need outdoor power which is available.

**IX. Review of Definitions in Zoning Ordinance.** Review of the Zoning Ordinance as part of the zoning rewrite. Recommended action: Continued review.

Neighborhood: Mr. Behrendt said they need to come back to neighborhood at another time.

Occupancy: Chair Rasmussen asked why this definition was needed and said "predominant use classification" is a problem. Ms. Tobias said it does not define how the Board looks at occupancy in terms of numbers; Councilor Friedrichs said problem comes from "certificate of occupancy" which has a different meaning.

Off-Highway Recreational Vehicle: Deleted, definition redundant (ATV).

Office, Business; Office, Professional: Board discussed actual difference between these two definitions; Mr. Behrendt said business and professional are identical in the table of uses. Chair Rasmussen said these are services not selling anything and retail is a storefront selling a product. Board decided to merge Office, Business/Professional but not call out the details, and remove *Business Services*.

Chair Rasmussen moved to Repair Services on page 58; he asked what the difference is between a shop doing minor repairs as long as they are not doing outside storage; car repair is a handled separately, and there are only a few places where repair services are permitted right now: Downtown, Central Business and Courthouse; anywhere else is by CU.

Chair Rasmussen said he was willing to merge Business Services and Office Services together and was leaning toward also adding Personal Services. Board discussed combining Office Business, Office Professional, Personal Services and Business Services and keeping repair services separate.

Office, Retail: Mr. Behrendt said office retail is for mixed use: (1) mixed use with residential, (2) mixed use with parking, and (3) mixed use with parking and office which was deleted. Board discussed mixed use; Mr. Behrendt said in the table mixed use with residential combines office-retail with multi-use residential, the intent being commercial. Chair Rasmussen said commercial but not just retail. Mr. Behrendt said they could delete Office Retail here then return to Mixed Use and clarify it there.

Older Single-Family Residence: Councilor Friedrichs said it is a permitted conversion of use for an older single-family residence for low-impact non-residential use. Ms. Tobias said the year 1950 seems arbitrary and Mr. Behrendt said an older property, not historic, that is at least 50 years old. Councilor Friedrichs said in the Table of Uses it is a re-use permitted in many places and CU in others, which must conform to certain standards.

Chair Rasmussen asked the Board to go to the Table of Uses and talk about where it belongs: for Rural (R) or RC, should be allowed or not allowed, X or P but not CU; this allows a non-permitted use in that zone. Councilor Friedrichs said it should be P in R but not in RC; still a lot of infrastructure issues in RC to be worked out around rising tides and rising groundwater; requirements: activity within building and no outside storage, architectural character of building, limited exterior changes, volume of traffic, buffered off-street parking. The Board agreed that eliminated a lot of uses. Mr. McManus said in density you do not have parking problems.

Chair Rasmussen suggested the Board change CUs to Xs and keep the definition for places where it is permitted right now. Mr. Behrendt said the year 1950 was chosen because prior to WWII building with bigger houses; after that more modern. Board agreed to leave "see Article 20"; Chair Rasmussen felt the Board should come back to this later.

Opacity, Vertical: Chair Rasmussen said this is used in one place and is basically self-defined; Mr. Behrendt there is no dictionary definition for this as it is a planning term.

Open Space: Mr. Behrendt said one useful aspect is within a Conservation Subdivision: *Common Open Space*. Chair Rasmussen recommended ending the definition after “underdeveloped lands”, keep parentheses, and remove “with significant natural resources”. Mr. Behrendt said underdeveloped land is open space; the term would be used as part of a project and is a fundamental concept in talking about development and planning. He said the purpose of RC is that a significant amount of open space is permanently preserved.

Chair Rasmussen said he preferred the Google definition and Mr. Behrendt said he would ask the Land Stewardship Coordinator and Conservation Commission for their opinions. Councilor Friedrichs said Subdivision Regulations refer to *open space* and *common open space* separately. Vice-Chair Grant suggested using two definitions: Open space, Conservation and Open Space, Common; Chair Rasmussen asked that those two definitions be put out to the other commissions. The Board discussed the term “Current Use”; Mr. Behrendt said it encourages keeping land undeveloped by offering a tax break.

Or: Means and/or throughout the document.

Ordinary High-Water Mark: Mr. Behrendt said this is a pretty standard definition. Chair Rasmussen said he did not want disagreement with DES.

Councilor Hotchkiss asked if the term *Overlay District* should be added to definitions. Chair Rasmussen said it is in the body of zoning but not here in definitions. The Board discussed the issue and decided to refer to Article 12 and list the six districts.

Overstory: Tallest trees in forest; anything below is understory; 15 ft is the tallest Durham’s understory gets. Councilor Hotchkiss said this only appears in the definitions. Chair Rasmussen said if the Board kills *Overstory* they will also have to kill *Canopy*, *Understory* and *Ground Cover* as they all go together; recommended deleting *Owner*. Mr. Behrendt said *Canopy* is for a building.

Parking Space: Chair Rasmussen said in Parking Ordinance it has to be an improved area. Mr. Behrendt said under Off-street Parking, Article 21, parking space dimensions are referenced; spaces should be clearly delineated on the site by Zoning Administration; all motor vehicles must be parked in delineated parking spaces; condition: surface drainage, a smooth paved surface or stabilized dust-free surface (175:111e). Chair Rasmussen said delineated means lined or marked and “designated” is a better term. Mr. Behrendt recommended referencing Article 21.

Perennial Stream: Defined by a Wetland Scientist based on State Law and the Board is not going against that.

Performance Guaranty: No changes.

Permitted Use: Leave as is.

Combine Personal Services with Personal Wireless Facility: Comes straight out of some other regulations. Chair Rasmussen said these will all get moved to NH Planning and Land Use Regulations.

**X. Other Business**

**XI. Review of Minutes (new):**

**XII. Adjournment**

***Ms. Tobias MOVED to adjourn the Planning Board Meeting; SECONDED by Vice-Chair Grant; APPROVED 6-0, Motion carries.***

Chair Rasmussen adjourned the meeting at 9:30 pm

Respectfully submitted,

Patricia Denmark, Minute Taker

Durham Planning Board