

These minutes were approved at the August 23, 2023 meeting.

**DURHAM TOWN COUNCIL
MONDAY, JULY 12, 2023
DURHAM PLANNING BOARD - COUNCIL CHAMBERS
7:00 PM**

MEMBERS PRESENT: William (Bill) McGowan, Richard Kelley, Peyton McManus, Heather Grant, Vice Chair; Tom DeCapo (Alternate), Sally Tobias, Charles (Chuck) Hotchkiss, Alternate Town Council Representative; Paul Rasmussen, Chair, Emily Friedrichs, Town Council Representative (who uses the pronouns ze/zir/zirs/zirself and the title Mx. Friedrichs) arrived at the meeting at 7:47 PM

MEMBERS ABSENT: Chris McClain, (Alternate)

OTHERS PRESENT: Michael Behrendt, Town Planner

I. Call to Order

Vice Chair Grant called the meeting to order at 7:00 PM.

II. Roll Call and Seating of Alternates

Bill McGowan, Richard Kelley, Peyton McManus, Vice Chair Heather Grant, Tom DeCapo (Alternate), Sally Tobias, Chuck Hotchkiss, Alternate Town Council Representative; Paul Rasmussen, Chair (participated via Zoom—Recovering from a cold and did not want his cough to be a disruption at the meeting).

III. Approval of Agenda

Mr. McGowan MOVED approval of the July 13, 2023, agenda as presented The motion was SECONDED by Mr. McManus and PASSED unanimously, 6-0-1 by a roll call vote: Bill McGowan—Yes, Richard Kelley—Yes, Peyton McManus—Yes, Vice Chair Heather Grant—Yes, Sally Tobias—Yes, Chuck Hotchkiss—Yes, Paul Rasmussen, Chair (abstained—his vote was unclear due to Zoom audio difficulties).

IV. Town Planner's Report

- Alpha Tau Omega project on Garrison Avenue that was approved, then delayed, is hoping to begin work soon.
- The student housing project at the corner of Madbury Road and Garrison Avenue is moving along nicely and will be receiving a Certificate of Occupancy within a few days.
- The former Goss building at 121 Technology Drive will have five major tenant spaces, which is most of the building.

V. Report From Board Members Who Serve on Other Committees

Councilor Hotchkiss – Town Council

- The Town Council has met since the last Planning Board meeting. It was a light agenda, with little pertinent information regarding the Planning Board; except for hearing from the consultants that are working with the Town on the dam removal. Included in that information was that the Town has been successful in raising additional funds for that project.

Bill McGowan – Historic District/Heritage Commission

- The HDC/HC met on July 8th and discussed: 1) tree removal at 26 Newmarket Road, 2) a historic house at 53 Bagdad Road that is now offered for sale, and 3) the condition of a historic house in the historic district at 1 Durham Point Road.

Richard Kelley – Conservation Commission

- The Conservation Commission has not had its meeting yet, so Mr. Kelley had nothing to report.

Tom DeCapo – Agricultural Commission

- The Commission met on July 10, 2023.
- Discussed definition of “open space” regarding its purpose and what it should be. Commission member Lee Alexander spoke with Planner Michael Behrendt to discuss it further. There is consensus on the Commission that agriculture should be included within that definition.
- Farm Day will be held on August 19th. The Towns of Durham and Lee will be participating but the Town of Madbury will not be participating.
- Discussion around and decision to move forward with the first phase of a proposal that would identify a group of residents and interview them as to their interest in the idea of collaborative food production.

Heather Grant – Integrated Waste Management Advisory Committee

- Researching capital investment strategies.
- Discussed the traffic flow at the Transfer Station.
- Discussion regarding businesses and challenges with recycling efforts relative to composting and recycling bins.
- There have been some strategies with composting and possible grant monies that may be coming related to smaller towns and their ability to be able to execute a compost plan.
- Main topic was “Sustainable September” that will be held at the Durham Public Library.

VI. Public Comments

Scott Letourneau, 26 Newmarket Road, and owner of the Tideline Public House, said he was aware that Tideline customers are parking in the Town Hall parking lot, particularly on Friday and Saturday evenings. He said as was offered by the Town during Tideline’s development phase, Tideline is verbally directing customers that they can park in the Town Hall lot on Friday’s after 5PM and on the weekends. Feedback he is receiving from Durham taxpayers is that they view parking at the Town Hall after hours, similar to the parking in the municipal lots downtown. He explained that Tideline’s initiative is to try and improve overflow parking and address some concerns raised by others.

One topic Mr. Letourneau said still needed to be clarified was the notion that there may be unfavorable, unfair advantage or favorable treatment given to Tideline House with respect to its customers being able to use the Town Hall parking lot. He said he did not believe that Tideline was being conveyed some sort of advantage with regards to parking.

Mr. Letourneau also noted that to his knowledge, Tideline is the only restaurant or bar restaurant in Durham that has been dictated to close by 10PM, so there is no advantage given relative to that aspect.

Mr. Letourneau said it was distressing to know that some fellow Durham business owners would be attacking a new business that is bringing new vitality and some “buzz” to a historically sleepy end of Town. If Durham wants to be more welcoming to new businesses, then the attitude that a new business is somehow taking away from other businesses is not the way to go.

VII. Review of Minutes (old) - None

VIII. Public Hearing - 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: Final action.

Ms. Tobias MOVED to OPEN the Public Hearing for the Tideline Public House at 15 Newmarket Road on an amendment to allow for up to three temporary pop-up food, goods, and services on site in addition to seven approved food trucks and approved mixed uses inside the building. The motion was SECONDED by Mr. McGowan and PASSED unanimously, 7-0 by a roll call vote: Bill McGowan—Yes, Richard Kelley—Yes, Peyton McManus—Yes, Vice Chair Heather Grant—Yes, Sally Tobias—Yes, Chuck Hotchkiss, Alternate Town Council Representative—Yes, Paul Rasmussen, Chair—Yes.

No members of the public came forward to speak on this item.

Mr. McGowan MOVED to CLOSE the Public Hearing for the Tideline Public House at 15 Newmarket Road on an amendment to allow for up to three temporary pop-up food, goods, and services on site in addition to seven approved food trucks and approved mixed uses inside the building. The motion was SECONDED by Councilor Hotchkiss and PASSED unanimously, 7-0 by a roll call vote: Bill McGowan—Yes, Richard Kelley—Yes, Peyton McManus—Yes, Vice Chair Heather Grant—Yes, Sally Tobias—Yes, Chuck Hotchkiss, Alternate Town Council Representative—Yes, Paul Rasmussen, Chair—Yes.

Mr. Letourneau was asked if he would like to make any comments regarding the application.

Mr. Letourneau only noted that there may be some nonprofit or pop-up businesses in the future that will want to have a booth, tent, or table at the Tideline at certain times. He said the number, size, and location would depend on what that business’ needs were.

Mr. Behrendt said that in the approval, the Board did not place any limit on the days of the week when Tideline would be open for business. However, Tideline is closed on Mondays and Tuesdays. Mr. Behrendt asked Board members if they desired to add that into the approval of the application to memorialize what is the business' current hours of operation so as not to run into problems with parking when there are Town boards that meet on those evenings.

There was some discussion regarding Mr. Behrendt's question with final consensus among Board members to not include any limitation on the hours of operation in Tideline's application.

Mr. McGowan MOVED to APPROVE an amendment to allow for up to three temporary pop-up food, goods, and services on site in addition to seven approved food trucks and approved mixed uses inside the building for the Tideline Public House at 15 Newmarket Road. The motion was SECONDED by Mr. Kelley and PASSED unanimously, 7-0 by a roll call vote: Bill McGowan—Yes, Richard Kelley—Yes, Peyton McManus—Yes, Vice Chair Heather Grant—Yes, Sally Tobias—Yes, Chuck Hotchkiss, Alternate Town Council Representative—Yes, Paul Rasmussen, Chair—Yes.

Mr. McGowan excused himself and departed from the meeting at this time (7:30 PM).

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

“Pocket Neighborhoods” - Councilor Hotchkiss asked why this definition was being added to the ordinance. Mr. Behrendt replied it was being added in “anticipation” because pocket neighborhoods are a popular idea at this time. He noted there are other definitions not currently in the ordinance that are also being proposed for addition to facilitate discussion.

Mr. DeCapo suggested that for now, the definition be set aside and when doing a more comprehensive revision of the Zoning Ordinance perhaps create something at that time. Mr. Behrendt was asked to make a list of those amendments that were suggested to be added to the current Zoning Ordinance and the Board will decide at the time of final action as to whether or not to include them, including resident Robin Mower's suggestion for adding Planned Unit Development (PUD) and PUD Overlay Districts.

“Porkchop Subdivision” - Mr. Kelley asked Mr. Behrendt if he had any issues with this definition remaining in the current Zoning Ordinance. Mr. Behrendt replied that he did not. Consensus of the Board was to leave this definition in the Zoning Ordinance.

“Prefabricated Housing”- Leave this definition in the Zoning Ordinance.

“Premises” – Leave this definition in the Zoning Ordinance.

“Presite Built Housing” - Under “Manufactured Housing” add ...”*See Presite Housing*” for clarification/consistency.

Add under “Presite Built Housing” a notation that “*Presite Built Housing is not regulated under this Zoning Ordinance*” for clarification and to avoid confusion.

Councilor Emily Friedrichs arrived at the meeting at this time (7:47 PM).

“Primary Building Line” – Delete from definitions in the Zoning Ordinance.

“Principal Use” – Change language to read: “*The primary or predominant use(s) on property to which all other uses are accessory.*”

“Prohibited Use” – Board members discussed this definition at length with consensus being to delete it from definitions in the Zoning Ordinance.

“Public Utility” – Leave this definition in the Zoning Ordinance as is.

“Public Way” – Change Language to add the words “*or right-of-way*” after the word waterway.

“Qualified Conservation Organization” – Leave this definition in the Zoning Ordinance as is.

“Rare and Exemplary Community” - Leave under definitions but associate this definition in the Water Conservation Overlay District “WCOD” section of the Zoning Ordinance.

“Recreation, Active” – Delete from definitions in the Zoning Ordinance.

“Recreation, Passive” – Delete from definitions in the Zoning Ordinance.

“Recreational Facility, Indoor” – Change definition to read: “*A building or structure enclosed by walls and a roof equipped for leisure and recreational activities.*”

“Recreational Facility, Outdoor” – Change definition to read: “*A site designed and equipped for the conduct of outdoor sports and leisure and recreational activities. Does not include the use of individual motorized vehicles, all-terrain vehicles, off highway recreational vehicles, motorized rides (except for e-bikes), or firearms.*”

“Recreational Playing Fields, Outdoor” – Change definition to read: “*Noncommercial playing fields for outdoor sports as approved by the Planning Board of the Town of Durham through Site Plan Review. No structures allowed except for necessities like small sheds for maintenance and portable toilets. No lighting, voice amplification equipment or paved parking lots or areas shall be permitted.*”

“Recreational Vehicle” - Leave this in the definitions section of the Zoning Ordinance as is.

“Reference Line” – Move this definition to the Water Conservation Overlay District “WCOD” and Shoreland Protection Overlay District “SPOD” sections in the Zoning Ordinance. Spell out NHDES in paragraph 1. as “New Hampshire Department of Environmental Services”.

“Religious Use/Facility” - Leave this in the definitions section of the Zoning Ordinance as is.

“Repair” – Delete this from the definitions section in the Zoning Ordinance.

“Repair Services” – Delete this from the definitions section of the Zoning Ordinance.

“Research Facility” - Delete this from the definitions section of the Zoning Ordinance.

“Residence, Duplex” – Changed definition to read: *“A building with two attached dwelling units.”*

“Residence, Multi-Unit” – Changed definition to read: *“One or more buildings with three (3) or more dwelling units.”*

“Residence, Single-Family” – Remove reference to single unit in this definition.

“Residence, Single-Unit Cluster” – Delete this definition from the definitions section of the Zoning Ordinance.

The Board will begin with the definition of “Restaurant” when taking up this item next.

X. Other Business – None

XI. Review of Minutes (new) - None

XII. Adjournment

Ms. Tobias MOVED to adjourn. The motion was SECONDED by Councilor Hotchkiss and PASSED, unanimously, 7-0, by a roll call vote: Richard Kelley—Yes, Peyton McManus—Yes, Vice Chair Heather Grant—Yes, Tom DeCapo—Yes, Sally Tobias—Yes, Councilor Friedrichs (Council Representative)—Yes, Paul Rasmussen, Chair—Yes.

The meeting ADJOURNED at 9:27 PM.

Jennie Berry, Minutes Taker