

These minutes were approved at the December 13, 2023 meeting.

**TOWN OF DURHAM
DURHAM PLANNING BOARD**

Wednesday, August 9, 2023

Town Council Chambers, Durham Town Hall

7:00 pm

MINUTES

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

EXCUSED: William McGowan, 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; seated Chuck Hotchkiss for Emily Friedrichs and Tom DeCapo for Bill McGowan.

III. Approval of Agenda

The Board agreed to switch items 9 (Definitions) and 10 (Housing) on the agenda.

Chair Rasmussen MOVED to approve the Agenda for August 9, 2023 as amended; SECONDED by Mr. Kelley; APPROVED 7-0, Motion carries.

IV. Town Planner's Report

Mr. Behrendt said a Public Hearing will be held on-site tomorrow for Scorpions at 10:00 am; with concerns expressed by abutter Peter Murphy (Grange) will most likely defer to Planning Board for Public Hearing August 23, 2023; great article on Durham in NH Business.

Mr. Behrendt said in the by-laws on site plans or amendments to zoning changes, State Law requires Planning Board notices include the day of first presentation for acceptance and the date for the Public Hearing up front so only one notice is sent; Board should amend the by-laws to reflect that. CIP presentation will be September 13, 2023.

V. Reports from Board Members who serve on Other Committees

Reporting from Town Council: Councilor Hotchkiss said there has not been a Town Council meeting since the last Planning Board meeting.

VI. Public Comments – None

VII. Review of Minutes (old):

VIII. Public Hearing - 121 Technology Drive – Site Plan Application. Application for various improvements to the developed site (former Goss Building) including drainage, utilities, parking, loading, pedestrian ways, landscaping, and lighting. Brandon Kelly c/o 121 Technology/R. J. Kelly, property owner. Shawn Smith, R. J. Kelly, applicant. Earle Blatchford, Hayner Swanson, Inc., engineer. Map 204, Lot 2. Office Research Light Industry District. Recommended action: Hold public hearing, close public hearing, and continue review to August 23.

Chair Rasmussen asked the applicant to present any new information, public hearing will be opened, then discussion and questions.

Mr. Smith said Mr. Blatchford is here tonight from Hayner Swanson, Inc. for any questions on stormwater. He said the site is in the extreme northwest corner of ORLI District; improvements include new primary entrance location, secondary entry location for Brazonics, division of Raytheon, using panels and curtain wall; showed general conceptual overview of improvements to building and site with outdoor amenities to come later.

Mr. Smith said Lot G-2 is mostly wetlands and riverfront; new area of work pavement being removed adjacent to drainage pond; some loading docks already completed under Building Permit; walk from bus stop to be resurfaced using stabilized stone dust mix; new primary entry and lobby; also reconfiguring lot for new entry to allow for loading approved under building permit and upgrading entry for another tenant.

Mr. Smith said this plan shows changes from previous meeting: left side parking in concert with DPW worked out areas for Fire Retention and 3 depressions along S entry driveway; plan to excavate down 18-24 inches to provide proper fire retention to promote exfiltration into ground and plant bioretention seed mix; new bike rack location with covered structure. Question at last meeting of waste management for Brazonics; has existing dumpster and pad S of loading dock; red lines show underground electric added to plans at request of Board; transformer connected via electrical manhole.

Mr. Smith said they also sought additional ways to reduce impervious coverage for stormwater with permeable pavers; adding 6 EV charging stations, added a walkway connection which drains to fire retention area; detail of pavement to be removed over 6,000 sq ft, 25 spaces adjacent to the pond. In terms of stormwater, areas of improvement shown in green with fire retention areas, permeable pavers; adding green space and permeable pavers along with plantings; replacing lawn with flowering seed mix to improve reuptake and slow runoff.

Mr. Smith pointed out existing or proposed catch basins retrofitted with oil hoods to decrease oils and debris during construction, also a stormceptor which captures and treats runoff from the

drive. All truck traffic will enter at drive and turn left with no need to intermingle construction traffic and loading traffic; fence and gate off areas of construction in 2 locations; fencing off active W parking lot where 3 tenants park and park at entrance point; Sig Sauer portion of building has a N lot. Hope to complete construction by next fall; contractor parking separate from tenants; walked the site with gas company and established route outside of buffer zone; working with Until to upgrade all HVAC to natural gas.

Chair Rasmussen opened the Public Hearing at 7:22 pm.

Mathias Dean Carpentier, Chair of the Energy Committee, said he was ignorant of how the site is currently being used and how it will be modified but had questions about heating, AC, and energies with this project probably the largest energy load center in town. He said he has questions about how this came about and some of the decisions made in design.

Chair Rasmussen asked that his questions be addressed to the Chair, and said questions are not one-on-one with the applicant unless the applicant agrees to meet outside the meeting. Mr. Carpentier asked about HVAC and how the retrofit of propane to natural gas was being undertaken. Chair Rasmussen said all HVAC is being replaced, and Mr. Smith said in areas of new construction they are proposing all new HVAC systems which will drastically improve energy usage at this site; eliminating and replacing cooling tower with new roof-mounted system and plans to offload other building units in warehouse spaces and upgrade to natural gas as well.

Mr. Carpentier said from a carbon standpoint there is still a lot of burned fuel and recommended heat pumps, rooftop solar, or battery sources. Chair Rasmussen said a lot of buildings should not be 100% electric, especially for backup and said the issue for applicant is that Eversource is not going to upgrade their electric. Mr. Carpentier said the line that serves that site from the thermal capacity point of view is wide open.

Mr. Smith said current capacity is below what it will be at its maximum load when the building is fully fitted out with manufacturing operations and will max out our amperage on that site with 12 ½ Mega amps available, a significant power load. Mr. Carpentier asked how electric permitting was being covered with a load of that size. Mr. Smith said that is not part of this application but will be part of the Building Application; this is just dealing with site elements outside the building to the degree moving or relocating electrical infrastructure and said he would be happy to discuss more in a different forum.

Vice-Chair Grant suggested Mr. Carpentier listen to the last meeting to hear more of the details and background discussed. Mr. Behrendt said he would be happy to meet with him and show him all the building and electrical plans. Mr. Carpentier said he is more concerned about the process. Chair Rasmussen said this particular forum is determining whether or not the project and site plan meets our Zoning Ordinance, and type of energy or fuel has nothing to do with our approval. Mr. Carpentier asked about the Energy Checklist and Mr. Behrendt said it is only mandatory to complete the checklist but voluntary for applicant whether they do anything with the list.

Chair Rasmussen asked that Mr. Carpentier meet with Mr. Behrendt and express his goals and talk about how to introduce those goals into the Zoning Ordinance. Mr. Smith thanked Mr. Carpentier and said he found the conversation with the Energy Committee to be constructive and would be happy to listen to ongoing ways to improve the project. He said the cladding will be replaced with metal panels, all new windows installed, and improvements on the energy side being executed at this location.

Councilor Friedrichs arrived at 7:41 pm.

Discussion/Questions: Mr. McManus said there were 2 potential concerns raised in the letter from abutters Joe and Maggie Moore: light pollution and noise. Board members raised other concerns about noise at loading docks in the evening or after hours and from the rooftop HVAC unit. Mr. Smith said the cooling tower is being decommissioned and replaced with a rooftop cooling unit and new loading docks are shielded from their property. He said loading operations on N side have 24-hr operations and concern was specifically toward idle noise and State has regulations for idling diesel engines of 5 mins/hr above 32 degrees. Two new docks on upper right are shielded by semisolid fence; 10-15-ft berms before 50-ft trees with 1,000 – 1,500 ft to the Moore property.

Mr. Smith said all light fixtures there now are full cutoff lighting with shields top and sides, except bollard lights which are lower-level dimmer lights; zoning requires zero lumens at property line at least 500 ft away. Mr. Kelley said Mr. Carpentier's suggestions and ideas certainly have merit with rooftop solar offsetting large electrical load and asked about the propane tank. Mr. Smith said RJ Kelly is working with a group to decommission and safely remove the tank and equipment or abandon in place and capped off at service line without disturbance.

Mr. Kelley asked about timing and Mr. Smith said they anticipate about 15 months of work done late next fall; hours usually 7:00 am – 7:00 pm, but may have early deliveries when wall panels begin to arrive, doing façade work in spring; already have a demolition permit with minor interior work occurring; hoping for building permit in next few days. Councilor Friedrichs asked about the terrain between the lot and closest abutter. Mr. Smith said mostly native woodland, existing dirt road as right-of-way for access to radio and water towers and some open fields further up.

Councilor Friedrichs said this lot is located in a low-income census tract in Durham which means additional incentives for certain energy upgrades, and is also located off the Route 4 corridor, an alternative fuels corridor with USDOT coordinating with State for funding opportunities. Ze asked about required parking and the number of anticipated tenants. Mr. Smith said right now there are 2 stories of office space RJ Kelly is attempting to fill; total number of tenants will depend on that use. Councilor Friedrichs said the Energy Committee is working on how many EV charging stations may be necessary for this location in future.

Mr. McManus asked if there was a way to quantify the amount of light pollution on a site or if there was a threshold. Mr. Behrendt said there are some standards in lighting regulations requiring lights

to be fully shielded with no sky glow, a maximum number of footcandles with lower levels for on-the-ground industrial lighting, and maximums at property line. Mr. McManus asked about the kind of waste that might be created here. Mr. Smith said it goes back to the industrial wastewater permit; tenant is moving forward with a process and engaged a consultant for metals manufacturing (no hazardous materials), working with DPW.

Mr. Kelley asked where the drainage analysis stands with DPW. Earle Blatchford, Engineer of Hayner Swanson, Inc., said DPW Director Rich Reine was looking for strict conformance with stormwater regulations in documentation which would require they analyze the entire sight, which they feel is excessive for a small amount of work, and are asking for a waiver of a full analysis focusing instead on the 3 bioretention areas and existing basin; total disturbance will go up to about 75,000-76,000 sq ft; intend to submit a short-form analysis and summary to DPW.

Mr. Behrendt said the Planning Board did approve a waiver on stormwater regulations, with caveat applicant provide Public Works what they need. Mr. Smith said these 3 areas act almost like collection and conveyance; some of the water will sit below the outlet, dirtier water will drain down, and the road pitches into those drainage systems. Mr. Blatchford said Mr. Reine is basically interested in the first flush when rainfall washes off the majority of sediment and materials that need to be treated.

Mr. Smith said impervious coverage is being reduced which will reduce quantity; the fire pond is functioning as intended. Mr. Blatchford said all 3 areas along side of road capture pavement with effect of reduction in the peak rate of flow but improving quantity as well. Mr. Kelley asked about the 36-in RCP that runs to SE of area and bisects the curb; Mr. Blatchford said the flow is from the back parking lot and ends up in the fire pond, which detains the flow for a while because the permanent pool probably goes down below outflow in dry periods. Mr. Smith said there is a 3-walled concrete structure with a 36-in outlet acting basically as a weir, with inlets on one side and outlet structure near pump house; has to flow through the basin to get there, no inlets directly into the pond.

Chair Rasmussen said there are still some deliverables outstanding and continued the Public Hearing to August 23, 2023. Mr. Behrendt said he will inform the applicant once he has put everything together and will then get signoff from all the staff and prepare the Draft Notice of Decision. Councilor Friedrichs also asked for a draft list of all conditions in writing.

Richard Kelley left the Planning Board meeting at 8:35 pm.

X. Other Business

Question about Accessory Buildings to Single Family: Section 175-109.B of the Zoning Ordinance

Mr. Behrendt said ZBA had questions on the Section of the Ordinance with limitations on accessory buildings for single-family lots. He said there is a limit of 2 accessory buildings/lot, not

counting garage and ADUs, with a maximum area of 200 sq ft and height 14 feet above grade; water, sewer, and utilities not allowed unless by Special Exception. He said the main issue has been the second floor of garage where footprint of building is greater than 200 sq ft. He asked for thoughts from the Board so he could speak with Audrey about things of concern.

Chair Rasmussen said these conditions are backward looking and ridiculously restrictive, especially with home occupations and wanting the office near the house, and heat, electricity and sewer will be needed but ADUs are a different animal. Councilor Friedrichs said the situation that brought this up was a short-term rental above a garage separate from the house. Vice-Chair Grant said some lots are large enough to accommodate more structures and making people go through the Zoning Board seems a bit much. Chair Rasmussen said he agreed and said providing the ability for people to do more things close to home makes sense.

Mr. DeCapo said he agreed with taking into account the size of the lot. Councilor Friedrichs cautioned that the public is attentive to changes that might alter the character of Durham. Chair Rasmussen said people are changing how they are configuring themselves during a workday, thinking about land and how they use buildings, and said he was not sure he would limit anything, making those spaces as functional and livable as possible and not being restrictive where we do not need to be.

Ms. Tobias said ADUs and garages are exempt and you could exempt home offices as well; she said not having plumbing is absurd. Mr. Behrendt said the 2nd floor of the garage could also be exempt and said restrictions many only apply to RA and RB zones. Mr. McManus asked about conservation subdivisions; Chair Rasmussen said on your 1 ½ acre you are only allowed 20% increase in impervious surface and it is in Rural.

The Board discussed limiting changes to only RA and RB Zones and talked about restrictions in size. Mr. McManus suggested 400-800 sq ft, and Chair Rasmussen said whatever the dimensions you would not get 2 accessory buildings of that size. Mr. Behrendt recommended a maximum of 3 accessory buildings. Councilor Friedrichs said a limit of 3 accessory buildings per lot including garages and ADUs which is 4 per lot and do not put a square footage limit but say no commercial use, impervious still applies, and keep 14-ft height except above garage where zone height will apply. Ms. Tobias pointed out that in A and B accessory buildings must be attached.

Chair Rasmussen said the main point of obfuscation is exactly how many extra buildings should be allowed and where; a single rule for the entire town or RA and RB with separate rules from RC and Rural. He said the Board mostly agrees that numbers 2 and 4 should go away; numbers 7 and 8 are fine. As far as square footage is concerned the Board agreed there should be something reasonable there. Vice-Chair Grant asked if the Board is basically saying the size of outbuildings does not need to be limited because impervious surface takes care of that; Councilor Friedrichs said Rural needs more of a limit.

The Board agreed to change square footage to 800 sq ft in number 2 and add it in the opening line of the document. Vice-Chair Grant said they should add in impervious surface. Mr. DeCapo said there is a lot to think about here and Mr. Behrendt should put all this information into a proposal so the Board has the opportunity to respond to it with enough thought. Mr. Behrendt said the question is what the Board is concerned with and trying to avoid or regulate. Chair Rasmussen agreed and said they need to change with the times.

Chair Rasmussen asked that the Definitions Review be tabled. Mr. McManus asked about the process; Chair Rasmussen said after the Board approves it it goes to Public Hearing then review and Town Council has another Public Hearing then votes to approve or not, and why wording is a problem and new wording necessary.

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

XII. Review of Minutes (new): June 21, 2023
Corrections/changes sent to Karen Edwards.

Chair Rasmussen MOVED to accept the Meeting Minutes of June 21, 2023 as amended; SECONDED by Vice-Chair Grant; APPROVED 5-0 with 1 abstention; Motion carries.

XIII. 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 9:38 pm

Respectfully submitted,

Patricia Denmark, Minute Taker
Durham Planning Board