

These minutes were approved at the June 26, 2024 meeting.

**TOWN OF DURHAM
DURHAM PLANNING BOARD**

Wednesday, April 24, 2024

Town Council Chambers, Durham Town Hall

7:00 pm

MEMBERS PRESENT: Paul Rasmussen (Chair), Sally Tobias (Vice Chair), Peyton McManus, Erika Naumann Gaillat (Alternate), Robert Sullivan (Alternate)

MEMBERS ABSENT: Richard Kelley, Bill McGowan, Tom DeCapo, Heather Grant (Alternate Council Rep), Chris McClain (Alternate), Emily Friedrichs (Council Rep)

ALSO PRESENT: Town Planner Michael Behrendt

I. Call to Order

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

II. Roll Call and Seating of Alternates

Chair Rasmussen called the Roll and seated Erika Naumann Gaillat for Bill McGowan, and Robert Sullivan for Tom DeCapo.

III. Approval of Agenda

Vice-Chair Tobias MOVED to approve the Agenda for April 24, 2024 as presented; SECONDED by Peyton McManus; APPROVED 5-0, Motion carries.

IV. Town Planner's Report

Mr. Behrendt said the Planning Board meeting scheduled for May 22, 2024 will not be held as he is on vacation; next meeting May 29, 2024 for Workshop and Annual Meeting, where Board discusses prior year and plans for upcoming year, including election of officers and committee assignments.

V. Reports from Board Members who serve on Other Committees

No Committee Reports.

VI. Public Comments – None

VII. Review of Minutes (old): February 28, 2024 and March 13, 2024

Meeting Minutes of February 28, 2024

Changes sent to Karen Edwards.

Chair Rasmussen MOVED to approve the Planning Board Meeting Minutes for February 28, 2024 as amended; SECONDED by Peyton McManus; APPROVED 4-0 with 1 abstention, Motion carries.

Meeting Minutes of March 13, 2024

Chair Rasmussen MOVED to approve the Planning Board Meeting Minutes for March 13, 2024, as presented; SECONDED by Peyton McManus; APPROVED 3-0 with 2 abstentions, Motion carries.

VIII. 30 and 32 Old Piscataqua Road – Lot Line Adjustment. Lot line adjustment between two lots both owned by John and Judith Churchill. Adam Fogg, Surveyor. Map 209, Lot 86 and Map 209, Lot 86-2. Residence A District. Recommended action: Accept as complete and set public hearing.

John Churchill said he and his wife are building a house on Map 209, Lot 86-2 and want to incorporate the barn on Lot 86 into Lot 82-6. To determine the new lot line took existing starting point and swung it over to encompass the barn with 10-ft side setback and 30-ft setback behind barn resulting in 0.22-acre shift. Both properties in Residence A District; existing driveway is most practical access and defines easement for driving his tractor; sewer line runs up the side of the property with an easement created there for sewer work; some labels will be made clearer per Mr. Behrendt.

Chair Rasmussen scheduled the Public Hearing for May 8, 2024.

VIII. Public Hearing - 9 Dover Road – Conditional Use. Conditional Use application for retaining an existing parking lot for parking as a principal use (i.e., for parking that can be rented to people from off site). Fred Kell, c/o Tyche Capital Group, LLC, property owner. Map 108, Lot 43. Courthouse District. Recommended action: Final action.

Mr. Behrendt stated that the application is complete, and Chair Rasmussen asked for a quick review.

Fred Kell said this is a 3-unit building which can hold up to 8 people, with an 8-person parking lot on the right and driveway on the left; application is to use all parking spots for tenants or non-tenants.

Ms. Naumann Gaillat said she had no questions at this time, and Mr. Sullivan said he has seen the site and understands the application.

Mr. Behrendt said his Draft Notice of Decision is to approve with 3 terms: (1) parking restricted to striped areas on pavement; (2) parking limited to 3 spaces on left accessed by driveway; (3) address drainage on the site: drainage basin in main parking lot drains directly into the brook and

there should be some treatment; any expansion of parking area would require a Site Plan review. Mr. Kell said he did not see the Draft Notice of Decision; Mr. Behrendt said they could meet on site

Chair Rasmussen asked if this really is a brook as it runs into a detention pond at the end of Young Drive and may only connect with dead water. Mr. Behrendt said he would visit the site with the Town Engineer to confirm one way or the other and told the applicant he may not need to make any changes. Mr. Kell said he would like to hear from the engineer.

Vice-Chair Tobias MOVED that the Planning Board open the Public Hearing for 9 Dover Road CU; SECONDED by Peyton McManus; APPROVED 5-0, Motion carries.

Chair Rasmussen opened the Public Hearing for 9 Dover Road CU at 7:16 pm.

No Public Comments,

Vice-Chair Tobias MOVED that the Planning Board close the Public Hearing for 9 Dover Road CU; SECONDED by Peyton McManus; APPROVED 5-0, Motion carries.

Chair Rasmussen closed the Public Hearing for 9 Dover Road CU at 7:17 pm.

Mr. McManus expressed concern regarding runoff into an active stream which may need another look. Mr. Behrendt said if it does not lead to another water stream that condition will be dropped. Chair Rasmussen said it is a runoff collector and not a named stream.

Vice-Chair Tobias MOVED that the Planning Board reopen the Public Hearing for 9 Dover Road CU; SECONDED by Peyton McManus; APPROVED 5-0, Motion carries.

No new Public Comments.

Vice-Chair Tobias MOVED that the Planning Board re-close the Public Hearing for Rewrite of Article II, Definitions; SECONDED by Peyton McManus; APPROVED 5-0, Motion carries.

The Public Hearing was reopened and re-closed again at 7:20 pm.

Mr. Behrendt stated that the application and notices were submitted and posted as required.

CU Criteria:

1. Site Suitability – No modifications to site; parking area still being for parking: Board agreed.
2. External Impacts – Same use with no concerns re noise and glare: Board agreed.
3. Character of Site Development – N/A

4. Character of Buildings & Structures – Nothing being changed; N/A

5. Preservation of Resources – Discussion of stormwater and appropriate drainage; mitigation plan set up.

Mr. Behrendt said he would add to draft notice that staff shall clarify whether brook leads to larger continuance or ends at basin. Chair Rasmussen said the question is whether it is going into a retention pond or a natural wetland; Mr. Behrendt said part of the basin at the end of Young Drive is a wetland. Chair Rasmussen said it is draining from Young Drive properties with no connection to the retention area on the other side of Young Drive.

6. Impact on Property Values – No change

7. Availability of Public Services and Facilities – None required

8. Fiscal Impacts to Town – N/A

Vice-Chair Tobias MOVED that the Planning Board approve the CU application for 9 Dover Road for retaining an existing parking lot for parking as a principal use, Fred Kell c/o Tyche Capital Group, LLC property owner, Map 108, Lot 43, Courthouse District, finding all 8 CU criteria are met; SECONDED by Peyton McManus; APPROVED 5-0, Motion carries.

X. ***Public Hearing – Rewrite of Article II. Definitions in Zoning Ordinance.*** The article has been substantially rewritten including related changes to the Table of Uses. One can review the draft at https://www.ci.durham.nh.us/boc_planning/zoning-re-write-definitions-0. ***Recommended action:*** Vote to initiate amendment if draft acceptable.

Chair Rasmussen said a clean copy of agreed-upon final edits from the last meeting have been provided and the Board needs to decide if they are ready to send this on to Town Council. He said by clean he means it shows the final redactions and additions and starting on page 47 there is a super-clean version. Mr. Behrendt said all that is included in the amendment are the definitions being changed.

Chair Rasmussen MOVED that the Planning Board Open a Public Hearing for final comments on this amendment; SECONDED by Vice-Chair Tobias; APPROVED 5-0, Motion carries.

No Public Comments.

Vice-Chair Tobias MOVED that the Planning Board Close the Public Hearing for final comments on this amendment; SECONDED by Peyton McManus; APPROVED 5-0, Motion carries.

Chair Rasmussen MOVED that the Planning Board formally institute this Amendment by sending it to the Town Council; SECONDED by Peyton McManus; APPROVED 5-0, Motion carries.

- XI. Workforce Housing – Potential Zoning Amendment.** (Time permitting) Continued discussion about issues related to potential zoning amendments to facilitate the creation of workforce housing. The Planning Board put aside an earlier proposal and is now working on a new/revised draft. Recommended action: Discussion and continuation of item.

Mr. McManus said the set rate has to do with upfront funding plus future ability to operate downstream, and 75%/100% may be difficult long term. Mr. Behrendt said that has not been finalized and is still up for discussion. Vice-Chair Tobias said that is probably the most important number and it needs to be looked at realistically. Chair Rasmussen said whatever number the Board puts down will be for the number everybody shoots for, or have a graduated scale.

Vice-Chair Tobias said she understood the Workforce Housing Overlay District would have the same density as OR; Mr. Behrendt said it will be similar. He said the Board talked about the school and still needs to talk about personal income and about density. He said the State defines it as 60% of median income for rentals and 100% for sales, and his sense is that their rental should have a higher density than sales; rentals can also have a wider variety of housing types. Vice-Chair Tobias said sales will provide money to a developer right away.

Chair Rasmussen said he did not see where the Board needs to make a difference between rental or sale for density bonus; with workforce housing at AMI a developer will come up with a site plan with X amount of space on a different piece of land with different lot sizes. Mr. Behrendt said another question concerns subdivisions, with or without creating new lots, with a different process for Subdivisions and Site Plans; the Conservation Subdivision process is cumbersome and expensive and the Board could just retain the most important elements of the process.

Vice-Chair Tobias said that is not necessary as this is for workforce housing. Mr. Behrandt agreed a workforce housing project should have its own process set up, preserving the best land with X% of gross area permanently preserved as open space. Vice-Chair Tobias said it could depend on the site as well and what pieces of property the overlay district will apply to.

Mr. McManus said it is hard to project 10-15 years out without having flexibility. Mr. Behrendt said the Board could have developers submit a plan for future maintenance funding. Chair Rasmussen said 100% may not be the correct number for long term to allow for operating funds and yearly planned maintenance. The board discussed percentage of workforce housing rates versus market rates. Vice-Chair Tobias said the size of units could also determine what the market rate is. Ms. Naumann Gaillat said Dover and Durham would need some at market rate to be able to deal with the costs.

Mr. Behrendt said he would send an email to the Board related to workforce housing percentages and fair market rates and he is trying to get clarity on what 60% AMI means and how it is set per bedroom; met yesterday with members of NH Housing and Workforce Housing Coalition to work through what the rent levels mean; will forward email after clarifying some issues with rent levels and fair market rates.

Mr. McManus asked if the Board will be reviewing the Table of Uses to consider duplexes and multi-units across additional districts. Chair Rasmussen said he hoped that could be addressed sometime later this year. Mr. Behrent reminded the Board there are some major zoning things coming soon: (1) Conservation Commission work on wetlands and shorelands; (2) continued work on workforce housing; (3) Draft Planned Unit Development Ordinance.

Vice-Chair Tobias asked about permitting Residence Multi-Unit Complex in OR as it is now only permitted in MUDOR. Mr. Behrendt said the Board chose MUDOR conservatively because it is a very small area. Chair Rasmussen said the Board can discuss it along with workforce housing and overly it at that time.

Mr. McManus asked the process for submitting ideas for that. Chair Rasmussen said appropriate routes are: (1) bring it up at a meeting under Other Business; (2) share with Michael Behrendt who will talk to me about it and we will try to include it as part of the initial presentation of Table of Uses review when we get to it; need to avoid email conversations with multiple members.

XII. Other Business

Board discussed May 29, 2024 Workshop & Annual Meeting; Board members asked to submit possible topics of discussion or new issues to be looked at.

Chair Rasmussen asked Mr. Behrendt to put together a list of all committee assignments with names of members currently serving.

XIII. Review of Minutes (new): March 27, 2024 site walk and March 27, 2024 meeting

Minutes of March 27, 2024 Site Walk

Vice-Chair Tobias MOVED that the Planning Board approve the Site Walk Minutes of March 27, 2024; SECONDED by Peyton McManus; APPROVED 4-0 with 1 abstention, Motion carries.

Minutes of Meeting of March 27, 2024

Chair Rasmussen MOVED that the Planning Board approve the Meeting Minutes of March 27, 2024; SECONDED by Peyton McManus; APPROVED 3-0 with 2 abstentions, Motion carries.

XIV. Adjournment

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

Chair Rasmussen adjourned the meeting at 8:13 pm.

Respectfully submitted,

Patricia Denmark, Minute Taker

Durham Planning Board