

These minutes were approved at the April 23, 2025 meeting.

**TOWN OF DURHAM
DURHAM PLANNING BOARD MEETING**

Wednesday, March 26, 2025

Town Council Chambers, Durham Town Hall

7:00 pm

MEMBERS PRESENT: Paul Rasmussen (Chair), Sally Tobias (Vice Chair), Peyton McManus, Robert Sullivan, Gary Whittington, Heather Grant (Council Rep), Eric Lund (Alternate Council Rep)

MEMBERS ABSENT: Richard Kelley

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 welcomed Eric Lund as Alternate Council Rep, with Heather Grant now Regular Council Rep.

III. Approval of Agenda

No Modifications.

Vice Chair Tobias MOVED to approve the Agenda as presented; SECONDED by Peyton McManus; APPROVED: 6-0, Motion carries.

IV. Town Planner's Report

Town Planner Michael Behrendt said next Planning Board meeting is April 9: Continue PUD; CU for Madbury Road to convert commercial to residential; public hearing for Bagdad Road Subdivision tonight; initiated recommendations of Housing Task Force (HTF) with CB1/CB2, others on April 23. Extra workshop planned for April 16 to discuss interactions/impacts of zoning changes and town capacity to handle infrastructure with Rich Reine and Todd Selig. Issues at 361 Durham Point Road with agricultural pond and 100-ft wetland buffer: after more information was provided and it was determined to be exempt from WCOD ordinance.

V. Reports from Board Members who serve on Other Committees

Reporting from the Town Council: Councilor Grant said the Council met on March 17: unanimous consent items included approval for construction contracts for Madbury Complete Streets; presentation on discontinuation of single-use bags; three zoning amendments re from HTF approved: splitting districts into CB1 and CB2; added multi-unit residential in Church Hill, PO, Courthouse; 3-story height limit.

Reporting from Strafford Regional Planning Commission (SRPC): Chair Rasmussen said SRPC met: Somersworth putting in 200 MW Solar Installation on Blackwater Road; transportation: Durham bridgework on Bennett Road delayed to 2028; new 10-year Transportation plan looking at traffic improvements at Town Hall Road-Madbury Road-155 intersection.

VI. Public Comments

No public comments.

VII. Review of Minutes: (old)

VIII. Public Hearing – Proposed amendment to the Aquifer Protection Overlay District. Section 175-86 C. and F. of the Zoning Ordinance: a) Remove requirement to connect with Town sewer (It is not available in most of the district); b) Make single-family residences exempt from the requirement to connect to an underground stormwater system. Recommended action: Vote to initiate the amendment if acceptable.

Vice Chair Tobias MOVED to open the Public Hearing for Aquifer Protection Overlay District; SECONDED by Gary Whittington; APPROVED: 6-0, Motion carries.

Chair Rasmussen opened the Public Hearing for Aquifer Protection Overlay District at 7:12 pm.

Beth Olshansky said the new language more accurately reflects the way the town has been treating the district for the last 20 years, and said she was in favor of the amendment.

Emily Friedrichs expressed concern about not requiring town sewer hookup because septic tanks do not filter out pollutants like PFAS, and wanted to know more about septic systems, best practices for pump-outs, and what would protect the aquifer long term.

Gary Whittington MOVED to open the Public Hearing for Aquifer Protection Overlay District; SECONDED by Vice Chair Tobias; APPROVED: 6-0, Motion carries.

Chair Rasmussen closed the Public Hearing for Aquifer Protection Overlay District at 7:17 pm.

Discussion: Mr. Whittington said the Board might want to decouple Mx. Friedrichs comments from the issue in front of us, as this is a question of whether we have sufficient standards for septic systems to prevent damage to the aquifer. Mr. McManus said he would like to know historically why the APOD was put in place, and standards that could be provided for septic systems.

Councilor Lund said there is only one small area in the vicinity of Tech Drive that is both in the APOD and where sewer is accessible; might want to require hookup if near sewer. Mr. Whittington said the issue before us is just a technical amendment and septic regulations are a

separate discussion. Vice Chair Tobias said new builds and septic replacements will use the most up-to-date septic systems available. Councilor Grant said the Conservation Commission also supported this change.

Mr. Behrendt said leach fields are approved by the State Department of Environmental Services and standards are based on soil; aquifer soil is well-drained and the process is the same for the whole town. He said this amendment has 2 parts: (1) to remove the requirement for any development in APOD to connect to town sewer if not available; (2) drainage: all runoff from impervious surfaces shall be recharged and treated on site “through structural best management practices to maximum extent practical”, per Rich Reine

Mr. Whittington asked the process if the runoff could not be recharged on site. Chair Rasmussen said recharge is based on the 50-100-year storm expectations and single family is exempt from site plan regulations. Mr. Sullivan said he is comfortable with Rich Reine’s language, and the Board should adopt this as written; Board agreed to use Mr. Reine’s language.

Chair Rasmussen said the Board is voting to initiate this amendment to the Town Council.

Gary Whittington MOVED that the Planning Board adopt/move forward with the proposed amendment to the Aquifer Protection Overlay District, subject to incorporation of Rich Reine’s language; SECONDED by Peyton McManus; APPROVED: 6-0, Motion carries.

IX. Public Hearing – Invasive Plant Species in Site Plan Regulations. Amendment proposed by the Conservation Commission to Article V – Landscaping and Screening Standards and Appendix of the Site Plan Regulations pertaining to invasive plant species. Recommended action: Vote to adopt amendment if acceptable.

Chair Rasmussen said this amendment is being updated by copying the State regulations into our zoning list. Mr. Behrendt said it is a partial list of the most common species. Councilor Lund said the language of 5.4.9 indicates the state is maintaining the list, and asked if it is updated, would the town’s list also be updated; Mr. Behrendt said automatically. He said the Board is prohibiting both the list of prohibitive species and the watch list.

Vice Chair Tobias MOVED to open the Public Hearing for Invasive Species; SECONDED by Councilor Grant; APPROVED: 6-0, Motion carries.

Chair Rasmussen opened the Public Hearing for Invasive Species at 7:39 pm.

Emily Friedrichs said the Planning Board is continually updating Site Regulations and asked that they consider 3 more changes: (1) add insect-friendly lighting requirements; (2) adopt the language from the NH Office of Planning & Zoning regarding cut and fill; (3) adopt regulations

that preserve Durham's rural character by adopting native and naturalized plantings in the WCOD/SPOD rewrite.

Vice Chair Tobias MOVED to close the Public Hearing for Invasive Species; SECONDED by Peyton McManus; APPROVED: 6-0, Motion carries.

Chair Rasmussen closed the Public Hearing for Invasive Species at 7:42 pm.

Chair Rasmussen said there is no reason to rush this through but Board agreed to move ahead with the amendment on Invasive Plant Species.

Peyton McManus MOVED to adopt the language on Invasive Species as outlined in the March 26 notes; SECONDED by Robert Sullivan; APPROVED: 6-0, Motion carries.

Chair Rasmussen said this amendment is adopted March 26, 2025.

- X. Public Hearing - 3 Dover Road – New Dunkin Donuts.** Site plan application for new 1,500 +/- square-foot Dunkin Donuts restaurant on ¼ acre lot located next to Holiday Inn Express. JESP Enterprises, property owner. Jim Mitchell and Scott Mitchell, Tropic Star Development, LLC, applicant. Matt Perry, Civil Engineer, The Engineering Corp. Scott Thornton, Traffic Engineer, Vanasse & Assoc. Courthouse District. Map 108, Lot 38. Recommended action: Public hearing and discussion.

Mr. Scott Mitchell said they wanted to come in with an update, and said he met DOT on the site last week. He said we do not have a problem with right-in and right-out on our driveway but cannot restrict the Hotel's driveway. He said he was at the site several days during the week and did not see the morning traffic problem, and said DOT would get back to them in one week. Mr. Jim Mitchell said we will sign our own lot as *no left turn* and use a mountable concrete grooved island that goes in driveway, allowing trucks to still back into the site.

Councilor Lund asked for a slide that showed the bigger picture with the relation of the driveway to the intersection and traffic flow out of the hotel. Mr. Jim Mitchell said there is an aisleway behind the hotel that would allow access via easement but cannot be restricted. At the traffic light, there is a full access road to the hotel. Mr. Sullivan said the only movement that causes a big safety issue is the unmarked driveway on the left.

Mr. Scott Mitchell said if he did not think this project was safe, he would not invest the money to do it and said the entire Irving Station will be renovated as soon as Dunkin Donuts leaves; Dunkin Donuts has been a tenant for 15 years and they feel some obligation.

Vice Chair Tobias MOVED to open the Public Hearing for 3 Dover Road–New Dunkin Donuts; SECONDED by Peyton McManus; APPROVED: 6-0, Motion carries.

Chair Rasmussen opened the Public Hearing for 3 Dover Road-Dunkin Donuts at 8:04 pm.

Gwendolyn Howard of Bayview Road said many people walk in that area consistently and she wants to be sure vehicular and pedestrian traffic concerns are taken seriously and said there are 4 entrances to navigate between Bayview Road and the light. She said cars speed on Route 108 and do not stop for right-hand turns at the light, and neither traffic study included as far down as Bayview Road; cars are starting to be two-abreast on Route 108 before they are supposed to and it is difficult to get out of Bayview Road.

Mr. Jim Mitchell said the Bayview intersection is about 250 ft from our edge of property and our curb cut is essentially where it is today. He said they are going to have to modify the sidewalk between curb cuts which will be printed and will have the mountable island. Mr. Behrendt said what you are proposing, and hope DOT will agree to, is right-in and right-out in your driveway with the mountable divider but would not have those controls on the Holiday Inn access.

Mr. Jim Mitchell said they will use an “island” of grooved concrete with a 3-inch reveal over which a snowplow can be elevated. Chair Rasmussen asked how the divider would work on the sidewalk; Mr. Jim Mitchell said it would have to be properly designed by our traffic engineer. He said they will next get the response from DOT and present again at the next meeting.

Mr. Behrendt said the Public Hearing will be continued to April 9, 2025.

XI. *Public Hearing - Mill Plaza – Façade Improvements and Site Enhancements.* Site plan application for façade and site improvements to the rear building, drainage improvements, relocation of northerly crosswalk on Mill Road, and conditional use for drive-through window for bank. Torrington Properties, c/o Pete Doucet and Matt Morgan, property owner. Steve Mayer c/o Allen & Major, engineer. Jeff Gannon c/o PCA, Inc., architect. Gregg Mikolaite, agent. Central Business District. Map 109, Lot 3. *Recommended action:* Final action.

Mr. Gregg Mikolaite said he is joined by Steve Mayer, with Pete Doucet on zoom. He said they met again with TRG March 18, addressed the letter from Oyster River Advisory Council, communicated with DPW on stormwater design in Mill Road crossing, and revised the plan from March 12 meeting comments. Emergency access through Chesley Drive has been removed, added another bike rack, now have 46 with 89 requested and will need a waiver on that; clarified note on sidewalk to work out details with DPW; lost a few parking spaces there, and swapped Pin Oaks for Maple trees, increasing caliper to 2.5-3 inches. No comments on draft Notice of Decision.

Robert Sullivan moved to open the Public Hearing for Mill Plaza; SECONDED by Peyton McManus; APPROVED: 6-0, Motion carries.

Emily Friedrichs asked for an explanation as to why architectural standards do not come into play with this application, and asked that the applicants do something ornamental with the roofline due to its length.

Mr. Behrendt said architectural standards do apply and said he thought they had been met. He said because the Mansard roof is in place now, they are keeping the underlying structure and said it is a judgement of the Board.

Joshua Meyrowitz of 7 Chesley Drive said there are tripping spots and trash on the plaza side and the path is in very bad shape and needs repaving. He said hopefully this can be taken care of as part of the project.

Robin Mower of 6 Briton Lane said she is glad the applicant is moving forward and appreciated the improvements at the plaza. She asked if TRG meeting notes were posted on the website.

Mr. Sullivan said at the TRG meeting they had an extensive discussion with the Fire Department and DPW about a second entrance; agreed Chesley Drive was not needed; discussed boundary between the brook and parking and said path there should be separate from current façade improvements. The second entrance was resolved by having a new crosswalk wide enough for Emergency vehicles to come over “depressed curve” and drive into plaza. The crosswalk will be signed and will prevent people from walking across the current crosswalk. Mr. Mikolaite said they agreed to clean up the path and replace the section of the path on our property.

Katie Ellis of Coe Drive thanked the Public Safety Committee for shifting the second entrance to Mill Road.

Mr. Mikolaite said they will do whatever can be done to put a fresh coat of asphalt on Chesley Path to make it safe for everyone. Mr. Behrendt said he would encourage DPW and Mill Plaza to coordinate on that.

Chair Rasmussen asked if the applicant found the Notice of Decision acceptable; Mr. Mikolaite said it was acceptable, but they needed a waiver on bike racks and CU for the drive-through. Mr. Behrendt asked the applicant to respond to the comments about the architecture. Mr. Mikolaite said he felt it was a matter of opinion.

Chair Rasmussen said for the Waiver: 46 bikes, 89 needed, 36 exist. He said the Board has to say they are granting the waiver because proposed number is sufficient for needs of property, though less than required by Site Plan regulations. Board agreed that the waiver makes sense.

Chair Rasmussen MOVED that the Planning Board grant the waiver for number of bike racks on site; SECONDED by Peyton McManus; APPROVED: 6-0, Motion carries.

Chair Rasmussen asked Mr. Behrendt if all applications, notices, and signage were posted; Mr. Behrendt said they were.

Condition Use:

1. Site Suitability: Chair Rasmussen said there is already a drive-through for the current bank and no issues with site suitability.
2. External Impacts: Vice Chair Tobias said there is already a parking lot there.
3. Character of Site Development: Existing.
4. Character of Buildings: Character of buildings and structures not changed.
5. Preservation of Resources: Reusing all existing infrastructure.
6. Impact of Property Values: No impact.
7. Availability of Public Services and Utilities: Bank is already a drive-through.
8. Fiscal Impacts: No negative impact on Town.

Chair Rasmussen MOVED that the Planning Board grant the Conditional Use for a Drive-Through Window for the Bank; SECONDED by Peyton McManus; APPROVED: 6-0, Motion carries.

Chair Rasmussen asked if there were any Board issues with the Notice of Decision. Mr. Sullivan asked about the mural. Mr. Mikolaite said Pete Doucet wants to present something to Mr. Behrendt.

Pete Doucet said he already engaged a couple of local artists and would like to come up with something that works with the property and the building. He asked that they be able to present their vision and work through it as external from this application.

Mr. Behrendt said the Town will be able to coordinate with Mill Plaza and have a consensus.

Chair Rasmussen MOVED that the Planning Board approve the Notice of Decision of March 26, 2025 for Mill Plaza various improvements at 5 Mill Road for Torrington Properties, property owners. Map 109, Lot 3 in Central Business District; SECONDED by Councilor Grant; APPROVED: 6-0, Motion carries.

- XII. Four-lot Re-subdivision – 53 Bagdad Road and 51 Emerson Road.** Re-subdivision of three current lots into four lots. 53 Bagdad Road – Map 104, Lots 41 and 42 owned by Frank Lavalliere, Qing Lin, and Quan Li. 51 Emerson Road – Map 104, Lot 40 owned by John and Nickoll Lauze. Bob Baskerville, engineer, Bedford Design Consultants. Residence A. Recommended action: Discussion, acceptance, and setting the public hearing for April 9.

Mr. Bob Baskerville said they bought lots 41 and 42 intending to build on lot 41 on a back lot. The structure on lot 42 was built in 1715 and is being restored and will remain as an ADU to the new house which will be built behind it. Bought 2 lots and wanted to subdivide another house lot which has a sewer line in front; negotiated a lot line adjustment with neighbors taking 3,328 sq ft from them and giving them a strip of land at back of lot 42 of equal size where a sewer line could be run to service both lots.

Mr. Baskerville said the front lot with existing house has frontage on Old Bagdad Road with 2 driveway entrances and is listed on town GIS map as a Class 6 road but has been maintained as a Class 5 road and we are treating it as such. A sewer line easement will pick up 4 houses with 2 on lot 40, as well as a water line; lot 41 is our proposed lot 3 with no wetlands or steep slopes, house is 1,580 sq ft with 3 parking spots out front and 2 in the garage; house was sized down as recommended.

Mr. Baskerville said *Sheet 1* gets recorded at the State registry and shows all setbacks and property lines; *Sheet 2* has topographical lines added; *Sheet 3* shows lot development plan; *Sheet 4* is a sewer profile showing a 4-inch profile line; sewer-water line was moved away from the property line; driveways all work nicely; extended size of lot in back.

Mr. McManus asked how distinction between Class 5 and Class 6 roads would impact this. Mr. Baskerville said generally Class 6 roads are not maintained by a town and there are limitations on building. After a road has been maintained for 5 years, a town can take a vote to no longer maintain it. Councilor Lund said looking at the aerial shot, it might be Class 6 behind the driveways on lots 43 and 44, but there are existing houses with driveways that lead to that point and are maintained.

Mr. Baskerville said he understands that the sewer line still runs under Route 4 and accesses houses on the other side of the road; Bagdad Road goes from a 50-ft right-of-way to a 150-ft right-of-way. Mr. Sullivan said in Mr. Behrendt's comments there is a question if the town is maintaining it, but it was acknowledged by DPW. Mr. Behrendt said he has to follow up with the Town Attorney due to complexity in State Law, and said starting to maintain it now does not convert it. Chair Rasmussen asked who has to grant approval for this subdivision if this is Class 6 road; Mr. Behrendt said he believed Town Council approval would be needed.

Chair Rasmussen asked Mr. Behrendt if the application was complete and said the Board needs to accept the application tonight. Mr. Behrendt said application is complete.

Chair Rasmussen MOVED that the Planning Board accept the application as complete; SECONDED by Gary Whittington; APPROVED: 6-0, Motion carries.

Mr. Behrendt asked if the Board wanted to do a site walk. Mr. Sullivan said TRG discussed class/class 6 roads and the 4 access points, and nothing was flagged. Mr. Behrendt said the applicant has been very cooperative working the Historic District and the town.

XIII. Other Business

Mr. Whittington raised the issue of the effect of septic systems on the aquifer and asked if there was a process in place to monitor the effect on the water in the aquifer; the water is tested but is the density and water quality analyzed. Mr. Behrendt said not by DPW, but the state has a good handle on it. Chair Rasmussen said the water is being drawn out and put back in, and the question is where the contaminants are coming from.

XIV. Review of Minutes (new): February 12, 2025 & February 26, 2025

Minutes of February 12, 2025: Chair Rasmussen said there is a typo on the last page, line 8: "saif" should be *said*.

Chair Rasmussen moved to approve the Meeting Minutes of February 12, 2025 as amended; SECONDED by Robert Sullivan; APPROVED: 6-0, Motion carries.

Minutes of February 26, 2025: Councilor Lund said on page 2. Line 17: "my" should be *her*.

Chair Rasmussen moved to approve the Meeting Minutes of February 26, 2025 as amended; SECONDED by Vice Chair Tobias; APPROVED: 6-0, Motion carries.

XV. Adjournment

Vice Chair Tobias moved to adjourn the Planning Board Meeting of March 26, 2025; SECONDED by Councilor Grant; APPROVED: 6-0, Motion carries.

Chair Rasmussen adjourned the meeting at 9:20 pm.

Respectfully submitted,

Patricia Denmark, Minute Taker
Durham Planning Board