

1  
2  
3 **TOWN OF DURHAM**  
4 **DURHAM PLANNING BOARD MEETING**

5 **Wednesday, April 9, 2025**

6 **Town Council Chambers, Durham Town Hall**

7 **7:00 pm**

8 **DRAFT MINUTES**

9  
10 **MEMBERS PRESENT:** Paul Rasmussen (Chair), Sally Tobias (Vice Chair), Peyton McManus, Robert  
11 Sullivan, Gary Whittington, Heather Grant (Alternate Council Rep); Richard Kelley-arrived late

12 **ALSO PRESENT:** Town Planner Michael Behrendt

13  
14 **I. Call to Order**

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

16  
17 **II. Roll Call and Seating of Alternates**

18 Chair Rasmussen said there are no alternates to seat.

19  
20 **III. Approval of Agenda**

21 Chair Rasmussen added under Other Business: Legislative Update.

22  
23 **IV. Town Planner's Report**

24 Town Planner Michael Behrendt said the Board is planning an extra Workshop meeting for April 16,  
25 2025 to talk about infrastructure and preparedness for upcoming developments with Town  
26 Administrator, plus recap of zoning initiatives. Regular meeting April 23: Dunkin Donuts: will  
27 prepare Notice of Decision if traffic is okay with DOT; Public Hearing for Four-Lot Resubdivision; 9  
28 Madbury Road Public Hearing; Zoning Amendment CB-1 and CB-2 and 2 other zoning  
29 amendments initiated by Town Council; continue review of PUD if time allows.

30  
31 Mr. Sullivan asked if there was any word about the Edge timeline; Mr. Behrendt said they had  
32 good response to the RFP and will select a Master Designer for the project.

33  
34 **V. Reports from Board Members who serve on Other Committee**

35  
36 Reporting from the Town Council: Councilor Grant said the Council met Monday, approved  
37 appointments and Zoning Ordinance re OR setbacks; discussed goals for the year; DPW has problem  
38 with new replacement garbage trucks as they are coming from Canada, and cost may be affected  
39 by tariffs if they hold.

40  
41 Mr. Behrendt said the Conservation Commission will be finishing up the WCOD/SPOD upgrade  
42 soon.

43  
44 **VI. Public Comments**

None

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

**VIII. 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: Receive an update about traffic and discuss issues.

***POSTPONED TO APRIL 23, 2025 AT APPLICANTS REQUEST.***

**IX. Public Hearing - Four-lot Resubdivision – 53 Bagdad Road and 51 Emerson Road.** Resubdivision 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: Discuss status of Old Bagdad Road and continue review.

Mr. Bob Baskerville said my clients bought Lots 41 and 42, on Emerson Road and Bagdad Road; the existing house on Lot 41 is historic and is being renovated with new house behind existing; new house on Bagdad Road lot. There will be lot line adjustment to Lot 41 with neighbor where he gives us the area in green and we give him the area in yellow, an exact exchange. The yellow-orange lot has an existing house; lot in blue is new lot of 20,000 sq ft on Old Bagdad Road; green stripe through middle will be sewer access line easement serving all 3 lots.

Mr. Baskerville said Survey Plans are on the cover sheet showing all lot lines and easements and it is reportable. Second sheet has added topography; third sheet is possible house layout plan; fourth sheet shows engineering and sewer line profile. He said no Wetland Permit is needed; will use existing driveways for front lot; side lot driveway on 2 Old Bagdad Road.

Richard Kelley arrived at the Planning Board meeting at 7:25 pm.

Mr. Kelley asked about the class of Old Bagdad Road; Mr. Behrendt said he is pretty sure it is Class 5 road, and the Town Administrator will make a final determination. He said it has been maintained by DPW for the last several years and if we do not hear from DOT, we are good. Mr. McManus said the “flood overlay district” was checked off in application. Mr. Baskerville said there is absolutely no concern due to the steep terrain; all setbacks met, stormwater not required.

**Alan Drake** of 55 Bagdad Road said his driveway entrance is on the left side of Old Bagdad Road and asked what it would take to make it a Class 5 road. He said it is a one-lane road and difficult

1 for 2 vehicles to pass and it would mean more traffic with 3 driveways on the road. Mr. Behrendt  
2 said the town does not plan any changes to the road.

3  
4 Mr. Baskerville said it was surveyed at 14 ft with 13-14 ft in front of our lot, and in front of Mr.  
5 Drake's driveway it measures 16 ft to 18 ft, fairly standard for old town roads. He said he would  
6 take a look at the road condition and shoulders. Mr. Behrendt said he would also check with  
7 DPW. Mr. McManus said on google earth it looks fairly straight with sight lines. Mr. Kelley asked  
8 if there is authorization from current owners; Mr. Baskerville said they all signed the application.

9  
10 Mr. Kelley asked about the new sanitary sewer service adapting town standards. Mr. Baskerville  
11 said it will be a private sewer with a drop manhole done per town specs. Mr. Kelley said nothing  
12 in the authorization talks about the infrastructure improvement; Mr. Baskerville said there were  
13 no concerns by owners; work would be started this summer and be completed by fall. Mr.  
14 Behrendt said as a precedent condition they will need to have an easement and maintenance  
15 agreement for the sewer.

16  
17 Chair Rasmussen continued the Public Hearing for Four-lot Resubdivision to April 23, 2025.

18  
19 **X. 9 Madbury Road – Apartments.** Conditional use to convert the commercial fourth floor to  
20 residential apartments. Matthew Crape, property owner. Nick Isaak, architect. Liz  
21 Shepherd, general manager. Central Business District. Map 106, Lot 39. Recommended  
22 action: Discuss and set public hearing for April 23.

23  
24 Liz Shepherd said Nick Isaak will not be here tonight and Matt Crape is running late. She said the  
25 4<sup>th</sup> floor of 9 Madbury Road, built about 13 years ago, has traditionally been office space,  
26 occupied by UNH for last 10 years; they have ended the lease and we decided to have more  
27 residential with plan for 18 more beds: 5 apartments with four 4-bedrooms and one 2-bedroom.

28  
29 Mr. Kelley asked how the sole remaining door will work to get out to the patio, which looks like  
30 a double door; 4 doors going out to patio; 1 door is in corridor net to stairs. Ms. Shepherd said it  
31 is door and a window and said it could be an error; there are 3 doors to the patio with one main  
32 door from hallway next to stairwell, one from 404, and another on opposite side of patio. Chair  
33 Rasmussen said it looks like a double window.

34  
35 Mr. Kelley asked how having one door to the patio will work; Ms. Shepherd said a PDK lock access  
36 was installed, and it is well-controlled; getting back in is just a lever. Mr. Sullivan asked if any  
37 resident could use the patio. Ms. Shepherd said the patio has a 55-person capacity and we keep  
38 a strong control over that; there is nighttime security in the building Thursday through Saturday  
39 night and video cameras.

40  
41 Vice-Chair Tobias asked about their choice to add traditional student beds, leased in the  
42 traditional student way, while town focus is on more non-student beds and more 2-bedroom  
43 units. Ms. Shepherd said they considered that at the time, however their units fill up quickly; they

also have 2 5-bedroom units, 6 2-bedroom units and 4 studios. Mr. Behrendt said the ordinance has changed; Chair Rasmussen said it would fit under 40% expansion of a non-conforming use.

Chair Rasmussen scheduled the Public Hearing for 9 Madbury Road Apartments to April 23, 2025.

**XI. Proposed Zoning Amendment – CB-1 and CB-2.** Amendment initiated by Town Council to designate Mill Plaza property and portion of UNH land toward Quad Way as Central Business-2, to designate the rest of the existing Central Business District as Central Business-1 (CB-1), and to change Mixed-Use with Residential in CB-1 from a conditional use to a permitted use. Recommended action: Discuss proposal and set public hearing.

Chair Rasmussen suggested finding a better name for CB-2 to eliminate confusion, and suggested Business Transition Zone (BT), as there are too many things that start with “C”. He said the purpose of this is to be the transition zone from Main Street down to the Faculty area; only changing building height maximum to 4 stories; regular CB is 3-5 stories. Councilor Grant said dropping CU is a significant change.

Mr. Kelley said 4 stories are fine on the right side of the lot but on the stream side it would form a wall abutting the faculty neighborhood and said he would like to limit the structure to a more residential scale. Mr. Behrendt said it is hard to split through a zoning district; Mr. Kelley said there are different height limits on opposite sides of the street, and Mr. Behrendt said perhaps they could say anything within “X” feet of the Brook would be no more than 3 stories. He said this was just originally just about allowing mixed use throughout CBD and could be approved quickly.

Chair Rasmussen said this is getting too complicated and said there are 2 other ordinances that will change core things in CBD and this ordinance needs to be approved first. Mr. Sullivan said CB-2 (BT) will evolve over time and the Board does not have to solve what it would look like in the future tonight. Chair Rasmussen said dimensions can be changed later. After further discussion the Board agreed to leave the change to 4 stories.

Chair Rasmussen set the Public Hearing for Proposed Zoning Amendment to April 23, 2025.

## **XII. Other Business**

### **Legislative Update:**

Chair Rasmussen said he received an email this morning from Al Howland with a list of bills that have passed the Senate and been sent to House Committee for review, three of which caught my eye:

SB61: Prohibiting local moratoria and limitations on building permits.

1 **SB170:** Communities would be required to permit utilities, including septic systems, wells,  
2 electric systems, drainage structures, and other systems to be placed in open spaces or perimeter  
3 buffers of subdivisions as long as they do not violate WCOD/SPOD protections; would also include  
4 free-standing solar in the open.

5  
6 Chair Rasmussen said there is also a new paragraph (k) which will limit road frontage  
7 requirements and setbacks for lot lines to no more than 50 ft to improve housing density, but not  
8 on a Shoreland lot which would be 150 ft. He said Senator Howland will try to limit that to areas  
9 that have sewer and water.

10  
11 **SB174:** Will prohibit Planning Boards from considering the number of bedrooms a given unit or  
12 development has during the hearing and approval process; would have to remove all references  
13 to bedrooms in our zoning laws. Chair Rasmussen said regarding 3-unrelated, the Senate and the  
14 House have both passed their own versions of bills that would keep you from limiting residents  
15 by familial relationships.

16  
17 Mr. Whittington said there are a lot of people in town who would like to be able to come to a  
18 public hearing on this issue. Chair Rasmussen said next Tuesday the legislature will hold a Public  
19 Hearing for a number of them; Board members can reach out to Durham's House members.

20  
21 **XIII. Review of Minutes: March 12, 2025**

22  
23 ***Chair Rasmussen MOVED to accept the Planning Board Meeting minutes of March 12,***  
24 ***2025 as written; SECONDED by Peyton McManus; APPROVED: 7-0, Motion carries.***

25  
26 **XIV. Adjournment**

27  
28 ***Richard Kelley MOVED to adjourn the Planning Board Meeting of April 9, 2025; SECONDED***  
29 ***by Vice-Chair Tobias; APPROVED: 7-0, Motion carries.***

30  
31 Chair Rasmussen adjourned the meeting at 8:34 pm.

32  
33 Respectfully submitted,

34 Patricia Denmark, Minute Taker  
35 Durham Planning Board