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

5 **Wednesday, July 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, Gary
11 Whittington, Robert Sullivan, Heather Grant (Council Rep), Richard Kelley, Munish Nanda
12 (Alternate); Eric Lund (Alternate Council Rep) - on Zoom

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

14
15 **I. Call to Order**

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

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

19 Chair Rasmussen called the roll; all members were present.

20
21 **III. Approval of Agenda**

22 Chair Rasmussen moved item X. Conservation Subdivision to after Other Business.

23
24 ***Richard Kelley MOVED to approve the Agenda as amended; SECONDED by Peyton***
25 ***McManus; APPROVED: 7-0, Motion carries.***
26

27 **IV. Town Planner's Report**

28 Town Planner Michael Behrendt said at next meeting on July 23: formal application for 35 Madbury
29 Road; Energy Committee presenting EV Charging proposal; discussion re changes to lighting
30 regulations; Conservation Commission will present proposed Wetland/Shoreland Overlay District in
31 August; Riverwoods got variance; probably 5th Wednesday meeting July 30, 2025 to continue zoning
32 discussion.

33
34 Mr. Kelley asked if the email for Riverwoods zoning variance referencing Table of Uses was for
35 setbacks. Mr. Behrendt said variances were for parking lot, residential buildings in Wetland Buffer,
36 and accessory use on other lot.

37
38 **V. Reports from Boad Members who serve on Other Committees**

39 Reporting from the Town Council: Councilor Grant said the Council met Monday and passed
40 Resolution 2025-15 reaffirming Town's obligation and commitment of Police and legal protection
41 for all Durham residents and visitors, legal or illegal (re concerns of ICE overreach); passed ordinance
42 for splitting CBD-1 and CBD-2 on Table of Uses, adding multi-unit residential to CH, PO, and
43 Courthouse; Public Hearing for Downtown Zoning to take away 3-story limit, continued to August
44 meeting; reviewed proposed Lodging House, setting Public Hearing for August.

Reporting from Energy Committee: Chair Rasmussen said the Energy Committee meeting was cancelled but he was not informed.

Reporting from IWMAC: Chair Rasmussen said IWMAC is working on neighborhood survey for pilot program with curbside compost pickup; ready to go if grant received.

VI. Public Comments: None

VII. Review of Minutes (old):

VIII. The Cottages of Durham modification. Request to remove boardwalk. CDC New Hampshire, LLC, c/o Alex Freeman, property owner. Map 203, Lot 7. ORLI District. Recommended action: Final action.

Alex Freeman, property Maintenance Manager, said the work is being done by Seaglass Property Management. He said the walkway is held up by aluminum posts with no visible footings; header at top supporting weight of boardwalk held in by brackets with turnscrews which are loose, whole frame is sinking, side boards splitting and bottom boards popping up.

Chair Rasmussen said there is no problem with the removal of the boardwalk, concern is protecting the wetlands while work is being done. He said Board would ask for erosion control description and protection of wetland by minimizing disturbance. Mr. Kelley said they could delegate authority to the Town Engineer.

Chair Rasmussen asked Mr. Behrendt to have Mr. Freeman's contractor coordinate with Town Engineer April Talon re means, methods, and process. Mr. Freeman asked for a list of criteria to provide information to Seaglass Management for them to get back to him. Chair Rasmussen asked Mr. Behrendt to send a letter stating what contractor needs to provide, and said this is an administrative decision, no finding of facts necessary.

Richard Kelley moved that the Planning Board approve the request to remove boardwalk at The Cottages, Map 203, Lot 7, in ORLI District with requirement that applicant's contractor meet with Town Engineer to establish means and methods of that demolition; SECONDED by Peyton McManus; APPROVED: 7-0, Motion carries.

IX. 46 Oyster River Road – Gravel Area. Permitted Use B application to extend and raise the grade of an existing gravel area behind the house in the Shoreland Protection Overlay District. Bruce and Nancy Walker, property owner. Phil Belmont, agent and contractor. Map 113, Lot 18. Residence A District. Recommended action: Final action.

Applicant not yet present, moved on to Other Business.

Phil Belmont, local landscape contractor, said there is already a gravel pad outside the back end of the house; he will go in and install a few landscape timbers and slightly increase the size of the gravel pad area. Board said it looks like the property is overrun by undergrowth and it slopes down after gravel fairly steeply. Chair Rasmussen asked if any other work was involved. Mr. Belmont said that is the entire scope of the work; landscape timbers will be about 5 ft from back end of house.

Chair Rasmussen said they have window cleaners, and this will make it easier for them to set up ladders; they are just increasing the width and increasing the ground grade at edge of door. Mr. Whittington asked how much width was being added; Mr. Belmont said 1-2 feet. Mr. Sullivan asked about erosion control and Mr. Belmont said they would use a silt sock. Mr. Whittington said water runs off the roof and percolates through the ground with probably no runoff issues. Mr. McManus asked the time to complete start to finish; Mr. Belmont said 3 days at most.

Chair Rasmussen asked if there were any questions or concerns with findings of fact on page 5. Mr. Kelley said there was some thought here as to whether this would be Permitted Use A or Permitted Use B. Mr. Behrendt said for Permitted Use B there is one Conservation Commission meeting, one Planning Board meeting, no fees, and Conditional Use is very involved.

Chair Rasmussen moved that the Planning Board approve Notice of Decision for 46 Oyster River Road, Permitted Use B, application to extend and raise grade of existing gravel area behind house in Shoreland Protection Overlay District, Bruce and Nancy Walker, property owners, Map 113, Lot 18, in Residence A District; SECONDED by Councilor Grant; APPROVED: 7-0, Motion carries.

XI. Other Business

Discussion about methods to provide more information to the public:

Discussion about active applications where additional information is submitted late:

Chair Rasmussen said there have been several complaints that the Planning Board was moving too quickly on things and not taking the time to establish consensus within the community. Mr. McManus said there have been some instances of information not provided digitally before the meeting and some cases of late-breaking information. He said information should be posted digitally for public consumption 24 hours prior to meeting, and said he finds it helpful to have an executive summary with some sort of cost association of what the regulation might entail.

Mr. Whittington agreed and said he would like to see more of an advocacy system with a simple: problem, cause, solution summary. Mr. Nanda said communication is about transmission and reception; if the public is not receiving it then communication is not happening; may also be too technical. Councilor Grant said a lot of people do not know where to find the agenda and all the documents. Chair Rasmussen said the focus of complaints has to do with zoning changes which are going very quickly to Town Council which a lot of people did not notice.

1 Vice-Chair Tobias said requests for studies and analyses have a cost associated with them. Mr.
2 Kelley said when the Board is looking at the first few pages of a proposal to revise they should
3 provide a background as to why they are doing it and what they hope to accomplish. Mr.
4 McManus suggested providing a summary and a model to look at. Councilor Grant said a lot of
5 complaints are about speed, but some are initiated and approved by the Town Council and sent
6 to the Planning Board.

7
8 Mr. Behrendt said it is time-consuming to put things on the website and Tracey has 3
9 departments to manage; Board gets emails day of the meeting and upload is not always
10 immediate.

11
12 Board moved back to 46 Oyster River Road.

13
14 Mr. McManus commented re information sharing, Board members all have packets or are
15 looking at it online, and it might be useful to show the information on the large monitor so public
16 can see it as well; also show GIS Maps. Board agreed to try it tonight with discussion of
17 Conservation Subdivision.

18
19 Mr. Behrendt said to get something in the packet, it is preferred to get it to us the Thursday
20 before a meeting. If you ask for action there is not enough time for staff comments. He said the
21 Board always has the option to not take final action if they do not have the information on a
22 case-by-case basis. He said information from abutters goes in packet, is emailed to Board, and is
23 then uploaded to the website.

24
25 Erika Naumann Gaillat visited the Planning Board meeting at 8:03 pm.

26
27 **X. Conservation Subdivision – Zoning Ordinance.** Continued discussion about prospective
28 changes to Article XIX - Conservation Subdivisions. Recommended action: Continued
29 discussion.

30
31 Chair Rasmussen said homework was to determine percentages for Table of Dimensions and
32 what is appropriate for each zone; agreed not allowed in RA and set 50% for RB as a placeholder
33 as many of the lots are very deep. Mr. Whittington asked that they back up and take a look at
34 how percentage plays out with open space and Town Planners' comments and perhaps look at
35 a more conventional approach. Chair Rasmussen said the number has to do with amount of open
36 space protected for wildlife: put all construction close to the road rather than at back of lot.

37
38 Mr. Behrendt said the basic structure of the Conservation Subdivision Ordinance is very good
39 and follows a lot of standard practices, but the biggest flaw is density. He said the land to be
40 preserved (A) is totally separate from (B) density calculation. The Board should do a reasonable
41 analysis of the parcel and separate into useable and unusable; take the "useable" upland then
42 take some percentage of that for open space. He recommended just using wetlands, buffers, and
43 open water plus a percentage for open space.

1
2 Chair Rasmussen said he approached this with the idea that it is inadequate (density bonuses),
3 and this would allow you to put in 10 units in available space instead of one; list of types of
4 buildings is included. Mr. Whittington asked about changing the requirement for open space to
5 a requirement that the space be more suitable for public use. Chair Rasmussen said that would
6 destroy the natural habitat for wildlife and create erosion issues. He said it is non-public space;
7 the whole thing is an incentive, and we do not need additional incentives on top of that.

8
9 Mr. McManus asked what changes with the zones; Chair Rasmussen said the density does not
10 change that much, just the allowed buildings up to 4-family in all zones, plus whatever underlying
11 zone allows. Mr. Behrendt said there are many demands here and encouraged the Board to focus
12 on the traditional Conservation Subdivision first, then determine how much land is open space
13 and how to calculate the density percentage. Councilor Grant said this is simple: how much open
14 space do you want offset.

15
16 Mr. Behrendt said it also depends on the percentage of wetlands on a property; then you need
17 to determine what percentage of upland area you want to be buildable vs protected. Chair
18 Rasmusen said they would then have to rewrite paragraph D to represent this. Mr. Behrendt
19 referred the Board to page 136 of zoning ordinance: wetlands and open water must be open
20 space, then a percentage of additional open space for your upland; RA= 30%, RB=40%, and all
21 others are 50%. Mr. Sullivan said take the total area, minus wetlands, times a percentage which
22 gives you the developable area.

23
24 Mr. Nanda said in terms of density: 10 acres, minus 6 acres wetland, leaves 4 acres and out of 4
25 you can develop 25%, 1 acre developable; 1 out of 10 equals density of 10% buildable. Mr.
26 Behrendt said under Paul's formula there is no density maximum. Mr. Kelley said the formula is
27 area total, minus area wet, times a zone percentage. Chair Rasmussen said he was taking more
28 for open space up front and saying do what you want for density. Mr. Whittington asked if a
29 maximum number of dwelling units is established, what should that be vs unlimited, and what
30 are the disadvantages.

31
32 Mr. Behrendt said if the Board wants unlimited, just increase the formula beyond 50%; but we
33 do not want unlimited density on half of a parcel. He said the watchword is "transect"; as you
34 move out toward rural you should be less dense with more open space. Mr. Kelley asked if all
35 setbacks still apply. Chair Rasmussen said setbacks to other properties still apply; internally you
36 can manipulate your own setbacks with Planning Board approval. Mr. Behrendt said the
37 ordinance is flexible on dimensions and types of housing.

38
39 Mr. McManus said he imagines denser sprawl spread throughout the Rural District. Chair
40 Rasmussen said the Board started with R which is the most remote area; it belongs in ORLI and
41 MUDOR where it is not allowed at all. Mr. Behrendt said best practices for rural today is a
42 conservation subdivision. Mr. Whittington asked if the tool the Board should use is to have less

1 density in the rural zone with increase toward center of town. Mr. Behrendt said if they bring
2 this forward with no density limit in rural, the public will not buy it.

3
4 Mr. Kelley suggested using density radiuses/circumferences, allowing greatest density in center
5 of town and as you move out density gets less. Chair Rasmussen said that it would be effectively
6 putting an overlay district over the whole town. Mr. Behrendt said a transect is best practices.
7 Mr. McManus said the open space is not public traversable space, it is for that community and
8 suggested going for density where it makes sense. Mr. Whittington said adding this level of
9 complexity to zoning analysis is undesirable as a policy matter.

10
11 Chair Rasmussen said there are 2 primary goals here: to increase housing supply and to protect
12 as much open space as possible. He said there are different definitions of sprawl but with Mr.
13 McManus's definition nothing would be solved. Mr. Whittington said he felt they should impose
14 density requirements and do their best with existing zoning. Mr. Nanda said with his
15 interpretation, limits are actually built in.

16
17 Chair Rasmussen said the biggest limit in Rural will be water supply and their own wastewater
18 systems. Mr. Sullivan agreed limit will be septic and well setbacks. He said the Board needs a
19 formula they can test and see what the model looks like in different zones. Vice Chair Tobias said
20 we need a visual model to work this out; we will have to justify with evidence to show why
21 smaller lots are viable in today's market. Chair Rasmussen said we can get the same number of
22 units a dozen different ways. Board agreed that 2 lots across the street from each other should
23 be the same thing.

24
25 Chair Rasmussen said there is no limit in density and the formula are two different things. Vice
26 Chair Tobias said: total minus wetlands give the upland numbers, then take a percentage of the
27 upland for developable area. Mr. Sullivan asked why they had to shrink down the area as they
28 go; Chair Rasmussen said it is the idea of open space per person; developable area should be
29 very dense to maximize open space while at same time preserving rural character, adding more
30 open space to denser areas

31
32 Chair Rasmussen said when the Conservation Commission comes to the Board with their new
33 ordinance, we will be requesting a much larger buffer. If we subtract out wetlands and buffer,
34 and buffers change, that breaks out everything we just calculated; one reason he chose this
35 method. Mr. Kelley said he emailed a formula to Mr. McManus: $(A_t) - (A_w) * Z\% = A_d$; total area
36 minus total wetland (with buffer), times percent depending on zone equals area of development,
37 then go on to density requirements; just a wetland study will be needed. Mr. McManus said he
38 would add access to transportation and more localized density

1 .Chair Rasmussen asked if the Board should change gears and look at this as an overlay district
2 based on center of downtown or continue looking at it zone by zone. Mr. Behrendt said it is not
3 going to work as an overlay district; zoning is your structure, work off zoning. He said in the end
4 this is a conservation subdivision which will be RB, RC, and Rural, and probably ORLI. Mr. Kelley
5 suggested revising the zoning maps; part of RC should be RB. Chair Rasmussen said they could
6 look at rezoning and whether boundaries make sense. Mr. Behrendt said you can change your
7 zoning all you want but encouraged the Board to tailor the ordinance and make changes in the
8 future. Board agreed to use the formula and come back to next meeting with zoning percentage
9 then density.

10
11 **XII. Review of Minutes:**

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13 **XIII. Adjournment**

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15 ***Richard Kelley moved to adjourn the Planning Board Meeting of July 9, 2025; SECONDED***
16 ***by Vice Chair Tobias; APPROVED: 7-0, Motion carries.***

17
18 Chair Rasmussen adjourned the Planning Board meeting at 9:31 pm.

19
20 Respectfully submitted,

21 Patricia Denmark, Minute Taker
22 Durham Planning Board