

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

5 **Wednesday, July 23, 2025**
6 **Town Council Chambers, Durham Town Hall**

7 **7:00 pm**
8 **DRAFT MINUTES**
9

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

12 **MEMBERS ABSENT:** Sally Tobias (Vice Chair), Eric Lund (Alternate Council Rep)

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 and seated Munish Nanda for Sally Tobias.
20

21 **III. Approval of Agenda**

22 Chair Rasmussen moved item X. Other Business before Item IX. Conservation Subdivision.
23

24 ***Chair Rasmussen MOVED to approve the Agenda as amended; SECONDED by Councilor***
25 ***Grant; APPROVED: 6-0, Motion carries.***
26

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

28 Town Planner Michael Behrendt said the amendment to the ordinance re Lodging Houses has been
29 determined illegal by the Town Attorney due to HB-457, and the Board does not have legal authority
30 to carry the Fire Code into Zoning; a Public Hearing will be held August 4, 2025 to see what Council
31 wants to do with the amendment. Planning Board extra meeting next Wednesday July 30; August
32 13 meeting: Conservation Commission presentation, formal application for Riverwoods Part II,
33 minor change to Mill Plaza façade plan; discuss new State statutes adopted pertinent to zoning.
34

35 **V. Reports from Board Members who serve on Other Committees**

36 Reporting from the Town Council: Councilor Grant said the Town Council has not met.
37

38 Reporting from IWMAC: Chair Rasmussen said IWMAC met, continuing preparation for possible
39 grant to do pilot of compost curb pickup
40

41 Reporting from Housing Task Force: Chair Rasmussen said HTF did not meet.
42

43 Robert Kelley arrived at the Planning Board meeting at 7:25 pm.
44

VI. Public Comments

Mr. Behrendt said he handed out copies of letter from Town Attorney, email from Robert Sullivan re first application, and email from Em Friedrichs re Conservation Subdivision.

VII. Review of Minutes (old):

VIII. 35 Madbury Road – Drive Reconfiguration. Site Plan Application to extend driveway behind building, install a new curb cut, convert driveway to one-way pattern, install parking spaces, and make other site changes. Conditional use application to convert an existing room to a bedroom to accommodate one more resident. Scott Drapeau, c/o DWS 35 LLC, property owner. Paige Libbey, Jones & Beach, engineer. Professional Office Zone. Map 106, Lot 19. Recommended action: Accept as complete and set public hearing for August 13.

Richard Kelley recused himself from the discussion due to friendship with Mr. Drapeau.

Paige Libbey said the conceptual hearing was held in May; have since surveyed the property and put together a complete application and plan set. Adding parking on south side of building as north side parking does not allow cars to turn around; make current driveway *in only* and add a second curb cut south of building for *one-way out*; relocate dumpster to southwest corner; existing impervious coverage is 43%, good portion of property to be porous pavement. Plan C-3 shows grading and drainage, porous pavement doubles as stormwater management and takes 50% of impervious surface off lot.

Ms. Libbey said test pits were done on site to confirm ability of soils to infiltrate runoff. Some landscaping along existing tree line with need to cut some trees, adding buffer trees and diminutive shrubs; utilities are existing; will coordinate with DPW if needed. Also propose to convert existing storeroom to bedroom for 1 resident increasing occupancy from 26 to 27; requires a CU permit. Also requires 3 waivers: (1) to reduce one-way aisle width from 18 ft to 16 ft; (2) driveway width at road intersection should be 20 ft; (3) allow parking in front of building. Scheduled to go to TRG August 5, 2025.

Ms. Libbey said she understood Mr. Sullivan's email about the trees but did not locate each one on the property; Mr. Sullivan said removal of trees would create a different dynamic and pointed out invasive species next to dumpster that should be removed. Chair Rassmussen said his concern there is making sure sight lines were not blocked and suggested labeling parking spots; Ms. Libbey said signs are already assigned for car sizes. Mr. Behrendt also questioned the location of snow storage; Ms. Libbey said the snow storage area could be moved. Mr. McManus said parking on both sides narrows the lawn and feels constraining.

Mr. Behrendt recommended removal of invasives near the dumpster and questioned possible runoff to abutter from porous pavement due to proximity of exit driveway to property line. Ms. Libbey said drainage analysis found no runoff to abutting property. Mr. Behrendt said one van-

1 accessible space needs to be added; Ms. Libbey said under Title III of ADA it is not required for
2 clubs (fraternities/sororities) on private property. Mr. Behrendt asked the Board if hours of
3 construction should be limited, asked that curb cuts be physically accommodated soon due to
4 Madbury Road Project, and asked that parking be shown at an optimal angle.

5
6 Mr. Drapeau said he would coordinate with DPW tomorrow; Mr. Behrendt recommended he
7 contact Town Engineer April Talon. Councilor Grant asked for the timeline for the project after
8 approval, and Mr. Drapeau said probably next year. Mr. Whittington asked if the project would
9 still be possible without parking spaces next to Madbury Road. Mr. Drapeau said the product is
10 more expensive with porous system going in and getting more out of it helps offset costs.

11
12 Mr. Behrendt said the application is complete.

13
14 ***Chair Rasmussen moved to accept the application for 35 Madbury Road; SECONDED by***
15 ***Peyton McManus; APPROVED: 7-0, Motion carries.***

16
17 **X. Other Business**

18
19 Discussion about Lighting Regulations including color or “temperature” of lighting installations

20 Chair Rasmussen said members of the Energy Committee are concerned about light colors and
21 their affect on birds and insects, especially colors on the bluish end of spectrum or approaching
22 sunlight. He said the attached lighting scale seems to be for indoor uses and asked the Board if
23 this is something they should be considering, if it belongs in Site Regulations, and whether it is
24 worth updating the lighting specifications.

25
26 Chair Rasmussen said he would be opposed to a blanket color on any exterior lighting as some
27 areas need to be well lit for safety purposes; need to put some thought into this and it could be
28 one of our smaller side projects. Mr. Whittington said this is almost more educational than
29 regulatory. Chair Rasmussen said a lot of street lighting went in with low amber lights, then UNH
30 Safety Study pointed out that you could not see people at corner of Main and Garrison Streets
31 and current lighting is inappropriate for foot traffic and will be going brighter.

32
33 Councilor Grant agreed it seems a lot more work than assumed and asked the goal. Mr. Nanda
34 said safety of people on Main Street then beyond that preservation of nature. Chair Rasmussen
35 said he would sit down with Mr. Behrendt and decide where to insert this. Mr. McManus
36 suggested they find out what UNH is doing in terms of lighting to avoid a mismatch, and said
37 lighting is done for a very specific purpose and should not be mandated. Mr. Kelley agreed they
38 should go by other examples.

39
40 **IX. Conservation Subdivision – Zoning Ordinance.** Continued discussion about prospective
41 changes to Article XIX – Conservation Subdivisions. Recommended action: Continued
42 discussion.
43

Chair Rasmussen said last time the Board adopted Mr. Kelley's formula* and were going to look at percentages which they will discuss later; not using CB or RA, no PO, Courthouse, or Coe's corner and Durham Business Park. Mr. Behrendt said he had RB, RC, R, MUDOR, ORLI. Chair Rasmussen said it could be used to do infill along Route 108 and in OR between Route 4 and Madbury Townline. Mr. McManus said there is already infill there and he would include OR.

**(At) – (Aw) *Z% = Ad: Area total, minus wetlands area, times zoning percentage = developable area.*

B. Applicability: Chair Rasmussen said paragraph 1 should be modified and asked to skip it for now.

C. Exempt Subdivisions: (1) 3-lot subdivisions: 3 or fewer lots with no more than 3 dwelling units (not ADUs); no further subdivision of affected parcels unless they use Conservation Subdivision.

Mr. Whittington asked if the language was there to prevent larger lots from developing some kind of zoning to be exempt from the requirement and get more units by fragmenting the lot. Chair Rasmussen said what 3 does is ask you to lay out the whole subdivision plan *now* and allow you to do a small piece at a time which is expensive; his edit was to take out a few lots but when you go back follow the same set of rules.

Mr. Nanda asked if doing the subdivision piece by piece would compromise the optimization of how you use the whole property. Chair Rasmussen said it depends on the lot and how the development is planned ahead of time. Mr. Whittington asked if there is a possibility someone could double count the space to achieve a greater density. Chair Rasmussen said no, first they would be separating the 2 lots and only looking at the first lot, with second lot having nothing to do with the first.

Mr. Behrendt said if they cut out 1 or 2 lots, could say any future development of the rest has to be a conservation subdivision with first lot based on zone, then subdivide the remainder that is treated separately as its own thing. Chair Rasmussen said they cannot be stacked on the same property, but they can use the first lot for Conservation Subdivision and take the other lot later. Mr. Behrendt said #1 says "no further subdivision" which is unfair, or cut out the 2-3 lots and retain your right for future subdivision; which would need to be stated clearly on the tax card and tax map.

Mr. Sullivan asked what the burden was in the old #3 talking about subsection N. Chair Rasmussen said the developer would need to create a complete conceptual plan based on natural resources, which is either a high bar or a meaningless exercise. Mr. Behrendt said Paul is asking the value of doing that; it is easier to cut out lots, meet minimum lot size for zone, and any future development of residual acres is a Conservation Subdivision. Mr. Nanda asked if these regulations remain in place if the rest of the lot is sold after developing a few lots. Mr. Behrendt said yes, it says with the land.

Chair Rasmussen said there are 3 exceptions in C; he got rid of 2 and 3 and rewrote #1; he did not like #2 which says developer will break the land up into 10-acre lots and you cannot do anything with them in the future. He said his second exemption was if using an overlay district then Conservation Subdivision does not apply. Mr. Behrendt said he would not use an overlay district and #2 is not needed. Chair Rasmussen said the old #3 is the new #4: 1 new lot very 7 years, which he does not consider planning. Mr. Sullivan said perhaps it is in there to keep someone from continually carving out parcels. Board agreed to delete it.

D. Maximum Development Density: Chair Rasmussen said he crossed this out and changed it to Developable Area, which goes back to the formula decided shown above (see*). He asked that the Board move on because they do not yet understand the rest of the ordinance (percentages and density). Mr. Behrendt said the above part in blue is consistent with the intent of flexibility and puts a limit on 4-unit buildings. Chair Rasmussen said this says you can have your own lot, or it might be a shared lot; we are going to allow more things per underlying zone.

E. Lots in a Conservation Subdivision: Not touched.

F. Individual Lot Sizes: Completely rewritten. Mr. Behrendt said this says for a Conservation Subdivision on a collector road, any new lots with road frontage have to be bigger lots but Paul is saying the opposite. Chair Rasmussen said he does not like the current wording because it forces you to put open space between your buildings, which ends up as poor-quality open space and we end up losing more.

Mr. Whittington said with structural setbacks, you are putting structures in front to allow uninterrupted open space in back which creates a buffer. Chair Rasmussen said that is where Site Plan Review comes in; maybe we need more words to explain it better. Mr. McManus said it is aesthetically pleasing but probably diminishes the value of the open space you are striving for and said he would give flexibility to developers. Chair Rasmussen said rather than looking at just one thing we need to be looking at all competing factors and long-term effects.

Mr. Whittington said perhaps as part of the approval the plan has to appropriately balance high quality open space for wildlife conservation and appropriate visual buffering in areas of aesthetic beauty. Chair Rasmussen said he would like to add a comment that lots in R and RC that abut existing roads should be balanced appropriately to diminish any high-density effect close to rural roads. Mr. Nanda said Fitts Farm is a good example, seems rural and open with density in back a nice combination of lots not very big. Chair Rasmussen said we could allow a second ADU by special exception.

Mr. Sullivan asked where the 10,000 sq ft came from; Chair Rasmussen said that is for a unit having its own septic system. Mr. Whittington asked about possible impact of private septic fields on the water table. Chair Rasmussen said soils will have a lot to say about how dense you can go for your septic or subdivision as a whole. Mr. Behrendt said the State has to approve every leach field. Mr. McManus said in his subdivision each lot has its own septic with a shared water system, and maintaining your own water system is not a light lift.

Mr. Whittington asked the threshold for the Town to extend water and sewer. Mr. Behrendt said the town will not extend sewer/water and developer has to pay for the extension. Mr. Nanda asked if the town could require the developer to provide the extension. Mr. Behrendt said if the town water/sewer is reasonably close, but technology gets better all the time.

G. Individual Lot Frontage: Chair Rasmussen said this may show up from the State with max/min lot frontage. Councilor Grant asked about #2: "any lot may have less frontage than the required minimum lot frontage for district". Mr. Behrendt said it currently says 50 ft which was deleted. Mr. Whittington said he could not understand any alternative but to delete this; lots will be looked at according to parcel as a whole. Chair Rasmussen said internal and external streets show on the site plan, it was shifted out of zoning into site plan review.

Chair Rasmussen said the second part is public streets that existed before July 1, 2003, scenic byways trying to put driveway cuts where they belong, which should be in another section other than frontage; #2 is streets newly constructed in the last 20 years. He said the Board made some good progress and would start next time with H, I, J, and K and then think about density.

XI. Review of Minutes: May 28, 2025, June 11, 2025 & June 25, 2025

Minutes of May 28, 2025:

Richard Kelley moved to approve the minutes of May 28, 2025; SECONDED by Peyton McManus; APPROVED: 7-0, Motion carries.

Minutes of June 11, 2025:

Chair Rasmussen moved to approve the minutes of June 11, 2025; SECONDED by Peyton McManus; APPROVED: 6-0 with 1 abstention, Motion carries.

Minutes of June 25, 2025:

Peyton McManus moved to approve the minutes of June 25, 2025; SECONDED by Robert Sullivan; APPROVED: 6-0 with 1 abstention, Motion carries.

XII. Adjournment

Gary Whittington moved to adjourn the Planning Board Meeting of July 23, 2025; SECONDED by Robert Sullivan; APPROVED: 7-0, Motion carries.

Chair Rasmussen adjourned the Planning Board meeting at 9:10 pm.

Respectfully submitted,

Patricia Denmark, Minute Taker
Durham Planning Board