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

5 **Wednesday, September 10, 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), Richard Kelley, Gary
11 Whittington, Peyton McManus, Robert Sullivan, Heather Grant (Council Rep), Darrell Ford
12 (Alternate Council Rep), Munish Nanda (Alternate), Peter Howd (Alternate), Julian Smith
13 (Alternate)

14
15 **ALSO PRESENT:** Town Planner Michael Behrendt

16
17 **I. Call to Order**

18 Chair Paul Rasmussen called the meeting to order at 7:00 pm and welcomed new Alternates:
19 Julian Smith and Darrell Ford (Council Alternate).

20
21 **II. Roll Call and Seating of Alternates**

22 Chair Rasmussen called the roll, all members present.

23
24 **III. Approval of Agenda**

25
26 *Richard Kelley MOVED to approve the Agenda as presented; SECONDED by Vice Chair*
27 *Tobias; APPROVED: 7-0, Motion carries.*

28
29 **IV. Town Planner's Report**

30 Mr. Behrendt said a few minor lot line adjustments are coming up in the next two weeks; Council
31 will update on the 3-story item.

32
33 **V. Reports from Board Members who serve on Other Committees**

34 Reporting from the Town Council: Councilor Grant said Town Council met Monday; appointed new
35 Council representative Darrell Ford to replace Eric Lund; Carden Welsh as new Council member;
36 Public Hearing October 6 for Mill Pond Dam removal project and approval of funds from NOAA;
37 appointed Julian Smith as Planning Board Alternate; presentation from Public Library; discussion re
38 going from 3-story to 4-story by right in CBD-1, to Mr. Behrendt for adjustments then back to
39 Planning Board; summary of Housing Task Force presented by Sally Tobias.

40
41 Reporting from TRG: Mr. Sullivan said meeting minutes from TRG are in the packet for Riverwoods;
42 outstanding: Underwood work to look at water and left turn lane from DOT.

1 Reporting from IWMAC: Chair Rasmussen said IWMAC met and are working on an expanded
2 compost challenge for fall for all Durham residents and employees at Town Hall.

3
4 Reporting from Housing Task Force: Chair Rasmussen said HTF had a last set of changes mainly
5 focused on Table of Uses/Table of Dimensions, tentative presentation late October; public
6 information session on DCAT at last meeting for changes and meaning behind them.

7
8 **VI. Public Comments**

9 No comments.

10
11 **VII. Review of Minutes (old): None**

12
13 **VIII. Lot Line Adjustment – Bagdad Road**. Lot line adjustment with 4,658 square feet being
14 conveyed from 50 Bagdad Road, Map 104, Lot 67, owned by Wayne Shirley to 48 Bagdad
15 Road, Map 104, Lot 68, owned by Marcus Everngam. Paul Dobberstein, Surveyor.
16 Residence A District. Recommended action: Acceptance and setting public hearing for
17 September 24.

18
19 Surveyor Paul Dobberstein said applicants own properties adjacent to each other on Bagdad
20 Road past High School. Mr. Everngam just built a new home on the property; current property
21 line established 2007 by agreement; proposal to convey a strip 20 ft wide with southerly side of
22 strip partly wooded. He said Mr. Behrendt asked that waivers be addressed: 2 waivers for same
23 thing, not to survey the entirety of Mr. Shirley's property.

24
25 Mr. Dobberstein said he has been working with Mr. Everngam since he bought the property;
26 some wetlands in southerly area (CU Permit not needed); also worked with him on a sewer
27 easement that should have been conveyed at subdivision, property completely surveyed with
28 accurately depicted property lines; no encroachments will occur as part of adjustment. Mr.
29 Kelley said it sounds like just one waiver. Mr. Dobberstein said both waivers deal with surveying
30 both properties in entirety showing markers, location of property lines, frontage on public right-
31 of-way.

32
33 Mr. Dobberstein said Mr. Shirley's property was surveyed with recorded plan, in compliance with
34 zoning ordinance. Adjustment would result in Mr. Shirley's lot being 1.1 acres where 20,000 sq
35 ft is required; including frontage on Bagdad Road he will have about 429 ft of frontage, 187 ft of
36 it on Class 5 road. Burden on applicant to have entire property surveyed is expensive and not
37 justified by concerns over zoning.

38
39 Mr. McManus asked Mr. Behrendt what risk is associated with only one survey being performed.
40 Mr. Behrendt said there is not a risk and it is not essential; waiver was addressed appropriately.
41 Mr. Dobberstein said the east-west boundary is the one we are trying to adjust; Everngam
42 property falls short of creek and Mr. Shirley's goes to center of creek, with that line firmly
43 established; right-of-way for Bagdad Road established with plenty of reference markers; will be

1 setting markers for new line and deed will be prepared. Mr. Whittington said to make sure there
2 is no ambiguity in terms of defining the property.

3
4 Mr. Kelley said by putting your seal on this plan, you are certifying that lot 68 is what you are
5 sealing. Mr. Dobberstein said deeds for the Shirley parcel are very old, parcel acquired in probate
6 in 1930s and all properties on that block have been surveyed. Mr. Kelley said he does not take
7 any issues with the waiver.

8
9 ***Richard Kelley moved that the Planning Board approve the requested waiver from 703-8***
10 ***D7 and D8; SECONDED by Peyton McManus; APPROVED: 7-0, Motion carries.***

11
12 ***Chair Rasmussen moved that the Planning Board accept this application as complete;***
13 ***SECONDED by Richard Kelley; APPROVED: 7-0, Motion carries.***

14
15 Public Hearing for Bagdad Road lot line adjustment set for September 24, 2025.

16
17 Mr. Dobberstein said he would prepare the legal description; Mr. Behrendt said he would
18 provide the Draft for September 24, 2025.

19
20 **IX. *Public Hearing - Riverwoods – Phase II.*** Stone Quarry Drive. Site plan for development on
21 the northerly side of Stone Quarry Drive including two senior housing buildings with a total
22 of 55 units, a clubhouse, a maintenance building and associated parking areas, utilities, and
23 other site improvements. Conditional use for work within the 75-foot wetland buffer
24 including portions of the clubhouse, driveways, the relocation of a section of Stone Quarry
25 Drive, sidewalks, stormwater facilities, grading, underground utilities, and other site work.
26 Lot line adjustment for the relocation of a section of Stone Quarry Drive. Riverwoods
27 Durham, c/o Natalie Belanger, property owner. Erik Saari, Altus Engineering, Engineer.
28 Chris Boldt, DTC Lawyers, Attorney. Office Research District. Map 209, Lot 33.
29 Recommended action: Continued review.

30
31 Chair Rasmussen asked if any members of the public wished to speak to this and asked the Board
32 if anyone saw any issues. He said he and Mr. Behrendt agreed they were approving something
33 new here as our CU does not provide for us to approve grading for a residential building *inside*
34 the buffer, and he would need to come to a finding of fact as to how to treat that. Legally if there
35 is an appeal we need a finding of fact as to how we are treating that and why.

36
37 Mr. Behrendt said 175-61/CU says: *uses including any unnecessary grading*, but “uses” does not
38 include grading. He said my sense was as part if the variance the building and parking lot were
39 approved and anything integral to that would be included. Mr. Boldt said the map on the screen
40 was the same one used with ZBA; read provision 175:60d-11 “grading of the site where grading
41 within the WCOD is necessary to accommodate a structure located “outside” of the WCOD” is
42 what you are concerned with and the law if the case now comes into play.

1
2 Mr. Boldt said our variance creates for this lot the equivalent of the buffer being outside of blue
3 area because we now have a variance for the blue area inside; having the CU permit for the green
4 is as if zoning said for our lot, the wetland buffer is the outside of that blue line, and said he does
5 not think there is a problem and it can be addressed with that kind of a finding. He said he provides
6 criteria for facts and you need to prove those criteria are being met. Mr. Whittington said his
7 view is exactly the same. Mr. Kelley asked that this also be run by the Town Attorney.

8
9 Chair Rasmussen said we will document it as part of our findings. Mr. Saari said there are no
10 State wetlands or shorelands on the property; Mr. Boldt said we will need DES approval for the
11 project overall. Mr. Kelley asked what the third-party review was for; Mr. Behrendt said for water
12 utility, wastewater utilities, and stormwater management plan. Mr. Saari said a freshwater
13 review is separate and currently under review by Underwood; may require a fire pump inside
14 the building, and said the State is looking at stormwater management control from alteration of
15 terrain perspective; then need a sewer discharge permit from DES and traffic permit from DOT.

16
17 Traffic Engineer Bob Bollinger said he is still working through DOT comments and is in the process
18 of developing a concept plan to resubmit back to DOT tomorrow; he does not have a date certain
19 and assumed Board would condition municipal approval on obtaining requisite State permits.
20 Permit would allow left-hand turn lane coming south on Route 108 to Stone Quarry Drive.

21
22 Mr. Behrendt said the Board should make a determination tonight as to whether or not this is a
23 development of regional impact; he said he does not think it is and the Board agreed it was not
24 a development of regional impact. Mr. Behrendt said he also needs a construction management
25 plan soon.

26
27 Mr. Saari reviewed the email from Michael Behrendt regarding final plans and said there will be
28 changes from Mr. Behrendt, the Board, and third-party review; CU was discussed; no-parking
29 signs will probably be added on Stone Quarry Drive. He said the construction management plan
30 is typically not done until a contractor is brought on board and would be done for a pre-
31 construction meeting with the town; hours of operation already on plan; energy checklist
32 updated. He said Mr. Kelley discussed trench overlay, looking at mill and overlay of Stone Quarry
33 Drive from curve to driveway and small section of existing driveway; repaving from limit of work
34 to the corner.

35
36 Mr. Saari said there will be interior bicycle racks at building corners except Community Center
37 and Maintenance Garage and some exterior storage with outlets for E-bikes; ADA space in each
38 garage. Mr. Boldt said regarding taxes, update from Town Attorney saying desired format has
39 changed and a mirror agreement of existing is needed for the new buildings.

40
41 Landscape Architect Vicki Martel said there is a requirement for parking to be shaded with
42 evergreen shrubs from the roadway, elected not to do that as we will be maintaining a dense,
43 tall stand of vegetation in the wetland buffer that will screen parking lot totally. She said the

1 slope is seeded with conservation seed mix; the buffer from Route 108 is continuing to mature
2 and is in an early stage of succession.

3
4 Mr. Saari said lighting proposed is 3,000 Kelvin, with lower numbers more red and higher
5 numbers more blue, daylight is around 5,000 K. Architecture: Mr. Behrendt asked for more
6 windows on the garages in bottom level. Mr. Saari said he would add "porous pavement" signage
7 to match existing will be added to plans. After discussion, the Board agreed to maintain the
8 current architecture to match existing. Mr. Saari said having a unified architecture is the way
9 they want to go.

10
11 Mr. Sullivan asked about energy efficiency; Mr. Boldt said this is being designed as a sustainable
12 wood on pylon structure; they are evaluating HVAC system for final plans, expecting gas furnaces
13 and DX coolers; exploring foam insulation. He said we buy 100% green energy and pay 100%
14 carbon credit for gas used; limited southern exposure for solar, also solar not allowed in wetland
15 buffer per your ordinance. Meeting with IWMAC on trash, current recycling with compacter at
16 maintenance building for campus-wide trash; on-floor recycling track centers.

17
18 Mr. Saari clarified that Underwood is looking at modeling our water system, but actual design if
19 under Tighe & Bond. Mr. Kelley said our DPW Director points out that they have had reports in
20 the past of downstream impacts. Mr. Saari said we will help that because we are retaining some
21 of the elution runoff reducing peak rate in proposed condition; should help with issues
22 downstream. Mr. Sullivan said he remembers the DPW Director's comments being very general.
23 Mr. Saari said it could have been a maintenance issue or a clogged culvert, and said 15% has to
24 be added to runoff as Durham is more rainfall prone as coastal community.

25
26 **X. Electric Vehicle Charging Stations.** Proposed amendments to the Site Plan Regulations to
27 create more electric vehicle charging stations. Developed by the Durham Energy
28 Committee. Presented by Michael Klein, chair of the committee. Recommended action:
29 Presentation.

30
31 Chair Rasmussen said no actions will be taken tonight; brief discussion and check project priority
32 list.

33
34 Chairman of Energy Committee Michael Klein first reviewed definitions: (a) EV-prepared, spot
35 with conduit; (b) EV-ready, spot with conduit pathway and dedicated circuit; and (c) EV-installed,
36 ready to use. He said under (a) it only affects projects subject to Durham Site Plan review; (b)
37 multi-family, commercial or other non-residential; (c) only for renovations or new parking spots;
38 does not apply to single-family households.

39
40 Mr. Klein said the Energy Committee was created in 2007 to support energy goals including a
41 common action plan, and this proposal supports increased adoption of electric vehicle supply
42 and equipment (EVSE) necessary to charge EVs. He said US national retail sales are hard to judge;
43 data from Pettee Brook parking lot and a student leasing chip are averting a significant amount

1 of greenhouse gases. Proposal for multi-family, new construction: is 5% of approved parking lot
2 spaces, +25% EV-prepared; renovations: 5% EV-installed, +15% EV-prepared with conduit buried.
3 New multi-family construction: 20 spots, 1 EV charger +5 EV-prepared; renovations: 20 spots
4 with 1 EV-installed, +3 EV-prepared. For Senior housing new construction: 100 spots, 3% EV-
5 installed +25% EV-prepared, renovations: 2% EV-installed, +15% EV-prepared.

6
7 Mr. Kelley asked if installed spots only included level-2 chargers; Mr. Klein said it also requires a
8 substantial increase from level-2 and level-3 phase electricity, but level-3 is only allowed in
9 certain zones in Durham. He said requiring level-3 chargers could start to become a financial
10 burden, but asking conduits to be put in is future growth. Chair Rasmussen said once this is in
11 effect there will be a lever for RSA:79-E, Community Revitalization Tax Relief Incentive.

12
13 Mr. McManus said he recently installed a level-2 charger in his home and said you need to have
14 capacity in your breaker box for the 25% not your 3% and said costs associated are significant.
15 He said you need to know where the conduit will go; may need to upgrade your base-level box
16 and run conduit underground; for renovations there are significant costs and tearing apart a
17 parking lot becomes complicated; best to install with new construction.

18
19 Chair Rasmussen said one advantage of this being in Site Plan regulations as opposed to zoning
20 is it becomes easier for the Planning Board to grant a waiver. Energy Committee member
21 Mathias Dean Carpenter said any client can make a case for hardship. He said in most cases you
22 will have a spine to your parking spots through the middle in Mill Plaza where conduit lines could
23 be placed. Mr. Klein said it could trigger an upgrade in the electric box for more power and this
24 allows Durham to create a variance or an exception. Mr. Carpenter said he would be happy for
25 the Planning Board to debate the percentages proposed.

26
27 Mr. Klein said the Energy Committee recommends and asks the Planning Board to adopt a
28 modified recommendation so that for new construction or substantial renovations, EV
29 infrastructure support is considered.

30
31 Mr. Whittington said there are a lot of market forces at work which will be the primary drivers
32 of this transformation. Mr. McManus said there is charging and long-distance driving; could
33 mandate that people install level-2 chargers and build some superchargers on vacant land. Mr.
34 Klein said Dover now has 12 superchargers and has a similar ordinance in place. Mr. Carpenter
35 said the superchargers network is a for-profit enterprise; here we are asking for the base
36 minimum.

37
38 Chair Rasmussen said there is a rumor the Irving Station will have a remodel where chargers
39 could be installed. Mr. Howd asked for a map of where 3-phase power is available in Durham.
40 Mr. Carpenter said the run of Main Street is 3-phase with some migrated to the neighborhood.
41 Chair Rasmussen said as far as setting up priorities, this is a small thing to do along with a big
42 project and asked the board where this fell as a priority. Mr. Kelley said it is quicker than

1 Conservation Subdivision. Chair Rasmussen asked Mr. Behrendt to massage this into a format
2 for Site Plan Regulations. Mr. Kelley said it is important to get the PowerPoint to Mr. Behrendt.

3
4 Richard Kelley left the Planning Board meeting at 9:07 pm; Chair seated Peter Howd as
5 replacement.

6
7 **XI. New State Laws.** Proposed amendments to the Zoning Ordinance to comply with recently
8 adopted state laws affecting land use. Recommended action: Discussion.

9
10 Mr. Behrendt said there has been a slew of new legislation in Concord this year including
11 recommended language for compliance. HB-457 on dwelling units: Chair Rasmussen asked about
12 deleting definition of Lodging/Rooming house from definitions and the Board agreed. Councilor
13 Grant said there are buildings in town that are called Rooming Houses; Chair Rasmussen said we
14 are just not allowed to put it in the Table of Uses.

15
16 HB-577: Addresses ADUs; Vice Chair Tobias questioned the need for the interior door (#5); Board
17 agreed to remove it as well as #11 regarding conversion to condominium; HB-361: Multi-family
18 Residential in Commercial zoned land; need to address Table of Uses; HB-631: Table of Uses
19 needs adjustment; need to get rid of CU in CB-1 and CB-2; permitted by right. Mr. Behrendt said
20 his question is with the definition of commercially zoned land and whether MUDOR is
21 commercially zoned; Mr. Whittington said it was.

22
23 Chair Rasmussen said for any zone where we think this is a mistake, go into that zone and remove
24 retail and office as an option; no longer triggered by this rule. Mr. Ford asked why residential
25 multi-unit and mixed-use are not included in CB-2; he said some may want only residential or
26 only retail. Mr. Behrendt clarified that under Central Business with multiple buildings, some can
27 be strictly residential. Chair Rasmussen asked that Note 1 be included and reference to CU be
28 removed. SB-284: New parking requirements. Chair Rasmussen asked if the Board is good with
29 this coming out as a single amendment and the board agreed.

30
31 **XII. Conservation Subdivision – Zoning Ordinance.** Continued discussion about prospective
32 changes to Article XIX-Conservation Subdivisions. Recommended action: Continued discussion.

33
34 Board discussed project priorities. Mr. Behrendt said for the Conservation Subdivision he
35 recommends they back up and start again from scratch; he will provide a whole new document
36 draft; it was suggested that he put together a PowerPoint presentation. Councilor Grant said she
37 really liked Paul's concept which allowed the developer to be creative, but by giving the public
38 more land in return. She said we need to stick with that concept; the current Conservation
39 Subdivision is so prohibitive in the way we calculate everything; his idea is very creative with a lot
40 to offer and leaves creativity to the experts.

41
42 **XIV. Review of Minutes: August 13, 2025**

43 Minutes of August 13, 2025:

1 ***Chair Rasmussen moved to approve the minutes of August 13, 2025; SECONDED by Peter***
2 ***Howd; APPROVED: 7-0, Motion carries.***

3
4 **XV. Adjournment**

5
6 ***Peter Howd moved to adjourn the Planning Board Meeting of September 10, 2025;***
7 ***SECONDED by Peyton McManus; APPROVED: 7-0, Motion carries.***

8
9 Chair Rasmussen adjourned the Planning Board meeting at 9:46 pm.

10
11 Respectfully submitted,

12 Patricia Denmark, Minute Taker
13 Durham Planning Board