

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

5 **Wednesday, October 8, 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, Heather
11 Grant (Council Rep), Darrell Ford (Alternate Council Rep), Munish Nanda (Alternate), Peter Howd
12 (Alternate), Julian Smith (Alternate)

13 **MEMBERS ABSENT:** Gary Whittington, Peyton McManus, Robert Sullivan

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

16 **I. Call to Order**

17 Chair Paul Rasmussen called the Planning Board meeting of September 24, 2025 to order at 7:00
18 pm.
19

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

21 Chair Rasmussen called the roll and seated Julian Smith, Munish Nanda, and Peter Howd for
22 absent members.
23

24 **III. Approval of Agenda**

25 Chair Rasmussen added another item under Other Business for a short discussion of Draft WSOD.
26

27 ***Richard Kelley moved to approve the agenda as amended; SECONDED by Councilor Grant;***
28 ***APPROVED: 7-0, Motion carries.***
29

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

31 Mr. Behrendt said the Public Hearing for the NOAA (National Oceanic & Atmospheric
32 Administration) Building at the Edge at UNH is rescheduled for October 22, 2025; also, for October
33 22 are proposed EV Charging Regulations in a regulatory format from the Energy Committee; Chair
34 Rasmussen scheduled an extra meeting for October 29, agenda TBD. Mr. Behrent said he spoke this
35 past Saturday at the New Hampshire Municipal Association Conference on "Planning Board Roles
36 and Responsibilities and Chair Rasmussen was on a panel re planning boards and their professional
37 staff.
38

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

40 Reporting from the Town Council: Councilor Grant said Town Council met Monday; significant
41 number of public comments at the beginning, some re story height in downtown area.
42 Presentations: Dr. Robert Shaps of Oyster River Cooperative School District re Elementary site
43 strategies with reduction of total students in general, still reviewing budget and capital plans at
44 UNH; presentation on upper restoration project for College Brook near Student Rec Center, past

1 that area and coming around, ability to limit water flow in that area and for heavy rain to settle
2 before it rushes through; involved discussion about Mill Pond Dam; funding for items approved.

3
4 Mr. Kelley asked about elementary school students being moved around; Councilor Grant said they
5 moved incoming kids (mostly kindergarten) from Moharimet to Mast Way. Mr. Behrendt asked
6 about enrollment being lower; Councilor Grant said the High School is kept steady with incoming
7 students from Barrington; also have capacity issues at Elementary which may lead to funding
8 requests. Chair Rasmussen said there is expansion of the cafeteria at Moharimet; Councilor Ford
9 said enrollment dropped because of smaller contingent coming through in middle years.

10
11 Reporting from IWMAC and Energy Committee: Chair Rasmussen said *Energy Committee* met;
12 nothing new pertaining to Planning Board; *IWMAC*: compost challenge about to start.

13
14 Reporting from HTF: Chair Rasmussen said the Housing Task Force held their closing seminar
15 yesterday, an informational session for public; balancing senior vs workforce housing; Ken Holmes
16 from UNH on getting consultant advice on handling budgets; may drop 1,000 or more beds, aiming
17 for 50:50 split of students living on and off campus; when the agenda frees up we will schedule Vice
18 Chair Tobias to Present the Housing Task Force.

19
20 **VII. Review of Minutes (old):** None

21
22 **VIII. Public Hearing - 25 Emerson Road - Lot Line Adjustment and Conditional Use.**
23 Conveyance of 30-foot strip of land from front lot to rear lot to allow for access to rear
24 lot. Conditional use for driveway to be located in 75-foot wetland buffer. Map 103, Lot
25 10 and 11. Both owned by Christensen Rev. Trust c/o Ann Christensen, trustee. Patrick
26 Sharkey, Surveyor, Doucet Survey. Brenden Chaalden, Wetland Scientist, Gove
27 Environmental. Residence A District. Recommended action: Final action.

28
29 Chair Rasmussen asked Mr. Behrendt if the reason no waiver is required for frontage for the
30 flagpole lot being created here is because they are making a non-conforming lot less non-
31 conforming, and if a house built in the future will need such a waiver. Mr. Behrendt said the
32 reason is correct and no waiver will be needed in future because they are going from zero
33 frontage to 30 ft of frontage.

34
35 Meredith Raskin, niece of Ann Christensen, said her uncle is in the audience and Brendan
36 Chaalden, wetland scientist, is on Zoom. Ms. Raskin said they are looking for a 30-ft wide strip on
37 Lot 11, far left-hand side, to be made part of Lot 10 as driveway to a flagpole lot. She said they
38 met with the Conservation Commission on September 29, and they recommended CU for
39 driveway, going through a touch of Wetland Buffer, approved 5-2.

40
41 ***Chair Rasmussen moved to open the Public Hearing for 25 Emerson Road Lot-line***
42 ***Adjustment and Conditional Use; SECONDED by Peter Howd; APPROVED: 7-0, Motion***
43 ***carries.***

1
2 **Mark Morong** of 21 Emerson Road presented information about the “temporary easement” on
3 which the applicant has been unable to find any information. He said he checked Planning Board
4 meeting minutes for April, May, and June of 1973: 50-ft right of way between lots 12 and 14 all
5 the way to northerly parcel 0115000, for a sewer and utility easement, to revert to 20 ft at
6 completion of construction dedicated to the town, which is actually my 10.46 acre lot, Map 1, Lot
7 15: temporary because it would revert to a 20-ft easement. He said this easement does exist and
8 he wants to make sure he has that easement.

9
10 Mr. Behrendt said the plans were submitted by the applicant and surveyed by Patrick Sharkey of
11 Doucet Survey and the applicant was also able to locate the Planning Board minutes of 1973
12 which provided some information; maybe language on plat should be changed.

13
14 **Ann Christensen**, owner of property, said they tried to find the original documentation, and it
15 was missing. She said neither the Gangwer deed nor Mr. Morong’s deed actually refer to the
16 benefit of the easement and there needs to be parallelism; it has been listed on the deed for Lot
17 10 since purchase in 1973 and she would object to having the word “temporary” removed. Mr.
18 Kelley said the note should be drafted by a licensed surveyor, not the Board.

19
20 Chair Rasmussen said Mr. Kelley is saying Doucet should review the documentation and decide if
21 the note needs to be adjusted or not. Mr. Behrendt suggested putting a condition to speak again
22 with surveyor to clarify or finalize that language; the minutes could only be used to determine
23 intent.

24
25 Mr. Kelley said looking at the CU application, it says there is no alternative location on parcels
26 outside the WCOD that is reasonably practical for proposed use and asked why. Ms. Raskin the
27 other location on the east side of Lot 11 has: (1) Fitts Farm right across the street with headlights
28 aimed at living area of current house, decreased privacy; (2) would have to trim bushes and trees
29 between Lot 11 and the McCadden property to the easterly side would also lose privacy; (3)
30 would totally bring down the value of 25 Emerson Road.

31
32 Ms. Christensen said with that scenario they would be carving off more of the front lot which is
33 already going from 1.1 acre to just under 1 acre; there is a safety concern with the driveway; will
34 cut too close to the gazebo; really effective boundary already exists with trees and shrubs
35 bordering Emerson Road; would be costly to abutter to install more safety barriers, and a left
36 driveway would be a non-invasive use.

37
38 Vice Chair Tobias said on GIS the foliage on the right side is extensive. Ms. Christensen said the
39 gazebo and the lawn are integral parts of the property and as well as safety and property
40 devaluation. Chair Rasmussen said he is looking at what the side setbacks would be and said what
41 is not on the plat is where the neighbor’s house is situated. Councilor Grant said on the left side
42 the living area of the house is not on that particular side; Chair Rasmussen said there is a wooded

1 buffer as well. Mr. Kelley asked if the square footage of the buffer impact was listed on the
2 application.

3
4 Wetland scientist Brenden Chaalden said the length of the driveway would be 150-200 ft, 2,000
5 sq ft, 90% grass or invasive species; 4% of new lot would be buffer impact. Ms. Christensen said
6 as long as the easement is in place, continue the driveway to house lot with a buildable scale
7 area; always 50 ft of buffer clear. Mr. Chaalden said the wetlands are taken from a survey plan
8 and need owner approval to delineate those wetlands. Mr. Morong said his property was divided
9 into 3 lots in 2016 and there is on record a 2016 wetlands delineation.

10
11 **Edith McCaddin**, abutter to 25 Emerson Road, said property was purchased in 1976, house built
12 in 1975; brother owned it for 30 years then she moved in. She said the property line is currently
13 buffered nicely and a driveway there would greatly impact on our privacy and quality of life; cost
14 to recreate buffer would be significant; driveways on that road have huge safety issues due to
15 fast traffic and unlighted crosswalk. Mr. Morong agreed and said it is really not intruding on the
16 wetlands with grass on either side of a driveway.

17
18 Mr. Behrendt said there were no Conservation Commission issues with 3 of the 4 criteria; Ms.
19 McCadden said benefits have been discussed but not possible risks; Ms. Christensen said if the
20 property were no longer marketable that would be a problem for us.

21
22 ***Peter Howd moved to close the Public Hearing for 25 Emerson Road Lot-line Adjustment***
23 ***and Conditional Use; SECONDED by Julian Smith; APPROVED: 7-0, Motion carries.***
24

25 Board discussed whether left-side driveway was workable and reasonable; left side may be safer.
26 Councilor Grant said it leaving it as proposed makes the most sense. Vice Chair Tobias agreed and
27 said it would be a burden to the neighbor on the right side and left side is workable.

28
29 **Conditional Use Criteria:**
30

31 (1) No alternative design location on parcel for proposed project that would: (a) have less impact
32 on WSOD; (b) be workable; be reasonable to expect applicant to use.

33 All other options fail to meet one of the 3 criteria.

34 (2) Design, construction, and maintenance will minimize soil disturbance and adverse effects to
35 water quality in Wetland Buffer: All appropriate notes in place in writeup from Wetland Scientist.

36 (3) Mitigation/restoration activities in disturbed area: Replacing invasives with Driveway and
37 natural vegetation.

38 (4) Will not have substantial adverse impacts to rare species, habitats, and wildlife corridors:
39 No adverse effects.

40
41 **General Conditional Use Criteria:** Mr. Behrendt said these are largely not applicable to putting
42 in a driveway and utilities in Wetland Buffer.

- (1) Site Suitability: (a) Site is suitable for intended use; (b) adequate public services available; (c) absence of environmental constraints; (d) availability of utilities: Yes
- (2) External impacts on abutting properties: None
- (3) Character of Site Development: Driveway in a residential area
- (4) Character of buildings and structures: It's a driveway
- (5) Preservation of resources: None here
- (6) Impact on property values: Impact of other options greater than existing proposal.
- (7) Availability of Public Services & Facilities: Municipal Water & Sewer
- (8) Fiscal Impacts: Will be a benefit by creating access to a buildable lot.

Vice Chair Tobias moved that the Planning Board approve the conveyance of a 30-foot wide strip of land front lot to rear lot for 25 Emerson Road, Conditional Use for Driveway located in 75-ft Wetland Buffer, Map 103, Lots 10 and 11, owner Christensen Revocable Trust, Residence A District; SECONDED by Councilor Grant; APPROVED: 6-1, Motion carries.

Mr. Kelley said he voted against the approval because the driveway will hug the property line and not getting out of the Wetland Buffer is a choice made by the applicant; cannot support as a new project. Also, applicant asked for CU to start in 5 years vs 1 year due to sale of lot uncertainty.

Board agreed that the driveway should be set back at least 10 ft from property line. Chair Rasmussen asked for an extra wide flare at end of driveway for trucks to get off the road. Mr. Behrendt said the setback cannot exceed 10 ft and driveway must be centered within the 30 ft.

Lot Line Adjustment:

Chair Rasmussen said the Board needs to decide if the driveway veers before or after it gets to the back property or wait until it is through the easement, then cut diagonally. Mr. Behrendt said it should go straight and not meander through the easement: after the flagpole it has to veer out of the buffer in a straight diagonal line across the easement. Board agreed to delete (b) and reword (c). Mr. Behrendt said a buyer of the back lot will have to pay an impact fee. Mr. Howd asked that the quote at the end right after 3b be stricken.

Vice Chair Tobias moved that the Planning Board approve the Lot Line Adjustment for 25 Emerson Road, Map 103, Lots 10 and 11, owned by Christensen Revocable Trust, Residence A District; Seconded by Councilor Grant; Approved 7-0. Motion carries.

IX. Newmarket Road – Durham Point Road Lot Line Adjustment. Application to adjust the lot line between 61 Newmarket Road, Map 114, Lot 30, owned by Vicinity Development LLC,

1 c/o Jamieson Duston and 12 Durham Point Road, Map 114, Lot 29, owned by Duston
2 Revocable Trust, c/o Jamieson and Bree Duston, trustees. Residence B and Residence
3 Coastal District. Recommended action: Accept as complete and set public hearing for
4 October 22.

5
6 Surveyor Chuck Adams of Haley Ward said he represents both applicants and is here to present
7 an application for a lot line adjustment between Assessors Map 114, Lots 29 and 30. As lots
8 presently exist Lot 29, 12 Durham Point Road, is a 217,071 sq ft parcel, situated partially in
9 Residence C and Residence B, is undeveloped with approved septic design, driveway permit, and
10 access to Newmarket Road (Route 108). Map 114, lot 30 is 90,458 sq ft parcel with single 1-story
11 residence, serviced by well and septic system, also with frontage on Newmarket Road.

12
13 Mr. Adams said the intent of the lot line division is to reduce the size of Map 114, Lot 30 to 40,000
14 sq ft and increase the size of Map 114, Lot 29 to 267,529 sq ft. Proposal will not result in any
15 nonconformities with the Town of Durham Zoning Ordinance. Map 114, Lot 30 will meet required
16 area for Residence B and C ; lot frontage will have 252.07 feet where 150 ft is required.

17
18 Map 114, Lot 29 will meet required lot area for Residence B and C Districts; parcel is bisected by
19 zoning district line and resides in both districts. Lot frontage of 158.75 ft on Newmarket Road in
20 Residence B District and 379.5 ft on Durham Point Road in Residence C District. Project will meet
21 NH DES Subdivision approval for reduction in lot size to Map 114, Lot 30. Test pits scheduled for
22 October 14 as part of process. Have completed loading calculations for Lot 30 due to reduction
23 in lot size to confirm lot has suitable soils for a 3-BR residence on septic.

24
25 Chair Rasmussen said to summarize: lot line adjustment is being done so property at 12 Durham
26 Point Road would be able to provide a driveway access out to Route 108, instead of Durham Point
27 Road. Mr. Adams said it has an approved driveway access (DOT permit); frontage on Durham
28 Point Road is mostly wetland and not a reasonable access. He said he asked the Conservation
29 Commission to review the conservation easement, and they did not know one existed; if they are
30 not maintaining the conservation easement it should probably be given up.

31
32 Mr. Behrendt said this was a very complete application and asked when to schedule the public
33 hearing. Mr. Adams said Board members can go out there and look at the property. He said he
34 believes the current septic is a pump system.

35
36 ***Richard Kelley moved that the Planning Board accept the application for 12 Durham Point***
37 ***Road, lot line adjustment affecting 61 Newmarket Road, Map 114, Lot 30 and 12 Durham***
38 ***Point Road Map 114, Lot 29; set Public Hearing for October 22, 2025; Seconded by Julian***
39 ***Smith; Approved 7-0. Motion carries.***

40
41 **X. 74 Bennett Road – Permitted Use B Application.** Application from Tanner Frost, UNH
42 Graduate student, to remove 7 or 8 maple trees as part of a study of responses of maple
43 trees to wounds resulting from tapping for syrup. Permitted Use B application for activity

1 in the Wetland and Shoreland Overlay Districts. Viewey Family Trust, owner, Map 224,
2 Lot 59 in Rural District. Recommended action: Final action.

3 Tanner Frost, UNH Graduate Student, said he is removing 5-7 maple trees in Wetland Overlay
4 District on Bennett Road as part of a master's research project with funding through USDA Acer
5 program. Plan is to remove 5-7 maple trees outside the boundary of the road itself; besides
6 traditional Sugar Maples looking at Silver Maples, Box Elders, and Norway Maples.

7
8 Mr. Frost said we know what happens in Sugar Maples when a tree is tapped; after drilling the
9 tree forms a protective barrier inside and cutting shows how many years of tapping and how
10 much damage to the wood inside the tree, also shows how far the wound travels vertically. When
11 a tree is wounded it walls off the wounded part and never really heals but grows over and we
12 need to make sure we are not killing more wood than the tree is replacing; there has been no
13 work done on other species.

14
15 Mr. Frost said he would have to fell the tree, slice it up in small cookies or discs, every 2 inches
16 up the tree and measure the cross-sections. So far nothing has been able to predict the size of
17 the wound and target factors that are potential predictors to try to create less damaged wood.
18 He said there have been a lot of studies on Sugar Maples, but if we start to lose them with climate
19 change the ability to tap other trees is critical; goal is to promote more sustainability with
20 scientifically based tapping guidelines.

21
22 Permitted Use B Application:

23 Mr. Frost said he settled on Silver Maples as they are a flood plain species and are hard to find in
24 a natural cluster outside a wetland or flood plain area. Criteria were straighter trees, ability to
25 use tomography, and proximity to campus. Trees are located just past the culvert on Bennett
26 Road, stayed away from the river, and have permission from property owners of trees I am
27 working on. Hope to do cutting now in dry season.

28
29 Chair Rasmussen said to review criteria: (1) proper erosion control measures will be used; (2)
30 disturbed areas will be restored; (3) activity should be done in manner that minimizes impact on
31 the wetland. He said a paragraph will be needed explaining how that will be accomplished.

32
33 ***Chair Rasmussen moved that the Planning Board grant the Permitted Use B application***
34 ***to Mr. Frost for harvesting of several Silver Maples in the Lamprey River Overlay District;***
35 ***Seconded by Peter Howd; Approved 7-0. Motion carries.***
36

37 **XI. Public Hearing – National Oceanic and Atmospheric (NOAA) Administration Building.**
38 Presentation of new NOAA Center for Excellence in Ocean Mapping building and site
39 improvements at The Edge on UNH land, situated west of the Main Street and Mast Road
40 intersection. Presented by Ken Weston, Executive Director of Campus Stewardship and
41 University Architect. **POSTPONED TO OCTOBER 22, 2025**
42

XII. Public Hearings - New State Laws. Proposed amendments to comply with recently adopted state laws affecting land use:

A. Amendments to Zoning Ordinance pertinent to restrictions on dwelling units, accessory dwelling units, and multi-unit residential on commercial land; and

B. Amendments to Site Plan Regulations pertaining to required number of parking spaces.

Recommended action: A. Initiate zoning amendments. B. Adopt site plan amendment.

Mr. Behrendt said there have been a lot of State laws passed that affect land use: need to act on HB-457 zoning restrictions in dwellings; (1) prohibits 3-unrelated rule, and student housing recently passed; cannot discriminate based on familial relationships; (2) changes to ADUs; (3) requires allowing multi-unit residential on commercially zoned land; (3) sets maximum required parking space for dwelling units of 1 space/unit which affects Site Plan Regulations

Chair Rasmussen moved to open the Public Hearing for New State Laws; SECONDED by Vice Chair Tobias; APPROVED: 7-0, Motion carries.

Public Hearing for New State Laws was opened at 9:20 pm.

Seeing no one present to speak, Chair Rasmussen closed the Public Hearing for New State Laws at 9:21 pm.

Chair Rasmussen asked the Board if there was any wording that needed to be tweaked. Mr. Behrendt said the State Law only pertains to dwelling units and asked that the Board vote to formally initiate the changes.

Chair Rasmussen moved that the Planning Board formally initiate the zoning amendments; SECONDED by Richard Kelley; APPROVED: 7-0, Motion carries.

Richard Kelley moved that the Planning Board formally adopt the Site Plan Amendment; SECONDED by Peter Howd; APPROVED: 7-0, Motion carries.

XIII. Review of Minutes: September 10, 2025

Chair Rasmussen moved that the Planning Board approve the Meeting Minutes of September 10, 2025; Seconded by APPROVED: 7-0, Motion carries.

XIV. Other Business:

Discussion of WSOD:

Chair Rasmussen said Mr. Behrendt is getting heat regarding the WSOD and suggested that we take it up so we can try to turn the heat down. He asked when the Conservation Commission held a Public Hearing on this; Mr. Behrendt said they did not hold a public hearing. Chair Rasmussen

1 said we should send it back to them and let them hold the public hearing, then they can decide
2 if they want to send it back again.

3
4 Mr. Behrendt said he is hearing from property owners and stirring up tidal waters along the
5 Piscataqua River; people are very upset and talking about hiring lawyers and I have said it was
6 proposed by the Conservation Commission to protect natural resources, the science is there for
7 buffers, and asked for their patience. Councilor Grant pointed out that nothing has been
8 implemented yet and there is nothing to attack.

9
10 Mr. Behrendt said the biggest change is Tidal Waters with 125 ft increasing to 330 ft, and Lamprey
11 River to 200 ft. He said he can recommend that the Conservation Commission hold the Public
12 Hearing and see what they say.

13
14 ***Richard Kelley moved that the Planning Board request that the Conservation Commission***
15 ***hold a Public Hearing and informational meeting on the proposed changes to the WSOD;***
16 ***SECONDED by Vice Chair Tobias; APPROVED: 6-1, Motion carries.***

17
18 **XV. Adjournment**

19
20 ***Councilor Grant moved to adjourn the Planning Board Meeting of October 8; SECONDED***
21 ***by Vice Chair Tobias; APPROVED: 7-0 Motion carries.***

22
23 Chair Rasmussen adjourned the Planning Board meeting at 9:43 pm.

24
25 Respectfully submitted,

26 Patricia Denmark, Minute Taker
27 Durham Planning Board