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

5 **Wednesday, April 8, 2026**

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

7 **7:00 pm**

8
9 **DRAFT MINUTES**

10
11 **MEMBERS PRESENT:** Paul Rasmussen (Chair), Sally Tobias (Vice Chair), Gary Whittington, Robert
12 Sullivan, Heather Grant (Council Rep), Michael Lehrman (Alt Council Rep), Julian Smith (Alternate),
13 Peter Howd (Alternate), Emma Hollander (Alternate); Richard Kelley (arrived late)

14 **MEMBERS ABSENT:** Peyton McManus, Munish Nanda (Alternate)

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

16
17 **I. Call to Order**

18 Chairman Paul Rasmussen called the Durham Planning Board meeting of April 8, 2026 to order at
19 7:00 pm.

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

22 Chair Rasmussen called the roll and seated Emma Hollander for Peyton McManus, and Peter
23 Howd until Richard Kelley arrived.

24
25 **III. Approval of Agenda**

26 Chair Rasmussen said he had one minor correction and asked to discuss *Other Business* prior to
27 *Zoning Amendments*.

28
29 ***Chair Rasmussen moved to approve the agenda as amended; SECONDED by Robert***
30 ***Sullivan; APPROVED: 7-0.***

31
32 **IV. Town Planner's Report**

33 Mr. Behrendt said there will be a public hearing at the next meeting on proposal for 5-story
34 buildings for lots westerly of Jenkins Court; Board agreed to meet on 5th Wednesday, April 29,
35 2026; Chair Rasmussen said the Board would discuss any outstanding zoning issues still being
36 worked on.

37
38 *Richard Kelley arrived at the Planning Board Meeting at 7:04 pm.*

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

41
42 Reporting from Town Council: Councilor Grant said the Town Council talked about goals and goal
43 setting; approved citizen appointments to committees; wanted to focus on downtown and near
44 downtown for multi-unit housing; will be a review in terms of different zoning priorities;

1 consensus that Architectural Standards was number one; something more official coming from
2 Town Council re priorities; PUD comes up again in August.

3
4 Reporting from Conservation Commission: Mr. Sullivan said the *Conservation Commission* met;
5 low-key meeting, did not discuss 561 Bay Road, more of an administrative meeting.

6
7 Reporting from the Energy Committee: Chair Rasmussen said the *Energy Committee* met last
8 night; committee down a few seats; starting to organize for Durham Day; happy about success of
9 EV Chargers amendment; C-Pacer webinar on April 23, 2026. He explained that C-Pacer
10 (Commercial Property Assured Clean Energy & Resistance) is a program to help commercial
11 property owners, developers access advantageous private-sector financing for improvements
12 intended to decrease water and energy consumption on demand. He said the Town would: (A)
13 take care of the administrative side and (B) create a district within the town where it would be
14 considered allowed.

15
16 Mr. Kelley asked how that would compare with a home equity loan. Chair Rasmussen said he did
17 not really know but fact sheets were available. He asked Mr. Behrendt to send out a list of
18 Committees for the next Planning Board meeting to make assignments.

19
20 **VI. Public Comments**

21
22 **Elizabeth Larocca** of 10 Britton Lane said she wanted to follow up on building heights and show
23 the disparity between 2 handsome buildings. The first building was built in 2010 at corner of
24 Silver Street and Central Avenue in Dover, NH for luxurious downtown living; next door is
25 Wentworth House, a Queen Anne Victorian built in 1875 with a turret, stained glass windows,
26 curved archways and high ceilings which is in a dilapidated condition and may be torn down. She
27 said these 2 handsome buildings are ugly neighbors and create streetscape disharmony coming
28 into Dover.

29
30 **Robin Mower** of Britton Lane said she sent a letter today based on comments she made at the
31 Town Council meeting on Architectural Design Standards, and hoped the Board would read it
32 before finalizing those standards. She introduced a document entitled "Case Law" which upholds
33 a town's legal authority to zone for aesthetics, and attached documents to her letter with design
34 standards from Dover and Keene. She said the removal of conditional use from our commercial
35 core is a boon for developers which should be offset by clear Architectural Design Standards. She
36 said the Board must do more than add more height and residential square footage, and advised
37 they take the advice of Doug Bencks seriously.

38
39 Chair Rasmussen pointed out that massing with regard to human scale should be limited, and 100
40 linear feet is the point at which a facade should change.

41
42 **Jeff Berlin** of 3 Cowell Drive said this Board voted in favor of his lot being changed to Church Hill,
43 which then went to the Town Council and was shot down by public comments. He said he

1 communicated with Mr. Behrendt and Town Administrator Selig and feedback at that time from
2 the Council seemed straight forward.

3
4 Chair Rasmussen said when 10 Cowell Drive came up for a vote and deliberations at the Town
5 Council, the language was being re-written to do a zoning analysis. After discussion, the Council
6 decided to vote it down clean and have a second motion to do a zoning analysis, but never really
7 acted on a motion and it came back to the Board for clarity. He said he was confused as well.

8
9 **Beth Olshansky** of Packers Falls Road complimented the chairman for suggesting a possible
10 setback along Main Street for outdoor spaces. She said at the last Town Council meeting there
11 was a discussion about where more density in the downtown core could go. She said the Master
12 Plan does encourage infill in established neighborhoods compatible with current land uses;
13 possibly looking in areas where there are already rental units. She said a long portion on Madbury
14 Road from Woodside Drive going south to Garrison Avenue is a good place to start.

15
16 Ms. Olshansky said Dover has a form-based code that pertains to their infill and developers work
17 with the community to design a building that fits in. She said everyone wants a vibrant downtown
18 to supplant our local businesses and residences, and the Architectural Standards will act as our
19 safety net.

20
21 **Carolyn Singer** of 5 Woodbridge Road thanked the Board for addressing the Architectural
22 Standards so quickly. She said the letter from Doug Bencks described the importance of human
23 scale buildings for a downtown that fosters social interaction, and urged the Board to implement
24 the Architectural Standards without delay for developers, putting the community first, for a
25 vibrant downtown residents deserve.

26
27 **VII. Review of Minutes (old): February 25, 2026 and March 11, 2026**

28
29 Approval of Planning Board Meeting Minutes of February 25, 2026:

30 Mr. Kelley made a correction on page 3, line 13 changing “what” to *which*.

31
32 ***Chair Rasmussen moved to accept the meeting minutes of February 25, 2026, as amended;
33 SECONDED by Richard Kelley; APPROVED: 7-0.***

34
35 Approval of Planning Board Meeting Minutes of March 11, 2026:

36
37 ***Chair Rasmussen moved to accept the meeting minutes of March 11, 2026; SECONDED by
38 Richard Kelley; APPROVED: 7-0.***

39
40 **VIII. 31 Main Street – Amendment to Site Plan.** Amendment to site plan approved in 2014 for
41 mixed-use with residential project (“Orion Project”) to allow 31 Main Street to be used for
42 residential rather than commercial purposes and to expand the allowance from 179
43 bedrooms to 184 bedrooms and from 197 residents to 202 residents. Torrington Properties,

1 c/o Jeff Gannon, property owner. Courtney Vaughan, attorney, DTC Lawyers. Map 108, Lot
2 14. Central Business-1 District. Recommended action: Discuss and set public hearing for
3 April 22.
4

5 Attorney Courtney Vaughn, representing the applicant, said she was there with Jeff Gannon,
6 Senior Development and Design Manager for Torrington Properties, and Torrington is seeking to
7 work cooperatively with the Planning Board and Town staff to return an underutilized building to
8 productive use. She said the project is a request for an amendment to a 2014 Planning Board
9 approval for a project at 31 Main; original approval designated 3 buildings for non-residential use,
10 and established 179 bedrooms and 197 residents.

11
12 Attorney Vaughn said on March 10, 2026 they went before the Zoning Board who granted them
13 a variance under Section 175-42C,7d permitting an interior-only conversion of Building C as a
14 single-family, 5-bedroom house, change of use with no exterior alterations. She said the
15 requested amendment addresses market conditions in downtown and public interest in retaining
16 productive occupancy in downtown. Building C has largely been vacant since 2019; converting
17 Building C to residential will reduce vacancy and restore economic activity with minimum impact
18 and parking will remain unchanged.

19
20 Attorney Vaughn said they worked to respond to legal guidance and comply with Town Zoning
21 but the plan for single family ran afoul of Section 175-42:8, mixed-use bedroom limit: would be 2
22 dwelling units with 2 bedrooms each, still no exterior alterations and in conformity with the
23 Ordinance.

24
25 Attorney Vaughn said they would like to ask the Board to consider a conditional approval of the
26 interior only of Building C to single-family 5-bedroom format, *originally as discussed*, which would
27 go back to ZBA for approval to get a variance, hopefully by the May 12 meeting. She said they
28 are trying to avoid unnecessary delays and with the previous ZBA record give the Board the ability
29 to choose here and balance all the legal constraints. For a Public Hearing on April 22, the Board
30 will need to make sure the notice to the public is accurate. She said the goal is to find a version
31 that works with the Town and returns Building C to productive use.

32
33 Mr. Kelley said the applicant is asking the Planning Board to accept the application submitted as
34 written pending ZBA approval, and if they do not get ZBA approval, to revert back to the revised
35 proposal all in one application. Mr. Behrendt said the 2-bedroom restriction was for mixed-use
36 and multi-unit, this falls into mixed-use because of the entire property, and said this is very
37 straight forward: unless you see an issue, simply approve it with one of two options; if they do
38 not get approval from ZBA they will have to do the 2 units.

39
40 Councilor Grant asked about access to the second floor apartment; Attorney Vaughn said there is
41 a back door. Vice Chair Tobias asked why not just go with the 2 units, and Attorney Vaughn said
42 they are trying to maximize the potential of the space, taking a de minimis amount of additional
43 residential. Mr. Sullivan said Torrington would also save a lot of money in construction with 1

1 unit-5 bedrooms and get the building online faster. Mr. Whittington asked what the hardship
2 would be in percentage terms.

3
4 Jeff Gannon said it really comes down to cost for construction and they are trying to minimally
5 adjust the interior. He said they advertise to students but do not discriminate, and the units on
6 that site are mostly 4-bedroom; they would like to get construction done by the end of summer.
7 Mr. Whittington said a product with 5 bedrooms is more consistent with the other products there
8 and with more confidence in leasing. Mr. Smith said he has no objection to a 5-bedroom concept.

9
10 Mr. Kelley said he went to the ZBA website and the 5-bedroom was approved. He said if Mr.
11 Behrendt can create language in the Public Hearing Notice that the application is for a 5-bedroom
12 option, but with a ZBA approval it is for 2 units with 2 bedrooms each. He said he would like to
13 extend that helping hand to Torrington. Mr. Whittington said he agrees and supports the proposal
14 as structured, because he does not see 2 isolated 2-bedrooms units on that particular block as
15 practical for small families.

16
17 Ms. Hollander said there is also no parking available at all. Chair Rasmussen said there is a large
18 parking area nearby and the State would like us to consider adopting imaginative parking
19 scenarios. Vice Chair Tobias said she personally prefers the 2-unit, 2-bedroom option to allow for
20 smaller units that might be a broader appeal for downtown. Mr. Sullivan said he thinks the 2
21 options are fine and he has no objections. Mr. Kelley said they need to restructure the application
22 and said it is not worth this much conversation. Chair Rasmussen said if ZBA approves it we cannot
23 say no.

24
25 Mr. Smith asked Torrington about possibly leasing spaces in Mill Plaza to non-customers of the
26 businesses. Mr. Gannon said they do not rent out spaces at Mill Plaza but proposals have come
27 up and they are open to considering it. He said Torrington is now in the midst of a big investment
28 there, their tenants like having a lot of parking available, and they cannot commit at this time.

29
30 Mr. Behrendt said the applicant wanted to make sure it was okay to have 2 different options. He
31 said there will be no vote tonight, just set the Public Hearing.

32
33 ***Richard Kelley moved that the Board set the Public Hearing for 31 Main Street,***
34 ***Amendment to Site Plan, for April 22, 2026; SECONDED by Robert Sullivan; APPROVED: 7-***
35 ***0.***

36
37 **IX. Architectural Regulations.** Continued review of proposed changes to Architectural Design
38 Standards in Site Plan Regulations. Recommended action: Continued review.

39
40 Mr. Sullivan said there are 2 ideas on how to do this: (1) wordsmithing on words not worth fighting
41 over, or (2) addressing the big thing about pitched roof or no pitched roof; we have public input
42 and professional advice from Dough Bencks, and if we get through that topic the rest will go

1 quickly. Mr. Behrendt said the Board got to the bottom of page 19; Mr. Sullivan said this is where
2 human scale starts on page 18 L-2: maximum height and criteria for taller buildings.

3
4 Councilor Lehrman asked if everyone had read the information sent shortly before this meeting
5 regarding standards of Portsmouth, Dover, and Keene; he said he went through them today and
6 there is a lot of information worth looking at before the Board proceeds on this which might
7 illuminate this discussion and is worth reading and reviewing.

8
9 Chair Rasmussen said Dover says these are things you *shall* look at and you *shall* look at them,
10 but does not tell which ones to use and leaves that up to the designer and deal with managing
11 massing, height, streetscape and a certain part about front-facing which has to have windows but
12 without window details. Mr. Sullivan said he is less worried about window ratios and exact height
13 and said the controversy for the Board has been straight up and 4 stories or 3 stories with setbacks
14 or a pitched roof; after that most other questions get resolved. Councilor Lehrman said it all ties
15 together

16
17 Chair Rasmussen said Councilor Lehrman has a good point to take the time to thoroughly inform
18 ourselves before rushing through this. Mr. Whittington said the Board has an extra meeting this
19 month and he would like more time to study the models. Mr. Behrendt said the Board could just
20 review Beth and Robin's comments as these regulations are comprehensive and detailed and
21 have worked well. Ms. Hollander offered her services to format the final documents to make them
22 look nicer. Councilor Grant said the paragraphs in Dover's regulations are also very well written;
23 Vice Chair Tobias said they are easier to read and are more stimulating with a lot of visual
24 examples.

25
26 Mr. Sullivan said format is just about how you see it. He said in Dover: "visually reduce building
27 height by setting back top floors using varied eave heights and introducing pitched roof lines with
28 dormers or setbacks for 4th floors", and said we are setting a marker now for pending
29 applications. Mr. Whittington said in his read of Dover they were very specific describing certain
30 areas within their downtown, similar to form-based coding. Mr. Behrendt said this document has
31 an overview of zoning districts under G) Overview of zoning districts.

32
33 Chair Rasmussen said on page 18 the Board removed the last sentence in paragraph L-1:
34 "Designers shall incorporate". Mr. Sullivan said L-2 says you have to use pitched roofs or setbacks
35 as it is written, and asked if all were agreeable to that. Chair Rasmussen said no, it is exactly
36 contrary to being flexible. Mr. Whittington asked if they were distinguishing between Jenkins
37 Court and the 2 districts; Chair Rasmussen said he cannot see that. Vice Chair Tobias suggested
38 adding after the 2 options: "or other such designs to reduce height visually"; Mr. Sullivan
39 suggested: "or designs using other techniques to achieve the same effects".

40
41 Mr. Howd said "shall" should be followed with the goal, not the design techniques: we should
42 make sure "shall" is meeting our goal then suggest techniques for meeting that goal. Councilor
43 Grant said Dover mentions that large structures should be broken into smaller masses. Councilor

1 Lehrman said the point is there are numerous other techniques but these are the two that are
2 stressed repeatedly. He said Portsmouth is extremely detailed but does not talk at all about
3 pitched roofs to mitigate height, and strong, dominant cornice lines are talked about in Dover.
4

5 Ms. Hollander suggested: “with buildings taller than 3 stories, architectural techniques shall be
6 employed to reduce the sense of height and mass; these techniques shall include a prominent
7 eave line, pitched roofs, setbacks, or other such design features to accomplish the desired effect”.

8 Mr. Kelley said there are strategies for size and scaling and we do not need to describe which
9 design strategies but just use general terminology. Vice Chair Tobias said architects know
10 strategies already and we do not need to tell them, and said we do not have to be as wordy as
11 Dover to establish the same outcome.
12

13 Mr. Whittington asked how the Board should deal with M.1 The Roof using Emma's concept; Chair
14 Rasmussen said in Dover it becomes context related as they prefer different roofs in different
15 zones. Mr. Kelley asked that they go back to Dover page 7 and discuss terminating vistas, primary
16 corners, and liner buildings; he said our vistas are different on either end of our commercial
17 district: one ends in UNH and one ends in Church Hill.. Chair Rasmussen said Durham is at a severe
18 disadvantage as our downtown is so small.
19

20 The Board moved on to page 20 L.3 Height-width ratio of streets; Mr. Kelley said with L.4 we start
21 to introduce minimizing strategies again. Ms. Hollander said it is entirely redundant and should
22 be deleted; she also recommended replacing images with better examples. The Board agreed to
23 delete L.4 and 4 images and also delete L.5 Gables. Councilor Grant said L.6 Variation in heights
24 specifies the difference in stories of 2 adjacent buildings. Chair Rasmussen said as a Planning
25 Board they should never let a non-conforming structure limit what a conforming structure is trying
26 to do. Mr. Sullivan suggested replacing “however” with *ideally*.
27

28 Councilor Grant said rather than a list under Roof on page 20, it is more about what we are looking
29 for and that we want the designers to decide what looks best with their building. Mr. Whittington
30 suggested: “roof design shall be sensitive to the architectural character of its location within the
31 Core Commercial District”. Mr. Smith said the whole second sentence should come out, and said
32 he does not think the word “eccentric” has any place in this document.
33

34 Chair Rasmussen said overall the architectural standards go into way too much detail. Mr.
35 Behrendt asked that Board members email him any comments and say when this is finished he
36 will prepare another draft with all the revisions. The Board ended the review at page 21 of the
37 draft and will continue from that point.
38

39 **XII. Other Business:**

- 40 ● Discussion about requiring owner occupancy for single-family residences with accessory
41 dwelling units
42

1 Chair Rasmussen said there was strong support at the Town Council at this time for an owner-
2 occupied ADU Bill, and said he asked Jay Gooze how this would work with an LLC or a Trust. Mr.
3 Gooze drew language from Newmarket: “when a property is owned by 1 or more trusts, LLCs, or
4 other entities, one of the residents shall be the principal place of occupancy of the beneficiary of
5 the trust or LLC”. Chair Rasmussen said his problem with that is the beneficiary of an LLC is you
6 and the heir is not you. He expressed concern that there are a lot of LLCs and other ownerships
7 throughout this town. Councilor Lehrman suggested “grantor of”.

8
9 Mr. Whittington said he spent his whole career working on forms of ownership and he would put
10 something together. Chair Rasmussen will need verbiage if we say one side of the ADU has to be
11 owner occupied and asked about sabbaticals or if it goes into executorship which may take years
12 to be executed. He asked where the enforceability of this was coming from and what is the
13 enforceable action. Vice Chair Tobias asked if they are legally allowed to tell a property owner
14 they cannot rent their property. Mr. Behrendt said it is State Law.

15
16 Mr. Kelley said the requirement is to be an eligible owner you have to rent your primary residence,
17 how you own it is up for grabs. Chair Rasmussen asked again if a particular property is not in line
18 with the new ordinance, what is our mechanism to be able to enforce it. Mr. Kelley said it is a
19 zoning violation, and Chair Rasmussen said you have to prove it first. Mr. Whittington said this
20 will not be as difficult as 3-unrelated because you can send a demand that they meet the
21 definition of ownership.

22
23 Councilor Lehrman suggested requiring an annual certification of compliance with the Town
24 demonstrating primary residence. He said there are a lot of ordinances that rely on someone else
25 making a claim, and said dealing with “what-ifs” is putting a hardship. The Board agreed to use
26 hardship as a reason, and Mr. Howd said that captures military deployment as well. Mr. Behrendt
27 said the Zoning Board is a better party using a variance or a special exception. Ms. Hollander said
28 she does not support creating this regulation at all, and asked if that is an option.

29
30 Chair Rasmussen said the Board should still go through the process of getting a public hearing.
31 Mr. Kelley said the Board has not confirmed that and asked if anyone else is against this. Chair
32 Rasmussen said he is on the fence about it but wants to respond to the Town Council. Councilor
33 Lehrman said it demonstrates to the public that we are trying to be respectful of people's
34 concerns and it is not unreasonable.

35
36 Mr. Howd said if we do not come up with a way to enforce it, there is no point in doing this and
37 there also has to be the will to enforce it. Mr. Whittington said he can structure it so the fine goes
38 back to the start of the situation. Mr. Kelley asked for a vote of people who are willing to approve
39 this, which was a majority. Chair Rasmussen asked for a list of things the Zoning Board can
40 approve; Mr. Behrendt said he would work with Mr. Whittington on a draft. Chair Rasmussen said
41 it should only be approved for 1 year, then resubmit.

42

1 **X. Zoning Amendments recommended by Housing Task Force.** Discussion about amendments
2 proposed by the task force to expand opportunities for residential development with
3 changes to the Table of Uses, Table of Dimensions, and Zoning Text affecting single-family
4 property; two, three, and four-unit residential; multi-unit residential; senior housing;
5 mixed-use with residential; lot sizes; density; setbacks; frontage; and other elements.
6 Recommended action: Ongoing discussion.

7 **NOT REVIEWED.**

8

9 **XI.** Review of Minutes: None

10

11 **XIII. Adjournment**

12 ***Vice Chair Tobias moved to adjourn the Planning Board Meeting of April 8, 2026;***
13 ***SECONDED by Councilor Grant; APPROVED: 7-0.***

14

15 The Planning Board Meeting was adjourned at 10:02 pm.

16

17 Respectfully submitted,

18 Patricia Denmark, Minute Taker

19 Durham Planning Board