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

5 **Wednesday, May 27, 2026**  
6 **Town Council Chambers, Durham Town Hall**

7 **7:00 pm**

8  
9 **DRAFT MINUTES**

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

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15 **I. Call to Order**

16 Chair Paul Rasmussen called the Durham Planning Board Workshop meeting of May 27, 2026 to  
17 order at 7:00 pm.

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

20 All present, no need to seat alternates.

21  
22 **III. Approval of Agenda**

23 Chair Rasmussen said he would like to set aside 10 minutes under Other Business to talk about  
24 what kind of non-residential and how many residential non-commercial zones to have around  
25 downtown as a buffer.

26  
27 Mr. Behrendt said there was one person in the audience and asked if the board would allow public  
28 comments. After discussion, the board agreed to allow Ms. Olshansky to speak.

29  
30 **Beth Olshansky** of Packers Falls Road said with regard to Architectural Standards she was not  
31 familiar with the term “neo-traditional” vs contemporary and asked for an explanation. Mr.  
32 Behrendt said neo-traditional just means traditional styles in a contemporary setting similar to  
33 neo-classical. He said contemporary is today, modern or modernist, and a departure from  
34 traditional architectural style, which can also be contextual and respectful of traditional style.

35  
36 **IV. Dunkin Donuts – Freestanding Sign.** 3 Dover Road. Proposed freestanding sign in front of  
37 the Dunkin Donuts now under construction. The Site Plan Regulations provide that  
38 signage be presented to the Planning Board for nonbinding comments. The applicant is  
39 also applying for a variance to allow for a freestanding sign which is not permitted in the  
40 Courthouse District. Jim Mitchell and Scott Mitchell, Tropic Star Development, LLC,  
41 property owner. Courthouse District. Map 108, Lot 38. Recommended action: Offer  
42 nonbinding comments.

43 **POSTPONED**  
44

1 **V. Amendment for ADU's.** Discussion of proposed amendment to the Zoning Ordinance to  
2 require owner occupancy on single-family sites with an accessory dwelling unit.

3 Recommended action: Modify proposal, schedule a public hearing, or reject proposal.  
4

5 Chair Rasmussen said he put out a letter so that counterarguments from members could be  
6 provided. Ms. Tobias said she did not understand what an S-corporation was. Mr. McManus said  
7 the idea is that a lot of people might hold the property in some form of LLC as a partnership, with  
8 primary members residing in ownership. Vice-Chair Whittington said it is consistent with the  
9 intent of the ordinance to make sure the "owner" is in residence, and must be a managing  
10 member. Councilor Lehrman said the managing member of the LLC has the contract and authority  
11 of that LLC.  
12

13 Mr. McManus said members hold a percent of an S-corporation, and it could just be a  
14 shareholder. Vice Chair Whittington said an S-corp is only suitable for a family partnership which  
15 is always driven by tax strategy. Mr. McManus said he is in strong support of the Chair's letter  
16 and finds it completely reasonable. Mr. Sullivan said the substance of the letter is that the owner  
17 living there provides some level of influence on behavior, but was not sure the letter addresses  
18 resolving Jay Gooze's letter.  
19

20 Chair Rasmussen said Mr. Gooze is asking us to allow *no noise* at all and tell people who can live  
21 there; a line he will morally not cross. Ms. Tobias said a lot of things never get done in town  
22 because of who is going to live there and it gets into fair housing laws. She said the purpose of  
23 ADUs was to create opportunities for generational housing, and large companies buying homes  
24 for rental units could make it difficult to compete in the market.  
25

26 Councilor Lehrman said State Law allows it specifically for towns and municipalities as a necessary  
27 prerequisite to having it acceptable to a majority of people, and said non-owner occupancy  
28 situations change dramatically. He also asked that rather than calling existing ADUs  
29 nonconforming, they could be granted temporary exemption which would expire on transfer of  
30 ownership. Mr. Behrent said he would speak with the Town Attorney and Town Administrator to  
31 see if there is any other way to do it. Councilor Grant asked if the number of ADUs in town not  
32 owner occupied was known.  
33

34 Mr. McManus said he understands the public good of an ADU but not the public good of  
35 restricting it. Mr. Sullivan said he sees 2 public goods in the letter: 1) a behavioral element that  
36 preserves the character of neighborhoods, and 2) incentivizing and making single-family homes  
37 more affordable in Durham, but not so they can be purchased by corporations that could drive  
38 prices up. Chair Rasmussen said in his letter he refutes that second public good because it is  
39 cheaper to add a 2-3 bedroom addition to an existing home than to add an ADU with a kitchen.  
40

41 Councilor Lehrman said the intent of an ADU is as an accessory use to a single family. Mr. Kelley  
42 said he very much supports this zoning change to be owner-occupied, and said until the Council  
43 does anything to hold landlords ultimately responsible, we have to do something like this. He

1 encouraged the Board and Town Council to review Radnor, PA's requirements to be a landlord  
2 and said a modest fee to be registered as a landlord is not a lot to ask. Chair Rasmussen said the  
3 issue he and Mr. McManus have is that there are nuisance laws in town which are not being  
4 enforced.

5  
6 Ms. Tobias said she does not see this ordinance as touching on behavior issues at all, but rather  
7 spelling out who is the owner, describing who he/she is and the owner of the accessory to this  
8 single family. She said some members of this community are adding behavior to it as a reason  
9 why we must have this rule. Councilor Grant said under "enforcement" it should just say: no  
10 property shall be subject to a monthly fine.

11  
12 The board discussed the "3 out of 5 years" and what happens if the property is sold. Chair  
13 Rasmussen said if the property has to stay vacant it chews up the value of the estate. Vice Chair  
14 Whittington said ethically it is still occupied by the owner because the executor is the owner's  
15 responsibility. Mr. McManus said the definition of owner implies only 1 owner and there could  
16 be multiple people in an S-corp or LLC.

17  
18 Chair Rasmussen said right now the fine is being placed on the property, and asked if it should be  
19 on "the property owner of record"; the board agreed to property owner of record. Mr. Kelley  
20 asked if in d. they should include that relief which may be granted from this position with a  
21 variance or special exception. Mr. Behrendt said that is best coming from the Town Council or  
22 Town Administrator; a variance has to be a hardship inherent on the property and special  
23 exception would be an unusual request on the property owner; Board agreed not to include  
24 anything.

25  
26 Vice Chair Whittington said he thinks the intent of the idea of an ADU is that if it is not owner-  
27 occupied it is really not an accessory use, but just additional density on a residential lot. Mr.  
28 Behrendt said under f) non-conforming situations may not be acceptable, but suggested leaving  
29 it in for the hearing based on his conversation with the Town Attorney. Mr. Kelley asked that the  
30 attorney spell out the reason. Mr. Behrendt said under d. If the owner is away for the last 2 years  
31 and sells the property, he is still living there and it is still owner-occupied.

32  
33 Councilor Lehrman suggested re the non-conforming situation: housing on sale or a conveyance  
34 of the property to a different party may be 90 days instead of 60 days; a legal clarification question  
35 for the attorney. Mr. McManus said multiple states have found it impossible to justify the  
36 requirement that an owner-occupied ADU is serving any public good. Mr. Howd said if the  
37 purpose of this ordinance is to better comply with RSA, we need to make it extremely clear that  
38 is our justification, and not because of a nuisance issue which does not belong in zoning.

39  
40 After discussion, the Board agreed to have final language for the ADU amendment for the June  
41 10th meeting, to allow time to consult with the Town Attorney, and scheduled the Public Hearing  
42 for June 24, 2026.

1 **VI. Architectural Regulations.** Proposed changes to Architectural Design Standards in Site  
2 Plan Regulations. Recommended action: Review proposed changes.

3  
4 The Board agreed to work on Architectural Standards until 9:00 pm. Mr. Sullivan said he has no  
5 objections to what Mr. McManus added. Councilor Grant questioned: 5) *Review of proposed*  
6 *designs* on page 7, and asked Mr. Behrendt if it was a recent addition. Mr. Behrendt said he  
7 suggested that language; Councilor Grant said it was over complicated. Vice Chair Whittington  
8 said 5)c is whether we need to specify who pays for it. Mr. Behrendt said it can be done either  
9 way and felt the town should pay for it. Chair Rasmussen said it says, “or options”, and the Board  
10 can always make a decision on how they want to manage it.

11  
12 Mr. Kelley asked to get rid of 5(a) and have “town-qualified professionals including architects,  
13 etc.” Councilor Lehrman suggested: Planning Board “may” obtain input from the Town Planner,  
14 public comments, and qualified professionals hired by the Town and their expense, a committee  
15 of the Planning Board, or the whole Planning Board collectively at the beginning and take out  
16 “requisite background”. Vice Chair Whittington said the only new content in this is (c) and  
17 everything else is implicit. Board agreed to the rewording.

18  
19 Chair Rasmussen asked about Section 2 on page 20: Maximum height and criteria for higher  
20 buildings, and said we are already specifying by right 3- and 4-stories so why are we talking about  
21 “canyon effect”. Mr. Behrendt said that is just to mitigate the height. Mr. Kelly asked to remove  
22 the first 2 words and just have “criteria for higher buildings”. Chair Rasmussen asked that they  
23 take out the first sentence. Ms. Tobias suggested they remove all red and black print and start  
24 with: “With buildings that are taller than.”

25  
26 Chair Rasmussen said the paragraph at the top of page 12 makes everything in Courthouse non-  
27 conforming as every property has parking in front. Mr. Behrendt suggested the Board revisit the  
28 top of page 12. Vice Chair Whittington said Peyton’s language on page 13: “no single architectural  
29 design is required” is in regard to *contemporary architecture*; he recommended: “Commercial  
30 Core should remain predominantly traditional or neo-traditional; however, high quality  
31 contemporary buildings that are distinctively harmonious in context are also appropriate.”

32  
33 Page 24: The Roof: Board agreed to change second sentence in 1) to language proposed by Vice  
34 Chair Whittington starting with “the lack of a pitched roof.” On page 25, Vice Chair Whittington  
35 recommended replacing the second sentence of 5) Pitched roofs, and said the Board never came  
36 to a conclusion about pitched roofs in CB-1. Councilor Grant said in Jenkins Court the owner was  
37 required to have a flat roof because of the drainage system required for that lot.

38  
39 Page 27: Windows: Chair Rasmussen asked that 2) Vertical form and 3) Window style be  
40 combined; Mr. Kelley asked that “do not open” be deleted from 3). Mr. Behrendt said large  
41 windows are only appropriate for store fronts. On page 29 the extra 1) under Chair’s comments  
42 was deleted. On page 32, Board discussed 5) clapboard sizes under Q. Materials, and agreed to  
43 change to 6 inches or allow a range of 4-6 inches. Mr. Howd said it is a maximum, not a minimum.

1 The Board deleted thin brick as inappropriate and added “high quality simulated brick” as  
2 appropriate.

3  
4 Page 34: Under R. Color 2nd and 3rd sentences of 1) were replaced with the suggestion of Vice  
5 Chair Whittington regarding bright colors; the Board agreed to remove number 2). Ms. Hollander  
6 asked if number 3) was needed; Board agreed to delete it as well. After discussion, the Board  
7 agreed to remove section S) Lighting of buildings at top of page 35, as lighting is well defined in  
8 Site Plan Regulations, and renumber all items following.

9  
10 The Board discussed tinting of windows and Chair Rasmussen said some tinting should be allowed  
11 to alleviate the effect of direct sun. Mr. Behrendt said tints can be unfriendly and look black. Ms.  
12 Tobias said she did not see a problem with shades. Mr. Kelley said it is called Visible Light  
13 Transparency (VLT) and is a percentage; the lower the number the darker it is. Ms. Tobias said it  
14 should be trusted to Architects. Chair Rasmussen suggested: “to improve walkability in  
15 downtown, front windows should be tinted the minimum amount necessary to allow  
16 transparency but still provide comfort to those inside;” Board agreed.

17  
18 The Board agreed to the following language on age 37: U.1) “Rooftop utilities shall be located out  
19 of view, or screened with raised parapets or other devices, such that they are not visible from the  
20 street” as the second paragraph. On page 41 the Board decided to use Peyton’s definition of  
21 Human scale; there were no further issues with definitions.

22  
23 Chair Rasmussen said the Architectural Standards will be reviewed on June 10 and the Public  
24 Hearing will be scheduled for June 24, 2026.

25  
26 **VII. Annual Meeting.** Review of prior year’s activities (over prior 12 months) and discussion  
27 about plans for the upcoming year. Recommended action: Discussion.

28  
29 Mr. Behrendt said he included all significant Planning Board agenda items over the past 12  
30 months and said it was quite a busy year. Chair Rasmussen said the very first thing is the lead time  
31 to go from completed review to having something in front of us can sometimes be quite long;  
32 next few things were reacting to stuff the State had done.

33  
34 Mr. Kelley asked about Tech Drive; Mr. Behrendt said they just got a variance for some activity in  
35 the buffer because our ordinance does not allow parking in the buffer; another month or two for  
36 a formal application. Mr. Sullivan said he sees several good things from this: there is development  
37 occurring; the Board helped facilitate Riverwoods and worked cooperatively with Tech Drive:  
38 against the notion there is no development.

39  
40 Mr. Kelley said one thing is how long it takes us to get through document changes. Vice Chair  
41 Whittington said we have public comments on all those things and spent a lot of time discussing  
42 the substance of those comments, which cannot be otherwise. He said looking at what happened  
43 this year with changes to downtown zoning: new heights, more clarity, and more guidance in

1 Architectural Standards. Mr. Sullivan said a big change will be the University's strategic plan and  
2 said the University's Master Plan will define a lot of things in the CB-2 core.

3  
4 Chair Rasmussen said he is also trying to include the university build-down with 3 dormitories  
5 coming out into the downtown-adjacent plan, which Mr. Kelley asked to have bumped up as the  
6 Board's summer project. He said he is struggling now with what the attributes of these new zone  
7 types being created are going to be, and asked the Board to think about residential zones that do  
8 not have commercial elements and the intent for RA.

9  
10 Vice Chair Whittington asked how Conservation Subdivisions will be sequenced into that context.  
11 Chair Rasmussen said it is a totally different animal and said the areas we are looking at will not  
12 have conservation subdivisions. He said we are now focusing on downtown and downtown  
13 adjacent. His first thoughts are: RA, single family and duplex; R-4 zone allows up to quads; could  
14 also have another one that allows multi-unit: Church Hill could become R-4 then change the table  
15 of uses, moving 3 Chimneys to commercial zone.

16  
17 Ms. Tobias asked if the Chair was suggesting creating brand new zone names or creating overlays.  
18 Chair Rasmussen said creating one or two new zones and morphing zone boundaries to include  
19 those new zones. He said he also thought about a waterfront commercial zone as a potential  
20 economic element. Vice Chair Whittington said the problem is infrastructure. Chair Rasmussen  
21 said that is where CIP comes in. Councilor Lehrman asked if there were any limitations to water  
22 and sewer the Board should ask DPW about.

23  
24 Councilor Grant suggested picking 3 tiers and sorting them out, then starting to prioritize. Chair  
25 Rasmussen asked if everyone is comfortable with the 3-tiered approach for non-commercial  
26 residential zones. Ms. Tobias said the Board should stop and think about what they are putting in  
27 RA and what the public will tolerate. Councilor Grant said senior duplexes are already in RA. Chair  
28 Rasmussen said we could just leave RA single, and have R-2 for duplexes and R-4 for multi-unit;  
29 he asked if it was okay to have multi-unit up against RA or always have a buffer.

30  
31 Council Lehrman said they should always have an RA next to an R-2 or R-4; it depends on the map.  
32 Vice-Chair Whittington suggested the Board get a large map of their broad-brushed ideas and  
33 work out the density from downtown without a strict rule that says there has to be a buffer; look  
34 at each neighborhood, analyze and decide boundaries, adding waterfront commercial, then  
35 proceed based on a geographic sense of priority radially out from downtown. Chair Rasmussen  
36 said he asked the Town Planner to focus on providing some form-based code for the new zones.

37  
38 Mr. Behrendt said the plan would be R-4 where you have a residential zone that allows missing  
39 middle up to 4 units; more form-based code for downtown is not needed. Chair Rasmussen said  
40 he has three-quarters mapped out and adding R-2 may be too much; he said the Town Council  
41 direction was to provide a way to keep commercial away from RA. Councilor Grant said she did  
42 not agree, and said Council wants to see density in the 4 adjacent areas and how to have more

1 people living within walkable distance of the downtown core. Vice Chair Whittington said it is the  
2 Planning Board's job to make that possible.

3

4 *Richard Kelley left the meeting at 9:40 pm.*

5

6 Chair Rasmussen asked about the Davis Court area; Mr. Behrendt said the owner of Davis Court  
7 is looking into how he can redevelop that area, which he wants to do. A good approach would be  
8 to extend PO up there and he would send out a map in the next few days. Ms. Tobias said her  
9 concern with extending PO would be the same concern they had with Church Hill because of what  
10 else is allowed there. Councilor Lehrman said the Board should be looking at lots where they can  
11 get larger developments and not worry about pocket spots, just focus on where there is potential  
12 to gain 30 or 50 units at a clip; Chair Rasmussen added to also keep it legal and not spot zoning.

13

14 **VIII. Other Business:**

15

16 **IX. Adjournment**

17

18 ***Councilor Grant moved to adjourn the Planning Board Workshop meeting of May 27, 2026;***  
19 ***SECONDED by Sally Tobias; APPROVED: 7-0.***

20

21 The Planning Board Meeting was adjourned at 9:48 pm.

22

23 Respectfully submitted,

24 Patricia Denmark, Minute Taker

25 Durham Planning Board

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27