

These minutes were approved at the June 24, 2020 meeting.

DURHAM PLANNING BOARD
Wednesday, May 6, 2020
Town Council Chambers 7:00 p.m.
MINUTES

MEMBERS PRESENT: Paul Rasmussen, Chair (in person)
Barbara Dill, Vice Chair (remotely)
Richard Kelley, Secretary (remotely)
Lorne Parnell (in person)
Bill McGowan (remotely)
Jim Bubar (in person)
Heather Grant, alternate (remotely)
Sally Tobias, Council Representative to the Planning Board
(in person)

MEMBERS ABSENT: Mike Lambert, alternate
Sarah Wrightsman, alternate
Jim Lawson, alternate Council Representative to the
Planning Board

I. Call to Order

Chair Rasmussen called the meeting to order at 7:00 pm.

II. Roll Call and Seating of Alternates

The roll call was taken:

<i>Paul Rasmussen</i>	<i>Yes</i>
<i>Barbara Dill</i>	<i>Yes</i>
<i>Richard Kelley</i>	<i>Yes</i>
<i>Lorne Parnell</i>	<i>Yes</i>
<i>Jim Bubar</i>	<i>Yes</i>
<i>Heather Grant</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>

Ms. Grant was appointed as a regular member of the Board in place of Mr. McGowan.

III. Approval of Agenda

Jim Bubar MOVED to approve the Agenda as distributed. Lorne Parnell SECONDED the motion and it PASSED unanimously 7-0 by a roll call vote:

<i>Paul Rasmussen</i>	<i>Yes</i>
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<i>Barbara Dill</i>	<i>Yes</i>
<i>Richard Kelley</i>	<i>Yes</i>
<i>Lorne Parnell</i>	<i>Yes</i>
<i>Jim Bubar</i>	<i>Yes</i>
<i>Heather Grant</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>

Mr. McGowan joined the meeting at 7:04 pm.

IV. Technical problem at last meeting. Explanation for technical difficulties during the April 29 Planning Board meeting and discussion of ways to enhance reliability with the technology.

DCAT Coordinator Craig Stevens explained that at the last meeting, some equipment had failed. He said it was a simple repair to make the next day, and apologized for the problems.

Ms. Dill asked whether if something similar should happen again, they could have an all virtual meeting. There was discussion. Ms. Dill also asked what happened last night at the Energy Committee meeting. Mr. Stevens said there was a Zoom bombing because the information to connect to the meeting was readily available. He said he monitored these potential events but said it happened fast last night, and there were about 20 bombers.

Chair Rasmussen said he thought there was the option for the host of a meeting to give permission for people to join it. Mr. Stevens said the Town would be doing that, and also would have people preregister, where they'd be put in a waiting room to join the meeting. He said this would apply to everyone. He noted that he'd edited out the offensive material at last night's Energy Committee meeting, and said none of the meeting was missed. He also said the raw video of the meeting still existed. There was further discussion.

V. Policy for reading emails aloud. Discussion about policy for reading emails and letters from interested parties aloud at Planning Board meetings.

Chair Rasmussen said Mr. Behrendt and Mr. Taintor didn't want to read emails, and said he didn't have a problem with this position.

Councilor Tobias said there were some people who sent emails way in advance of a meeting, but said there were also those who wanted their emails to be publicly heard, or would normally want to speak at a meeting. She said if someone was unable to be present, they could request that someone else be able to read the email for them. She said this would take no more time than if they had come to the meeting and spoken themselves.

Chair Rasmussen said people could attend via Zoom. Councilor Tobias said someone might not have the ability to do Zoom, or be comfortable with this. Ms. Grant said that was the concern from those who wanted their emails to be read. Ms. Dill said she liked

what Councilor Tobias had suggested. She said if someone asked for this, for any reason, perhaps it should be honored and perhaps there should be a time limit.

There was further discussion. Mr. McGowan asked if this policy was just in regard to remote meetings, or would also apply in the future. Councilor Tobias said she thought it would be an option for this particular time, when people were challenged to physically be at a Planning Board meeting. Chair Rasmussen said he disagreed, and said if they were going to open this up now, anyone who was challenged to be at a meeting in the future should have the same right.

Mr. Parnell said he thought that if the Board allowed some people to have emails read, they'd have to say all emails would be read, and should therefore consider how to present them, by reading just names, reading them verbatim, etc. Councilor Tobias said there were a lot of different rules being applied now, for different situations. She said she didn't see why they couldn't specify this policy for the current situation of shelter in place. She spoke further about the approach she'd described.

Mr. Bubar said he read every email that was forwarded to him, and said it didn't benefit him to have the emails read at a meeting. Councilor Tobias said some people wanted their emails to be read for members of the public. There was discussion that some years back, emails were read at Planning Board meetings. Mr. Parnell noted that at that time, there weren't as many emails received.

Mr. Behrendt recommended against reading emails at meetings, and said he didn't think it was good practice, noting among other things that it took a lot of time. He said a good compromise was announcing the letters that were received, and he noted that the emails were listed on the website.

Councilor Tobias said those people who wanted their emails read should find someone to do this for them at a meeting, either in person or on Zoom. She said this wouldn't take any more time at a meeting than if someone was speaking in person, and said it wouldn't involve staff or Board members having to read the emails. Ms. Dill said she totally agreed with Councilor Tobias.

Lorne Parnell MOVED to continue with the existing standard operating regarding emails received, and that during this period of constrained meetings, the Chair will announce the names of all people sending emails on a particular subject. Chair Rasmussen SECONDED the motion.

Chair Rasmussen read the current Rules of Procedure regarding emails. Mr. Kelley spoke in favor of continuing with the existing policy, which meant not reading emails. He said he was fine with listing the names of people who'd sent emails regarding a particular subject. Chair Rasmussen said that might be a good thing to do, going forward.

Councilor Tobias noted that the idea of emails actually being read at a meeting wasn't addressed in the motion.

The motion PASSED 5-2 by a roll call vote:

<i>Paul Rasmussen</i>	<i>Yes</i>
<i>Barbara Dill</i>	<i>No</i>
<i>Richard Kelley</i>	<i>Yes</i>
<i>Lorne Parnell</i>	<i>Yes</i>
<i>Bill McGowan</i>	<i>Yes</i>
<i>Jim Bubar</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>No</i>

Councilor Tobias encouraged anyone who wanted their voice to be heard to find someone other than members of the Planning Board to read their email at the Council Chambers, or on Zoom.

- VI. Route 4 Exit Ramp.** Discussion about offering comments to NHDOT about plans to add a signal at the westbound off ramp of Route 4 onto Newmarket Road, clearing of 250 feet of rock along the exit ramp, and installation of a fixed dynamic message sign. Riverwoods is discussing building a sidewalk from Stone Quarry Drive to Old Piscataqua Road which would affect this project.

Mr. Bubar asked if the dynamic messaging sign would be a permanent sign. Mr. Behrendt said he believed it was permanent, but said he'd confirm this.

Mr. Bubar noted Riverwood's landscaping conditions of approval that might get forced by this project, and asked if they were aware of the project. There was discussion, and Mr. Parnell asked Mr. Behrendt to make sure that Riverwoods was aware of the project.

Ms. Dill asked what the permanent messaging sign was for. Mr. Behrendt said he would ask about that. There was further discussion.

It was noted that the full set of plans was on the Town website, under Current Planning Board projects.

Mr. Parnell said he hoped the project was done as soon as possible, and said it was long overdue. He also said there would need to be signage for the crosswalks, especially with Riverwoods residents walking in the area. There was discussion about the current situation for pedestrians in that area. Mr. Parnell noted that Riverwoods was supposed to put in a sidewalk all the way to Old Piscataqua Road. He said the crosswalk was needed because it would be a dangerous intersection. Mr. Behrendt said he hadn't heard from NHDOT about the sidewalk and said it, the Town and Riverwoods would need to coordinate on this.

Mr. Bubar noted the present state of the sidewalk from Old Piscataqua Road to the garage, and it was noted that this was a Town sidewalk. Ms. Grant said it was important that the whole sidewalk be adequate so people at Riverwoods could come down and enjoy the downtown.

Mr. Behrendt said if Board members had thoughts, they could send him an email on this, or they could make a statement on this tonight or at the next meeting. Ms. Dill said it would be good if someone from NHDOT could come to talk to the Board about the project. Councilor Tobias asked if they would get a complimentary presentation at some point. She said people would be asking about what was going on and said it would be nice to have specifics on this. There was discussion that it made sense that this presentation from NHDOT take place at a Council meeting, and that a request on this should be made to the Council.

Chair Rasmussen said a concern was whether there would be enough room for everything that was planned with the project. There was discussion, and Mr. Behrendt said more would be learned about the project at the Traffic Safety Committee meeting. Mr. Kelley said the rock cut and associated clearing was shown pretty well on Sheet 13 of 24, and said he assumed this was being done to improve the sight distance. He also said the plan indicated that it would be a permanent dynamic sign.

VII. Compliance with Subsequent Conditions. Discussion about process for ensuring compliance with subsequent conditions specified on project approvals.

Chair Rasmussen noted that Mr. Behrendt had sent out a document that explained the different types of subsequent conditions. Ms. Dill said she'd written to Mr. Behrendt about this subject. She noted that at a Conservation Commission meeting, Mr. Bubar made a point that the pervious pavement for the ATO project had to be maintained, and if not, it would end up being worse than impervious pavement. She said Mr. Bubar and Mr. Scamman discussed how that kind of thing was typically followed up on, and she asked if the Board should do something that was not now on the books concerning this.

Ms. Grant said there was also something like the Mill Plaza project, where there would be snow removal and landscaping maintenance issues. Ms. Dill agreed.

Mr. Parnell asked if this was something for the Code Enforcement Officer to address. Mr. Behrendt said there were a fairly small number of situations like this, and said they were left to the property owner to follow through on. He said staff found out about problems mostly on a complaint basis. He said when the property owner didn't cooperate concerning the conditions of approval, an enforcement action was taken by the Code Officer.

Chair Rasmussen said there wouldn't be a one size fits all answer, and suggested that the Board could ask to be copied on maintenance compliance issues. Mr. Behrendt said the Board could ask for reports every year in perpetuity on something like maintenance of pervious pavement. There was discussion about whether this approach was workable. Mr. Bubar said it was classic contract management, and asked what authority the Town had to enforce that. Mr. Behrendt said if it was a requirement of a site plan approval, it was enforceable. Chair Rasmussen said getting copies of maintenance activities in a wetland buffer was something that was well within the Board's right to follow up on in perpetuity.

Mr. Bubar noted the numerous comments about dead trees at the Plaza, and said there could also be issues with rain gardens, pervious pavement, landscaping, waste disposal, etc. for a particular project. There was further discussion.

Councilor Tobias said as a Town employee, Mr. Behrendt or Ms. Cline should know the various requirements/conditions, as they were out and about looking at properties. She suggested that they could drive around to see the properties every year.

Ms. Dill noted that Mr. Behrendt had asked Ellen Snyder to look at the invasives on the ATO (Demeritt House) property. She said Ms. Snyder did a report on this, but said she couldn't do this with all projects. There was discussion.

Mr. Kelley said the Board often approved site plans where there was site work proposed within a buffer, and said sometimes the buffer got infringed upon. Mr. Behrendt said if Mr. Kelley or anyone else noted this, the Town would call the property owner on this. Mr. Bubar asked what would happen then, and Mr. Behrendt said the property owner would be required to follow the regulations and conditions of approval, and there would be enforcement if needed. He also said site plan approval could be revoked after construction if there was an egregious violation, and said he could provide more information on this.

Mr. Bubar said if the Planning Board approved something and then found that the wetland was trashed, he didn't have a problem with telling the developer to remove that part of the building. Mr. Kelley said the impact was typically to the buffer and not the wetland itself. Councilor Tobias noted that impacts were sometimes seen during construction.

Mr. Kelley suggested that it could be put in the conditions of approval that if a lack of maintenance resulted in a performance issue with the pervious pavement, it shall be replaced. Mr. Behrendt said that should probably be a standard condition of approval for pervious pavement. Mr. Bubar said that should apply to rain gardens too. Chair Rasmussen said if Board members saw something that needed to be added to a site plan approval, they should speak up about this.

VIII. Zoning Amendments related to Agriculture. Extensive amendments to the Zoning Ordinance relating to agriculture proposed by the Durham Agricultural Commission.

Chair Rasmussen noted the comments that had been received, which Mr. Behrendt had put into one document. He also suggested dealing with the Table of Uses after going through the different sections.

DEFINITIONS

Crop processing – It was noted that resident Firoze Katak had suggested that a definition was needed for this. Chair Rasmussen said this activity fell into the state definition of preparing the crop for market, and was allowed as an accessory use. Mr. Bubar considered whether this definition included something like skinning a mink for its pelt.

Councilor Tobias said she didn't think another definition was needed. Mr. Bubar said he wasn't sure crop processing was an accessory use, and said it was part of agriculture. There was discussion about the various activities involved in preparing a crop for market.

Chair Rasmussen noted that there was a question about guinea fowl being handled correctly in the ordinance. Mr. Bubar said guinea fowl were excluded in the original chicken ordinance because Agricultural Committee members said they weren't suitable for residential areas because they were wide ranging and very noisy. He said they could be kept in areas where they could free range, but said with this they tended to get eaten quickly. There was discussion. Mr. Behrendt noted that under the proposed ordinance, guinea fowl were considered poultry, and a property owner would need to have at least 3 acres of land in order to raise them.

Crop Cultivation "The cultivation, conservation, and tillage of the soil and the production, cultivation, growing, and harvesting of any agricultural, floricultural, viticultural, and horticultural crops including, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, grapes, flowers, seeds, grasses, sod, greenhouse crops, high tunnels, and tree products and any other plant that can be legally grown and harvested extensively for profit or subsistence."

Ms. Dill questioned the wording in the definition, and said there were some things in it that weren't crops, for example high tunnels, and honey, which she said she thought was a product and not a crop. Mr. Bubar said the wording was lifted from the State statute. Mr. Behrendt said the Agricultural Commission combined some things from the state definition, but said if the wording didn't make sense it could be changed.

After detailed discussion, the definition was reworded to say: "The cultivation, conservation, and tillage of the soil and the production, cultivation, growing, and harvesting of any agricultural, floricultural, viticultural, and horticultural crops, and any other plant, including greenhouse and high tunnels crops that can be legally grown and harvested extensively for profit or subsistence."

Farm or Farming. "Any land, buildings, or structures on or in which agriculture and farming activities are conducted, including the residence(s) of owners, occupants, and employees located on the subject land. Structures includes all farm outbuildings and any other structures used in the farm operations." Chair Rasmussen suggested saying for the last sentence: "Included would be any structure necessary to support the farm and its operations."

There was discussion about a question from Carden Welsh as to whether if he raised cucumbers in his backyard, this was a farm. Mr. Behrendt asked if the definition was sufficient, and noted that this was how the state defined Farm. There was further discussion on this, including that potentially the definition could be removed. Chair Rasmussen noted that the word wasn't used in the old or new Table of Uses.

Farmer's Market. "An event or series of events at which two or more vendors of agricultural commodities gather for purposes of offering for sale such commodities to the public. Commodities offered for sale include, but are not limited to, products of agriculture, as defined in RSA 21:34-a. A "Farmer's market" does not include any event held upon any premises owned, leased, or otherwise controlled by any individual vendor selling therein."

It was agreed that it should read "Farmers' Market", not "Farmer's Market", and this should be consistent in the ordinance.

Forestry. "The production, cultivation, growing, harvesting, and sale of any trees or nursery stock, including Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, and compost."

There was discussion about why these activities had been separated out from crops.

Ms. Grant noted that most Christmas tree farms now called themselves tree farms. The Board agreed to remove the wording in the definition after nursery stock.

Fur-bearing Animals, Keeping of. "The commercial raising, breeding, and sale of domesticated strains of fur-bearing animals, such as mink, ermine, and chinchilla."

Mr. Bubar questioned including the word "commercial" in the definition, and the Board agreed it could be removed. There was discussion about whether this was considered to be an agricultural activity.

ARTICLE XX – STANDARDS FOR SPECIFIC USES

There was discussion that these were standards in this section, not recommended guidelines, as had been suggested by Eric Sawtelle in his comments.

There was discussion about 175.109.2 A.2 - "In cases where it is unclear whether a specific activity or operation is "commercial," the filing of a Schedule F form is a key indicator that the activity or operation is commercial, but filing the form is neither necessary nor sufficient for this determination."

There was discussion that this wording could/should be removed. Mr. Behrendt noted that there might be a situation where the question arose as to whether it was a hobby farm or commercial farm. He said this could come up as an enforcement question, and said asking if schedule F was filed could help with this. Councilor Tobias said if someone was trying to skirt around the rules, they probably wouldn't file a schedule F. The Board agreed to remove the wording.

3. "All agricultural activity shall be conducted in accordance with the following best management practices including but not limited to (as reasonably interpreted by the Zoning Administrator, in the next subsection below)":

Ms. Dill said this would be a good place to put the web address for the BMP's. Chair Rasmussen said there were many more BMP's than were mentioned here, and asked

whether they should be specified in the ordinance, noting among other things that some contradicted each other depending on the activity.

Mr. Behrendt said the Agricultural Commission only provided 2 BMP sources for NH, and he suggested listing them in 1 and 2 and also changing the wording in 3 to include "...but not limited to..."

Ms. Grant Heather said there should be a description of best management practices (BMPs) in the ordinance, and also said there should be consistency in the reference to them.

Mr. Bubar said Eric Sawtelle had made some valid comments regarding them being guidelines, not standards. Mr. Behrendt said BMPs they had the power of law, but had to be reasonably applied, and said the Agricultural Commission would consult with Ms. Cline if there was a question. He said the Board could say they were guidelines, but questioned how they would be used.

Chair Rasmussen noted how the state handled this, and he read from state statute on this. He said if there was a question about a BMP, Ms. Cline could ask that the practice match a state department's recommendations. Mr. Behrendt said the language from state statute could be put in the ordinance, but said he wouldn't add it in lieu of what was there now.

There was discussion about removing sections 3 and 4 on BMPs that had been included in the draft. Chair Rasmussen said the problem with them was that other valid sources of BMPs were being cut out. It was agreed that those sections would be removed, and in their place would be the section from State statute on BMPs that Chair Rasmussen had read.

5. Site plan review.

"a. Site plan review is required as specified in the text of Section 175-53 – Table of Land Uses and in the Site Plan Regulations (except as specified in b., below). Site plan review is required for all buildings, driveways, parking areas, public use areas, and significant structures and for site changes that are part of any commercial agricultural operation. Site plan review is not required for structures used to house livestock, supplies or equipment for non-commercial agriculture on the lot where erected.

b. Site plan review is not required for uses that are accessory to single-family and duplex residences nor for temporary farm stands. The establishment, expansion, or change of the uses specified under Agricultural Uses in the Table of Uses is exempt from site plan review (though physical changes to the site ordinarily reviewed, such as building construction, are subject to review), with the exception of Agricultural Sales, Commercial and Aquaculture which are subject to site plan review."

Mr. Behrendt said the Agricultural Commission wanted the wording in these sections to be included because any agricultural activity associated with single family use was to be excluded from site plan review. There was discussion. Chair Rasmussen asked about

possibly having a threshold on exceeding impervious surface limits with structures. Mr. Behrendt said the key thing here was that commercial agriculture involving physical changes to the site so was subject to site review.

It was agreed that “Agrarian uses” should be changed to “Agricultural uses” in the Table of Uses. There was also discussion on the definition for “Farm stand” as compared to “Agricultural Sales, Commercial”

Mr. Behrendt said he thought 5 a. and b. were pretty clear. He said there were 3 kinds of agricultural activity: as an accessory to a single family home, which was exempt from site review; commercial agriculture, where building was taking place on a site and was subject to site plan review; and an unusual third category, where a building or other structure was being constructed for agricultural use, for example at an apartment complex where food would be grown for tenants. It was noted that another good example of this kind of use was the barn that Harmony Homes had wanted to build in order to keep horses there. Mr. Behrendt said this wasn’t really a commercial use, but should be exempt from site plan review. He said perhaps this was a confusing category, and the last sentence in 5.a could be removed.

Board members agreed with Ms. Grant recommended approach, to have one provision for non-commercial uses and one for commercial uses. There was discussion about whether “commercial” needed to be defined. Chair Rasmussen asked about the difference between commercial use and principal use in this context. Mr. Behrendt said there could be more clarity developed on this when they got to the Table of Uses.

6. Minimum Acreage – “Minimum acreage is established in the Table of Uses for specific agricultural uses. In cases where minimums are established for more than one use occurring on a property, the minimum acreages are not added together. For example, if 3 acres is required for each of two uses, then 3 acres will be sufficient to accommodate both uses.”

Mr. Behrendt explained the wording. Ms. Grant suggested saying something like “as long as the space requirements are met”. Mr. Bubar asked if the full 3 acres was actually available to the animal, and was told no.

7. “All animals must be contained on the subject lot. It is the responsibility of the property owner to contain the animals through appropriate means which may or may not include fencing.”

8. “Fences used for agricultural purposes, such as the containment of livestock and poultry or the protection of crops, may be located at the property line and need not meet setbacks otherwise applicable to fencing. The vertical opacity of any such fences that are higher than six feet shall not exceed 25% (for the purpose of maintaining an open view through the fence).”

It was noted that Mr. Bubar had made the comment that fences used for containment of livestock should not be allowed within the wetland buffer. It was also noted that Mr.

Bubar had commented that “fences used for protection of crops may be located at the property line and need not meet setbacks otherwise applicable to fencing.” Chair Rasmussen said he’d raised the issue that this paragraph referenced fences higher than six feet, and he asked if they were allowed now.

Mr. Behrendt said fences six feet or higher had to meet setback requirements. He suggested that the ordinance could say fences were allowed by conditional use. Mr. Bubar said livestock should be prohibited in the wetland buffer. There was discussion. Mr. Behrendt suggested that it could say livestock would need to be at least 75 ft from a wetland, or could be allowed by conditional use so this could be decided on a case by case basis. There was discussion about what animals this would apply to. Mr. Bubar said making this a conditional use made some sense, and spoke further on this. The Board agreed that the fence and livestock issues should be addressed through conditional use. There was discussion that “livestock” meant large livestock, horses, goats, and sheep.

9. “Keeping at least two of any species of animal is strongly encouraged, but not mandatory (except where specifically required). Virtually all animals will be healthier in the presence of companions.”

It was noted that Eric Sawtelle had recommended deleting the reference to "two of any species", and said it was an invalid "unfunded mandate" and didn't belong in a zoning ordinance. There was discussion. Councilor Tobias spoke in favor of this provision, and said people needed to make sure they were taking care of their animals.

10. Housing Structures “An appropriate fully enclosed structure for housing animals shall be provided in accordance with University of New Hampshire Cooperative Extension Housing and Space Guidelines. The structure shall be designed to prevent access from predators. Chickens and turkeys shall be maintained in the structure from sunset to sunrise. [Reference http://extension.unh.edu/resources/files/Resource000471_Rep493.pdf]

There was discussion that “fully-enclosed” should be removed. The Board agreed to keep the Cooperative Extension guidelines reference.

11. Manure. “Manure, compost from manure, and odor from animals shall be handled in accordance with best management practices as specified in Best Management Practices for Agriculture in New Hampshire, as revised. Manure must be removed from the structure and immediate area housing animals and composted or disposed of in a timely manner.”

The Board agreed this should say “...as specified Under A.2 General Provisions” Chair Rasmussen also asked whether if they had A.2, they needed to have 11 concerning manure, as well as the other items on slaughtering, housing, etc. Mr. Behrendt said he thought they should keep these specifics because the BMPs were all over the place, and said including them provided a good checklist in the ordinance.

Chair Rasmussen considered whether a checklist should be created for these things under A.2 General Provisions. There was discussion. Councilor Tobias said if this were done, it

would also be important to noted that people should check under the specific BMP, and get more information for each of the items in the checklist. Mr. Bubar said composting should be included on the checklist. Chair Rasmussen said it should be a non-exclusive list, which they could build out.

10. Best Management Practices. “The enforcement official shall use their reasonable judgment in applying the required best management practices (BMPs) Where the relevance of a particular practice is debatable, the enforcement official, at their option, may consult with the Agricultural Commission for nonbinding guidance, as appropriate.”

There was discussion on the last sentence concerning the role of the Agricultural Commission. Mr. Parnell considered how someone asking to speak with the Agricultural Commission would actually happen. He said the provision was described too loosely, reading as if there was an office to go to in order to get the information needed.

Councilor Tobias suggested adding at the end of #10 -“Contact the Town Planning Dept.” Ms. Dill noted that the Agricultural Commission website had contact information. Councilor Tobias said it was good to have “Contact the Town Planning Dept.” as a buffer instead of having people calling Agricultural Commission members directly.

7. Feed. It was noted that this provision could be included in the checklist to be developed under A.2 General Provisions.

15. Complaints. It was agreed that the last sentence on BMPs could be deleted.

17. Irrigation. “Irrigation is subject to applicable water withdrawal and use restrictions of the State of New Hampshire and the Town of Durham. “

There was discussion that this should stay where it was and not be added to the checklist, because it was specific to Durham

18. Number of Buildings. “There is no set limit on the number of allowed agricultural buildings, whether principal or accessory buildings, on a lot (This provision overrides several general limitations included elsewhere in this ordinance).”

Mr. Behrendt noted the limits elsewhere in the Zoning Ordinance concerning accessory buildings. There was discussion on the provision and its implications for what people could have on their properties. Chair Rasmussen said this would eliminate most variances that came to the ZBA regarding accessory structures. He said if someone had a garden, it would be a loophole.

Mr. Behrendt said if this was a concern, the Board might want to tighten up the provision. Councilor Tobias said she thought there could be abuses. There was further discussion. Chair Rasmussen asked how to make this provision flexible without making it abusable. Mr. Kelley asked about making it conditional, for more than 2 buildings, in order to vet whether it was legitimate, what the lot size was, etc.

Chair Rasmussen said a question was whether an agricultural use would pass concerning all the conditional use criteria. Mr. Behrendt said another option was to allow it by Special Exception.

There was discussion. Councilor Tobias said the Agricultural Commission wanted to not have these limits so people wouldn't have to get extensive variances or conditional use permits, which slowed things down and added more expense.

Mr. Bubar said perhaps it should only apply for larger agricultural operations. Mr. Behrendt suggested that it could apply to commercial agriculture. Mr. Bubar said they could specify that a conditional use permit was needed for a property that had less than 5 acres.

Chair Rasmussen said it would be so easy to kill a conditional use application, because of noise, smell, etc. issues, and said he wanted to avoid this. Mr. Behrendt suggested saying that if the property was over 3 acres and was for agriculture, there was no limit on the buildings. There was general agreement on this. It was noted that this wouldn't apply to structures other than buildings. There was discussion about whether a chicken coop was a building. Mr. Bubar also noted that a high tunnel was enclosed. Chair Rasmussen said a building didn't have to be fully enclosed. There was further discussion.

Chair Rasmussen said they'd work on the next section of the draft Ordinance at the May 27th meeting

IX. Other Business

X. Adjournment

Jim Bubar MOVED to Adjourn the meeting. Lorne Parnell SECONDED the motion and it PASSED unanimously 7-0 by a roll call vote:

<i>Paul Rasmussen</i>	<i>Yes</i>
<i>Barbara Dill</i>	<i>Yes</i>
<i>Richard Kelley</i>	<i>Yes</i>
<i>Lorne Parnell</i>	<i>Yes</i>
<i>Bill McGowan</i>	<i>Yes</i>
<i>Jim Bubar</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>

Adjournment at 10:04 pm

Victoria Parmele, Minutes taker

Richard Kelley, Secretary