

These minutes were approved at the June 23, 2021 meeting.

DURHAM PLANNING BOARD

Wednesday, May 26, 2021

Town Council Chambers, Durham Town Hall

Members Present: Paul Rasmussen (Chair), Lorne Parnell (Vice Chair) Richard Kelley (Secretary), James Bubar, Barbara Dill, Bill McGowan, and Sally Tobias
Alternates Present: Nick Germain, Heather Grant, Chuck Hotchkiss, Ellie Lonske, Ray Philpot
Also Present: Town Planner Michael Behrendt

I. & II. Call to Order

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

II. Roll Call and Seating of Alternates

The Chair took roll call and temporarily seated Alternate Heather Grant to fill in for Mr. Kelley, who had not yet arrived.

III. Approval of Agenda

Vice-Chair Parnell noted Item XI. (19 Main Street) has been postponed to the June 9th meeting at the applicant's request.

Mr. McGowan MOVED to approve the agenda as amended; SECONDED by Mr. Bubar, APPROVED unanimously by roll call vote, 7-0, Motion carries.

IV. Town Planner's Report

Mr. Behrendt reported the Board held a site walk today at 19 Main Street. Currently 19 Main Street is the only application on the agenda for June 9th.

V. Reports from Board Members Serving on Other Committees

Reporting on Town Council's May 17th meeting, Ms. Tobias said the town will close on 66 Main Street on May 28th. As of June 5th, boards, committees and commissions can start to transition back to live meetings; Zoom will remain an option.

The Council extended the emergency ordinance requiring face coverings while in Town of Durham government buildings for another 61 days after June 5th. The face mask

ordinance for all lands and downtown has been lifted, however, residents are still encouraged to be masked. Town Council heard a presentation on greenhouse gas emissions from UNH Sustainability Fellow Emily Mello. It's worth watching on DCAT.

The Chair noted Mr. Kelley arrived to the meeting at 7:03 p.m.

Reporting on the Conservation Commission (CC) and Agricultural Commission sub-committee, Mr. Bubar said the CC discussed and approved plans for 190 Piscataqua Road, which is on tonight's Planning agenda. He took part in judging the beautiful dandelion contest photos; Expect to see more in Friday Update.

Reporting on the Integrated Waste Management Advisory Committee, Mr. Kelley said the Swap Shack is re-opening June 5th, with the bar raised on items to be accepted to discourage junk. Bulky Waste Days (ongoing) have been a big success. Discussion took place on initiatives to improve recycling and compost and reduce solid waste.

VI. Public Comments. There were none at this time.

VII. Review of Minutes: February 17, 2021

Vice-Chair Parnell MOVED to approve the minutes for Feb. 17, 2021 as submitted; SECONDED by Ms. Tobias, APPROVED by roll call vote, 5-0, with Mr. McGowan and Mr. Kelley abstaining.

VIII. Alpha Tau Omega Fraternity – Amendment to Plans. 18 Garrison Avenue. Amendment for proposed changes to approved site plan and conditional uses for a fraternity. Richmond Property Group, c/o Sarah Layton, property owner. Bruce Scamman, Emanuel Engineering. Isaac Schlosser, Krittenbrink Architecture. Map 2, Lot 12-12. Central Business District.

Mr. Scamman, Emanuel Engineering, came forward to give updates to the site plan. He said due to the high cost of building materials at this time, the proposed building has been made smaller again. There are no changes to the parking lot or buffers. He highlighted changes, including:

- The house will be widened by 42-inches to meet town requirements for square-feet per person for a fraternity. That change necessitated sliding the house forward and adding a stairway. Two handicapped access points are ADA regulated, so the ramp will remain.
- The house size has been decreased from three stories to two stories above grade. The first floor needs to be raised one foot to allow head space in basement.
- After discussion with DPW and TRG, a grease trap has been moved inside the building.

- The former concrete patio will now be ½-inch crushed stone.
- There's a new set of stairs on exterior of building.

The first floor is ADA compliant, with a dining room, library, kitchen, ADA bedroom, suite for live-in house parent; laundry, storage, and bathrooms. There are bedrooms in the basement.

Ms. Tobias questioned the ramp construction and Mr. Scamman said there would be soil right up to it and with a grade less than 3%, no handrail is necessary.

Vice-Chair Parnell asked Mr. Behrendt if there are issues with bedrooms in the basement and he replied no. Bedrooms in a basement are not allowed for mixed use residential, but are allowed for fraternities.

There was discussion about materials to be used for the crushed stone patio. Mr. Scamman said if a drip edge is installed to the back of the building at a later date, a stone patio as originally planned could be added. All paved areas will now be pervious surfaces.

With the elimination of a patio, Mr. Behrendt asked the applicant how they anticipate fraternity members will use the outdoor space. There was further discussion about the crushed stone area, with some board members noting it can still be used for outdoor activities.

Mr. Scamman said smaller stone could be used for a top layer, if the Board prefers. Sand is not recommended because it ruins porous pavement.

Sarah Layton, property owner, was recognized to speak. She responded to comments about students potentially throwing crushed stones and other issues raised. She said the fraternity chapter is in good standing, behavior-wise and there is no alcohol allowed on the premises.

Board members were in agreement there's no need for a site walk.

Vice-Chair Parnell MOVED to set the Public Hearing for June 9th, SECONDED by Ms. Tobias, APPROVED unanimously by roll call vote, 7-0, Motion carries.

IX. 190 Piscataqua Road – Conditional Use. Conditional use for accessory structures, related to new single-family house proposed in the shoreland and wetland overlay districts. Map 12, Lot 7. Tom and Erin Daly lot owners. Eric Buck, Landscape Architect, Terrain Planning & Design. Residence Coastal District.

Mr. Daly came forward and said he and his wife Erin purchased the property in November 2019 and have worked with an architectural team to refine the plan. The 5.67-

acre lot is very unique. Buildable area, constrained by WCOD and SPOD, is only 6,600 square feet, representing less than 3% of the total lot.

Their home and septic will consume majority of buildable area. There are a number of non-conforming structures on the site. They are seeking Conditional Use Permit for accessory structures – the driveway, patio, pool and pool house.

The Conservation Commission found the four criteria for the Wetlands Conservation Overlay and Shoreland Protection Overlay Districts have been met. In consultation with the Commission, the owner adjusted site plans to address runoff toward Little Bay; provide tree screening and limit the overall size of the project.

Mr. Buck, Landscape Architect, then came forward to show site plans. He said Little Bay borders the property on two sides.

Plans are to demolish the existing house and its outdated leach field; retain a non-conforming boathouse; Renovate an existing non-conforming guest house into a pool house; Remove leach field to guest house; Renovate two existing barns.

Currently, stormwater flows off the roof of both the house and guest cottage and eventually to Little Bay. Mr. Buck said both the wetland and shoreland areas have numerous invasive species (which he identified by name).

He highlighted proposed improvements within the WCOD, specifically:

- Removal of gravel/asphalt driveway, adjacent to wetlands
- Replacement of driveway with permeable materials.
- Removal of invasive species within wetlands and buffer
- Installation of new native plantings, to restore buffer between driveway and wetlands edge.
- Replacement of a well

Applicant also proposes:

- To renovate existing cottage in current footprint to become simple pool house/cabana.
- To install inground gunite swimming pool, 22 x 42 feet.
- To install a hot tub
- To install permeable retaining wall to allow for pool deck
- Pool patio to be elevated above grass to allow stormwater flow back toward drainage system rather than Little Bay.

Within SPOD, applicant is proposing to mitigate impacts by:

- Adding a number of native plantings along shoreline.

- Removal of invasives
- Planting new shade trees along south, east and west side of main house to help with a heat island effect and screen new structures from the Bay.

Board members then asked a number of questions, including about the height of the retaining wall (24 to 36-inches); Mr. Buck said construction of the pool (deep end will be inground) and grass line will be elevated so drainage will not be toward Bay.

Mr. Bubar asked about the allowable 15 percent expansion of the footprint for the house and about the 30 percent expansion limit on the total habitable area. He would like clarification on habitable floor area of the existing house and habitable floor area of the proposed house.

Mr. Daly replied the new two-story house is not expanding beyond 30 percent.

Mr. Behrendt replied he and [Code Enforcement Officer] Audrey Cline looked at it, but didn't do a precise calculation. The 30 percent expansion limit applies to the entire non-conforming area outside of the buildable triangle, not just the existing house.

Discussion turned to Conservation Commission Recommendations & Pool Details

Mr. Behrendt said the Conservation Commission has recommended the Planning Board develop a provision for maintenance of the drainage structures and the permeable patio and pavement.

In answer to questions about the pool from Chair Rasmussen, Mr. Buck said the east and south sides will abut a retaining wall that changes grade down to the lawn by about two-to-three feet. Only about 3-inches of water need to be drained to winterize the pool. Water will go into bio-retention area, not the septic.

Brief Discussion of Septic Systems

Mr. Buck said the exact location for the new septic systems hasn't been determined yet, but possibly just west of the house. The project needs to go through permitting with NH DES. An environmentally-friendly system will be used.

Discussion of Accessory Structures

There was back and forth discussion about the accessory structures proposed for demolition or renovation, with Mr. Bubar asking for clarification. Mr. Daly said two wooden barns and the guest cottage will be renovated within their existing footprints. Septic systems for both the house and cottage will be replaced.

New accessory structures proposed are the patio, pool deck, swimming pool, hot tub, and pool house.

Mr. Bubar said the ordinance allows only two accessory structures on a property and a limit of 850-square-feet for an accessory dwelling unit.

In answer to further questions, Mr. Behrendt said the pool and spa are not considered structures since they are not habitable.

Later, Mr. Behrendt said there's a distinction between structures and buildings (defined as habitable). There are no limits on accessory structures. Several of the buildings (barns, guest cottage and boathouse) on the property are grandfathered.

Balancing Impacts within WCOD and SPOD

Mr. Kelley asked the applicant the current square footage impact in the two overlay districts vs. the proposed impact. Mr. Buck replied the total increase in impact to the SPOD would be around 6,000 square feet (proposed patio and pool). He can provide information about the WCOD at the next meeting.

Mr. Kelley asked how those impacts would be balanced and Mr. Daly replied the flow from the grassy area toward the Bay will be greatly reduced from current conditions. Invasive species will be removed; aging septic tanks will be replaced with modern technology and new trees will enhance the buffer.

With no further discussion, the Board decided to do a site walk at 190 Piscataqua Road on June 9th at 4:00 p.m.

Vice-Chair Parnell MOVED to set the Public Hearing for conditional use at 190 Piscataqua Road for June 9th, SECONDED by Ms. Tobias, APPROVED unanimously by roll call vote, 7-0, Motion carries.

Chair Rasmussen recused himself and passed the gavel to Vice-Chair Parnell for the next agenda item.

X. Public Hearing – Subdivision off Gerrish Drive. Parcel at 91 Bagdad Road. Application for conservation subdivision for single family and duplex houses (15 units total) on 16-acre lot off Gerrish Drive including conditional use for wetland crossings. Marti and Michael Mulhern, property owners. Mike Sievert, Horizons Engineering. Robbi Woodburn, Landscape Architect. Mark West, Wetland Scientist. Map 10, Lot 8-6. Residence B District.

Acting Chair Parnell appointed Heather Grant to fill in for Mr. Rasmussen on this item.

Project Engineer Mike Sievert came forward and said there are no new design changes to present this evening. The applicant is hoping the Planning Board will discuss the eight criteria for conditional use so the project can move forward. After 19 months in development, they believe they've met all requirements and are minimizing impacts.

There were questions from Mr. Kelley about the condo docs (Mr. Sievert said they're in progress) and the status of state permitting. Mr. Sievert replied they are seeking approval for conditional use first and will then apply to the state for Alteration of Terrain and wetlands permits.

Mr. Kelley then asked Mr. Sievert for specifics on how he analyzed the effects of placing a roadway into the first wetland. Mr. Sievert replied there was an addendum to the full drainage analysis for that area. Waterflow was modeled using Hydro-CAT for a 100-year storm event. They used a conservative approach to analyze waterflow.

Acting-Chair Parnell then opened the Public Hearing.

John Lewis: Questioned Mr. Behrendt's statements at a previous meeting about the Town Attorney's opinion that the Board's review of the eight criteria must be very narrow. He believes this is a "gloss over" review. Planning Board needs to clearly articulate how they are reviewing criteria. He disagrees with proposal to sell the ROW for \$1 and said it should be sold at fair market value. Planning Board cannot do anything to assist the project. Would prefer for access road to remain a town road. He believes the town is abdicating its responsibility.

Mr. Kelley challenged Mr. Lewis' statement about selling the ROW for \$1 and said the Planning Board cannot sell town assets. Mr. Behrendt clarified only Town Council could enter into such an agreement.

Andrew Merton, 11 Gerrish Drive: said he and Gail Kelley's driveway currently opens directly on Gerrish Drive, but proposal is to move it 90-feet east into the entrance for the subdivision. If approved, he urges town and developers to: 1.) Allow them to keep their current address. 2.) Continue to have mail and trash picked up on Gerrish Drive 3.) To be exempt from contributing to maintenance of the private road.

Gail Kelley, 11 Gerrish Drive: said they haven't granted permission to anyone to move or divert their driveway and the Planning Board doesn't have authority to do so.

Aside from eight conditional use criteria (six of which she believes are not met), Ms. Kelley said the Board can deny the project based on grounds applicant has failed to supply information (Section 504 of Durham's subdivision regulations). While there have been reams of information, assumption is the information is truthful. She said entire review has been based on falsehood that Mulherns don't have legal access to the [Bagdad access] and/or need permission from abutters.

Ms. Kelley maintains Mr. Behrendt barred the Planning Board and Conservation Commission from doing site walks at the Bagdad ROW access. She said the Town Planner violated RSA 674 and further, suppressed information by canceling the Conservation Commission's May 20th meeting – at which members would have discussed the site walk.

Mr. Behrendt interjected that he found her comments “offensive and off-base.” He doesn’t allow the Board to do anything, but advises them.

Ms. Kelley continued... Conservation Commission was prevented from passing comments to the Planning Board before second phase was closed. Further, she said Mr. Behrendt cut off discussion and public comment at the Conservation meeting.

If denied now, the applicant can resubmit new plans within a year. This would allow the Planning Board to do due diligence (examine Bagdad access) and appoint a truly independent wetland scientist, not an acquaintance of Mr. Sievert’s.

Responding to one of her comments, Acting-Chair Parnell said he can’t speak for the Conservation Commission, but Mr. Behrendt had zero influence on where the Planning Board went for their site walk. He (Mr. Parnell) made that determination and will take full responsibility.

Christine Conlon, 6 Gerrish Drive: The Town Attorney and Public Works staff have already said there are issues building a private road on town land. For that reason alone, application should be denied. Seems like town is going out of their way to benefit applicant. *A recent letter states:* “It would be inappropriate and unfair to charge the applicant for this piece of land since the Planning Board is requiring the road to be private.” She said it’s not the town’s responsibility to figure out how to make the plan work for the applicant.

John Carroll, 54 Canney Road: said at the last meeting, the DPW director informed us how expensive it would be to maintain, repair and replace Gerrish Road access. We can assume applicant will pass burdensome costs on to 15 homeowners. Water issues here may be compounded by climate change. Any Planning Board decision to approve Gerrish Drive access will ultimately cost Durham and its residents money. This can be avoided by using Bagdad access.

Acting Chair Parnell then continued the Public Hearing to June 9th and said he would like the Board to review the eight Conditional Use criteria now.

Mr. Behrendt was asked to give a brief Conditional Use overview for the Board.

He said there are four specific criteria for conditional use in the WCOD that are technical and oriented toward wetlands. Then there are eight general conditional use criteria, which apply within the WCOD and SPOD.

The eight criteria apply narrowly to activity within the wetland and wetland buffer only -- not to the subdivision, the road or the single-family homes. He added the Planning Board met in closed session with the Town Attorney last Wednesday for clarification on how to apply the criteria. The substance of the discussion can’t be conveyed, but it’s understood their review is of environmental impacts within the WCOD only.

Acting Chair Parnell said if there are no objections, he would like to review all four areas together for each of the eight criteria.

Four areas/requests under review: 1.) To cross & partially fill Gerrish Drive wetland in the first ROW (currently a paper street). 2.) To cross wetland ravine 3.) To cross wetland finger on interior of project and 4.) All miscellaneous infrastructure in wetland buffer including sections of road, drainage and utilities, etc.

Acting Chair Parnell then asked Mr. Behrendt if all application conditions have been met, including payment of required fees, placement of newspaper notices; mailing to neighbors within 300 feet, and placement of sign 10 days prior to Public Hearing. Mr. Behrendt confirmed they had been met.

Review of Eight Conditional Use Criteria (175-23C):

1.) Site Suitability. The site is suitable for proposed use (with additional enumerations a-d).

Discussion: Referring to absence of environmental constraints (item 1-c), Mr. Kelley said there wouldn't be an application for conditional use if there weren't any environmental constraints. He believes the applicant has substantially mitigated impacts to the wetlands and Ms. Tobias agreed.

Mr. Bubar said he's not comfortable with the proposed elimination of 7-8,000 square feet of wetlands and habitat and doesn't believe this condition has been met.

There was discussion among Mr. Kelley, Mr. Bubar and Mr. Behrendt regarding town requirements for replication or mitigation [of a wetland]. Mr. Behrendt said the town does not require either, but the State does. Also, since this is a Conservation subdivision, the applicant is preserving upland acreage as required.

Mr. Bubar said he recalls the project engineer saying the amount of [wetland] disturbance falls under the square-foot threshold set for mitigation by NH DES.

Acting Chair Parnell said the criteria does not mention replication or mitigation. He believes they should stick to the specifics.

VOTE on Criteria 1:

*Ms. Tobias – Yes; Mr. Parnell – Yes; Ms. Grant – Yes; Mr. Bubar – No;
Mr. Kelley – Yes; Ms. Dill – Yes; and Mr. McGowan – Yes.*

Criteria #1 – Board finds this has been met, 6-1.

2. External Impacts: The external impacts of the proposed use on abutting properties and the neighborhood shall be no greater than the impacts of adjacent uses or other uses permitted in the zone, etc.

Mr. Kelley said since this was established as a ROW for a road and approved for its use by the Planning Board [corrected himself later to say Town Council], he agrees this condition has been met.

Acting Chair Parnell agreed and said the proposed use was not unanticipated or new.

Mr. Bubar said there are no existing records showing this was accepted as a ROW. He doesn't believe it's ever been accepted by the town as a street.

Mr. Behrendt said Town Council voted to allow its use by the applicant for a road to a subdivision, provided that all requirements by the Planning Board and the State are met.

In answer to questions from Acting Chair Parnell, he added the access is owned in fee simple by the Town and Town Council has authority to approve its use. It was shown on a subdivision plan as a future street.

Mr. Hotchkiss said he believes there are serious issues with conveyance of town land for use as a private road. It *was* intended as a street. But he thinks it's unfortunate for optics that more consideration wasn't given to the Bagdad entrance. If that entrance were subjected to the same scrutiny, however, he believes there would be a number of issues with meeting conditions.

Mr. Kelley said he's focused solely tonight on Conditional Use criteria. In his view, there are other issues with the road, including drainage, maintenance, and potential legal issues which may result from placing a private road in a public ROW. Mr. Parnell said those issues will be looked at during the site plan review.

Roll Call vote on Criteria 2:

*Mr. McGowan – Yes; Mr. Kelley – Yes; Mr. Bubar – Yes; Ms. Grant – Yes;
Mr. Parnell – Yes; Ms. Tobias – Yes; Ms. Dill – Yes*

Criteria #2 – Board finds this has been met, 7-0.

3.) Character of the site development. The proposed layout and design of the site shall not be incompatible with the established character of the neighborhood and shall mitigate any external impacts of the use on the neighborhood, etc.

Roll Call Vote on Criteria #3

*Ms. Tobias – Yes; Mr. Parnell– Yes; Mr. Bubar – Yes; Mr. Kelley –Yes;
Ms. Grant – Yes; Mr. McGowan– Yes; Ms. Dill– Yes*

Criteria #3 – Board finds this has been met, 7-0.

4. Character of the building and structures, etc.

Members generally agreed this criteria is not pertinent to the project.

Later in the proceedings, they were asked to confirm their position by roll call vote.

VOTING NOT PERTINENT: Ms. Tobias, Mr. Parnell, Ms. Grant, Mr. Bubar, Mr. Kelley, Mr. McGowan and Ms. Dill.

Criteria #4 – Board finds this is not pertinent, 7-0.

5. Preservation of natural and cultural historic and scenic resources. Proposed use, including all related development activities.

There was lengthy discussion on this item. Some Board members thought the word “preserve” means there should be no changes to the wetlands’ original state. Others felt there wouldn’t be a WCOD if changes weren’t allowed at all.

Some of the points raised during discussion:

- Mitigation proposed minimizes impact (Mr. McGowan)
- According to the wetland scientist, this wetland is the least valuable (Ms. Tobias)
- Ambler Way already diked this wetland apart. This parcel was established as ROW with the intended use that is before the Board now. (Mr. Kelley)
- Mr. Bubar disputed the lot was intended to be a road; there are no selectmen minutes to support this. He believes the original developer donated the land to avoid paying taxes on it.
- In applying for a lot line adjustment, the applicant created a land-locked parcel and they were relying on approval to “blow right through a swamp.” (Mr. Bubar)
- The design of the road has been significantly improved to minimize impacts on the wetlands and the conserved acres on the property should be considered. (Ms. Grant)

Mr. Bubar disputed the last point that conservation of another area mitigates impact to the wetlands. He cannot get past the language, “shall preserve identified wetlands.”

Mr. Behrendt said a strict interpretation to say you can never cross or fill a wetland is “illegal on its face.” He encouraged the Board to use more flexibility and think about this criteria differently.

Mr. Bubar said he believes this is a self-induced penalty and the Board is not obligated to correct the problem. More effort should be made to protect wetlands in town.

Acting Chair Parnell said it would be difficult to go through the criteria if the assumption was that “preserve” means nothing could be touched. Mr. Kelley agreed and said if the

wetlands could only be kept in their original state, then there would be no need for a WCOD.

Roll Call Vote on Criteria #5:

*Mr. Kelley – Yes; Ms. Dill – Yes; Mr. McGowan – Yes; Mr. Bubar – No;
Ms. Grant – Yes; Mr. Parnell – Yes; Ms. Tobias – Yes.*

Criteria #5 – Board finds this has been met, 6-1.

6.) Impact on property values: The proposed use will not cause or contribute to a significant decline in property values of adjacent properties.

Acting Chair Parnell said this has been proposed as a road for some time. There are other nearby roads. He does not believe it affects property values. There was little discussion.

Roll Call Vote on Criteria #6:

*Ms. Tobias – Yes; Mr. Parnell – Yes; Ms. Grant – Yes; Mr. Bubar – Yes;
Mr. Kelley – Yes; Mr. McGowan – Yes; Ms. Dill – Yes.*

Criteria #6 – Board finds this has been met, 7-0.

7.) Availability of public services and facilities, etc.

Board members agreed this criteria is not pertinent to the project and confirmed this by roll call vote.

NOT PERTINENT: Ms. Tobias, Mr. Parnell, Ms. Grant, Mr. Bubar, Mr. McGowan, Mr. Kelley, and Ms. Dill

Criteria #7 – Board finds this is not pertinent, 7-0.

8.) Fiscal Impacts. The proposed use will not have a negative fiscal impact on the Town unless the Planning Board determines there are other positive community impacts that offset the negative fiscal impacts of the proposed use, etc.

Board members agreed this criteria is not pertinent to the project and confirmed this by roll call vote.

Roll Call Vote on Criteria #8:

NOT PERTINENT: Ms. Tobias, Mr. Parnell, Ms. Grant, Mr. Bubar, Mr. McGowan, Mr. Kelley, and Ms. Dill

Criteria #8 – Board finds this is not pertinent, 7-0.

Acting Chair Parnell said the Planning Board found that all eight criteria for Conditional Use in a WCOD had been met, with at least 5 positive votes required on each item.

He then opened discussion to other items required to move the application review forward. According to Mr. Behrendt, these include information for: traffic, drainage, construction, and HOA documents. Also a financial breakdown of short-term and long-term costs for maintenance, repair and replacement of infrastructure. A final layout of house sites and P.O. boxes is needed.

In addition, the applicant needs to advise the Board how the existing house on the property will be treated. Mr. Behrendt said he would advise the applicant to apply for a variance to take the house off the parcel, since it's separate from the subdivision.

He added the Board will need architectural plans with house sizes and also said the application needs to go to the Madbury Planning Board. Road waivers will need to be reviewed.

Acting Chair Parnell asked Mr. Kelley about a document he brought up earlier and if he had other concerns.

Mr. Kelley replied he wants to review the addendum to the drainage report. Also, legal issues need to be resolved regarding placing a private road in a public ROW. He's interested in seeing deferred maintenance plans that will be part of the homeowners' documents as well.

Mr. Parnell said the HOA only takes effect after all houses are sold. He wants to know what will happen between now and then with respect to maintenance, if something happens.

Mr. Bubar said the Board needs to review the stormwater management plan and decide on any reporting requirements.

With no further discussion on this agenda item, Mr. Rasmussen returned to chairing the meeting.

XI. Public Hearing – 19-21 Main Street – Parking Lot.

Postponed at applicant's request.

XII. Review of Minutes: February 24, 2021 & April 28, 2021

Feb. 24, 2021 Minutes:

Ms. Dill submitted correction of one typo to town staff.

Vice-Chair Parnell MOVED to approve Planning Board minutes of February 24, 2021 as amended; SECONDED by Mr. Bubar, APPROVED unanimously, 7-0.

April 28, 2021 Minutes:

Mr. Parnell said on page 7, line 40: Amend minutes to say, “It was noted there are many more *southbound* trips into the Plaza than *northbound*.”

Pg. 8, Line 31, Leah (last name?) – Resident who spoke during Public Hearing needs to be identified by town staff/zoom registration.

Ms. Dill said she submitted two changes to town staff: correct spelling of Ms. Souter’s name on Page 1 and Mr. “Embree” should be “Imbrie” (page 6, line 36).

Vice-Chair Parnell MOVED to approve the minutes for April 28, 2021 as amended, SECONDED by Ms. Tobias, APPROVED unanimously, 7-0, Motion carries.

XIII. Other Business

Mr. Kelley asked if in-person meetings would be resuming for the full Board in the future. Ms. Tobias said the Board can meet in person as long as they are masked and socially distanced – at least for the next 61 days. It’s unclear how Council Chambers could be set-up to allow for distancing. She believes they need further clarification from Town Administrator Selig.

It’s her understanding zoom will continue to be an option for public participation. That directive needs to come in a vote from the State – to either continue Special Order #12 or rescind it. She believes it’s been extended another year.

In other business, Mr. Behrendt said alternate members have been very quiet during discussion. They need to participate.

Vice-Chair Parnell MOVED to adjourn the meeting at 10:01 p.m., SECONDED by Ms. Tobias, APPROVED unanimously, 7-0, Motion carries.

Respectfully Submitted,
Lucie Bryar, Minute Taker

Note: These written minutes are intended as a general summary of the meeting. For more complete information, please refer to the DCAT22 On Demand videotape of the entire proceedings on the town of Durham website.

Richard Kelley, Secretary