

These minutes were approved at the June 26, 2024 meeting.

**TOWN OF DURHAM
DURHAM PLANNING BOARD**

Wednesday, May 8, 2024

Town Council Chambers, Durham Town Hall

7:00 pm

MEMBERS PRESENT: Paul Rasmussen (Chair), Sally Tobias (Vice Chair), Peyton McManus, Tom DeCapo, Erika Naumann Gaillat (Alternate), Robert Sullivan (Alternate), Heather Grant (Alternate Council Rep); Emily Friedrichs (Council Rep), Richard Kelley (arrived late)

MEMBERS ABSENT: None

ALSO PRESENT: Town Planner Michael Behrendt

I. Call to Order

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

II. Roll Call and Seating of Alternates

Chair Rasmussen called the roll and seated Erika Naumann Gaillat for Richard Kelley until he arrives, and seated Robert Sullivan for the empty seat.

III. Approval of Agenda

Chair Rasmussen added a second item under Other Business: TEDS.

Vice-Chair Tobias MOVED to approve the Agenda for May 8, 2024 as amended; SECONDED by Peyton McManus; APPROVED 7-0, Motion carries.

IV. Town Planner's Report

Mr. Behrendt said Chris McClain is stepping down as Planning Board Alternate; Annual Workshop Meeting May 29, 2024: Dover Housing Navigator to talk about Workforce Housing in Dover; Board member appointments to other committees; review of prior year and discussion of upcoming year priorities, discuss issues and procedures; continue discussion on workforce housing.

V. Reports from Board Members who serve on Other Committees

Reporting from Town Council: Councilor Grant said Town Council met Monday, did approvals mostly for Conservation Commission; lots of volunteers for different roles; reviewed coming year goals to be continued at next meeting.

Councilor Friedrichs arrived at the Planning Board Meeting at 7:05 pm.

Reporting from the Energy Committee: Councilor Friedrichs said the Energy Committee met last night though she was unable to attend. There is an upcoming EV event at Tideline; Town

Administrator Selig met with Eversource to look into Madbury Substation and whether energy supply is restricted; applied for Walking Softer Prize to address built environment but not awarded.

Councilor Friedrichs said the Council asked the Town Administrator to submit letters commenting on 2 bills now before the State Senate: for HB1600 enabling people with solar to participate in Community Power, and against a bill to revise State Energy Policy, putting the State in conflict with Federal Regulating Agencies.

Mr. Behrendt said there are a number of bills in Concord related to housing, but a handful of bills are not very good, poorly written and could be harmful for Durham: one related to Durham's "3 unrelated rule" for managing student housing. Vice-Chair Tobias said the bill was killed or tabled in the House, but appended to SB527 and proposal is still in the works; bill is a serious threat to Durham.

Richard Kelley arrived at the Planning Board Meeting at 7:11 pm.

Chair Rasmussen said an EV roundtable seminar was held last week with several Planning Board members present. Mr. Sullivan said it was an interesting look at EVs here now and growing fast, but charging infrastructure is not at same level. Councilor Friedrichs said the Energy Committee is working on EV section for the Zoning Ordinance touching on Site Plan Regulations and/or Town Codes.

Chair Rasmussen talked about different types of chargers statewide for NH as well as regional: EV1s and EV3s look to be on target to meet need for next 10-15 years for 2030 goals for EV load. Tier 2 chargers are falling into gap; a vendor at the seminar had a product that would help fill that gap by leasing portable EV charging stations which sit on top of a jersey barrier and use a solar tracker.

Reporting from the Conservation Commission: Mr. Kelley said the Commission met 4/29/2024; he was not in attendance but watched DCAT: Land Stewardship Coordinator Sara Callahan and Vice Chair presented proposal to create an *ad hoc* group as sub-committee to educate public about conservation issues; discussed Wetland/Shoreland Overlay Districts; Planning Board should be seeing a final draft in a few months.

VI. Public Comments – None

VII. Review of Minutes (old):

VIII. Public Hearing - 30 and 32 Old Piscataqua Road – Lot Line Adjustment. Lot line adjustment between two lots both owned by John and Judith Churchill. Adam Fogg, Surveyor. Map 209, Lot 86 and Map 209, Lot 86-2. Residence A District. Recommended action: Final action.

John Churchill said he is building a house on Lot 86, Map 209, with barn on Lot 86-2; used same starting point but swung line 10 ft from side of the barn with 20 ft behind; new lot will meet all requirements of minimum square footage; line swung around to western side of driveway to correct placement of electrical line on Topography Map; clarified property line being abandoned and clarification/correction made to delta in Table of Square Footages

Richard Kelley MOVED to open the Public Hearing for 30 and 32 Old Piscataqua Road; SECONDED by Councilor Friedrichs; APPROVED 7-0, Motion carries.

Public Hearing opened at 7:24 pm.

No Public Comments.

Richard Kelley MOVED to close the Public Hearing for 30 and 32 Old Piscataqua Road; SECONDED by Peyton McManus; APPROVED 7-0, Motion carries.

Public Hearing closed at 7:25 pm.

Mr. Behrendt said his reference to electrical line was to create an easement or correct the line. Mr. Churchill said he would move the line and had reviewed the Notice of Decision, with numbers 2 and 4 to be eliminated.

Richard Kelley MOVED that the Planning Board approve the lot line adjustment at 30 and 32 Old Piscataqua Road, between 2 lots owned by John and Judith Churchill, Map 209, Lot 86 and Map 209, Lot 86-2 in the Resident A District; SECONDED by Councilor Friedrichs;

Chair Rasmussen said there is a typo in the title of the Notice of Decision which should read: 30 and 32.

APPROVED 7-0 as amended, Motion carries.

- IX. **Workforce Housing – Potential Zoning Amendment.** Continued discussion about issues related to potential zoning amendments to facilitate the creation of workforce housing. The Planning Board put aside an earlier proposal and is now working on a new/revised draft. **Recommended action:** Continued discussion.

1. Overlay Districts / 2. Overlay Locations

Chair Rasmussen said there seems to be a difference of opinion on location of overlay districts, Board is now suggesting entire OR District and O’Keefe Property west of Johnson Creek. Mr. McManus said other potential areas are Courthouse, Central Business, and Central Office. Mr. Behrendt said for OR, not lots west of Dover Road, also portions of ORLI as shown on his map. Councilor Friedrichs agreed and said the Master Plan focuses on density in downtown, making it easier for people to live in Durham without a car, and said the Town Council goal is to have the

Workforce Housing Ordinance passed by April 2025. Mr. Behrendt recommended against CB and said his work has been oriented toward large parcels in outlying areas.

Mr. Kelley asked the reason and Mr. Behrendt cited the difficulty of building workforce housing and limited ways it can occur and said it would need a very different ordinance; also, the issue of student housing. Vice-Chair Tobias said she is not opposed to Mill Plaza or 66 Main Street but agreed there would be issues building workforce housing in downtown; she felt the best place for success was along major roads for easy access. Chair Rasmussen said he was sensitive to both sides but agreed downtown would be difficult at 75% workforce housing.

Mr. Behrendt asked that the Board focus on things that have a real chance of happening and getting this done. Vice-Chair Tobias cautioned that the Board is not doing this for a particular developer but to create zoning that can be overlaid. Mr. McManus agreed they would probably need two different overlays; makes sense to get one finished then revisit in denser style. Mr. DeCapo suggested working on them simultaneously.

Chair Rasmussen recommended working on Phase I and having a few people work together on Phase II; Mr. DeCapo and Mr. McManus volunteered. Chair Rasmussen suggested they look at other zones and areas in tandem with an appropriate percentage reasonable for those zones. Vice-Chair Tobias said some Housing Task Force people may have some perspective on that as well; Chair Rasmussen recommended bringing that up at the next Housing Task Force meeting. Councilor Friedrichs said the Town Council asked RKG to also look at property redevelopment in the downtown district.

Mr. Behrendt asked about requiring water and sewer; Board agreed it should probably be a requirement; Councilor Grant added that a lot more is now being done with shared septic. Chair Rasmussen said if septic has to be done it changes the idea of what a lot size minimum can be; possibly use only for areas in rural zone or RC; would be a Phase II item. Mr. Behrendt said another good reason for requiring water and sewer is Conservation Subdivisions require detailed topographical analysis but having water and sewer streamlines the process.

Councilor Friedrichs said by law Town Ordinance requires water and sewer be used if available, and said it is important to give developers a certain range and flexibility. The Board further discussed the issue of water and sewer and decided not to make it a requirement. Councilor Friedrichs said requiring access to a major road depends on the size of the development and is already covered in site plans; Board agreed no road requirement.

3. Multi-unit residential

Mr. Behrendt said the ordinance should be oriented to multi-unit residential, simplest project with the most benefit, vs single-family homes. Multi-unit rental is most efficient with land, has higher density, and is easier to build and administer using HUD levels; single-family for sale uses a lot of land and 100% of median income and is hard to monitor in perpetuity. Vice-Chair Tobias

said multi-unit residential is also the type of housing Durham is missing and it is hard to build homes at percentage below fair market prices.

Mr. DeCapo agreed multi-unit rental units are the most needed and perhaps the Board should not get bogged down now with sales and said it is very important that the workforce housing created remain workforce housing. Chair Rasmussen said it should also be made clear anything that becomes a condo is then deed-restricted to workforce housing. Councilor Friedrichs agreed but said sales should be planned for and not excluded. Mr. Behrendt said any condo conversion needs Planning Board approval.

Mr. McManus said the deed restriction would fix appreciation at a rate allowing some equity to build up. Mr. Behrendt said he would speak with the Town Attorney about control. The board discussed 75% workforce housing for rentals with 25% at market rate. Mr. McManus asked if there is an opportunity for mixed-use with commercial if services are not walkable. Chair Rasmussen said underlying zoning will come into play at that point and mixed use is only allowed in CB. Mr. Behrendt said small retail only serving the development may be allowed as accessory use. Vice-Chair Tobias said they could make ORLI and MUDOR mixed use. Mr. DeCapo asked if the Board could simply override the prohibition on mixed use.

Mr. Behrendt said it is a matter of a Workforce Overlay Development being allowed on one lot where you can spell out specific non-residential uses allowed by right or by conditional use. Mr. Kelley asked that this become number 23 on the list of issues to be discussed as it is important to have commercial uses that serve the community well. Mr. Behrendt recommended considering types of commercial uses wanted by size limits or by conditional use. Ms. Naumann Gaillat said it would be an extra incentive to developers; Councilor Friedrichs said it is a question of serving residents and a question of increasing economic viability.

Chair Rasmussen asked Board members to bring in uses they think belong in the workforce housing area for the next meeting.

4. Density / 5. Number of Units

Mr. Behrendt suggested the Board take density, subtract wetlands and open space, and figure out a number, usually 1 per 10,000 sq ft; a 20-acre lot would be 65 units, 100-acre lot could be huge and he recommended a maximum per lot. Chair Rasmussen said 10,000 sq ft seems high. Councilor Friedrichs said developments that large will see a lot of public concern and there may be real questions about water and sewer capacity and school limits. Chair Rasmussen said they were originally looking at OR numbers of 4,200 sq ft.

The board discussed density and setting a maximum. Chair Rasmussen said it becomes a Site Plan issue but saying 10,000 is promoting sprawl; for anything over a certain size we will be looking at more open space. Councilor Friedrichs said setbacks, height restrictions, and traffic studies will address any concerns that arise, and putting a cap on number of units makes sense. Mr. Behrendt

suggested a maximum of 200 which could go higher by conditional use. Chair Rasmussen said this is one plan where he would go with conditional use just to manage the numbers.

Mr. DeCapo said it makes sense to include open space as part of this discussion; having a higher open space percentage requirement with a lower density and cap. Board talked about density; Chair Rasmussen said PO is 3000 sq ft and recommended the Board come back to this when they discuss open space. Ms. Naumann Gaillat said if they cap number of units at 200 what difference does it make; Chair Rasmussen said they will say ratio of people to open space to avoid having to set a cap. Mr. McManus said he agrees on a cap of 200 and thinks 4,200 sq ft is reasonable.

6. HUD Fair Market Rents

Nothing for the Board to talk about.

7. Bedrooms

Vice-Chair Tobias said she would not say 4 bedrooms, only up to 3 bedrooms: studios, singles and 1, 2, or 3 bedrooms. Board agreed maximum 25% 3-bedroom. Mr. Kelley said with 3 bedrooms one could just be an office and not a bedroom. Chair Rasmussen said the Board can look to expanding this in Phase II. Councilor Grant suggested just putting a mix and see what it comes to and waiting for feedback on the 25%. Vice-Chair Tobias said it is a question of affordability of a 3-bedroom unit.

Mr. Behrendt said John Randolph preferred that 1/3 be 3-bedroom. Mr. DeCapo suggested requiring a minimum to be studios and 1-bedroom and let the developer determine the rest. Board agreed; Councilor Grant suggested 50% studios/1-bedroom, leave rest to developer. Mr. Behrendt said 50% studio/1-bedroom, no 4-bedroom, and developer decides 2-bedroom/3-bedroom ratio.

8. Senior Housing

Mr. DeCapo said he has strong feelings about numbers 8, 9, 13, and 14. Chair Rasmussen said there will not be anything in there about Senior Housing as this is non-age restricted housing.

9. Income Requirement

Mr. Behrendt said they need to have employment or other income. Mr. DeCapo said this is workforce housing and we want to ensure it is housing for the workforce; Vice-Chair Tobias suggested employment verification for the 75% workforce housing. Councilor Friedrichs said they need to be careful about disabled people and disability income and may want legal advice. Vice-Chair Tobias said units designated workforce housing do have lease criteria to help determine who is eligible in the application process. Mr. DeCapo said the Board should come as close as possible to people being legally employed at a certain income level.

Chair Rasmussen said in other towns the planning board gets an annual report from the developer showing that everyone is within the income levels. Councilor Friedrichs said in

Portsmouth they do not check when the leases are renewed, and said they also prioritize people who are working in Portsmouth. Chair Rasmussen said the development in Portsmouth is a municipally chartered organization. Mr. Kelley said it would be nice to give priority to people working in our community. Mr. Behrendt said the Housing Authority has to have an income threshold, but Dover does not for its ordinance. Discussion to be continued at next meeting.

X. Other Business

Discussion about next section of the Zoning Ordinance to review:

Mr. Kelley recommended the Table of Uses as the next zoning section for review; the Board agreed.

Councilor Grant left the Planning Board Meeting at 9:05 pm.

TEDS:

Chair Rasmussen said TEDS stands for Thermal Energy Distribution System which is a storage system going in on McDaniel Drive near Philbrick Hall; it is a liquid storage device to heat or cool water depending on the season; heat is stored to be used later for surrounding buildings, similar to above-ground geothermal. He said there is not a large ground footprint, but slopes are steep. The board agreed to a site walk after completion.

XI. Election of Officers

Chair Rasmussen explained the process for new members.

Chairman of the Planning Board:

Tom DeCapo NOMINATED Paul Rasmussen to serve as Chairman of the Planning Board; SECONDED by Peyton McManus; Paul Rasmussen agreed to continue serving as Chair; APPROVED 7-0.

Vice-Chairman of the Planning Board:

Tom DeCapo NOMINATED Sally Tobias to serve as Vice-Chairman of the Planning Board; SECONDED by Peyton McManus; Sally Tobias agreed to serve as Vice-Chair;

Chair Rasmussen NOMINATED Peyton McManus to serve as Vice-Chairman of the Planning Board; SECONDED by Councilor Friedrichs; Peyton McManus declined the position.

Councilor Friedrichs NOMINATED Tom DeCapo to serve as Vice-Chairman of the Planning Board; Tom DeCapo declined the position.

Sally Tobias was elected as Vice-Chairman of the Planning Board; APPROVED 7-0.

Secretary:

Chair Rasmussen NOMINATED Peyton McManus to serve as Secretary of the Planning Board; SECONDED by Vice-Chair Tobias; Peyton McManus accepted the nomination; APPROVED 7-0.

XII. Review of Minutes (new): April 10, 2024

Minutes of Meeting of April 10, 2024

Tom DeCapo MOVED the Planning Board approve the Meeting Minutes of April 10, 2024; SECONDED by Vice-Chair Tobias; APPROVED 4-0 with 3 abstentions, Motion carries.

XIV. Adjournment

Richard Kelley MOVED to adjourn the Planning Board Meeting; SECONDED by Vice-Chair Tobias; APPROVED 7-0, Motion carries.

Chair Rasmussen adjourned the meeting at 9:16 pm.

Respectfully submitted,

Patricia Denmark, Minute Taker

Durham Planning Board