

*These minutes were approved at the July 10, 2024 meeting.*

**TOWN OF DURHAM  
DURHAM PLANNING BOARD MEETING**

**Wednesday, June 12, 2024**

**Town Council Chambers, Durham Town Hall  
7:00 pm**

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

**MEMBERS ABSENT:** Erika Naumann Gaillat (Alternate), Emily Friedrichs (Council Rep)

**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 Robert Sullivan for the vacant seat and Heather Grant as Council Rep.

**III. Approval of Agenda**

The board discussed the amount of time to allocate for Table of Uses and Other Business items; agreed to move Table of Uses to the next regular meeting, leave agenda as is, and allow 10 minutes at end of meeting for Other Business item.

***Chair Rasmussen MOVED to approve the Agenda for June 12, 2024 as discussed;  
SECONDED by Peyton McManus; APPROVED 6-0, Motion carries.***

**IV. Town Planner's Report**

Mr. Behrendt said this weekend is the Revolution 1774 event and celebration from 11:00 am to 4:00 pm at Old Landing below the bridge, with parade at 11:30 am. The Conservation Commission continues to work on WCOD and SPOD.

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

Reporting from the Heritage District Commission: Ms. Tobias said the HDC primarily discussed the Revolution 1774 event.

Reporting from the Town Council: Councilor Grant said Town Council met June 3, 2024; presentation by Zoning Board of Adjustments (ZBA); some discussion on Airbnb short-term rentals

and reviewing them for special exceptions; read Zoning Rule and homeowner responsibilities seemed clear.

Chair Rasmussen said he spoke with ZBA Chairman and they see no reasons to not approve a special exception; ordinance itself is strong enough that it should just be permitted, nothing else necessary. Councilor Grant said the Council also reviewed the Zoning Definitions through "E" and Town Administrator was looking at where family came into play. Chair Rasmussen said a lot of clarifications were needed for Zoning Definitions, and Council will provide comments to Mr. Behrendt.

Ms. Tobias said she attended the NH Housing Coalition Housing and Climate Change discussion on Friday: guest from Portland, ME working to address housing and climate change with discussion going to all departments; Zonda Home does statistical analysis and has pertinent information available. Mr. Behrendt asked about the development in Exeter; Ms. Tobias said they got a variance to change the zoning on Epping Road from commercial, using a mix of market rates and HUD rates (60%): 244 total units with significant amount of workforce/affordable; commercial in front and garden-style apartments in back.

*Richard Kelley arrived at the Planning Board Meeting at 7:15 pm.*

Reporting from the Agricultural Commission: Mr. DeCapo said the AG Commission met Monday, though he was unable to attend; they are continuing to move forward with the community outreach program and planning for this year's Farm Day.

Reporting from the Integrated Waste Management Advisory Committee: Chair Rasmussen said IWMAC met and was updated on our Workforce Housing work to boost density; need to figure out how much each incentive is worth.

Reporting from the Conservation Commission: Mr. Kelley said the Commission met Monday and has some reservations and concerns to bring to the Planning Board. Also discussed Jackson Laboratory expansion; also, and an accessibility project for maintenance on some of their watercraft; construction on expansion may begin in August.

**VI. Public Comments – None**

**VII. Review of Minutes (old):**

**VIII. Updating the HDC Ordinance.** Proposed zoning amendment to update the old Map and Lot numbers to the current ones in the Historic District Ordinance. Requested by the Historic District Commission. *Recommended action:* Set public hearing date.

Chair Rasmussen said the new map shows several lot mergers as well as a subdivision; updating to new lot numbers. Councilor Lund said the Tax Map was updated about 2 years ago and he would answer any questions as a member of HDC.

Chair Rasmussen scheduled a Public Hearing for Updating the HDC Ordinance for June 26, 2024.

**IX. Workforce Housing – Potential Zoning Amendment.** Discussion about rough draft (second iteration) of a proposed workforce housing ordinance. Recommended action: Review new draft.

Chair Rasmussen explained to Mr. Kelley that the Board decided to spend as much time on this as possible and spend 10 minutes on other items at the end of the meeting.

The Board reviewed the draft proposed Zoning Amendments related to Workforce Housing, put together by Mr. Behrendt. Chair Rasmussen said the Board can use this framework and look at the amendments in more detail. He said the Board received correspondence this morning from John Randolph, who brings up a number of things, which I feel should be thresholds and incentives and not flat numbers; need to think about the maximum absolute density and the minimum.

Ms. Tobias said they need to review the definition more thoroughly as it conflicts with a lot they are trying to do; the goal is to put in affordable housing for a variety of HUD levels and the reference to specific HUD levels needs to be removed. She said the importance of management is to make sure compliances are met for any grant, which have flexibility with income averaging and give the people who know what they are doing the flexibility to market.

Mr. Behrendt said they may not need a definition or may want to add affordable housing to the definition. Chair Rasmussen said if eliminated it could all be brought out in the ordinance itself; Board agreed to remove the definition. A. *Purpose*, item b: Councilor Grant advised removing “continued” and said she did not understand the section of Mast Road not included under C. *Applicability*, item 3. Chair Rasmussen explained an extra section of Mast Road is actually in MUDOR and this only affects Mast Road west of Main Street; suggested eliminating everything in parentheses under C-3.

Chair Rasmussen suggested changing the ordinance title to “Workforce Housing *and Affordable Housing*.” Mr. Kelley asked the reasoning and Chair Rasmussen said it helps clarify the meaning as some people consider workforce housing low income. Mr. Behrendt said Durham should do what they think is appropriate and do not need to follow the state definitions. Mr. DeCapo said they should make sure these projects do serve the goal of providing housing for the workforce.

Councilor Grant said understanding that this is a need we are addressing from New Hampshire through Strafford Regional Planning to us, it makes sense to reference it; Mr. Behrendt also

added the Durham Housing Needs Assessment and the Master Plan; Board agreed to add a link to Strafford Housing Needs Assessment. Chair Rasmussen said he is looking for something more specific under A-d; Councilor Grant suggested a new definition and Mr. Behrendt asked that she email it to him.

The board moved on to *E. Housing Units*. Ms. Tobias asked about *D. Workforce Housing Option-Conservation Subdivision*; Mr. Behrendt said it needs to be stated that it is entirely separate from this ordinance. The Board discussed eliminating the reference; Chair Rasmussen said if we take *D.* out, should also take out workforce housing option under Conservation Subdivision. Mr. Behrendt recommended leaving it alone, and said the Board may want to revisit and increase the bonus in future. Mr. Kelley suggested stating: “this is totally separate from the Conservation Subdivision Overlay District, 175-107.1, and cannot be used in conjunction with it.”

Board discussed the 3-unrelated issue: Chair Rasmussen said it is still important for young professionals to be able to share living space and 3-unrelated does not apply here as other protections are being put in to keep students from overtaking residential neighborhoods. Ms. Tobias said it will come up and the Town needs to be prepared to have something else in place, and review the definition of family. Councilor Grant said with new developments coming we do not need 3-unrelated as we have compensating controls.

Under *E. Housing Units*, Mr. Behrendt encouraged the Board to allow for more than 65% workforce housing. Mr. DeCapo said first in this section we have eliminated the definition of workforce housing and need to figure out 65% of *what*. Chair Rasmussen suggested under *F. Rent Levels*, listing densities at 65%, 80%, and 100%, and find out if we want to make that a density incentive. Mr. McManus said Dover used HUD Fair Market rates, which seemed like a simple explanation and not a difficult calculation.

Chair Rasmussen said 100% of AMI is the average, someone approaching prime of their career making \$135,000/yr. is the median 80% level; as you go lower there are different triggers that start allowing you to get low-income housing. Mr. Behrendt said at 100% all the rentals must be at HUD fair market rates based on number of bedrooms; sales are different. Mr. DeCapo asked about the reference in the definition that “rents be affordable to a household with an income of no more than 60% of the area median income” and asked if that was being eliminated. Councilor Grant said the Board talked about 60% as an average.

Chair Rasmussen asked what kind of model the Board wanted to use: to say specifically and be restrictive, or use a more lenient model where we look for an average with developer figuring out their balance. Ms. Tobias said developers using grants are given percentages as a guideline they have to meet. Mr. McManus reiterated that using HUD fair market rents is an easy calculation with easy oversight; for 100% at HUD fair market rates, you get a density bonus, and all must stay at those rates in perpetuity; another benefit is using vouchers which are already tagged to HUD fair market rates.

Mr. DeCapo said he does not really understand what HUD is providing, and said the Board needs to understand the options better before making a decision to just go with HUD Fair Market. Mr. Kelley said HUD uses fair market rents to determine amounts of payment for the Housing Choice Voucher Program, and does not say it is used to set affordable renting costs. He said we need to know what that data is telling us and whether fair market rent is the best fit or there is something else. Mr. Sullivan said he is in favor of setting a maximum rent of \$1,800 for HUD levels, and using a density bonus to make it more affordable, trying to incentivize the developer to build more units which drives the cost down.

Mr. McManus said HUD Fair Market seems like a reasonable approach consistent with the whole region. Mr. DeCapo said the starting point is already giving a lot of density and we need more information to conclude whether the appropriate pricing for density is 100% of HUD Fair Market or something less. Mr. Behrendt said he did not know what HUD Fair Market rents are equivalent to in percent of AMI. He said the Board has been operating with a certain kind of project, has a model developer, and with a certain structure can get a project that is dense, multi-family, and potentially 100% workforce and affordable. Chair Rasmussen said some people on the Board can work on this and bring something back for discussion.

Chair Rasmussen said most Board members seem to like the 3 percentage tiers which are percent of units rented at affordable rates. The board discussed Church Hill density levels; minimum lot size 5,000 sq ft with minimum lot area per dwelling unit 4,200 sq ft, and decided more market and construction data are needed. Chair Rasmussen said he would like to know the size of the 100% workforce units in Dover compared to the size of the land; Mr. Behrendt said the units are all 1-BR and go by HUD Fair Market rent at \$1,582.

Board discussed the height of the multi-family units and agreed on 3 stories. Ms. Tobias suggested a field trip of dense housing that has been built to get an idea what they look like in reality. The board agreed that the developer should have the flexibility to be creative with as few constraints as possible. Mr. Sullivan said at a development in Berwick, ME, all 700 sq ft and 1,000 sq ft units have rented at approximately \$1,800; development is an attractive 12 units, 3 stories, with 3,000 sq ft on first floor and buildings are not close together.

Mr. DeCapo asked how to encourage diversity of housing types. Ms. Tobias suggested using 2-BR as a minimum standard for an apartment; the Board agreed on no 4-BR apartments and leaving the rest to the developer. Mr. DeCapo said he was okay with flexibility as long as 3-unrelated is dropped. Board discussed the no more than 35% of dwelling units for sale under E; Chair Rasmussen said they first need to get numbers for what a for-sale unit looks like and get a better understanding of HUD.

*G. Housing for Workforce:* Board discussed language for income requirements and sources of income; suggestion to use X numbers of hours/week instead of amount of income. Ms. Tobias

said she was concerned about fair housing laws. Mr. DeCapo said we are trying to build housing for a younger workforce, and people downsizing would essentially be moving into subsidized housing; he said he would try to come up with some language to address the issue. Councilor Grant said businesses in the area are in contact with developers to ensure housing for their employees, and with a mix of development you will end up with a mix of people.

*H. Income Qualifications:* Mr. McManus recommended removing it; Mr. DeCapo disagreed. Board decided to kill it.

*I. Housing Types:* Chair Rasmussen asked that the word “shall” be corrected to *may* in the first paragraph. The board discussed single family dwellings; Mr. Behrendt said multi-family is where we get the numbers. Mr. McManus asked why they were opposed to single family; Chair Rasmussen the number of single-family dwellings is already limited to X% so developer can finance the project; Board will pick up on this topic again at next meeting.

**X. Zoning Rewrite – Table of Uses.** Discussion about possible changes to the Table of Uses in the Zoning Ordinance, reviewed as part of the ongoing Zoning Rewrite. *Recommended action:* Discuss potential changes.

**XI. Other Business**

- Discussion about allowing for review of accessory freestanding solar arrays under the Minor Site Process

Chair Rasmussen said the Board started with Minor Site Review and Councilor Friedrichs wanted to expand it to this other issue, and asked if the Board had any concerns about letting accessory free-standing solar arrays to go to Minor Site Process: the public hearing is on-site with review by Minor Site Review Committee, all abutters are notified. Mr. Behrendt said they still have to get permission from the Board to do it and said he will bring back an amendment.

Chair Rasmussen said they also discussed St. George’s: if they want to go to Small Net Group Metering, which is disallowed in their zone and requires a variance, and asked why the Board was so restrictive about residential. Mr. Behrendt suggested sending it to the Energy Committee for feedback.

- Discussion of Parking issues.

Mr. Kelley said when he arrived tonight, he thought there was a big public hearing in progress. He said there was talk of a solution but nothing has been done. Board agreed Tideline was not the problem and recommended posting no-parking signs in the parking lot on nights of Town business meetings.

- Agricultural Commission

Mr. DeCapo said Chair Rasmussen asked him to bring something to the attention of the AG Commission. Chair Rasmussen said he asked Mr. DeCapo to speak to the AG Commission to get their views on use of fertilizer for lawns and athletic fields to see if it is in line with the views of the Conservation Commission.

**XII. Review of Minutes (new):**

**XIII. Adjournment**

***Tom DeCapo MOVED to adjourn the Planning Board Meeting; SECONDED by Richard Kelley; APPROVED 7-0, Motion carries.***

Chair Rasmussen adjourned the meeting at 9:41 pm.

Respectfully submitted,

Patricia Denmark, Minute Taker  
Durham Planning Board