

1  
2  
3 **TOWN OF DURHAM**  
4 **DURHAM PLANNING BOARD MEETING**

5 **Wednesday, June 12, 2024**

6 **Town Council Chambers, Durham Town Hall**

7 **7:00 pm**

8 **DRAFT MINUTES**

9  
10 **MEMBERS PRESENT:** Paul Rasmussen (Chair), Sally Tobias (Vice Chair), Tom DeCapo, Peyton  
11 McManus, Robert Sullivan (Alternate), Heather Grant (Alternate Council Rep); Richard Kelley  
12 (arrived late)

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

14 **ALSO PRESENT:** Town Planner Michael Behrendt

15  
16 **I. Call to Order**

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

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

20 Chair Rasmussen called the roll and seated Robert Sullivan for the vacant seat and Heather Grant  
21 as Council Rep.

22  
23 **III. Approval of Agenda**

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

27  
28 *Chair Rasmussen MOVED to approve the Agenda for June 12, 2024 as discussed;*  
29 *SECONDED by Peyton McManus; APPROVED 6-0, Motion carries.*

30  
31 **IV. Town Planner's Report**

32 Mr. Behrendt said this weekend is the Revolution 1774 event and celebration from 11:00 am to  
33 4:00 pm at Old Landing below the bridge, with parade at 11:30 am. The Conservation  
34 Commission continues to work on WCOD and SPOD.

35  
36 **V. Reports from Board Members who serve on Other Committees**

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

39  
40 Reporting from the Town Council: Councilor Grant said Town Council met June 3, 2024;  
41 presentation by Zoning Board of Adjustments (ZBA); some discussion on Airbnb short-term rentals

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

3  
4 Chair Rasmussen said he spoke with ZBA Chairman and they see no reasons to not approve a special  
5 exception; ordinance itself is strong enough that it should just be permitted, nothing else necessary.  
6 Councilor Grant said the Council also reviewed the Zoning Definitions through "E" and Town  
7 Administrator was looking at where family came into play. Chair Rasmussen said a lot of  
8 clarifications were needed for Zoning Definitions, and Council will provide comments to Mr.  
9 Behrendt.

10  
11 Ms. Tobias said she attended the NH Housing Coalition Housing and Climate Change discussion on  
12 Friday: guest from Portland, ME working to address housing and climate change with discussion  
13 going to all departments; Zonda Home does statistical analysis and has pertinent information  
14 available. Mr. Behrendt asked about the development in Exeter; Ms. Tobias said they got a variance  
15 to change the zoning on Epping Road from commercial, using a mix of market rates and HUD rates  
16 (60%): 244 total units with significant amount of workforce/affordable; commercial in front and  
17 garden-style apartments in back.

18  
19 Richard Kelley arrived at the Planning Board Meeting at 7:15 pm.

20  
21 Reporting from the Agricultural Commission: Mr. DeCapo said the AG Commission met Monday,  
22 though he was unable to attend; they are continuing to move forward with the community outreach  
23 program and planning for this year's Farm Day.

24  
25 Reporting from the Integrated Waste Management Advisory Committee: Chair Rasmussen said  
26 IWMAC met and was updated on our Workforce Housing work to boost density; need to figure out  
27 how much each incentive is worth.

28  
29 Reporting from the Conservation Commission: Mr. Kelley said the Commission met Monday and  
30 has some reservations and concerns to bring to the Planning Board. Also discussed Jackson  
31 Laboratory expansion; also, and an accessibility project for maintenance on some of their  
32 watercraft; construction on expansion may begin in August.

33  
34 **VI. Public Comments – None**

35  
36 **VII. Review of Minutes (old):**

37  
38 **VIII. Updating the HDC Ordinance.** Proposed zoning amendment to update the old Map and Lot  
39 numbers to the current ones in the Historic District Ordinance. Requested by the Historic  
40 District Commission. Recommended action: Set public hearing date.

41

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

4  
5 Chair Rasmussen scheduled a Public Hearing for Updating the HDC Ordinance for June 26, 2024.

6  
7 **IX. Workforce Housing – Potential Zoning Amendment.** Discussion about rough draft (second  
8 iteration) of a proposed workforce housing ordinance. Recommended action: Review new  
9 draft.

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

13  
14 The Board reviewed the draft proposed Zoning Amendments related to Workforce Housing, put  
15 together by Mr. Behrendt. Chair Rasmussen said the Board can use this framework and look at  
16 the amendments in more detail. He said the Board received correspondence this morning from  
17 John Randolph, who brings up a number of things, which I feel should be thresholds and  
18 incentives and not flat numbers; need to think about the maximum absolute density and the  
19 minimum.

20  
21 Ms. Tobias said they need to review the definition more thoroughly as it conflicts with a lot they  
22 are trying to do; the goal is to put in affordable housing for a variety of HUD levels and the  
23 reference to specific HUD levels needs to be removed. She said the importance of management  
24 is to make sure compliances are met for any grant, which have flexibility with income averaging  
25 and give the people who know what they are doing the flexibility to market.

26  
27 Mr. Behrendt said they may not need a definition or may want to add affordable housing to the  
28 definition. Chair Rasmussen said if eliminated it could all be brought out in the ordinance itself;  
29 Board agreed to remove the definition. A. *Purpose*, item b: Councilor Grant advised removing  
30 “continued” and said she did not understand the section of Mast Road not included under C.  
31 *Applicability*, item 3. Chair Rasmussen explained an extra section of Mast Road is actually in  
32 MUDOR and this only affects Mast Road west of Main Street; suggested eliminating everything  
33 in parentheses under C-3.

34  
35 Chair Rasmussen suggested changing the ordinance title to “Workforce Housing *and Affordable*  
36 *Housing.*” Mr. Kelley asked the reasoning and Chair Rasmussen said it helps clarify the meaning  
37 as some people consider workforce housing low income. Mr. Behrendt said Durham should do  
38 what they think is appropriate and do not need to follow the state definitions. Mr. DeCapo said  
39 they should make sure these projects do serve the goal of providing housing for the workforce.

40  
41 Councilor Grant said understanding that this is a need we are addressing from New Hampshire  
42 through Strafford Regional Planning to us, it makes sense to reference it; Mr. Behrendt also

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

5  
6 The board moved on to *E. Housing Units*. Ms. Tobias asked about *D. Workforce Housing Option-  
7 Conservation Subdivision*; Mr. Behrendt said it needs to be stated that it is entirely separate from  
8 this ordinance. The Board discussed eliminating the reference; Chair Rasmussen said if we take  
9 *D.* out, should also take out workforce housing option under Conservation Subdivision. Mr.  
10 Behrendt recommended leaving it alone, and said the Board may want to revisit and increase the  
11 bonus in future. Mr. Kelley suggested stating: “this is totally separate from the Conservation  
12 Subdivision Overlay District, 175-107.1, and cannot be used in conjunction with it.”

13  
14 Board discussed the 3-unrelated issue: Chair Rasmussen said it is still important for young  
15 professionals to be able to share living space and 3-unrelated does not apply here as other  
16 protections are being put in to keep students from overtaking residential neighborhoods. Ms.  
17 Tobias said it will come up and the Town needs to be prepared to have something else in place,  
18 and review the definition of family. Councilor Grant said with new developments coming we do  
19 not need 3-unrelated as we have compensating controls.

20  
21 Under *E. Housing Units*, Mr. Behrendt encouraged the Board to allow for more than 65%  
22 workforce housing. Mr. DeCapo said first in this section we have eliminated the definition of  
23 workforce housing and need to figure out 65% of *what*. Chair Rasmussen suggested under *F. Rent  
24 Levels*, listing densities at 65%, 80%, and 100%, and find out if we want to make that a density  
25 incentive. Mr. McManus said Dover used HUD Fair Market rates, which seemed like a simple  
26 explanation and not a difficult calculation.

27  
28 Chair Rasmussen said 100% of AMI is the average, someone approaching prime of their career  
29 making \$135,000/yr. is the median 80% level; as you go lower there are different triggers that  
30 start allowing you to get low-income housing. Mr. Behrendt said at 100% all the rentals must be  
31 at HUD fair market rates based on number of bedrooms; sales are different. Mr. DeCapo asked  
32 about the reference in the definition that “rents be affordable to a household with an income of  
33 no more than 60% of the area median income” and asked if that was being eliminated. Councilor  
34 Grant said the Board talked about 60% as an average.

35  
36 Chair Rasmussen asked what kind of model the Board wanted to use: to say specifically and be  
37 restrictive, or use a more lenient model where we look for an average with developer figuring  
38 out their balance. Ms. Tobias said developers using grants are given percentages as a guideline  
39 they have to meet. Mr. McManus reiterated that using HUD fair market rents is an easy  
40 calculation with easy oversight; for 100% at HUD fair market rates, you get a density bonus, and  
41 all must stay at those rates in perpetuity; another benefit is using vouchers which are already  
42 tagged to HUD fair market rates.

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

10  
11 Mr. McManus said HUD Fair Market seems like a reasonable approach consistent with the whole  
12 region. Mr. DeCapo said the starting point is already giving a lot of density and we need more  
13 information to conclude whether the appropriate pricing for density is 100% of HUD Fair Market  
14 or something less. Mr. Behrendt said he did not know what HUD Fair Market rents are equivalent  
15 to in percent of AMI. He said the Board has been operating with a certain kind of project, has a  
16 model developer, and with a certain structure can get a project that is dense, multi-family, and  
17 potentially 100% workforce and affordable. Chair Rasmussen said some people on the Board can  
18 work on this and bring something back for discussion.

19  
20 Chair Rasmussen said most Board members seem to like the 3 percentage tiers which are percent  
21 of units rented at affordable rates. The board discussed Church Hill density levels; minimum lot  
22 size 5,000 sq ft with minimum lot area per dwelling unit 4,200 sq ft, and decided more market  
23 and construction data are needed. Chair Rasmussen said he would like to know the size of the  
24 100% workforce units in Dover compared to the size of the land; Mr. Behrendt said the units are  
25 all 1-BR and go by HUD Fair Market rent at \$1,582.

26  
27 Board discussed the height of the multi-family units and agreed on 3 stories. Ms. Tobias  
28 suggested a field trip of dense housing that has been built to get an idea what they look like in  
29 reality. The board agreed that the developer should have the flexibility to be creative with as few  
30 constraints as possible. Mr. Sullivan said at a development in Berwick, ME, all 700 sq ft and 1,000  
31 sq ft units have rented at approximately \$1,800; development is an attractive 12 units, 3 stories,  
32 with 3,000 sq ft on first floor and buildings are not close together.

33  
34 Mr. DeCapo asked how to encourage diversity of housing types. Ms. Tobias suggested using 2-BR  
35 as a minimum standard for an apartment; the Board agreed on no 4-BR apartments and leaving  
36 the rest to the developer. Mr. DeCapo said he was okay with flexibility as long as 3-unrelated is  
37 dropped. Board discussed the no more than 35% of dwelling units for sale under E; Chair  
38 Rasmussen said they first need to get numbers for what a for-sale unit looks like and get a better  
39 understanding of HUD.

40  
41 *G. Housing for Workforce:* Board discussed language for income requirements and sources of  
42 income; suggestion to use X numbers of hours/week instead of amount of income. Ms. Tobias

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

6  
7 *H. Income Qualifications:* Mr. McManus recommended removing it; Mr. DeCapo disagreed.  
8 Board decided to kill it.

9  
10 *I. Housing Types:* Chair Rasmussen asked that the word “shall” be corrected to *may* in the first  
11 paragraph. The board discussed single family dwellings; Mr. Behrendt said multi-family is where  
12 we get the numbers. Mr. McManus asked why they were opposed to single family; Chair  
13 Rasmussen the number of single-family dwellings is already limited to X% so developer can  
14 finance the project; Board will pick up on this topic again at next meeting.

15  
16 **X. Zoning Rewrite – Table of Uses.** Discussion about possible changes to the Table of Uses in  
17 the Zoning Ordinance, reviewed as part of the ongoing Zoning Rewrite. Recommended  
18 action: Discuss potential changes.

19  
20 **XI. Other Business**

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

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

28  
29 Chair Rasmussen said they also discussed St. George’s: if they want to go to Small Net Group  
30 Metering, which is disallowed in their zone and requires a variance, and asked why the Board  
31 was so restrictive about residential. Mr. Behrendt suggested sending it to the Energy Committee  
32 for feedback.

- 33  
34 • Discussion of Parking issues.

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

- 39  
40 • Agricultural Commission

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

5

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

7 **XIII. Adjournment**

8

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

11

12 Chair Rasmussen adjourned the meeting at 9:41 pm.

13

14 Respectfully submitted,

15 Patricia Denmark, Minute Taker

16 Durham Planning Board