

These minutes were approved at the November 13, 2024 meeting.

**TOWN OF DURHAM
DURHAM PLANNING BOARD MEETING**

Wednesday, September 25, 2024

Town Council Chambers, Durham Town Hall

7:00 pm

MEMBERS PRESENT: Paul Rasmussen (Chair), Sally Tobias (Vice Chair), Heather Grant (Alternate Council Rep), Robert Sullivan, Erika Naumann Gaillat (Alternate), Tom DeCapo (Alternate)

MEMBERS ABSENT: Peyton McManus, Richard Kelley, 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 Erika Naumann Gaillat for the vacant seat and Tom DeCapo for Richard Kelley, with Heather Grant as Council Rep.

III. Approval of Agenda

Vice-Chair Tobias MOVED to accept the Agenda for September 25, 2024; SECONDED by Erika Naumann Gaillat; APPROVED: 6-0, Motion carries.

IV. Town Planner's Report

Mr. Michael Behrendt said significant zoning amendments will be coming up: Conservation Commission completing new WCOD and SPOD as one overlay district, to Planning Board in about 2 months; PUD Ordinance needs to be proposed to facilitate UNH's West Edge Project using NOAA grant funds. Minor projects coming up: CU for a house on River Court, 2-lot subdivision on Durham Point Road; Sara Callaghan, Land Stewardship Coordinator, leaving for a full-time position at UNH.

V. Reports from Board Members who serve on Other Committees

Reporting from the Agricultural Commission: Mr. DeCapo said at the most recent meeting the AG Commission received the report from the Housing Task Force.

Reporting from the Town Council: Councilor Grant said she did not attend the September 9 meeting, but there was nothing of consequence or impact for the Planning Board, just general business; September 16 meeting cancelled.

Reporting from IWMAC: Chair Rasmussen said there is a new compost challenge starting up which is still looking for people; Public Works is getting ready to submit a new set of trash/recycling regulations to Town Council by November; will forward an electronic copy to the Board.

Reporting from Housing Task Force: HTF did not meet.

VI. Public Comments

No Public Comments.

VII. Review of Minutes (old):

VIII. 280 Durham Point Road. 2-lot Subdivision. Subdivision of 33.5-acre parcel into a 5 - acre lot to contain an existing house and a 28.5 - acre lot intended for acquisition by The Nature Conservancy. Dick and Kathleen Gsottschneider, Gsottschneider Family Trust, property owner. Ben Wallace, The Nature Conservancy, applicant. Valerie Shelton, Real Estate Agent. Adam Fogg, Surveyor. Map 227, Lot 36. Residence Coastal and Rural Districts. Recommended action: Accept as complete and set a public hearing date.

Adam Fogg, Surveyor, said the owners would be keeping 5 acres for the house and outbuildings with remaining property to be sold to the Nature Conservancy; sufficient frontage on both lots as well as access. He said there was an issue with 176 sq ft of uplands according to Strafford County Soils.

Mr. Behrendt said what counts as minimum lot size is everything on the parcel except wetlands, open water, or poorly drained soil. Mr. Fogg said Strafford considers the soil MP or muggy peat, and most of the parcel is upland.

Chair Rasmussen said there are a number of waivers submitted and most deal with amount of analysis of the properties, with land going into conservancy and not expecting any development. He asked the Board if they wanted to do a site walk. Ms. Naumann Gaillat asked why the lot line ends up perpendicular to Durham Point instead of going all the way to the easement for that lot. Chair Rasmussen said to keep the minimum road frontage.

Mr. Behrendt recommended accepting it and approving the waivers with a proviso that some of the topographic information being waived might be needed in the future if Nature Conservancy does not go forward and applicant still does the 2-lot subdivision and you reserve the right to request additional information. Chair Rasmussen said he would like to know the reasons for the waivers and hear from the public first.

Chair Rasmussen MOVED to accept the application with no action upon waivers; SECONDED by Heather Grant; APPROVED: 6-0, Motion carries.

IX. Workforce Housing Zoning Amendment. Amendment for a proposed new Article XVIII.1 - Workforce Housing Overlay District for the purpose of providing opportunities for the development of workforce and affordable housing and to ensure the availability of a diverse supply of rental housing. A revised draft is being finalized to be placed for a new public hearing after okay from Planning Board. Recommended action: Okay if acceptable and set a public hearing date.

Chair Rasmussen said this is the new version for Public Hearing at the next meeting and asked the Board if there is anything that should be changed. Mr. Behrendt said F. *Density Incentives* on the last page was affected by a July 2023 law that states any density incentives for Senior Housing also have to apply to Workforce Housing and this was enshrined in the ordinance with the same standards. Add after Conservation Subdivision: “or in any multi-unit residential development”.

Chair Rasmussen said with no objections this document will be going to Public Hearing on October 9, 2024.

X. Miscellaneous Zoning Amendments. A set of minor zoning amendments on various issues for consideration by the Planning Board [to be prepared shortly]. Recommended action: Discussion.

Chair Rasmussen asked if there was anything in here needing clarification or should be addressed in a different way. He said first: a change for Zoning Administrator adding paragraph C; second: removing language never being used; third: precise wording to be consistent with State Law; fourth: requested by Energy Committee to change free-standing solar from X to P in Table of Uses for Group Net Metering sharing solar in core commercial zones. Councilor Grant suggested waiting to consider more areas as part of the Table of Uses.

Mr. Behrendt said he would also add a minor amendment moving childcare from accessory to single-family to any primary residence: “a family or group family childcare shall be allowed as an accessory use to any primary residential use and shall not be subject to local site plan review in any zone where primary residence is allowed”; also adding under Durham Business Park.

Board discussed when to set Public Hearing for Miscellaneous Amendments and agreed on October 9, 2024.

Chair Rasmussen said they would first do 280 Durham Point Road, then the other 2 applications, Miscellaneous Amendments Public Hearing, then Workforce Housing Public Hearing.

Mr. Sullivan asked about the miscellaneous lighting amendment and asked if there would be any grandfathering on this. Mr. Behrendt said he thought it would be grandfathered; Chair Rasmussen asked if it should be further clarified. Mr. Behrendt said it is already covered in Site Plan Regulations and this is intended towards existing single-family. Mr. Sullivan said he definitely

agreed for new construction but worried about potential conflicts on existing properties. The Board discussed the issues and agreed to take this amendment out for now.

Mr. Sullivan asked if B.2 maximum floor area of 200 sq ft is the footprint. Mr. Behrendt said it is the footprint and is geared towards not having a single-family lot clustered with outbuildings. He said there are people who want to build a garage as a 350-sq-ft outbuilding then want a second floor which would violate the 200-sq-ft maximum; garages of 200 sq ft are exempt. The Board discussed ADUs with a minimum 300 sq ft and maximum 850 sq ft and agreed to change the maximum floor area to 300 sq ft under B. 2, floor area.

XI. Amendment to Zoning Definitions. The Planning Board prepared an extensive set of changes to Article II – Definitions, including related changes to the Table of Uses, and forwarded the proposal to the Town Council. The Town Council offered numerous comments and returned the proposal to the Board for further consideration. As part of this review the board may also consider additional changes to the Table of Uses Recommended action: Continued review.

Parking Lot: Chair Rasmussen said Mr. Kelley defined adequate finished grade for a parking lot for ADA accessibility as a 2% slope with 5% maximum; Board agreed to the current definition. Councilor Grant said she was confused about Car Port. Chair Rasmussen said the purpose there is to clarify we do not consider a car port to be a parking garage. He said 8.2.1 in Site Regulations will be a hot topic when this goes to Town Council as extensive grading is not defined; extensive grading is dependent upon the type of project and cannot be defined in the regulations.

Performance Guaranty: Some grammar changes made.

Permeable Pavement: See Porous Pavement/Pavers.

Personal Wireless Service Facility (PWSF): To PWSFOD (Personal Wireless Service Facility Overlay District).

PUD (Planned Unit Development): Dealing with more extensive PUD in near future.

Principal Use: Board agreed to leave as is.

Residence, Single-Family: Deleted repeated phrase.

Senior Housing vs Age-Restricted Housing: Board agreed to leave as Senior Housing.

Shore Frontage: Change “see definition” to WSOD (Wetland & Shoreland Overlay District). Councilor Grant said WSOD does not exist yet; Mr. Behrendt recommended leaving as is and changing when WSOD is completed.

Steep Slope: Add “where there is a change in elevation of at least 4 feet”.

Street, Arterial: Copy not sent to Town Council.

Structure: Chair Rasmussen said he was not happy with the definition and said it should simply state at what point it is a structure and at what point it is not. Vice-Chair Tobias asked why they needed to include examples in the definition. Mr. Behrendt said it is important because setbacks apply to structures. Board discussed definition and changed last sentence to “See Section 175-56. D. for setbacks applicable to structures and exemptions thereof”; eliminated the examples.

Student: Mr. DeCapo asked that the definition be changed to “an individual enrolled *full time* at an accredited US postsecondary institution”; Board agreed.

Student Housing: After the business model.

Use: Change already made.

Workforce Housing: Mr. Behrendt said it should be deleted as it is defined under the Workforce Housing Ordinance.

Cemetery: Mr. Behrendt said this is not a definition. Vice-Chair Tobias said a cemetery is municipally-owned, graveyard is church-owned, and burial grounds are family-owned property. Board agreed that the Town Council should refer questions to the Cemetery Committee.

Chair Rasmussen asked that the Board skip the Table of Uses and address remaining comments from Town Council.

175.56. General Dimensions Standards: Chair Rasmussen said the statement was misread: fences, retaining walls of 6 ft or under are exempted from setbacks, but taller fences can be placed on the property line with a permit.

Basement: Mr. Behrendt said FHOD is its own thing and this applies *only* to the Flood Hazard Overlay District (FHOD).

175.90.1 Durham Historic Overlay District: New definition for Structure making definitions more in line with each other. Mr. Behrendt said like FEMA they have their own self-contained thing; their purview is over structures then they define what structure is.

Average Tree Canopy Height: Leave as is.

Personal Wireless Overlay District: Write out PWSF throughout document for consistency.

Fall Zone: Question of diameter vs radius in definition.

Chair Rasmussen asked that Definitions: Proposed Amendments to Zoning Ordinance be set for Public Hearing October 23, 2024.

Planning Board Workshop:

Mr. Behrendt said for the October 23 Planning Board Workshop he would put together all the definitions for review by the Board to make sure everything is okay before sending it out, and

send to Public Hearing in November. Mr. Sullivan suggested discussion of anything related to the West Edge Project; Chair Rasmussen asked Mr. Behrendt to send out the PUD copy with his comments for discussion at the workshop. Ms. Naumann Gaillat suggested talking about the legislation being discussed.

Chair Rasmussen said at the Workshop the Board would cover Definitions, PUD Ordinance, and things happening in Concord at the Planning Board Workshop meeting, October 24, 2024.

XII. Other Business

XIII. Review of Minutes (new): August 28, 2024

Meeting Minutes of August 28, 2024:

Chair Rasmussen mentioned that starting on Page 4 Matt Komonchak's name is spelled incorrectly throughout the section.

Ms. Naumann Gaillat mentioned that there were two places that her name was spelled incorrectly.

Chair Rasmussen MOVED to accept the meeting minutes of August 28, 2024; SECONDED by Robert Sullivan; APPROVED: 5-0 with 1 abstention, Motion carries.

XIV. Adjournment

Vice-Chair Tobias MOVED to adjourn the Planning Board meeting of September 25, 2024; SECONDED by Tom DeCapo; APPROVED: 6-0, Motion carries.

Chair Rasmussen adjourned the meeting at 8:59 pm.

Respectfully submitted,

Patricia Denmark, Minute Taker

Durham Planning Board