

These minutes were approved at the January 8, 2025 meeting.

**TOWN OF DURHAM
DURHAM PLANNING BOARD MEETING
Wednesday, December 11, 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 (arrived late), Richard Kelley (arrived late - 7:12 pm)

MEMBERS ABSENT: Peyton McManus,, Emily Friedrichs (Council Rep), Erika Naumann Gaillat (Alternate), Tom DeCapo (Alternate)

ALSO PRESENT: Town Planner Michael Behrendt

I. Call to Order

Chair Paul Rasmussen called the meeting to order at 7:01 pm.

II. Roll Call and Seating of Alternates

Chair Paul Rasmussen called the roll and noted that the board lacked a quorum until Robert Sullivan arrived at 7:02 pm. Chair Paul Rasmussen stated Heather Grant will serve as Council Rep for tonight's meeting.

III. Approval of Agenda

As there were no calls to amend the agenda, Chair Paul Rasmussen opted to run the agenda in order.

IV. Town Planner's Report

Mr. Michael Behrendt stated there will be four public hearings on the January 8, 2025 meeting: 4 Riverview Court (previously postponed), New Student Rental, 3 Dover Road, and Mills Plaza. He said the Edge is formalizing their proposal for a master developer; he was asked about the status of the PUD ordinance, which he will bring forward in the future.

V. Reports from Board Members Who Serve on Other Committees

Reporting from the Housing Task Force: Chair Paul Rasmussen stated the task force is in the process of discussing which items to work on next, focusing on some issues downtown and some other items that have yet to be prioritized. He reported a review of the Conservation Subdivision ordinance is likely to be high on that priority list, with a revision presented to the planning board.

Reporting from the Town Council: Mr. Michael Behrendt stated the Council will be considering the Workforce Housing Ordinance (now the Attainable Housing Ordinance) at their December 16, 2024 meeting. The definitions articles will be coming to the Council on Monday.

VI. Public Comments

Joshua Meyrowitz, 7 Chesley Drive, shared concerns about the number of items coming before the board, particularly student rentals issues. He asked the board to anticipate some of the negative experiences folks have had living near student housing, including students coming into their homes uninvited, and the number of folks who have moved due to these experiences.

VII. Review of Minutes (old):

Postponed

VIII. Public Hearing – 9-11 Young Drive Condominium Conversion. Application under the Subdivision Regulations to create a two-unit condominium. One half of the proposed structure is completed and the other half is planned for construction. Young Drive LLC, property owner, % Francis Chase as agent. Map 107, Lot 92. Coe's Corner District.
Recommended action: Final action.

Chair Paul Rasmussen opened the public hearing at 7:13 pm. No members of the public rose to speak on this matter.

The board received a new notice of decision, in which Item IV indicates the potential for administrative action if this item comes before the board again with the same type of documents. Mr. Gilbert Navarez stated he is okay with what is in the notice of decision.

Richard Kelley MOVED that, there being no members of the public wishing to speak to this item tonight, the Planning Board close the public hearing; SECONDED by Heather Grant; APPROVED: 5-0, motion carries.

Chair Paul Rasmussen MOVED that the Planning Board approve the application for 9 - 11 Young Drive Condominium per the Notice of Decision of December 11, 2024 for Map 107, Lot 92 in Coe's Corner District for the creation of a new two-unit condominium at 9 -11 Young Drive; SECONDED by Richard Kelley; APPROVED: 5-0, motion carries.

IX. Public Hearing – Historic District Ordinance Zoning Amendment – Purview of HDC. Changes to the Historic District Overlay District proposed by the Historic District Commission pertaining to purview for tree removal and minor structures.
Recommended action: Initiate amendment if acceptable.

Chair Paul Rasmussen MOVED to open the public hearing; SECONDED by Sally Tobias; APPROVED: 5-0, motion carries.

Richard Kelley MOVED that there being no members of the public wishing to speak to this matter, the Planning Board close the public hearing; SECONDED by Heather Grant; APPROVED: 5-0, motion carries.

Richard Kelley asked if the intent of Paragraph A is that if the applicant qualifies under Paragraph A, they don't go before the Commission. Mr. Michael Behrendt confirmed this to be true. He requested an addition of the language "without HCC review" for clarity and asked to tighten the language to make it less wordy.

Richard Kelley MOVED that the Planning Board formally initiate the Amendment as amended this evening; SECONDED by Heather Grant; APPROVED: 5-0, motion carries.

- X. Public Hearing – 4 Riverview Court – Conditional Use Application.** Conditional use in the Shoreland Protection Overlay District for an existing single-family house for structures to be located within the 125-foot setback line: freestanding garage, expansion of existing driveway, retaining wall, shed, and buried electric line that currently runs overhead. Arthur Mcmanus, property owner. Chris Guida, Fieldstone Land consultants, wetland and soil scientist. Map 214, Lot 11. Residence Coastal District. Recommended action:

*****POSTPONED TO JANUARY 8**

- XI. 3 Dover Road – New Dunkin Donuts.** Preliminary design review for new Dunkin Donuts on ¼ acre lot with vacant one-story building located between the Holiday Inn Express and the Mobil Station. JESP Enterprises, LLC, property owner. Jim Mitchell c/o Tropic Star Development, LLC, applicant. Matt Perry, Civil Engineer, The Engineering Corp. Jeffery Dirk, Traffic Engineer, Vanasse & Assoc. Courthouse District. Map 108, Lot 38. Recommended action: Discussion with public hearing set for January 8.

Scott Mitchell, owner of Tropic Star Development LLC, spoke in Jim Mitchell's place this evening. He shared they have been dissatisfied with the way the property has been maintained by Irving. The proposal is to relocate to the location between the Mobil Station and Holiday Inn and get rid of an eyesore by knocking down the existing building there and constructing a new building. The applicants had a scoping meeting with NHDOT and are working on a traffic study for that now. There is no drive-through planned (they are prohibited in Durham). The plan is to have traffic entering the business as far away from the intersection as possible; the applicant does have a deeded right of way. Scott Mitchell stated they will likely install a private drive sign to prevent traffic issues.

Matt Perry presented the plan to the board. He doesn't anticipate any variances will be required for the project. The applicants will need to determine the current conditions of the utilities at the site. The project proposed a net decrease in impervious surfaces and increase in ample landscaping improvements.

Richard Kelley asked about the retaining wall; Matt Perry stated the wall will remain and will not need to be extended. Heather Grant stated her concern is traffic in such a congested area; she asked if the number of parking spaces is adequate for the proposed Dunkin' Donuts. Scott Mitchell confirmed the parking will be adequate. Chair Paul Rasmussen's primary concern is with the traffic headed toward Newmarket, especially as they try to leave the proposed Dunkin' Donuts. He also expressed concern about the owner, noting that JESP Enterprises, LLC is currently administratively disabled as an LLC by the State of New Hampshire; he said the Town will need to follow up with their attorney to determine what that means, as it usually means the company cannot do business. Scott Mitchell said his bookkeeper has helped JESP get back in good standing, and he will bring in supporting documentation. Sally Tobias asked if trucks would come during non-peak hours, which Mr. Mitchell confirmed.

Derek Roach of Vanasse & Associates, traffic consultant, shared that they are working to address traffic concerns. As this is a relocation of a business rather than a new business, it is a matter of current traffic shifting to the new location. They will be conducting a foot traffic study tomorrow.

Robert Sullivan asked if EV chargers will be installed. Scott Mitchell said they are looking into charging stations for the Irving. Robert Sullivan asked what hours the business would be open; Scott Sullivan stated he will get that information for the board.

There was a lengthy discussion about concerns around left turning into and out of the lot. Matt Perry stated power lines will be underground. Richard Kelley stated he would like to see plans for snow storage; Mr. Mitchell said any substantial snow will have to be moved off site. Heather Grant stated she would be interested in seeing the difference in customer traffic during the school year versus during the summer. Scott Mitchell said his primary concern is customer safety.

Richard Kelley asked what the schedule is; Scott Mitchell wants to move on the project immediately. Michael Behrendt shared that parking spaces are treated as structures in Durham and need to meet setback requirements. The current plans show the parking spaces within the required setback; any existing pavement may be left alone, but the applicant may still need a variance. Scott Mitchell said his attorney told him he wouldn't need any variances, so he'll need to look into that. Richard Kelley recommended that the applicant go before the ZBA as soon as possible. Michael Behrendt suggested the applicants talk with him soon to determine if they need to go before the ZBA.

XII. Mill Plaza – Façade Improvements and Site Enhancements. Site plan application for Phase 1 – façade improvement to rear building and Phase 2 – site enhancement around rear building. Conceptual application for Phase 3 – hardscape enhancements between front building and Mill Road, Phase 4 – façade improvement to front building, and Phase 5 – improvements to parking lot and installation of walking path along College Brook. Pete Doucet c/o Torrington Properties, property owner. Steve Mayer c/o Allen & Major,

engineer. Jeff Gannon c/o PCA, Inc., architect. Central Business District. Map 109, Lot 3. Recommended action: Accept as complete as set public hearing for January 8.

Michael Behrendt clarified that the Planning Board Chair sets the date for public hearings for design review; he confirmed with Chair Paul Rasmussen that January 8, 2025 is acceptable for the public hearing.

Gregg Mikolaities of August Consulting represented Torrington Properties in place of Matt Morgan, the principle at Torrington, who was at a convention. He explained the applicants submitted two applications; they want to get moving on building two with the facade upgrades and site work. Secondly, they would like input about the College Brook path and a preliminary discussion on the master plan. They would like to upgrade the spaces to be ready for new tenants to move in by the next school year.

Jeff Ganon with PCA, architects for the project, said they are focusing on the rear building, giving a buffer with landscape and hardscape features (bike racks, benches) and giving the building a refresh. The majority of the brick will be painted white and two tower elements will be introduced, both to increase visibility of the signs while using a neutral color. There is no addition planned. On the west side, they will add a storefront to what is currently a solid wall. They'd like to add a mural on that wall. (The mural on the plans is just a placeholder; they'd like to engage someone local. It will not be a tenant mural.) The applicants are not certain if there will be more tenants than are currently there; the plan provides for ten available units.

Robert Sullivan asked if there were plans to include a public restroom; Gregg Mikolaities stated there isn't anything currently planned. Richard Kelley commented that while this is a modern design, there isn't anything that really stands out as unique; he encouraged the applicants to anticipate public comments to that effect. Jeff Ganon explained that the plan is to have a design that is flexible for a variety of businesses rather than business specific. Sally Tobias said they are likely to get positive results from the landscaping plan. Heather Grant echoed that the impact of the walkable, sit-able space will be a nice change to the location. Robert Sullivan pointed out a public restroom would be welcome; Gregg Mikolaities stated they do not have plans for a public restroom.

Steve Mayer of Alan & Major explained that there is a significant grade change to the building. The new pavement is being regraded to meet ADA compliance. He explained they would need to put in stairs for the pavement to connect; instead, they have included accessible parking in multiple locations around the building to meet ADA compliance and allow accessibility options for the various storefronts.

Jeff Ganon confirmed that the tenants will be able to remain open while construction is happening. There will be proper staging and fencing. Chair Paul Rasmussen shared that middle school students walk through that area on their way to school, which is something Jeff Ganon may want to consider. Robert Sullivan asked if the applicant knew the condition of the water and

sewer lines. Gregg Mikolaities will meet with public works and will have more of the engineering details for the board when they return.

Michael Behrendt recommended the board conduct a site walk and that the application be accepted as complete noting that there are some outstanding items, including the following: existing conditions survey plan (which will be submitted soon), conditional use application for the drive-through, waivers the planning board will be looking at, and some details about pavers and lighting. The applicant requested a waiver from the stormwater checklist. Michael Behrendt will check to see if the drive thru has already received a conditional use waiver that will carry over to this project and will outline the waivers. He recommends going over the waivers at the next meeting.

Gregg Mikolaities stated a survey has been completed, but they didn't include the information on the plans because the surveyor, Doucet Survey, completed the survey for a different person and has not been paid yet. Chair Paul Rasmussen noted he wants the board to review the waiver for the bicycle storage in a future meeting.

Richard Kelley MOVED that the Planning Board accept the application for Site plan application for Phase 1 – façade improvement to rear building and Phase 2 – site enhancement around rear building; SECONDED by Heather Grant; APPROVED: 5-0, motion carries.

The board decided to defer a site walk.

XIII. 2025 Calendar for Planning Board meetings.

The Board reviewed the calendar, and finding no conflicts with the day, approved the calendar for publication.

XIV. Other Business (discussed after XV. Review of Minutes)

Robert Sullivan stated he anticipates public concern around student rentals and the number of people in a house. He recommended having examples to illustrate potential scenarios. Michael Behrendt shared that he has asked Audrey and Brenden to join the board on the 8th because there likely will be questions about building and fire codes. They discussed the definition of student housing, which states that any number over four undergraduate students is considered student housing. Sally Tobias recommended asking Todd Selig to explain what would happen if R3 Unrelated went away.

Richard Kelley stated he emailed Michael Behrendt and Chair Paul Rasmussen regarding a subdivision on the corner of Adams Road and Durham Point Road that was before the Board previously. He sees a tremendous amount of disturbance in the buffer zones. Michael Behrendt said he has been out there and been in contact with them; there is one area near the pond that is bare dirt as the result of removing invasives. Richard Kelley stated his concern now is that trees have been cleared down to the water's edge, regraded the site, and feels certain they will bring in a loam and revegetate rather than leaving what is out there now. Michael Behrendt

suggested he and Richard Kelley drive out to the location to take a look at it; he will take a drive out there in the next couple of days to take a look.

XV. Review of Minutes (new): October 23, 2024 & November 13, 2024

Chair Paul Rasmussen MOVED to accept the minutes of October 23, 2024 as presented; SECONDED by Richard Kelley; APPROVED: 5-0, motion carries.

One change is needed for the November 13, 2024 minutes: page 5, line 7 “undergrad” and “grad” students should be switched, as it is the grad students who are less likely than undergrads to have the needed funds for housing.

Chair Paul Rasmussen MOVED to accept the minutes of November 13, 2024 as amended; SECONDED by Richard Kelley; APPROVED: 5-0, motion carries.

XVI. Adjournment

Sally Tobias MOVED to adjourn; SECONDED by Heather Grant; APPROVED: 5-0, motion carries.

Chair Rasmussen adjourned the meeting at 9:30 pm.

Respectfully submitted,
Daphne Chevalier, Minute Taker