



TOWN OF DURHAM
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Town Planner's Recommendation
Wednesday, January 9, 2019

- XI. ***Public Hearing - 18 Main Street - Parking Lot.*** Including drainage structures to be placed on 12 Cowell Drive. Site plan and conditional use for proposed 40-space parking lot to be built behind existing 4-unit building. Toomerfs, LLC c/o Peter Murphy, property owner. Mike Sievert, MJS Engineering, engineer. Robbi Woodburn, landscape architect. Map 4, Lot 55 – parking lot, Church Hill District. Map 4, Lot 38-5 – drainage structures, Residence A District.
- I recommend approval as stated below, pending any pertinent comments at the public hearing or other discussion that would affect the plans.

Please note the following:

- The Planning Board accepted the application as complete on December 12 and held a site walk on December 19.
- Conditional use. The applicant has addressed the 8 conditional use criteria. The conditional use is needed as the parking lot is a principal use (because it serves off-site parties) rather than an accessory use (serving only on-site residents). A parking lot as a principal use is allowed by conditional use in the Church Hill District.
- Parking lot. As a principal use, the applicant can lease spaces to any party. Are there any restrictions on leasing of the lot that should be discussed? The plans say, “Additional parking spaces for lots 1-9, 1-10, and 1-15 on Map 5 and rental spaces.”
- TRG. We received an email from John Powers, Deputy Fire Chief, approving the design. I spoke with April Talon, Town Engineer, and the plans, including the drainage report, are acceptable to her. The project was presented to the TRG earlier and the revised plans were emailed to the TRG. I have not heard of any concerns with the revised plans. The Police Chief provided a memo of support based on the original plan and has not expressed any concerns with the revised plans.
- Drainage plan. We included only the summary of the drainage report in the packets. The full report is on the website.

- Dumpster. It appears that the dumpster would not be screened on the rear. That may or may not be appropriate given the location of the dumpster. A waive may not be needed if it won't be visible from adjacent properties under Section 9.4.1 (a) of the Site Plan Regulations.
- Easement. An easement will need to be created across the rear lot for the drainage structures that cross it but we can arrange that this not take effect until/unless the lots are sold separately. I have spoken with Mike Sievert about this and we will coordinate to record an appropriate document now.
- Historic District Commission. The HDC reviewed the earlier plans on December 6. It continued the review to February 7 and will hold a public hearing that evening. This prospective approval herein is subject to approval by the HDC. Both the HDC and Planning Board must ultimately approve the same design so if there are any differences between the requirements of the board and commission we will need to reconcile them.

Draft

NOTICE OF DECISION

Project Name: 18 Main Street Parking Lot
Action Taken: APPROVAL
Project Description: Expansion of existing parking lot behind the building, changes to access into the site, and construction of drainage facilities on rear lot at 12 Cowell Drive.
Property Owner: Toomerfs, LLC c/o Peter Murphy
Engineer: Mike Sievert, MJS Engineering
Map and Lot: Map 4, Lot 55 – parking lot; Map 4, Lot 38-5 drainage structures
Zoning: 18 Main Street - Church Hill; 12 Cowell Drive – Residence A
Date of approval: January 9, 2019

[Office use only. Date certified: _____; Use of site signed off _____; As-built's received? _____; All surety returned: _____]

“Applicant,” herein refers to the applicant and his/her/their/its agents, successors and assigns.

CONDITIONS PRECEDENT

All of the conditions precedent below must be met by the applicant prior to the plans being certified by the Town Planner. Certification of the plans is required prior to performing any significant site work. Once these conditions precedent are met and the plans are certified the approval is considered final.

Please note. If all of the precedent conditions are not met within 6 calendar months to the day of the board's approval - by July 9, 2019 - the Planning Board's approval will be considered to have lapsed. Extension(s) may be granted by the Planning Board for reasonable cause. It is the sole responsibility of the applicant (or his/her agent) to ensure that the precedent conditions are met by this deadline. See RSA 674:39 on vesting. No changes to the plans that were reviewed and approved by the Planning Board on January 9, 2019 may be made except for the specific required changes that follow.

Plan Modifications

- 1) **Plan modifications.** Make the following modifications to the plans/plan set that were reviewed and approved by the Planning Board:
 - a) **Path.** Widen crushed gravel path to 4 feet (or 5 feet if required by code) and provide cross section for approval by Town Engineer.
 - b) **Shrubs.** Confirm that proposed shrubs – viburnum and syringe - are evergreen or largely opaque or replace with evergreen shrubs.
 - c) **Limits of construction.** Clarify how limits of construction will be marked on site, whether with orange construction fence or other method.
 - d) **Lighting.** Adjust lighting so that footcandles do not exceed allowed maximum on adjacent lots, install shields on rear of light to screen adjacent lots, and provide different light, including for wall mounts (The Building Official and Town Planner have observed in another location that the proposed light is not fully shielded and causes glare). Alternatively, it may be better to relocate the two light poles to the middle of the parking lot, away from adjacent lots. One pole is very close to St. George's Church.

Notes on Plans

- 2) **Notes on plans.** Add the following notes on the plans/plan set that were reviewed and approved by the Planning Board:
 - a) **Underground utilities.** “All new electric lines on site shall be located underground.”
 - b) **Blasting.** “If any blasting is needed, it shall be restricted to the hours of 9:00 a.m. to 5:00 p.m. Monday through Friday.”

Other Conditions Precedent

- 3) **HDC approval.** This approval is subject to approval also by the Durham Historic District Commission. If the HDC specifies any terms at variance with this approval and design herein the Town and the applicant shall work to resolve those differences as appropriate.

- 4) Concrete pavers. Provide sample concrete paver to Planning Department. The HDC will review the sample.
- 5) Driveway Permit. The Durham Driveway Permits must be obtained.
- 6) Recycling plan. Submit written recycling plan to be approved by the Director of Public Works. The Integrated Waste Management Advisory Committee may provide suggestions at its option.
- 7) Construction Guarantee. The applicant shall post an acceptable surety to be approved by the Town Engineer (and the Town Business Manager for form and type). The surety shall be in an amount sufficient to ensure the completion of the project or reclamation if needed.
- 8) Landscaping Guarantee. The applicant shall post an acceptable surety for the landscaping for a period of two years. If the landscaping fails or dies at any time, however, the applicant shall replace it.
- 9) Final drawings. The following complete sets of final approved drawings shall be submitted for signature (except the electronic version) by the Town Planner: a) one large set of black line drawings (plus a second set if the applicant wants a signed set); b) one set of 11"x17" drawings; plus c) one electronic version by pdf. Each individual sheet in every set of drawings must be stamped and signed by the engineer responsible for the plans.
- 10) Signature. Signature by the applicant at the bottom acknowledging all terms and conditions of this approval herein.

CONDITIONS SUBSEQUENT AND GENERAL TERMS

All of the conditions below are also attached to this approval. All work shall be completed and all required conditions shall be met prior to issuance of a certificate of occupancy unless otherwise specified or a surety acceptable to the Town is posted.

Conditions to be met prior to commencing site work

- 11) Site work. No significant site work (including any significant clearing of the site) or ground disturbance may be undertaken until:
 - a) all of the conditions precedent are met;
 - b) the preconstruction meeting with Town staff has taken place (Contact Town Planner Michael Behrendt to arrange for the meeting);
 - c) limits of clearing have been established in the field and approved by the Public Works Department; and

- d) all appropriate erosion and sedimentation control structures are in place.
- 12) Easement. Record an appropriate document at the registry of deeds ensuring that an easement will be in place if and when the two lots are conveyed separately to allow for the drainage structures on the rear lot.

Conditions to be met prior to use of the new parking lot

- 13) As-built drawings. One set of full size, one set of 11” x 17”, and one electronic copy of as-built (“record”) drawings of structures and other pertinent elements. The plans shall be stamped and signed by the Engineer or Surveyor and include the following language or comparable: “This as-built drawing substantially conforms with the final plans approved by the Town of Durham Planning Board and certified by the Planning Department except for the following significant modifications:”. If no significant modifications were made simply state “none”.
- 14) Improvements. All on-site and off-site improvements included in this approval shall be completed prior to issuance of a certificate of occupancy unless an acceptable surety is posted.
- 15) Other applicable requirements. All other applicable requirements of this site plan, this Notice of Decision, and other terms and conditions must be satisfied.

Other terms and conditions

- 16) Start of construction. Substantial construction must commence within 12 months unless an extension is granted by the Planning Board (per Section 175-22 E of the Zoning Ordinance).
- 17) Recording. This notice of decision must be recorded at the Registry of Deeds within 14 days of certification of the plans.
- 18) Public Parking. The applicant is encouraged, but not required, to speak with the Police Chief and Public Works Director about allowing limited public parking on the site. If the applicant provides public parking on the site, no site review will be required provided any plan is approved by the Police Chief and Public Works Director.
- 19) Charging Station. The applicant is encouraged, but not required, to convert one or more space to electric charging stations. If the applicant provides electric charging stations, no site review will be required provided any plan is approved by the Public Works Director.
- 20) Execution. The project must be built and executed exactly as specified in the approved application package unless changes are approved by the Town.

Findings of fact. As part of this review and approval the Durham Planning Board finds the following: A) The applicant submitted an application, supporting *documents*, and plans for

the project; **B)** The Planning Board accepted the application as complete on December 12, 2018; **C)** The Planning Board held a site walk on December 13 and a public hearing on January 9, 2019; **D)** The applicant revised and updated the plans on January 3, 2019 pursuant to comments from the Planning Board and Technical Review Group; **E)** The project was presented to the Technical Review Group on November 6 and December 4, 2018; **F)** The Planning Board reviewed the application in accordance with state law, the Durham Zoning Ordinance, the Durham Site Plan Regulations, and other applicable law and found that the application meets all requirements (except where waivers may have been granted); **G)** the Planning Board found that the eight criteria for conditional uses outlined in the Zoning Ordinance section 175-23 C. are adequately addressed in the applicant's application for a conditional use as a parking lot as a principal use in the Church Hill District; **H)** This project is not considered to be a Development of Regional Impact; and **I)** The Planning Board duly approved the application as stated herein, including the conditional use. Substantial records are maintained of the process and documentation submitted in the Planning Department. A record of documentation and a timeline of the project will be prepared as needed.

Signature(s). As the applicant(s), I/we accept and acknowledge all of the terms and conditions of this approval herein.

Signature of applicant

date

Printed name of applicant

Signature of Planning Board Chair

date

Printed name of Planning Board Chair