

**DRAFT**

**DURHAM PLANNING BOARD  
Wednesday, September 25, 2019  
Town Council Chambers 7:00 p.m.  
MINUTES**

**MEMBERS PRESENT:** Barbara Dill, Vice Chair  
Bill McGowan  
James Bubar  
Michael Lambert, alternate  
Sarah Wrightsman  
Heather Grant  
Sally Tobias, alternate Council Representative to the Planning Board

**MEMBERS ABSENT** Paul Rasmussen, Chair  
Richard Kelley, Secretary  
Lorne Parnell  
Carden Welsh, Council Representative to the Planning Board

**I. Call to Order**

Chair Dill served as Chair in place of Mr. Rasmussen, and called the meeting to order at 7:00 pm

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

Ms. Wrightsman was seated as a regular member in place of Mr. Rasmussen, Mr. Lambert was seated as a regular member in place of Mr. Kelley, Ms. Grant was seated as a regular member in place of Mr. Parnell, and Councilor Tobias was seated as a regular member in place of Councilor Welsh.

**III. Approval of Agenda**

*Bill McGowan MOVED to approve the Agenda as submitted. Jim Bubar SECONDED the motion and it PASSED unanimously 7-0.*

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

Mw. Wrightsman said at the most recent EDC meeting, there was discussion about the Exeter Housing Advisory Committee. She noted that some EDC members had gone to a recent meeting of that committee. She said there were a lot of questions and discussion at

the EDC meeting about how such a committee could be structured for Durham, and said the EDC would provide a recommendation on this

She said the EDC also started a conversation about the Jenkins Court area, and said the property owners and business owners there had been invited to the next meeting to provide their thoughts on ways to improve this area.

#### **IV. Town Planner's Report**

Mr. Behrendt said the next Planning Board meeting would be held on October 16<sup>th</sup>, and said the second meeting next month, which was a Planning Board workshop, would be held on October 30<sup>th</sup>. He also noted that one meeting was scheduled for November and one meeting was scheduled for December.

He summarized issues/projects discussed at the recent UNH Transportation Policy Committee meeting:

- continued installation of wayfinding signage on campus
- continued addition of electric vehicles to UNH's fleet, including possible demo electric buses this winter
- improvements planned for the rail station platform, building, and site
- a new zip car pod; Durham residents can participate
- new buses that use compressed natural gas
- the delay of Main St sidewalk project because of a burial site found where work was to be done. UNH is currently working with the HDC/Heritage Commission on this; construction is expected to start in the spring

Chair Dill asked if UNH was installing charging stations for the electric vehicle fleet. Mr. Behrendt said he'd find out about that. Chair Dill note that the Energy Committee would be discussing the charging station at the Library, which had been out of service. She said the question was whether to replace it there, or to put a new charging station somewhere else.

#### **VI. Public Comments**

There were no public comments.

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

**VIII. Public Hearing - 112 Piscataqua Road – Structures in SPOD.** Permitted Use B. and Conditional Use applications for patio, steps, and pathway in Shoreland Protection Overlay District. Larry and Linda Brown, property owners. James Olcott, TM Marine Construction/Olcott Planning and Design, LLC, designer. Map 11, Lot 24-2. Residence Coastal District.

Mr. Brown said Mr. Olcott was out of state and introduced Mr. Olcott's colleague, Ben Johnson, as well as Kevin Borsky, the landscaper for the project. Mr. Brown said an

amended plan had been provided, and said the only change to it was indicating that erosion control barriers (silk socks) would be installed to prevent further erosion. He noted the site walk last week, where Board members saw that it was an extraordinarily steep property, and was a challenge to access. He said he'd asked the landscaper to approach the path design in a way that protected the cove as much as possible. He said the longer, zig zag design for the path would minimize water flow, and would also provide as gentle a path as possible, for mobility purposes.

Chair Dill noted Mr. Kelley's minutes of the site walk, and there was discussion.

***Jim Bubar MOVED to Open the Public Hearing. Sarah Wrightsman SECONDED the motion and it PASSED unanimously 6-0.***

There were no members of the public who came forward to speak.

***Bill McGowan MOVED to Close the Public Hearing. Heather Grant SECONDED the motion and it PASSED unanimously 6-0.***

Mr. Behrendt said the path was reviewed as a permitted use B in the Shoreland Protection District, and said the steps and patios were reviewed as conditional uses in the Shoreland Protection District. He said the applicant addressed the criteria in his application. He also said there were some recommendations for the project from Mr. Kelley

Permitted use B - Section 175-71 B. of the Zoning Ordinance. Paths are allowed subject to these three criteria:

- a) appropriate erosion control measures will be used
- b) any disturbed area will be restored
- c) the activity will be conducted in a manner that minimizes any impact on the shoreland:

Board members had no issue with these criteria being met.

Ms. Dill reviewed the Conditional Use - Section 175-72 B (The steps and patio are allowed subject to the eight general conditional use criteria, as well as these four criteria in of the Zoning Ordinance):

1. There is no alternative location on the parcel that is outside of the SPOD that is reasonably practical for the proposed use;
2. The amount of soil disturbance will be the minimum necessary for the construction and operation of the facilities as determined by the Planning Board;
3. The location, design, construction, and maintenance of the facilities will minimize any detrimental impact on the adjacent shoreland and waterbody as well as downstream waterbodies, and mitigation activities will be undertaken to counterbalance any adverse impacts.
4. Restoration activities will leave the site, as nearly as possible, in its pre-existing condition and grade at the time of application for the Conditional Use Permit.

Board members had no issue with these criteria being met.

Mr. Behrendt noted that Mr. Kelley had provided three recommendations after the site walk: installation of proper vegetation to permanently stabilize the sloped area; installation of silk socks for erosion control, which Mr. Behrendt noted the applicant showed on the plan; and inspection of the work. He said the application referenced slope stabilization, but didn't include details on vegetation that would be used to accomplish this. He asked if there should perhaps be a condition about stabilizing the slope with vegetation. It was noted that this issue was discussed at the site walk.

There was discussion about Mr. Behrendt and Ms. Talon possibly reviewing and approving the slope stabilization that would be done. Mr. Behrendt said the Board usually didn't require an inspection, but could require it in this instance because it was a steep site. There was discussion about whether to require an inspection.

***Jim Bubar MOVED to Reopen the Public Hearing, Councilor Tobias SECONDED the motion and it PASSED unanimously***

Mr. Brosky said he would install silk socks, and would take pictures to document the work as it was being done.

Councilor Tobias said requiring an inspection was an extra level of review and wasn't normally done. She and other Board members agreed that this wasn't necessary, and that a simple plan should be provided to Mr. Behrendt and Ms. Talon about how the slope would be stabilized.

***Bill McGowan MOVED to Close the Public Hearing. Jim Bubar SECONDED the motion and it PASSED unanimously***

Chair Dill reviewed the 8 general conditional use criteria, and the Board had no issues with any of them.

***Jim Bubar MOVED to approve Permitted Use B. and Conditional Use applications submitted by Larry and Linda Brown for patio, steps, and pathway in the Shoreland Protection Overlay District. The property is located at 112 Piscataqua Road, Map 11, Lot 24-2 in the Residence Coastal District. Sarah Wrightsman SECONDED the motion and it PASSED unanimously 7-0.***

- IX. Public Hearing - Emery Farm – Structures in WCOD.** 147 Piscataqua Road. Permitted Use B. and Conditional Use applications for walkways and patio with gravel and pea stone within Wetland Conservation Overlay District. David Hills, property owner. Map 11, Lot 22-3. Residence Coastal District.

Colleen, the manager of the business at Emery Farm, represented Mr. Hills, and said she was there to answer any follow up questions the Board had.

Mr. Bubar said at the last meeting, Mr. Hills hadn't indicated when the new facility would open. Colleen said it would open as soon as they could possibly do so, potentially over the October 4<sup>th</sup> weekend.

***Bill McGowan MOVED to Open the Public Hearing. Jim Bubar SECONDED the motion and it PASSED unanimously 7-0.***

Chair Dill asked if there were any members of the public who wished to comment on the application. There was no response.

***Jim Bubar MOVED to Close the Public Hearing. Councilor Tobias SECONDED the motion and it PASSED unanimously***

Discussion about individual site walks that were done

Permitted Use B. The granite walkway and handicap path are reviewed as a permitted use B which is covered in Section 175-60 B. of the Zoning Ordinance. Paths are allowed subject to these three criteria:

- a) appropriate erosion control measures will be used,
- b) any disturbed area will be restored, and
- c) the activity will be conducted in a manner that minimizes any impact on the wetland:

Conditional Use. The patio, ramp, and other hardscape are allowed subject to the eight general conditional use criteria and these four criteria in Section 175-61 B of the Zoning Ordinance:

1. There is no alternative location on the parcel that is outside of the WCOD that is reasonably practical for the proposed use;
2. The amount of soil disturbance will be the minimum necessary for the construction and operation of the facilities as determined by the Planning Board;
3. The location, design, construction, and maintenance of the facilities will minimize any detrimental impact on the adjacent shoreland and waterbody as well as downstream waterbodies, and mitigation activities will be undertaken to counterbalance any adverse impacts
4. Restoration activities will leave the site, as nearly as possible, in its pre-existing condition and grade at the time of application for the Conditional Use Permit.

Mr. Behrendt said Mr. Hills had addressed these criteria. Board members said they were comfortable with them

Chair Dill reviewed the 8 general conditional use criteria, and the Board had no issues with any of them.

***Bill McGowan MOVED to approve Permitted Use B. and Conditional Use applications submitted by David Hills for walkways and a patio with gravel and pea stone within Wetland Conservation Overlay District. The property is located at 147 Piscataqua***

**Road. Map 11, Lot 22-3 in the Residence Coastal District. Councilor Tobias**  
**SECONDED the motion and it PASSED unanimously 7-0.**

- X. Public Hearing - Bed and Breakfast Ordinance.** Proposed amendments to the Zoning Ordinance initiated by the Town Council regarding Bed and Breakfast/Air Bed and Breakfast-type establishments

Mr. Bubar said since this was a Town Council initiated ordinance, a question was whether Council members should recuse themselves from this discussion. There was discussion about this.

Chair Dill noted Mr. Rasmussen's suggestion that there be minimal discussion by the Board about the draft this evening, and that the hearing should be continued to the next meeting when Councilor Welsh, who'd initiated the draft ordinance, would be there.

**Bill McGowan MOVED to Open the Public Hearing. Jim Bubar SECONDED the motion and it PASSED unanimously**

**Jay Gooze, Meadow Road,** said when he was on the Town Council in 2016, he brought this issue up, and said at that time, Airbnb's were relatively new. He said he considered various possible ways to address them and came up with some ideas, but then thought more study on all of this was needed. He said he thought Councilor Welsh had done a spectacular job of honing in on the issues that should be addressed in an ordinance, and said he agreed completely with what he'd come up with. He said the draft ordinance was fair to all parties, and reflected how Durham was different from other communities and what they were doing concerning Airbnb's. He urged the Planning Board to approve the draft ordinance it at some point.

Chair Dill said she was glad Mr. Gooze was there to provide that history, and she asked him why a draft ordinance didn't go forward in 2016. Mr. Gooze said he hadn't wanted to do something that was too little, or too much. It was noted that draft provisions were brought forward at that time, but were then put aside.

**Kristine Caputo, Orchard Drive** said she and her husband had rented out their house this year, sometimes renting one room and sometimes renting two rooms. She said visitors to Durham sought accommodations for a variety of different reasons, and said allowing residents to easily host guests would add tourist dollars to the Town, and would make Durham seem like a welcoming place.

She suggested that Durham's policy should be in agreement with IRS policy concerning not being taxed if a property was rented for 14 days or less. She also noted that those property owners who rented exclusively through Airbnb wouldn't be able to comply with the provision in the draft concerning the rooms and meals tax license because this was handled now through Airbnb, which provided a group license. She said the added income from renting her property for 14 days or less per year wasn't insignificant, and she urged the Planning Board to take her comments into consideration.

There was discussion about whether the rooms and meals tax group rate option applied to short term rental businesses other than Airbnb.

**Chris Gowland, Newmarket Road**, said he'd been renting his property through Airbnb for two years, and said anyone who rented his property knew he would be rated. He said his guests had been respectful of his home, and said the guests who'd stayed there included faculty from around the country, families visiting students, people attending weddings, etc. He said it had been a very positive experience.

Chair Dill asked Mr. Gowland if he rented the entire house. Mr. Gowland said yes, and said when the house was being rented, his family stayed in their seasonal home. Chair Dill asked who supervised the property when the house was being rented. Mr. Gowland said there were no issues that had resulted from not being there when the property was rented.

Mr. Behrendt noted that one of the provisions in the draft ordinance, was that the owner needed to be on the premises when a property was rented. He asked Mr. Gowland if he thought that requirement was reasonable. Mr. Gowland said he didn't think it was reasonable, and said he didn't know that there was a reason to impose that. He said there had been no remarks from his neighbors about the short term rentals.

Mr. Bubar noted that this was a short term rental ordinance they were considering, not an Airbnb ordinance. He said they weren't the only game in town.

Ms. Grant asked Mr. Gowland what the length of time was that his house was rented, and he said it was 2-6 days. Chair Dill asked how much of the year the house was rented. Mr. Gowland's wife said they rented the house about 29 days out of the year.

**Dave Strong, Tall Pines Road**, said he and his wife had operated an Airbnb since August 2018, renting two bedrooms upstairs to a maximum of 3 guests, and said the extra money from doing this came in handy. He said he didn't see how existing Airbnb's were handled in the draft ordinance. He said he didn't have any signs, didn't allow on street parking, and said the neighbors were supportive and there had been no complaints. He also said he was always there when the rooms were rented.

Mr. Behrendt said it wasn't certain but was probable that existing short term rental operations would be grandfathered.

**Robin Mower, Britton Lane**, spoke about distinguishing between the RA and RB districts in the draft ordinance. She said some neighborhoods were more appropriate for short term rentals than others. She read from a prepared statement. She said she applauded the work of Councilor Welsh and Town staff for a reasonable approach to regulating short-term rentals. She said in general, the proposal covered most bases well. She said one concern was special exception and permit expiration. She said by law, special exceptions ran with the property.

She noted that the proposal stated: “Expiration. If the property is not used as a bed and breakfast for 24 consecutive months the permit to operate the bed and breakfast shall expire (along with the special exception, above). She urged the Board to clarify that these terms were legal, and she read the wording in the enabling legislation, RSA 674:33(IV).

Ms. Mower said she was also concerned with the specific language on this in the proposal. She said the clear intent of the RSA was the sun setting of an unexercised authority. But she said the use of the word “for” in our proposal, as opposed to “within,” muddied the waters, i.e., “If the property is not used as a bed and breakfast for 24 months...” She said she believed that language countered the intention of the RSA. She also said the language implied that the property must be rented during each of 24 consecutive months, which she said she didn’t believe was the intent. She suggested replacing that language with the language used in the RSA.

She said her second concern was about the issue of change of ownership. She said one should avoid whenever possible regulating land use based on the character of current owners, for obvious reasons. She proposed that when a property changed hands, the new property owner would be required to submit a new application for a permit. She noted that Laconia’s draft ordinance includes language to consider concerning this issue.

Ms. Mower said her third and primary concern was one she’d raised in response to an earlier draft, which was how the ordinance might affect Durham’s compact family neighborhoods. She said in 2012, she was asked, as a Town Councilor, to help neighbors who were concerned about an Airbnb operating illegally out of a small house on Valentine Hill Road, a one-block quiet road in the Faculty neighborhood that attracted young families. She said the property was the owners’ primary residence, with two rooms rented short-term to unrelated tenants.

She said just as student lifestyles were fundamentally incompatible with family lifestyles, as Chief Kurz was fond of saying, the comings and goings of short-term renters often did not conform to the norms of a family neighborhood. She asked the Planning Board to do what they could to help the neighborhoods. She also said the Special Exception process was important so neighbors could weigh in. She quoted Laconia’s mayor: “it was important to maintain the residential character of neighborhoods and essential to preserve housing stock—already in short supply—for people who live and work in the area.” Ms. Mower said she couldn’t agree more.

**Matt Komonchak, Thompson Lane**, said he’d like to underscore some of the points made by Ms. Mower. He agreed that it was important to distinguish between the RA and RB districts in the ordinance. He also suggested not paying too much attention to anecdotal stories about great experiences with Airbnb’s, and encouraged Board members to read up on different communities’ experiences with them.

He said he applauded Councilor Welsh’s initiative in creating the draft ordinance. He noted that Portsmouth and Hanover had opted for a bright line prohibition of short term rentals in residential neighborhoods, and said this might be appropriate for the



neighborhoods close to UNH. He also noted the difficulty of enforcing these regulations, and said a bright line rule/prohibition might make enforcement easier. He noted that he'd been told that it was difficult to enforce the 3 unrelated rule in Durham.

**Mary Cannistraro, Littlehale Road** said she moved to Durham a year ago, and was hoping to have a short term bed and breakfast establishment in her home, for parents of UNH students. She said she wanted to do this for financial as well as social reasons, and said she hoped the Planning Board would consider the situation of people like her and other future empty nesters.

**Beth Olshansky, Packers Falls Road**, said as a college community, it was important that the Town get ahead of this issue, and said she was glad to see this draft ordinance. She said she strongly supported it, especially in light of potential negative impacts short term rentals could have on the neighborhoods. She said she thought the language struck a good balance, including the Special Exception requirement and the set of criteria that must be met in order to get a special exception.

She said it was important that the owners of a property were there when it was rented. But she said the language on this in the draft was vague and confusing, and she suggested that H.5 should say "The property owner must be on the premises during the period of time the property is being rented." Ms. Olshansky noted that she lived in the Rural Zone, and said she thought a Special Exception should be required for short term rentals in all of Durham's residential zones.

**Daphne Gowland, Newmarket Road**, said as part of renting their home, through Airbnb, they had a \$1 million liability policy, and also had a \$1500 security deposit. She said there was total privacy where she and her husband lived. She said she understood the neighborhood factor, but said in staying at other Airbnb's, she saw that the property owners had very specific requirements for renters in terms of parking, noise, etc. She said people had a good experience in Durham when they stayed at Airbnb's, and said this was good for the Town.

**Matt Komonchak** asked how the Town would enforce requiring a property owner to be on the premises when a property was rented.

Code Officer Audrey Cline said generally speaking, the Town wouldn't know, and would find out when there was a complaint. She said there wouldn't be enforcement unless the activity rose to the level of a complaint, and said it wouldn't be at the top of the list of priorities.

Mr. Komonchak said for the most part such a requirement was unenforceable, and he spoke in some detail on this, noting as part of this the enforcement issues with the 3 unrelated rule. He said these things needed to be thought through a bit more. Mr. Behrendt said he saw things a bit differently. He said he thought the requirement of having the owner on the property when it was rented was a strong provision, He said if there were problems with a property, this would come to the Town's attention. Mr.

Komonchak said there hadn't been a single successful prosecution of the 3 unrelated rule in recent years, and said it was very difficult to do this. Mr. Behrendt said he didn't know that this was an accurate statement, and there was further discussion.

Ms. Mower said this was a challenging topic, and said it was important to find some type of balance. She said the residential character of the downtown neighborhoods had already been challenged by student rentals, which had made commercial properties out of what had traditionally been residential properties. She said she hoped that this would be taken into account in considering this draft ordinance.

**Bill McGowan MOVED to continue the Public Hearing to October 16, 2019. Jim Bubar SECONDED the motion and it PASSED unanimously 7-0.**

- XI. Public Hearing - Parking Section of Zoning Ordinance.** Proposed changes to Article XXI – Off-Street Parking and other sections of the Zoning Ordinance related to parking..

**Jim Bubar MOVED to Open the Public Hearing. Bill McGowan SECONDED the motion and it PASSED unanimously 7-0.**

**Robin Mower, Britton Lane**, read a letter into the public record from resident **Bill Coty**. She also read a letter from **Cristina Healy**. Ms. Mower then read a detailed letter she'd written:

First, I suggest we revisit the purpose underlying the proposal to revise this section of the ordinance. If I remember correctly, the amendments were initiated by Zoning Administrator Audrey Cline. Her presentation to the Board last spring noted the following on the very first slide after the title page (emphasis added)

- Most of the parking ordinances were recently moved from ARTICLE XXI to Planning Board - Site Plan Review
- Unfortunately during that move, a number of regulations that applied to single family and duplex dwellings were lost from ARTICLE XXI.
- Since single-family and duplex structures do not require site plan review, *our goal is to replace lost regulation using lessons learned from recent parking enforcement efforts.*

So the purpose is to address parking regulations for single-family and duplex structures. And since the language of the zoning ordinance's purpose statements for RA and RB specifies "maintain the established character of these neighborhoods," we have an opportunity to ensure that any proposed amendments do just that. The purpose of the proposed ordinance amendments was not to address downtown business needs, perceived or real, nor to alleviate the shortcomings of the University of New Hampshire's parking system. Residential parking should be just that, period. I would suggest that we not try to use a screwdriver for nails.

Tonight I suggest that we return to Ms. Cline's presentation on two major points: the number of vehicles and the inclusion of Special Exception. 175-111.—A. Parking – General Provisions. As proposed (emphasis added): *2. Number of vehicles – There shall be no more than 5 vehicles parked on a regular basis on a residential lot in the Residence A and Residence B Districts. However, more than 5 vehicles may be parked on the lot if the property owner demonstrates that they are for use by lawful occupants of the dwelling unit, as demonstrated by records acceptable to the Zoning Administrator.*

Comment: Quite the change from the July 24 draft: An increase of two-thirds, or 67 percent, in the number of vehicles that may be parked outside a garage in a residential neighborhood. I was going to bite my tongue and not say it, but I will: You've got to be kidding! Allowing three spaces on the lot for parking in addition to the one, two, or more in garages would serve most households. It would also preserve some semblance of residential, as opposed to commercial, neighborhood character.

Yet Ms. Cline—who is no doubt more familiar than any of us, having feet-on-the-ground observations of the status quo, recommended: • Maximum of three parking spaces between the house and the street. Additional spaces by Special Exception based on physical restrictions of the parcel. The compact downtown neighborhoods are targets for student rentals. To allow up to five cars outside the garage would violate the purpose of Residence A, leading to the reduction of space available for the very features of which residential neighborhoods are comprised, e.g., gardens, areas where children play and families barbecue.

I repeat: Homeowners who chose to live in a family neighborhood had an expectation of not living with views of parking lots. Permitting five by right across the board results in more asphalt (which is bad for the environment and removes land for other more valuable use). It also invites the leasing of parking spaces (likely to UNH commuters), thereby increasing the potential for neighborhood disruption from comings and goings not integral to primary households, resulting in greater traffic in family neighborhoods with children and elderly residents, thus reducing both quality of life and safety for the residents.

Ms. Cline's presentation also notes:

- With Special Exception, specific criteria for creating parking spaces within the front setback, or to the sides or rear of the parcel, should be specific but allow for the best available alternative.
- ... We propose allowing for additional side and rear parking areas by Special Exception only, to restrict the potential of maximizing rear and side parking areas.
- Special Exception criteria can be valuable in allowing for flexibility. Specific criteria related to the parking goals should be added in addition the three general SE criteria.

Special Exception builds in flexibility for leniency that is warranted. It also provides an opportunity for neighbors to weigh in. Surely any minimal inconvenience necessitated by demonstrating need can be borne by households in the interest of the greater

community good. Request: Hold the number of vehicles to “no more than three parked on a regular basis,” restore the requirement of Special Exception, and add specific criteria for Special Exception, as suggested by our Zoning Administrator.

**Matt Komonchak, Thompson Lane**, read a letter from his mother, Bernadette Komonchak, into the public record: On April 24, 2019 I wrote to you expressing my opposition to the proposed changes to the parking regulations in our Faculty Road area. I would like to add just a couple of thoughts to that letter. I live at 1 Thompson Lane. In just the last month two new families have moved into 3 Thompson Lane and 5 Thompson Lane. Both have pre-school children. That adds to the 5 preschoolers who live in close proximity on Valentine Hill and to 2 others on Faculty Road adjacent to the path.

This neighborhood has many, many other elementary and middle school children. It does not need more cars and we should not feel that we have to provide parking for university students. That is an obligation of the university and one that it has dodged for the 44 years I have lived here. Most lots in the Faculty Road area are not big enough to accommodate five cars without looking like a parking lot. If damaging property values is a consideration, it is difficult to argue that additional parking will not decrease the attractiveness and therefore the property values of the neighborhood. Again, I urge you to oppose the changes.

**Mr. Komonchak** said these neighborhoods ebbed and flowed, with families, and then with student rentals, and so on. He said allowing 5 cars on a lot, excluding the garage, seemed a bit ridiculous. He said once there was a student house, the yard could be paved over to make a small parking lot for tenants, and asked how often they saw that a parking lot was dug up later on. He said once the land area was paved, that sealed things in terms of a property falling into decline. He said he thought this proposal was way of whack.

**Debra Hirsch Mayer, Garden Lane**, said she was horrified to see this proposal. She said parking in residential areas should be for the property owners. She said she'd seen what happened to the rental properties around her, and said she was concerned that if more parking was allowed, this would pack more students into the rental properties. She also said other property owners would rent spaces to students, and said there would be impacts from that.

She said she was very distressed about the changes she was seeing on Garden Lane, and said she thought allowing more parking would create more problems concerning car and pedestrian traffic, and would mean the deterioration of the character of the neighborhood. She said she was concerned about the quality of life and safety there. She said there was already a parking problem in her neighborhood, and noted that some of the cars there were parked on lawns. She said this situation would only get worse if the number of cars that could be parked on properties was increased.

**Beth Olshansky, Packers Falls Road** said she'd watched the Council wrestle with protecting the character of in-town neighborhoods for more than a decade, and said those goals and concerns should be kept in mind with this draft ordinance. She said she liked

the language on being able to demonstrate there was a need for more cars, but questioned starting with allowing 5 vehicles. She considered how allowing 5 cars interfaced with the 3 unrelated rule, and said this could create problems. She said keeping the neighborhoods family friendly should be an overall consideration for the Planning Board.

Mr. Bubar spoke about neighborhoods in the RA district not all being the same. Ms. Mower said last spring, she suggested looking at the amount of frontage a property had in terms of the amount of parking that should be allowed. She noted that the Faculty neighborhood was compact, which was different than Mr. Bubar's neighborhood. Mr. Bubar said what was appropriate for the vast majority of the RA district might not be appropriate for the rest of it.

Ms. Mower spoke about the idea of having a downtown residential overlay district. She said it was often found that there were student ghettos contiguous to a college, and said this kind of overlay district had been created in some of these college towns. She said other issues these areas faced could be look at with such an overlay. Mr. Bubar noted that short term rentals might be one of those issues.

***Jim Bubar MOVED to continue the Public Hearing to October 16, 2019. Sarah Wrightsman SECONDED the motion and it PASSED unanimously 7-0.***

**XII. 30 Old Piscataqua Road – 3 Lot Subdivision.** Conceptual review for proposed 3-lot subdivision. John and Judith Churchill, property owners. Tobin Farwell, Farwell Engineering Services. Map 11, Lot 9-4. Residence A District.

Mr. Farwell said he and the applicant had met with the TRG, and said a few changes had been made to the plans. He said 3 lots were proposed, and said one of the lots contained the existing house. He said there was 479 ft. of frontage for the 3 lots.

He noted the wording in the Zoning Ordinance: 175-39 B.2.: No new residential lot shall have its required minimum lot frontage or driveway on a street that is functionally classified as an arterial or collector. The Planning Board may waive this limitation based upon a finding that there is no viable alternative for meeting the frontage requirement or for providing vehicular access to the lot due to the shape of the lot, the topography of the site, the potential impact on wetlands or other natural resources, or pre-existing legal restrictions applicable to the lot.

Mr. Farwell said the applicant had appropriate reasons for getting a waiver. He said it was the only frontage they had, and said the application met all the other regulations for the RA district.

He said the wetlands on the property had been delineated, and said the unusual configuration of the lots was because of the wetlands, He said there would be a combined driveway 20 ft. wide for the 3 lots, and said it was being used in order to avoid wetlands. He noted that the new force main project was in the area, and said the driveway

for lot 3 had been located well away from that. He said Mr. Hewitt of NHDOT liked that approach.

There was discussion about whether it would be helpful for the Planning Board to do a site walk of the property at this point. Mr. Churchill agreed that this would be helpful. He said he and his wife had lived on the property for 12 years, and said there were locations on each of the two undeveloped lots that would make nice house sites, and would require minimum excavation or fill.

Mr. Behrendt said a site walk would be helpful particularly concerning lot 1, and the location of the shared driveway. The Board agreed that they'd like to do a site walk, and it was scheduled for October 18<sup>th</sup> at 1 pm. Mr. Behrendt said the site walk would be the end of the conceptual review process. He said the TRG had provided constructive comments, and said he'd also email his own comments to the applicant. He said the Planning Board would provide their additional comments at the site walk.

### **XIII. Other Business**

### **XIV. Review of Minutes (new):**

September 11, 2019

***Bill McGowan MOVED to approve the September 11, 2019 Minutes as submitted. Jim Bubar SECONDED the motion and it PASSED 6-0-1 with Chair Dill abstaining because of her absence from the meeting.***

Site Walk Minutes, Friday Sept 20, 2019 Old Piscataqua Road

4<sup>th</sup> paragraph from the bottom, should say "it" instead of "in"

***Jim Bubar MOVED to approve the September 20, 2019 Site Walk Minutes as amended. Sarah Wrightsman SECONDED the motion and it PASSED 5-0-2 with Chair Dill and Sarah abstaining because of their absence from the meeting.***

### **XV. Adjournment**

***Jim Bubar MOVED to adjourn the meeting. Sarah Wrightsman SECONDED the motion and it PASSED unanimously 7-0.***

Adjourn at 9:14 pm

Victoria Parmele, Minutes taker