



**TOWN OF DURHAM**  
8 NEWMARKET RD  
DURHAM, NH 03824-2898  
603/868-8064  
[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

## **NOTICE OF DECISION**

**Project Name:** Bagdad Wood addition  
**Action Taken:** Approval  
**Project Description:** Site plan for addition with 26 dwelling units and expansion of parking area by 33 spaces. Conditional use for building height to exceed 30 feet.  
**Address:** 38 Madbury Road  
**Property Owner:** Housing Initiatives of New England Corporation  
**Applicant:** Cyndy Taylor and Bill Walker  
**Engineer:** Mike Sievert of MJS Engineering  
**Map and Lot:** Map 2, Lot 10-4  
**Zoning:** Professional Office  
**Date of approval:** July 15, 2020

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[Office use only. Date certified: \_\_\_\_\_; CO signed off \_\_\_\_\_;  
As-built's received? \_\_\_\_\_; All surety returned: \_\_\_\_\_]

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

### **PRECEDENT CONDITIONS**

All of the conditions 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 issuance of a building permit or 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 one year to the day of the board’s approval - by July 15, 2021 (or as extended) - 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 July 15, 2020 may be made except for the specific required changes that follow.

### **Plan Modifications**

Make the following modifications to the plans/plan set that were reviewed and approved by the Planning Board:

- 1) Landscaping medians. Clarify how landscaping will be protected from vehicles, whether through curbing, curb stops, mounding the landscaping or other method. Finalize the edge treatment around the medians if there will be any [sloped granite curbing was discussed around the edge caps].
- 2) Landscape notes. Include landscaping notes on a separate sheet in larger type.
- 3) Fencing. Add fencing or incorporate other appropriate method along Dennison Road to discourage trespassers, primarily from the middle school, from coming into the construction area.
- 4) Bike storage. Include detail for units to be inverted U or comparable.
- 5) Electric car station. Identify potential locations for future electric car charging stations.
- 6) Mechanical equipment. Show all ground-mounted mechanical equipment. All must be visually screened. If the units in the rear will generate any meaningful level of noise, incorporate a sound-proofed screen/berm on all sides.
- 7) Architecture. Include final rendering in color of the rear façade. The approved design is the perspective color rendering dated July 6.
- 8) Smoking area. Identify a designated smoking area on site (It is understood that residents still have the right to be at the front of the building along Madbury Road if they wish).
- 9) Construction management plan. See item 25 b., below.

### **Notes on Plans**

Add the following notes on the plans/plan set that were reviewed and approved by the Planning Board:

- 10) Fertilizer. “Only low phosphorus/slow release nitrogen fertilizers for landscaping materials may be used.”
- 11) Notice of decision. “It is the responsibility of the applicant, site contractor, and building contractor to follow all requirements related to this site plan approval. Please review these plans and the Planning Board Notice of Decision carefully. Contact the Durham Planning Department at (603) 868-8064 with any questions or concerns.”
- 12) Blasting. “Any blasting and on-site chipping (of stone) is restricted to the hours of 9:00 a.m. to 5:00 p.m. Monday through Friday.”

### **Other Conditions Precedent**

- 13) Stormwater management plan. Make final adjustments to the stormwater management plan as specified by the Public Works Department.
- 14) Recycling. Submit information explaining the recycling program including changes recommended by Doug Bullen of the Public Works Department.
- 15) Lighting. Submit cut sheets for fully shielded parking lot lights.
- 16) PILOT. Coordinate with Jim Rice, Town Assessor, for a determination of the payment in lieu of taxes.
- 17) Town Permits. Submit copies of required approvals from Durham Public Works (for water and sewer permits).
- 18) State permits. Submit copy of state approval for the sewer expansion if needed.
- 19) Patios. Provide sample or photo of material to be used.
- 20) Retaining wall. Provide details of retaining walls and guard rail.
- 21) Addressing. Provide the numbering system for the addition to be approved by the Fire Department.
- 22) Architectural plans. Submit two final sets of 11x17 paper copies in color of the approved architectural elevations in color [one for the Building Official].
- 23) 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 land surveyor, engineer, or architect responsible for the plans.
- 24) Signature. Signature by the applicant at the bottom acknowledging all terms and conditions of this approval herein.

### **SUBSEQUENT CONDITIONS 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**

- 25) No significant site work (including any significant clearing of the site) or ground disturbance may be undertaken until:
- a) all of the precedent conditions are met;
  - b) the revised construction management plan is approved by the Department of Public Works and the Planning Board. Incorporate elements as discussed with the Planning Board on July 15. The plan must be submitted prior to the preconstruction meeting, below. The revised plans should accommodate the updated site plan and landscaping plan and include provisions to protect the existing trees in the buffer: fencing, methods to minimize compaction of soil over the roots, pruning up of branches, and cutting roots cleanly prior to construction.
  - c) the preconstruction meeting with Town staff has taken place (Contact Michael Behrendt, Town Planner, to arrange for the meeting);
  - d) limits of clearing have been established in the field and approved by the Public Works Department; and
  - e) all appropriate erosion and sedimentation control structures are in place.
- These erosion and sedimentation control measures and designation of the limits of clearing must be in place prior to the pre-construction meeting in order that they may be inspected at the meeting.
- f) Building official. The applicant/contractor shall meet with the Building Official at least two months (60 days) prior to the start of construction in order to discuss the building process and to plan for the proper submittal of all structural, mechanical, electrical, plumbing and other plans. The Building Official may reduce this timeframe at her reasonable discretion for good cause.

**Conditions to be met prior to issuance of any certificate of occupancy**

- 26) As-built drawings. One set of full size and one electronic copy of as-built (“record”) drawings of all buildings, structures, infrastructure, utilities, drainage structures, roads, parking areas, and other pertinent elements shall be provided prior to the certificate of occupancy (unless a surety to cover the cost of the as-built drawings is given). 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”. Otherwise, itemize the modifications on the as-built or on an accompanying letter.

- 27) Improvements. All improvements included in this approval shall be completed prior to issuance of a certificate of occupancy unless an acceptable surety is posted.
- 28) Other applicable requirements. All other applicable requirements of this site plan, this Notice of Decision, and other terms and conditions must be satisfied prior to issuance of a certificate of occupancy.
- 29) Landscaping Guarantee. The applicant shall post an acceptable surety to guarantee the success of the landscaping materials. The guarantee shall be for a period of two years commencing from the time the certificate of occupancy is issued or installation of the landscaping materials, whichever occurs later. If replacements of any materials are subsequently needed within this two-year period then the applicant shall promptly replace those materials (subject to weather constraints).

**Other terms and conditions**

- 30) Conditional use. A conditional use to allow for building height up to 32.5 feet was approved.
- 31) Waiver. A waiver was approved as requested to allow the lighting level for the bollard lights to exceed 8 footcandles.
- 32) Density. The application meets the density requirements for dwelling units per acre under zoning, including the density bonus for senior projects.
- 33) Coordination with ORSD. Please coordinate on the construction process with the Oyster River School District's middle school project.
- 34) Recording. This notice of decision must be recorded at the Registry of Deeds within 14 days of certification of the plans.
- 35) Senior occupancy. This addition may be occupied only by persons 62 and older.
- 36) Energy Code. Building construction shall be in compliance with the energy efficient standards of Chapter 38 of the Town of Durham Code of Ordinances.
- 37) Retention of site elements. Elements that are considered integral to this approved site plan (such as landscaping, curbing, sidewalks, and signage) must be retained in perpetuity. They should be maintained in at least reasonably fair condition with normal wear and tear expected.
- 38) Radio coverage. The requirements of the Durham Public Safety Amplification ordinance, Section 68-4 F., regarding installation of a radio repeater system for emergency service, shall be satisfied. Coordinate with the Fire Department during the building application process to determine if this ordinance applies.

- 39) SWPPP. If this project will disturb over one acre of ground or meets other thresholds related to permit criteria for EPA National Pollutant Discharge Elimination System (NPDES) compliance. The site contractor is responsible for development and implementation of a Storm Water Pollution Prevention Plan (SWPPP), submission of a Notice of Intent (NOI) to EPA, inspection and maintenance of sediment control measures, documentation of maintenance activities, and submission a Notice of Termination (NOT) to EPA. The site contractor is also responsible to comply with all other Federal, State and Local stormwater or NPDES requirements.
- 40) Execution. The project must be built and executed exactly as specified in the approved application package unless changes are approved by the Town.
- 41) Plan changes. Changes to the approved plans may be approved as described in the Planning Board's Rules of Procedures, including minor changes which may be approved by the Town Planner.
- 42) Approval. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall be determining.

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; **C)** The Planning Board held *public hearing(s)* on July 8 and July 15, 2020 and a *site walk* on July 8; **D)** The applicant revised and *updated the plans* and other documentation several times pursuant to comments from the Planning Board, public, and Technical Review Group; **E)** The project was presented to the *Technical Review Group* on June 16, 2020; **F)** The applicant met with Nat Balch of the Energy Committee and the Town Planner and Building Official on July 7 to discuss the *Energy Checklist*; **G)** The Planning Board reviewed the application in accordance with the Durham Zoning Ordinance and the Durham Site Plan Regulations and found that the application *meets all requirements* (except where waivers were granted); **H)** The *original site plan* was approved in 1982; **I)** the Planning Board found that the eight criteria for *conditional use* outlined in the Zoning Ordinance section 175-23 C. are adequately addressed in the applicant's application for a conditional use regarding building height; **J)** The Planning Board reviewed the design in accordance with the *Architectural Standards* contained in the Site Plan Regulations; and **K)** This project is not considered to be a *Development of Regional Impact*; and **L)** 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.

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Signature of applicant

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date

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Printed name of applicant

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Signature of applicant

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date

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Printed name of applicant

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Signature of Planning Board Chair

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date

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Printed name of Planning Board Chair