

1 **TOWN OF DURHAM**
2 **DURHAM PLANNING BOARD**

3 **Wednesday July 13, 2022**

4 **Town Council Chambers, Durham Town Hall**

5 **6:00 pm**

6 **DRAFT MINUTES**

7
8 **MEMBERS PRESENT:** Paul Rasmussen (Chair), Heather Grant (Vice Chair), Lorne Parnell, Sally
9 Tobias (Council Rep), Richard Kelley, James Bubar, Barbara Dill (Alternate), Emily Friedrichs
10 (Alternate), Chuck Hotchkiss (Alternate Council Rep), Nicholas Germain (Alternate-remote)

11 **ABSENT:** William McGowan

12 **ALSO PRESENT:** Town Planner Michael Behrendt (remote)

13
14 **I. Call to Order**

15 Chair Paul Rasmussen called the meeting to order at 6:00 pm.

16
17 **II. Roll Call and Seating of Alternates**

18 Chair Rasmussen called the roll: Seated Barbara Dill for Bill McGowan.

19
20 **III. Approval of Agenda**

21 Chair Rasmussen modified the Agenda to include a recess between items X and XI.

22
23 ***Mr. Kelley MOVED to approve the Agenda as amended; SECONDED by Mr. Bubar;***
24 ***APPROVED 7-0, Motion carries.***

25
26 **IV. Town Planner's Report**

27 Mr. Behrendt said he was in Cincinnati at a conference and the next Planning Board meeting will be
28 in 2 weeks on July 27; only thing definite is a new 2-lot subdivision for 14 Schoolhouse Lane; Public
29 Hearing for 19 Main Street was adjourned until July 27 and may be continued.

30
31 **V. Reports from Board Members who serve on Other Committees**

32 Reporting from the Town Council: Councilor Tobias said the Council met Monday, Chair Rasmussen
33 presented his Planning Board report, and she suggested the Board watch the meeting.

34
35 Reporting from Traffic Safety Committee: Mr. Parnell said the Committee met June 30 with
36 presentations from NHDOT concerning their request for no-parking signs on west end of Main
37 Street; also discussed Schoolhouse Lane and forwarded a note to the Planning Board..

38
39 Reporting from the Integrated Waste Management Advisory Committee: Ms. Dill said she missed
40 the last IMAC meeting, but they are working on ways to coordinate with other groups on

1 sustainability issues; no meetings July or August; smaller group met last week with Scott Letourneau
2 and discussed ideas for recycling, composting, etc. on Tideline site.

3
4 Reporting from the Housing Task Force Committee: Vice-Chair Grant said the Committee met
5 Monday and continued review of Zoning regulations to promote more housing in Durham; went
6 through Conservation Sub-Division and will complete a presentation by the next meeting with
7 suggested changes to bring to Planning Board.

8
9 Second Community Power Presentation: Mx. Friedrichs said the second presentation was July 6
10 and was very positive generally speaking.

11
12 Reporting from the AG Commission: Chair Rasmussen said the AG Committee met Monday, but he
13 was unable to attend; Farm Day posters finalized and coming out next week.

14
15 Planning Board Report to Town Council: Chair Rasmussen said his report to the Town Council went
16 well and the Council was receptive. Talked about issues in Zoning Ordinance, subjective vs.
17 objective, definitions, and criteria; discussed concerns about litigation around Planning Board
18 decisions; group of Councilors interested in reviewing Table of Uses and find ways to reduce number
19 of CUs.

20 21 **VI. Public Comments**

22
23 **William Hall** brought up problems with the Madbury Road and Route 4 intersection and said when
24 the bypass was put in the Town was supposed to put in a Northern Connector which would attach
25 to Edgewood Road with an overpass like Bagdad Road and would solve all the problems at that end
26 of town.

27 28 **VII. Review of Minutes: (Old)**

29
30 **VIII. Solar Energy Systems Ordinance.** Proposed amendment to Zoning Ordinance initiated by
31 Durham Town Council. The draft addresses numerous aspects of solar energy systems
32 including rules and allowed locations for systems that are accessory to single family houses,
33 systems accessory to multifamily and nonresidential uses, small and large utility-scale
34 systems, and group net metering host systems. Recommended action: Set hearing for
35 August 10, 2022.

36
37 Mr. Behrendt said there is nothing about solar in the Zoning Ordinance now, but several years
38 ago Durham Energy Committee expressed interest in developing an ordinance for 2 reasons: (1)
39 to facilitate systems, bring more solar to Durham and set the rules; (2) particularly for single-
40 family there were no rules and balance needed to protect neighborhoods and rural areas, as well
41 as rules for single-family free-standing systems.

42

1 Mr. Behrendt said the Solar Energy Committee came to Planning Board in April 2019 and
2 presented a draft to the Town Council. The Council had concerns and Councilor Jim Lawson
3 worked on and prepared a draft coordinated with the Energy Committee, Town Planner, and
4 Town Council which was formally initiated May 9 and comes to Planning Board for Public Hearing
5 and to prepare comments for Town Council for submission through August. He said this
6 ordinance is more detailed than previous, breaks down more types of systems and deals with
7 group net metering, solar panels on a parking canopy, and changes table of uses.

8
9 Mx. Friedrichs asked about the Conservation Commission looking at WCOD and SPOD; Mr. Bubar
10 said the Conservation Commission discussed difficulties dealing with the 4 conditions but not
11 about any specific thing allowed or not allowed in wetlands. Mr. Kelley agreed with Mx. Friedrichs
12 that he would like the Conservation Commission to weigh in on the CU of a free-standing solar
13 system in WCOD and SPOD.

14
15 Chair Rasmussen asked for comments of the Board. Councilor Tobias said she was more pleased
16 with the vocabulary. Mr. Bubar said he felt single-family residential/duplex should be separate
17 from small group net monitoring as it is currently not clear as written. Chair Rasmussen agreed
18 and said there was another section where they mixed 2 different uses making it difficult to read
19 the Table of Uses. Mr. Bubar said he was also struggling to see the difference between a solar
20 voltaic parking canopy and a carport. The Board discussed the issue.

21
22 The Board discussed confusion with definitions and raised questions about subjective terms;
23 more specifics needed in definitions. Mx. Friedrichs said there is a special exception for
24 residential uses that tries make it feasible for any resident to have some sort of solar and felt that
25 should be stated first, and there are variances and waivers as well. Vice-Chair Grant said none of
26 the category of uses can apply in rural; can only use as accessory to residential or duplex.

27
28 Mr. Bubar cited several instances of confusing language and lack of specific definitions for clear
29 understanding, and said he was a little uncomfortable with how some of these have back doors
30 into others. He said the Board will need to apply this ordinance and needs to understand it as
31 written, with language to either permit or deny directly.

32
33 Mr. Kelley asked how a building-mounted, small utility scale solar energy system could be a
34 principal use as listed in in the Table of Uses. Mr. Behrendt explained that would be if someone
35 were to set up a fairly large-scale (commercial) system to sell back into the grid. Chair Rasmussen
36 said tenants can still be charged for electrical; another situation may arise of having 2 principal
37 uses. Vice-Chair Grant felt rural should be allowed to have some of these small utility scale
38 systems.

39
40 Vice-Chair Grant pointed out that the description on page 7 says a carport is attached and it
41 should be able to be detached as well. Chair Rasmussen said Section 4 is basically saying where
42 a resident can put their solar; if carport attached it is allowed as long as it is behind the front of
43 your house but will need a special exception to put solar on a detached carport. He said the

1 problem with special exceptions is the ZBA has to refuse you if violating character of
2 neighborhood, and said he felt this could be handled administratively by defining the word
3 “hardship”; or do a solar study to support the location of a free-standing system. He said we are
4 supposed to be promoting the idea a house can be net-zero, and he would like to see hard and
5 fast criteria that a Code Enforcement Officer can manage. He said it should not be CU but should
6 define what the underlying utility use is that is being applied for.

7
8 Chair Rasmussen said he feels the goals of the Board here are to try to give all of our houses,
9 even commercial structures, the capability of going net-zero; as use of fossil fuels decreases,
10 electrical usage will keep increasing, and there is a limit to how far you can transport electricity
11 which needs to be a lot closer to where it is being used.

12
13 ***Mr. Kelley MOVED to hold the Public Hearing on August 10, 2022 on Solar Energy Systems***
14 ***Ordinance; SECONDED by Vice-Chair Grant; APPROVED 7-0, Motion carries.***

15
16 **IX. Public Hearing - 74 Main Street – Mixed-Use Building.** Site plan and conditional use
17 application for demolition of current wood frame building and construction of a 4-story
18 mixed-use building with nonresidential uses, 12 residential units, and 5 parking spaces.
19 Minor site changes are also proposed for the adjacent lot at 72 Main Street. Doug Clark,
20 applicant. Jerry Pucillo, representing Foundation for Civic Leadership/Democracy House,
21 applicant. Mike Sievert, Horizons Engineering. Zach Smith, Winter-Holben Architects. Map
22 106, Lot 59. Central Business Zone. Recommended action: Discuss project and continue to
23 July 27.

24
25 Jerry Pucillo said at the last meeting the applicant agreed to clean up the plans and just show
26 work being done on our property; he said Mike Sievert will take the Board through the Site Plan

27
28 Mike Sievert, Horizons Engineering, said infiltration tests are needed for drainage and will be
29 scheduled for tomorrow. He presented the Site Plan stripped of everything on the adjacent site;
30 construction will go just to the property line; sidewalk on Pettee Brook and on site with no work
31 on repaving, utility work, or anything on adjacent property; only change is a sidewalk extension
32 with repaving all along the edge.

33
34 Mr. Sievert said all underground utilities were stripped on this plan and it now shows construction
35 of the underground drainage system. Still have paving between buildings with a drain to catch
36 any runoff from adjacent property; existing water line in park will be removed and water tied
37 back in at main line; DPW is now reviewing. Easement across property for water and sewer and
38 will reinstall a water line to property line and tie back into existing; new sewer service relocated
39 to new line outside property. All construction will be only on this property; drainage will be
40 finalized after infiltration tests; construction management plans will be updated.

41
42 Chair Rasmussen asked for a reminder as to why the stair got twisted. Mr. Pucillo said the
43 staircase got turned to make way for some parking in the back and said they are looking at an

1 alternative staircase limiting the length of it to reduce impact. Vice-Chair Grant asked about
2 parking spots shown along the edge, and Mr. Sievert said the architectural plan is not updated
3 for parking and there are 5 spots and 4 on the property; 2 regular and the rest compact. Mr.
4 Pucillo said they will also work out some leasing arrangement with the Town for their tenants.

5
6 Mx. Friedrichs felt the prominent position of the staircase as readily identifiable was smart urban
7 design. Mr. Pucillo said they are also doing what they can for sustainability; manufacturing will
8 be by companies in New Hampshire using large timber panels which will reduce energy
9 consumption. Mr. Germain asked if there was a snow removal plan and Mr. Sievert said snow
10 would be removed from the site.

11
12 Chair Rasmussen opened the Public Hearing at 7:26 pm.

13
14 **Attorney Suzanne Brunelle**, on behalf of abutters, said she did not see this plan and was confused
15 about the parking shown. Mr. Sievert said the plan shows the maximum parking if the location of
16 the stairs is changed. Attorney Brunelle said she looked at the architectural plans and highlighted
17 the easement area to show what is being built in the easement; she said the plan presented
18 indicates construction just within the property line but the exceeds the easement area, so the
19 building is in the easement.

20
21 Attorney Brunelle asked the status on the loading zone; she said architectural plans show 2nd, 3rd,
22 and 4th floors coming out into easement area and is concerned about getting vehicles in and out.
23 Mr. Kelley asked how the easement area was established. Attorney Brunelle said it is 20 ft
24 between the two buildings. Mr. Kelley said he does not see an easement area identified on the
25 existing conditions plan and that is a plan sealed by a licensed surveyor. Attorney Brunelle said
26 the easements were recorded as a requirement of this Board when the subdivision plan was
27 approved.

28
29 The Board discussed the existing width of the pavement between the buildings, the easements,
30 and whether or not the applicant is “building” in the easement. Part of the property line for the
31 applicant’s project is located within the easement area; Mr. Sievert said it is currently 16.75 ft
32 between buildings.

33
34 Doug Clark, property owner, said the applicant understands the easement is the area between
35 the two buildings defined as the “paved area” of 16.75 ft, smaller near the front of the building.
36 He said after the last meeting they had architects redesign the building again to shrink the
37 footprint as abutters requested, and it is now outside that easement area.

38
39 Mr. Pucillo said the applicant has listened and tried to work through all these issues as stated
40 before and it is his understanding that they are well within their rights on the easement area, and
41 the Board can make a decision based on our property alone. He said a cantilever was created
42 over the easement area and they may need to be in that area to work but all will be restored at
43 the end of construction. The alleyway can be traversed but there is no reason to be there with

1 no outlet for any kind of vehicle. He said we have done everything we possibly can, and our
2 attorneys feel we have met all the requirements of easements as they exist today in the public
3 record.
4

5 Mr. Bubar said it sounds like the applicant is comfortable with the plan they have, the Board does
6 not adjudicate on easements, and felt the Board needed to move on with the plan submitted.
7 Councilor Tobias said she felt Mr. Pucillo has done as much as possible to alleviate abutter
8 concerns and agrees with Mr. Bubar. Mx. Friedrichs asked if Fire and Police had any concerns
9 about getting between the buildings and Mr. Behrendt said that has been established.

10
11 **Sam Gangwer** of 72 Main Street said he stated on April 9 this was an illegal subdivision because
12 it did not follow Board requirements of having rights of way listed on the plans. He said it is a
13 Town matter, and they are responsible for it, and they are now trying to take away parking,
14 access, and egress and he needs to be able to get in and out of the building for deliveries. He said
15 “you” have been using the right-of-way behind our building and collecting fees for your parking.
16

17 Mr. Kelley asked who was being addressed here, and Mr. Gangwer said the Town, you. Chair
18 Rasmussen said the Town has spaces by the Pocket Park which is a right-of-way owned by the
19 Town and the Town can do what it wants with it. He said easement and right-of-way are two
20 different things and should be taken up with Town Administration not the Planning Board. Mr.
21 Gangwer said he needs access for trash removal and room to turn a 25-ft truck; he said the
22 cantilever should not be there.
23

24 Mr. Bubar said technically if the Town wants to shut down Ballard Street a dump truck could not
25 get through anyway. Councilor Tobias asked the height of the cantilever. Mr. Pucillo said it is
26 passable for trucks but there will be no outlet and they will open it as much as possible for small
27 deliveries. Vice-Chair Grant said it is also important to note that for a Public Hearing the public is
28 supposed to address the Board; this is a negotiation between two parties and no longer a public
29 comment section.
30

31 Mr. Kelley asked about the “illegal subdivision” mentioned earlier, and Mr. Bubar said it was a lot
32 line adjustment. Mr. Behrendt said the first plan is actually the old subdivision from 2018 and it
33 can be seen there. Mr. Sievert said he took Doucette’s plan (2018), which is recorded, and
34 produced an existing conditions plan; he said he had nothing to do with easements which were
35 Doucette and between Doug Clark and the Gangwers.
36

37 **Joshua Meyrowitz** of 7 Chesley Drive expressed his enthusiastic support for the general idea of
38 this project from the start. He said the Clarks and a few other Durham residents are on the cutting
39 edge of preparing Durham for a different kind of existence and said this building will be serving
40 the needs of the full community in the future. He said he does feel abutter concerns need to be
41 addressed and instead of running up legal bills maybe town officials could meet outside the
42 Planning Board’s time to find something that will work for everyone.
43

1 Mr. Behrendt said he appreciates Mr. Meyrowitz's comments and said there was a meeting
2 several months with unfortunately no agreement between parties.

3
4 Chair Rasmussen asked the Board if they were ready to see the next step with a full set of plans,
5 and they agreed by consensus. Mx. Friedrichs said his only concern is to make sure everything
6 was done as it was supposed to be done and all information is recorded and provided as far as
7 the Board's responsibilities.

8
9 Chair Rasmussen said the key thing here is if you look at the Existing Conditions Plan easement
10 notes letter D: easements are to be accorded herewith to define items including but not limited
11 to parking, access, utilities, and maintenance, and the Board accepted that as 2 property owners
12 who would go off and take care of that. It was taken care of but not made part of that sheet and
13 is under separate documents. Mr. Kelley said it should be part of the application as a recorded
14 instrument and said there cannot be a lot line adjustment without consent of the abutters.

15
16 Chair Rasmussen said for July 27 the Board will have a new packet and construction management
17 plan. Mr. Parnell asked about something from Public Works, and Mr. Pucillo said after the
18 infiltration tests are done. Mr. Bubar asked if the next meeting will still be a Public Hearing or just
19 a presentation of the whole plan set and giving us opportunity for review.

20
21 Chair Rasmussen continued the Public Hearing to July 27, 2022.

22
23 **X. *Public Hearing - 15 Newmarket Road – Tideline Public House***. Site plan application to
24 create a tap room (serving beer and wine), store and food truck court with 8 food trucks,
25 covered pavilions, a landscaped community gathering space, and other site changes behind
26 the old Durham Town Offices. Scott and Karen Letourneau, applicants. William and Carrie
27 Salas, current property owners. Mike Sievert, Horizons Engineering. Map 108, Lot 69.
28 *Recommended action:* Discuss project and continue to July 27.

29
30 Mr. Parnell said the Board should be amending the current property owners.

31
32 Chair Rasmussen stated that Public Safety is the charge of the Planning Board given to us by the
33 State not the ordinance, and we are obligated to take action on anything we feel is contrary to
34 public health, safety, or welfare. Several comments about removing parking spaces brought to
35 our attention issues with cars going the wrong way down a one-way road, which was evaluated
36 by the Traffic Safety Committee. Any decisions the Board makes about managing traffic against
37 that one-way road is regardless of what happens with this application; it is the Town's business
38 and not the applicant's.

39
40 Mike Sievert said there are minor updates to the Site Plan: a movable barrier added in top left
41 corner; added new wooden removable posts in access area to stop people from driving through;
42 barrier was changed to a rope barrier, extending up around the stone; slight adjustment to
43 dumpster. The plan has now gone to fully underground electric utilities; starts at pole in south

1 corner over property to a meter near existing salt shed, with secondary service from there to
2 trucks. Stormwater treatment has been increased with added filter box for drainage and picking
3 up pervious surface runoff, added a catch basin with a deep sump to better collect sediment and
4 updated whole drainage analysis. DPW has reviewed the plan in general and all the requirements
5 are met.

6
7 Mr. Sievert said they also updated the parking and now have a total of 61 spaces, with 37 spaces
8 on site, eliminated retail spaces, 14 on Schoolhouse and 17 on Mill Pond Road. Mr. Letourneau
9 said the plan shows a number of large concrete planters along the hatched-out area which will
10 be adjusted.

11
12 Mr. Bubar questioned circulation changes in parking lot with entry now set up for easternmost
13 end and Mr. Sievert said it is being modified. Chair Rasmussen suggested changing the last sign
14 on Schoolhouse to read “no through traffic” and recommended the Board address the parking
15 waiver. Mr. Bubar asked for a justification to grant the waiver; Chair Rasmussen said this parking
16 waiver is commercial not residential and much of public suggests getting to the lot without using
17 cars which supports walkability of downtown in Master Plan and Zoning.

18
19 Chair Rasmussen said based on the Traffic Safety Report some of the spaces on Schoolhouse Lane
20 will be removed and there are 6 spaces before you past the entrance; Traffic Safety Committee
21 suggests making next 1 or 2 spaces for bicycle/moped/motorcycles. He said if they are providing
22 Town Hall spaces during the day, Town Hall should be able to provide spaces in the evening and
23 on weekends. Once those 6 spaces on Schoolhouse are removed there is room for 4 spaces on
24 the other side of the road with only a net loss of 3 or 4 spaces,

25
26 Mr. Parnell felt the Board should hold off on removing those spaces despite what Traffic Safety
27 Committee says; Chair Rasmussen said it was a consideration not a decision and it is up to the
28 Town. He said he would like to recommend that 3 months after this project goes live, that the
29 Town perform a Traffic Study of Schoolhouse Lane and make decisions at that point. Mr.
30 Behrendt said there are no parking impact fees for this project but there is the parking number
31 requirement in Site Plan Regulations and applicant would need a waiver on that.

32
33 Chair Rasmussen said they have 37 parking spaces right now and 14 within walking distance; on
34 weekends people will use Town Hall parking crossing 108 and Mill Pond Road meaning more foot
35 traffic on crosswalk. Mr. Bubar said the Board’s justification for waiving is that there is adequate
36 public parking, and the majority would walk, bike, etc. Mr. Kelley said he finds the available public
37 parking underutilized and does not see a high demand here. He asked if the applicant has to go
38 to DOT for work done in the State right-of-way. Mr. Behrendt said the Town had to get DOT
39 approval for work in the Route 108 right-of-way.

40
41 Mr. Bubar said for food truck people there is a lot of parking at Jackson’s Landing by the Hockey
42 Rink, and they can easily carpool from there; lot is not metered and rarely used. Mr. Sievert said

1 there is also parking on Town Landing. Mr. Letourneau said if that is available he will tell food
2 truck operators and employees that is the designated parking.

3
4 **Mr. Kelley MOVED that the Planning Board waive the required parking for Tideline Public**
5 **House; SECONDED by Vice-Chair Grant;**

6
7 Mr. Bubar asked about the finding of fact. Chair Rasmussen asked Mr. Behrendt to collect the
8 Board's information and create a finding of fact regarding the waiver. Mr. Kelley said the Board
9 has identified underutilized public parking, public spaces on Schoolhouse Lane and Mill Pond
10 Road, and additional parking at Old Landing, Town Landing, and at Town Hall.

11
12 **Vote: APPROVED 7-0, Motion carries.**

13
14 Questions: Mr. Bubar asked about a grease trap and Mr. Sievert said there would be one in the
15 building and one underground for all the food trucks. Mr. Letourneau said there is a small kitchen
16 in the building which will have a 3-bay sink with either under counter or in basement grease traps
17 and the garage will have a dish-washing station. Mr. Kelley asked Mr. Letourneau to describe his
18 meeting with the Solid Waste Committee.

19
20 Mr. Letourneau said the meeting with Solid Waste was very positive; they mainly sought
21 information for best practices and a general approach and will try their best to be
22 environmentally conscious and put sustainability forward. He said the location was chosen with
23 focus on non-vehicular customers and reviewed steps he was taking to reduce plastic, try for
24 commercial compacting, and recycle all single-use cans and beverage containers.

25
26 Chair Rasmussen reopened the Public Hearing for Tideline Public House at 8:43 pm.

27
28 **Dennis Meadows** of 34 Laurel Lane said there are good reasons to be concerned about this
29 project as any property in Durham's Historic District deserves careful consideration. He said the
30 Tideline property can be evaluated by 8 impacts: jobs, diversity, history, environment, profits,
31 zoning, neighborhood impact and community support; this proposal is the better project Durham
32 has been waiting for.

33
34 Mr. Bubar said the removal of parking is a benefit to the community and Mr. Sievert said they
35 are removing 11 spots. Mr. Bubar also said he is surprised he is the only one averse to burning
36 wood in open firepits.

37
38 **Joshua Meyrowitz** said he was pleased to join the tide of enthusiastic support for this proposal
39 that complies with Town zoning and enhances the community and said whole town will profit
40 from this project. He said he was delighted with the responsiveness of the Letourneaus and this
41 gives the Town the opportunity to address difficulties on Schoolhouse Lane.

42

1 Chair Rasmussen said the Board is waiting for final approval; Mr. Behrendt said he will have the
2 Notice of Decision for the July 27 meeting; the Board is waiting for the final OK from DPW; need
3 to put all details together; question with snow storage in some Town spaces but looking for a
4 larger agreement with the Town on parking.

5
6 Chair Rasmussen continued the Public Hearing to July 27,2022 and called a 5-minute Planning
7 Board recess at 8:52 pm.

8
9 **XI. 19-21 Main Street – Parking Lot.** Site plan and conditional use application for parking lot
10 as principal use on four lots and reconfiguration of the entrance. Toomerfs, LLC c/o Pete
11 Murphy and Tim Murphy, owners. Mike Sievert, engineer. Robbi Woodburn, Landscape
12 Architect. Map 108, Lots 13, 12, 11, and 10. Church Hill District. ***The Public Hearing is***
13 ***adjourned until July 27. The Planning Board is holding its final deliberation***

14
15 Vice-Chair Grant stated that the Public Hearing for 19-21 Main Street is adjourned until July 27,
16 2022, and the Board has been accepting emails and written comments only. She seated Nicholas
17 Germain for Paul Rasmussen who recused himself on this application. She said the Board will also
18 be reviewing final CU criteria but will not vote on them tonight. At the July 27th meeting the Public
19 Hearing will be reopened and the Board will be reviewing the Site Plan as well as CU criteria at
20 that Public Hearing.

21
22 **Review of Conditional Use Criteria, continued:**

23
24 **Item 6. Impact on Property Values:**

25 Vice-Chair Grant said the Town Assessor Jim Rice stated he did not feel there would be an impact
26 on property values. Mx. Friedrichs said there was also a letter from a Real Estate Agent to the
27 contrary estimating about a \$100,000 difference, and as conditional use it should be looked at
28 on its own terms and not compared to other permitted uses. Councilor Tobias said the Town
29 Assessor is a certified appraiser and an expert on the Town of Durham and conflicting opinions
30 should be reviewed by a third party. Mr. Parnell said he did not think this proposed use would
31 contribute to a significant decline in property values.

32
33 Councilor Tobias said an appraiser states the value of what a bank will extend a mortgage for and
34 has more solid standing in the industry. Councilor Hotchkiss said an appraiser looks at
35 comparables, makes some judgement and comes up with a figure, and as Jim Rice said it is all
36 speculative, an appraiser is not in that superior a position than an agent. Mr. Kelley said some of
37 the CU criteria talk about mitigation of the impact and it is hard not to recognize the efforts of
38 the applicant. Vice-Chair Grant said moving the buffer area closer to the parking lot is an
39 adjustment based on abutters' requests.

40
41 The Board continued to discuss all aspects and issues of the impact on property values in depth

42
43 **Item 7. Availability of Public Services & Facilities:**

1 Planning Board members cited improvements to the site: stormwater management; improved
2 access for fire protection; relocating old sewer line (private line).

3
4 Item 8. Fiscal Impacts:

5 Councilor Tobias said there will be an increase to the tax rate. Mr. Bubar said the Board's decision
6 is to be based on analysis of fiscal impacts to the Town, but there are not a lot of ground-based
7 costs associated with this project, as long as salt does not run off and affect College Brook. Mx.
8 Friedrichs said his concern is with the Town removing Mill Pond Dam to improve water quality in
9 this watershed, further damage to this tributary to Great Bay may result in the Town paying for
10 clean-up costs down the road.

11
12 Mr. Kelley said we are an MS4 community and are expected to report to EPA on our ability to
13 clear our stormwater and mediate problem areas. Mr. Bubar said stormwater management does
14 not deal with salt runoff and will not be a great improvement over existing natural landscape.
15 Vice-Chair Grant asked if this would be one of the criteria analyzed if the Board were to have a
16 fiscal impact report done. Mx. Friedrichs said the Board may need a third-party analysis to
17 measure from the impact area to wetland resources that go into College Brook.

18
19 Vice-Chair Grant said as far as fiscal impact mitigation we have a snow-removal plan, stormwater
20 plan and no violations of our limits, and this is as far as we can go. Mr. Germain said if the parking
21 lot does decrease abutting property values it would decrease the tax value to the Town. Mx.
22 Friedrichs said if the parking rules change there could be traffic issues. Vice-Chair Grant said this
23 would be approved with the condition that the lot only be used for long-term parking.

24
25 Vice-Chair Grant said the Board has not gotten to the Site Plan and should circle back and look at
26 all criteria and where there are the most concerns. Mx. Friedrichs said the Board does need a
27 conversation of structured vs. surface parking. Vice-Chair Grant said she did some research and
28 structured parking in a parking garage. Board members discussed Zoning Board definitions and
29 debated the issues of at-grade parking, whether a retaining wall is a structure, and whether a 20-
30 ft mound represents surface parking.

31
32 Vice-Chair Grant said the Board accepted the application and plans because there was agreement
33 at the time that the proposal was surface parking. Mr. Kelley said the Board also had this
34 discussion before the application went to ZBA. Councilor Hotchkiss said but ZBA determined that
35 it was structured parking, and he asked if that applied only to the original version or applied in
36 general.

37
38 Mr. Parnell said it was the decision of the Board at the time and his opinion was surface parking
39 from the beginning; ZBA disagreed because of the retaining wall. Mx. Friedrichs said he did not
40 think the Board had agreed. Chair Rasmussen asked for Point of Order, but Mr. Behrendt said
41 only Board members could speak. Mr. Bubar said he could not get to surface parking with that
42 much manipulation of natural contours of land. Vice-Chair Grant said she would rely on the Town

1 Planner and Mr. Kelley's expertise. Mr. Kelley said most of my peers would agree this is not
2 structured parking.

3
4 The Board agreed to be prepared to provide opinions on CU criteria at the next meeting. Mr.
5 Behrendt said the Board needs to reconvene the Public Hearing at one of the meetings and he is
6 not ready to write up anything as the Board needs to make a decision about CU and the Site Plan
7 first and should move the adjournment of the Public Hearing from July 27 to August 10, 2022.
8 Mr. Parnell asked if the Board will also be stopping all correspondence and Vice-Chair Grant said
9 that can be decided after the fact.

10
11 Vice-chair Grant adjourned the Public Hearing for 19-21 Main Street to August 10, 2022.

12
13 Mr. Behrendt said he hoped the Board could finish up discussions on July 27, 2022. Mr. Bubar
14 said this will then be on the July 27th agenda for deliberations.

15
16 **XI. Other Business**

17
18 **XII. Review of Minutes** (new): June 8, 2022 & June 22, 2022 - *postponed*

19
20 **XIII. Adjournment**

21
22 ***Councilor Tobias MOVED to adjourn the meeting; SECONDED by Barbara Dill; APPROVED***
23 ***7-0, Motion carries.***

24
25 Chair Rasmussen adjourned the meeting at 10:34 pm.

26
27 Respectfully submitted,
28 Patricia Denmark, Minute Taker
29 Durham Planning Board

30
31