



# Town Of Durham

## Planning Board Minutes

Town Offices, 6:30 pm  
November 1, 2023

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### 1. Roll Call & Determination of a Quorum

**In attendance:** John Talbot (Chair), Juliet Caplinger (Vice Chair), Allan Purinton, Brian Lanoie, Anne Torregrossa (arrived late) and George Thebarga (Town Planner).

**Absent:** Tyler Hutchison (Excused)

### 2. Amendments to the Agenda: None

### 3. Acceptance of the Minutes of prior meeting (October 4, 2023)

Allan Purinton moved to accept the October 4<sup>th</sup>, 2023 meeting minutes, **Brian Lanoie** seconded, motion carried **4 – 0 with 1 abstention**.

### 4. Informational Exchange on Non-Agenda Items:

a.) Town Officials – None

b.) Residents - None

c.) Non-residents – None

### 5. Old and New Business: No new or continuing applications

### 6. Other Business:

#### a. Board Discussion of Draft Land Use Ordinance Amendments

- The Planning Board has scheduled a public information meeting on Wednesday, November 15, 2023 at the Fire Station at 6pm to present and take input on draft amendments to the Land Use Ordinance that will be considered at the April 2024 Town Meeting.
- Policy issues to be addressed:

#### Housing Density

- In 2022, the Maine Legislature passed legislation that requires Durham to allow a third housing unit wherever there is an existing single-family dwelling.
- The current Land Use Ordinance only allows two housing units per lot (single-family with accessory apartment on 2 acres, duplex on 2.5 acres).

- The 2018 Durham Comprehensive Plan recommends consideration of 3-unit and 4-unit housing if the design of the units is controlled to protect rural character and neighborhood integrity.
- Over the past year and a half, the Planning Board has conducted a public participation process that indicated equal citizen concerns for lack of availability of housing and the impacts of housing.

After discussion, the Board requested that the presentation be simplified to exclude graphics of the current zoning allowances and to focus on the Planning Board proposal and the alternative of the State law result if the Board proposal does not pass at Town Meeting.

Anne Torregrossa requested a Word version of the draft amendments to offer additional wording changes to the draft amendments for housing density.

#### Solar Energy Systems

- The Conservation Commission agreed to take the lead on developing performance standards for review of solar energy systems.
- Over the summer, the Commission met with the Topsham Conservation Commission to review their program for regulating this land use.
- The Town Planner took the Topsham regulations and integrated them into
- draft amendments to Durham's Land Use Ordinance framework.
- The Town Planner also added provisions from other ordinances that addressed specific details and concerns for enforceability.
- The Conservation Commission reviewed the final draft and endorsed moving to a public information meeting to solicit input from citizens.
- The Town Planner will meet with the Conservation Commission at the end of the month (November) to go over Solar Energy and set a date in December to hold a public informational meeting.

Juliet Caplinger requested a Word version of the draft amendments to offer additional wording changes to the draft amendments for solar energy systems.

#### Codification of Permit Fees

- In 2022, voters approved moving specific fees from the text of the Land Use Ordinance to a fee schedule that can be updated by the Select Board on a regular basis and kept current with service costs.
- The Land Use Ordinance does not refer to required fees in all articles, and the Town Attorney has advised that all fees on the fee schedule should be referenced in the Land Use Ordinance.
- Amendments to list all of the current fees associated with land use permits are included in the draft solar energy systems amendments.

#### Expansions of non-conforming dwellings

- During the public participation process for the realignment of the Resource Protection District, landowners expressed concern for the difficulty and costs of going before the

Town's regulatory boards for modest expansions of buildings that would be placed in the expanded Resource Protection District.

- Article 16 currently allows expansions of up to 30 percent with Planning Board conditional use approval. Expansions greater than 30 percent can be approved by the Board of Appeals subject to mitigation of groundwater impacts.
- The Town Planner drafted amendments that would give the Code Officer
- authority to approve expansions up to 30 percent subject to setbacks and State environmental standards. The draft amendments would transfer reviews over 30 percent from the Board of Appeals to the Planning Board.
- Members of the Select Board and Planning Board questioned whether the proposed changes were permissible under State laws for expansions of nonconforming uses.
- An attorney at MMA confirmed that there are potential problems with the existing regulations and the proposed changes.
- The Town Planner met with the Conservation Commission to present an alternative concept for addressing landowner concerns for expanding existing buildings in the Resource Protection District.
- The Town Planner has done visual analysis of aerial photography to identify about 30 properties where the developed portions of those lots are within the new Resource Protection District.
- The Conservation Commission supports the concept of revising the Zoning Map to exclude these smaller currently developed areas that are within the Resource Protection District boundary based on the Beginning with Habitat inventories.
- This would remove the nonconforming status of those buildings and allow expansions subject to the standard requirements without going before the regulatory boards.

The Board discussed possibly drafting an expansion of a “grandfathering” provision for properties that were not in Resource Protection until April of 2023 to be allowed expansion up to 150% or some other number if x, y and z criteria are met. It was determined that this “grandfathering” provision would have to wait until next year after Town Meeting.

**Allan Purinton moved** to continue exploration of the concept of revising the Resource Protection District boundary with the next step being to check with MMA legal services to determine whether this proposed revision of zoning map would be considered either spot zoning or arbitrary. **Anne Torregrossa moved** to include “or otherwise inconsistent with State Laws” to the motion.

**John Talbot moved** to have the Town Planner continue to look into the legality and if it comes back that it is illegal that ends it. If it comes back that it is legal, then the Board will continue on and go to the Conservation Commission and decide at our December meeting whether we are going to go beyond that. **Allan Purinton seconded, and the vote failed 2 – 3.**

## 7. Adjourn

**Juliet Caplinger motioned** to adjourn the meeting. **Allan Purinton seconded**, motion carried **5 – 0**. Meeting adjourned at 9:02 pm.