



Town Of Durham

Planning Board Minutes

Fire Station Meeting Room, 6:30 pm

February 5, 2025

1. Roll Call & Determination of a Quorum

In attendance: John Talbot (Chair), Juliet Caplinger (Vice Chair), Allan Purinton, Brian Lanoie and George Theborge (Town Planner).

Excused Absence: Marc Derr

2. Amendments to the Agenda:

3. Acceptance of Meeting Minutes (January 8, 2025)

Motion made by Allan Purinton: To accept the meeting minutes as presented. **Motion seconded by Juliet Caplinger: Votes to approve: 4 Votes to deny: 0**

4. Informational Exchange on Non-Agenda Items:

a) Town officials (George Theborge, Town Planner)

- The CEO will be submitting monthly reports on building activity to the Planning Board.
- On Tuesday, January 21, 2025 an Open Community Event looking at the Town-owned properties and facilities was conducted, 24 people attended the event, looking at needs and goals for these community assets.

b) Residents: None

c) Non-Residents: None

5. Continuing Business: None

6. New Business:

a.) Request for Amendment of the Deer Creek Crossing Subdivision Map 7, Lot 32A

Findings of Fact

1. Application Summary: The Planning Board received an application from the developer of the Deer Creek Crossing Subdivision for amendments to the previously approved and recorded subdivision plan, specifically:

- Removal of Note 21, which restricts the sale of lots and issuance of building permits until infrastructure is completed or a performance guarantee is approved.
- Removal of Note 7 from the Overall Site Layout Plan, which requires the installation of residential sprinklers in individual homes.

2. **Original Approval:** The Planning Board granted final approval of the Deer Creek Crossing Subdivision on July 10, 2023, with a conditional agreement in lieu of a performance guarantee, per Section 6.34.C of the Land Use Ordinance.
3. **Infrastructure Completion:** The applicant submitted a final inspection report from the Town's peer review engineer, dated January 3, 2025, estimating the cost of remaining infrastructure improvements at \$71,500. The applicant proposed a cash deposit in this amount to serve as a performance guarantee for completion of all remaining improvements.
4. **Fire Protection:** The applicant has constructed a fire pond with a capacity of 120,000 gallons, meeting the requirements of Section 6.16.C.7 of the Land Use Ordinance. The applicant requests the removal of the residential sprinkler requirement, as the fire pond satisfies the Town's fire protection standards.

Conclusions of Law

The Planning Board finds that the proposed amendments comply with the applicable standards of the Durham Land Use Ordinance, including but not limited to:

1. **Performance Guarantee (Section 6.34.A&B):**

The applicant will provide a cash deposit in the amount of \$71,500, sufficient to ensure completion of all remaining infrastructure improvements.

2. **Fire Protection (Section 6.16.C.7):**

The constructed fire pond meets the required capacity of 120,000 gallons, providing adequate fire suppression for the subdivision. The removal of the residential sprinkler requirement is consistent with the Ordinance.

3. **Erosion and Sedimentation Control (Section 6.16):**

The applicant has demonstrated compliance with best management practices for erosion and sedimentation control, ensuring site stabilization during and after construction.

Decision

Based on the above findings and conclusions, the Durham Planning Board approved the following amendments to the Deer Creek Crossing Subdivision Plan:

1. **Removal of Note 21 on the Subdivision Plan:** The restriction on lot sales and issuance of building permits is lifted, contingent upon receipt of the \$71,500 cash deposit as a performance guarantee.
2. **Removal of Note 7 on the Overall Site Layout Plan:** The requirement for residential sprinkler systems in individual homes is removed, based on the adequate capacity of the constructed fire pond.

Motion made by John Talbot: To approve the above amendments to the Deer Creek Crossing Subdivision Plan. **Motion Seconded by Brian Lanoie: Votes to approve: 4**
Vote to deny: 0

7. Other Business:

a.) Public Comment on Contract Zoning Requirement for Large BESS and Solar Energy Systems

NOTE: The Town Attorney has determined that large-scale Battery Energy Storage Systems (BESS) connected to the powerline grid would meet the definition of “essential services” and thereby qualify as a permitted use not subject to Planning Board conditional use criteria for public safety, noise, and scale of project criteria. Such high-voltage energy storage systems pose safety and environmental risks not currently addressed in the Land Use Ordinance. In addition to enacting needed performance standards to ensure that such facilities are designed and constructed with adequate safety and other performance standards, the Town Attorney has recommended requiring contract zoning for large BESS and solar energy systems. Such facilities would only be allowed as a special, contract zoning district approved at Town Meeting. This added mechanism will allow Town voters to decide acceptable locations for such facilities and are convinced that any proposed project benefits the Town and has limited impacts in keeping with Durham’s rural character and limited public services.

[Draft Amendments Contract Zoning](#)
[Draft BESS Standards](#)

- The Town Planner and Chairman summarized the content and process for development of the proposed land use policy changes for BESS and contract zoning.
- Jess Costa of the Conservation Commission argued that solar energy systems should not be linked with the proposed contract zoning for BESS. Solar farms don’t raise the same safety issues. She advocated looking at alternative approaches such as mitigation fees and mapping areas for solar farms, work the Conservation Commission has been looking at.
- Michael Friendly of the Conservation Commission also argued that there are better ways to deal with solar farms than contract zoning, which will put in a big obstacle for solar energy that could bring big tax benefits. He said 20 acres is the smallest solar farm that is economically viable.
- Russ Cowles asked that more information on contract zoning be made available. How does it differ from conditional use reviews?
- The public input session closed at 7pm.
- The Planning Board discussed the proposed threshold for solar farms and the majority leaned toward sticking with 10 acres/175,000 sq. ft. as the trigger for contract zoning review.

b.) Public Comment on Draft Historic Preservation Regulations

NOTE: The Town Attorney has determined that the current historic preservation standards and procedures are not consistent with federal and state guidelines and must be brought into alignment to be enforceable. The Select Board has indicated that Durham’s land use regulations for historic preservation should be streamlined to make the process easier and fairer to affected landowners. The proposed amendments will focus historic preservation requirements on individual properties that are listed or eligible for listing on the National Register of Historic Places. The Ordinance will require review of projects on these properties by the Historic Commission but will assign regulatory authority for issuing permits to the Code Officer and Planning Board, both of which are required to follow legal requirements for fact finding to ensure that all decisions afford due process to applicants.

• [Draft Amendments Historic Preservation \(2-4-2025\)](#)

- Heather Roy of the Select Board argued the need for buffering around historic properties. She questioned the process for appealing decisions on certificates of appropriateness.
- Joe Roy of the Select Board explained that the Historic District Commission has not responded to the draft amendments and the Select Board will again offer that opportunity on February 25th.
- Brian Lanoie of the Planning Board observed that the standards for historic preservation still sound like they apply to a historic district. He also said that clarification is needed on what constitutes “maintenance.”

c.) Board Discussion on Draft Land Use Ordinance Amendments

- [Staff Notes on Ordinance Amendments](#)

Motion made by John Talbot: To pass on the draft amendment resource protection with a positive recommendation to the Select Board for inclusion on the Town Meeting warrant.

Motion seconded by Juliet Caplinger: Votes to approve: 4 Votes to deny: 0

Motion made by John Talbot: To make a recommendation to the Select Board of approval of the draft BESS standards with compliance of Durham’s current noise limits and striking out references to contract zoning that will be dealt with separately. Additional site plan standards to apply to Tier 3 BESS projects.

Motion seconded by Allan Purinton: Votes to approve: 4 Votes to deny: 0

8. Upcoming Planning Board Meeting

- **Regular Planning Board Meeting, March 5, 2025, Fire Station, 6:30pm**
- **Public Hearing on Land Use Articles, March 12, 2025, Fire Station, 6:30pm**

9. Adjourn:

Motion made by Allan Purinton: To adjourn the meeting.

Motion seconded by Juliet Caplinger: Motion carried: 4 – 0. Meeting adjourned at 8:49pm.