# DOVER PLANNING BOARD – MINUTES

Meeting Type: Regular Meeting, continued
Meeting Location: City Council Chamber's 288 Central Avenue
Meeting Date: **Tuesday, January 26, 2021**
Meeting Time: **7:00 pm**

**Members Present:** Gina Cruikshank (Chair), Dennis Ciotti (Councilor), Ellen Ianello

**The following Board members called into the meeting:** Frank Torr, Tom Clark, Lisa McGunnigle Tapp (Alternate), Jackson Kaspari, Dave Landry, Dave White, Kyle Pimental (Alternate), Hayley Harmon (Vice Chair)

**Members Not Present (excused)**: Erin Allgood (Alternate)

**Members Not Present (un-excused)**: None

**Staff Present:** Christopher Parker, Assistant City Manager

Chair G. Cruikshank called the meeting to order at 7:00 p.m. She noted that certain members of the Planning Board are participating in this meeting remotely, and as the Chair of the Planning Board she has, per NH RSA 91-A:2, III (b), declared an "emergency" within the meaning of that statute and waive the requirement that a quorum be physically present at the meeting. Remote members will identify their location and any person present with them at that location. All votes will be by roll call.

The City of Dover has taken extra steps to ensure the physical location of this meeting conforms with all safety provisions during the pandemic, including social distancing, face coverings, and frequently sanitized facilities. Although qualified members of the public can participate in the meeting by speaking at the physical location, the public is encouraged to leave comments in advance by calling 516-MEET (6338), emailing Dover-Planning@dover.nh.gov, or mailing written comments to Planning Board, Dover City Hall, 288 Central Ave., Dover, NH 03820. Messages must be received no later than 4 p.m. the day of the meeting and should identify the name and Dover address of the person leaving the message or providing the comment.

## 1. CITIZENS' FORUM

*Citizens Forum Open.* No one spoke. *Citizens Forum Closed.*

## 2. APPROVAL OF THE PRIOR MINUTES

January 12, 2021 Regular Meeting Minutes

**Motion:** D. White moved to approve the minutes as presented. Seconded by D. Ciotti.
Roll Call Vote: E. Ianello-yes, D. Ciotti-yes, G. Cruikshank-yes, H. Harmon-yes, D. Landry- yes, J. Kaspari - yes, D. White-yes, T. Clark-yes, F. Torr-yes

## 3. OLD BUSINESS

## 4. NEW BUSINESS

A. Consideration and acceptance of a Site Review for Index Packaging Inc., Assessor's Map D, Lot 9A, zoned IT (Innovative Technology), and located at 150 Venture Drive. (Proposal is to construct a 57,000 s.f. building off the back of the existing building creating 57,000 s.f. warehouse, manufacturing, and office space). *(P20-66)

C. Parker explained that the applicant is requesting site plan approval to construct a 57,000 s.f. addition to the old Fosters building. The addition would include warehouse, manufacturing and office space. The site is proposed to be serviced by municipal water and sewer. This application was reviewed by the Technical Review Committee on October 22, 2020 and December 17, 2020.

Furthermore, the applicant is requesting the Board grant a waiver to the lighting regulations as they are proposing to use existing on-site lighting with additional lighting and are only able to provide the calculations for the additional lighting without calculating existing lighting foot candles plus some light may be shed onto the abutting parcel as indicated in the applicant's narrative.

James Hayden, Berry Surveying and Engineering represented the application and reviewed the plan.
He highlighted a rain garden that will be added to the back of the site to capture the water from the existing building and the proposed structure which will increase storm water management on site.
They are seeking a lighting waiver and proposing to keep existing lights where they are.

D. Landry wondered what's going on with the existing trail.
Mr. Hayden clarified the location of the access to the trail and it will be marked so that it won't be blocked. The trail dead-ends at the building. It is not an official city trail.

J. Kaspari remarked about not being able to calculate the existing lighting.
Mr. Hayden clarified they did calculate some existing lighting, but not the units on the front because they aren't relevant to the proposal.

**Motion:** F. Torr moved to accept the application. Seconded by E. Ianello.
Roll Call Vote: E. Ianello-yes, D. Ciotti-yes, G. Cruikshank-yes, H. Harmon-yes, D. Landry- yes, J. Kaspari - yes, D. White-yes, T. Clark-yes, F. Torr-yes

*Public hearing opened.*
No one spoke. No emails or calls were received by the office.
*Public Hearing closed.*

C. Parker noted there are two votes on this project.

C. Parker noted Chapter 153-21 of the Site Review Regulations state the "Planning Board may waive specific provisions of these regulations. The Planning Board may only grant a waiver if the Planning Board finds, by majority vote, that:
(1) Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; or
(2) Specific circumstances relative to the subdivision, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations."

Staff believes that the criterion 2 has been met based on the lot layout and condition of the land and dead end nature of the roadway, with minimal abutters. The Planning Department recommends the Planning Board vote to grant the waiver with the following condition:

1. Update waiver note and indicate Add a note to the plat that the Board granted a waiver to Chapter 153-14.E (lighting), and that the Board found the criteria of Chapter 153-21.A have been met.

**Motion**: F. Torr made a motion that the Board grant the waiver with the staff recommended condition. Seconded by D. White.
Roll Call Vote: E. Ianello-yes, D. Ciotti-yes, G. Cruikshank-yes, H. Harmom-yes, D. Landry- yes, J. Kaspari-yes, D. White-yes, T. Clark-yes, F. Torr-yes

The second vote is on the Site Plan. The plan is consistent Chapter 153-4 of Site Review Regulations of the City Code provides for site review by the Planning Board of new construction of various types. Staff recommends approval with the following conditions:

**Conditions to Be Met Prior to the Signing of Plans:**

1. Provide physical and digital copies (including CAD) of complete plan set which shall include:
    a. Signature and stamp of PE, CWS, and LLS
    b. Owner's signature

**Conditions to Be Met Prior to any Construction Activity:**

2. A site construction sign with the contact information for the general contractor must be located and approved by the City Engineer or Assistant City Manager.

**Condition to Be Met Prior to Issuance of a Building Permit:**

3. Water and sewer investment fees shall be paid at the time of request of service.

**Conditions to Be Met Prior to Occupancy:**

4. Issuance of a certificate of occupancy.
5. Impact fees shall be paid per the invoice included with the Notice of Decision.
6. The applicant shall provide a letter of credit or other form of security acceptable to the City for any unfinished work.

C. Parker clarified a traffic question for D. Landry and a storm water question for K. Pimenal. There was storm water management in place on the site, but it was not up to current codes.

**Motion**: F. Torr made a motion that the Board approve the application with the staff recommended conditions. Seconded by D. White.
Roll Call Vote: E. Ianello-yes, D. Ciotti-yes, G. Cruikshank-yes, H. Harmon-yes, D. Landry- yes, J. Kaspari-yes, D. White-yes, T. Clark-yes, F. Torr-yes

B. Consideration and acceptance of a Transfer of Development Right Request for 23 Everett Street, LLC, Assessor's Map 27, Lot 90-A, zoned RM-U, and located at 23 Everett Street. (Proposal is to renovate the existing structure into a three (3) unit structure where two (2) units are permitted). *(P21-02)

C. Parker explained that the applicant wishes to purchase one unit via Transfer of Development Rights to renovate existing structure into three units. The lot is serviced by municipal water and sewer.

The request is consistent with the surrounding property units which include unit counts of 2 at 19-21 Everett, 3 at 32 Ham St, 2 at 28 ½ Ham Street and 4 at 3-5 Everett.

FX Bruton, Bruton & Berube, represented the applicant and reviewed the plan. The applicant is asking for one unit and will be utilizing the existing building foundation. The proposal is to turn a current dance studio into three 2-bedroom units. Parking will be added with garages under the structure allowing for two cars for each unit. There is currently no parking for the existing structure.

The current structure has a porch and staircase that encroach on the abutting property. Those will be removed.

**Motion:** E. Ianello moved to accept the application. Seconded by D. Ciotti.
Roll Call Vote: E. Ianello-yes, D. Ciotti-yes, G. Cruikshank-yes, H. Harmon-yes, D. Landry- yes, J. Kaspari -yes, D. White-yes, T. Clark-yes, F. Torr-yes

*Public hearing opened.*
No one spoke. No emails or calls were received by the office.
*Public Hearing closed.*

C. Parker noted the plan is consistent Chapter 170-27.2 of the City's Zoning Code allows for developments to buy additional units through the process of Transfer of Development Rights. The process allows the applicant to come to the Board with a plan indicating the TDR but does not trigger the need of full site plan review. Staff recommends approval with the following conditions:

**Conditions to Be Met Prior to Signing of Plans:**

1. Payment of the TDR fees.
2. The applicant shall provide the Planning Department a
    a. Digital version of the plan.
    b. CAD file to the satisfaction of the Asset Management Administrator.
3. The applicant shall revise the plan to:
    a. Add Planning File # P21-02
    b. Add note that regarding the requirements of 170.27.2-G.3.(a) of granting this TDR for additional unit.
    c. Add provided column to note 5 and add common site notes 38, 39, and 40.

**Conditions to be Met Prior to Building Permit:**

4. Any encroachments be removed.
5. The new dwellings shall be assessed and pay the current Water and Sewer Investment Fees in place at the time of application for service.

**Conditions to Be Met Prior to Occupancy:**

6. Issuance of the Certificate of Occupancy.
7. Impact fees per unit shall be paid per the invoice attached to the Notice of Decision.

**Motion**: D. Ciotti made a motion that the Board approve, with the staff recommended conditions, the sale of the unit as it's consistent with the neighborhood. Seconded by D. White.
Roll Call Vote: E. Ianello-yes, D. Ciotti-yes, G. Cruikshank-yes, H. Harmon-yes, D. Landry- yes, J. Kaspari-yes, D. White-yes, T. Clark-yes, F. Torr-yes

C. Consideration and acceptance of a Major Subdivision for Lawrence E. & Cheryl J. Mulcahy, Assessor's Map D, Lot 20, zoned R-12, and located at 71 Glenwood Avenue. (7 new lots) *(P20-18)

C. Parker explained that the applicant appeared before the Board in April and May of 2020 seeking permission to create an open space subdivision. After preliminary engineering, they determined following the conventional subdivision Regulations in the R-12 district was the best fit for the land. The applicant proposes to subdivide Dover Tax Map D, Lot 20 into 7 residential lots. While a portion of the land was rezoned in 2020, the application was grandfathered.

The roadway is intended to be public and the project is served by municipal water and private septic systems. This application was reviewed by the Technical Review Committee on September 17 and December 17, 2020.

Christopher Guida, Fieldstone Engineering, represented the applicant and reviewed the plat. The applicant has no issues with any of the comments submitted other than the pedestrian access.
The applicant requested to have the access easement removed as it won't be affective or utilized.

D. Ciotti asked, how close is the city sewer? About a mile away.

J. Kaspari appreciated the depth of the drainage analysis. Will the soils take care of most of the run-off? Yes, water is almost immediately infiltrated in this area.

E. Ianello asked about buffers to the back of the property. There have been conversations with abutters about that. There is existing fencing there and they are proposing some stockade fencing as well. The rest of the area is wooded, and the applicant wants to leave that in place to keep the natural vegetation. He described the properties on Crestwood. They have extended their parcels to the boundary and it is undevelopable.

**Motion:** F. Torr moved to accept the application. Seconded by E. Ianello.
Roll Call Vote: E. Ianello-yes, D. Ciotti-yes, G. Cruikshank-yes, H. Harmon-yes, D. Landry- yes, J. Kaspari-yes, D. White-yes, T. Clark-yes, F. Torr-yes

*Public hearing opened.*
Kyle Bretz, 77 Glenwood Ave spoke for himself as well as on behalf of Phillip Paige, 93 Glenwood Ave.
He is concerned about

- the removal of trees and the trucks required to add the fill needed. What happens if they damage the road?
- Lots 6 and 7: the back portion is very close to that back buffer which is also wetland back there. He requested the Planning Board do a site walk to see how wet the land is back there.
- Did TRC address the telephone easement?
- He doesn't understand the reference to 20,000 sq. ft. lot areas.
- The owner of 93 will not allow a utility easement.
- Where does the stockade fence end? He prefers a 7' fence that goes the whole length of the boundary be installed prior to the first certificate of occupancy being issued.

Maurice Oliver, 67A Glenwood Ave is generally in favor of the proposal. He hopes the homes going in will be single-family homes and also ranch style. He would be concerned if modular or manufactured homes go in there.

No emails or calls were received by the office.
*Public Hearing closed.*

Mr. Guida addressed the public comments.

- The proposed fence line goes the length of D19-1. It's not proposed to go the entire length of the parcel. That area is all wooded.
- There are wetlands in the back of lot 6. The septic systems meet all state and city requirements.
- 20,000 sq. ft. is a state regulation because of the septic systems.
- Telephone easement appears on the plans, it's not specific in location.
- Proposed clearing areas are on the plan. There is no proposal to cut to the property line. No trees will be cut on abutting properties.

C. Parker noted there is no fence height specified on the plans. The City allows for up to 8' and 4' at the roadway. The board could stipulate height if it wants.

C. Parker discussed the easement being requested.

D. White addressed the abutters question about roadway repairs. The City will inspect the road prior to construction and if there is damage, the applicant will have to repair it.
He is concerned about the telephone easement being unspecified. The easement needs to be unencumbered for the City to take it over the roadway.
He was told the abutter wanted a vinyl fence, not stockade.
Access and utility easement is something he has been pushing for because the City has connected dead end streets for water access and he's looking into the future to get the utilities everywhere it needs to be.

C. Parker noted they do not know who the builder is and the Board has no say in what style house is chosen.

K. Pimental asked if the Board could require the back two lots to be merged to allow extra area due to the wetlands? C. Parker clarified the Board does not have that authority if the lot meets the regulations.

D. Landry asked D. White for more clarification about the utility easements possibly leading to roadways. D. White gave some examples of what options could happen in the future.

The Board was not in favor of doing a site walk.

C. Parker noted the plan is consistent Chapter 157-19 of the Land Subdivision Regulations of the City Code which provides for review by the Planning Board of major subdivisions of land. Staff recommends approval with the following conditions:

**Conditions to Be Met Prior to Signing of Plans:**

1. Provide:
   a. A digital version of plan set
   b. A CAD file to the satisfaction of the Asset Management Administrator.
   c. Draft easement deeds for (1) stormwater access and maintenance and (2) draft deeds for lots 6 & 7 with wetland buffer restrictions, (3) easement for City to maintain pipe, headwall and outfall area and (4) pedestrian and utility access easement to the satisfaction of the Assistant City Manager in consultation with the City's General Legal Counsel.
   d. An agreement between abutter D-19-1 and applicant for the size and type of fence to be constructed along the shared boundary
2. The applicant shall revise the plat to:
   a. Include the PE, CWS, and LLS signature and stamp
   b. Add the owner's signatures to the final plat submitted for signature to be recorded at the Strafford County Registry of Deeds
   c. Address a catch basin at entrance of road
   d. Add sloped granite curbing to non-sidewalk side of entrance
   e. Show pedestrian and utility access to the lot D/19
   f. Add note that ROW would be unencumbered by any easements or utilities before turned over to the city

**Conditions to be Met Prior to Construction Activity:**

3. The wetlands buffer placard shall be placed. (lots 6, 7)

**Conditions to be Met Prior to the Issuance of a Building Permit:**

4. Fence along boundary with D-19-1 is installed.
5. The new dwelling units shall be assessed and pay the current water investment fees in place at the time of application for service.
6. The applicant shall provide a letter of credit or other form of security acceptable to the City for any unfinished work.

**Conditions to be Met Prior to Occupancy:**

7. Issuance of a Certificate of Occupancy.
8. Documentation that the HOA has been created and is in place.
9. Impact fees per unit shall be paid per the invoice attached to the Notice of Decision.
10. Easements recorded and in place.

**Motion**: F. Torr made a motion that the Board approve the application with the staff recommended conditions. Seconded by D. White.
Roll Call Vote: E. Ianello-yes, D. Ciotti-yes, G. Cruikshank-yes, H. Harmon-yes, D. Landry- yes, J. Kaspari - yes, D. White-yes, T. Clark-yes, F. Torr-yes

D. Public hearing on the Proposed FY22 CDBG Annual Action Plan. All persons wishing to speak on Plan are urged to attend.

C. Parker explained to the Board Dover receives federal funds within the CDBG program which annually distributes funds to projects that achieve certain objectives the community is trying to achieve. The objectives/ goals are listed in the consolidated plan which is a five-year plan. Tonight's hearing fulfills the requirement to bring it before a public hearing before it is brought to a review board. He is not looking for any action from the board tonight other than to hold the public hearing. Once feedback is received and looked into, the board will receive a copy of the plan for review in about a month.

In the agenda materials we have outlined the revenue expected ($318,000). The allocations, by percentage and and area are:
Public Services: $46,500
Loan Pool: $15,900
Public Facilities: $185,000
Administration: $70,600

C. Parker outlined which groups made requests and how much funding the City is recommending they receive.

D. Landry disclosed that his wife is on the board at Community Partners.

*Public hearing opened.*
Bob Arnold, Weatherization Mgr at Community Action presented to the board.
*Public Hearing recessed.*

C. Parker advised the board members that they could speak any comments they have, or they could contact staff in the next few days with input.

**Motion:** D. Ciotti moved to table the CDBG Annual Action Plan. Seconded by E. Ianello.

Roll Call Vote: E. Ianello-yes, D. Ciotti-yes, G. Cruikshank-yes, H. Harmon-yes, D. Landry- yes, J. Kaspari - yes, D. White-yes, T. Clark-yes, F. Torr-yes

E. Public hearing on a Proposed Amendment to the FY21-25 CDBG Citizen Participation Plan. All persons wishing to speak on the Amendment are urged to attend.

C. Parker explained to the Board that HUD is recommending that the City review and change its Citizen Participation Plan in accordance with the pandemic. The changes proposed include a change to section 11, notice and public comments procedures for a substantial amendment during a pandemic. We need to add a line acknowledging a 5-day public comment period in the newspaper, after the City Council votes, and before we send the recommendations to HUD for certification.

*Public hearing opened. No One Spoke. Public Hearing recessed.*

**Motion:** D. Ciotti moved to table the CDBG Citizen Participation Plan. Seconded by E. Ianello.
Roll Call Vote: E. Ianello-yes, D. Ciotti-yes, G. Cruikshank-yes, H. Harmon-yes, D. Landry- yes, J. Kaspari - yes, D. White-yes, T. Clark-yes, F. Torr-yes

## 5. STAFF COMMENTS

- TRC on a subdivision on 54 Back River Road
- Next meeting will have zoning items on it.

## 6. MEMBER COMMENTS

- T. Clark asked for an update on TDR funds and lands being purchased with it.
- T. Clark congratulated Donna Benton on her professional development
- F. Torr thanked E. Ianello for her work on the board
- G. Cruickshank appointed the following subcommittee members:
  - Electric Vehicle: L. McGunnigle Tapp, K. Pimental, J. Kaspari
  - Wetlands Regulations: D. Landry along with four Conservation Committee members

## 7. ADJOURNMENT

**Motion:** E. Ianello made a motion to adjourn at 8:38 p.m. Seconded by D. Ciotti.

Roll Call Vote: E. Ianello-yes, D. Ciotti-yes, G. Cruikshank-yes, H. Harmon-yes, D. Landry- yes, J. Kaspari - yes, D. White-yes, T. Clark-yes, F. Torr-yes