



CITY OF DOVER

DOVER PLANNING BOARD – MINUTES

Meeting Type: Regular Meeting
Meeting Location: City Council Chamber's 288 Central Avenue
Meeting Date: **Tuesday, November 8, 2022**
Meeting Time: **7:00 pm**

Members Present: Gina Cruikshank (Chair), Hayley Harmon (Vice Chair), Ken Mavrogeorge, Tom Clark, Frank Torr, Mark Speidel, Kyle Pimental, and Fergus Cullen (Councilor)

Members Not Present (excused): Erinn Kaspari, George DeBoer (Alternate) and Jon Elliard (Alternate)

Members Not Present (un-excused):

Staff Present: Donna Benton, Director of Planning and Development

G. Cruikshank called the meeting to order at 7 p.m. and announced items 4C, D, E and H will likely be continued and that that we don't have alternates present tonight so eight Board members will be sitting.

1. CITIZENS' FORUM

Citizens Forum Open

No one spoke

Citizens Forum Closed

2. APPROVAL OF THE PRIOR MINUTES

October 25, 2022 Regular Meeting Minutes

Motion: F. Torr moved to approve October 25, 2022 minutes and indicated the minutes vote at that meeting was indeed to approve the October 11th minutes. Seconded by: T. Clark. Vote: U/A

3. OLD BUSINESS

None

4. NEW BUSINESS

- A. Consideration and acceptance of a Minor Subdivision for Jahn H. & Susan G. Janetos, Assessor's Map N, Lot 13-F, zoned R-40, located at Gulf Road & Oak Street. (2 new lots). *(P22-68/SUBM-2022-0004)

D. Benton introduced the minor subdivision and explained this is a do-over of a recent application due to an abutter noticing issue and the Board should treat this as a new request again. All abutters were notified for this hearing. Staff is aware of a complaint regarding the existing driveway which currently does not need a Conditional Use Permit based on the most recent wetlands delineation.

Kevin McEneaney, McEneaney Survey, represented the application.

Motion: F. Torr moved to accept and declared no regional impact. Seconded by T. Clark. Vote: U/A.

Public hearing opened.

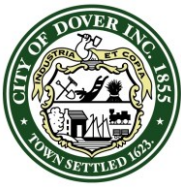
Will Reddington, attorney on behalf of Dan Tibbett, abutter shared concerns for the subdivision including changes to wetlands locations and addition of three septic systems.

He presented a slideshow of the wetland buffers and how they have changed on the plans presented by the applicant.

He requested the Planning Board exercise their right to request a certified wetlands scientist to report their findings regarding the suspect wetland boundary. The applicant has obtained one and the opinion result is that the wetlands buffer is suspect, and a third-party opinion should be sought.

He also suggested that regional impact should be considered as the town line is one property over and the wetlands are throughout the area.

D. Benton noted two emails from the applicant and their representatives were received to the office and presented to the board along with the wetland scientist's opinion that was just discussed.



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Public hearing closed.

Mr. McEneaney addressed public comment:

- The lot previously approved was not restricted to one single-family home
- Wetlands: the scientist quoted has never been on the site. A letter from a soil scientist was provided to the board by the applicant. This scientist explained the way the buffer is delineated now is based on current regulations which were updated in 2007.
 - The plans that were shown during public comment were from lot line adjustments which were likely not required to include the jurisdictional wetlands.
 - This subdivision plan did require the update to the jurisdictional wetlands, which has been done.

Mr. McEneaney also addressed questions of the board including drainage, hay production, and Emerson Brook.

T.Clark asked clarifying questions regarding wetland delineation.

K.Mavrogeorge asked about drainage and the number of culverts below the driveway.

F. Cullen asked about haying and indicated if they are able to hay it's likely not wet enough to deter haying.

T. Clark asked about Emerson Brook.

G.Cruikshank questioned and noted the Board already voted for regional impact.

M. Speidel asked about wetland delineation.

F.Cullen indicated aerial images shown the entire lot being hayed and how it looks consistent with the current wetland delineation.

STAFF RECOMMENDATION - Minor Subdivision:

The plan is consistent with §157-15 of the City of Dover's Land Subdivision Regulations, which provides for subdivision of existing lots.

The Planning Department recommends that the Planning Board vote to approve the minor subdivision with the following subsequent conditions:

Subsequent Conditions to Be Met Prior to Signing of Plans:

1. Provide a stamped memo from a PE or CWS that each lot has sufficient area and soil types to support individual wastewater treatment systems as described in §157-41 or provide a copy of the NHDES Subdivision Permit; and
2. Provide physical and digital copies (including CAD) of complete plan set for recording at Strafford Country Registry of Deeds, which additionally shall include:
 - 2.1. The owners' signatures;
 - 2.2. Include the Planning File #P22-68;
 - 2.3. The stamp and signature of the CWS and LLS on the final plans
 - 2.4. Revision of Note 9.) to: "Wetlands were delineated by Damon E. Burt, Certified Wetlands Scientist, Certification Number 163, in accordance with Chapter 170-27.1 of the Zoning Ordinance, on August 8, 2021.";



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- 2.5. Revision of Note 5.) to add: "This property falls within the following zoning overlay districts: Wetlands Protection District.";
- 2.6. Add Common note #14. as a plan note, which states: "The installation of electric power, cable television and telephone lines shall be underground throughout the site for which development is proposed. Subdivision plans shall show any easements for these services."

K.Pimental suggested using Granit aerial for Emerson Brook if the Board wanted it on the plan but also noted it may not be needed to be shown on this subdivision plat.

Motion: T. Clark agreed that regional impact is a stretch, and the wetlands were flagged in 2021 by a known scientist and that the abutters concerns did not seem to impact the subdivision. T. Clark moved to approve the Minor Subdivision subject to the conditions set by the Planning Department. Seconded by F. Cullen. Vote: U/A

- B. Consideration and acceptance of Transfer of Development Rights Request for Little Bay Development, LLC, Assessor's Map 8, Lot 9, zoned LBW, located at 50 Little Bay Drive. (Requesting to purchase (1) one additional TDR unit). *(P19-04C/TRAN-2022-0003)

D. Benton explained that this is a project under construction off of Dover Point Road which has come back to the Board for a few different amendments. The density was previously accomplished by using the Transfer of Developments Rights ordinance and during those calculations there was an accessory apartment above the marina office to be accessory to the marina office. That intent has since changed so the applicant is back before the Board to request that accessory apartment be allowed to be a full unit and therefore purchased through TDR.

FX Bruton, Bruton and Berube represented the application.

Originally eight units were requested and approved followed by two additional units being granted. A caretaker was always considered to be needed by the applicant for the retail shop. The parking was included in the original proposal. The applicant no longer needs the caretaker unit and assumed that unit could be used as a full, additional unit within the 3-story unit that was approved in July.

Motion: F. Torr moved to accept and declared no regional impact. Seconded by T. Clark. Vote: U/A.

Public hearing opened.

No one spoke

Public hearing closed.

STAFF RECOMMENDATION:

§170-27.2 provides for additional density to be purchased through Transfer of Development Rights.

The proposed TDR request in an impact sense creates no additional units when considering the approved accessory unit and simply allows the applicant to reclassify the approved accessory dwelling into a full unit unrelated to the marina office.

The Planning Department recommends the Planning Board vote to accept the application, open the public hearing, make findings, and vote to grant the TDR request with the following subsequent conditions:

Subsequent Conditions to Be Met Prior to Granting of Transfer of Developments Right:



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1. Recognition by the applicant in writing that all previous conditions of approval from P19-05 and P18-41A remain in place including but not limited to issuance of certificate of occupancy and payment of impact fees, and letter of credit or other form of security applicable to the City for any unfinished work
2. Payment of the additional TDR unit fee.
3. Amend the plan to remove the accessory dwelling from the building and indicate a full unit.

Motion: M. Speidel moved to grant the Transfer of Developments Rights request subject to conditions set forth by the Planning Department as it is consistent with Dover land use regulations and creates no additional impact or units and is more of a clarification. Seconded by K. Mavrogeorge. Vote: U/A

The Vice Chair noted Items 4C, E, and D would be heard together and have all been requested to be continued.

- C. Consideration and acceptance of a Lot Line Adjustment for JSR, LLC (Owner: JSR, LLC), Assessor's Map D, Lots 11-5 & 11-5-SND, zoned IT, located at Quality Way and Venture Drive. *(P22-57/LOTA-2022-0002)
- D. Consideration and acceptance of a Conditional Use Permit for JSR, LLC (Owner: JSR, LLC), Assessor's Map D, Lots 11-5 & 11-5-SND, zoned IT, located at Quality Way and Venture Drive. (Proposal is to impact 7,935 sq. ft. within the wetland buffer to gain access to the site and develop a stormwater treatment cell). *(P22-56/COND-2022-0005)
- E. Consideration and acceptance of a Site Review for JSR, LLC (Owner: JSR, LLC), Assessor's Map D, Lots 11-5 & 11-5-SND, zoned IT, located at Quality Way and Venture Drive. (Proposal is to construct a 10,080 sq. ft., Commercial Building for Contractor Bays/Office Space). *(P22-55/SITE-2022-0011)

Motion: M. Speidel moved to continue these items to December 13, 2022 regular meeting. Seconded by H. Harmon. Vote: U/A

The Vice Chair noted Items 4F and G would be heard together.

- F. Consideration and acceptance of a Conditional Use Permit for Wooden Ruler Realty, LLC (Owner: Wong, John & Wong, Mo Y Trustees of the Mo Y Wong Living Revocable Trust of 2006), Assessor's Map 6, Lots 32 & 40, zoned CBD-G district, located at 42-44 Third Street. (Proposal is to re-develop the sidewalk but not provide street trees or bench requirements). *(P22-61)/COND-2022-0019)
- G. Consideration and acceptance of a Site Review for Wooden Ruler Realty, LLC (Owner: Wong, John & Wong, Mo Y Trustees of the Mo Y Wong Living Revocable Trust of 2006), Assessor's Map 6, Lots 32 & 40, zoned CBD-G, located at 42-44 Third Street. (Proposal is to construct a 103,000 sf mixed-use building with commercial uses on the first floor, a below grade parking area, and 58 residential units). *(P22-60)/SITE-2022-0012)

D. Benton explained that the applicant is looking to demolish the existing building at 42-44 Third Street which in the past housed the Asia restaurant. The applicant is looking to build a mixed-use building with a parking garage accessed from second street, commercial space fronting Third Street, and residential above. The applicant is requesting two waivers: 1) for the aisle width in the parking lot and 2) site specific soils as well as a Conditional Use Permit to allow the applicant to not provide street trees and benches along the



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frontage of Third Street but instead pay a contribution to a larger sidewalk reconstruction project to improve that pedestrian area.

Christopher Berry, Berry Surveying and Engineering represented the applications explaining the proposed project along with the larger proposal involving multiple adjacent parcels. This larger proposal has been discussed with Planning and Engineering and also includes:

- Parking structure at 35 3rd st
- Mixed use building at 2 Grove st
- Shared parking among the parcels

Also discussed with staff was a plan to narrow the roadway and widen the sidewalk and add street trees on one side. The City is not ready yet for the infrastructure changes, so this applicant will widen the sidewalk in front of this parcel which does not allow for street trees etc, but they will make a payment in lieu of that. The public art component will be met by hiding the transformers with masonry which will be painted as artwork. He addressed traffic and the two waivers being requested in relation to the merger of the two lots.

He answered follow up questions of the board regarding when parking will be available, quantity of parking spaces and phasing for the other portions of the project.

Motion: F. Torr moved to accept and declared no regional impact for both applications. Seconded by M. Speidel. Vote: U/A.

Public hearing opened.

No one spoke

D. Benton summarized an email received expressing concerns about parking.

Public hearing closed.

STAFF RECOMMENDATION-CUP:

Chapter 170-20.B(1) Zoning Ordinance allows for Conditional use approval for relief from the standards herein may be granted by the PLANNING BOARD (RSA 674:21 II) after proper public notice and public hearing provided that the proposed project complies with 9 specific criteria as outlined in the staff memo and applicant's application.

The Planning Department recommends the Planning Board vote to grant the Conditional Use Permit with the following subsequent conditions, as the plans meet the standards outlined:

Subsequent Conditions to be Met Prior to the Issuance of the Conditional Use Permit:

1. Add note that a CUP was granted by the Planning Board for the lack of street trees and benches along Third Street and that the Board found the criteria of Chapter 170-21.B(1) have been met.
2. Development agreement between Planning Board and applicant be reviewed by the City Attorney for legal review, Planning Director for content review and include general CUP language and layout the sidewalk contribution of \$500 per bedroom, and maintenance of public art.

Mr. Berry answered some follow up questions from the board regarding the ally next to the furniture store and the fee per bedroom and how it was calculated.



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Motion: M. Speidel moved to grant the Conditional Use Permit with the subsequent recommended conditions and found that the criteria of Chapter 170-20.B(1) have been met because of the significant public value provided. Seconded by T. Clark. Vote: U/A

STAFF RECOMMENDATION-Waivers:

The applicant is requesting waivers from Section 153-14(A)(3)(f)(2)(C) for Site Specific Soils and from Section 153-14(D)(6)(a) for Parking Aisle width in Garage.

Section 153-21 of the Site Plan Review Regulations states 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 feels the site-specific soils in the urban downtown core meets the criterion of 1 and the parking aisle width meets criterion 2 as it would be in their private building and is not a drastic enough ask to raise traffic or safety concerns.

The Planning Department recommends the Planning Board vote to approve the waivers with the following subsequent conditions, as the plans meet the standards outlined:

Subsequent Condition to be Met Prior to the Signing of the Plans:

1. Add a note that the Planning Board approved waivers Section 153-14(A)(3)(f)(2)(C) for Site Specific Soils and from Section 153-14(D)(6)(a) for Parking Aisle width in Garage. and have found the criteria of Chapter 153-21.A. have been met.

Motion: T. Clark moved to grant the waivers, with the subsequent recommended conditions, from Section 153-14(A)(3)(f)(2)(C) for Site Specific Soils and from Section 153-14(D)(6)(a) for Parking Aisle width in Garage and found that the criteria of Chapter 153-21 have been met. Seconded by F. Torr. Vote: U/A

STAFF RECOMMENDATION-Site Plan:

Consistency with Land Use Regulations

Chapter 153-4 of the Site Review Regulations of the City Code provides for site review by the Planning Board of new construction of various types. With the waivers, this plan is consistent with the requirements laid out in 153- 14 for a site plan in the CBD district, and complies with the zoning.

Due to the interconnected nature of the proposed project and the future parking garage, there are recommended condition of approval that tie the Building Permit for this project to a Building Permit for the parking garage and the Occupancy of this project to the certificate of occupancy or certificate of completion of the parking garage, in order to ensure that there is adequate parking provided.

STAFF RECOMMENDATION-Site Plan:

The Planning Department recommends the Planning Board vote to approve the Site Plan with the following subsequent conditions, as the plans meet the standards outlined:

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



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1. Planning Board acknowledge the lot merger.
2. The applicant shall provide a letter from a Licensed Pest Control Specialist regarding if a pest management plan is needed.
3. The Conditional Use Permit is granted.
4. Development agreement between Planning Board and applicant be reviewed by the City Attorney for legal review, Planning Director for content review and include general CUP language and layout the sidewalk contribution of \$500 per bedroom, and maintenance of public art.
5. Provide physical and digital copies (including CAD) of complete plan set which additionally shall include:
 - 5.1. Signature and stamp of PE, LLA, and LLS
 - 5.2. Owner's signature
 - 5.3. Add 2x2" space on lower right corner of site plan.
 - 5.4. Remove recreation space requirements on sheet 6
6. Public art proposed location and proposal be presented to Dover Arts Commission and Planning Staff.

Subsequent Conditions to Be Met Prior to any Demolition:

7. Detailed pre-construction meeting including demolition, laydown area, and urban site coordination (including temporary closure of parking) be discussed.
8. Lot merger recorded at the SCRD and recording information provided to the Planning Department.
9. If pest control is required, the plan shall be implemented with proper monitoring.

Subsequent Conditions to Be Met Prior to any Construction:

10. A site construction sign with the contact information for the general contractor must be located and approved by the City Engineer or Planning Director. Site Construction sign shall indicate level of visibility/noise/vibration disturbance anticipated each day.

Subsequent Conditions to Be Met Prior to Issuance of a Building Permit:

11. Water and sewer investment fees shall be paid at the time of request of service.
12. Public art installation presented to the satisfaction of the Dover Arts Commission and Planning Staff.
13. Issuance of a Building Permit for a parking garage on Grove Street.
14. License be granted by the Dover City Council for balcony overhangs into the right of way.

Subsequent Conditions to Be Met Prior to Occupancy:

15. Issuance of a certificate of occupancy.
16. Impact fees shall be paid per the invoice included with the Notice of Decision.
17. The applicant shall provide a letter of credit or other form of security acceptable to the City for any unfinished work.
18. Public art is installed and public improvements per the Development Agreement completed.
19. Certificate of Occupancy or Completion be granted for the parking garage on Grove Street or only 50% of the residential Certificates of Occupancy may be granted at the subject property until adequate parking is provided.

Motion: M. Speidel moved to approve the Site Plan with the subsequent recommended conditions and found that it is consistent with regulations due to the waivers and 153.14. This meets all legal standards and applicable regulations. Seconded by T. Clark. Vote: U/A

H. Consideration and acceptance of a Minor Subdivision for Canney Brook Engineering and Consulting, CBF2 LLC., (Owners: Canney Brook Engineering and Consulting, CBF2 LLC. and Helen F. Preston



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Revocable Trust of 2009), Assessor's Map K, Lot 6, zoned R-40, located at 105 Middle Road and Back Road. (2 new lots) *(P22-09)

Motion: M. Speidel moved to continue this item to December 13, 2022. Seconded by: F. Cullen.

Vote: All in favor with F. Torr abstaining

5. STAFF COMMENTS

- Urban3 presentation at 6pm next Tuesday November 15th (new date and time) presented by Joe Minicozzi, AICP who is known nationally.
- Following that the next meeting will be December 13th and that is the only PB meeting that month. Tentatively planning for a Land Use Board meet and greet on January 10th highlighting the Vision Chapter of the Master Plan and Resilience Plan.
- TRCs since last meeting: JSR LLC at Quality Way and Venture Drive for 10,080 s.f. contractor storage bay/office space which was continued from tonight's agenda.
- Also met and discussed Outdoor Dining Application process for this spring through the new permit software.
- TRCs coming up:
 - Site Review for VC Dover Investment, LLC Assessor's Map H, Lot 4-3, zoned Commercial, located at 30 Grapevine Drive. (Proposal is for a 4-story mixed-use building, consisting of forty-nine (49) apartment units, 4,030 sf fitness area, and a 1,320 sf coffee shop). A Conditional Use Permit for RCM Overlay District will also appear before the Planning Board. (P22-72/SITE-2022-0017)
 - Site Review for Charter Foods North, LLC, (Owner: VC Dover Investments, LLC) Assessor's Map H, Lot 4-3, zoned Commercial, located at 30 Grapevine Drive. (Proposal is for a 2,500 sf Fast-food Restaurant). A Conditional Use Permit for RCM Overlay District will also appear before the Planning Board. (P22-74/SITE-2022-0018)

6. MEMBER COMMENTS

- F. Torr: Back up letters for justification is a good step for legal standing
- T. Clark:
 - Canny Brook item which was continued: if Planning Dept recommendation is to deny it, why is it coming before the board?
 - D. Benton noted the staff helps the applicants and lets them know if/when they are ready to present to the board, but they are allowed to present even if staff is not recommending acceptance or approval as the Board can choose to follow staff recommendation or not.
- K. Pimental: Regional impact procedure
- C. Cruikshank
 - Signed plans included: Riverfront subdivision/ right of way plans and the Storage Barn
 - Two lot mergers read into the record

7. ADJOURNMENT

Motion: F. Torr moved to adjourn at 8:21pm. Seconded by H. Harmon. Vote: U/A