

CITY OF DOVER

DOVER PLANNING BOARD – MINUTES

Meeting Type: Regular Meeting
Meeting Location: City Council Chamber's 288 Central Avenue
Meeting Date: **Tuesday, May 23, 2023**
Meeting Time: **7:00 pm**

Members Present: Gina Cruikshank (Chair), Mark Speidel, Kyle Pimental, Ken Mavrogeorge, Tom Clark, Fergus Cullen (Councilor), Erinn Kaspari, George DeBoer (Alternate)

Members Not Present (excused): Hayley Harmon (Vice Chair), Jon Elliard (Alternate), Melina Gambino (Alternate)

Members Not Present (un-excused): None

Staff Present: Donna Benton, Director of Planning and Community Development

G. Cruikshank called the meeting to order at 7p.m and explained the citizens' forum process.

1. CITIZENS' FORUM

Citizens Forum Open

Jim McKenna, 278 Middle Rd explained where he lives and described a series of events on an abutting property which has had trees cut down and caused damage to wetlands and abutting properties in the process of installing a 2200' driveway. The permit for the driveway does not show the applicable information that is supposed to be displayed according to a document he was given by the Planning Dept. There is now shipping container that is within 3' of his property which does not meet the 5' or 10' setback. Apparently there is a loophole if the disturbance is temporary. He would like better clarification on what is allowed and what the actual setbacks are. Three 8-foot doors have now been installed on the container which does not make it seem temporary.

Citizens Forum Closed

2. APPROVAL OF THE PRIOR MINUTES

- May 9, 2023 Regular Meeting Minutes

Motion T. Clark moved to approve May 9, 2023 Regular Meeting Minutes. Seconded by: E. Kaspari. Vote: U/A

3. OLD BUSINESS

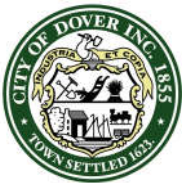
A. Public hearing to consider and possible recommendation of amendments to Chapter 170, entitled "Zoning" of the code of the City of Dover. Amendments include re-titling, formatting, construction signs, ground mounted solar, rooftop solar, window sign definitions, CWD green roof requirements, clarifying Gateway lot coverage and screening requirements, dark sky compliance for general site lighting, moving and amending non-environmental conditional use permit criteria, wetland protection district purpose and intent, wetland CUP criteria, TDR waiver criteria, TDR criteria, window and development signs, amendment notice requirements, removing Educational Institution from CM table of uses, reducing RCM threshold area to 20 acres, solar arrays, and CUP requirements for solar arrays.*

D. Benton noted the Planning Board posted amendments to the Zoning Ordinance on February 14 and on March 28, 2023 and held an extra public hearing on April but that the notice went to all Dover property owners to alert them of tonight's public hearing. The board can hold the public hearing, discuss, and then vote to send their recommendation of adoption to the City Council.

Public hearing opened

Elizabeth Bratter, 16 St John st commented on the following:

- Amendment 14- possible typo *building* vs *structure*
- Amendment 15- critical functions and values- how are those defined?
 - Dover Conservation Commission or NHDES standards?



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- Sometimes Conservation commissions are more strict than NHDES so that might be preferred and should be specified
- Amendment 18- transfer of development rights-height of buildings, infrastructure of buildings and traffic are not mentioned. She made recommendations of language to add.
- Amendment 24- she found a 2018 version but couldn't find the latest. She noted the minimum acreage is getting smaller and asked what the reason for that is.

Public hearing closed

D. Benton addressed the public comment.

- *Building* is the term that is used and has an enlarged definition in the regulations.
- The basis is off the NHDES standards.
- The underlying zoning applies to TDR so that includes height and traffic and utilities would be reviewed like any other site plan or subdivision plat per the regulations
- Purpose of lowering the acreage is due to the success of Pointe Place and there are a few areas just under 25 ac that would be able to develop mixed-use if they met the standard.

K. Pimental commented on a couple of amendments regarding a typo of changing "indicated" to "indicating" and wording choice to remove a double negative of "not incompatible with" to "compatible with".

M. Speidel agreed with those changes suggested.

Motion: M. Speidel moved to recommend the amendments to the City Council as amended tonight with the two wording changes discussed. Seconded by: K. Pimental. Vote: U/A.

4. NEW BUSINESS

A. Public Hearing and discussion regarding noise from chickens in residential districts.*

D. Benton explained that this was brought up at their April 25th meeting. The original email and a few of the residential tables were in board packets to give an idea of the setbacks required. D. Benton played the recordings submitted by Mr. Schultz.

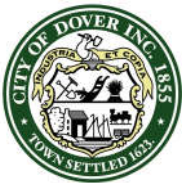
D. Benton clarified for E. Kaspari that if changes are made to the zoning regulations, this property owner who currently has chickens abutting the property of the complainant would be grandfathered in. If changes are made regarding coop location, they would have to comply.

D. Benton clarified for K. Pimental that the office has not received other complaints about chicken noise in the City. In the past, there had been some complaints about chickens roaming.

M. Speidel noted he has owned chickens and they do make noise when they are laying. He drove by the property and the back lots of these properties on these two roads are very small. It might be good to look into this for the next zoning cycle.

K. Pimental noted the board should think about this. There may be much push-back throughout the City if a zoning change occurred as this is a low maintenance way to have fresh food. Perhaps there is a civic way to settle among these two abutters if there is not a City-wide issue.

Public hearing opened



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Elliot Schultz, 2 Middlebrook noted the noise is consistent from 5:45am to 1pm and can be heard in the house with windows open or closed. There has been no relief through city government channels as there are no regulations to support a change.

The relationship with the abutters began amicably, but he and his wife have both been working from home since COVID and they hear the disturbance all day. When on the phone for work, people ask if they are on a farm. The abutter will no longer respond to the applicant's texts, so unfortunately this will likely end up in court if there is no other method of resolution by working with the City.

He offered for board members to come to the house to observe/ experience the situation.

Public hearing closed

Discussion occurred among the board members.

K. Pimental noted how large the R-12 zone is and there are several various sized lots within the zone. It makes it difficult to make a change affecting so many various neighborhoods, but also not desirable to cut up the zone even more.

Board members agreed that they can't regulate the zoning of neighbors, but from the noise perspective, it should be looked into on an ordinance level.

F. Cullen will be in contact with the applicant and take this issue up at the City Council level as a member of the Ordinance Committee.

4B & C will be heard together.

- B. Consideration and acceptance of a Lot Line Adjustment for Norway Plains Associates, Inc (Owners: The Peter H. Russell Revocable Living Trust & Gangagi, LLC), Assessor's Map 39, Lots 93 & 76, zoned Commercial (C), located at New Rochester Road & Hotel Drive. *(LOTA-2023-0005)
- C. Consideration and acceptance of a Minor Subdivision for Norway Plains Associates, Inc (Owners: The Peter H. Russell Revocable Living Trust), Assessor's Map 39, Lot 93, zoned Commercial (C), located at New Rochester Road. (Proposal is to subdivide the land under the roadway known as Hotel Drive). *(SUBM-2023-0001)

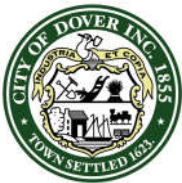
D. Benton explained that the applicants are requesting to complete a lot line adjustment between two lots, conveying 6,234 sq. ft. / 0.14± ac. to Lot 93 and 2,952 sq. ft. / 0.07± ac. to Lot 76, ultimately leaving Lot 93 with 52,333 sq. ft. / 1.20± ac. and Lot 76 with 89,067 sq. ft. / 2.04± ac. A separate application for a minor subdivision is also before the Planning Board in which the applicant is proposing to subdivide Hotel Drive from Lot 93 into its own separate lot, resulting in the creation of one (1) new lot. This would allow the right-of-way to be its own lot.

Hotel Drive currently serves as a right-of-way, and whilst it is a private roadway, there is a public access easement in place. All lots will retain adequate frontage and parcel size as required by zoning. As a minor subdivision, this application did not appear before the TRC. As a Lot Line Adjustment and Minor Subdivision, these applications did not appear before the TRC.

Ashley Rowe, Norway Plains, represented the applications and explained the proposals.

Motion: T. Clark moved to accept the applications and declare no regional impact for both applications. Seconded by E. Kaspari. Vote: U/A

Public hearing opened



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None

Public hearing closed

STAFF RECOMMENDATION-LLA:

Chapter §157-17 of the Land Subdivision Regulations of the City Code provides for the adjustment of existing lot lines between two or more lots. This plan is consistent with those regulations.

The Planning Department recommends the Planning Board make findings, and vote to approve the application with the following subsequent conditions:

Subsequent Conditions to Be Met Prior to Signing of Plans:

1. Provide physical and digital copies (including CAD) of complete plan set for recording at Strafford Country Registry of Deeds, which additionally shall include:
 - 1.1. The owners' signatures;
 - 1.2. Include the Planning File # on bottom right of plan sheet: LOTA-2023-0005;
 - 1.3. The stamp and signature of the LLS on the final plans.

Motion: T. Clark moved to approve the Lot Line Adjustment, with subsequent conditions, as it met the criteria of Section 157-17. Seconded by K. Pimental. Vote: U/A

STAFF RECOMMENDATION-Subdivision Waiver:

The applicant is requesting a waiver from §157-27(H) to allow for the submittal of plans without depiction of contour data. Section 157-51.A. of the Land Subdivision Regulations states: "The Planning Board may waive specific provisions of this chapter. 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 subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations."

Staff feels the request for relief from demarcating the contours is reasonable and that criterion 2 has been met. Therefore, Planning Department recommends that the Planning Board make the necessary and supporting findings of fact, and vote to approve the waiver with the following subsequent conditions:

Subsequent Conditions to be Met Prior to Signing of Plans:

1. Add note that a waiver from Section 157-27(H) has been approved by the Planning Board and that the Board found Section 157-51.A. has been met.

Motion: G. DeBoer moved to grant the waiver, with subsequent conditions, as it met the criteria of Section 157-17. Seconded by T. Clark. Vote: U/A

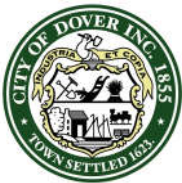
STAFF RECOMMENDATION – Minor Subdivision:

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 physical and digital copies (including CAD) of complete plan set for recording at Strafford Country Registry of Deeds, which additionally shall include:
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- 1.2. Include the Planning File # on bottom right of plan sheet: SUBM-2023-0001;
- 1.3. The stamp and signature of the LLS on the final plans.

The applicant walked the board through the subdivision location.

Motion: M. Speidel moved to approve the minor subdivision, with subsequent conditions, as it met the criteria of Section 157-17. Seconded by T. Clark. Vote: U/A

The Vice Chair noted Items FD, E, & F would be heard together.

- D. Consideration and acceptance of a Conditional Use Permit for Chinburg Development, LLC, Assessor's Map N, Lot 13-1, zoned R-40 Rural Residential (R-40), located at Gulf Road. (Proposal is to construct a road and driveways, as well as the installation of drainage structures and systems with associated grading as part of a 12-lot open space subdivision, creating 11,956 square feet of impact to the Conservation District resulting from steep slopes in excess of 20%). *(COND-2023-0034)
- E. Consideration and acceptance of a Conditional Use Permit for Chinburg Development, LLC, Assessor's Map N, Lot 13-1, zoned R-40 Rural Residential (R-40), located at Gulf Road. (Proposal is to construct a road and driveways, as well as the installation of drainage structures and systems with associated grading as part of a 12-lot open space subdivision, creating 32,089 square feet of impact to wetland buffers). *(COND-2023-0039)
- F. Consideration and acceptance of an Open Space Subdivision for Chinburg Development, LLC, Assessor's Map N, Lot 13-1, zoned R-40 Rural Residential (R-40), located at Gulf Road. (Proposal is subdivide the lot into 11 new lots). *(SUBD-2023-0001)

D. Benton explained that the Board may recall a previous application for a waiver request to their yield plan which provides the density for the project and which was granted on April 26, 2022. The applicant is proposing to subdivide one lot into 12 via an Open Space Subdivision.

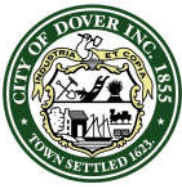
In order to do so, a waiver and two conditional use permits are also being requested. She clarified that there was a minor subdivision adjacent to this that the Planning Board approved last fall which has been purchased by the applicant that has since been appealed but that subdivision does not impact tonight's discussion as they are two distinct subdivisions next to each other.

These applications before the Board tonight have been to the Technical Review Committee on March 16 and April 27th. The lots would be serviced by onsite septs and municipal water. Lot access varies depending on the lot; some are accessed directly on frontage along Oak St., others via frontage on the upgraded internal private drive renamed Old Oak Street and one via Country Club Estates.

The applicant met with the Town of Rollinsford about the changes to the right-of-way being proposed in Dover and minutes and an email are included in the packets. As part of this application, the applicant will be upgrading the current Class VI road known as "Old Oak Street" in Dover to a Class V road with a cul-de-sac in Dover and the Class VI status would continue into Rollinsford.

The applicant met with Town of Rollinsford staff on March 27, 2023 and minutes of that meeting are provided in the packets along with an email exchange between the Dover Planning Director and Rollinsford's Town Administrator. The applicant has also notified another abutter about the removal of part of the stone wall within the proposed area where the roadway would be upgraded. The stonewall stones will be used elsewhere onsite and do not demark a property line.

Staff recommends that the Planning Board determine this is of Regional Impact per RSA 36:54 because of its proximity to the Town of Rollinsford and proposed change in the right-of-way. Staff would recommend the applicant introduce their application if they wish, the Board can vote on acceptance, and



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then vote to declare regional impact. If so, the City will notify SRPC and the town of Rollinsford (even though they are already aware).

Steve Haight, CivilWorks New England, represented the application and explained the proposal and the processes that have already occurred to get the project to this point.

F. Cullen expressed some concern about delays caused to the applicant if regional impact is determined.

D. Benton explained the process for sending notices and next steps if/when regional impact is determined and the reasons for doing it.

Motion: M. Speidel moved to accept the applications and declared there is regional impact. Seconded by: T. Clark. Vote: U/A

Public hearing opened

Jean Clark, 121 Elmwood is concerned about whether there was a thorough traffic study as mentioned. This is a truck route and a main route from Maine to New Hampshire for commuters. Concerns were sent to the transportation committee. She would like to know more about the trees that are tagged and what the landscape plans are. Will the new owners have chemical restrictions so the wetlands are not damaged? She would like a noise ordinance with trucks and air brakes included in Dover.

Brian Dalke, 20 Elmwood asked if the traffic study included anyone onsite. Construction and traffic is very noisy. Please consider a sidewalk- there is no room there to walk a dog or for a broken down car to pull over.

Mike Day, 104 Gulf is concerned about the buffer infringements that might occur and drainage and water flow and the wetness of the lots.

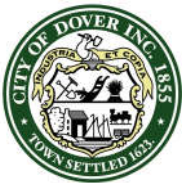
Motion: M. Speidel moved to table the public hearing. Seconded by: E. Kaspari. Vote: U/A

Public hearing tabled

S. Haight addressed public comments:

- The impact of the traffic study is 8 cars at peak AM and 10 cars at peak PM.
- There is a very extensive landscaping plan in the packet which has been reviewed by TRC and Planning staff. The flagged trees are not necessarily flagged to be taken down.
- There are restrictions for the use of chemicals.
- This subdivision will make noise during construction, but after that, it is a residential neighborhood. Planning Board has construction restrictions for hours/ days of the week which is noted on the plans.
- He noted there have been discussions with City staff about constructing sidewalks that don't connect to anything and the issues that creates. As there are no City sidewalks in that area, the applicant is not proposing any because there would be no connectivity.
- The plan is to develop these sites with as little impact as possible to wetlands and buffer zones.
- Flood zone and drainage analysis has been provided to the City.
- Two different wetland scientists have gone through the site for test pits and to qualify them for septic.

S. Haight clarified for K. Pimental the process of working with the City to upgrade the roads and discuss sidewalks.



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K. Pimental noted how incredibly unsafe this area is for pedestrians. This is not an issue for the applicant to solve, but it is an issue that needs to be addressed by the City and asked if there are any plans in place.

K. Mavrogeorge noted there is a plan in the CIP to replace the Oak st bridge and extended sidewalks and street improvements along that stretch, but in front of this proposed project there is nothing planned for now.

G. DeBoer noted the masterplan speaks to pedestrian safety and this should be a goal we are working towards.

Motion: T. Clark moved to table the applications to June 13th. Seconded by: E. Kaspari. Vote: U/A

5. STAFF COMMENTS

- Regarding Public Comment, Mr. McKenna has reached out to the office and both Planning and Engineering staff have visited the site and is looking into what can be done from different aspects.
- Email received about crosswalk on Whittier at Plaza will go before the Transportation Advisory Committee. D.Benton responded.
- TRCs since last meeting:
 - a. Open Space Subdivision for Stonearch Development Corp. & Eugene A. and Donna L Sgrignuoli, Assessor's Map E, Lot 65-1 & 65-A, zoned R-12, located between 53 & 65 Tolend Road and 22 Sun Hawk Lane. (Proposal is for a 27 lot subdivision with 2 open space areas) (SUBD-2023-0005).
- TRCs coming up:
 - a. Another TRC for a Site Review for Brady Sullivan Properties, located at 25-26 Karolina Drive. (Proposal is to add a 4,600 s.f. building with outdoor patio, walkways, and parking restriping to add ADA spaces.) (SITE-2023-0001).
 - b. Site Review for Norman Kotoch, NAK Management & Consulting, LLC, agent (Owners: MHC 155 (Dover NH) LLC), located at 56 Sixth Street. (Proposal is to construct a 37,930 s.f. two story climate-controlled self-storage facility, where a 59,450 s.f. four-story storage building previously existed).
- The Vision Chapter Update is wrapping up the public comment period and the consultant is finalizing their draft chapter for the Planning Board to review and possibly adopt at your June 27th meeting.
- SRPC grant to look work on a Natural Resource Inventory in a few months which will dovetail well with our next Master Plan Chapter to update which is Open Space and Conservation.
- A resolution is before the Housing Committee tomorrow night as part of the work being done by our Housing Navigator.
- A proclamation for Frank Torr should be occurring at Council sometime in June.
- The Community Trail expansion public community meetings will occur on June 6th at the CTAC meeting and June 13th Planning Board

6. MEMBER COMMENTS

- F. Cullen asked to have the Planning Board copied on staff response emails to residents.
- K. Pimental walked the trail and saw the new Voyager replica and it is very interesting and mentioned the Teenage Mutant Ninja Turtle manhole cover fundraiser reached \$13,000.
- The Chair will be signing the following documents: Excavation Plan for Branch Brook.

7. ADJOURNMENT

Motion: K. Pimental moved to adjourn at 8:40pm. Seconded by T. Clark. Vote: U/A