

**DOVER PLANNING BOARD  
MINUTES OF MEETING  
JANUARY 24, 2006**

**MEMBERS PRESENT:** Ron Cole, Donald Andolina, Frank Torr, Anthony McManus, Perry Plummer, Dean Trefethen @ 7:09,

**MEMBERS ABSENT:** Doug Steele, John Swartzendruber, Bryan Cahoon

**STAFF PRESENT:** Steven Stancel, Planning Director; Jean Glidden, Recording Secretary.

**ITEM #1: Citizens' Forum.**

Ron Cole announced that anyone wishing to speak on the proposed amendment to add an overlay district speak during Citizens' Forum because there will be no public hearing on this item.

No one spoke.

**ITEM #2: Approval of minutes**

Frank Torr made the motion to approve.

Perry Plummer seconded.

**VOTE U/A**

Ron Cole stated that he would be voting this evening in order to make a quorum. Ron Cole stated that he and Tony McManus had a conversation on whether the Chair should vote or not. Traditionally, the Chair has not voted as a prerogative of the Chair more than anything else. He did check into the revised edition of Roberts Rules of Order. The quote is, "The Chair can vote subject to the rule or custom within the particular board." He said that our rule or custom is that the Chair does not vote on a regular basis. He left it up to the Board.

Donald Andolina said that he did want to call to the Board's attention that our rules, specifically in his opinion, require that every member present must vote except those who are excused for a conflict of interest. It may be that his interpretation is wrong but if it isn't wrong, we should either change this or everyone should vote.

Ron Cole said that he doesn't have an issue on voting, so he'll just vote from now on.

Frank Torr said he believes that it is up to the person that is sitting in the chair. He said when he was in Concord he always voted and he wanted to because he didn't want to dodge any issue. He said though that it is the prerogative of the Chair to do that because you have that same privilege in Concord.

**ITEM #3: Consideration and acceptance of a minor subdivision plan of land for Brenda Turner (Owner Claire M. Viel) Assessor's Map M, Lot 58, zoned R-40, located on Middle Road.\*(P06-01) (1 lots)**

Kevin McEneaney represented the applicant and owner. The original parcel is in excess of 50 acres. They are proposing a two lot subdivision whereby a 2 ½ acre lot will cut off from the 50 acres. The lot that they are creating is well in excess of the minimum lot size which is 40,000 sq. ft. It meets all of the zoning regulations. He requested a waiver for the requirement to survey the entire parcel. One reason for that is that the size of the parcel is quite large and they have also previously submitted a subdivision plan back in 1992 that showed the entire acreage on this parcel so he felt that it wasn't necessary to show it again. The lot will be serviced by an individual septic system and municipal water.

Frank Torr made the motion to accept the application.  
Donald Andolina seconded.

**VOTE U/A**

The public hearing was opened.  
There were no comments.  
The public hearing was closed.

Steve Stancel explained that the applicant has requested a waiver to Chapter 155-28-F, which requires all existing property lines to be shown on the plat. The Planning Department supports the waiver because of the large size of the existing lot and the fact that a previous subdivision approved in 1993, contained survey information for the entire lot. He read the 4 recommended conditions of approval.

Donald Andolina made the motion to approve with the following conditions:

1. Add all of the owners' signatures to the plat.
2. Provide the Planning Department with a digital version of the plat.
3. The applicant shall provide the Planning Department with a copy of the DES Subdivision Permit and add the permit number to the plat.
4. Revise the plat to add a note indicating the amount of contiguous non-wetland land area for the proposed lot.

Perry Plummer seconded.

**VOTE U/A**

**ITEM #4: Consideration and acceptance of a Driveway Waiver application for Clark & Carol Marlof, Assessor's Map F, Lots 23A-19, zoned R-40, located at 29 Ezra's Way.\*(P06-02)**

Rick Lundborn, Norway Plains, represent the applicants. He said that the driveway is too close to the lot line. They are requesting a waiver to allow the driveway to stay where it

is. About 6 inches of pavement is over the line and if the waiver was granted that would be removed.

Donald Andolina made the motion to accept the application.

Fran torr seconded.

**VOTE U/A**

The public hearing was opened.

There were no comments.

The public hearing was closed.

Steve Stancel stated that regulations require that driveways be constructed 5' from a side property line. Generally, if an abutting property is in support of the request and there are not any negative impacts from that we recommend approval of the waiver and we do recommend approval of this waiver.

Donald Andolina asked how the driveway came about being in this location.

Steve Stancel said that it was his understanding that when the paving company came in they just constructed it too close to the property line. Oftentimes during the construction process the corners are not pinned adequately.

Rick Lundborn said that it's a construction oversight and it has been pinned since.

Tony McManus asked about the paving encroaching over the property line.

Rick Lundborn said that there is 6 inches of pavement past the pin so that little bit of pavement needs to be removed. They will remove it but in order to meet the 5 foot setback the driveway would have to be reconfigured.

Tony McManus asked if the Department was in favor of a lot line adjustment rather than a driveway waiver.

Steve Stancel explained if they don't believe there would be a major issue with drainage, then they would recommend the waiver. Often times it can be a hardship to do a lot line adjustment because if you have a mortgage you have to get a sign-off from finance companies.

Frank Torr made the motion to approve the waiver.

Donald Andolina seconded.

**VOTE U/A**

## **ITEM #5: Old Business**

### **a. Discussion and possible vote on proposed amendment to the Dover Zoning Ordinance to add an overlay district encouraging a mixture of residential units**

**for older persons and commercial uses. The amendment is available on the City's website [www.ci.dover.nh.us](http://www.ci.dover.nh.us)**

Ron Cole stated that he has had a discussion with Council regarding whether he should sit on this because one of the provisions has to do with automobile dealers and he is employed by an automobile dealer and felt more comfortable not being involved. He stepped down and stepped out of the Council Chambers.

Tony McManus took over the Chair and explained the proposed amendment.

Frank Torr made the motion to take this item off the table.

Donald Andolina seconded.

**VOTE U/A**

Chris Parker stated that on January 10<sup>th</sup> there was a public hearing and he fielded comments from the audience as well as from the Board and made those changes. The first one is on Page 1, section B. Conditional Use Permit, they removed former section d., which was the non-transferability clause. They agreed with Atty. McNeill who spoke at that time that it was a non-needed clause so they removed it. Page 2, D. Permitted Use, the non-residential uses #1 they clarified that any use allowed in the underlying zone that is compatible with housing for elderly persons should be an allowed use. Also #11 which was originally the new car sales, now says, "Non-residential uses in existence at the adoption of this ordinance on adjacent parcels shall be allowed to expand with the development if conceptually shown on the approved plan." This means if you are an adjacent use and you are working with a developer who is willing to produce a plan under this ordinance, as long as you are shown as conceptual on their approved plan, then you can expand within this overlay. If you do not come forward as part of the approved plan, then you cannot take advantage of this expansion clause.

Chris Parker said that on Page 3, under E. Procedural Concepts, originally they had nothing to do with phasing and then got feedback from the Board that they wanted to include some sort of timing and phasing. At that time they proposed language that would require 50% of the residential to be completed and then you couldn't move any further until the some nonresidential was constructed. That has been removed in favor of phase lines in the original version prior to the public hearing two weeks ago. He said that there was still some concern and they worked with interested parties and developed the following language. The development plan may be phased for a term of five years. The phasing plan shall contain provisions which promote the mixed use of the site consistent with Section 170-28.2 A. For the purposes of this section, development shall include: (1) construction of structures; (2) environmental remediation; (3) site preparation or demolition; (4) roadway utility or recreation and common area design and construction; and (5) bonding or other security for site development. Providing that the developer is making reasonable efforts to develop the site, the Planning Board may extend the initial five-year phasing period provided a request for extension is submitted before the expiration of the initial five-year phasing term.

Chris Parker stated that the final change was in regard to the extension of the existing uses and then under the setbacks there is not only a minimum structure and parking setback from an external lot line of 50 feet, but they added 1. Expanding existing non-residential uses are not held to this setback.

Donald Andolina asked for a brief example of how this would work.

Chris Parker answered that on the Dover Point Rd. project an existing abutter is a car dealership. If they chose to work with the developer of that overlay project, they could expand into the proposed project provided they were shown as a concept on the approved site plan.

Donald Andolina said that they would have to be adjacent and when you speak of the site plan is that for the entire 50 acres.

Chris Parker clarified that the approved site plan would have to encompass the total development plan, the entire 90 acres plus.

Dean Trefethen asked if they already owned the parcel that is adjacent and let's assume that is a non-residential use.

Chris Parker answered if they own a parcel adjacent then they would merge it together to come forward. Anything that is in a non-residential zone could be affected but any residential portions would not be.

Dean Trefethen said he was thinking of a situation where the zoning line goes through the middle of the parcel as opposed to being at the property line.

Chris Parker said that there was an example that we received by letter where someone was concerned with a lot on Dover Point Road where the front is R-12 and has a portion in the ETP zone. The question was would that whole lot be considered applicable. The answer was no, only the portion in the non-residential zone could be added on. One of the things that makes that possible is the ETP does not have a frontage requirement so you could do a lot line adjustment or a subdivision along that zoning boundary. When the expansion clause was looked at first they made it specific for non-residential uses only. They looked at what impact it would have and of the three sites that we know of that currently meet the definition of the project you have Dover Point Office Park, two car dealerships, and then a retail establishment. There are otherwise residential abutters. It would not promote a residential use or someone to use a residential portion for it.

Dean Trefethen asked if the three referenced Dover Point business properties could only be expanded if they are part of the original development plan.

Chris Parker said if they come in when the project's development plan comes for approval and they are shown on the plan, they are good to go.

Tony McManus felt that one of the problems with automobile dealerships is that there are no setbacks and the vehicles are parked within 5 feet of the side of the road and possibly within the ROW. He hoped that that some kind of a setback could be put in place. Some of the new dealerships in Exeter have substantial setbacks and are much more attractive. He felt that placing the cars so close to the road is not good planning.

Chris Parker said that the intent was that if a use expanded behind itself into this property that we didn't want to have a setback where they couldn't be contiguous, so you would try to minimize impact into the overlay by keeping it as close to the existing business as possible. Dealing with the overlay project he didn't think that it would affect the Dover Point frontage.

Steve Stancel stated that we have gone through a lengthy process and he felt that the amendment was ready to recommend approval and passing it on to the City Council.

The public hearing was opened.  
There were no comments.  
The public hearing was closed.

Steve Stancel stated that the amendment would be referred to the City Council who would then refer it to a public hearing at their level.

Tony McManus stated that he noticed that it is on the Council agenda for the first reading.

Steve Stancel said that it is not to say that it couldn't be pulled off if it wasn't approved this evening. They had to do that because, even though the Council is meeting twice a month. they prefer to have the public hearings the first meeting of the month. Because of the 15 day public hearing notice we can't make that first meeting in February so by getting it on the agenda tomorrow night, they asked the Council to refer it to their second meeting in February, otherwise it would be March 8<sup>th</sup> before it would be heard.

Frank Torr made the motion to approve the overlay district Ordinance and pass it on to the City Council.

Donald Andolina seconded.

**VOTE U/A**

#### **ITEM #6: New Business**

Steve Stancel indicated that there is a revised list of the prioritized Planning Board Goals in the packets. He said that he added under item #1, E. Review growth management measures currently in place for future revisions. Under #2, he added E., Smart growth initiative including urban core infill. Under #3. Revise waiver provisions currently in place as needed. He attempted to place these in order or priority. It doesn't mean that 9, 10, 11, or 12 isn't a priority it just means that they could be done later in the year.

Ron Cole stated it seems to be a unanimous feeling that we should get started on the "Speak Out Dover" meetings and a committee would be needed for that. He said that a committee would be needed for Item #2, reviewing the regulations that have been passed in the last five years for possible revisions. Item #4 will need persons to interface with the Traffic Advisory Commission which Jason Hindle is the chair. He said that he was thinking items number 4, 5, and 7 are related since they all have to do with parking and or transportation. He thought that everything else would probably not need a subcommittee at the present. He felt that a good time to start would be when the new Board members are appointed which should be two weeks. Tony McManus wanted to work on the traffic sections. Donald Andolina was interested in getting involved in the Master Plan review.

Ron Cole said that when we get to the Class VI roads he wanted to be sure that we would have a group of interested citizens.

Steve Stancel wanted to be sure that the Board members were aware that the joint workshop with the City Council was postponed until February 15<sup>th</sup>.

Chris Parker handed out the Site Review Regulations that pertain to the ordinance that was just forwarded on tonight. He asked the Board to review them and they will be on the agenda for the next meeting. They will be posted for a public hearing on the February 28<sup>th</sup> to coincide with any adoption of the Council.

Steve Stancel stated that included on the desks are the Planning Board Subcommittee on Class VI recommendations. Also there had been a joint workshop between the City Council and the Planning Board last March or April on growth in the City and you'll find a copy of that document and slide show that was put on at that meeting. There are a couple of updated items, total dwelling units by housing type annually and the existing number of units that are approved and sitting out there. Included in this list is not only the total units that were originally approved but how many have been constructed and how many are still outstanding as of the end of today.

Ron Cole asked what the standing was of the Tolend Road project.

Steve Stancel answered they were extended 90 days and we are at approximately 40 days. There has been a mediation scheduled for March 1<sup>st</sup>.

Donald Andolina asked if this was the time that we would receive a report on the project.

Steve Stancel stated that there was discussion on that but he said that he wasn't sure that Board made that an official request.

Steve Stancel stated that the update is that there is mediation scheduled for March 1<sup>st</sup>. He said that the 20 lot subdivision project off of Columbus Ave., will be coming back before the Board for a revision to put in septic designs because of a timing issue. The theory being we will know very soon whether there will be sewer in the foreseeable future or whether there will be other issues involved.

Atty. McNeill said that they had difficulty scheduling mediation with the attorney and they had to struggle with whether they should go with a different mediator but they had such a high regard for this attorney's services that they decided to avail themselves of the date that he could give them. It is still within the 90 day period. If we are successful with the mediation we would not have to come back at all. If we are unsuccessful they will report that to Steve Stancel and then do whatever would be appropriate at that time.

Donald Andolina asked if the mediation is successful would that change what happens on Columbus Ave.

Malcolm McNeill stated that he can't speak for them because he is not actively involved but they are under severe time constraints. He said that if they are unsuccessful in the mediation it would probably go to litigation and there would be a significant delay in the processing of the sewer.

Donald Andolina asked if this would affect the original plans for the extension of the sewer.

Malcolm McNeill stated he is dealing entirely with the plan that the Board approved and that includes all of the components of that plan.

Frank Torr stated regarding the presentation to the City Council that it was his feeling that the expectation was for the lay members of the Planning Board to make the presentation.

#### **ITEM #6: New Business**

Ron Cole stated that the Appointments Committee did meet last night and in the next week they will make their recommendations to the City Council.

#### **ITEM #7: Adjournment**

Frank Torr made the motion to adjourn.

Perry Plummer seconded.

**VOTE U/A 8:45 PM**