



CITY OF DOVER

DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers – 288 Central Avenue, Dover, NH 03820
Meeting Date: Tuesday, November 18, 2008
Meeting Time: 7:00 pm

REGULAR MEMBERS PRESENT: Ron Cole, Frank Torr, Dean Trefethen, Don Andolina, Marcia Colbath, Kirt Schuman, Doug Steele, John Swartzendruber

REGULAR MEMBERS ABSENT:

ALTERNATE MEMBERS PRESENT: Ron Stock, Linda Merullo

ALTERNATE MEMBERS ABSENT:

STAFF PRESENT: Christopher Parker, Planning Director and Jennifer Bretz, Recording Secretary

Meeting called to order at 7:08pm.

1. Citizens' Forum -None

2. Approval of the October 23, 2008 Minutes

Motion: Andolina made the motion to approve the minutes, Steele seconded. Vote: U/A.

3. New Business

- A. Public Hearing to hear comments on the City's proposed Capital Improvements Program (CIP) FY 2010 - FY 2015. The CIP can be found on the City's Web Site at www.ci.dover.nh.us.**

Public Hearing Open – Public Hearing Closed

4. Old Business

- A. Consideration and possible vote of a minor subdivision of land for Jacqueline & Daniel W. Ayer, Assessor's Map N, Lot 18, zoned R-40, located on Mckone Lane. (P08-42) (3 lots)**

Motion: Torr made the motion to remove the item from the table, Swartzendruber seconded. Vote: U/A.

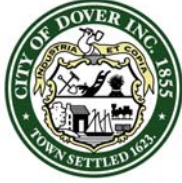
Parker stated at the last meeting Ayer provided a Lot Line Adjustment and a Minor Subdivision Plan. On the subdivision plan it was noted that there was a structure on the lot line and the structure would need to be removed. Ayer indicated that he would rather not remove the structure; he'd rather move the lot line. The Board tabled the project at that time and has presented a revised plan having made that correction.

The Planning Department recommends approval of the minor subdivision plat with the following conditions:

1. Add the owners' signatures to the plat.
2. Add the surveyor's stamp and signature to the plat.
3. Provide the Planning Department with a digital version of the plat.

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

4. Any new dwelling unit shall be assessed the school impact fee of \$3,654, the recreation impact fee of \$1,184, the police impact fee of \$276, and the fire impact fee of \$530 at the time of building permit application.
5. Each new lot is subject to the sewer investment fee in place at the time of building permit.
6. The applicant shall submit \$2,500.00 at the time of the Building Permit for each building lot and McKone Lane shall be maintained as is at this time.



CITY OF DOVER

DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers – 288 Central Avenue, Dover, NH 03820
Meeting Date: Tuesday, November 18, 2008
Meeting Time: 7:00 pm

Cole asked where the school impact fees are placed.

Parker stated the Finance department has set up individual accounts for each impact fee. Each account may be drawn down independently.

Staff will start providing a report once a month for the Board with the account balances.

Motion: Torr made the motion to approve the application with the conditions as presented, Andolina seconded. Vote: U/A.

B. Consideration and possible vote of a major subdivision of land and conditional use permit for KPRP, 165 Henry Law Ave, LLC, Assessor's Map 21, Lot 5, zoned R-12, located at 165 Henry Law Avenue. (P08-25) (9 lots)

Motion: Torr made the motion to remove the item from the table, Swartzendruber seconded. Vote: U/A.

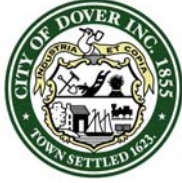
Christopher Berry, Berry Surveying and Engineering stated he and the applicant have come before the Board in the past few months with revised plan sets. Since the last meeting the City Engineer has asked them to make a couple of revisions which have been incorporated into the latest plan set (in file). Parker requested a plan to show the proposed project superimposed onto the neighborhood plan. Berry passed out the plan (in file).

Since starting this process, they have provided the Board with 2 drainage analysis, a traffic analysis of Henry Law Ave. The scope of the analysis was the right and left hand turn out of the proposed project, the trip end analysis and any offsite impacts that the traffic may have. The drainage analysis was a 2 tier analysis. It was an existing conditions analysis which provided current flow rates in and around existing structures on and off the site. The second portion is the proposed analysis which shows the potential impact on the land. Due to a closed drainage system, the surrounding neighborhoods should experience significant reductions in storm water runoff because the proposed road intercepts the majority of the drainage area that drains to those parcels of land. It captures the storm water runoff, encloses it and sends it down to the Browning Avenue intersection which is all brand new closed drainage systems. The drainage analysis has been revised to show that. There have been multiple discussions regarding the lot size within this development. A letter was drafted and provided to the Board which stated that the applicant has provided an analysis of the total lot size and usable area in this development compared to surrounding developments within the R-12 zone. At this time they feel that they have provided the Board with adequate information, they've worked with the Board as much as they can and they feel the application is ready for approval.

Andolina asked Berry to explain the City Engineers notes regarding a conflict between the proposed sewer main and proposed catch basin.

Berry stated they needed to shift the proposed sewer main a couple of feet to get around a proposed catch basin which has been done.

Public Hearing Open



CITY OF DOVER

DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers – 288 Central Avenue, Dover, NH 03820
Meeting Date: Tuesday, November 18, 2008
Meeting Time: 7:00 pm

Mark Mack, 18 Browning Dr, stated he is not against the development of that land but is against having the back of another house 15-20 ft from his yard. He disagrees that the development is similar to the surrounding neighborhoods. The square footage may be the same but the shapes of the lots are not. Once the development is built, the value of the land will decrease. The trend in the last few years has been to build the biggest house possible on the smallest lot possible and as many houses as possible. He hopes that since the housing boom is over, things will slow down. He's asking the Board to vote no on a 9 lot development.

Katie Mack, 18 Browning Drive, stated she thanks the Planning Board for addressing the abutter's needs. Being an abutter to lot 5-5 she is disappointed with the process. They have seen many revisions to the site plan and is disappointed with the newest revisions. Density and quality of life issues still exist for the abutters in the newest revision. Cramming nine homes into a little sliver of land does not seem correct.

Shanna Murphy, 167 Henry Law Avenue, her property abuts the development. She encourages development in City but has an issue with nine lots. There are too many homes for that property. She worries about future expansions of those lots. She doesn't want to be turned down for renovations due to where those homes are located. There is a tree line in between her home and lot 5-9. Her biggest concern is the water runoff. Her sump pump has been constantly pumping. There hasn't been a lot of rain but the pump is still running.

Parker stated at the site walk, it was pointed out to Ms. Murphy that the right of way adjoining her property could be deeded to her and it would broaden her property. Tax wise it would have minimal impact on her land value. Berry and the applicant are willing to make the lot line adjustment. Ms. Murphy indicated her desire to have that land deeded to her.

Travis Cook, 16 Browning Drive, has concerns with the density. Nine homes on the property is too many. What attracted him and his wife to his home was the privacy in the backyard. He has a 6 foot privacy fence and does not feel that it would be adequate enough for screening. He's pleased to hear that their drainage concerns have been addressed. He was hoping that the revised plan would have reduced the number of lots down from nine. He does not see a positive impact on his property value. Another concern that he has is the trees on and inside his property lines. When foundations are dug and you start excavating around mature trees, when you invade the root systems, the trees will die 5-6 years down the road.

Jim Vachon, 12 Browning Drive, stated he has concerns about the density. He applauds the developer and the Board for concerns that have been addressed but 9 lots in that area that does not seem conducive. 9 lots are too many for that parcel. He asks that the Board not pass this tonight.

Public Hearing Closed

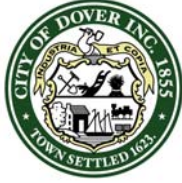
Parker stated they did have discussion back and forth regarding the no cut zone. Steele and Parker met with the abutters regarding a culvert and drainage which will be addressed in the staff comments.

The City Engineer has conducted the final review of the plan and the drainage study is satisfied with the product. The Planning Department recommends approval of the major subdivision plat with the following conditions:

Conditions to Be Met Prior to Signing of Plans:

Document Created By: Jennifer Bretz, Planning Secretary
Document Posted November 20, 2008

2008.11.18_PlanningBoard.Minutes.doc
Page 3 of 9



CITY OF DOVER

DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers – 288 Central Avenue, Dover, NH 03820
Meeting Date: Tuesday, November 18, 2008
Meeting Time: 7:00 pm

1. Add the owners' signatures to the plat.
2. Add the surveyor's stamp and signature to the plat.
3. Provide the Planning Department with a digital version of the plat.
4. The approval includes granting the Conditional Use Permit for the 20 percent slope impact.
5. Revise sheet #2 the plat to label the road as a proposed public right-of-way to be deeded to the City and not as lot 5-10.
6. Revise sheets #2, 3, and 4 by removing the polygon on Lot # 5-5.
7. The applicant shall submit a proposed deed transferring the right-of-way to the City, said deed shall be reviewed by the Planning Department, and approved as to form by the City Attorney, but not signed until the right-of-way is ready to be transferred.
8. The applicant shall submit the proposed wording for the drainage easement, wetlands and buffer preservation deed, and no-cut buffer deed to the Planning Department for review and approval, with consultation by the City Attorney on the proper form of the documents.

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

9. The applicant shall install all vegetation proposed along abutting parcels.
10. In lieu of providing on-site recreation, the applicant agrees to contribute funds for off-site recreation facilities at Maglaras Park, in the amount of \$3,000.
11. Any new dwelling unit shall be assessed the school impact fee of \$3,195 at the time of building permit application.
12. The applicant shall pay the Community Services Vehicle Capital Improvement Program fee of \$3,331.44.
13. The applicant shall provide a payment of \$3000 towards the extension of a culvert along the lot line separating 169 & 175 Henry Law Avenue. The extension of the culvert will be completed during the Henry Law Avenue project.

Conditions to Be Met by the Applicant Prior to Any Road or Land Clearing:

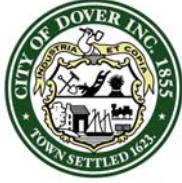
14. The applicant shall hold a neighborhood meeting with representatives of the Fire Department and the blasting company in attendance, prior to any on-site blasting or land clearing, to review the blasting plan.
15. The applicant agrees to have the surveyor stake the no cut buffer along the outside of lots 5-1, 5-2, and 5-3. This shall be checked and approved by the Building Official and City Engineer.
16. The applicant shall provide the Planning Department with proof that the Environmental Protection Agency Notice of Intent Permit has been filed.
17. The approval includes a lot line adjustment between an area of proposed ROW and lot 21-5B. The applicant shall provide a Lot Line Adjustment sheet to the plan set.

Cole stated in regards to the drainage issue, after talking to some of the abutters, they are satisfied with everything the applicant is proposing and it will provide a significant reduction in the drainage. What happens if the reduction doesn't occur? Where does the liability fall?

Parker stated the erosion and sediment bond is collected which can be applied towards drainage issues for up to two years.

Cole stated if something were to happen, it would likely be right away.

Plummer stated Murphy mentioned that she was concerned about expanding her own home. Future expansion of an abutter's home wouldn't matter if the development were to go in or not. The setbacks would be the same regardless of an abutting home.



CITY OF DOVER

DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers – 288 Central Avenue, Dover, NH 03820
Meeting Date: Tuesday, November 18, 2008
Meeting Time: 7:00 pm

Parker stated any trees on an abutter's lot would not be able to be cut down without the property owner's permission.

Cole stated Cook had a question regarding the effect of his trees. If approved, a house is built and two years later the trees die, there isn't a way to determine if it's due to the development.

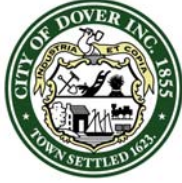
Colbath stated she still has concerns with lot 5-5. She was comparing the setbacks from the R-40 zone which is also 15 feet. In Dover, there aren't too many homes that are located 15 feet from the property line. It's usually an accessory structure not the actual occupied structure. In looking at the aerial view (In file) the backside of the home doesn't face directly south. It will be very shaded. It doesn't seem like an appealing situation. In looking at the numbers on the chart and on the lot, the lots are closer to a quarter of an acre as opposed to a half acre.

Parker stated the minimum lot size in this zone is 12,000 sq ft. One of the subcommittees that the Planning Board has formed is one on dimensional regulations. One thing that they've talked about is the irregularity of the rear setback. A lot of the homes on Browning and Tennyson don't meet the zoning because they are 20 feet from the street instead of 30 feet which is required. If this meets the rules and regulations, we can't banish the project; we need to learn from it and move forward. The 15 foot rear setback is about 35 yrs old. The lots being developed are the lots that will require closer adherence to the building envelope and lot sizes. By changing the setbacks it will encourage rear setbacks that are more generous.

Colbath stated people have taken the regulations and built out to the maximum that they can with a disregard to how livable the lot will be. Historically, in the last 15 years, no one has built their home close to the 15 ft setback. They've always put it in further. When looking at the aerial view, it's hard to picture someone's house 15 feet from their neighbor's back yard and a wall of green 7 feet high. It does not seem like a very attractive place to be living in.

Merullo stated she dislikes the project. Her reasoning is going back to other projects approved. The developer met all the regulations. The Board didn't want to have a lawsuit knowing that they were going to lose. She is disappointed with developer. The Board has asked the developer 3 times to redo the map and subdivision. She was hoping that they would come back with a plan that would have a reduced number of lots. Looking at all of plan sets, the changes they've made is minimal. She is all for infill but states that you can not max things out and have the abutters be unhappy. She would be very hard pressed to approve something like this even though she knows they meet the requirements. This is a quality of life issue. She wishes that the developer would have dropped some of the homes.

Torr stated when looking at the comparisons, a common denominator that you would find is Beacon Circle, the properties are level. When getting to Beacon Circle, it's elevated to a degree that you would be able to look into your neighbor's home. In the letter it indicates that if an applicant complies with all of the regulations, the Board is required to stamp it. That is not true. The Board has discretions in what is before them which is protection for the abutters and protection for the individuals that would inhabit the new home. Circumstances are elevated to a degree that you'd be looking into someone else's home. He compliments the developer and the City Engineer for taking care of the drainage issue and other factors that were brought up. He would like to see lot 5-5 removed.



CITY OF DOVER

DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers – 288 Central Avenue, Dover, NH 03820
Meeting Date: Tuesday, November 18, 2008
Meeting Time: 7:00 pm

Plummer stated that it is unfair to state that the developer has not worked with the Board or met them halfway. The developer listened to a lot of things regarding the abutters and the Planning Board. He has done a lot more when other developers have not met them halfway. Even though a lot of the abutters are not for the project, they did compliment the developer for trying to take care of some of the issues. They have done more than most other developers would do based on what the abutters and Planning Board had to say. Most of the problems are lots 5-5 and 5-6. If we didn't have the front setback, they could pull the homes forward and give them a more private backyard.

Trefethen stated he has done research on this project. The Board has set forward the rules and zoning regulations that states what people can do on their land. This development meets all of the requirements. You can take fault with the requirements. The Board is working on their requirements. He wishes they had been done 3-4 months ago before the project came in but they are not. He would like to vote no on this project. In the past few years, developers have taken advantage of the zoning regulations to the maximum. The end result is going to be restrictions on development and lot sizes that will be drastically different than what they are now. That does not apply to this project.

Cole stated NH is a property right state. A person that owns a piece of property has a right to do with it, within the local ordinances and state statutes, what they want to. As a Board they went through this in another proposed subdivision. They went to court and won. If the Board votes the subdivision down, the applicant and the landowner has the right to continue with the legal process. The reason they were successful before is because they had legal reasons to turn it down. The Board does not have any legal reason to turn this down. The applicant has been very cooperative with the Planning Board and everything they perceived they needed to do in order to get an approval from the Planning Board, they've done.

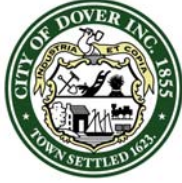
Steele stated he does not care for the project and doesn't like the effect it could or will have on some of the abutters. However, it does meet the regulations and it does meet the setbacks, based on that he will be voting in favor of it. If the rear setback is such an issue than the Planning Board needs to work on that immediately so that they are not faced with this type of situation again.

Andolina stated in looking at the layout, he thinks of the Whittier Street project. During discussions on that project they all were convinced that it was too close to the road and it was too dense. Every time he drives by that development he says that he will not vote for a project like that again. He will be voting no tonight.

Plummer stated that it isn't just the rear setback that they need to look at; there are a lot of issues that they need to talk about and fix. They could make it 35 ft which would solve lot 5-5. There are a lot of different issues that need to be taken into consideration.

Parker stated the accessory structure has a 10 ft setback regardless of the rear setback. If you are voting no tonight, please state why. If the Board gets sued, they need legally defensible reasons on the record other than someone not liking the project.

Colbath stated it is unfortunate that the developer didn't do something about lots 5-5 and 5-4. Can you think of anywhere in the City where you have occupied structures 15 ft from the rear setback.



CITY OF DOVER

DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers – 288 Central Avenue, Dover, NH 03820
Meeting Date: Tuesday, November 18, 2008
Meeting Time: 7:00 pm

Discussion ensued regarding other subdivisions.

Schuman stated he questions the reasoning behind all of the conditions are met and it needs to be passed. If that is the reasoning that they want to take then he questions why the Board is here as a body. The Board has deliberative obligation and they are here to make decision on projects taking all nuance into consideration. He feels the Board has an obligation to look at the quality of life for the residents now and in the future long after this development is built out. It's within that context that he will be making his decision.

Andolina stated if the project gets built as it stands, the first thing that the new property owner will want to do is build an accessory structure within that 15 ft and it will be worse within those conditions.

Cole stated if the Board collectively votes no, they do have to have a legally defensive position in doing so. If the developer had come in with 7 lots instead of 9 lots, they wouldn't be having this discussion and it would have been approved long ago. However, the developer didn't want to cut down on the number of homes. That being the case, the Board has numerous responsibilities. A responsibility that he has always held is a fiduciary responsibility to the City of Dover. He doesn't want to spend taxpayers money on a case that he knows that they will lose.

Motion: Steele made the motion to approve with the conditions, Plummer seconded. Schuman, Torr, Andolina, Trefethen and Colbath oppose. Vote: 4-5.

Motion: Andolina made the motion to deny, Schuman seconded.

Reasons

Andolina: Much too dense

Trefethen: The topology is different when looking at other subdivisions as examples. This land is not relatively flat.

Schuman: When looking at the comparison lots, those are narrow and deep, the lots in this project are wide and shallow.

Steele, Swartzendruber, Cole and Plummer Oppose. Vote: 5-4.

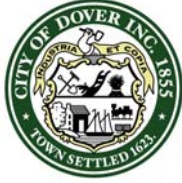
Recessed at 8:19pm, resumed at 8:27pm.

C. Discussion and consideration of CIP.

Cole stated Superintendent John O'Connor is here to discuss the school portion of the CIP.

Parker stated the Boards responsibility is to compare how things on the list fit into the Planning goals and guidelines as listed in the Master Plan. We are not the fiduciary board, so we should be looking at things as they fit into the Planning scheme and not how much money will be spent.

Cole stated in the years 2014, 2015 and 2016 there is a potential for Dover High School improvements of \$22,000,900 and \$9,900,000 for a total of \$32,800,000. He would like an average of how many students



CITY OF DOVER

DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers – 288 Central Avenue, Dover, NH 03820
Meeting Date: Tuesday, November 18, 2008
Meeting Time: 7:00 pm

attend school from Barrington and Nottingham and what is the approximate amount of money that the City gets paid for them versus what could transpire.

Superintendent of Schools Dr. John O'Connor stated at the last CIP presentation, he had talked about the potential of a \$45 million renovation project. Two years ago, the town of Exeter built a brand new school for \$48 million. Since that last meeting, he has been approached by several people asking why it cost \$45 million to renovate Dover High School when Exeter has built a brand new school for \$48.1 million. The \$45 million is projected out over a 5 year period. The estimates that they have from the architectural firm that did the study, talked about a \$22-\$26 million renovation of DHS if it were done today. That was strictly the cost of the renovations. Projecting that number at a 3% increase, over the next 5-6 years, potentially it could be \$45 million. Dover currently has 1700 students. The school is at capacity. There have been a number of program changes, over the last 30 years, which have had an impact on the internal configurations of the building. Space is not strictly designated for classrooms. There are approximately 500 students from the Barrington and Nottingham community who tuition their students into DHS. That represents \$5 million in revenue for the community which is based on, approximately, \$10,000 per student. Renovations are scheduled to begin in 2014. They are in the process of hiring an Architect for the Horne Street School renovations.

Plummer asked if any thought has been given towards doing any architectural work prior to receiving the funds.

O'Connor stated that it is part of their plan to have the architect prepare engineering studies prior to the renovations which is not included in the initial figure. From this year's CIP, there are funds that were identified for Horne St School that will be used towards the fee.

Discussion ensued regarding potential growth and turf replacement.

Cole stated the City Manager is present to answer questions.

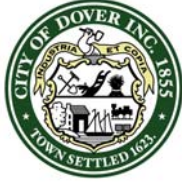
Trefethen asked the City Manager to go over the North End water improvements.

City Manager Michael Joyal stated a water study was completed two years ago in response to concerns regarding water pressure in the North End. The conclusion of that study was that the water pressure was low. Another issue is that there is not a back up storage supply within the City. The proposal in the CIP stems from the study to improve the water pressure and to provide a secondary source of storage for the City's water supply.

Board members asked the City Manager various detailed questions regarding a North End water tower, energy efficient improvements, bridge repair on Washington St, Dover Public Library carpeting and Recreation improvements.

Voting on the Capitol Improvements Program will take place at the December Planning Board meeting on Dec. 9.

5. Staff Comments



CITY OF DOVER

DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers – 288 Central Avenue, Dover, NH 03820
Meeting Date: Tuesday, November 18, 2008
Meeting Time: 7:00 pm

Parker stated there is a Friends of Willand Pond meeting on Wednesday at 5:30pm in the McConnell Center cafeteria. There is also a Form Based Code charette on Saturday, Nov. 22, from 2:00-3:00pm.

Plummer stated the grand opening for the North End Fire Station is Thursday, Nov. 20.

Colbath stated the Environmental Committee will be meeting on Thursday, Nov. 20, at 1:00pm.

6. Committee Reports

7. Adjournment

Motion: Trefethen made the motion to adjourn at 9:43 pm, Andolina seconded. Vote: U/A

DRAFT