

**DOVER PLANNING BOARD  
MINUTES OF MEETING  
MAY 25, 2004**

**MEMBERS PRESENT:** Pete Lavoie, Donald Andolina, John Swartzendruber, Frank Torr, Dennis Ciotti, Beth Thompson, Dean Trefethen, Eric Tooke (late) Ron Cole (late)

**MEMBERS ABSENT:** Tony McManus, Margaret Stevenson

Frank Torr took the Chair in the absence of Ron Cole, Chairman and Anthony McManus, Vice-Chair

Frank Torr opened the meeting at 7:00 PM.

**ITEM #1: Citizens' Forum**

Donald Wood, 12 Dover Point Road, asked if he could speak to the rezoning at this point because he was out of town for the last meeting.

Frank Torr asked for a consensus of the Board to see if they would allow Mr. Wood to speak because the public hearing was closed at the last meeting.

Donald Andolina thought that the issue was important enough that he should be allowed the opportunity to speak.

Donald Wood stated that he is retired military from Pease and has been living on Dover Point Road since the 80's. It is a very comfortable neighborhood and it's a great gateway to the City. The reference that was made to Weeks Crossing at the last meeting concerned him. He said that the B-3 businesses are in the minority on Dover Point Road and pointed to a map showing all of the residential. He said that this is the only gateway to Dover that doesn't have gas stations, restaurants or businesses and that you can see trees and neighborhoods of individual family dwellings. He said that they fought time and again and would like the area to remain the same way that the Board committed to last year.

Mary Hebbard, 97 Spruce Lane, asked to speak on ITEM #9, saying that she would not be able to be present at the time that it would come up. The Board agreed to let her speak. She said that Old Garrison Rd. is a historic and scenic road. She said that she would like to keep the atmosphere by requesting that a condition of approval be added that the utilities go underground. She stated that in the 1930's and 1940's there used to be some dumping of chemicals and materials from the Navy Yard on that property and that she told the new owners that there might be contaminants in the soil. She spoke with Dean Peschel, Environment Projects Manager for the City, and that his recommendations to them would be to take some soil samples to be sure that the soil is not contaminated.

She said that she recommends that soil sampling be done for any soil that is going to be disturbed as another condition of approval

**ITEM #2: Approval of minutes.**

Beth Thompson made the motion to approve the minutes of May 11, 2004.  
Dennis Ciotti seconded.

**VOTE U/A**

**Abstained – John Swartzendruber**

**ITEM #3: Consideration and acceptance of a site plan of land and Conditional Use Permit for Laconia Savings Bank (Owner NP Dover LLC) Assessor's Map 38, Lot 6A-4, zoned B-3, located on Central Ave. (P04-11)**

**Was withdrawn by the applicant.**

**ITEM #4: Consideration and acceptance of an application for a minor lot line adjustment of land for Robert Gifford, Assessor's Map A, Lots 8 & 8D, zoned R-12, located at Old Rochester Rd.\*(P04-19)**

Kevin McEneaney stated that Mr. Gifford owns both lots and wants to make the lot with the house smaller and make the vacant lot larger so he can build his new house on it. Part of the land is in Somersworth and they will be going to the Somersworth Planning Meeting on June 13<sup>th</sup>.

Beth Thompson made the motion to accept the application.  
John Swartzendruber seconded.

**VOTE U/A**

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

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

1. Add the owner's signature to the plat.
2. Revise the plat to add the minimum building setback lines for both lots.
3. Provide the Planning Department with proof that the Somersworth Planning Board has approved the plat.
4. Provide the Planning Department with a digital (DXF) copy of the approved lot line adjustment.

Beth Thompson seconded.

**VOTE U/A**

**ITEM #5: Consideration and acceptance of an application for a minor subdivision of land for McEneaney Survey Associates, Inc. (Owner: Noreen Stewart**

**Bowers), Assessor's Map C, Lot B, zoned R-40, located at 148 County Farm Rd. (P04-20) (1 lot)**

Kevin McEneaney represented the owner of the parcel and explained the lot line adjustment. He said that the vacant lot is 2.9 acres in size and has approximately 138 feet of frontage on the Cochecho River. He said State Subdivision Permit is pending. He said that it is not mentioned on the plan but since the application has been filed the owners want to place an access easement from the lot that contains the existing house down to the river. The easement will be added to the plan and included as a condition of approval.

Beth Thompson made the motion to accept.  
Donald Andolina seconded.

**VOTE U/A**

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

Steve Stancel stated that he wanted to be on record with the applicant that there will be an easement down to the water but only 1 dock is allowed for that waterfront. There can not be a dock off that easement for the other lot.

Dennis Ciotti asked about the specifics of the access easement and wanted it included as one of the conditions of approval.

Kevin McEneaney explained that it is a 30 foot pedestrian access.

Beth Thompson made the motion to approve with the following recommended conditions of approval:

1. Add the owner's signature to the plat.
2. Add the surveyor's stamp and signature to the plat.
3. Provide the Planning Department with a copy of the NH Department of Environmental Services Subdivision Permit and add the permit number to the plat.
4. Revise the plat by adding the location of the flood hazard area on the property.
5. A 30 foot wide pedestrian access easement will be provided.

Dennis Ciotti seconded.  
**VOTE U/A**

Eric Tooke arrived at 7:15

**ITEM #6: Consideration and acceptance of an application for a minor lot line adjustment of land for Mathew Williams III & Leslie Molleur, Assessor's Map N, Lots 20, 20-3 & 20-4, zoned R-40, located at Mallard Lane.**

Dennis Ciotti recused himself from this item.

Bob Stowell, Trittech Engineering represented the applicant. He said that these lots are at the end of the cul-de-sac. He said that they would like the specific river frontage that is on 20-4 to be on 20-3.

Beth Thompson made the motion to accept the application.  
Pete Lavoie seconded.

**VOTE U/A**

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

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

1. Add the owner's signature to the plat.
2. Add the surveyor's stamp and signature to the plat.
3. Revise the plat by adding the names and addresses of the abutters across the river.
4. Provide the Planning Department with a digital (DXF) copy of the approved lot line adjustment.

John Swartzendruber seconded.

**VOTE U/A**

Dennis Ciotti took his seat on the Board.

**ITEM #7: Consideration and acceptance of an application for a minor lot line adjustment of and for Marc & Aimee Normandeau & Charles & Sheila Kageleiry, Assessor's Map M, Lots 74B, 75B 75 & 75A, zoned R-40, located at Dover Neck Rd.\*(P04-22)**

Bob Stowell, Trittech Engineering, stated that they are making the lots more usable and into regular shapes.

Beth Thompson made the motion to accept.  
Dennis Ciotti seconded.

**VOTE U/A**

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

Dean Trefethen made the motion to approve with the following conditions:

1. Add the owner's signature to the plat.

2. Add the surveyor's stamp and signature to the plat.
3. Revise the plat by amending Note #7 by adding the Riverfront Residential Overlay District.
4. Revise the plat by labeling the 95.04' property line between lot 75A and lot 75 as "Existing boundary to remain".
5. Provide the Planning Department with a digital (DXF) copy of the approved lot line adjustment.

John Swartzendruber seconded.

**VOTE U/A**

Ron Cole arrived and took over the meeting at 7:25 PM

Frank Torr took his seat on the Board.

**ITEM #8: Public Hearing for consideration of a revision to a fence location approved under a court consent decree for Albert & Dorothy Berthiaume, Assessor's Map 7, Lot 19A, zoned RM-12, located at 57 Boston Harbor Rd.\***

Steve Stancel stated that this item went to court a couple of years ago because a fence was placed closer to the water than the City would have liked. Eventually, the City and the person suing the City settled out of court. This is before the Board because part of the Consent Decree indicates that if any portion of the fence is modified or changed, it must come back before the Board for approval. The fence on the easterly side of the property is being moved to where the property boundary is.

Atty. Emile Bussiere represented the applicants. He said that the Berthiaumes put up a fence and after the survey, it turns out that the fence was not on the property line where it should be so they are moving it out to the boundary line.

The public hearing was opened.

Mr. Cartnick, 53 Boston Harbor Rd., just asked how high the fence would be. He said that he would like a stipulation that it is to be no higher than what is currently there.

Atty. Bussiere said that the fence would be 5 feet, the same height that is currently there.

The public hearing was closed.

Frank Torr made the motion to approve with the stipulation that the fence not be any higher than the existing fence – five feet.

Dennis Ciotti seconded.

**VOTE U/A**

**ITEM #9: Public hearing for consideration of a building permit on a Class VI road per RSA 674:41-I (c) , for John & Karen Brough, Assessor's Map J, Lot 5, zoned R-40, located on Old Garrison Road.**

Steve Stancel stated that any lot that is on a Class VI road has to go to the City Council for approval for a Building Permit after receiving recommendation from the Planning Board. He noted that there was an abutter that spoke during Citizen's Forum on this item.

The public hearing was opened.

There were no comments.

The public hearing was closed.

Steve Stancel said that the person that spoke during the Citizens' Forum stated that she would like to see the utilities placed underground. He asked if that was a problem for the applicant.

John Brough stated that it is an added expense. He said that it will be a solar home so there won't be any power lines running to the house. If in the future they were to bring in a cable line or a telephone, the pole would come to the edge of their property and then it would go underground. Coming from Spruce Lane to that point would be an added expense and he said that he doesn't know if that is something that they are willing to take on.

Steve Stancel stated that there aren't any above ground lines on this end of Old Garrison Road but at the other end they have allowed above ground lines.

Dennis Ciotti stated that they have had a number of complaints, problems, encroachments, etc., in that neighborhood and wanted to make sure that Mr. Brough was going in there with his eyes wide open.

Mr. Brough stated that he is aware of it all.

Dennis Ciotti stated that the abutter referred to hazardous waste. He asked Mr. Brough if he knew anything about that and if he was also aware of the State property and walking paths that are in works for his neighborhood.

Mr. Brough stated that the people that looked at the property saw no sign of any hazardous waste. He said that he is aware of the walking paths. He explained that his property just abuts the public land.

Steve Stancel stated that they researched some of the past building permits that were received off this Class VI road so they have three recommendations based on the typical recommendations.

1. The City assumes no responsibility for maintenance of Old Garrison Road and no liability for any damages resulting for the use of said road.
2. The applicant shall produce evidence that the notice of the limits of Municipal responsibility and liability has been recorded at the Strafford Registry of Deeds prior to the issuance of Building Permit
3. The applicant shall upgrade the road from the end of the approved section at the end of the Hebbard land to the proposed driveway. Road improvements shall meet the private road standards for 3 & 4 parcels Chapter 155-48 A. Private Road to be completed prior to the issuance of a Certificate of Occupancy.

Beth Thompson made the motion to approve with the recommendations of the Planning Department and to make the recommendation to the City Council.

Donald Andolina seconded.

**VOTE U/A**

**ITEM #10: Old Business**

**a. Discussion and possible vote on a major subdivision for Justin & Elizabeth Krupp, Henry Law Ave. (P04-07) (8 lots)**

The public hearing was reopened.

There were no comments.

The public hearing was closed.

Barry Guier of Cuoco & Cormier stated that since the last time they met two issues arose from the site walk. One was to provide a berm and a swale for lot 22-41-6, and the other item was to provide a building envelop to move the house from the abutting lots. He said that they have done that.

Steve Stancel stated that the applicant has requested two waivers to Chapter 155-32, G & H regarding alignment of the proposed road.

Dean Trefethen made the motion to approve along with the two waivers and the staff recommended conditions as follows:

1. Add the owner's signature to the plat.
2. In lieu of providing on-site recreation, the applicant agrees to contribute the sum of \$1,400 to the City for off-site recreation improvements. This payment shall be made prior to the issuance of the first building permit.
3. The applicant shall pay the Community Services Vehicle Capital Improvement Program fee, in the amount of \$1,935, prior to the issuance of the first building permit.
4. Approval includes granting the Conditional Use Permit.

5. The applicant shall grant an assess easement to the City for the 3,820 square foot section of lot #4 necessary to allow for a future road extension. Said easement shall be granted prior to the issuance of the first building permit.
6. Revise the plat by revising note #8 by correcting the address for Darrell Rugg.
7. Revise the plat by labeling the eastern lot line between the Rugg parcel and the Krupp parcel as "lot line to be eliminated".
8. The berm and buildings as shown on the revised plan < lot #6, will be constructed as shown.

Dennis Ciotti seconded.

**VOTE U/A**

**b. Discussion and possible vote on a request for a rezoning of a 20-acre area of Dover Point Rd. on the west side of Dover Point Road between Dover Auto World and the Cemetery from R-12 to B-5.**

John Swartzendruber asked if there would be any discussion on this item this evening.

Chairman Cole said that there would be some discussion but there would not be a public hearing. He said that he would leave it up John if he wanted to sit on this item.

John Swartzendruber stepped down because he had not heard any discussion on this item.

Chairman Cole stepped down because of a conflict.

Frank Torr took over as Chair.

Beth Thompson made the motion to remove this item from the table.

Pete Lavoie seconded.

**VOTE U/A**

Steve Stancel stated that the Planning Department is in favor of the rezoning. He thanked all the residents who took the time to comment both pro and con regarding this issue. The comments were both eloquent and professional in nature. It is a difficult debate, however, the Planning Department has remained consistent in its support of the rezoning and believes that the conditions are still in place based on sound planning reasons. That include:

- The proposal is consistent with the City's Master Plan which specifically identified this area for rezoning
- The area is located in a section of Dover Point that continues to evolve commercially
- There are between 13,000-16,000 vehicles a day passing in front of the parcels and more than 30,000 vehicles passing daily on the turnpike in the rear of the parcels
- The City continues to have a shortage of viable commercial space to capture its regional share of economic development

- Both Master Plan surveys and the Speak out Dover Neighborhood meetings conducted identified a shortage and need for South End services such as grocery stores and other commercial uses

Mr. Stancel said that it has been said that this will create another Route 1 in Saugus and images of Portland Ave., or the Miracle Mile have been used. These areas were developed years ago, prior to the City making moves to protect itself from such development, such as aesthetic and design standards; limitations on number of curb cuts and promotion of shared drives; and strict lighting design standards.

Steve Stancel said that it has been said that the area would become a hodgepodge of use, building styles and individual entrances. He said that that would only happen if the area remained residential. It becomes a classic case for variances on an individual basis allowing for less control on consistency and more entrances. The way to properly develop this area is to master plan all 8 parcels at once, limit the curb cuts and create a consistency among development; and require sidewalks and proper landscaping.

Steve Stancel said that this is an arterial road. Traffic continues to increase annually. Any project will require the developer to make improvements to Dover Point Road. He said that depending on the uses that may go in this area, there may be a decrease of traffic through the urban core as grocery shoppers (for example) may no longer have to drive to the Miracle Mile for groceries.

Steve Stancel said that the City needs to continue to focus on a comprehensive approach which includes both the urban core and identified thoroughfare areas near the urban core. Commercial opportunities and areas in the South End of Dover make sense from a planning perspective. Protections are in place today that will provide a quality development product. We need to rezone this area now or lose the opportunity forever.

Dean Trefethen stated that the Planning Board, last year, recommended passage of this rezoning and the City Council narrowly defeated it. It keeps coming up because it makes sense and it agrees with the Master Plan. He said that Economic Development is a stated goal of the City Council. He said that he believes that the votes for this rezoning are on the Council this time. The Master Plan does mention the protection of our gateways and Dover Point is certainly considered a gateway. He said that the gateways are also where the available land is. There is not an appreciable amount of land in the Urban Core that can be used for this kind of development. It has been shown that a couple of the existing lots can support considerable subdivision which is definitely not in agreement with any of the stated goals of the Master Plan, this Board and the City Council. For those reasons, he will support this rezoning.

Donald Andolina disagreed with the proposal because this has come up for consideration several times in the past and has failed. He said that there are people living there that have been paying taxes for residential property for some up to 28 or 30 years and that ought to be considered before the Board takes that away from them. In his view that is a form of taking their property.

Beth Thompson stated that she is going to support this proposal. She said that she knows that zoning is challenging to have to deal with it but she is looking after the greater good of the entire City. The residents who don't want to move do not have to move. As Economic Development Director, her role is to encourage commercial/industrial development and the City needs that development. Trying to find the locations for economic development is her challenge. She said that this area needs to be rezoned. She said that all the Variances would not have come up if it wasn't the smart place for those businesses to do business.

Eric Tooke, stated that he drives down Dover Point Road going to work every day. He said that he doesn't agree with Atty. McNeill's statement that this is an area that has rezoned itself. He said that it is a residential section with beautiful homes. He understands completely the need for economic development in Dover and without it we will be sunk. It's very important to develop economically, but he agrees with Donald Andolina that we have to give consideration of the fact that this is a residential area and it would be sad to see that change. He understands the purpose of the Master Plan and he agrees with economic development but he thinks in this situation, he is not in agreement. He is not in support of this rezoning.

Pete Lavoie said that it is a difficult choice for him because he knows all the people and he lives just beyond this area. This is one issue that he can't vote with his heart and has to vote in the best interest of the City. He will vote for the rezoning.

Dennis Ciotti stated that his grandfather lived at 31 Dover Point Road and he remembers as a child, trying to pull out of his driveway. His granddaughter was retired and grew vegetables and his pastime was counting cars and complaining about the traffic. When his grandfather sold the house, the one thing that he missed was the farm land out back but not the traffic, especially getting out of his driveway. Dennis Ciotti said that it was terrible in the 60's, worse in the 70's, unbearable in the 80's, horrific in the 90's and it will continue to get worse and worse as time goes on. He said that he has to sympathize with the people that live out there. He said that he would not like to see his neighborhood change either, but he thinks that this area warrants rezoning. Rezoning doesn't mean that the residents have to sell their property. To him this area is right for the rezoning. It doesn't mean that all of Dover Point Road will be rezoned, but he feels that the time has come for this area.

Dean Trefethen made the motion that the Planning Board recommend to the City Council that this area be rezoned.

Beth Thompson seconded.

**VOTE 4 – 2**

**Opposed – Eric Tooke, Donald Andolina**

Frank Torr relinquished the Chair to Ronald Cole.

Ron Cole took over the meeting at 8:10 PM.

**c. Discussion and possible vote on a request for a rezoning of a 17.3 acre area of land located off the Spaulding Turnpike between Tolend Road and Columbus Avenue from I-4 to R-20.**

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

Beth Thompson seconded.

**VOTE U/A**

Steve Stancel stated that the Planning Department supports this rezoning request. He said that the area was rezoned Industrial years ago when the zoning line was randomly chosen 1,600 feet from the turnpike. In recent years the wetlands have been mapped on this parcel and it is shown that there is a natural boundary on Tax Map G, lot 19B which separates two areas of the parcel. Mapping also indicates areas of limited uplands on the separated area requested for rezoning due to wetland setbacks, lot size requirement, and upland pad site size, this area is better suited to be rezoned to the abutting R-20 zoning designation than the I-4.

Dean Trefethen asked if it is definite that after the sewer line is put in that others would be allowed to tap into it at no charge. He wanted to be sure that it would be in writing and part of the approval.

Atty. Malcolm McNeill answered that that was correct and would absolutely be in writing. He said that the sewer line will ultimately be controlled by the City.

Don Andolina made the motion that it be approved with the recommendation that after the sewer line is put in that others would be allowed to tap into it at not charge.

Beth Thompson seconded.

**VOTE U/A**

**ITEM #11: New Business**

Ron Cole said that he neglected to appoint a committee in the past two weeks to address the issue on the gravel pits. He said that he is going to ask Donald Andolina to be the Chair of the committee and ask Pete Lavoie if he would appoint a staff person and he would personally call the gentleman that abuts the pit and ask him if he or someone else in the neighborhood wants to do it. He said that three people should be able to sit down and figure out if there is anything that can be done.

**ITEM #12: Adjournment**

Beth Thompson made the motion to adjourn.

Frank Torr seconded.

**VOTE U/A**