

**DOVER PLANNING BOARD
MINUTES OF MEETING
AUGUST 24, 2004**

MEMBERS PRESENT: Donald Andolina, John Swartzendruber, Tony McManus,
Dean Trefethen, Frank Torr, Beth Thompson, Ronald Cole,
Eric Tooke

MEMBERS ABSENT: Dennis Ciotti, Pete Lavoie

STAFF PRESENT: Bruce Woodruff, City Planner; Steve Bird, City Planner, and
Jacqueline Freeman, Recording Secretary

Chairman Ron Cole brought the meeting to order at 7:02 PM.

ITEM #1: Citizens' Forum

Rick Hebbard, 97 Spruce Lane, spoke with regard to an applicant that asked permission for a building permit to build on Old Garrison Rd. He said that Ron Cole made a point that the applicant was not to touch the stone wall. He said that there are now approximately 100 rocks that are missing from that stone wall. He said that he brought this to the attention of the Planning Department and to the best of his knowledge no letter has been sent out asking the applicant to put the rocks back. He said that he pursued this matter further and asked the Police Department to uphold the law of not removing a stone wall and they refused to do so. He said that this is a blatant violation and the owner has used the rocks on his driveway that he has put in illegally. He wishes that the Board would do something about it.

Erik Tooke arrived and took his seat on the Board.

Ron Cole explained how he looked at the tape of the meeting in question. He told Rick Hebbard that it is an issue that the Planning Board has absolutely nothing to do with and it may be an enforcement issue but it wasn't a condition of approval. It was a comment that he made half in jest and the gentleman said that he would not do anything with the stone wall.

Bruce Woodruff stated that the Building Inspector/Code Enforcement Officer is preparing a violation letter. The letter will tell the landowner that he has to replace the stones along the boundary of Old Garrison Rd. He said if you go out there you can see that some of the rocks are missing, the driveway issue and that some trees were cleared in the Scenic Road Overlay District. The letter will go out and those things will be fixed.

ITEM #2: Approval of minutes.

Beth Thompson made the motion to approve.
Frank Torr seconded.

VOTE U/A

ITEM #3: Consideration and acceptance of a site plan of land for Jim Varney, Assessor's Map 39, Lot 4, zoned B-1, located at 29 Weeks Lane. *(P04-39)

Dirk Grotenhuis, with Kimbal Chase, represented James Varney. The proposal is for two adjoining sites; 23 Weeks Lane and 29 Weeks Lane. Although the lots are separate applications, they have approached the development as a contiguous project. They felt that it was a great opportunity to improve the existing site at 29 Weeks Lane. He explained that Varney's cleaning operation was previously a bank and the existing other site is currently a residential dwelling. What is proposed is that the cleaning operation would be relocated to the private residence and the old bank site would revert back to a bank operation.

Mr. Grotenhuis explained the entrance and the exit of the site and the pattern of the traffic. He said that the way the site currently operates is not very ideal and not very safe based on the queuing of the intersection. The improvement for 29 Weeks Lane is to provide a more centralized access and having the circulation come out to a two-way isle drive. He pointed out the additional parking that was created in the back. He said that 23 Weeks Lane is a residential dwelling and the access is in the same location as existing. They have widened it a bit to accommodate the two-way traffic. He said that between these two sites they have had 3 existing curb cuts on Weeks Lane that they will be reducing to two. Circulation between the two sites has been reviewed at TRC. It was indicated that they want these two sites to operate together. They have provided access into adjacent abutting property if necessary, and will have easement agreements so they would be capable of providing some access.

Mr. Grotenhuis said that the building addition proposed for the bank site would be an additional canopy protecting an outside drive for an ATM drive-up. He added that the Fire Dept. likes that because, at this time, they cannot access a truck around the site. The proposed uses are just slightly larger than the existing residential unit so to incorporate that as well as the parking, they are making improvements to the drainage systems.

Eric Tooke had questions with regard to the northerly entrance to the site from High Street and the concrete median. Discussion ensued.

Dirk Grotenhuis stated that they went through a number of concepts and this has been reviewed and addressed. He explained that they did a survey and that is how they came up with the design. Further discussion ensued with regard to the entrances. He explained how the two way traffic scenario is better than the one-way scenario because it allows the traffic to flow into the site.

Tony McManus was concerned with the two entrances within a short distance and the queuing. He thought that it would be safer for everyone to eliminate the two-way at the bank and have the only entrance and exit at the cleaners for both businesses.

Dirk Grotenhuis stated that both users would not have that as a preferable scenario and it would provide some additional restrictions on the connection between these two businesses. He explained how the traffic pattern would not flow properly.

Chris Wyskiel stated that he was representing Mr. Varney. The drive through access becomes convoluted under Tony McManus' suggestion because the drive through would be ineffective because you would access the attendant by the passenger window.

Beth Thompson made the motion to accept the application.
Frank Torr seconded.

VOTE U/A

The public hearing was opened.

There were no comments.
Chairman Cole recessed the public hearing.

Bruce Woodruff stated that the plan, with regard to the access which closes up one of the access points on the two lots, is a vast improvement over what is there now. He said that it is better to have two-way traffic from a transportation standpoint than to make a one-way traffic flow. He reiterated that this is a big safety improvement. He added that each lot, by State law and City code, has a right to a curb cut. He said if this was one lot he could see possibly closing one of the driveways but we don't have the authority to do that. It is staff recommendation, based on the fact that there are some outstanding TRC issues, that the application be tabled.

Frank Torr made the motion to table.
Beth Thompson seconded.
VOTE U/A

**ITEM #4: Consideration and acceptance of a site plan of land for Jim Varney
(Owner Winston McHugh) Assessor's Map 38, Lot 38, zoned B-1, located
at 23 Weeks Lane.*(P04-40)**

Dirk Grotenhuis stated that all the information has been covered on the previous application. He added that a portion of 29 Weeks Lane is in Rollinsford and a portion is in Dover. He said that there will be a temporary trailer located on the site to house the transition between a bank and Varney Cleaners. Mr. Grotenhuis stated that the 23 Weeks Lane is owned by Winston McHugh but is under agreement for purchase by Mr. Varney, subject to approvals.

Chris Wyskiel explained that lot 23 will be titled in an LLC that Mr. Varney and his wife will control since there will be separate legal entities and users. The trailers will be used as a transitional site for a few months period while the site is being readied for the permitted occupancy.

Donald Andolina made the motion to accept the application.
John Swartzendruber seconded.

VOTE U/A

The public hearing was opened.
There were no comments.
Chairman Cole recessed the public hearing.

Frank Torr made the motion to table.
Beth Thompson seconded.

VOTE U/A

ITEM #5: Old Business

a. Discussion and possible vote on Changing Places, Cotswold Subdivision, located on Columbus Ave. (P03-68) (20 lots)

Tony McManus stated that he was abstaining.

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

VOTE U/A

Malcolm McNeill stated that he was representing the applicant. He said that this project has been before the City for many months. He said that some engineering issues have needed to be resolved. This project utilizes the sewer that is being proposed by David Sears that received the Board recommendations and the City Council's approval with regard to rezoning. This site is a 20 lot subdivision consisting of 18 new houses and two existing houses. He said that they received conditions of approval and many are perfunctory approval of documents and recommendations. He said that they are asking for a waiver for the reduction of the roadway from 28 feet to 24 feet in width. This waiver has been recommended by TRC and there is a clear provision in the Ordinance in 155-23a, if you set the houses 50' back from the road. This subdivision is not going to connect to other subdivisions and is a relatively small residential project. Through the process there were abutter concerns for the previous depth of the cul-de-sac and with a building envelope which they have moved back. Throughout the process the City has been concerned that provisions be made to hook into the proposed Tolend Road LLC sewer system that will be effectuated upon the approval of the adjoining project, which has also been approved from a zoning perspective. The applicant could have proceeded with a septic design project on this site and it would have been approved months ago but the developer has attempted to work with the City. He said that he will get one more lot than he would otherwise have. All of the other provisions of the proposed conditions of approval are all fine. He said that that he knows that there are a couple members of the Board that are relatively new and may not have been on this site walk. He said that they have done everything that the City has asked. The site has been walked and they hope that the Board feels that it would be approvable this evening. In the interoffice memo,

the utility commission has proposed an expenditure of \$35,000 of its funds toward the sewer connection in cooperation with the applicant.

Dean Threfethen was concerned with the number of lots. He thinks that there is one too many lots and that they are flirting with the setbacks because of the size of today's houses. He felt that there would be little room to add on garages etc. Lot 26-5 has a larger building envelope but there is no guarantee that the house will be built at the front of the lot. He also was concerned with the 24 foot width of the road and stated that he would like the first 100 feet of the road to be wider for the parents who queue while waiting for the school bus. He felt that it would create a safety hazard if the road were narrower.

Malcolm McNeill he said that this applicant waited months to process this application because of uncertainty with regard to sewer where the project could have gone forward with septic designs like Wallace Woods. He said that the applicant complies with the regulations. Their position is that they comply with the regulations without bending the rules and without overdeveloping this site. He feels that it is appropriate for it to be approved and he is sorry that there is a difference of opinion with regard to the project. Malcolm explained that the general course of the sewer is from Cambridge Tool along the turnpike and then up across the property that has been recently rezoned to come up to the access road that they have negotiated with the City to prove some reasonable proximity to the other users. He said that anyone hooking into the sewer would pay no entry fee.

The public hearing was opened.
There were no speakers.

Reuben Hull stated that he would like an opinion of staff just to hear what the thought is. From a design perspective it could be 28 feet for the first 100 feet and then tapered down to 24 feet after that. His belief is that the 24 feet is appropriate for this type of development.

Bruce Woodruff stated that it has been a long standing planning push for narrower streets. He said that the department pushes for 24 foot streets when there is no further connection to the subdivision. He said that it creates a bit of traffic calming because narrower streets promote people going a bit slower. He said that you could put a provision that there be no parking on one side of the street.

Malcolm McNeill said that there are many communities outside of the urban core that are doing 22 foot widths for road for traffic calming.

Bruce Woodruff stated that the less pavement that you have, the less pervious surface that you have and you really want natural surroundings. Having 4 feet less pavement through the length of the road on both sides is a significant reduction. These are single family homes and statistics show that the most children expected is 12.

Discussion ensued with regard to the number of children in the new homes and the possibility of restricting parking to one side of the street.

The public hearing was closed.

Dean Trefethen stated that people want to be able to park in front of their houses.

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

1. Add the owner's signatures to the plat.
2. Add the surveyor's stamp and signature to the plat.
3. Add the engineer's stamp and signature to all applicable sheets of the plat.
4. Provide the Planning Department with a copy of the NH Department of Environmental Services Wetlands Permit and add the permit number to the plat.
5. Approval includes the granting of a Conditional Use Permit with the condition that the Conservation Commission receives a report documenting the restoration of the temporary wetlands impact wetlands impact for the sewer line.
6. Approval includes the granting of the waiver of the Subdivision Regulations (Chapter 155-33A) to permit a pavement width of 24 feet except for the first 100 feet, that will be 28 feet.
7. Revise the plat to add the Strafford County Registry of Deeds recording number to reference plan #6.
8. The applicant shall pay the Community Services Vehicle Capital Improvement Program fee, in the amount of \$4,692, prior to the issuance of the first building permit.
9. In lieu of providing on-site recreation facilities, the applicant shall make a contribution for improvements to existing recreational facilities, in the amount of 3,600, prior to the issuance of the first building permit.
10. Prior to recording the final plat, the applicant shall provide proof that the necessary easements are in place and an agreement has been reached with the owner of Map G, Lot 19G that will permit access to their sewer line.
11. Provide the Planning Department with a copy of the proposed wording of the landscaping easement for their review and approval, prior to recording the final plat.
12. Provide the Planning Department with proof that the Environmental Protection Agency Notice of intent permit application has been filed.
13. Revise the plan to comply with the conditions set forth in the memo from the Assistant City Engineer, dated August 20, 2004.

Beth Thompson seconded.

VOTE U/A

Anthony McManus took his seat.

b. Discussion and possible revocation of the Excavation Permit for Dover Sand & Gravel, (Owner Pruven Aggregates, Inc.,) Assessor's Map H, Lots 61 and 59, located on Mast Road.

Bruce Woodruff stated that he made a few calls to the insurance agency. He got a voice mail back from Mr. Foy saying that they are attempting to put together a reclamation bond for Mr. Proulx and indicated that it will take some time. He said that it took Mr. Martel 7 weeks to get his bond increased. Bruce Woodruff stated that he is recommending giving an extension to October 12, 2004 for Mr. Proulx.

Tony McManus made the motion to give the extension.
Beth Thompson seconded.

VOTE U/A

Bruce Woodruff stated that the report on the Class VI Roadways is finished except for Old Garrison Rd. He said that there will some information in the packets for the next meeting and he will be asking that a workshop be set up with the Planning Board

Chairman Cole stated that there is a letter from Atty. Jim Schulte in the packets requesting that the Board reconsider their vote of August 10, 2004 regarding Emerald Woods Subdivision and then scheduling a public hearing so that the applicant can make a complete presentation to a full Board.

Frank Torr made the motion to reconsider the August 10th vote on the Emerald Woods Subdivision.
Beth Thompson seconded.

Frank Torr stated that this is a unique situation because we were lacking a full Board and we owe it to the abutters and the applicants that it be reconsidered. He felt that with the abstentions, the applicant didn't have the opportunity to rebut the vote. Frank Torr said that the motion was to approve the subdivision and there should have also been a motion to deny. He said that the motion on the floor was to approve it and it was a negative vote. There should have been another motion to deny it in a positive vote.

Bruce Woodruff agreed that there should have been a motion to disapprove. He said that it didn't happen so there really is an open end to this item.

Dean Trefethen stated that he abstained so he is questioning whether he should be participating in this vote or not.

Steve Bird stated if he abstained on the vote; he should abstain again for the very same reason.

Tony McManus stated that he felt that the applicant was there and made a full presentation to the Board. The Board had a discussion and he was not aware that you have to take a second vote to deny it if the motion lost. He said that the applicant is able

to come back to the Board with a revised plan but he doesn't think that a second vote was needed that night. He said that Frank Torr voted in the majority and he has the ability to move for reconsideration.

Ron Cole stated that it is incumbent on the Planning Board members to be as knowledgeable as possible on issues that are coming before the Board. The fact that a member didn't sit or didn't do this, or didn't do that, certainly holds some weight, but he feels that as a member if you are not comfortable because of a lack of knowledge then he would welcome that member contact him and he would do whatever is necessary to bring that person up to speed. He said that he doesn't want members to abstain because they don't have enough knowledge of an issue. He said that he needs to know about that before hand and if we have to extend the vote for two weeks while the member gets brought up to speed that would be fine. He is also confident that every person on this Board is capable of making the proper decision. He stated that he felt strongly that because it was handled the way it was handled at the time, the issue should be revisited and brought to a close at some point in the near future.

Tony McManus said that if the motion passes there should be another site walk for the members who need more information.

Frank Torr stated that if the abstentions were going to occur, they should have been done up front so that the applicant could have had the opportunity to ask for a postponement on the vote until they had the full compliment of the Board present.

Chairman Cole asked for the vote on the motion for reconsideration.

**4 - 1 OPPOSED - Tony McManus
 ABSTAINED - Dean Trefethen, John Swartzendruber**

Bruce Woodruff asked if the abutters would be notified again and would we charge the applicant a second time.

Ron Cole said yes.

Jim Schulte felt if it was scheduled for the 28th it should allow time for a site walk. He explained that at the meeting of the 28th there would be a presentation and a site walk so that everyone felt informed enough to make a decision. He said that they will be asking the consultant engineer, at the expense of the applicant, to come again. He said that when the site walk is done, the abutters' property should also be looked at and have the engineer explain where the drainage from this site would go so that members could form your own opinion.

Ron Cole said that he will set up a site walk at the first meeting in September.

Don Andolina agreed that in the future, members that need to abstain should notify the Chair in advance and that it should be written into the rules of order for the new members.

ITEM #6: New Business

Ron Cole stated that a letter was received from Atty. McNeill requesting a postponement of Tolend Properties LLC saying that he would make contact when he wants to be rescheduled.

Ron Cole stated that a letter was received from Mr. Grant Davis with regard to a by-pass.

Bruce Woodruff stated that the Department is drafting a response to Mr. Davis with regard to the by-pass.

Ron Cole mentioned that everyone has an application for the Law Lecture Series and that they are excellent and the Planning Department will pay the fee.

ITEM #7: Adjournment

Beth Thompson made the motion to adjourn.

Frank Torr seconded.

VOTE U/A