

**DOVER PLANNING BOARD
MINUTES OF MEETING
OCTOBER 26, 2004**

MEMBERS PRESENT: Dennis Ciotti, Ron Cole, Donald Andolina, Mindy Anderson, Dean Trefethen, Ronald Cole, Brian Cahoon, Pete Lavoie, Tony McManus, Frank Torr, Beth Thompson

MEMBERS ABSENT: John Swartzendruber, Eric Tooke

STAFF PRESENT: Steve Stancel, Planning Director and Jacqueline Freeman, Recording Secretary

Alternat Brian Cahoon sat on the Board

ITEM #1: Citizen's Forum

Rick Hebbard, 47 Spruce Lane, stated that he wanted to bring up the scenic road issue on Back Road. He said that the scenic road issue means nothing with regard to the construction that will happen on Back Road. He said that it will put another layer down in order to work on the road. For anybody to think that it's going to stop progress on the road; it absolutely will not.

ITEM #2: Approval of minutes

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

VOTE U/A

ITEM #3: Consideration and acceptance of a minor subdivision of land for Ruth Wiggin Revocable Trust, Assessor's Map 14, Lot 11A, zoned R-12, located on Sunset Drive.*(P04-52)(1 Lot)

Kevin McEneaney, represented the applicants and stated that it is a simple two-lot subdivision on Cataract Ave. This property was part of a lot line adjustment that occurred in 1994. He said that during the course of having a wetland investigation, they found that there was 395 sq. ft. of wetlands on the westerly side of the existing lot, which prompted them to have to go to the Zoning Board of Adjustment for a variance to allow them to go below the 12,000 sq. ft. of contiguous upland. They received approval of the ZBA. The driveways will be accessed from Sunset Drive.

Pete Lavoie stated that his department did not have a lot of time to research the water line location. They put some marks on the street showing the approximate location.

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.

Dennis Ciotti made the motion to approve with the following conditions:

1. Add the owner's signature to the plat.
2. Provide the Planning Department with a digital version of the plat.
3. Revise the plat to add two GIS points.
4. Revise the plat by adding a note to indicate which wetland scientist did the wetland delineation and the date of the delineation.
5. Revise the plat by adding the common flood hazard note.
6. Revise the plat by adding a note indicating the existing lot size.
7. Locate all utilities on the plan.

Pete Lavoie seconded.

VOTE U/A

Chairman Cole welcomed new member Brian Cahoon to the Board.

ITEM #4: Consideration and acceptance of a minor lot line adjustment of land for Donald & Helen Metcalf and Beth Bennett, Assessor's Map 37, Lots 28 & 29, zoned O, located on 798 & 800 Central Avenue.*(P04-53)

Kevin McEneaney stated that this is a simple lot line adjustment. He explained that the Metcalfs are desirous of increasing the size of their driveway and in order to do so, they need to move the lot line slightly to the north. He said that both lots meet all the Zoning requirements.

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

VOTE V/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 signatures to the plat.
2. Provide the Planning Department with a digital version of the plat.
3. Revise the plat to add the minimum building setback lines to both lots.

Beth Thompson seconded.

VOTE U/A

ITEM #5: Old Business

a. Discussion and possible vote on the designation of Back Road as a Scenic Road.

Steve Stancel stated that, essentially, he agrees with what Mr. Hebbard said. His only concern was that at the last meeting, the Board indicated that they wished to wait until after the TAC reviewed it.

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

Tony McManus seconded.

VOTE 4 -4 Opposed -Pete Lavoie, Tony McManus, Donald Andolina, Frank Torr

Ron Cole asked if anyone in the audience wanted to address the issue. Hearing none, he moved against removing it from the table. Rick Hebbard spoke up and said that he wanted to speak. Ron Cole rescinded his vote.

The public hearing was opened.

Rick Hebbard stated that he is curious why the members don't want to remove it from the table. He said that this seems to be a political football, and that the Board needs to ask the few people that know what is going on and read the laws. People are getting their animosities up over something that is very direct and very simple.

Chairman Cole recessed the public hearing.

Ron Cole stated that it is the Planning Department's recommendation that this stays on the table until the Transportation Advisory Committee completes its public meeting.

Beth Thompson said that whether the Board determines it as a Scenic Road or not will not have any bearing on whether they are going to fix the road up or not.

Donald Andolina said that the only reason that he voted to keep it on the table is that at the last meeting the majority did not want to take action until the TAC meeting and the Board should live up to that commitment.

Ron Cole stated that from a procedural standpoint, we are well within our rights to do anything that we want tonight because the agenda does say discussion and possible vote.

Steve Stancel stated that the TAC is having a site walk this Saturday at noontime and meeting at Mallard Lane.

Tony McManus stated that the reason that he moved to accept it as a scenic road is that he thinks that the Board's role and the TAC role is separate. He said that the Board needs to decide whether it is an appropriate road to designate as a scenic road and it doesn't

have anything to do with safety. The TAC members are to decide what needs to happen to make the road safe and the two are not incompatible. If it's designated as a Scenic Road and improvements are going to be made, it only means that the request for the improvements have to be reviewed by this Board. He said that he thinks that there are a lot of factors that support it being a scenic road. If he is not present at the next meeting, he hopes that his comments would be considered. He believes that the input of the TAC doesn't have anything to do with scenic designation.

Dean Trefethen said that the reason he voted against taking it off the table was that the majority decided to wait until after the TAC meeting. He felt that there was no rush to vote as nothing would happen to that road for 4 or 5 months until the next construction season but if the majority wanted to change their mind tonight, then that is ok, too.

Frank Torr made the motion to put this item back on the table.

Dean Trefethen seconded.

VOTE 7 – 1

Opposed – Beth Thompson

b. Discussion and possible vote on a minor lot line adjustment for Back River Road Realty Trust, located on Back River Road. (P04-33)

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

Dean Trefethen seconded.

VOTE U/A

Malcolm McNeill represented the applicant. There are two things that they are asking for. One is a lot line adjustment to draw a line along the streetscape for the first lot and add the rest of the property to the site. He said that both of the lots would be conforming and would provide the basis for the new subdivision plan. The second issue relates to the layout and the features of the site. There is an older house at the entrance of the site that the developer wishes to retain. There is a requirement in the subdivision regulations that the minimum buffer along frontage is 100 feet. Strict conformance with the buffer would require removal of the house. He said that the houses that you see have an established streetscape as you go up Back River Road. It seems unfortunate to have to remove the house that could be used for affordable housing or rehabilitated. If the house is torn down, they will put another unit somewhere else. It seems to them that keeping that house would be desirable and not objectionable to the other property owners because their houses are in a similar situation. He said that the open space along the back of the houses on Back River Road would become a replacement lot in the event that the house was removed. Malcolm stated that they have an entitlement to a total of 21 units. He said that the abutters along the street have been accustomed to having a similar house on the street but not to having a house to the rear. They feel that keeping the house on the street is a much more desirable alternative.

Malcolm McNeill claimed an Open Space bonus of 10% because of the 60% open space. He said that they have filed a 5% bonus for a protected view shed. The view shed concept is not clearly defined in the ordinance but they believe that a reasonable interpretation of

the view shed would allow them that 5% bonus. He said that there is another bonus available under the subdivision regulations for public access for 10%. Some photos of the site were passed around. He said that they have delineated on the plan the walkway that would be available. He added that there is a very attractive riverscape at the base of their property. He said that there would have to be some negotiations with other landowners but you need to start someplace. The walkway would be an option. The desired results here is the 21 units, the bonus that would be attributable to the public access would bump it up some more. They came before the Board to discuss some issues and for some feedback.

Doug LaRosa informed the Board that one of the photos was taken from an older trail that is well defined and starts at the mills and is located on their side of the river. Doug LaRosa said that there is potential to access the trail from units 3 and 4 but that it would be preferable to have an external access away from people's homes.

Tony McManus asked if the paved area in front of units 13, 14, 15, 17 was a street or a driveway.

Bob Stowell stated that it would be a driveway. The OSS regulations are very specific about design of roadways and driveways. It does not limit the number of driveways to give the flexibility that is needed in the OSS.

Dean Trefethen felt that the existence of the present house is probably not acceptable to the Board and the proposed location of the replacement house is probably not acceptable to the Board either. He asked them to try to find another location for the replacement house because he felt that the choice of the space in back of the existing homes is probably the worse location.

Malcolm McNeill said that to tear down this house doesn't make a whole lot of difference to his client because he will replace this some place else and probably get more money for a newer unit. This is an established community with a house that probably needs a little fix-up and under the circumstances, it doesn't make a lot of sense to tear it down. He said that they can look to see if there is another location if it needs to be torn down but they are trying to be sincere in the reasonableness of the retention of the house.

Steve Stancel stated that it is clear that the developer wants or needs this 21st house. This Board does not have to allow a replacement if the house on Back River Road is torn down. The yield plan shows 18 units. They agree with the 10% bonus for having more than 50% open space set aside. The staff does not agree with the 5% bonus for protection of the viewshed. That 5% bonus gives them the extra unit, so without that 5% bonus, they get 20 units only. Tonight is the first time that he has heard about a trail system so he is not prepared to make recommendations without taking a more detailed look at whether this trail system is viable in terms of being extended in the future. He said that it is a beautiful area down there but a public trail would not be too useful unless it could be continued beyond this parcel.

Malcolm McNeill said that after the site walk they looked at the walking trail. He said that they are asking the Board to consider the various options. He said that they appreciated the opportunity to tell the Board what direction this project is going with.

Steve Stancel stated that they agree with the 10% waiver but they do not feel that the 5% for the view shed is warranted because the view shed that is being protected is along the waterfront which is going to naturally be protected anyway because of the 20% slopes. He said that with regard to the existing house, they feel that it is just too dense in that area and the concept of the OSS is to have that 100 foot buffer so that the project sits back from the public road. His concern is that you are going to have a house that doesn't fit with the existing project and you are going to have the entrance way of this project running approximately 25 feet in front of this house. If you take the house out of there, you will have a nice entrance and if you are driving by you will not even see the project and that is the point of the OSS.

Dennis Ciotti was concerned with the bonuses. He said that 20 or 30% slopes are nothing that requires a bonus to any developer because it's junk land.

Frank Torr said that if you leave that house there, more than likely, the house will be upgraded and will make a more pleasant entrance into the project. Pressure would dictate that the house would be upgraded because people buying new homes don't want to go past a house that needs upgrading. He said that as far as the public access goes, this may be an opportunity for the Planning Department and the City of Dover to take advantage of that. You can see by the photos that it is picturesque.

Dean Trefethen stated that he would agree with this if the house would be upgraded. He doesn't agree that it could be affordable housing because if you are going to have 20 units of very expensive housing mixed in with one unit that is affordable it probably would not fly. He said that he knows that the house would sell because anything would sell in Dover but that part of the Board's duty is to look out for the future home buyers.

Tony McManus made the motion to table.

Dean Trefethen seconded.

VOTE U/A

d. Discussion and possible vote on revocation of the Excavation Permit for Dover Sand & Gravel, (Owner Pruven Aggregates, Inc.) located on Mast Road.

Steve Stancel stated that Mr. Proulx submitted to him at the start of the meeting a letter of credit that covers the required \$52,500. therefore, he recommends acceptance and the continuance of the permit.

Beth Thompson made the motion to take this item off the table.

Frank Torr seconded.

VOTE U/A

Frank Torr stated that an attorney for the Municipal Association was instrumental in drawing up the original gravel pit regulations for the State of NH and he would like to see an opinion from him with regard to the grandfathering because there is still ongoing discussion between the pit owner and the Planning Department.

Steve Stancel stated that he believes that Bruce Woodruff has spoken with the Municipal Association.

Frank Torr asked for something in writing.

Ron Cole asked if Steve Stancel could bring the Board up to date at the next meeting.

Discussion ensued with regard to the Letter of Credit.

Beth Thompson made the motion to accept the Letter of Credit and to continue the excavation permit.

Frank Torr seconded.

VOTE U/A

e. Discussion on a major subdivision of land for Haven Farm at Alden Woods, located off Wildewood Lane. (P04-42)

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

Beth Thompson seconded.

VOTE U/A

Steve Stancel stated that at the site walk it was determined that there would be a neighborhood meeting held between the developer and area residents. Since that time, there have been a couple of meetings with abutters to each of the cul-de-sacs so there are some proposed changes that were included in the packets pertaining to that. The developers are here to present updates to the plan and for any discussions based on the site walk.

Jim Schulte, representing the applicants, stated that it is their hope that they will be able to come back before the Board on the 9th and be ready to present this plan for action. He said that they have had two meetings with the abutters to talk about redesigning the cul-de-sacs. Jim Schulte stated that Mr. Trefethen has been providing the group of abutters with some guidance which is useful.

Dean Trefethen said that they have narrowed the issues down to 4 or 5 and are now making some progress.

Chairman Cole stated that it is nice to see an elected official helping the people and on behalf of the community and the Planning Board, he thanked him.

Ron Cole reopened the public hearing.

Eric Tooke, 45 Wildwood Lane, stated that he is not an abutter of the project but is on the cul-de-sac on Wildewood Lane. He hasn't seen the final plan yet. He spoke about an island in the cul-de-sac that would separate the main traffic coming down Wildewood Lane and leaving a major portion of the cul-de-sac. He asked if that major portion of the cul-de-sac that is remaining pavement would be for him to maintain or if it would stay as City property.

Bob Stowell, Trittech Engineering, showed various iterations of the cul-de-sac at the easel and explained them. He said that Boxwood would like to have a larger grass island with a travelway for access into their lots. Both scenarios are proposed through discussions with the abutters.

Steve Stancel stated that he wants to make sure that everybody understands that engineering has yet to take a look at these proposals. The proposals are great coming from the public and property owners but we also have to make sure that they are going to work from or snow plowing and emergency vehicles and other concerns. They are still going to have to be reviewed by the City.

Bob Stowell stated that he has tried to put on paper what has been discussed with the abutters.

Steve Stancel stated that, in general, when there is a vegetative island they try to identify an abutting property owner that is going to be in charge of maintaining that vegetation such as mowing, bark mulch, etc.

Bob Stowell stated that they do not have the ability to direct one of the abutters of Alden Woods to take over the maintenance of the cul-de-sac. He said if no one wishes to take that responsibility, they will incorporate it in the association documents.

Eric Took stated that there are 17 children that congregate in the cul-de-sac to play. They would like to have a place where they can still play and ride their bikes and be protected from the main flow of traffic from the 32 houses as well as all of the construction vehicles. He explained how the catch basin by his driveway does not work. He asked if anything could be done in this project to have the builder repair what was wrong and elevate the street and the end of his driveway to get the water to run into the drainage ditch instead of into his yard. He said that his driveway is probably 2 or 3 inches below the catch basin.

Pete Lavoie stated that he is not sure what went wrong and that is what happens when these things are not brought to their attention. He said that they would look at it.

Discussion ensued with regard to the drainage system and with the Tooke driveway, snow plowing and curbing around the cul-de-sac.

Frank Torr stated that common sense would dictate that a straight through road and total elimination of the cul-de-sac would eliminate the water problem and the snow problem.

Jim Schulte stated with regard to the cul-de-sacs that you have property owners. Some of them would have to transfer land to an abutter because some would not have sufficient frontage to meet the subdivision regulations. He said that unless you can get private property owners to agree to exchange land, you can't really change the configuration of the cul-de-sac.

Steve Stancel stated that you don't have to move lot lines around; you can still have a straight road and leave the balance that was the cul-de-sac as public right-of-way.

Bob Stowell stated that that is one of the plans that they brought. He explained that there would be a couple of driveways that would need to be extended, which is a viable option. He said that there isn't any scenario that they are not willing to do. They just need to know what to do.

Eric Took stated that his property slopes down. He said that if they were going with that scenario, he would like to make a stipulation that his front yard gets filled to raise it up so he doesn't end up with a pond in his front yard.

Chairman Cole recessed the public hearing
Dean Trefethen made the motion to put this item on the table.
Tony McManus seconded.
VOTE U/A

Tony McManus recused himself from the next two items.

ITEM #6: New Business

a. Impact Fee Waiver request for Dennis Munson, Assessor's Map F, Lot 30-A, located at 20 Harmony Lane.

Steve Stancel stated that this lot has existed for more than 17 years and was part of a subdivision approved by the Planning Board on August 11, 1987 and then re-approved on October 6, 1987. The City Council adopted the Impact Fee Ordinance as chapter 170-28.7 on January 2, 2003 and the Planning Board adopted the School Impact Fee on February 25, 2003. The building permit for this lot was filed on August 24, 2004 and approved on September 13, 2004. RSA 674:39 states, in part, that subdivision plats that have been approved and recorded are exempt from zoning ordinance amendments for four years, provided that substantial completion of the improvements on the plat have occurred and that active and substantial development has begun within 12 months. Due to the fact that this lot was created more than four years before the adoption of the school impact fee and the lot is not grandfathered under RSA 674:39, the Planning Department recommends that the waiver be denied.

Dean Trefethen made the motion to deny the waiver.

Beth Thompson seconded.

VOTE 5 – 2

Opposed – Pete Lavoie, Frank Torr

b. Impact Fee Waiver request for Stabile Homes, Assessor's Map M, Lot 76-25, located at 87 Waterloo Circle.

Steve Stancel stated that this lot was part of the Captain's Landing subdivision approved by the Planning Board on September 8, 1998, prior to the Planning Board's vote to adopt the school impact fee. The plat was signed by the chair on April 21, 1999 and recorded at the Registry of Deeds the same day. Substantial construction of the road began within one year of recording the plat and the first building permit within the subdivision was approved on April 4, 2000. RSA 674:39 states, in part, that subdivision plats that have been approved and recorded are exempt from zoning ordinance amendments for four years, provided that substantial completion of the improvements on the plat have occurred and that active and substantial development has begun within 12 months. RSA 674:39 was amended by the legislature on June 7, 2004 and one of the changes was to remove any grandfathering from impact fees after a project is substantially complete and four years have passed, however, in this case, the invoice for the school impact fee was issued on March 19, 2003, which is before the change in RSA 674:39 was effective. Therefore, the Planning Department recommends that the waiver be granted due to the fact that this lot was approved prior to the adoption of the school impact fee and is protected from zoning changes under the previous version of RSA 674:39.

Beth Thompson made the motion to grant the waiver.

Frank Torr seconded.

VOTE 5 – 2

Opposed – Dean Trefethen , Dennis Ciotti

Steve Stancel stated that Rizzo Associates, who is the consultant who has completed the downtown traffic study, is presenting their final draft to the City Council on Wednesday, November 3, 2004, at 7:00 PM. He added that the Board is invited to attend.

ITEM #7: Adjournment

Beth Thompson made the motion to approve.

Frank Torr seconded.

VOTE U/A