

**DOVER PLANNING BOARD
MINUTES OF MEETING
MARCH 25, 2003**

MEMBERS PRESENT: Peg Stevenson, Allen Schintzius, Anthony McManus, Joyce El Kouarti, Beth Thompson, Pete Lavoie, Parks Christenbury, Dennis Ciotti, David Landry, Ronald Cole

MEMBERS ABSENT: Frank Torr

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

Alternate Allen Schintzius sat on the Board.

Chairman Cole brought the meeting to order at 7:05.

ITEM #1: Citizens' Forum

There were no speakers

ITEM #2: Approval of minutes.

Beth Thompson made the motion to approve the minutes of the last meeting. Dennis Ciotti seconded.

David Landry stated that on page three, second paragraph, he made another point and wanted it added as the first sentence to read as follows: "David Landry said that he knew the applicant and had worked on the issues of elderly care for several years."

VOTE U/A

Chairman Cole announce that ITEM #5 for Tri-City Builders, Inc., has been withdrawn and won't be addressed this evening.

ITEM #3: Consideration and acceptance of an application for a Driveway Waiver for Yeping Li, Assessor's Map 27, Lot 25, zoned RM-8, located at 22 East St. *(P03-10)

Yeping Li stated that he is seeking a driveway waiver. He said that before he purchased the property in November of 2001, the people who lived there used the two driveways. He said that there are two separate and unpaved driveways. He has been permitted to pave the one for the unit at 39 Ham St. but was refused the driveway at 22 East St. He said that without the driveway he would be prevented from renting the apartment in the winter. He submitted a letter from Gregory Dalzell, who has lived at 17 East St. since

May 1980, that stated that the tenants at 22 East St. have taken the fence down in the winter for parking and replaced it in the spring and that has been the routine for 23 years.

Peg Stevenson made the motion to accept the application

Beth Thompson seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Steve Stancel stated that this problem is quite common in an urban setting and there are many surrounding properties with similar situations in terms of having two driveways. He said that the City does have parking bans in the winter, and it makes sense to allow a second driveway for this duplex. He gave the recommended conditions.

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

1. The owner shall pave the driveway.
2. The owner shall reconstruct the sidewalk to add a tipdown, to reduce damage to the sidewalk. The work shall be approved by the City Engineer.
3. The driveway is closer than five feet to the side property line, so this approval includes a waiver to that requirement.

Peg Stevenson seconded.

VOTE U/A

ITEM #4: Consideration and acceptance of an application for a Conditional Use Permit for Public Service of New Hampshire (owner George Maglaras), Assessor's Map 24, Lots 138, 139, 140, zoned CWD, located at 11 – 33 Coheco St.* (P03-12)

Muriel Robinette, with Haley and Aldrich, represented PSNH. She stated that PSNH was involved with operating a manufactured gas plant site in Dover during a 100-year period from the mid 1800's to the 1900's. This process of producing gas from coal did produce some environmental bi-products residuals that are still present at the site. PSNH is going forward, under the direction of NH DES in response to the actions to clean up this site. She stated that they worked with the City of Dover to time this work in conjunction with the dredge work planned by the City and the Army Corps of Engineers. Ms. Robinette explained the work that would be done with the help of some charts.

David Landry stepped down because of a possible conflict in relation to his work.

Joyce El Kouarti sat in on this case in David Landry's seat.

Tony McManus asked if they were looking for other possible contaminants or just the ones that would have come from the gas plant.

Muriel Robinette stated that they looked at a full sweep of contaminants and that the contaminants that were found did not reflect what might have come from the tannery. She stated that the dredge spoils would be going into the uplands spoils cell which is being designed and built by the Army Corps of Engineers in the former ball field area.

Parks Christenbury stated that this is a very exciting project and he would like to thank George Maglaras's family for working this out. He said that the City would probably never have been able to come up with the funding to do this in concert with the dredging project. He added that this opens up possibilities on the waterfront that weren't imagined 3 or 4 years ago. He said that this is a tremendous savings to the City and he feels it is a once in a lifetime opportunity.

Ron Cole asked what triggered this.

Muriel Robinette stated that the Dept of Environmental Services was working for PSNH to investigate the site and move it forward into a remedial stage. PSNH is very involved in the local community and the stake holders and whenever they are doing a major project in an area it is discussed with property owners and in this case, this opportunity appeared. Muriel Robinette stated that the construction on the cut-off wall would be done this fall in the September timeframe and would take about 4 weeks to complete. She added that the dredging project by the Army Corps of Engineers would start in November, of 2003.

Dennis Ciotti asked what the cost to the taxpayers would be.

Muriel stated that the cost is being born by Public Service Co. of NH.

Discussion ensued with regard to the depth of the project and how it varies by location.

Joyce El Kouarti stated that the Conservation Commission endorses this project.

Beth Thompson made the motion to accept the application.

Joyce El Kouarti seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Steve Stancel stated that the CC has reviewed the project and is in favor of the project. He said that Planning staff recommends approval with the condition of the receipt of the NH Wetlands Board approval.

Parks Christenbury made the motion to approve with the condition of the receipt of the NH Wetlands Board approval.

Peg Stevenson seconded.

VOTE U/A

ITEM #5: Tri-City Builders (8 Units) (P03-06) has been withdrawn.

ITEM #6: Old Business

a. Letter from Dan Ayer requesting a 90 day extension because of the delay of the wetland certification. (P02-67)

Tony McManus asked why someone couldn't just come in with a map showing where the slopes and the wetlands were located.

Steve Stancel stated that it gets easier to identify the wetlands once the snow is melted.

Beth Thompson made the motion to approve the 90 day extension.

Allen Schintzius. Seconded.

VOTE 7 -1

Opposed – Tony McManus

Chairman Cole reminded everyone that has been serving on a committee that he would be having committee reports on the first meeting of each month.

Ron Cole asked if anyone wanted to serve on the Strafford Regional Planning Commission to please contact him and he would make the necessary arrangements.

Steve Stancel stated that there is a new definition for Farm/Agriculture that he feels better defines what a farm use is so that people don't begin to subdivide off property in industrial zones and put a house on it with a simple gardens in the back. He said that this definition appears simple on the surface but it covers the City in terms of that scenario not occurring in the future. He read it as follows: FARM/AGRICULTURE: Any land, buildings or structures on or in which agriculture and farming operations are carried out as the principal use, including all operations outlined in RSA 21:34:aII. One single-family dwelling shall be permitted as an accessory to the principal use.

Steve Stancel stated that if the Board agrees with the definition for farming, he would recommend putting it forward for a public hearing before the Planning Board and getting it approved for the Subdivision and Site Review Regulations and eventually getting it in the Zoning Regulations.

Beth Thompson asked if there was a financial component related to this definition as well.

Steve Stancel explained that it was not as easy to come up with a definition as one might think. He said that they discussed among themselves the possibility of including some

type of financial threshold, but there are always going to be some exceptions to the rule. He said for example, someone may have a natural farm operation and if you say that the majority of the revenue from the property has to come from farming, someone may have a spouse that makes more than the farming. He said that there are tree farms that don't produce a lot of revenue. He said that by saying that it has to be used as a principal use allows the Code Enforcement Officer to determine, on an individual basis if by revenue, or by the majority of the land use. He said that there are other thresholds to determine whether this is actually a principal use or not as opposed to just money.

Parks Christenbury made the motion to post the definition to a public hearing.
Tony McManus seconded.

VOTE U/A

Steve Stancel stated that the New Meadows Inc. has filed a Petition for Declaratory Judgment and Related Relief. He stated that back in 1986 there was a 600 unit apartment complex approved on Route 155. The first couple of buildings were constructed in phase I and some of the infrastructure was put in but then the project went bankrupt. He said that even the bank that took over the property went bankrupt. He said that the project then went through two other owners and based on our regulations, we declared the project null and void. In the mid-90's the developer decided to come in and start building and at that time we recommended that he come in with a full plan again so the site could be master planned. Steve Stancel said that the owners chose to come in with just a few buildings at a time. He said that Zoning has changed during the course of time with wetlands no longer being able to be counted and also the density was reduced in the multi-family zone which severely restricts the number of units that could occur out there. He said that recently they were approached by an attorney for the New Meadows claiming vested rights. He said that they have contracted with the Ciandella Law Firm in Exeter, to take a look into this. He said that they are negotiating a possible compromise but that they may end up in court. He said that he believes that there have been 264 units constructed so there are still 330 left. He said that if you add that to the 500 existing approved units sitting out there, you certainly have over 800 approved units in the City. He said that this is something that we have to take a very close look at and he would keep the Board posted.

Tony McManus stated that he just looked at it briefly but on the first page it said between 1986 and February of 1999, there were buildings constructed. He said that he doesn't remember any construction as recent as 1999.

Steve Stancel stated that it is accurate but the last 3 to 6 buildings were built after coming back to the Planning Board for approvals. He said that the staff contends that for the fact that they chose to come in with smaller projects each time, that it nullified the original 600. He said that you can't come back for vesting of 600 if you've been coming in and receiving site plan approval for smaller projects afterwards.

Tony McManus stated that they may think that they have a shot at it after the new case involving the City of Rochester where a corporation had abandoned a project for a

number of years but had put in the road and sewer improvements in the late 1980's and argued that they had vested rights to continue and the Supreme Court ruled in their favor.

ITEM #7: New Business

Tony McManus stated that he wanted to comment on the action that the City Council took with regard to Paul St. He said that he is not taking a position one way or the other on the vote but his concern is with the Waterfront development and that the Planning Board is the last to know what is going on. He said that he thinks that that waterfront property is probably the most valuable piece of commercial developable property that the City owns and that area was rezoned for waterfront development. He said that DIDA announced the plans for that area off of Paul Street and did not bring the matter before the Planning Board for our review or our input. He said that all of the design work was done and presented to the City Council and to the Chamber of Commerce and nobody ever offered to come before the Planning Board and make a presentation. He said that that the recent decision that the City Council took was taken without any input from the Planning Board. Tony said that everybody else in the City is planning for the waterfront except the Planning Board and he feels that it is not the proper way to go about planning for the use of this valuable piece of property. He said that he doesn't know how much input the Planning Department had before the City Council vote but that area was supposedly part of the overall project. Tony McManus stated that there were comments made in the newspaper that the property could be accessed by another road and there were possible plans for a hotel on the piece. He said that nobody has ever discussed that with the Planning Board. He emphasized that the Planning Board needs to be part of the planning process for the waterfront and not have the Council, DIDA and the Chamber doing their own thing. He said that it should be a cooperative effort.

Parks Christenbury said that he agrees with Tony 100%. He said that there is no one in charge of the waterfront and that there is no plan for the waterfront. He said that there is what the Chamber would like to have done and what DIDA has proposed before the rezoning had occurred when the economy was completely different. He said that no one is in charge and that is why you have several groups that are working in uncoordinated efforts. He said that the City Council will attempt to put together a group that would be in charge of the waterfront development which would include members from the Planning Board. Each person who has contributed, DIDA, the Chamber, members of the community, Mr. Maglaras and his family, have all contributed what they believe is in the best interest of the community and have put a lot of blood and sweat equity in the plan but the plans, if you follow this waterfront from its initial inception 12 to 15 years ago to where we are at today, doesn't reflect anything that was talked about. He said that he would, as a Planning Board representative, insure that there is ample representation from the Planning Board. He said that they are working on doing exactly what Tony is concerned about.

Beth Thompson commented that as a staff representative to DEDC she wished to remind everyone that in 1995, the City Council charged DIDA with marketing and bringing forward a development proposal for the waterfront parcel, which they did. They worked

on it using all of the studies and the charettes to make the determination. In the late 90's it was determined that the upper portion would only be appropriate for residential use, so they came forward with the condo project. They presented the plan at a joint meeting with the City Council, the Planning Board and themselves at the McConnell Center. She said that not many member of the Planning Board attended that meeting but Steve Stancel was there to hear input. She said that they felt that it was an appropriate project having gotten a consensus to go forward, and the rest is history. She said that as far as she can see, DEDC was the one that was charged to come forward with the plan. Beth Thompson stated that she doesn't think that DEDC is comfortable that they did not have a roll in the negotiations and the conversations of the City Council of the last week.

Ron Cole stated that if the Planning Board gets involved in something early on in a project in the community, good things happen. He said that this is an outstanding group of individuals and an outstanding group as a Board. He recommends using the expertise that the Board and the Planning Department has.

Steve Stancel stated that included in the packets are some fliers that discuss the importance of transportation in the community. He said that it is the beginning of a new round of CEMAQ mitigation quality as well as transportation enhancement grants for the City. He said that the Transportation Advisory Commission and the Planning staff are putting on a forum on transportation on Wednesday, April 16, at 7:00 PM, in the Auditorium.

Beth Thompson mentioned the training that is being put on in April by Strafford Office of State Planning.

Steve Stancel answered that the information was included in the last Board packets and the Department would pay if anyone is interested.

Ron Cole added that the instructors are thorough and fun if anyone is interested.

ITEM #8: Adjournment

Beth Thompson made the motion to adjourn.

Dennis Ciotti seconded.

VOTE U/A