

**DOVER PLANNING BOARD
MINUTES OF MEETING
OCTOBER 28, 2003**

MEMBERS PRESENT: Donald Andolina, Margaret Stevenson, Allen Schintzius, John Swartzendruber, Dennis Ciotti, Beth Thompson, Ronald Cole, Parks Christenbury, Pete Lavoie, Anthony McManus, Frank Torr

MEMBERS ABSENT: Eric Tooke

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

Chairman Cole brought the meeting to order at 7:03 PM.

Chairman Cole announced for the benefit of anyone who might be present that **ITEM #6: The Open Space Subdivision for Coldwell Banker, located on Sixth Street & Whittier St.**, would not be addressed by the Board at the request of the applicant. He said that **ITEM 9: a. Discussion and possible vote for the Kane Company, located on Sixth Street**, would also not be discussed this evening at the request of the applicant.

Steve Stancel stated that there is a question as to the next meeting date because Veterans' Day falls on the second Tuesday of the month. He said that there would be notifications sent to the abutters as to the next meeting.

ITEM #1: Citizens' Forum

William Hoginski, 31 Westwood Circle, stated that at the last meeting, there was a subdivision in his neighborhood that was voted on and during the process, Mr. Lavoie made the statement that he, (Mr.Hoginski) had given the City permission to put a water line through the back of his property. Mr. Hoginski said that he wanted to make it clear that he never gave his permission. He said that he suggested to Mr. Lavoie that there was an alternative of possibly coming down Westwood Circle where there is an access road right-of-way, located two lots down from his house that goes directly to the treatment plant that he was considering. He wanted to make it clear that he never made any kind of statement about anyone using his property for a water line and it was very inappropriate of Mr. Lavoie to say that.

ITEM #2: Approval of Minutes

Beth Thompson made the motion to approve the minutes of the last meeting. Frank Torr seconded.

Peg Stevenson stated that on Page 6, the site walk was for October 18, not 28.

Tony McManus stated that on Page 7, the name of the well should be Hughes not the Huges Well.

VOTE U/A

ITEM #3: Public Hearing to amend a condition of approval of the Alden Woods Subdivision that no parking be allowed on Wildewood Lane, to allow parking on one side of Wildewood Lane.

Steve Stancel explained that when the Alden Woods subdivision was approved, one of the items that came up was a discussion on the width of the roads and it was determined that the road widths could be decreased to 24 feet wide, provided that there be no parking on one side of the street. He said that on Wildewood Lane, because there was an existing right-of-way access way to a lot in the rear, the Feren property, the developer put in his plan that there would be no parking on either side of the street. He said that because there was no opposition, the Board approved it and the plan got recorded. He said that any areas that restrict parking have to go through a process where the City Council approves an actual ordinance restricting parking on a specific side of the street. He said that when that occurred, some of the abutters came to that meeting or made phone calls expressing concerns that it was too restrictive that they could have no parking in front of their house. He said that often times when people came to visit they would have to park either in the driveway or outside of the subdivision and walk, which seemed a bit restrictive. He said because staff feels that a 24 foot road is wide enough, as long as you have restriction on one side. Staff asked the City Attorney George Wattendorf to give a legal opinion regarding whether he though the existing access easement document, which is owned by the Ferens', would restrict the parking. Atty. Wattendorf's opinion was that he felt that it would be consistent with all other subdivisions and would not interfere with the Feren's access to their property. He suggested that the Planning Board consider not permitting parking within the cul-de-sac area to insure that the access to the Feren's lot not be blocked. He said that because it was a note on an approved plan, it takes a revision to the approved plan to have this occur. He said that a public hearing would have to be held and that the Council would have to take up the ordinance again.

The public hearing was opened.

Elizabeth Feren, an abutter on the back lot, stated that with parking on one side, they will not be able to drive a straight line to their property and will have to swerve when they get to where the circle comes around. She said that she is about 75% for this but has a few issues. One was the safety of children and dogs running out between the cars. She said that the 5 feet that you have to park from driveways will limit the amount of parking. She said that this will also be public parking for anyone else that is visiting on another street. She said, "Zoning giveth and Zoning taketh away." She said that it is extremely frustrating to come up the hill to find there are kids playing in the road. She asked if there would be signage to protect the cul-de-sac such as "No Parking Beyond This Point." She said that they appreciated the notice and that she 90% agrees.

Carl Feren, stated that he doesn't share the 75% and 90% acceptance of the right-of-way. He said that ever since the development has been there, nobody has ever paid attention to the no parking signs anyway and not just on one side but on both sides. Mr. Feren said that they have never said anything except to one party, who has been a perpetual thorn in their sides. He said that he disagrees with Wattendorf's opinion because they got their own opinion from their own attorney and he concluded that there is no authority that allows a condition for a subdivision plan to be overturned at a subsequent date. He said if you do decide to grant the petition, they do request that there be a no parking sign at the entrance to the cul-de-sac and that the signs be posted on both sides of the straight of way saying "No Parking Beyond This Point."

John Scoggins, neighbor to the back of the cul-de-sac, would like to have parking in front of his house when they have family over. He said that there is plenty of room in the cul-de-sac for fire trucks and everything to get in.

Tim Depalo, 46 Wildewood Lane, stated that there are six No Parking signs on this street. They have had no complaints or any problems that they are aware of with parking to impede Mr. Feren's access to his property. He said all they are looking for is equivalent parking restrictions or abilities on their street that are on the other streets within the neighborhood.

Carl Feren stated that he believed that Mr. Depalo was aware of their parking problems because of a conversation that occurred during a yard sale when he asked Mrs. Depalo if she would ask people to please not park in front of their driveway.

Tim Depalo, 46 Wildewood Lane, explained that there was a yard sale in the neighborhood and there were 100 cars on the street and they had no control over that and there was no limited access to the Feren's property at that time.

The public hearing was closed.

Parks Christenbury stated that this would require that the Council go back to the Traffic Advisory Committee. He said that the City Attorney is saying that this is an action that he believes that the Board should take and he thinks that should weigh heavily on the Board's decision.

Ron Cole stated that we are peripherally involved in this, but he feels that it is the Parking & Traffic Committee that would determine if this is a good or a bad thing.

Steve Stancel stated that there can't be any parking enforcement as things currently stand. He said if the Police were to go out and give tickets, they could be ripped up because until it's actually in the ordinance, it can't be enforced. He said that once it is in the ordinance it can be enforced. He said that he received a phone call regarding limiting parking in the cul-de-sac area and followed up with Atty. Wattendorf. He suggested a possible solution is to not allow parking within 25 feet of either side of the Feren right-of way, which would protect the Feren's. Steve Stancel suggested that the Planning Board

approve the amendments to the subdivision with the condition that there be no parking on one side of the street and then let the issues of where the signs go and where the limitations are in the cul-de-sac be taken up by The Transportation Advisory Committee and the City Council.

Beth Thompson made the motion to amend the subdivision to parking on one side of Wildwood Lane and to forward it to the Council for action.

Frank Torr seconded.

VOTE U/A

ITEM #4: Consideration and acceptance of an application for a Conditional Use Permit for Daniel & Jacqueline Ayer, Assessor's Map N, Lot 19, zoned R-40, located on Back Road.*(P03-60)

Dan Ayer, 10 McKone Lane, said that he was requesting a permit for a Conditional Use to cross a seasonal stream to access his property. This has been approved by the Conservation Commission and the approval from the NHDES is pending.

Tony McManus was concerned with the width of the access and asked if it was meant to be a driveway or a street. He said that it looks like a road to nowhere. He said that he has a problem approving a road not knowing what the purpose of it is. He said that it looks like the first step of a subdivision. He said that he doesn't think that the Board can approve a road to nowhere.

Dan Ayer stated that it is for a driveway at the present time. He explained that there is a 50' right-of-way and the driveway will be as long as it takes to get into the property.

Steve Stancel explained that it is not a street but a driveway. He said that Engineering could approve the driveway. He explained that the right-of-way is 50 feet wide and not the width of the pavement.

Dan Ayer stated that the right-of-way is 50 feet wide and there is an existing gravel driveway that is about 24 feet wide leading to a house. He said that the driveway goes to 186 Back Road. He said that he has a proposed house location on the lot that he is requesting access to.

Tony McManus stated that driveways are usually not 24 feet wide which makes him wonder if this is the first step to a more extensive subdivision of that property. He said that in that case he isn't sure if the Board should be considering it.

Dan Ayer reiterated that what he is asking the Board to consider is to allow access to a proposed house location over a seasonal stream on a lot that he owns.

Steve Stancel said that any further subdivision on this piece will trigger major subdivision approvals.

Dan Ayer stated that at the moment he doesn't have any plans. He said that he owns a lot on Back Road and that you have to cross a seasonal stream to get to the proposed house location, which happens to be near the water on the river and he would like to get to it.

Parks Christenbury made the motion to accept the application.

Beth Thompson seconded.

VOTE 7 – 1

Opposed – Tony McManus

The public hearing was opened.

There were no comments.

The public hearing was closed.

Steve Stancel stated that the Conservation Commission recommended approval and he gave the Planning staff's recommendations.

Parks Chirstenbury made the motion to approve with the following conditions:

1. The applicant shall obtain a wetlands permit from the NH Wetlands Bureau and provide a copy of the permit to the Planning Department.
2. Receipt of an approved driveway permit from the Community Services.

Beth Thompson seconded.

VOTE 6 – 2

Opposed – Tony McManus, Allen Schintzius

Steve Stancel pointed out to Dan Ayer that if he has plans in the future to turn this into a subdivision road, these particular standards would not meet the standards for a subdivision. He said that he wanted Mr. Ayer to be aware that if this is a driveway, it's ok, but he may be in trouble down the road if he has plans to subdivide.

Dan Ayer stated that he understood.

ITEM #5: Application for a minor subdivision and lot line adjustment of land for Timothy Ayer & Denise McKenney, Assessor's Map 20, Lots 7 & 8, zoned R-12, located on Niles St. (P03-59)

Dan Ayer, 10 McKone Lane, stated that he was representing his son. He is requesting a lot line adjustment with his neighbor and will be acquiring roughly 5,000 sq. ft. and 50 feet of frontage, which will allow him, by Variance, to subdivide the new lot into two lots.

Frank Torr made the motion to accept the application.

Peg Stevenson seconded.

VOTE U/A

The public hearing was opened.

There were no comments

The public hearing was closed.

Peg Stevenson made the motion to approve with the following conditions:

1. Add the owners' signatures to the plat.
2. Provide the Planning Department with a digital version of the final plat.
3. Revise the plat by adding the surveyor's signature to the surveyor seal.
4. Revise the plat by adding a note referencing the variances granted by the Zoning Board of Adjustment.

Parks Christenbury seconded.

VOTE U/A

ITEM #6: Withdrawn *P03-48 Whittier Hill*

ITEM #7: Consideration and acceptance of an application for a site review of land and Conditional Use Permit for Michael Sievert (Owner Churchill Medical Systems, Inc.), Assessor's Map D, Lot 14-4, zoned I-4, located on Venture Dr.* (P03-58)

Mike Sievert, represented Churchill Medical. He stated that they want to expand to the rear of the parcel for warehousing for medical products. He said that they now have a very small area for shipping and receiving. The overhead doors and loading dock would be moved out from the rear. He said that they are anticipating adding staff with this expansion and they are already short 10 or 15 parking spaces so they will be creating additional parking for employees to alleviate the parking in the street. He said that they will be moving the drainage and erosion control. He said that they received approval from the Conservation Commission for the encroachment into the 50' foot buffer.

Frank Torr made the motion to accept the application.

Dennis Ciotti seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Peg Stevenson made the motion to approve the site plan and Conditional Use Permit and the setback waiver for the TDR Ordinance for 39.5 feet from the northern property line with the following conditions:

1. Add the owner's signature to the plan.
2. The applicant shall obtain approval of the site plan from the Dover Economic Development Corporation.
3. As required as part of the originally approved site plan, the owner shall pay a proportional share of any new road constructed adjacent to the site at the time the

project connects to the road. Said proportional share shall be determined as follows: Total cost of road and utilities divided by total upland acres adjacent to the road, (32.92 acres) times total upland acres for the parcel (4.8 acres).

4. Provide the Planning Department with proof that the applicant has filed a Notice of Intent with the Environmental Protection Agency.

Dennis Ciotti seconded.

VOTE U/A

ITEM #8: Consideration and acceptance of an application for a nonbinding site review of land, as required by RSA 674:54, for the City of Dover and Omnipoint Holdings, Inc. to construct a 140-foot telecommunications monopole and cabinet at 271 Mast Road, Assessor's Map H, Lot 58, zoned I-4.*(P03-62)

Mike Joyal stated that this project has already been approved by the City Council. He said that approximately a year and a half ago, the City began investigating placing a wireless communication tower out on the Mast Road site. He said that the GIS system is a very intensive communication hog for their data network. They are currently pumping data through a phone line at a cost of approximately \$500.00 per month. The solution that they found was to install a wireless connection. He said that they approached Omnipoint Communications who was looking to locate a communication tower in the same location as the City. He said that they have come up with a partnership arrangement where Omnipoint would fund and build the tower on the City's behalf, in exchange for the right to lease space on the tower for a period of time from the City. There will be payback on this tower with Omnipoint. Over a period of years the City will actually collect rent from Omnipoint and be able to lease out other positions on the tower.

Debra Zampa represented Omni Point and stated that they have done a preliminary review through a consultant to the FAA. They are waiting for the OK and there should be no issue.

Parks Christenbury made the motion to accept the application

Peg Stevenson seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Parks Christenbury made the motion to approve the application.

Peg Stevenson seconded.

VOTE U/A

ITEM #9: Old Business

a. Kane Company, located on Sixth Street. WITHDRAWN P03-56

b. Approval of Workshop minutes of October 14, 2003.

Beth Thompson made the motion to approve the minutes of the Planning Board Workshop of October 28, 2003.

Dennis Ciotti seconded.

VOTE U/A

Abstained – Peg Stevenson

c. Discussion of Capital Improvement Program

Mike Joyal explained the CIP process to the Board

Steve Stancel stated that the City Manager scheduled a workshop on November 5 to go through each item of the CIP. He said that the idea this year was to have a joint workshop with the City Council and the Planning Board to hear detailed presentations from the Department Heads with regard to the CIP. He added that the Planning Board would hold their own deliberations at a Planning Board Workshop and then send their recommendations on to the City Council. He said that it is up to the Board whether they want to do this.

Parks Christenbury stated that this combined workshop would kill two birds with one stone and would give the Planning Board a feel of how the City Council looks at the CIP and then give the Council a look at how the Planning Board looks at the CIP in relation to the Master Plan. He said that he hopes that this would get to be a standard procedure. He said that he feels that it is an excellent idea.

Steve Stancel stated that the Workshop will be held on Wednesday, November 5, 2003, at 7:00 PM.

Ron Cole asked what the feeling of the Board was regarding the combined workshop and reminded the Board that they would still need to do their homework, keeping in mind the City's Master Plan.

Frank Torr stated that he felt it was an excellent idea.

Mike Joyal stated that if the Board Members had any questions beforehand to let him know so they can have their comments prepared ahead of time. He said that it would still be an open forum.

There was no opposition to the combined workshop.

ITEM #10: New Business

- a. Request for School Impact Fee Waiver for Tedbarry Homes LLC, for Footbridge Lane, Assessor's Map H, Lots 11, 15, 19, 23, 27, 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30 and Trestle Way Map H, Lots 28, 30, 34, 36, 40, 42, 60, 62, 64, 66, 68, 70.**
- b. Request for a School Impact Fee Waiver for Build America of NH. LLC, for Assessor's Map 39, Lots 17, 18, 25, 26 and 27, located on Sullivan Drive and Evergreen Valley Drive.**
- c. Request for a School Impact Fee Waiver for Scamman Builders, Inc., Assessor's Map J, Lot 2, 5, 6, 7, 8, 9, 10, located on Seaborne Road.**

Steve Stancel stated that there are three separate requests for waivers of the School Impact fee. He said that **a.** and **c.** are relatively new subdivisions that came in prior to the adoption of the Impact Fee Ordinance and as such, they clearly meet Article 674:39 which allows for protection for up to four years, provided that construction began within 12 months of the approval date.

Steve Stancel stated that Item **#d.** is a request of Impact Fee Waivers for Build America. He said that, initially, we thought that it did not meet with conditions of 674:39 and therefore would have to pay the impact fees. He said that they did receive a legal question from the applicant's attorney and, subsequently, they asked the City's Attorney George Wattendorf for a legal opinion. Attorney Wattendorf talks about the two primary criteria for RSA 674:39 for exemptions and one is that the work is begun within 12 months of approval and secondly is that it is substantial completed within 4 year time frame. He said that this subdivision was approved in 1995, and it did receive a couple of extensions prior to the developer going belly-up. He said that it sort of sat there for two or three years. He said that the current developer purchased the project and received the first building permit in March of 1994, almost 4 years from recording but still within the four year timeframe. On the surface it didn't seem to meet the criteria but George Wattendorf indicates that he feels in this case, there was a Tri-Partite Agreement made which is another form of a performance guarantee that the City requires of all projects. He said that we require that a certain amount of money is set aside so that if the development goes belly-up after it's started, the City can move in a build the roads and the infrastructure. He said that the City Attorney indicated that he feels that the Tri-Partite Agreement was a form of de facto extension of approvals which are allowed in RSA 674:39 so he is recommending approval of the waiver for the five houses that are left in this project. He also indicated that we may need to take a look at our performance guarantees to make sure that they guarantee the performance, but don't give approval for extensions. Steve Stancel explained that this is the only Tri-Partite agreement that the City's has ever done and instead of a performance guarantee, it's an agreement between the City, the developer and the bank that the monies will be paid. The money is held in

an escrow account in the bank so it is a little different than the typical performance guaranties. He said that this is a unique situation.

Frank Torr made the motion to approve all three waivers, **ITEMS a., b, & c.** of the School Impact fees.

Dennis Ciotti seconded.

VOTE U/A

Steve Stancel stated that the second Tuesday in November is a holiday and City Hall will be closed. He said that the Council Chambers will be available on Thursday, the 13th or Tuesday, the 18th. He said that there is too much going on to skip an agenda.

Ron Cole announced that the next Planning Board meeting will be held on Thursday, November the 13th.

ITEM 11: Adjournment

Dennis Ciotti made the motion to adjourn.

Frank Torr seconded.

VOTE U/A