

**DOVER PLANNING BOARD
MINUTES OF MEETING
JANUARY 8, 2007**

MEMBERS PRESENT: Pete Lavoie, Frank Torr, Margaret Stevenson, Tony McManus, David Landry, Beth Thompson, Ron Cole, Parks Christenbury, Dennis Ciotti, Chuck Maglaras

MEMBERS ABSENT: John Sullivan

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

ITEM #1: Election of Officers

Chairman Cole asked for any nominations for Chairman.

Chuck Maglaras nominated Ron Cole.
Frank Torr seconded.
Nominations were closed.

VOTE U/A

Chairman Cole asked for any nominations for Vice-Chair.

Frank Torr nominated Chuck Maglaras.
Beth Thompson seconded.
Nominations were closed.

VOTE U/A

ITEM #2: Citizens' Forum

Malcolm McNeill stated that he was concerned and dismayed by something that he read in the newspaper relative to efforts to effect the seat of Beth Thompson. He said that diversification on this Board of differing points of view should be welcomed and encouraged. The ability to acknowledge, understand and appreciate the power of the City Manager to have a designee should also be appreciated and respected. He said that the primary characteristics that should be looked for in this Board are people who come to meetings, listen to the evidence, attempt to act fairly and not agendaize, people who attempt to weigh the evidence fairly and are respectful of people who come here and try and do the right things. Applying those standards there should be no question about the suitability of Beth Thompson retaining the position that she has. If this is an attempt to question the voting record of an individual, we all have complaints in that regard but none of us having those complaints would ever utilize it as grounds to allege grounds that would be sufficient enough to remove anyone from this Board. The fact that you would give of your time, efforts, do your homework and make difficult decisions are things that you should all be commended for and he honors them for all doing that duty. He said that by the same token, people who perform that duty should be allowed to continue.

ITEM #3: Approval of minutes

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

Chuck Maglaras pointed out that on page 2, it should be Opposed – Tony McManus not Tony Maglaras.

Tony McManus pointed out that there were several places in text that diminimus should have been spelled deminimus. Page 10, it should be Carolyn Foley who spoke not Carol Foley. Page 16, in the middle of the opening paragraph, Tony said that he finds that Atty. McNeill comment dissenting, should be replaced with disconcerting. Two lines down from that roll should be role. 4 lines down should be defy common sense “of” the actual experience.... Page 15, remiss rather than remised.

Chairman Cole asked that on page 8, a note be added to reflect that he had to request twice that Attorney Bryant stay focussed on the subject with regard to his comments on Saudi Aranco and the government of Saudi Arabia.

VOTE U/A

Chairman Cole welcomed Councilor Christenbury back to the Board.

ITEM #4: Consideration and acceptance of an application for a Conditional Use Permit for Leonard Lord, (Owner Jean Arkwell) Assessor’s Map G, Lot 26A, zoned R-20, located on Columbus Avenue. (P01-66)

Leonard Lord, Soil and Wetlands Scientist with Carex Ecosystem Sciences, represented the Arkwells. He said that he has made two very minor changes to the plan. First, there is a well shown on lot and the lot now has municipal water available and second, the culvert type is an RCP rather than a CPT culvert. He said that that there is a 1,210 foot driveway crossing on an existing lot of record. He said that it’s been through the Conservation Commission and at the City’s request they have put granite markers along the wetlands boundary so that it will be permanently marked. He pointed out the location for the septic system and stated that there are no wells within 75’.

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.

Discussion ensued with regard to the lot being a grandfathered lot of record.

Steve Stancel gave the three recommendations from the Planning staff.

Beth Thompson made the motion to approve with the following conditions:

1. The applicant shall provide a copy of the NH Wetlands Bureau permit to the Planning Department.
2. The Applicant shall position sufficient markers of either boulders or granite posts to delineate the wetland areas.
3. The applicant shall revise the deed of the property to include a description of the regulatory protections of the delineated wetland areas.

Peg Stevenson seconded.

VOTE U/A

ITEM #5: Consideration and acceptance of an application for a Conditional Use Permit for Richard & Geraldine Macleary, Assessor's Map 7, Lot 13, zoned R-20, located at 33 Boston Harbor Road.*(P01-67)

Bob Procop, represented the Maclearys. He stated that the application is to demolish an existing 16 x 26 structure to be replaced by a 26 x 30 structure, which is within the 100' wetlands buffer zone. They are also planning to rip rap approximately 70' of badly eroding shoreline area. He said that they have a pending application with the NH Wetlands Board. They also have the Shoreline Protection Variance application pending. He said that there are 3 other permits pending with this. He said that the Conservation Commission recommended approval pending conditions. The most significant one is that a 10' area of the buffer zone be set aside as a no build area to be revegetated with shrubs. Also, that the two structures be demolished and the second structure be demolished within 6 months after the replacement structure is built.

Frank Torr asked if they would be in compliance if they put the new structure in the back of the lot.

Mr. Procop stated that it would place the house so that the traffic would go right by the bedroom window. He said that the house is a modular, two-story structure that will be built on a slab.

David Landry asked how many houses the right-of-way served.

Bob Procop stated estimated about 10.

Chuck Maglaras 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 the Conservation District Ordinance was written the way it was in order to allow Conditional Use Permits so that there could be some flexibility. While there is some subjectivity in each of the applications we've received lately, he thought that for the most part, after reviewing the plan you could decide for yourselves whether it's overkill for the lot or not. He said that there was a plan presented a couple of meetings ago that he thought was fairly obvious that it was overkill. He said after looking at this plan and considering that there is a sewer easement, you are swapping two 1 story wood camps for 1 two-story house. He said that the Conservation Commission's conditions of approval are included in the following staff recommendations:

1. The applicant shall provide a copy of the NH Wetlands Bureau permit to the Planning Department.
2. The applicant shall implement the buffer-zone re-vegetation plan prior to the issuance of a Certificate of Occupancy.
3. The rearmost dwelling next to Boston Harbor Road shall be demolished within six months of the issuance of the Certificate of Occupancy for the new building and not ever rebuilt.

Ron Cole asked if there was a provision in that 3rd condition to determine that the building would be down within 6 months of the CO. Steve said that the Building Inspector would follow that through.

Chuck Maglaras asked what would happen if they wanted to put a small garage in that area. Steve Stancel answered that it would just have to meet the setbacks for the lot for an accessory structure.

Discussion ensued with regard to the existing shed. Mr. Procop stated that he did not believe that the intention is to demolish the small shed because it is one of the better structures.

Tony McManus asked Steve Stancel how this differs from the Theodore application that was turned down.

Steve Stancel stated that it was because of the scale of the house itself. This house matches and is more appropriate to the surrounding units.

David Landry stated that the Theodore application was turned down the first time and when it came back there was a majority vote in favor of the applicant.

Frank Torr added that it was because there was a change in the size of the structure.

Tony McManus stated that some of the Board had objections because it was still within the setback and it was a substantially bigger building than the original. He said that this is a two-story building and it will be twice as big as the existing building and well within the setback. He said that he is not sure he understands why, if the setback is going to

have any meaning at all, we don't enforce it and if we are not going to enforce it then he would suggest that it be one of the proposed changes that is brought to us to look at. He asked if there is a State setback.

Steve Stancel stated that there is a State Shoreline Protection Ordinance and it pertains more to septic systems.

Bob Procop stated that because there is a small area of salt marsh and it is tidal wetlands, the 75' setback is enforced by the NH Wetlands Bureau. It also allows some latitude because that 75' zone has already been disturbed and, therefore, the State has a slightly less stringent requirement.

Tony McManus stated that to say that they have to put it in front of the easement because the easement is there doesn't strike him as a valid argument for violating the setback requirement.

Chuck Maglaras made the motion to approve with the following conditions:

1. The applicant shall provide a copy of the NH Wetlands Bureau permit to the Planning Department.
2. The applicant shall implement the buffer-zone re-vegetation plan prior to the issuance of a Certificate of Occupancy.
3. The rearmost dwelling next to Boston Harbor Road shall be demolished within six months of the issuance of the Certificate of Occupancy for the new building and not ever rebuilt.

Beth Thompson seconded.

VOTE 7 - 1

Opposed - Tony McManus

ITEM #6: Consideration and acceptance of an application for a minor subdivision of land for John Janetos (Owner Heirs of Simon Janetos) Assessor's Map N, Lot 13, zoned R-40, located on Country Club Drive. (P01-68)

Alan Marshal, stated that this is a 63 acre lot and they wish to subdivide 1 building lot from that. He said that they are requesting a waiver to allow the subdivision to proceed without a full survey of the entire 63-acre parcel.

Frank Torr made the motion to accept the application.

Chuck Maglaras seconded.

VOTE U/A

The public hearing was opened.

A gentleman named Dave, an abutter to the property, asked for a clarification of the waiver. He had no problem with the application after Mr. Marshall explained that the waiver is so that they do not have to survey the entire 63 acres

The public hearing was closed.

Steve Stancel stated that when the project was originally approved, Mr. Walter Fischer kept a reserve strip to the western side of the Country Club Estates road. He did that in order to be able to collect monies from anyone who came in to tie into the road because he invested in the road. When the City accepted the right-of-way, they tried to get rid of the reserve easement and went to court. In the final analysis, what occurred is that the City ended up accepting not only the road but that reserve strip as well which is why there is that funny shaped easement with the road in it. In exchange for that, Mr. Fisher does receive, through private negotiation, a fair share fee for the road improvements. Atty. Schulte has contacted Mr. Fischer and he is proposing a fee of \$2,598. He said that Mr. Fisher is agreeing with that figure. He said that he would like to add a couple of conditions.

1. Add the owners' signatures to the plat.
2. Provide the Planning Department with a copy of the NH Department of Environmental Services Subdivision Permit and add the permit number to the plat.
3. Revise the plat by adding the zoning district boundary line to sheet #1.
4. Revise the plat to tie the survey into the city's GIS coordinate system and add two GIS points.
5. Revise the plat to add common subdivision plan notes #12 and 25.
6. Approval includes the granting of the waiver request.
7. Provide note on the plan indicating any presence of wetlands
8. The agreement between the parties of a private connection fee for the road prior to the recording of the plan.

Frank Torr made the motion to approve with the 8 conditions stated by Steve Stancel. Parks Christenbury seconded.

VOTE U/A

Chuck Maglaras suggested that Item #8 be taken up before Item #7 because it is a simple lot line adjustment and Item #7 would take longer.

Chairman Cole said if it pleases the Board we will go to #8 Hollinger.

ITEM #8: Consideration and acceptance of ana application for a lot line adjustment of land for Jeffrey & Christina Hollinger, Assessor's Map M, Lots 94 & 94A, zoned R-40, located at 356 Back Road. (P01-69)

Chuck Maglaras excused himself saying that he has a conflict.

Jeff Hollinger stated that it is a just a minor lot line adjustment to acquire some additional space in that corner of his property.

Peg Stevenson made the motion to accept the application
David Landry seconded.

VOTE U/A

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

Steve Stancel gave the recommended staff recommendations.

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

1. Add both of the owners' signatures to the plat.
2. Revise the plat to show the location of the well and septic system for lot 94.
3. Revise the plat to add "R-40" to note #4-a.

David Landry seconded.

VOTE U/A

Chuck Maglaras took his seat.

ITEM #7: Consideration and acceptance of an application for a lot line adjustment of land for MIST Development, LLC, (Owner Sidney Robbins Family Trust) Assessor's Map H, Lot 18, zoned RM-20, located on Knox Marsh Road. (P01-41)

Malcolm McNeill represented the application and stated that the units have been reduced to 45. It's a mixed condominium project located on 14.84 acres in the RM-20 zone. This area was proposed for a commercial rezoning which was not passed. This project adjoins White Cliffs and Westgate Apartments on Knox Marsh Road. He said that on the other side of the street this Planning Board approved a project for a substantial supermarket that was not built. The project is self-contained. There will be 13 two bedroom detached units and 6 duplexes on the site with common driveway. In addition, there will be 1 three-plex, 3 four-plexes, and 1 five-plex. Mr. McNeill stated that access is proposed on Knox Marsh Road and that the road will be private. There is one wetlands crossing in the area that has been reviewed by the Conservation Commission and approved by the NH Wetlands Board. They have provided an access point into the adjoining Westgate Apartments that would be controlled by a crash gate to provide an alternative for emergency vehicles in the event of an emergency. They are proposing that this condominium project be self contained. They are not proposing that there be through traffic with the adjoining property. He said that the Board has approved many projects that are condominiums with private roads where the association would control the roadway, its maintenance and its upkeep, at no expense to the community. In addition, trash collection would come under the control of the Homeowners Association. It was done for Dovetail Commons and the Meadowbrook project. There is a difference between this project and the adjoining uses and, as such, they do not wish to have the liability for public traffic through a private project. They desire not to further impact their project, which would be the case with the through road. He said that he can remember when the Hanaford project was being considered, one of the conditions of approval of that project was to take down a portion of that hill because of site distance issues. The projects that presently exist at White Cliffs and Westgate have been approved by this board and utilize that intersection. They would like not to have their

traffic utilize that intersection nor would they wish to have the adjoining of the roads be the subject of utilizing this project. They believe that public safety would be served by having the crash gate and providing an alternative access for emergency purposes. They don't believe that there is compatibility between the projects that would result in the continuous roadway. The site provides three areas of recreation. They believe that the project and the City would be best served by consulting with the Recreation Department and having this developer enhance Bellamy Park in a fashion that would also benefit the project, rather than the tot lots and other playgrounds that they are proposing on site. They are proposing a tot lot of about 1,300 sq. ft., a play park of 1,500 sq. ft. and a basketball court of 2,800 sq. ft. They would be willing to provide reasonable access to Bellamy Park.

Atty. McNeill stated that the traffic study shows no need for significant offsite improvements other than a deceleration lane for eastbound traffic. They are in the process of obtaining a site-specific approval from the State of NH. They do require a Conditional Use Permit with regard to the wetlands crossing which will be part of application as they proceed. This property is in the Secondary Groundwater Protection Zone. The Planning Department has request that they have a hydrogeologic study to show that there is no adverse impact from this project and they have agreed to do a study. It hasn't been completed as yet. The developer sent a notice in September to abutters asking for a neighborhood meeting and there were only 2 abutters that appeared. Mr. McNeill stated that they may have a basic difference with Bruce Woodruff, about whether this roadway should be through or not.

Reuben Hull, from CLD Engineers, stated that this has been a team effort to submit this project that he is proud to be a part of, with regard to a mix of the compatible use and the use of green space and creativity. There is no request for waivers with this application. He said that this will be a single lot with the different style units. They are asking for a 24' wide pavement. The zoning allows 24 to 32' of pavement. They feel that with this particular development 24' is acceptable and is in their mind desirable for it to keep traffic and speeds down and to serve a neighborhood of 45 units. In the first TRC meeting it was requested that they bump that up to 28'. He said they went back and redid their zoning calculations as if there were 28' of pavement, which impacts the density calculations, and that is one of the reasons that they have gone from 47 units to 45. He said that what they have done is given you a sheet 2 and 2a. Sheet two is what they are proposing and sheet 2a is showing the project as developed, with the number of units and the same wetlands and the same impact on everything else with the only difference being the width of the pavement. The developer has agreed to size the zoning calculations based on 28' but they are still proposing 24 feet for the actual pavement that will be installed. The developer is proposing a bus lane turn out at the intersection right off of Knox Marsh Road. There is a detail on the plan and that would be replacing the current bus shelter that is just further to the west. Wildcat Transit and COAST find this location better for safety and site distance. He said that, originally, they had only a single access point and they were asked to make the connection to Western Avenue. They did make the physical connection as a gated connection but all of the geometry and the road itself, the internal workings of the development, is designed to be able to self support this

particular development. It is also designed so that if it's decided that there will not be a gate there and there will be a connection through, the project will work also. They feel that it is a legal issue and a matter of opinion as to whether that gate goes in there. In terms of recreation, there were discussion with the Recreation Dept. about the possibility of using the contribution from the developer to enhance Bellamy Park. It was brought up at TRC that that would require a zoning variance. Their intention is not to have to get any variances. The applicant would rather do improvements to the park and provide a trail network from this property to the park. If that doesn't happen, the project works well self-contained. They have proposed a mix of uses and a mix of recreation to provide more of a neighborhood. The developers could have come in with a single road and single driveway and with much easier and simpler approvals, fewer state approvals, fewer road blocks, fewer things to consider, but, in his mind, a much less creative and much less livable neighborhood than what is presented in front of you.

Reuben Hull stated that they received their wetlands permit today. They do have an application in for Site Specific. The drainage plan is to essentially follow the drainage patterns that are there today. He said that the method that they are using is the method that is preferred by the State DES and strongly endorsed by the Conservation Commission. They are in the secondary groundwater zone. The Planning Board does have the prerogative to ask for a hydrogeologic study and they have taken the initiative and have contracted Lincoln Hydrogeology to prepare a study as to what the impacts of this will have on the secondary aquifer. The developer is making the bus lane and is also providing a contribution for sidewalks along Knox Marsh Road, as well as, internal sidewalks that are being proposed. They are trying to make it as pedestrian friendly and as neighborhood oriented as possible. The developer is considering the possibility of taking that portion of the property, as well as the property adjacent to it which they have an option on, and doing something through zoning to put a commercial convenience store/ neighborhood store in that location. It's not an allowed use right now, but something that they might come back with sometime in the future. They have a landscaping plan in the package and a lighting plan that proposes a pedestal light at each driveway to get more of a home feel instead of a highway feel. The sewer is oversized and they have provided a stub at the upper end so that if land across the street is ever developed that there is an access. Reuben Hull said that there are some very significant problems with the exit at Westgate and White Cliff regarding site distance and they feel that if this connection is made, it would exacerbate a situation that is already problematic.

Parks Christenbury asked if the crash gate was removed, would the 24' roadway still be adequate.

Reuben Hull stated that they would still do the 24' because they feel it's adequate for the neighborhood and would act as a deterrent to speeding and traffic. The owner doesn't want the traffic from the other development coming through. He said it became apparent that there were problems with the 24', they have made the provisions that they could put 4' of pavement in without impacting any of the conformity of the lots.

Ron Cole asked about the school bus situation.

Reuben Hull answered that the bus stop on Knox Marsh would be for transit buses, not for school buses. What they want to do and what Laidlaw Transportation would like to do is to have the pick up done within the property. They need to get the School Board to authorize Laidlaw to do that because it's a private road. They would propose that the bus would pick up at one location and go around the loop and then go back out.

Dave Landry asked about the lot on the corner that was mentioned with regard to this project. He stated that at various times he spoke to Reuben Hull with regard to access to Bellamy Park and a future bicycle trail. He asked about the landscaping and the requirement of having a tree in every yard vs. trees down the entire road and people doing what they want with their specific yards.

Reuben Hull stated that what is in front of him right now is a single lot with 45 units of which that 45th unit would be part of the approval. At some point the applicant may come back asking for a subdivision that would parcel off enough of that corner to be able to satisfy the commercial zoning requirements for whatever zone if it was rezoned. Another option would be a zoning variance, but they don't feel that they can really defend hardship so that isn't practical. The idea would be that the upper northeast corner would be parceled out and then possibly combined with the lot that is adjacent to it which right now has its own separate driveway permit. They are not in here right now for that second lot. Reuben pointed out the path to the park. He said what they propose is that part the recreation would be to formalize that pathway into the park.

Ron Cole asked Steve Stancel if the path that the Board requested with regard to the approval of either White Cliffs or the Meadows has been done.

Steve Stancel stated that he would have to check on that. Ron Cole added that he would check also.

Rob Mack, with LLC., stated that they prepared a traffic study dated June 2001. The driveway permit was approved by the State. He said that they counted the traffic and looked at the peak hour times and also looked at a 10-year projection. He summarized what was in his study and ended by saying that the site distance is in excess of 400 feet which is adequate for about 45-mph traffic and the speed limit there is 35 mph. The site would have negligible impact on Route 155. He said that they are proposing a deceleration lane coming in the eastbound direction. At the request of the site review committee they were asked to look at the potential for traffic signalization for the driveway and the traffic volume is way below the minimum thresholds to consider the need for a signalization. He added that White Cliffs has about 4 times the traffic flow and adding more traffic to that intersection would be exacerbating the problem by concentrating additional traffic onto that exit.

Steve Stancel stated that the Conservation Commission has reviewed this project in regard to wetland crossings but since that time it has been determined that this project is not only in the Groundwater Protection Zone but it exceeds the 20% lot coverage,

therefore, it has to go to Conservation Commission for review with regard to a Conditional Use Permit. He said that the CC would like to do a joint site walk with the Planning Board. He said that if the Board chose to accept this plan this evening and he would open up the public hearing and then table it. The site walk shouldn't be scheduled until early Feb. after the CC has had a chance to review the plans again so that we can do a joint site walk.

Parks Chirstenbury made the motion to accept.
Beth Thompson seconded.

VOTE U/A

The public hearing was opened.

Nancy Quinlan, 89 Knox Marsh Road, stated that she was omitted from the abutters list initially and did not find out about the wetlands application long after the deadline had passed. She never received notification of a neighborhood meeting either. This is the first notice that she has received. She understands that the City wanted to rezone this piece of land to B-4, hotel and retail. Every time the rezoning comes up they hear that high density multi-residential is the worst thing that can happen because it doesn't pay for itself. She quoted Section 170-27.1 and said that she doesn't understand why the units on that side are not set back 75' from the wetlands. She said that she is concerned because it is in a Groundwater Protection Zone. She said that she couldn't get out of her driveway between 7:30 and 8:00 AM. Ms. Quinlan said that the traffic study was done in June and that is when UNH is not in session so the study would not reflect the actual traffic. She also stated that the intersection of 9 & 155 is like a drag strip. She can't imagine that anyone would want that development having access onto 155 at that point. She said that there are accidents all the time at Westgate and White Cliffs and feels that this will create a similar situation. She added that she is also concerned that Mr. Hull just said that there is a potential for a new convenience store. This lot was identified in the 1988 Master Plan as one that the City should look into acquiring and adding it to Bellamy Park. She said that developing this parcel will compromise the entire area as far as the ecology of the area. She feels that this is overkill of the lot.

Ron Cole recessed the public hearing. He said that he would like to table this.

Reuben Hull stated that the plan has not sufficiently changed from what the Conservation Commission has seen in terms of drainage, wetlands protection, wetlands impacts, and the stormwater management has not changed. He said that if there is a need to delay just because the Conservation Commission has not seen this plan, it's not the case. They have not looked at it from the groundwater protection side and that is what is outstanding from their perspective.

Steve Stancel stated that he disagrees with Reuben Hull's assessment as to how much of the impact has changed in regard to the wetlands. Tom Fargo has indicated to him that he would like to take another look at the plan. Steve Stancel said that, as it pertains to the Groundwater Protection Zone, Planning was receiving phone calls today from the

hydrogeologist asking what it was that we were seeking out there. That indicated that he has not even begun his work so there is no need to rush the site walk. He said that if he had known that in advance, he probably would not have scheduled this project for this meeting. He added that it represents at least a couple of weeks' worth of work.

Steve Stancel said that they are still waiting for some additional traffic information. He said that they are not completely comfortable with the counts or the generation numbers used for the counts. He said that he would like to hire a traffic consultant to review the counts. He said that a good planning policy indicates that you maximize your access points to any project. He said that Western Avenue was dead-ended on purpose at this property line in anticipation several years ago for utilizing Western Avenue for this project. Steve said if this project is connected to Western Avenue and that is what he is promoting at this point. They don't see a large usage of the private road by the residents of Westgate or White Cliffs. It would be more than likely that they will still continue to utilize their entranceway because it is more convenient to them than to drive through this private road system. He said that the property across the street from that entrance will be developed at some point. There was major grocery store approved on the site and at one time there was a traffic signal approved right there. He said that is another reason why they are hesitant to give up the concept of connecting through to Western Avenue because that is a valuable resource. They are not adverse to the recreation facilities onto Bellamy Park but there is some question with regard to the fact that this is a requirement in zoning and may not be waivable by the Planning Board and it may require a Variance. He said that he would like to point out this was a parcel that this Planning Board recommended for rezoning about 2 ½ years ago and was taken out by the City Council. At that time we said there would be a project of 44 units or more on this property and so it was fair warning. He said that at that time a potential office user was interested in the site. Once again we have a piece of property that is now lost forever to the City of Dover. He said that we are somewhere up near 150 units that have been approved on parcels that we had previously recommended for rezoning. The City Manager did negotiate long and hard to acquire this property after the rezoning fell through.

Ron Cole stated that he wants to wait until they have spoken again with the Conservation Commission before scheduling a sitewalk. He said that with the ok of the Board, he would like to do the sitewalk at 8:00 AM on a weekday morning, or in the evening. He said that we should be looking at it at it's potential worst.

Frank Torr made the motion to table.

Beth Thompson seconded.

VOTE U/A

ITEM #9: Old Business

There was none.

ITEM #10: New Business

George Wattendorf stated that the request for this meeting is to raise the issue about a Board member's qualification and this may have some impact on pending lawsuits in Superior Court. He said that it is safer to go into executive session.

Park Christenbury stated that he doesn't think that it is appropriate to discuss a member's qualifications in executive session. If the issue is going to be raised and it's tied to a legal case, and if you believe that's so, he would be willing to go into executive session just to explore that on a very narrow scope. But if the discussion turns into a general discussion of somebody's qualifications, he would move immediately to come out of executive session and come back into the public session because we are in a very gray area.

Ron Cole stated that he understands where he is coming from and he understands that what Atty. Wattendorf is saying is that, in the course of discussion, reference may be made to a couple of projects that have been voted on without mentioning an individual, but by mentioning the project it could have ramification somewhere down the road.

Frank Torr stated that he feels that we are getting into an area where we don't have any jurisdiction. He said that jurisdiction lies with the Council and he doesn't think that the Board has any jurisdiction over that. Beth Thompson was approved by Council, she legally sits as a designee of the City Manager. He added that we have no reason to go into executive session because it really isn't a legal matter to us and it isn't something that should be addressed by this Board.

Parks Christenbury wanted it made perfectly clear why this Board would be going in executive session. Is it the initial step to remove someone from this Board, or is it to talk about legal issues in regard to pending legislation. He said that he feels that there is a vast difference.

Wattendorf stated that it is because questions have arisen about this individual's qualifications to sit.

Ron Cole stated that the way it was presented to him is there is absolutely no individual involved in this, merely the position. In other words, the City Manager has seen fit to appoint a member of the City staff and it's his understanding that we are not talking personality, we are talking about a position that could cause conflict somewhere down the road.

Parks Christenbury stated that every member of the Board could be involved in a conflict somewhere down the road. If the discussion is to get a legal opinion by the City Attorney whether Beth Thompson can be the designee of the City Manager he said he thinks that that discussion has already been answered by the City Attorney. The RSA allows the City Manager, who is an ex-officio member and is authorized by the State Legislature to appoint a designee to represent him that designee is so authorized by the governing body which is the City Council. The City Manager was looking at legislation to remove that.

Beth Thompson stated that while they did not vote to go into executive session, she would like to address something that everyone has discussed but herself. She said that she was informed two days ago that her position as Economic Development Director had been questioned as a suitable one for this Board. She said that everyone on the Board and the newspaper was notified of that decision to discuss this tonight, but she was not. She said that at least three letters have been written to the Board by Mr. McManus relative to her position on the Board. She said that she has never been addressed personally of that but saw the letter at Steve Stancel's desk. She said that yesterday was the first time that Mr. McManus has ever addressed his concern with her. She said that she was taken aback and as the day went on she became more angry because she felt that it is more personal than professional. She said that it is an attempt to garner votes and perhaps, "vote her off the island," as they say and she resents that. She said that she is Economic Development Director and, as such, she has a certain view point that she is looking for. She said that she doesn't do just commercial/industrial development, but does things to make the City a better place to live and work. She works to get affordable housing and to get affordable and available day care for seniors and children. She does things to help provide quality of life amenities that contribute to our lives in the City. She said that she does all sorts of things that are not perceived as traditional Economic Development. Any one of these items could be perceived, at different times, to be a conflict of interest, but these are interests that each one of us have and are involved in from this Board and have not have those things brought forward. Why is her position perceived as more of a conflict of interest than Pete Lavoie where he and his staff work with developers and home owners telling them how they can and cannot develop their land. They are told what kinds of amenities and infrastructure that they need to provide and also are asked for money for utilities and for recreation. Tony has said that he didn't see that Pete Lavoie was as much of a conflict. She said that she resents that her position was under attack. She said that she knows that Tony McManus is aware that she was appointed by Paul Beecher and it should have been addressed at that level first.

Tony McManus stated that he thinks that whoever brought this information to the press did a disservice to the Board and to Beth Thompson. He said that he dealt in confidence with the Chairman and he did that previously because he felt that was the proper way to do it. He said if he saw what he felt, in good faith, was problem and that it was up to the Chairman to handle it and decide what to do in whatever way he felt was best. He said that his concerns since then have grown. He said that it is nothing to do with Beth Thompson, personally, or her individual votes. He said that whoever is the Economic Director and is sitting as a member of the Board is put in a very difficult situation that is ripe for conflicts which not only jeopardizes that person's ability to perform as a member of the Board and jeopardizes the ability of the Board to properly deal with some of the issues that we have. We already have one member who was brought into court with a claim of conflict of interest. He said that he just didn't want to see that happen again and he felt that the best way to do it was in non-public session so that Beth Thompson, individually, her position, and the work of the Board would not be discussed publicly. The majority of the Board decided not to do that and in the face of what he thinks are serious potential conflict problems, but not Beth Thompson, personally. The Board has chosen to live with this situation and we'll have to face it in the future if someone raises

someone raises the issue. He said that he did it in good faith. He said that he has watched her do her homework and participate and contribute a lot to what happens on the Board and he certainly is not questioning her integrity or good faith in doing that. He said that he thinks that she is in a very difficult position because she is the Economic Development Director and you are sitting on the Board.

Beth answered that she doesn't feel that she is any more going to be accused of a conflict of interest than the City Manager, should he be sitting on the Board and would appreciate being involved in any concerns to Mr. Cole when those concerns arise.

ITEM #11: Adjournment

Frank Torr made the motion to adjourn.

Beth Thompson seconded.

VOTE U/A