

**DOVER PLANNING BOARD  
MINUTES OF MEETING  
OCTOBER 22, 2002**

**MEMBERS PRESENT:** Joyce El Kouarti, David Landry, Parks Christenbury, Frank Torr, Beth Thompson, Dennis Ciotti, Anthony McManus, Allen Schintzius, Ron Cole (late)

**MEMBERS ABSENT:** Chuck Maglaras, Pete Lavoie, Margaret Stevenson

**STAFF PRESENT:** Steve Stancel, Planning Director; Steve Bird, City Planner; Chris Parker, City Planner and Jacqueline Freeman, Recording Secretary

Tony McManus acted as Chairman in the absence of Ron Cole and brought the meeting to order at 7:10 PM.

Ton McManus introduced the newly appointed alternate member of the Board, Allen Schintzus.

Tony McManus announced that **Items number 5, 8, and #9: Old Business #1**, have been withdrawn from the agenda and will be re-posted and heard at a later meeting.

**ITEM #1: Citizen's Forum.**

Rick Hebbard, 97 Spruce Lane, read off a few questions from a written list. He said that he has documented 19 violations with regard to Portsmouth Christian Academy. He pointed out that the PCA plans were approved on the 24<sup>th</sup> of last month, and one of the conditions of approval was that the applicant agrees to direct all school busses to use Garrison Road to access the site. He said that it was his understanding that it also included the band and all visiting team busses. He said that he left word with Mr. Runey's secretary of the violations, and was told that she would pass that information on to him. He spoke of an incidence with a PCA representative who was illegally directing traffic on Spruce Lane. Mr. Hebbard said that he was physically assaulted by that representative. He said that he met with Mr. Runey about this situation. Mr. Hebbard handed out his written documentation of events and asked the Planning Board to take action.

Ron Cole arrived and took his seat as Chairman and Tony McManus took his seat on the Board.

**ITEM #2: Approval of minutes.**

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

Parks Christenbury said that Mr. Lewis attended the last meeting requesting a driveway waiver on Elm Street and he had some additions and a general statement that he wanted added to the minutes. He said that they are not inflammatory or critical of the Board; it is just his interpretation of some of the language. He said that Mr. Lewis would like his addendum attached to the minutes. He said that his comments were just a little more detailed than the minutes.

Parks Christenbury made the motion to attach the addendum that Mr. Lewis submitted to the minutes.

Frank Torr seconded.

Beth Thompson said that she doesn't want to start having pictures attached that we would be required to post on the web. She would not have a problem with them being placed in the file in the Planning Office.

Parks Christenbury said that he asked Mr. Lewis to remove the request to add the pictures to the minutes. Parks said that this would only be the verbiage.

Ron Cole said that he is not sure that he agrees with making an addendum to the minutes. He thought that the comments by the applicant are almost editorial comments. Ron Cole stated that they are not the "Minutes of the Meeting."

Parks Christenbury said that we know that the minutes are an interpretation of the events that went on. He said that he read the minutes and also read Mr. Lewis' points that he felt were important and he agrees with him. He said that he could submit them and say that they were corrections.

Beth Thompson said that she agreed with Ron that we are going down a path where applicants would want to submit their versions of what was said and happened. She said that the transcript is available to anyone who wants to listen to them and the minutes are only a summary of what happened at the meeting and are not word for word. She said that if you look anywhere else, that is what the minutes are, not a word for word account and she, personally, doesn't support it.

Ron Cole said that his singular concern is that Mr. Lewis is making statements.

Steve Stancel stated that he explained to Mr. Lewis that he didn't see it as an addendum, and told him that he would give this to the Planning Board members and if they felt that he did say these things at the meeting that these could become official revisions to the minutes, as opposed to an addendum.

Ron Cole asked if Parks Christenbury would change the word in his motion to revision.

Parks Christenbury felt that the statements that Mr. Lewis makes in his memo are what he said that night at the microphone. Parks said that Mr. Lewis wanted more verbiage in the minutes because he feels that it is pertinent to his case.

Beth Thompson said that it is a question as to what we expect for minutes. She said that she takes the minutes of DEDC and she can have nine page minutes or she can have a summary of what the Board discussed. If it is expected to have word for word, we are going to have to talk about the right-to-know law and consider if they can be transcribed in 24 to 48 hours.

Parks Christenbury said that he sees this as a particular case where Mr. Lewis spoke very detailed and very long and this is just a short synopsis to make sure that his points get in there. He just sees this as inserting this into the minutes and added that Jackie sees no problem with doing that.

Tony McManus said that he wasn't at the last meeting and he can't respond to who said what, but he has to say that he has attended an awful lot of meetings in his lifetime and he has never seen a situation where the person who has spoken to the meeting have the ability to amend the minutes of the meeting by submitting a memo. He said that we have to rely on the minutes as taken and we have a record of exactly what was said. He said that his suggestion is that rather than amend the minutes, he said that we simply agree to attach his memo to the minutes.

Parks Christenbury said that he will take back his original motion and made the motion to attach his memo to the minutes.

Frank Torr seconded.

**VOTE U/A**

**ITEM #3: Consideration and acceptance of a minor subdivision of land for Daniel & Jacqueline Ayer, Assessor's Map N, Lot 21, zoned R-40, located on Back Road. (P02-56)**

Dan Ayer stated that he was proposing to cut off one lot to sell to a young couple who wants to build a house. He thanked the members for taking the time to serve on the Board.

David Landry asked how the posting of the 50' setbacks from jurisdictional wetlands and the reference to the 50' setback affects this lot. He said that this lot is going to be 42,704 sq. ft. in the R-40 zone, making this quite close as far as contiguous upland. He said that if we agree with this we are saying that we feel comfortable that this is a building lot that works in accordance to the regulations that are currently posted and going to the Council.

Steve Stancel said that it was correct.

Dan Ayer stated that the uplands are contiguous and that he hopes that that ordinance doesn't pass. He said that if the 50' buffer is passed, he has made the couple that is buying this lot aware of that issue.

Parks Christenbury made the motion to accept.

Joyce El Kouarti 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 with the following conditions:

1. Add the owners' signatures to the plat.
2. Add the surveyor's signature to the surveyor's stamp.
3. Revise the plat to add the standard note #25 regarding providing the plan on disk to the City.
4. The applicant is put on notice that the Planning Board has posted a zoning ordinance amendment to the Wetlands Protection Ordinance. If the posted amendment is approved, the proposed lot would have a 50-foot wetlands buffer to the wetland area along the western boundary. If the amendment is not approved, the lot would have no wetlands buffer.

Beth Thompson seconded.

Dennis Ciotti asked if Mr. Moore took in the contiguous rule when he did the survey.

Dan Ayer said that he can't speak for him, but one of the statements on his plan is that he has stated that there is 40,000 sq. ft. of upland on the lot and that it is contiguous. Dan Ayer said that he can say that it is contiguous.

Steve Stancel explained that you still count the 50' setback in the upland area. There is the statement from the surveyor and given the scale it's fairly clear that there is less than 2,000 sq. ft. of wetland area.

Dan Ayer said that when the survey was done, there was no thought given to the 50' buffer because this is a new thing.

**VOTE U/A**

**ITEM #4: Consideration and acceptance of a minor lot line adjustment of land for Dean Fournier, Assessor's Map 3, lots 3, 17, 18, zoned B-2, located on Portland Ave. (P02-39)**

Chris Wyskiel, represented the applicant explaining that this plan consolidated two small lots and enlarged them by taking square footage from what is now lot 3 and adding it to that parcel. He said it does not show the steep elevation between these lots. The structure on Map 3, lot 18 is currently abandoned and will be razed. He added that some type of development consistent with the B-2 zone is proposed, possibly some sort of condominium with plenty of parking underneath the units.

Tony McManus 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.

Parks Christenbury made the motion to approve with the following conditions.

1. Provide the Planning Department with the plan boundary information in a digital DXF format on a disk.
2. The applicant shall record the two Common Access Maintenance Agreements at the Strafford county Registry of Deeds and provide a copy of the recorded agreements to the Planning Department.

Joyce El Kouarti seconded.

**VOTE U/A**

**Ron Cole stated that ITEMS 5, 8 and 9 (1) would not be discussed tonight.**

**ITEM #6: Consideration and acceptance of an application for a site review of land for Sarnia Properties, Inc., Assessor's Map 2, Lot 40, 41, 42, zoned B-2, located at 83 Washington St., (P02-53)**

Skip Baghdoyan, Ambit Survey, stated that they were converting the 4<sup>th</sup> floor from office to five residential units and that there will be no exterior changes made to the building or to the site. The site has 19 existing parking spaces and 10 spaces that are leased from an adjacent site from the City. He said that because they are increasing residential units in the B-2 district, they have applied for a Conditional Use Permit for a reduction of the parking requirement.

Beth Thompson questioned the shared parking. She said that she sees more potential parking of the restaurant weekdays and lunch time than on the weekends.

Skip Baghdoyan said that that analysis is based on a requirement in the ordinance for the Conditional Use Permit and is based on a methodology by the Urban Land Institute. That method was based on a study that was done a number of years ago that measured the actual use of mixed use parking and this type of mixed use application at different times

of the day. He said that you can take your basic uses of office, restaurant, residential, etc. and adjust them to show how the different needs for parking change during the day. He said that during the middle of the day the restaurant may be very busy, the residential spaces are probably not being heavily used and the offices would be busy. At night the residential use is high and the other uses are lower. This idea of shared parking reduces the number of required spaces at any given time during the day. To apply for the Conditional use Permit they are required by the Dover Ordinance to do that analysis.

Skip Baghdoyan said that the residential use would have 5 spaces reserved all the time and in addition they will have the right to use 5 spaces during non-business hours (6:00 PM to 8:AM)

Beth Thompson said that the busiest time for the restaurant would probably be from 6:00 PM to 900 PM. She asked if that was conflictatory.

Skip Baghdoyan said that the actual heaviest use is the office use during the daytime hours and the restaurant use varies. The heaviest use for the restaurant tends to be during the lunch hour and not so much in the evening hours because the evening restaurant use tends to come after the office peak.

Beth Thompson said that you are taking an additional 5 spaces away that are not allowed during the office hours but the restaurant gets those taken away in the evening.

Ski Baghdoyan said that the way that the building is currently used, it has a need for 94 spaces and converted to residential the need is 88 spaces. They are actually reducing the requirement according to the ordinance. The analysis is only a guideline and they think that there is adequate parking on the site and in the general area to serve all these uses and the total parking need will be less after the change than it is now.

Joyce El Kouarti said that she would imagine that the competition for parking would be intense primarily on Thursday, Friday and Saturday nights and that it would be much less of an issue at all other times. She said for that short a time she doesn't see it as a major concern.

Skip Baghdoyan said that they haven't looked at individual nights. They have looked at weekdays and a Saturday. He said that weekday demand is greater than weekend demand.

Parks Christenbury said that he goes downtown a lot and there is ample parking for the people who want to go to the restaurants in downtown Dover. We forced the applicant to look at the adjacent parking lot when the fact of the matter is that it is not a problem.

Parks Christenbury made the motion to accept the application.

David Landry seconded.

**VOTE U/A**

The public hearing was opened.

James Kenny, owner of Sarnia Properties, said that the 10 spaces that they have in the City parking lot are deeded without time limit. Secondly, not many people know how to get into the parking lot behind the building. He said that there were more people needing to park for the offices than the apartments are asking for. He said that they also have a building up the street with parking and in the odd event that someone does need to leave two cars for a length of time, they can find parking there.

The public hearing was closed.

Steve Stancel said that from a planner's standpoint it's always positive to promote residential development on upper floors in the urban core and it is known that from past planning studies and experience that shared parking with residential vs. non-residential does work at least 80% of the time. They feel very confident that this will work.

Joyce El Kouarti made the motion to approve with the following conditions:

1. Add the owner's signature to the plan
2. Revise the plan to add two GIS points
3. The sprinkler system on the fourth floor shall be upgraded to comply with residential standards.

Parks Christenbury seconded.

**VOTE U/A**

**ITEM #7: Consideration and acceptance of an application for a site review of land for Coastline Modular Homes, Inc. (Owner Lauren Wolf), Assessor's Map H, Lot 1, zoned B-4, located on Durham Rd. (P02-57)**

Ken Wolf, represented Coastline Modular Homes. His plans are to create a modular homes sales office. He said that New England Homes is one of the oldest manufacturers of manufactured homes. They build 3 and 4 bedroom colonials, capes, etc. He said that this location was formerly a nursery owned by Bill Shaheen and this use would be a vast improvement. He said that they will have 8 parking spaces where 7 spaces are needed. The hours of operation will be Wed. through Saturday and much of the work is done by appointment. It will be a 4 to 5 day planned operation.

Frank Torr 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.

Frank Torr made the motion to approve with the following condition:

1. Add the owner's signature to the plan
2. Provide the Planning Department with a copy of the NH DOT driveway permit and add the permit number to the plan.

Dennis Ciotti seconded.

**VOTE U/A**

**ITEM #9: Old Business**

2. **Request for a (90) day extension for Elliot Rose Company of Dover subdivision and Massage for Health site plan.**

Parks Christenbury made the motion to approve the ninety day extension.

Beth Thompson seconded.

**VOTE U/A**

3. **Discussion and possible vote on Zoning Amendments (Chapter 170); Subdivision Amendments (Chapter 155); and Site Review Regulations (Chapter 149).**

Tony McManus made the motion to take this item off the table.

Parks Christenbury seconded.

**VOTE U/A**

Parks Christenbury made a motion to remove #11, rezoning of Sixth and Whittier.

Beth Thompson seconded.

**VOTE U/A**

**# 18 Transfer of Development Rights**

Tony McManus said that he agrees with the staff's recommendation. He said that he's not sure he understands how a TDR and ETP would work. He said that he was confused under the present TDR proposal what would be a receiving and what would be a donor area and how that would relate to areas that are not ETP within the TDR receiving district. He said that he thinks that we need to spend some time on this and work with the Planning Department.

Tony McManus made the motion to recommend the adoption of #18 and forward it to the City Council without any reference to ETP. (The original proposal from the Open Space Committee)

David Landry seconded.

**VOTE U/A**

**#21 Veterinary Office, Animal Hospital or Kennel**

Beth Thompson made the motion to remove Kennel from the PUD.  
Joyce El Kouarti seconded.

**VOTE U/A**

**#25 Elderly Assisted Care Home**

This was already acted on.

**#26 Wetland Protection district.**

Beth Thompson made the motion to move #26 to the City Council, clarifying the permanent marker section to not require it, but to keep the minimum size requirement as presented. #26 a. and b.

Discussion ensued.

Chris Parker said that the existing Wetlands Ordinance has a Conditional Use section and an exemption section and that is staying in the proposed ordinance that you have in front of you. Chris said that they are proposing a 50' buffer from all wetlands, no matter what size it is, with the exception of a vernal pool. Chris explained that a small area of wetland could potentially be more important than a larger wetland. He said that there is a Conditional Use segment and an exemption segment in place.

**VOTE U/A**

**#30 Impact Fee Ordinance**

Steve Stancel said that there is one thing that he missed during the workshop regarding a small revision on the Impact Fee.

Steve Bird said that in response to some questions that they received, they wanted to be sure that the ordinance was absolutely clear that impact fees would not only be assessed to subdivisions and site plans that come through but would also be assessed to lots of record that may have been in existence for a number of years. They worked with their consultant to come up with a paragraph that would clarify that issue. It states that impact fees would be assessed to new development and that any person who seeks a Building Permit for new development may be required to pay an impact fee in the manner set forth herein. Steve said that it puts people on notice that the impact fee will be assessed at the Building Permit stage and it will be set to any new development, and not just new development that comes through the Planning Board through subdivision or site review. If you meet the definition for new development, you will be assessed an impact fee. Steve Bird said that this is not adding a new requirement, it is simply clarifying what was there before.

David Landry made the motion to approve the Impact Fee Ordinance.  
Dennis Ciotti seconded.

**VOTE 7 – 1**

**Opposed – Frank Torr**

**ITEM #10: New Business**

Parks Christenbury stated that the City was reassessed physically and electronically which is mandated by State law. The result of that assessment was that the overall assessment of the City went up 16%. It went up because Dover is a very desirable place to live and the property values reflect the desirability of the community and the ability to sell property. He said that it is imperative that members of this Board who feel strongly about these zoning amendments, contact their City Councilors and let them know that. He said that the people of Dover are paying their taxes and are paying them on time. He said that there are mechanisms in place for people who can't pay their taxes to stay in their home. He said that according to staff, because the City has been able to pay its debt, because the tax delinquency is so low and because property values continue to rise, the result is an increase in the City's bond rating sometime next year. He said that there is no gloom and doom. This community is poised to lead the Seacoast out of the recession. He said that Dover is better off financially than any of the surrounding communities. He said where that dovetails with this rezoning is the fact that he is wishing that if we rezone Columbus Ave., that the building would start tomorrow but we know that is not going to occur, however, the danger that we're in is reflected in the statistics. If this land does not get moved to potential business property, which we need in inventory in the future, it will become residential. He said that we have an obligation in NH and the NH State Constitution that says that the Zoning Board can zone land within a community to direct housing. This is what we have done, we haven't stopped housing in Dover, we've redirected it. The numbers that are being released this week by the City Manager's Office shows that the inventory that we are putting aside for future industrial growth is going to be highly marketable land. You have to realize that we have gotten where we are today because of the City Manager and staff and the hard work of Beth Thompson to market this community. He said that Dover has the best Planning staff in the Seacoast and the best Economic Development Director's Office and the numbers don't lie. He said that the Planning Board should realize that they made a lot of this available.

**ITEM #11: Adjournment**

Tony McManus made the motion to adjourn.  
David Landry seconded.

**VOTE U/A**