

**DOVER PLANNING BOARD
MINUTES OF MEETING
JANUARY 9, 2001**

MEMBERS PRESENT: Charles Maglaras, Anthony McManus, David Landry, Jerry Reese, Ron Cole, Beth Thompson, Frank Torr, Margaret Stevenson, Reuben Hull

MEMBERS ABSENT: Pete Lavoie, Jeff Mason

STAFF PRESENT: Steve Stancel, Planning Director, Bruce Woodruff, City Planner and Jacqueline Freeman, Recording Secretary

Meeting brought to order at 7:04 PM

ITEM #1: Election of Officers

Ron Cole read a memo stating that he and Reuben Hull were willing to serve again if it was the will of the Board.

Chairman Cole opened the nominations for Chair.

Frank Torr nominated Ron Cole for Chair.

Jerry Reese seconded.

There were no other nominations.

Jerry Reese motioned to close the nominations.

Ron Cole asked for nominations for Vice-Chair.

Jerry Reese nominated Reuben Hull for Vice-Chair.

Frank Torr seconded.

There were no other nominations.

Jerry Reese motioned to closed the nominations.

Ron Cole asked for a vote on the nominations.

VOTE U/A

ITEM #2: Approval of the minutes.

Jerry Reese moved to approve the minutes.

Beth Thompson seconded.

Jerry Reese stated that it should have been noted that he was absent on the workshop minutes of the 12th.

VOTE U/A

ITEM #3: Consideration and acceptance of an application for a site plan of land for Virtuous Realty, LLC, (Owner: Turbocam, Inc.) Assessor's Map G, Lot 1E, zoned I-2, located at 5 Faraday Drive.

Paul Connolly, Civilworks, stated that this is a building addition that will be attached to the rear of the existing structure. He asked for a waiver to allow for submitting a partial site plan as opposed to a full one because the addition is so small.

Jerry Reese made the motion to accept the application.
Margaret Stevenson 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 the application and the waiver with the condition that the owner's signature be added to the plan.

Margaret Stevenson seconded.

VOTE U/A

Chairman Cole introduced Nick Skaltsis who was representing the School Board with regard to CDBG funds.

Nick Skaltsis stated that the School Board is preparing to go forward with the construction of the alternative school. He said that last year the Planning Board approved \$97,000 in CDBG funds. At that time, the school was going to go into the Old Middle School with the Court. Nick said that the School Board has decided to build the alternative school on the campus at the high school. He said he is requesting the Board to approve the change in geography and to use the funds for engineering and architectural design.

Steve Stancel stated that it is necessary to re-designate the location because the Planning Board acts as the Citizen's Advisory Committee in regards to the expenditures of the CDBG funds. This decisions will be posted and put out for a 30 day comment period to give the public an opportunity to make comments.

Steve Stancel asked if the Board can be assured that this project will move forward.

Nick Skaltsis answered yes, and that it would be going out for two separate bids.

Jerry Reese made the motion to allocate the funds for the alternate school from the old middle school to the high school campus.

Frank Torr seconded.

VOTE U/A

Abstained – David Landry

Ron Cole announced that **Millstone, on Back River Road**, is not coming up for discussion this evening because of engineering issues that still need to be addressed.

ITEM #4: Consideration and acceptance of a request for a merger of land for Eileen C. Bardwell, Assesor's Map 31, Lots 1 and 103, located on Sixth Street.

ITEM #5: Consideration and acceptance of an application for a lot line adjustment of land for Eileen Bardwell and Robert McCrone, Assessor's Map 31, Lots 1 & 102, zoned R-12 & RM-8, located on Sixth Street.

Chairman Cole stated that these two items would be taken up at the same time.

Anthony McManus wanted it noted that he is abstaining from Items 4, 5, and 6.

Raymond Bardwell said that he is representing his wife. He said they bought the day care land and a strip of land from the B&M Railroad in 1972, and now they want to combine them into one piece of land. He said that the McCrone's barn is encroaching on the property and this lot line adjustment would give the McCrones the land to meet the setback requirements.

Jerry Reese asked about the disputed property depicted on the plan.

Ray Bardwell explained that when Chad Kageleiry did his project he felt and still feels that he is the owner and has the right to that piece of property. Ray Bardwell said that he holds the deed on the land and that he and Chad are negotiating the ownership and will get it resolved.

Frank Torr made the motion to accept the application.

Margaret Stevenson seconded.

VOTE U/A

The public hearing was opened

Bob McCrone stated that he purchased his land 44 years ago and he has no objections to the plan as it would rectify the encroachment of his barn.

The public hearing was closed.

Jerry Reese made the motion to approve the merger and the lot line adjustment with the conditions that the owners' signatures be place on the plan.

Margaret Stevenson seconded.

VOTE U/A

ITEM #6: Consideration and acceptance of an application for a site plan of land for R.H. Bardwell, Sixth Street Station, Assessor's Map 31, Lots 1 & 103, zoned RM-8 and R-12, located at 76A Sixth Street. (26 units)

Ray Bardwell outlined the site plan showing areas that were colored to depict the open space, parking, wetlands, sewer lines. Ray stated that removing the day care building is the best use of the land. Ray went over the number of units in each building. He has been before the Conservation Commission. He said that they would need two conditional use permits. One to reconstruct the building and the other is to grant access across the 75-foot setback to very poorly drained soils. Ray said that he is going after the empty nester market. He would like to do this project in Phases to absorb it into the market and not just do it all at one time. He outlined the three phases. He said they have been working with the staff on the riverwalk concept or a walking trail and that will be on going until there is a plan. He said that they are having dialogue with Downeast Energy with regard to connecting the walk to Fourth Street.

Ray Bardwell said that his son Brian would be the building contractor. He said that he is asking that they be able to negotiate with the City Engineer on some of the problems that were outlined. He said this project will be family managed, family built and family maintained.

Jay Stevens, Civil Consultants, stated in reference to the 75 foot setback from poorly drained soils, that the area is 100% totally trashed from the construction that went on for the new drainline that the City put in. He said that they couldn't do anything within that zone that could hurt it any more than has already been done.

Ray Bardwell handed out some pictures of the area of the poorly drained soils and of the river front. He said that the traffic impact with the day care center came to 203 trips per day. He said the 26 units would only generate 104 trips per day. He said that they would be providing 2 parking spaces for each unit with room for a few other spaces elsewhere. They have City water and gas coming from Sixth Street. The buildings would have a combination of vinyl siding and that the trim will be aluminum wrapped. There will be cellars.

David Landry asked if the riverwalk would just for the tenants.

Ray Bardwell answered that if he were living there he wouldn't want people walking through his back yard from outside the site. He said that they came up with an idea to come in through Fourth St. He said that he doesn't believe there is as much trash down by the river as there was years ago. He spoke about the liability of someone getting hurt down there.

David Landry asked if he would consider recycling.

Ray Bardwell said that he would consider recycling and has called Waste Management to see if something could be worked out.

Beth Thompson asked if he was not successful with the area of land with Kageleiry, would he go through with the last building. She asked if there were any future plans for the large acreage with some land in the RM-12.

Ray answered that he is very optimistic as far as the land goes and the worst case scenario would be that they would have to re-submit phase 2 and phase 3. Ray said that he has future plans for the large acreage. He said that he would be looking to work some kind of a conservation district easement for the area. He said that it is a City drainage system and the low spot for that section of town.

Jerry Reese made the motion to accept the application.
Reuben Hull seconded.

VOTE U/A

The public hearing was opened.

Robert Campbell, 86 Sixth Street, stated that the caps have been broken off of the sewer line for about 3 years and it gets very odoriferous. Another concerned is with the gas and electric being closer than 6 feet from each other. He would like some clarification on the no children. He feels that this project will only result in his taxes going up.

Ron Cole stated that Community Service Director Pete Lavoie is ill this evening but he will refer this to him. Ron said that you couldn't legislate against children.

Karen King, 59 Sixth Street, stated that she lives directly across the street from Kids and More. She said that she is concerned with the traffic. She thinks that it will be unbearable and she is against this project.

Kerry Forbes, Longhill Road, abutter and competitor, stated that he built the 27 units next to Beckwith Field about 15 years ago. He said that the public hearing got so foul that they had to call a police officer to calm things down. He said that it is always difficult because the neighbors are opposed to change, added children in schools and traffic. He said that he doesn't believe the Fire Department or the Police have ever had to have been called to his apartments. He added that we need a mix of housing in Dover and we are not getting a mix. He is in favor of the project.

The public hearing was closed.

Steve Stancel pointed out that the City has received funds to purchase access from where the new train station will be located along the old railroad right-of-way that runs behind Belknap Street, across Silver, behind More Business Forms, and eventually comes out on Central Avenue. That will be a major undertaking and will be a wonderful asset once it is constructed. He said this site is an opportunity to continue this accessway adjacent to river and over to Beckwith Field. We feel very confident that we can continue this accessway all the way to the turnpike and across the turnpike in the future.

Reuben Hull agreed with Steve. He said that he worked with Bruce Woodruff and Steve Pesci on the bike route. Regarding the façade, he doesn't believe that vinyl is final but he would like to say that the work at Mariner's Village is impeccable.

Jerry Reese made the motion to table this to a site walk.

Margaret Stevenson seconded.

VOTE U/A

Ron Cole scheduled the site walk for Saturday, January 13th, at 9:00 AM. The meeting place being at the daycare facility parking lot.

ITEM #7: Old Business

c. Discussion and possible vote on an amendment to Article VII, Overriding Districts, by adding a new Chapter 170-28-4, Scenic Road Overlay District.

Ron Cole stated that his concerns have been satisfied but he is still not happy with the scenic roads. He said that he is satisfied that there is protection in place and that there is grandfathering and that issues can be brought before the Planning Board.

Jerry Reese made a motion to remove this from the table.

Frank Torr seconded.

VOTE U/A

Jerry Reese made the motion to approve to amend Article VII, Overriding Districts, adding a new Chapter 170-28-4 and that it be referred to the City Council.

Tony McManus seconded.

VOTE U/A

d. Millstone Properties, located at 8 & 10 Back River Road. Not being heard this evening.

a. Discussion and possible vote on a site plan for Motiva, located on Silver Street.

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

Chuck Maglaras seconded.

VOTE U/A

Anthony Guba, Ayoub Engineering, stated that there was an appeal to the Building Inspector's decision as to the zoning of the site and they went to the ZBA late last year. He said that the ZBA denied the appeal and now that decision of the Zoning Board is the court system. He said that they are still proceeding with the Planning Board. He said that a revised traffic study was put together and submitted to the City in December. He said that a review of that has been prepared and hopefully, we can go through some of those issues tonight. He said that they haven't had the chance to put something together to address the peer review but would address any questions that they can. Tony said that

Don Rhodes, Norway Plains, is here and also representing Motiva is John Christopher. There have been some changes to the plan. The infiltration system, labeled Infiltration B, went over the 50 foot setback from the residential zone and it has been reoriented so it no longer violates the zone. The car wash has been rotated slightly and doesn't face the actual structure. There has been some minor changes concerning the driveways that Don Rhodes will explain.

Malcolm McNeill stated that they received Mr. Samuels' report this afternoon. He said that they have attempted to review it and Mr. Christopher and himself, and Mr. Rhodes have had some discussion with regard to the report. He said since the last meeting they have attempted to be responsive to the concerns of the neighbors. He said that representatives of the neighbors went and had some discussions with the School Committee with regards to this project. He said that his presumption has been that land use issues should be decided before this Board. He said that they became aware months ago that Bruce Woodruff and others had formulated plans for changes in entryways into the school that long predated this project. Malcolm said that they had a meeting with the superintendent and it appeared that their plans and our plans appeared to be compatible. He said that they assured them of their willingness to work cooperatively with the school to effectuate their plan in a fashion that would work with the School. He said recognizing that the abutters have appealed this case to the Superior Court, which would result in delays in terms of the building of this project, they requested a further extension. He said they agreed to pay for the peer review that has been done by Mr. Samuels and they agree to continue working with him in regard to resolving these traffic issues. He asked the Board not to make any decisions tonight. He said that there are existing conditions in this commercially zoned area that have existed for many years. If we do not put the Dunkin Donuts on this site, there would be no legal authority to require them to do anything offsite. He said they could put in their convenience store and car wash and proceed with this project without the benefit of improvements that would come to this gateway to the City. He said that what drives the ability of the developer to pay what are probably going to be the significant costs of roadway improvements that are not only generated by this project but by McIntosh College and an entity that you can't force to pay because of their legal status, is that in order for those funds to be expended, there needs to be the Dunkin Donuts. Dunkin Donuts drives many of the conditions that require the improvements, but in the absence of it, none of the improvements would be required. He said that their desire is to work with Mr. Samuels as they have in the past and to work with the neighbors. The major issues are the queue length regarding the proposed Dunkin Donuts use and left turns out of the project. He said the other issues are readily resolvable. He asked if the Board would like to have Don Rhodes speak to what his proposed fix is and then have Mr. Samuels make his comments.

Jerry Reese was concerned that the Board was given a report that none of them have had a chance to read and they are supposed to have a discussion on it. He said that it is very frustrating to have these things put on his desk with no time to digest it. Jerry said that it is no way to conduct City business. He said that Preston Samuels is here and someone is paying him by the hour to tell them what they haven't even read yet. He finds that offensive to the Board and everyone in the audience.

Malcolm McNeill said that they had nothing to do with the scheduling of this meeting. He said that he does not feel any more comfortable than Jerry does having read this report only this afternoon. At the same token they do not want to delay this process. He said it is because of that concern, he asked the Board not to decide this case this evening.

Jerry Reese said that this has put him a very difficult position because all the neighbors have come out tonight and neither the Board or the neighbors have had the opportunity to read this review.

Jerry Reese made the motion to table this item and continue at some future time. He said that he would not vote on this until this is out of Superior Court.

Anthony McManus seconded.

VOTE U/A

Ron Cole stated that he is going to recommend that the Planning staff copy the peer review study so that it will be available for the neighbors by 3:00 PM tomorrow.

Steve Stancel stated that the purpose of the meeting was not make a decision but to bring the general public up to speed as to what the applicant is saying on the traffic issues and what our consultant is saying are his problems. He said unless we periodically have public hearings and get feedback from the public and the Board it is difficult for the staff to move forward in attempting to resolve some of these issues. He said the purpose of tonight's meeting was not for any final approvals but to present where we are in the traffic situation and attempt to get some feedback.

Discussion ensued with regard to the agenda saying discussion and possible vote.

Tony Mr. Manus said that he doesn't know how we can get any feedback from any of these people because they have not seen the material either and they need the opportunity to do that.

Steve Stancel stated that the material has been available and several people have seen it and we were going to discuss it. Mr. Samuels is here to give his report.

Tony McManus stated that he hasn't the ability to question Mr. Samuels' verbal presentation because he hasn't had the chance to read this and compare it to Mr. Rhodes'.

Marion Nossiff, 3 Tole Avenue, stated that she knew that Mr. Rhodes traffic survey figures were erroneous. She did an unofficial and unscientific traffic survey by sitting in her bushes and counted many hours of traffic going by her driveway on Silver St. and the figure was close to 2,700 cars per day. She stated that Mr. Rhodes traffic count of 2,200 was absolutely erroneous. She said that it is absolutely ridiculous to cut a road for the school in from Silver St. into Woodman Park School and have a curb cut going into the Texaco Station. It will be bedlam and chaos. She said she doesn't believe that the City

has ever done a traffic survey of Silver St. and she doesn't think this can be discussed until we know what we are talking about.

Steve Stancel explained that is why we hired a traffic consultant to review the numbers.

Alex Nossiff stated that the traffic is already a challenge. Mr. Nossiff said that the curb cut is going to bring the egress and ingress closer to the intersection of Arch Street. He said that anyone who lives in that vicinity knows that there is a problem with the cars stopping at that light. He said that some families would be pinned in their driveways.

Tony McManus stated that it was his understanding that we hired Mr. Samules to do a traffic study and what he has done is to review Mr. Rhodes traffic study and not done an independent study of his own. He is working with are figures provided by Mr. Rhodes.

Chairman Cole asked the Board if they wanted to re-open the public hearing.

Ron Cole stated that it is not the wish of the Board to open a public hearing. He said that the people that spoke before were not part of the public hearing. He said that nothing will transpire on this issue tonight.

Jerry Reese stated that in his opinion a public hearing is out of order. His view was to buy the neighbors time. He said that there is a report that they have not seen.

Steve Stancel wanted to remind the Board that there is a little bit of history here. The neighbors have expressed concern about the length of time that has been occurring between the last hearing and the next hearing. He said that the last time that we have heard from the public was back in June and July and we made a promise to them at a meeting in October or November that once we received more information and when we received the applicant's traffic study on December 5th, we would notify the abutters to come to the meeting but not until that point so they would not have to keep coming in. He explained that "discussion and possible vote" must be put on the agenda because this Board can choose to vote at any meeting and if that possible vote is not in there then we can be in trouble.

Jerry Reese asked why this wasn't scheduled for a workshop instead. That would have taken away all the issue of a vote and would have been a much more informative forum. He suggested scheduling a workshop.

Jerry Reese made a motion to schedule a workshop with both sides and both traffic people.

Chuck Maglaras seconded.

Steve Stancel stated that he has no problem with a workshop.

Tony McManus asked if we could have someone from the School Department to talk about their plans.

Ron Cole stated that he would notify the School Department.

Reuben Hull stated that it is his sense that this public meeting is a public notification. He said that he would like the workshop to be less formal with a give and take and feedback type of forum, not the come up and state your case and then sit down forum.

Ron Cole set the Workshop for Tuesday, February 6, 2001, at 7:00 PM.

Steve Stancel reiterated that he is trying to get feedback during the process. He said that if we wait until we get a response from their engineer and then we have to respond back and then we wait to get another response before we have a hearing, there is a problem.

VOTE U/A

ITEM #8: New business

a. Extension of approval for Higgins, 2 lots ADS, on Bayview Road.

Tony McManus made the motion to approve a 60-day extension of approval, until March 10, 2001.

Jerry Reese seconded.

VOTE U/A

Ron Cole made mention of the letter of resignation of Jeff Peasley. Discussion ensued on the Gloucester article that Ron brought in.

Tony McManus asked Ron if he has approached the City Council requesting the creation of a recreational development committee.

Ron Cole said that he met with the City Manager today and either he or the Mayor will be appointing a committee within the next two days. Ron asked Tony if he wanted to serve on it and Tony answer in the affirmative. Ron said the committee will address the overall fields coordinator person, the makeup of the 5 (probable) athletic fields and the use of the City-owned open space.

Frank Torr asked when the improvement to Route 108, with regard to Indian Brook development, trigger in.

Steve Stancel stated that he would have to pull the file to get the exact time. It is his understanding that it is at the time of the first C.O. for the streetlights.

David Landry asked what would be done regarding the meager \$50.00 penalty for any violation in the Scenic Road Ordinance.

Steve Stancel stated that as the Planning Board will begin to look at the residential rezoning of residential land and this would be a typical housecleaning issue.

ITEM #9: Adjournment

Jerry Reese made the motion to adjourn.

Beth Thompson seconded.

VOTE U/A