

**DOVER PLANNING BOARD
MINUTES OF MEETING
MARCH 13, 2001**

MEMBERS PRESENT: Robert Berry (for Jerry Reese), Margaret Stevenson, Beth Thompson, Pete Lavoie, David Landry Frank Torr, Ron Cole

MEMBERS ABSENT: Tony McManus, Chuck Maglaras, Reuben Hull, Brenda Whitmore

STAFF PRESENT: Steven Stancel, Planning Director; Thomas Clark, Building Inspector; and Jacqueline Freeman, Recording Secretary

Chairman Cole brought the meeting to order at 7:08 PM.

ITEM #1: Approval of minutes.

Margaret Stevenson made the motion to approve the minutes of the last meeting. Frank Torr seconded.

VOTE U/A

Abstained – Bob Berry

**ITEM #2: Consideration and acceptance of an application for a Lot Line
Adjustment of land for KAB Realty Management, LLC, Assessor's Map
10, Lots 89, 97, & 103, zoned RM-10, located on Belknap & Folsom St.**

John Berry, of Berry Surveying, represented KAB. He said that they are proposing to put a lot line around the existing parking lot and combine a portion of Lot 103 with Lot 97. He said that the other portion of 103 would be combined with lot 89. That would do away with Lot 103. The combination of 89 and 103 would make it conforming in that it's frontage would then be 80 feet plus. Lot 97 would become more conforming in the RM-10 zone. He said that his client has agreed to give a 20 foot wide easement along the northwest property line to be part of the trail system for the City. John said that the start of the easement is somewhat flat but it slopes as you get down near the farther end of the property. John Berry explained that there is some developable land that could be utilized at the front of the parcel.

Beth Thompson made the motion to accept the application. Frank Torr seconded.

VOTE U/A

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

Steve Stancel explained that the City has in the TIP for the year 2004, a municipal trail that would run from the City's intermodal transit facility, a/k/a future train station site,

southward along the old rail bed all the way to Central Avenue and the old Agway building. There is approximated \$700,000 set aside in the TIP to do that, 80% of which will be paid for by the Federal government using ISTEA monies. He said that they continue to obtain easements to the north so, eventually, the City will have walking/biking trails all the way to County Farm Road and beyond.

Frank Torr stated that he didn't think it would be feasible to put in a walking trail in the sloped area. He asked if there is a possibility of going along the railroad bed.

Steve Stancel stated that the addition of: "The easement shall be adequate to support a trail" to the condition, would give us some flexibility to move the easement. The property owner has plans for future development of the site.

John Berry stated that part of the reasoning for encompassing the parking lot is that the developer is trying to refinance the four buildings on the front and the finance company had a problem with the parking lot encroaching on the neighboring lot even though he owns it. He said that his client would be willing to work with the City on the location of the easement.

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

1. Revise the plat to tie the survey into the Dover GIS coordinate system.
2. Revise the plat adding a note stating that a digital copy of the plan shall be submitted to the City Engineer at the time of recording.
3. Formalize the proposed municipal trail easement shown on the plat by preparing an easement document to be approved by the Planning Department. The easement shall be recorded with the plat and shall be adequate to support a trail.
4. Proposed and abandoned property lines be more clearly labeled.

Bob Berry seconded.

VOTE U/A

ITEM #3: Consideration and acceptance of an application for a conditional Use Permit for Annie Foss and Thomas & Katheryn Guilmette, Assessor's Map E, Lot 62, zoned R-20, located on Upper Factory Road.

Dave Alain, a certified soils scientist, represented the Guilmettes. He said that there is approximately 22,100 sq. ft. of impact required to provide a driveway. The Conservation Commission signed the expedited Wetlands Permit last night. He said that he has received a septic approval for the site and handed that over to Steve Stancel. The crossing was placed to provide the least impact.

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.

Steve Stancel stated that this project went through Conservation Commission last night and was approved. It was supposed to go before the Conservation Commission last week but because of the storm it was bumped up to last night.

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

1. Receipt of NH Wetlands Board approval.
2. Receipt of a City Driveway Permit.

Bob Berry seconded.
VOTE U/A

ITEM #4: Consideration and acceptance of an application for a minor subdivision of land for Belinda Arnold, Assessor's Map G, Lots 11 & 11-1, zoned R-12, located on Washington Street.

Kevin McEaney represented the applicants. He explained that they are creating a buildable lot, which consists of .64 acres or 27,000 sq. ft. He said that the second lot would be the larger parcel of approximately 6.9 acres. He said that they have mapped the wetlands and showed where the brook is located.

Beth Thompson made the motion to accept the application.
Frank Torr seconded.
VOTE U/A

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

Steve Stancel gave the recommended conditions of approval.

Bob Berry made the motion to approve with the following conditions:

1. Add the owner's signature to the plat.
2. Revise the plat to add the standard note regarding assigning of street addresses.
3. Revise the plat to differentiate the proposed lot lines from the existing lot lines.

Beth Thompson seconded.
VOTE U/A

ITEM #5: Consideration and acceptance of a request to clarify and possibly revise conditions of approval for a site plan of land for St. Mary Academy Kindergarten structure, dated March, 1998, zoned O, Assessor's Map 9, Lot 89, located at 110 Locust Street.

Steve Stancel stated that the project came before the Board in 1998. The project involved reconstruction of the Old Employment Security Building. He said at the time of approval there were significant concerns regarding parking, traffic and pedestrian safety. Many meetings took place including a public hearing before this Board, Parking & Traffic Committee meetings, a couple of neighborhood meetings were held, as well as, significant internal Police, Planning and Engineering Dept. work completed on the project. In the final analysis, the project was approved after the school and the school's attorney agreed to some very strict guidelines. Some of the more important guidelines included that no staff parking would be allowed on nearby streets. The project was to stripe 30 additional parking spaces in a nearby lot to provide off street parking for the staff. Staff members were assigned to greet parents pulling up to a pick up and drop off point to assist children exiting and entering vehicles. The reason behind that condition was to help speed the traffic through the morning drop off and pick up times and to provide a safety factor. It was also agreed that there be no weekend use of the facility and no increase in students. It was agreed that Church Street would be widened to allow two-way traffic. He said that at the time there had been discussions about changing Church Street to one-way traffic and through discussions with the neighbors, it was determined to keep it two-way traffic. He said that coordination would take place between St. Mary and My School with regard to arrival and departure times to hopefully alleviate some of the traffic and parking problems that occur in that zone. Steve said they have received periodic complaints in the neighborhood. He said that several request were passed on to the Mayor in regards to the possibility of, at a minimum, allowing parents to be able to pull up in the loading zone during non pick up and drop off times to run into the school and pick up their children. He said that this was discussed extensively at the Parking & Traffic Committee and it was determined that it was probably an issue that the Planning Board would have to address as a revision since it was a condition of approval.

Rosemary Reese, Principal of St. Mary, stated that she is asking the Planning Board to look at the status of the loading zone outside the Locust St. building during the non-peak times. At the time of the approvals, there was a lot of attention given to how they would handle children and traffic at the peak times and they agreed that they would have staff on the sidewalk. She added that they have done that. She said that the question that they would like the Board to address is whether or not it would be reasonable to have a very short period of time – 5 to 10 minute parking - to allow parents to get out of their cars and bring a child in during those non-peak times. She said that at the moment they are putting cones on the street because of the interpretation that they have received regarding the loading zone. She said that the interpretation is that no one can get out of his or her car there. It is being interpreted so strictly by their staff that they don't let parents buckle a child's seat belt. They are just asking how the Board interprets the loading zone outside their building during the non-busy times. She said that the peak hours run from 8:00 AM – 8:30 AM, 10:45 AM – 11:15 AM and to a lesser extent from 12:00 PM to 12:15 PM and again from 2:30 PM – 2:45 PM. She is asking what constitutes a loading zone and what is allowed in a loading zone. Mrs. Reese said that was not really addressed in the original discussions because most of the attention was focussed on the arrival and departure of all the children. She said that they feel that a loading zone should, for

example, allow someone to get out of a truck and bring something in and in this case, a parent to get out of a car to bring in a child.

David Landry asked Mrs. Reese what she would like the definition of loading zone to be.

Rosemary Reese said that she would like a very limited amount of parking, 5 – 10 minutes during non-peak times. She said that they have no intention of changing having people out there during peak times. She said that it is difficult for people with other children in the car to get everyone out and walk down the street. This would be if a child arrived late or a parent had to pick up a child for after school care or an appointment.

Steve Stancel stated that he talked with Captain DeColfmaker today. The Chief of Police is the one that establishes loading zones and when this was originally approved, it was discussed that this would be a pick up and drop off zone and in another place it discusses loading zones. He said that it was very specific that there would be somebody there to assist with the loading and unloading. He said when you take a look at the definition of loading zone, it says: "It shall be unlawful for the owner of any vehicle or any person having custody to any vehicle to park said vehicle or permit the same to be parked in any zone designated as a loading or unloading zone unless actually engaged in loading and unloading. Right now it's designated as a loading zone so the Police is the enforcement agency of the loading zone. There is no mechanism to allow parking in loading zones, so if this Board recommended, it would have to be turned into a drop-off and pick-up zone at which point the enforcement falls on the Building Inspector.

Steve Stancel reiterated that the Chief of Police establishes loading zones and he has indicated that if the Planning Board wishes to go that route, he would undesignate it as a loading zone and it would become a drop off and pick up point. Steve said that the present conditions would still pertain during peak hours.

Frank Torr asked how the school would enforce that 5 to 10 minute parking time during off peak hours if it was designated as a drop-off/pick-up zone.

Rosemary Reese stated that it would be the same as they enforce everything else, they would tell the parents that this is for short-term parking only and not for conferences.

David Landry stated that people get out at a loading zone and unload and load things and carry things in and out of buildings. He said he is trying to figure out the difference between somebody getting out and loading and unloading the package and walking in with a child in hand. He said that he is struggling with that.

Frank Torr asked if his interpretation of John McCooey's letter was correct and there was a meeting of minds of the commercial and residential people in the neighborhood with St. Mary.

Steve Stancel stated that at the time of approval, everybody was in agreement with the conditions.

Frank Torr stated that he feels that we should follow the same process again.

Ron Cole stated that he has a bit of a problem with Tom Clark playing traffic cop up there if we turn this into a pick up and drop off.

David Landry said the question is what did we mean by loading zone. We thought we were clear and some people think that we are not. If this is going to be broader such as looking at the whole area and trying to come up with solutions, then it is a Parking and Traffic Committee issue.

The public hearing was opened.

Norm Champagne, 13 Church Street, stated that when this kindergarten came up there were a lot of questions about parking and traffic, how many parking places they would take up, what the restrictions were going to be, etc. There are letters from Sister Monica and Atty. Malcolm McNeil who represented St. Mary Academy. He said that nothing was ambiguous about what the loading zone meant and it is written in those letters. Sister Monica said that parents would drop their children off and they would insist that they not get out of their car. Malcolm McNeill wrote letters saying that they agree with this. There were also agreements regarding schoolteachers not parking on the streets. The teachers now park their cars on Locust St. He submitted photos that he took of cars parked on Church and Locust Streets. The Building Inspector has been writing letters to the Bishop, and to St. Mary's Academy threatening them with legal action because they promised they would put their cars in their own parking lot because it was realized that there were not enough parking spaces for staff to park on the street and still have room enough for people to bring their children to the school. If the staff cars were not parked on Locust St., perhaps you could designate a couple of those spots. He said he has heard people say that there is some question as to what a loading zone is. It was crystal clear when this was done. St. Mary Academy was very well aware of what they were doing. They wanted their kindergarten next door to his house on Church St. He said that he did not want the kind of horrendous mess that they had at the time at the other end of the street with parking and bringing kids to the school. He said they all sat down and compromised. They came up with a solution that was acceptable to the Police Dept, Parking & Traffic Committee, Planning Board, Building Inspector, the City Engineer, the plan was acceptable to everyone concerned. He said that the neighbors came down here and the plan was approved. It was approved unanimously by the Planning Board. If you allow limited time parking in that loading zone, it is unenforceable, not only because Tom Clark only has 3 people in his office to come to enforce it, but call it human nature. People come here and break the law on a daily basis. He said that St. Mary people come out and tell them not to do it but what they should tell them is that if they can't come to this neighborhood and obey the laws and drop their children off in the manner that they agreed to, they could take their children someplace else. He said that St. Mary Academy has a responsibility to enforce what they agreed to at the time that they were given their CO. The schoolteachers know that they are not suppose to be parking on Locust St., but they are. If you go back through the record and read the letters, you'll find that Locust St.

is specifically mentioned. Norm said that it is disingenuous for schoolteachers to take up the parking spaces, and then come down here and say that parents don't have a place to park close to the school.

He said that it has been 3 years that this has been going on and people have been parking in his driveway and three year that they have been reducing the street into a one-way street more often than not. They are not supposed to come within 20 feet of the intersection for parking, it is the law. He said that there is a fire hydrant across the street and they are not supposed to park there. He said that he has personally witnessed people having to back out onto Locust St. to allow school busses and other traffic coming off of Church Street. He said that when he bought his house there 15 year ago it was a nice place to live. When they put the school there, there was an attempt by everybody not to infringe on the rights of people who lived in that area. To send this back to the Parking & Traffic Committee would be wrong. It's a Planning Board matter and it belongs right here. Now that St. Mary got their occupancy permit they are coming back because they never liked their conditions to begin with. He said he's been trying to get the Building Inspector to take some action because this is contrary to the CO. The Building Inspector stated that he has asked Mrs. Reese for a list of the teachers and she refused to give them to him because of privacy reasons. On the other hand he's told if they don't know who these cars belong to, how can they do anything about this. Norm said that he has sat out there and watched people park and go into the school. He knows whom the cars belong to.

Mr. Champagne said that the City of Dover requires that people who work at City Hall park their cars in the library lot so that people coming to City Hall have a place to park. They don't ask them to do this, they tell them to do it. It's not unreasonable to ask these people to use the parking lot at the school. If there is not enough room in that parking lot, they were told that Mr. Foster would allow them to use his parking lot on Kirkland St.

Norm Champagne said that this is his home, the place that he has worked very hard for and the place that he enjoyed being before this happened. He said that he asked a lady not to park in his driveway in front of his house. She asked him if he was a Police Officer. When he answered that he was not, she said that she didn't have to speak to him and took her child by the hand and proceeded to walk to the kindergarten. He said that he called the Police Dept. and gave them the license plate. They called her and she wanted to have him cited for harassment. This might sound amusing to some people but for over a period of 3 years, this is starting to become a real aggravation to him. He said that he is not asking the Board to do one thing more or one this less than was done when this school was allowed to be there. He is asking the Board to make St. Mary Academy live up to the commitment that they made when they were allowed to put a day care in probably one of the worst traffic areas in the City. It was allowed to happen with certain conditions. Mr. Champagne said that he is just going to have to leave it to the Board's best judgement as to what is done about it.

Elaine Robert, stated that she is a parent and her children go to St. Mary Academy. She has a 1st grader and a child attending kindergarten. She said that she wanted to personally

apologize to Norm for the argument that they had the other day. She said that she should not have raised her voice when he was taking pictures. She said that she was upset about her children being in the pictures. She said that she understands the reason why he was doing that now. The school has made every effort to be sure that the parents don't get out of their cars. They take the children out of the cars and bring them into the building safely. Her problem is when she goes to pick up her children, she has a 9 month old infant and she also car pools so she brings 2 children out. She said when she pulls up the assistant opens the door to let her children in. The two children that she picks up are too small to buckle themselves in and several times she has driven out onto Locust St. with two children who are unbuckled. In regard to the available parking spots, she said that Norm was right if there were available spots, maybe it would make it easier for the parents to drive up. Her issue is that every morning Mr. Champagne pulls his two cars out of his driveway and takes up two parking spaces that are right next to the school. If we are lucky enough every so often one of his cars is parked across the street so they can actually park close to the school. Those are two parking spaces that could also be available for the parents. She wants to work with the City and as a representative of the parents of St. Mary, she wants to work with the staff, Mr. Champagne and the other neighbors. She said that they want this to work as a community and to come to an agreement. She would love to see a pick up and drop off zone and have the flexibility to get out of the car to buckle the kids.

Betsy Andrews Parker, Chairman of the Parking & Traffic Committee, said she wanted to clarify an issue for Mr. Landry of why this isn't in front of the Committee right now. She said because there was such discussion when this agreement was made by the Planning Board, they felt that it was served better as a Planning issue. The only thing that Parking & Traffic is asking you to look at is the definition of what a loading zone is. They recognize the parking issue. Any other issues could be brought back to them, although it would be better suited here since it would be an alteration of your original agreement.

Lisa Wunderlich, stated that all they are trying to do as parents is to assure the safety of their children. Maybe the laws were written back then that you couldn't get out of your car, but how realistic is it. It is also against the law not to have your child buckled, even to go 20 feet down the road. They are in a catch 22. She also apologized to Mr. Champagne. She has seen parents back up in his driveway and block his driveway. However, the majority of the time, she has seen people bend over backwards to try to avoid that spot. Immediately, if someone is blocking his driveway, they are told by the school officials to please leave and drive around. How much more can a human being do. St. Mary is not the owner of every parent. She has read many letters from Mrs. Reese and they do demand and they say it is inappropriate. The common ground is that we are all willing to work together to try to come to some agreement and she doesn't feel that it is an unreachable goal. She said that there are times in the off peak times, because the parking lots around the school are permanent parking spaces they are also filled. You can have a car sitting in a parking space all day long. She said that she also has a small child that she has to bring out.

Norm Champagne stated that he puts his cars on the street to provide his wife's customers to have a parking space when they come to the shop. He said that some of them are elderly. He said that this was all discussed back when this was approved.

Ron Cole recessed the public hearing.

Frank Torr stated that Councilor Andrews Parker needs to take a look at the parking issue in addition to the issue that the Board is looking at.

Ron Cole stated that he would like to form a subcommittee of the Planning Board with Frank as the Chair. He said he would like to establish a subcommittee/discussion group. He said that the only way this is going to work out is if everyone gets around a table and tries to hash this out. That may well include our Code Enforcement Officer, someone from the school, from the neighborhood and from the Parking & Traffic Committee. His plan is to put this together and see if we can figure this out.

David Landry asked if we could begin with statistics on how many traffic citations have been given out. He said if there isn't an enforcement aspect of this, we can talk around the table all day long forever.

Tom Clark said that they have not levied fines at this point. He explained that this is a cyclical thing. He said that they send a letter out and Mrs. Reese notifies the parents and teachers. The problems abate for a while so the enforcement action stops because they are looking for compliance, not punishment. A period of time goes by and different parents and teachers come on that are not familiar with the process and it start again. He said that he has spoken with Atty. Wattendorf and after being declined a list of staff members along with their vehicles, the next step is to take registration plates. The problem is that Mr. Champagne said that he sees people going into the school but we're doing the enforcement and we don't see them. Tom said that he would have to spend the time up there taking the plate numbers and watching the people going into the school. The plate numbers would have to be run through the Police Dept. to find out the owners and verify that they are staff members of St. Mary and then they could issue a citation under RSA 676:17 and seek fines in District Court. It would take a substantial amount of time to monitor the situation.

David Landry asked if the Police Department establishes the loading zone and until its changed, if at all, to drop-off and pick-up zone, how does Tom end up being the only enforcement.

Tom Clark explained that he thinks that it comes out of the criminal and goes into civil. If it's a loading zone they can write tickets but if it's a drop-off and pick-up as established by the Planning Board, it falls under the Planning and Land Use Regulations, Site Review, Zonign Ordinance and that is for us to enforce.

Steve Stancel clarified that the Police can issue citations on the Loading Zone, but the issue with the teachers parking on the street is a condition of approval.

Ron Cole stated that unless somebody has a better solution, he will form a subcommittee and will get the letters out tomorrow. He asked Norm Champagne if he would like to be the neighborhood representative.

Norm answered affirmatively.

Ron Cole stated that Frank Torr would be the Chairman of the committee. He said that he would like a representative of the Police Department, Parking & Traffic Committee, Building Inspection, St. Mary Academy and the Planning Department and Mr. Champagne.

Frank Torr stated that he will be leaving on the 20th of March for Florida and Norm Champagne stated that he would be going away also.

Norm Champagne asked if that meant that everything will be on hold and the teachers can park on the street until the subcommittee gets going.

Ron Cole stated that this does not change the agreement that was made by St. Mary Academy where the teachers are suppose to park in the school parking lot with no on street parking.

Frank Torr asked Ron when he sends the letter out to ask the Departments to indicate who will be representing them.

A gentleman from the audience asked if the abutters would be notified when this issue comes up again.

Ron Cole stated that they would be notified.

ITEM #6: Old Business

Steve Stancel stated that he has a request for an extension of the Huggins ADS.

Kevin McEneaney stated that the extension expired on the 10th of March. He said that a number of the trust members were out of the country and still are. All of the State approvals are complete. The easement documents have been reviewed by the Planning staff and he said that he doesn't think that there are any problems with it or with the Strafford Rivers Conservancy who will be accepting the easement. The second easement is a turn around easement for maintenance purposes of Bayview Road and he believes that that has been review by the staff and there are no comments. All the documents are in place and the problem is that the trust members have to be here to execute those documents.

Frank Torr made the motion to approve a 90-day extension until July 1, 2001.
Beth Thompson seconded.

VOTE U/A

Steve Stancel explained that there were 3 conditions of the Ezra Green Farm subdivision on Littleworth Road that they are negotiating with the developer. He said that one of the requirements was payment of a Community Services Capital Equipment fee of \$14,388.00 prior to the issuance of the first Building Permit. The proposed public walking trail that was shown on the plan was to be constructed by the applicant and completed prior to the issuance of the first CO. A portion of Parcel G -35B known as the Theodorus parcel, which is across the street, shall be transferred to the City of Dover prior to the issuance of the first CO and said parcel shall have sufficient uplands for the purpose of placement of water treatment plant, approximately 1 acre, including corresponding access and utility easements. The lot line adjustment to be the responsibility of the developer. Steve said that the applicant is wishing to transfer the entire Theodorus parcel over to the City (42 Acres), in lieu of paying the \$14,383. The City would construct the trail as opposed to him constructing it and so instead of receiving approximately 1 acre, we would be receiving 42 acres and we would have to build the trail across the street. He said that he has talked with Pete and Paul Beecher and they see a lot of advantages to the City taking this deal. He said a lot of the 42 acres is wet but there are some upland and there may be the possibility for athletic fields or other recreation on the site. At a minimum, we can extend the trail that will be on Ezra Green across the street into this parcel. It allows us to control where we put our water treatment plant. Gary Bannon doesn't feel it's a problem in terms of expense to build the trail. For the most part the trail is already there and Gary is talking of possibly using Boy Scouts.

Pete Lavoie said that there are groups that are willing to do this. He said that there are some old wells on the property and there is another parcel that is adjacent to that that would add to some uplands.

Steve Stancel stated that the developer is still going to build the parking spaces for the trail. Steve said that there is a private enterprise that is adjacent to this parcel that we have an opportunity to swap some land with to possibly get better access into the piece. Without this it would cost us money to get this access.

David Landry asked who would be maintaining the trail.

Steve Stancel stated that the City of Dover

Frank wanted to know what it would cost to take the 41 acres off the tax roll. He asked if there would be commercial development taking place other than the treatment plant.

Steve Stancel stated that right now it is zoned non-commercial and what they would do is take a closer look at the uplands and if they are adjacent to some of the existing industrial piece, then there is a real opportunity there. Steve said that he would find out what the tax value on the property is.

Frank Torr said that if we make that change, he would like to see some move to utilize it for commercial development.

Ron Cole said that he would like to see it used as fields. He said that there have been instances where industrial entities have allowed fields to be built on their property because the uses don't take place at the same time generally. That is something that the ballfields committee can take a look at.

Frank Torr made the motion to approve the changes to the Ezra Green as outlined by the Planning Director.

Peg Stevenson seconded.

VOTE U/A

Steve Stancel announced that they have rescheduled the growth summit for March 26th.

ITEM #7: New Business

Ron said that there is a memo from Chuck Maglaras on the desks. He said that Reuben is moving out of town but he hasn't received official notification yet that he was resigning. Ron said that we would hear from him very shortly. Ron said that we will take someone from the alternate roll and put them on as a regular member and then we can hold an election for vice-chair. Ron said that the Reuben Hulls of the world are few and far between and it's a real loss to the community and to the Board. He is an educated voice of reason.

ITEM #8: Adjournment

David Landry made the motion to adjourn.

Bob Berry seconded.

VOTE U/A