

**DOVER PLANNING BOARD  
MINUTES OF MEETING  
JUNE 26, 2001**

**MEMBERS PRESENT:** Anthony McManus, Frank Torr, Bob Berry, John Sullivan,  
Margaret Stevenson, Beth Thompson, Pete Lavoie

**MEMBERS ABSENT:** Dennis Ciotti, Charles Maglaras, Brenda Whitmore, Ronald  
Cole and Jerry Reese, David Landry

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

In the absence of the Chairman and the Vice-Chair, Anthony McManus chaired the  
meeting.

Tony McManus brought the meeting to order at 7:00 PM.

**ITEM #1: Approval of minutes.**

Frank Torr made the motion to approve the minutes.  
John Sullivan seconded.

**VOTE U/A**

**ITEM #2: Consideration and acceptance of an application for a Conditional Use  
Permit for Raferty and Sons Construction (Owners: Eric & Diana  
Parker), Assessor's Map L, Lot 48G, zoned RM-12, located on Spur  
Road.**

Pat Raferty stated that this permit is the last permit that is needed.

Margaret Stevenson 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.

Margaret Stevenson made the motion to approve.  
Frank Torr seconded.

**VOTE U/A**

**ITEM #2: Consideration and acceptance of an application for a minor lot line  
adjustment of land for Raymond Bardwell (Owners Eileen Bardwell &  
Pillar Investment Corp.), Assessor's Map 31, Lots 1, 103 & 4A, zoned  
RM-8, located on Sixth Street.**

Tony McManus stepped down for this item and Frank Torr sat in for him.

Frank Torr sat in as Chair.

Ray Bardwell stated that they have come to a final agreement on the disputed piece of property. He showed the area that they are acquiring as a shaded area on a map. He also asked for a 30-day extension on the Sixth Street Station project.

Steve Stancel stated that he was already granted a 60-day extension at the Meeting of June 12, 2001.

Margaret Stevenson 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 Planning Department recommends approval of the lot line adjustment with the following conditions:

1. Add the owner's signature to the plat.
2. Revise the plat to add the Strafford County Registry of Deeds recording number for the Reference Plans #7, 8 and 9.
3. Revise the plat to add the minimum building setback lines to both lots.
4. Revise the plat to add the symbols to the legend.

Kevin McEneaney stated that the building setback lines were not included because the both parcels are of such length that it would take 4 sheets to show it all. He said that they are listed in tabular form instead.

Steve Stancel stated that that was not a problem and removed condition No. 3.

Margaret Stevenson made the motion to approve the plan with conditions No. 1., 2., 4.

Beth Thompson seconded.

**VOTE U/A**

Anthony McManus resumed the Chair.

**ITEM #4: Old Business**

- a. **Discussion and possible vote for Stable Homes of Dover, located on Tuttle Lane.  
(28 lots)**

Kevin McEneaney stated that he just wanted to update the Board on the progression of the plans and does not expect approval tonight. He said that they are working on making the TRC changes. He said that they have come to a resolution on the traffic issue. The counts that were taken showed that the traffic would have a negligible effect on the Dover Point and Tuttle Lane intersection. He said, there was concern with proximity of the second entrance closest to Dover Point Road but it does meet the standards. He said that they are ready to sit down with the NH Wetlands Board to go over the small wetlands crossing that is involved. He said that they are looking for any comments from the site walk so they can be incorporated into the plan. He intimated that the jacking, with regard to the sewer line across the City parcel, would be prohibitive and they are now looking at a pump station.

John Sullivan asked about a performance bond for the liability with regard to the sewer line, which might make it more palatable for the crossing.

Paul Connolly said that they are stepping back from the City parcel and will be installing a pump station.

Moe Paquette stated that there is a method of jacking the pipe through. He explained that it is essentially pushing a sleeve through the hill and inserting a sewer pipe within that sleeve which would limit the disturbance to only the two ends where the jacking pits are and would leave the hill in tact. He said that he got the numbers this afternoon from their site contractor. The jacking cost would be in vicinity of \$650.00 per foot and would cost \$300,000 to get that sewer pipe through the two hills. He said that he feels that they need some time to step back and take a good look at this and see if we can work with Pete Lavoie to try to come up with some other solution. He said that no one wants a pumping station, but that is an awful lot of money. He added that maybe they can come back with something that is realistic for everybody.

Pete Lavoie said that the Conservation Commission would go along with jacking. He said that there are other new ways of drilling.

Moe Paquette said that there is another method but it would not work on a force main. He said that that is why they want a little bit of time so they can look into other alternatives.

Paul Connolly said that there are a few points where they came to a consensus with the Conservation Commission. The CC does not want a tot lot on the City land. He said that Tom Fargo wanted to be authorized to negotiate the details on behalf of the Conservation Commission.

Frank Torr stated that he felt that there is a traffic problem on Dover Point Road as a result of Tuttle's Red Barn.

Paul Connolly went over the traffic report. He said that the 40 mph speed usage on Dover Point Road requires a site distance of 575 feet in either direction. He said that the

site distance is 600 feet to and from the southeast and 650 ft. to and from the northwest. He said that the condition that exists is acceptable. Paul said that the LOS during peak hours is at a level D. It's not the best but it's not the worst. He said that there will be no change as a result of this development, it remains a D.

Pete Lavoie stated that he put together some numbers for the Conservation Commission so they could see why the City does not want to see a pump station. He said that the actual cost is about \$10,000 per year for maintenance and operation.

Steve Stancel stated that the Planning Department is satisfied and agrees with the traffic report. He said that they can hire a traffic consultant and bill it to the applicant, but he is not convinced that it is necessary.

Tony McManus asked if anyone wanted to make the request that a traffic study be done, and no one responded. Tony said that this would appear again under Old Business at the next meeting.

**b. Discussion and possible vote for Jamie Paolini, located at 192-204 Washington St. (31 Elderly units)**

**c. Discussion and possible vote for Jamie Paolini, located at 192-204 Washington St. (6 townhouse units).**

Atty. Schulte requested that the townhouse units be discussed first.

Frank Torr made the motion to take both ITEMS b. and c. off the table.

Peg Stevenson seconded.

**VOTE U/A**

Atty. Schulte showed a rendering of the 6 town houses with the garages underneath. Each unit will have water and sewer and will be sprinklered. The common access will straddle the boundaries between lots A and B. The driveway will be 24 feet wide and will be a recorded easement. He said that he submitted a rough draft of that document. Atty. Schulte submitted a letter from Bob Sherwood regarding snow removal from the site.

Steve Stancel read the recommended conditions of approval as follows.

1. Revise plans to add engineer's stamp and signature to all the sheets.
2. Revise plans to show granite curbing and driveway entrances.
3. Finalize the cross access easements
4. Revise lighting plans to conform to regulations.
5. Provide letter from snow removal contractor.
6. Revise Note #21 on Townhouse plan to specify parking requirements for townhouses.
7. Provide architectural renderings (which we just received)

Discussion ensued with regard to the letter from Bob Sherwood for snow removal.

Jim Schulte suggested that snow be removal should be made Condition #8.

Frank Torr made the motion to approve with the 8 conditions.  
Bob Berry seconded.

Frank Torr said that there should be a courtesy notice sent to the two abutting properties with regard with the clean up of one property and to make sure that there is access to the other property. He said that he is not sure who should be doing that but there should be some notice that that driveway is going to disappear.

Steve Stancel stated that he would have the Code Enforcement Officer handle it.

**VOTE U/A**

**a. Discussion and possible vote for Jamie Paolini, located at 192-204 Washington St. (28) Elderly units)**

Atty. Schulte stated that they have reduced the development from a four-story building to a three-story building and from 31 units to 28 units. He said that there would be a shared driveway access. He said that they are proposing the limitation of age 55. He said at least one occupant of ea. unit must be 55 or older, except for the unit occupied by a resident manager who may not be 55 years old. He said that they are requesting a waiver with regard to the center isle of the parking lot.

Mr. Schulte stated that the Zoning Ordinance states that 1 space per 2 units is sufficient for elderly housing. He said that they are providing one space per unit on site, which is twice the requirement.

Margaret Stevenson asked where the visitors would park and if the spaces are assigned?

Mr. Schulte stated that the parking spaces would be assigned and if someone doesn't need a parking space, it should be left empty to accommodate guests, not the residents.

Pete Lavoie asked if both projects would be using bag and tag.

Steve Stancel stated that it was discussed in TRC that a dumpster would be provided for the 28 units and the townhouse would be use Bag & Tag.

Tony McManus asked if there were any public comments or if anyone wished to be heard. No one responded.

Steve Stancel stated that several of the conditions of approval are the same as for the townhouses. He said that they felt comfortable with the 1 space per unit if the definition of elderly was moved to the age of 62 as opposed to 55. He said that that would lessen the chance of the occupants having two cars. He said that because this is in a B-2 zone, it allows for the provision of parking off site within 1,000 feet of the project. He said that the developer must provide 6 off site parking spaces within 1,000 of the structure. This

would allow the developer a possibility of providing additional space off site if somebody did have 2 cars.

1. Revise plans to add engineers stamp.
2. Revise plans to show granite curbing at driveway entrances.
3. Finalize cross-access easements.
4. Revise lighting plan to conform to regulations.
5. The applicant does require a waiver of the pavement within 5' of the property line and a waiver of the 22' isle widths. The Planning Department recommends approval.
6. Provide floor plans.
7. Provide architectural renderings.
8. Finalize protective covenants restricting the age of 55 and outlining the parking limitations to the satisfaction of the Planning Department.
9. Provide copies of parking agreements for a minimum of 6 offsite spaces to be provided within 1,000 feet of the structure. Said agreement shall be for a minimum of 5 years with renewals.
10. Additional landscaping to be provided to the front of the structure and approved by the Planning Department.
11. Approval of the floor plan design by the Planning Department.
12. Snow shall be removed from the site in the winter.
13. The developer must provide 6 off site parking spaces within 1,000 feet of the structure.

Atty. Schulte stated that there are several possibilities for parking sites that are located within 1,000 feet of this structure.

Frank Torr made the motion to approve with the conditions outlined by the Planning Department and the approval of the two waivers.

Peg Stevenson seconded.

**VOTE U/A**

**d. Discussion and possible vote on Conditional Use Permit for West Environmental Inc., located at 16 Leighton Road.**

Atty. Schulte stated that he is representing the Theodores. He said there is a small residence that was built in 1929 on the site. He said that there are also two other structures on the property, a garage and shed. He said that there is an existing deck on the front that is located 12' from the mean high water line.

Frank Torr made the motion to take this off the table.

Bob Berry seconded.

**VOTE 5 -1**

**Opposed - John Sullivan**

Mr. Schulte said that this property is surrounded by two larger pieces of land. He said that this property and the Pratt property are separated by a 30-foot right-of-way, and by NH law each of them would own to the centerline. All the properties in the

neighborhood have buildings on them. Many of the buildings are at least as close to the water as the Theodore property. He said that they have obtained a State Wetlands Permit and approval of a variance from the DES Shoreland Protection Program. He went over the conditions of the permit and the shrubs that would be used to stabilize the land. He said that the Zoning Board granted a variance for this lot and went into the details. Atty. Schulte had handouts for the Board showing the building dimensions of the abutting properties. He said that when you look at the greater neighborhood there is a number of large houses, and 60% of the waterfront properties have buildings on them greater than 2,000 sq. ft. Mr. Schulte stated that the house will be built on piers and the site will be more attractive. The Conservation District Ordinance says that the purpose is to protect environmental quality, public health, resource conservation, general welfare of the public concerning areas that might have a high water table, or which might be subject to flooding and went over the seven features as listed in chapter 170-27 and explained why this property would not hinder any of them.

John Sullivan inquired about removing the garage or moving the entire project back to the 75' from the high water line. He said that the Board hasn't received any alternative design.

Atty. Schulte stated that they have not changed the design because there were 10 people at the site walk and there were 10 different suggestions as to what might be done. Mr. Schulte showed a plan of the original subdivision in 1925 that depicted the proposed street that was never developed. He explained that if your property is described as abutting the right of way, the presumption is that you own to the centerline.

Tony McManus asked if any members of public wanted to speak on this application.

Eliot Pratt stated that he was concerned with the right-of-way because of the location of his driveway.

Mr. Schulte assured Mr. Pratt that this would not affect his driveway use or his property use.

Steve Stancel stated that the Planning staff is not recommending approval of this plan. He said that they did not recommend approval of this plan at the ZBA level and they can not be in favor of it at this level. He said that they would like to see the Theodore's reduce the size of the structure. The structure is doubling the existing floor plan and along with the oversized garage, all of this pushes the structure closer to the water. He said that the regulations require a 100' setback and 75' for existing lots of record and there is a reason for that. He said that within the last few years the City has passed additional regulations that require tripling lot requirements within 250' of tidal rivers. There are ecological and aesthetic reasons for doing this. He said that this proposal is contrary to the purpose of the Conservation District. He said that further in the ordinance there is a provision that does allow the Building Inspector to give a building permit for a structure on an existing lot of record within 75' of the water and one of those very specific issues is that the structure cannot feasibly be constructed on other portions of the

lot. He said that the Conditional Use is to allow some flexibility for the Planning Board to give some sort of relief to property owners.

Steve Stancel read part of the discussions from the Conservation Commission Minutes as follows: Anecdotal evidence suggests that the area has been flooded in the past. The potential for flooding creates a possible scenario whereby the owner, at some future time, would be back to petition for a permit to build a seawall to protect their investment. Such a seawall would likely cause excessive erosion by diversion of coastal floodwater (wave action) to adjacent properties. The scenario plays further with the potential need to place stone riprap to protect and stabilize the seawall. The ecology of the area would be significantly impacted with these kinds of additions. The Planning Board should look with trepidation on the expansion of this residence, as such would have the potential to require subsequent incursion in the Conservation District for future protection of this project and neighboring properties. While the proposed edifice is eminently more attractive than the present structure, and is seemingly an improvement on the property, said improvement is aesthetic and doesn't alleviate our environmental concerns. Steve said that they would suggest a smaller structure.

Mr. Theodore asked that Ms. Weiler, the environmental specialist that he brought to the meeting be allowed to speak.

Discussion ensued with regard to whether any more public comment should be taken. It was agreed to let her speak.

Bobby Jean Weiler, Wetlands Scientist, stated that in 1996 they had a 100-year flood event and just a few months ago there was a 3-year event and no damage was done to the home. Ms. Weiler stated that the State Wetlands Bureau and the DES approved this project and these people would know if this property were at risk. She argued that this is not a natural shoreline because there are homes all along it. She said that the plan proposes shrubs with roots that will anchor the shoreline.

Steve Stancel added that looking at the adjacent area, this could set a very dangerous precedence that would allow for much larger structures on several of the adjacent lots. There is a concern, if you take a look at each lot individually the ecology system and the wildlife habitats, individually, may not be affected that much but the cumulative effect of what will happen as the camps become larger homes will have a more detrimental impact.

Atty. Schulte stated that looking at the document that he handed out there are very few small seasonal camps. Most of the properties have already been expanded into 2,000 to 3,000 sq. ft. structures. Driving along the shore it is apparent that most camps have already developed into 4 season houses.

Steve Stancel explained the Variance granted by the ZBA for the setback, and for the total lot coverage. He added that when it comes to the distance from the mean high water line, the Planning Board has the jurisdiction.

John Sullivan made the motion to disapprove the Conditional Use Permit because of the failure to satisfy the 75' setback requirement.

Tony McManus stated that the recommendations and the comments made by the Planning Department should be incorporated in the motion. The Board agreed.

The conditions are as follows:

1. It failed to satisfy the 75-foot setback requirement from the mean high water line.
2. The structure is doubling the existing floor plan, along with the oversize garage it is more than tripling the square footage of the building.
3. The plan is contrary to the purpose of the Conservation District and the structure could be made smaller in order to preserve and enhance those aesthetic values associated with waterways and the natural shoreline.
5. The plan as presented would set a very dangerous precedence for surrounding properties
6. The Conservation Commission Comments as outlined in their meeting minutes dated February 5, 2001.
7. The ecology of the area could be affected by the use.
8. The purpose of the Conservation District, as well as other more recent ordinance provisions is to control building sites and the placement of structures and land uses in close proximity of the public waters.

Beth Thompson seconded.

**VOTE 4 - 2**

**Opposed – Frank Torr, Margaret Stevenson**

**e. Discussion of rezoning of ten parcels on Locust St. and Fisher St. from I-1 to RM-10.**

Frank Torr made the motion to take this item off the table.

Bob Berry seconded.

**VOTE 5 – 1**

**Opposed – John Sullivan**

Steve Stancel stated that the rezoning west of the railroad track passed at the last meeting and we are now here for the rezoning of everything to the east.

Steve Bird stated that he met with Moore Business Forms and they were pleased that the Board held off on this portion of the rezoning. Steve wanted to make it clear that the indecision was on the department's part, and not on Moore's part. He said that Moore's main concern was that the rezoning would impact their long-term ability to expand. He said that business is good for them now and they want to stay in Dover. They asked what

the benefit of the rezoning would be for them. Steve said that there would be no benefit to them, only to the residential properties.

John Sullivan asked what the urgency was and whether the Board wants to send a message to take industrial land off the tax roll.

Steve Bird explained how this Board asked the Department to explore the whole area of the rezoning and this is what they came up with.

Steve Stancel stated that they were not sure if the Board wanted the industrial use. However, given the concern by Moore Business Forms, and since there wasn't any support by any of the residential property owners at the public hearing, he said that there is no urgency.

Frank Torr stated that since Moore Business Forms would be impacted and since there were no residential owners testifying for or against, he feels that it should be left alone.

Bob Berry made the motion not to rezone this section.  
Margaret Stevenson seconded.

Beth Thompson stepped down because of the nature of her job. She felt that there may be a conflict of interest.

**VOTE U/A**

**Abstained – Beth Thompson**

Bob Berry asked if Motiva would be coming back before the Planning Board.

Steve Stancel stated that it is on the table and they had requested a 60-day extension so they will probably be back in July.

**ITEM #5: Adjournment**

Frank Torr made the motion to adjourn.  
Beth Thompson seconded.

**VOTE U/A**