

**DOVER PLANNING BOARD
MINUTES OF MEETING
JULY 25, 2000**

MEMBERS PRESENT: Margaret Stevenson, Jeff Mason, Anthony McManus, Reuben Hull, Pete Lavoie, David Landry, Frank Torr, Ron Cole

MEMBERS ABSENT: Paul Beecher, Jerry Reese, Charles Maglaras, Jeff Peasley

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

Chairman Cole brought the meeting to order at 7:04 PM.

ITEM #1: Approval of minutes.

Frank Torr made the motion to approve the minutes.

Jeff Mason seconded.

Reuben Hull stated that his name was omitted from the last minutes. He was absent.

VOTE U/A

ITEM #2: Consideration and acceptance of an application for approval of the removal of a portion of a stone wall on a Scenic Road, per Chapter 143-2, Scenic Roads, for Lisa Connolly and Peter Amarosa, Assessor's Map H, Lot 19-E-3, located on Old Garrison Road.

Peter Amarosa stated that they have already been approved for a shared driveway to access the lot. He said that they had to flip the house so the garage ended up on the other side to avoid the ledge problem. He said that he found out last Thursday that the excavator had gone through the stone wall and that he had not given him permission to do so. He said that he met with the general builder last Monday and they were not going to go across the stone wall until after the meeting tonight. He said that he had all the trees that they wanted to save taped. He said that there was an area where an excavator could get in and they had done that to get the test pits dug without any impact. He said that the builder was going to go in to start digging the cellar and taking down some trees that they wanted to take out. He said that on Thursday afternoon he got a call from Tom Clark saying that they had gone across the stone wall and removed some of the stones. He said that the Rodney Baker is the general contractor. He said that Mr. Baker has built another house on that street but he is not sure who his excavator is. Mr. Amarosa said that the ledge is a large enough cost factor that he would not have built on the lot.

Steve Stancel asked if they were forced to share the driveway could they wind the driveway across the front of the property to get to the garage?

Peter Amarosa said that would be his only option. He said that because of where the septic comes, the driveway would have to be put directly on the other side of the scenic wall.

Steve Stancel stated that the original subdivision occurred in 1988, and one of the conditions of approval was that one lot would be accessed on Bay View Road and the remaining three lots would have a maximum of two driveways. The other two lots got driveway permits and now Mr. Amarosa has to share a driveway unless the condition is changed and permission is received by the Planning Board.

David Landry asked if there is any way that the wall can be restored in exchange for the ability to access his property?

Mr. Amarosa stated that there is a shared driveway that is partially on his property, but it would cause a greater impact if they had to run it along the stone wall and then turn in.

David Landry made the motion to accept the application.
Reuben Hull seconded.

VOTE 5 – 2

Opposed – Pete Lavoie, Jeff Mason

The public hearing was opened.

Jack McLaughlin, 409 Garrison Road, thanked the City for the magnificent job in preserving the scenic road. He said when he was Art Director for Channel 11, he made a video of Old Garrison Road in 1994, and proceeded to show the video. He thought that it would be a good idea for the Board to do a site review. He said that the work that has been done on the driveway is 35' wide and an additional 40' was cleared, for a total of 75' of disturbance. He spoke about the responsibility that comes with living on a scenic road. He submitted photos of the property to Ron Cole. He said that the last lot of the 4 lot subdivision has no driveway permit on Old Garrison and he would like to see that lot developed from Bay View rather than Old Garrison Rd.

Mark Blumenthal, 63 Bay View Road, moved there because of the qualities that are inherent in the Scenic Road. This is Dover's "Rain Forest" and should be protected. He said that this Board should get pro-active and penalizes anyone who dares to disturb this environment, knowing full well what the rules and regulations are, and yet coming in and doing a slash and burn. The town of Dover is not the town that he thought it was, but he suspects that the Board respects the type of environment that they have. He stated that it will be up to the Board to stand its ground and to penalize anyone that dares to impact the natural assets that they have. He said it is his understanding that this applicant knew full well that he had a right-of-way through another driveway, yet he snubbed his nose everyone and went ahead and did what he did. It's his position that this action has deteriorated the property value of each of their houses and this needs to be compensated for. He said that he would like to see the stone wall and any trees that have been taken down restored.

Bill Leavitt, 34 Bay View Road, abutter and owner of Lot 1 of the four lot subdivision on Garrison Road, stated that he is in favor of maintaining the Scenic Road and he doesn't know of anyone who isn't. He said that this is a request because of a hardship in the geology of the land and he is in favor of approving the request. With regard to this unfortunate incident where the contractor went wild, he is convinced that Peter didn't know what was happening. He said it is not fair of Mr. Blumenthal to accuse them of plotting. Mr. Leavitt said that he is certain that Peter would do whatever the City requires to put the frontage back in a condition that will look as good or better than it did before.

Tom Fargo, stated that he is Chair of the Conservation Commission but was not speaking in that capacity. He said that the contractor was aware of the requirements as he has built on this road before and felt that a \$100.00 fine was not that important. The trees have been cut and hauled off and the viewscape is gone. He said that there is no way to recoup, it will take 20 to 30 years to replace the growth that was there. His suggestion was to require the applicant to replant trees, not only in the area of the right-of-way between the stone wall and the road, but also to give over a part of their lot in compensation for removal of this buffer zone. He said that the closing of the driveway opening is not particularly beneficial in this case. He said that the driveway area can not be restored but he thinks that the viewscape can be and he would like the Board to look at that as an option.

Kimberly Varney Sidmore, 435 Old Garrison Road, said that they share a driveway access with the lot. She said that Peter had an issue with ledge and with his septic placement and from her own experience with her house, it is very costly. She said that the driveway, as it is now, doesn't affect her viewscape and she looks at it every day. She said that they count themselves very lucky to have found property on this Scenic Road. She said that she has wonderful neighbors and doesn't want to start any issues. She said what happened at that lot is something that they didn't want to have happen. She said that the builder took down a significant amount more trees on her property also. She said that she hopes that the Board will allow Peter & Lisa to have their own driveway knowing that they will restore the trees and make the wall better.

Jason Perkins, 350 Old Garrison Road, stated that this is a situation that it is easier to ask forgiveness than it is to ask permission. The applicants, he is sure, were not aware of what was going on. He said that he works for a company that is a general contractor in Georgetown, MA. Having reviewed what has gone on there, he knows that it is "hurry up and get it done" in this economy. He believes that it is a case of getting this job done so the contractor can go to the next job. He said that there should be a set of rules before you even enter a site. He believes that this is a communication issue with the general contractor, the applicant, subcontractors and the City. If the City is not going to enforce it's own rules and if the fine is only \$100.00, he would have the same attitude if he was the general contractor.

Paul Hass, 401 Old Garrison Road, stressed that nobody wants to make enemies with their neighbors before they even get the chance to meet them. He said it is unfortunate that they forged ahead with their plans before giving the Planning Board time to review

their application, thereby creating a situation where their neighbors were forced to come down here and take a stand against them. Mr. Hass said that when he built his house, he had to come before this Board, wait for a driveway application and wait for the City Council's approval before they could get a building permit because it is on a Scenic Road. He said that they had to ask permission to cut the trees to open the driveway that Engineering gave them an approval for. He said if the applicants had waited they would have know what the restrictions were and what the difference is between a historic stone wall and the rocks that you buy at Home Depot. He added that all of the neighbors had to follow the rules.

Peggy McLaughlin, Old Garrison Road, gave a history of the subdivision and said that she was the Chairman of the Conservation Commission at the time of the approval. She said that they required only two entries on that land to maintain the integrity of the Scenic Road and to limit the breaks in the understory, as well as, protecting the large trees. She said that it would be hard to replace what was damaged, but not impossible. She said that there are State laws that do give you the benefit of larger fines and larger requirements for restoration. She said that she tends to agree with Tom Fargo and maybe sharing a little of the property and under the guidance of the Strafford County Conservation, or someone like that, this could be restored. She said that she is against the third driveway mainly for safety reasons. Ms. McLaughlin said that moving the rock wall is a criminal offence in this State. She said that they ran into ledge when they built their house and had to pay to dig it out. She said that there needs to be some restoration made.

Peter Amarosa stated that he had a conference call with the builder today to try to find out more of what went on. He said that there was a large pine tree that was 11 ½ feet from the stone wall that they did take down because it was rotten and the limbs were falling off of it. He said when they knocked it over, the root system pulled up part of the stone wall. He said that the contractor was aware that the driveway was not supposed to be put in until after the meeting tonight. Mr. Amarosa said what he would like the Board to look at is what would be less of an impact, bringing the driveway in from the left and running it down along the stone wall, or coming in from the side.

Karen Hass, 401 Old Garrison Rd., stated that she was extremely disappointed in the way that this has changed the look of the road. She said they need to share a driveway as specified on the plan.

Mark Blumenthal, said that he would like to see restitution. At least a 25 - 50' setback of new trees replanted with the largest diameter trees and the fastest growing possible in order to restore this road to the way it was. He said that the current situation is unacceptable and brings down the value of the other properties. He added that this was done illegally and behind everyone's back.

Lisa Connolly stated that she and her fiancée are not intending to do anything malicious. Neither one of them are contractors. She said that they liked the piece of land and they know the Sidmores. She said that in several places along the front of their property line there really was no stone wall to speak of. They had full intentions of sprucing it up and

making it look better and they still do. She said that she doesn't know what people are talking about with the 50' of trees. She said that is excessive, because they need to put a house and a septic system on that lot. She said that she realizes that people may have lived here for a long time, and they probably don't want to see the development, but they want to live there as well. She said that, unfortunately, there was the miscommunication with their builder. She said that they told him which trees they wanted to keep and asked him to not take down any trees that didn't need to come down for privacy reasons. She said that the excavator did take down a large portion of the stone wall and they are very upset about that. She said that they did not put a driveway in and didn't ask for anyone to put one in. She said that they already received a building permit, so the builder wanted to go ahead and start the excavating. She said that to do the excavating, the only way that you can get on that lot is through the shared access with the Sidmores. She said that the driveway is paved and the heavy machines would damage it, which is probably why the builder chose to go through the bit of wall that was barely there. She said that they had no intentions of leveling the lot and making it look bad. She said that they would like the Board to consider giving them their own driveway, because it is going to be a lot more costly for them and they hadn't anticipated that. There are plenty of driveways on that road and she doesn't see that as a danger as they are very careful people. If they have to share with the Sidmores, then they will, but she hopes that everyone will take into consideration that they are not trying to do anything undermining and are not scheming against all of the neighbors.

Peggy McLaughlin stated that something has happened that is very sad. It isn't that the neighbors are mad at them, it is that the neighbors are very disappointed with what has happened. She said that they hope that there will be some sort of restoration. She went to their lot and took pictures on July 19th and she presented them to the Board. She added that it is pretty devastating. She said that she is hoping for restoration.

Peter Schmidt, Ward 2 City Councilor, stated that he received an e-mail message from the McLaughlins. He said that he is somewhat familiar with the road and it is beautiful. He is concerned with the precedence that is being set. He recommends that no decision be taken until the Board has had the opportunity to do a site walk. He said that he feels it is very important that the scenic value of the road be restored for the benefit of everyone.

Kimberly Faustino, 66A Piscataqua Road, stated that they have frontage on Old Garrison Road. They just bought their house a year ago and they went through an awful lot of things with zoning. She said that they chose that area because it is beautiful. She said that her heart goes out to these people. She said that the issue is not whether it was intentional, malicious or whatever. She said that there are two separate issues. One is they have an application for a driveway because they had problems with ledge and the other is a separate issue of an unfortunate situation that occurred. She thinks that this meeting is being clouded with the second issue and no one is focussing on whether or not they should be allowed to have a driveway.

The public hearing was closed.

Steve Stancel stated that it is obvious that this is an unfortunate situation and this has opened his eyes to the lack of bite in the Scenic Roads Ordinance, not only in terms of the penalties, but also in terms of attempting to protect and preserve the pristine nature of Scenic Roads in the City. There is nothing in this ordinance that prevents people from clear cutting their lots right up to the lot line. If you drive up and down that road it is easy to see that the stone wall is the lot line and there is not a lot of growth outside of that stone wall. Also as you drive down that road, you see examples of people who have done a good job with just cutting enough trees to get their driveway in and then clearing an area for their house near the rear of the lot, and you also see bad examples where people have clear cut their lot. He said that there should be some type of buffer area or setback from the road to keep the natural areas intact. He felt that the conditions of the original subdivision of allowing only two driveways for the three lots should be held. He also thought that the applicants should be responsible to restore the frontage on Old Garrison Road to the satisfaction of the City Arborist, Dover Conservation Commission, and the Strafford County Cooperative Extension Service and that this be completed within 60 days or the City would take such action as allowed in Chapter 143, in RSA 472. He said that he feels that there is an opportunity here to make the situation better by negotiating with the applicants for a larger buffer area in exchange for the driveway permit. He recommended a site walk. He said that he hasn't seen any evidence as to why the driveway couldn't be shared, but he does have concerns with the driveway running parallel to Garrison Road directly behind the stone wall and what that would look like. He said that there might be an opportunity to get 20, 30 or 40 feet of restoration along the front of the property.

Reuben Hull stated that there are two distinct issues. The driveway permit is dated June 19th, so the applicant has tried to do this the right way. He said that the clearing was done this past week. He said that there was a process that was being followed for the last 5 weeks. He said that he is not prepared to vote yet and that the shared driveway may not be the best solution, but he doesn't know that. He said that not every house has to have a garage. He feels sad that the applicants are in the position that they are in right now, which has been compounded by something that is out of their control.

Steve Stancel said that the fact that the actual driveway locations were not identified on the plan may have been a flaw in the approval more than 11 years ago. He believes the reason was probably to allow some flexibility in the placement of the houses on the lots and in retrospect, it may not have been a good idea. Steve read the State regulation that states that anyone tampering with a boundary marker shall be guilty of a misdemeanor.

Tony McManus made the motion to table this and to schedule a site walk.

David Landry seconded.

VOTE U/A

The site walk was set for Tuesday, August 1, 2000, at 6:00 PM, at the corner of Old Garrison and Bay View Road.

ITEM #3: Consideration and acceptance of an application for a Conditional Use Permit for David Poole (Owner James McManus), Assessor's Map 39, Lot 31, zoned R-12, located at 3 Lakeview Drive.

Anthony McManus stated that he is abstaining and removing himself from this item. Jeff Mason stated that he is abstaining because he is a neighbor.

David Poole, stated that he wants to take down the old house and build a new one. He said that he went out with Tom Clark yesterday to measure the lot out and it is pretty much a conforming lot if the house is gone.

Frank Torr made the motion to accept the application.
Pete Lavoie seconded.

VOTE U/A

The public hearing was opened.

Ron Weeden stated that he owns property across the street at 7 Auburn Street. He said that he was not there to discuss the approval or disapproval but to discuss the process. He said that he spoke to a Planning Board representative who in turn talked to Tom Clark and he indicated that Tom had the authority under paragraph C., to bring it to the Planning Board. He said that they don't address paragraph E., which basically says that within the Conservation District, you are limited to a 20% increase in the floor space and in this case, unless it's been changed, you are asking for almost double the size. He said that you cannot do any new construction within 75' of the mean high water mark and this construction will be within 75' of the high water mark. He said in other cases that he is aware of, people have had to do the fancy toe dance in front of the ZBA to identify the hardships, and in this case they are not going through that process.

The public hearing is closed.

Steve Stancel stated that the regulations indicate that if you have an existing structure and you want to expand it, upon the discretion of the Building Inspector, a structure located within the Conservation District as described in subsection B(1) & (2) and existing prior to the effective date of the subsection, may be increased up to 20% in area provided that the enlarged structure at no point falls within 75' of the mean high water mark. He said that this provision is allowing some flexibility for the Building Inspector to give building permits to people enlarging their structure up to 20%. If there is a disagreement, Mr. Weeden is welcome to file an Appeal From an Administrative Decision from the ZBA. The Building Inspector is given some authority to allow some expansion to existing structures. If you go beyond that expansion or closer than the 75', then you need to get the Conditional Use Permit and go before the Conservation Commission and the Planning Board. He said that they originally had some concerns regarding the front setbacks on this lot as it appeared that the applicant measured from the pavement vs. the front property line on the plan that was submitted. Steve said that Tom Clark went out there and found what appeared to be a front property pin, did some measurements, and now it

appears that the house can probably fit on the lot. The Conservation Commission has reviewed and approved the plan as it was shown. Steve went over the staff recommended conditions of approval and said that one of the recommendations is that a plot plan be done to verify the setbacks from the road and that it meets the front setback requirement of 30'. He said since the Conservation Commission reviewed the distance of the house based on the distance on Willand Pond, they can not go any closer to the pond in order to get that 30' front setback. They would either have to reduce the size of the house, or go back to the Conservation Commission and then come back to the Planning Board. The plot plan will have the exact measurements.

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

1. That the proposed house must meet the 30' front yard setback per professional plot plan that the applicant will provide.
2. That the new house and deck not encroach any closer to Willand Pond than outlined in the application that is before you this evening.
3. That the proposed deck adjacent to the pond be removed from the plan.
4. The erosion control practices take place per Strafford County Soil Conservation Service Erosion Control Guidelines.
5. That any State and Federal approvals be received as required.

Margaret Stevenson seconded.

VOTE U/A

ITEM #4: Consideration And acceptance of an application for a site plan of land for Wentworth-Douglass Hospital, Assessor's Map 37, Lot 1, zoned O, located at 789 Central Avenue.

Frank Torr asked to be recused from this item because his wife is a trustee at the hospital.

Greg Walker, President of Wentworth-Douglass Hospital, introduced Jim Hageman, Project Architect and Marty Kennedy, Traffic Engineer. He said that there are two distinct components to the project. One is the ambulatory services two-story addition to the hospital and the second is the addition to the Seacoast Cancer Center. He said that the need for this project is based on the increase in volumes that they have experienced in the past 5 years. He said that in 1996, the emergency room had 23,500 visits and this year they are going to experience 30,000 visits at the hospital. Their surgical volume has increased by over 30% over the same time period. They did 6,068 procedures in 1996 and they will do over 8,000 procedures this year. He said that they have seen similar increases in all the ambulatory services at the hospital. This project will assure that there is access to new technology and that they are able to continue to provide high quality care to the community. This project will involve the demolition of the Rollins Building which was constructed in 1922. It is a wood framed building that was designed to house nursing students. He said that changes in building codes have forced the hospital to discontinue the use of this building since 1986, by order of the City of Dover. The current permitted use is only for non-patient care. To upgrade this building to useable condition would cost between 3 million and 3.5 million dollars. He said that they have

met with the Rollins Family to review the plans for the potential destruction of the building. In order to memorialize this they are planning on renaming the auditorium, "The Rollins Auditorium". He said that they also plan to use some of the brick from this building in the retaining wall because this is an important part of the history of the hospital.

Jim Hageman explained from the plans that were displayed, the various locations of the additions. He said that this would be done in various phases in the next year and a half. There will be landscaping, as well as, sidewalks on site. He said that there will be a brick wall to separate Central Avenue from the new parking areas so they are not visible from Central Avenue. He also explained that a large portion of the site drainage is now draining into the wetlands in Rollinsford and that will continue to be the case with the new development.

Marty Kennedy stated that he went out and collected new traffic volume counts. He said that they recorded 25,000 vehicles per day in front of the hospital. They estimated that the expansion will generate during the peak hours of the day, in the AM approximately 65 new trips – 45 entering and 20 exiting. During the weekday evening peak period approximately 75 trips or 25 entering and 50 exiting. He said they conducted an analysis of the nearby intersections and found that the impact of additional trips is relatively minimal from the standpoint of the expansion. They did identify that the left turn exiting movement at the Emergency Trauma Center driveway is a problem during the busy part of the day. In the traffic study they recommended that that movement be prohibited and that all left turns occur at the signalized intersection. After discussion, the Technical Review Committee felt that prohibiting the left turns would not be necessary and that motorists could make the decision one way or the other. Marty Kennedy said from their standpoint, they are willing to do it either way. Their initial recommendation was that the left turn should be prohibited simply because it is Level Service F. He said that it was decided to let the motorist make the decision because at certain times of the day you can get out of there, and it is only during busy times that you can't.

Discussion ensued regarding the elevation of the parking structure. It was determined that there would be room to expand the parking in the future.

Tony McManus made the motion to accept the application.
Reuben Hull seconded.

VOTE U/A

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

Steve Stancel stated that there is a list of the 41 TRC comments plus Engineering comments, but for the most part, they are minor issues. He said that there is a request for two waivers. One is to not create a landscape island that would run in the north/south direction between rows of parking that is on the side of the building. He said that this is

required per the new Site Review Landscaping Requirements and the other is for a narrower accessway width of 22' where 24' is required. Steve said that the applicant is willing to do several offsite improvements and went over each improvement stating that the total approximate value of offsite improvements is close to \$50,000. He said that he recommends a site walk.

Anthony McManus made the motion to table to a site walk.

Jeff Mason seconded.

VOTE U/A

The site walk was scheduled for Monday, August 31, 2000 meeting in the front lobby, which is at the back of the building.

ITEM #5: Old Business

- a. Discussion and possible vote on a major subdivision for Northam Builders, located on Columbus Avenue.**

This item was not ready for discussion this evening.

ITEM #6: New Business.

Tony McManus stated that in the Open Space and Recreation section of the Master Plan there is a recommendation that an open space committee be set up to develop a management plan for the location of parks and also to look into coordinating the scheduling of the activities. It is also recommended that this be an immediate priority because it seems that we need some additional parks to take care of the activity that we have. He said that he thinks that it is important to the development of the City as to where those parks are located and that the scheduling problem is taken care of. He said that nobody is in charge and people have to go to three different places to get scheduling times. He said that he doesn't think that the use of the land at the County Farm is a good idea but there are people that think that it should be looked at. He recommended that the Open Space Committee be designated and a meeting be set to get this under way.

Ron Cole said that it says that the City Council should create a standing Open Space Committee. He said that he would submit an application.

Reuben Hull stated that there should be a standing committee that's still there as part of the Steering Committee, but a standing committee that is making sure things in the Master Plan are being followed. His suggestion was a Steering Committee which would be liaison between this Standing Open Space Committee, the Heritage Committee, this Board, Planning staff, etc. He said that this way we would know what all these groups are doing.

Steve Stancel clarified that the Council is in the process of putting together an Open Space Committee, that Doug DeDe and the Conservation Commission have been

working on. He said they plan on formulizing it at their August meeting. He said that he doesn't think that it's that committee's main function to look at recreation and where fields should go and how the operation would work. We need to be clear that there would be two separate committees.

Reuben Hull felt that we were going to have too many committees and asked who would see that they are all interrelated when the Recreation Committee wants property that the Open Space Committee wants to keep open? He said that somebody needs to do that but he's not sure who.

Tony McManus made the motion to request the City Council to implement the recommendation that they appoint an Open Space Committee at the earliest possible date. Frank Torr seconded.

VOTE U/A

Ron Cole said that he will contact the City Council and convey the Board's wishes at their next meeting.

Tony suggested having a workshop after Labor Day to decide where all this is going.

Discussion ensued with regard to the Scenic Road Ordinance. Steve said that Tom Clark indicated that there have been decisions made in the past that the \$100.00 fine may be \$100.00 per day, although it doesn't say that. Steve said that it isn't something that you can just levy, it has to go to court, so it's not easy. He said that we need to look at that and in creating better buffers. He said that just protecting up to the stone wall isn't going to do anything if people are going to start clear cutting the rest of their lot. We have to look at what is more important.

ITEM 7: Adjournment

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

VOTE U/A