

**DOVER PLANNING BOARD
MINUTES OF MEETING
AUGUST 8, 2000**

MEMBERS PRESENT: Pete Lavoie, Ron Cole, Frank Torr, Jerry Reese, David Landry, Tony McManus, Jeff Mason, Margaret Stevenson

MEMBERS ABSENT: Reuben Hull, Chuck Maglaras, Paul Beecher, Jeff Peasley

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

ITEM #1: Approval of the minutes

Frank Torr made the motion to approve.
Jeff Mason seconded.

VOTE U/A

ITEM #2: Consideration And acceptance of an application to rescind a minor lot line adjustment of land for Michael & Donna Wentworth and Raymond & Lisa Beaudette, Assessor's Map 30, Lots 49A & 48, zoned RM-10, located on Sixth Street.

Atty. Jim Schulte stated that two years ago the Board approved a lot line adjustment for these properties and since then the parties have changed their minds. He said that after the plan was signed and recorded, it raises a title question necessitating something of record to show that they have not exchanged deeds. He said that he has a form resolution that could be adopted and signed thereby clearing the record at the Registry of Deeds.

Jerry Reese made the motion to accept the application.
Tony McManus 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 to rescind the lot line adjustment.
Jeff Mason seconded.

VOTE U/A

ITEM #3: Consideration And acceptance of an application for a minor lot line adjustment of land for Kenwood Corp., Assessor's Map H, Lots 44Z & 44Y, zoned R-20, located on Lisa Beth Drive.

Laurence Keenan, stated that he would like to add ¼ acre to the lot to make it approximately ¾ acre so it would conform more with the other lots in the subdivision.

Tony McManus stated that he was abstaining.

Jerry Reese 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.

David Landry made the motion to approve with the following conditions:

1. Add the owner's signatures to the plat.
2. Revise plat to add Strafford County Registry of Deeds recording number to the Reference Plan number one.

Margaret Stevenson seconded.

VOTE U/A

Abstained – Tony McManus

ITEM #4: Consideration and acceptance of an application for a minor lot line adjustment of land for Stabile Homes at Dover, Inc., and Steven & Joan Anderson, Assessor's Map B, Lots 4-23 & 4-24, zoned R-40, located on Cottonwood Drive.

Kevin McEneaney stated that as the construction took place, the driveway was inadvertently placed slightly over the line. This plan will adjust the line to accommodate the 5 foot setback from the side property line.

Frank Torr made the motion to accept the application.

Jeff Mason seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Jerry Reese made the motion to approve with the following conditions:

1. Add both owner's signature to the plat.
2. Change the building setback lines on lot B 4-24 to reflect the change to the new lot line.

Margaret Stevenson seconded.

VOTE U/A

ITEM #5: Application for a minor lot line adjustment of land for Brian & Elizabeth Bortz and Romeo & Susan Vaillancourt, Assessor's Map I, Lots 48D & 48B-11, zoned R-12, located on Back River Road/Digby Lane.

Kevin McEneaney stated that this is basically a housekeeping effort to square up the lot lines and a variance was granted to allow this to occur.

Frank Torr made the motion to accept the application.

Pete Lavoie seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Tony McManus made the motion to approve with the condition that both owners' signatures be added to the plat.

Margaret Stevenson seconded.

VOTE U/A

ITEM #6: Old Business.

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

Chairman Cole stated that the public hearing was closed at the last meeting but the Planning staff has been working with Councilor McNeill to resolve some issues and there have been some changes, so he is going to recommend that the public hearing be reopened.

Attorney Malcom McNeill passed out some materials and photos of the site. He said that the photos are important in that some of the residents have made some representations with regard to the nature of the roadway in its entirety and the photos will give a sense of the nature of the roadway in the vicinity of this site which is essentially a straight road. He said that this application has received all the necessary approvals both here and at the State level for all issues except the issue of the sidewalk. He said that there is a very strong difference of opinion with regard to the need of sidewalks. He said that they reviewed the Subdivision Regulations and examined the minutes of the meetings. He said that general provisions related to sidewalks are contained in Section 155-46, and he read it. He said the important words in that section are urban core. He read the definition of Urban Core and said that the only component of that definition that applies is the existence of City water. He said that this is also an area that the Board recommended be rezoned at one time. The only plans that the City has is to make the connection to Wallace Woods. This is a sidewalk to no place. It would be undesirable to have pedestrians have access to Littleworth or Tolend Roads. These roads have existed for decades with highly intense traffic. Columbus Avenue is inadequate, but they are all

existing conditions and none were created by this developer. He said that Mr. White did not own this property at the time when Wallace Woods was being developed. This is a different project. He said that the inadequacies of this road will not be fixed by a sidewalk. He said that only 4 lots are being created. He said that the CIP does not provide for construction of sidewalks in this area at all. There are many areas of Dover that have a much greater need in terms of the City's resources. He said that speed is restricted to 35 mph and heavy through truck traffic is not permitted. The roadway surface is undesirable and a sidewalk that is put in now may have to be taken out later if the road is revised. He said that at TRC neither Police or Fire Dept. said anything about the need of a sidewalk. The Public Works Dept. has never requested sidewalks for this section of town. He said that with regard to the issue of the bus stop at Wallace Woods, they are issues relating to that project and should not be issues related to this project. He said that he made certain suggestions to the Planning Department about what the developer might be willing to do with regard to a bus stop in the vicinity of Wallace Woods but that was not well received. The basic estimate for a simple sidewalk, as estimated by Bob Stowell, under good conditions, is about \$18,000 to \$20,000. He said that the hitch here is that these are not good conditions.

Attorney McNeill stated that stone walls along the area would have to be removed, approximately one dozen mature trees of 12" diameter or more along the street would have to be taken down, the applicant would have to get a Wetlands Permit for approximately 15,000 sq. ft. of wetlands disturbance in the Map G, lot 30B area from the Wetlands Board and this would also require the relocation of 3 existing fire hydrants along the roadway. Not only do the sidewalks not go anyplace, it is guaranteed that for at least 4 months of the year they won't be maintained. He said the City does not have the resources to plow these sidewalks. He said if the people of Dover had rezoned this area this would not be an issue. He said that they had conversations with the Planning Department with regard to making a contribution to a general sidewalk fund even though they did not feel that they have any legal responsibility to put them at this location. He said that that contribution which was a five figure proposal, was rejected by the Planning Department. He read some of the comments from the minutes of the meeting when this first came before the Board. One comment was where Steve Stancel stated that he did not see how a sidewalk would benefit the neighborhood and there are other areas in the City with a higher priority. One other quote was when David Landry stated that building partial sidewalks makes no sense to him because there is no place to walk to. Malcolm said they had made an offer which was less than their cost of putting in a sidewalk which they believe that they are not required to do, but yet was not an insignificant sum of money. Mr. McNeill said the developers should and do pay for projects that bear a reasonable rational nexus to their site, where there are regulations that require it, or where there are viable arguments that support it. Malcolm stated that they don't believe that this is the case. Another argument is that not every municipal approval that happens to be needed in an area where a developer is coming in is the responsibility of the developer. There is a new project that has come into this site that admittedly Mr. White, and perhaps regrettably built, because he thinks if he were standing there for someone else the arguments would probably be different. He said that Wallace Woods was approved without sidewalks, it's regrettable that there are difficulties with regard to the bus stop

but it does that provoke the need for a small six lot subdivision to provide sidewalks. The ultimate question here is that they sincerely don't think that the Planning Department is right on this one. Their position is that it is both unlawful and unreasonable, as well as unnecessary to require this developer to construct sidewalks to nowhere that won't be maintained for 1/3 or the year. He said it is totally inconsistent with the Subdivision Regulations, not provided for in the CIP and inconsistent with the genuine needs of this City. They are asking that this project be approved and not requiring the developer to put in sidewalks.

The public hearing was re-opened.

Mike Graves, 17 Wallace Drive, stated that his biggest concern is more a safety concern. He said that there are many kids out there. If you don't start requiring people to do something for the community, it is never going to happen and we will never get what we need solely from the taxes alone. We need the developers to do something. The biggest concern is the condition of the road which is due in part from the construction that this developer has undertaken and it will continue to get worse with the development of these new lots. He feels that the sidewalks would be a start and maybe we can get them extended a littler further to Littleworth Road and to Tolend Road. He said that it would give people someplace to walk.

The public hearing was closed.

Steve Stancel stated that this is a difficult decision in a tough area of town. He said that they did spend many weeks in discussions with Atty. McNeill and before that with the engineer for the project in an attempt to come to a compromise on this issue and they were unable to. Normally, under our Subdivision Regulations, this area would probably not fall under the definition of the Urban Core and therefore not require sidewalks. However, the ordinances and regulations are meant to be minimum standards and Section 155-3 and 155-4 clearly state that these are meant to be the minimum standards and that should not necessarily restrict the Board from a stricter standard. Additionally, it's the main objective of ordinances and regulations to protect the health, safety and general welfare of its citizens so there are times with certain projects and unique situations where he believes that there is a need. He said that they do believe that this is a unique situation and Columbus Ave. is a dangerous road. The widths are inadequate (it is as narrow as 22' in many of the sections), there is significant traffic, including truck traffic on a daily basis and speeds are excessive despite the speed limits. This applicant is either directly or indirectly responsible for the creation of a total of 28 lots in this area in the past two years in an incremental fashion. Pedestrian activity on the road increased and it is dangerous. Steve said that he spoke with Sheila Estes, of Laidlaw Transportation, and she said that she is well aware of Columbus Ave. because it has been a hot spot in the City. She indicated that the children in these six households would have to be forced to congregate in set locations or bus stops as it would be impossible to stop in every single house. She said that she already stops at a couple of the houses on Columbus Ave. and would not be able to continue to do that, therefore the children need a way to get to these set locations or bus stops. He said that they disagree with Atty. McNeill as to the impacts

that this sidewalk would have along the frontage of this property. The sidewalk would essentially go over where the new water line was installed along Columbus Avenue. He said there probably would have to be some relocation of fire hydrants and some trees lost but he believes that this is a life safety issue. Steve read off the recommended conditions of approval and said they were pursuant to Chapter 155-3 Purpose of Subdivision Regulations and Chapter 155-4 Interpretation.

Ron Cole asked Pete Lavoie if it was true that a sidewalk would not get plowed by the City.

Pete Lavoie stated that there are no funds for plowing but it could be included in the next CIP. He said that they are doing Belknap, Atkinson and those areas. He said that they found when Wallace Woods was completed, that the curbs were not brought out to Littleworth Road which would have made it a lot safer for the children. He feels that it is the sidewalk to nowhere and the road needs complete restructuring to bring it to trucking standards.

Steve Stancel said that the northern edge of this project to Wallace Drive is approximately 500 feet. He said that the total length would be approximately 1,700 to 2,000 feet of sidewalk that would be created between the two project and that is not in his opinion a sidewalk to nowhere. It is a significant walking path. He said the cost for 500 feet would be approximately \$5,000 to \$6,000. Steve stated that \$12,000 was the proposed amount of money and the cost of the sidewalk is more than that and that is why it didn't seem like a good deal to him.

David Landry stated that he grew up in the country. He said that what they do is make the road a little wider, put striping on the sides of the roads for traffic control and have an actual shoulder that is 3 or 4 feet wide and that is what people walk on. There is no granite curbing and it doesn't cost a lot of money. He said that there are country roads like Columbus Ave. all over Dover. He said that he is opposed.

Tony McManus made the motion to approve the application with the following conditions as proposed by the Planning staff:

1. That these comments become part of the approval.
2. That the applicant be responsible for the design and construction of an at grade sidewalk of 5' wide with a 3' grass/gravel strip placed between the roadway and the sidewalk. Said sidewalk shall be placed along the frontage of the 6 lots.
3. That the City of Dover will be responsible for continuing the sidewalk approximately 500 feet to Wallace Drive. Therefore allowing pedestrian access from the 6 lots to Wallace Drive and a potential bus stop.
4. Add owners' signatures to the plat
5. Add surveyor's stamp and signature to the plat.
6. Provide the Planning Department with a copy of the State Subdivision permit and add the permit number to the plat.

7. Provide the Planning Department with a copy of the NH Wetlands Board permit and add the permit number to the plat.
8. Approval includes the granting of the conditional Use Permit for the wetlands impact with the condition that the deeds for individual parcels will identify the presence wetlands (where appropriate), as recommended by the conservation Commission.

Jeff Mason seconded.

Ron Cole stated that Sherrie Picardy telephoned stating that she wanted to be added to the list of people who felt that sidewalks are a good idea.

Tony McManus stated that he is in favor because of his experience with Mast Road and Spruce Lane where developers have come in and put a few houses here and there and the City never required them to put in sidewalks and now the entire cost is dumped in the hand of the City. He said that he sees this happening on Columbus Ave. It has become more of a residential area and this developer is heavily involved in making it a residential area. There is no question that this road will have to be upgraded in the future. Tony said, as a Planning Board, we have to look ahead. He added that Mr. White was very happy when the City contributed an amount of money toward putting in the water line that made Wallace Woods possible. He said that we need to look at the big picture and he feels that it is appropriate in this location to require a sidewalk. He is in favor.

Frank Torr stated that he likes to see consistency and he said that we have made some errors on Mast Road. If we approve this project with the sidewalks, he would like to see us be very consistent in the future and require sidewalks for any development that comes in. There are other open areas on Columbus Ave. that could have a great potential to being developed and we need to be consistent with whatever we do.

David Landry stated that Winter is the most dangerous times to walk. He said that this road is out in the country and should have a shoulder that is wide enough to walk on that is paved with a striped line.

Steve Stancel stated that paving the shoulders and having people walk on them is one of the most dangerous things that you can do. You will actually promote people walking on the shoulder of an inadequate road and they will be killed. Steve urged people to go out and stand on that road and tell him that it is a country road. He said that it may be constructed like one but it is a major north and south cut-through.

Margaret Stevenson stated if she were a parent of children on that road she might be apt to pick up a shovel and remove the snow so the kids could walk, or at least do in front of your house to where they are going to congregate to pick up a bus. She said that the safety issue is the primary importance here. She is in favor of the sidewalk and does agree with Frank of the need to be consistent.

Jerry Reese stated that he is going to abstain because he was not part of the original meeting.

b. Discussion and possible vote on a Conditional Use permit for Peter Amarosa & Lisa Connolly, located on Old Garrison Road.

Ron Cole stated that a public hearing was held and closed at the last meeting and a site walk was held. He asked Steve Stancel to encapsulate to bring the Board up to date.

Steve Stancel stated that the staff recommends approval of the request for the driveway access off a scenic road with several conditions which he read.

Lisa Connolly stated that she spoke with Bambi Miller of the Soil Conservation Service and she thought that it would be a good idea to plant some bare roots plants as they grow faster but Spring is a better time to plant them. She suggested that they ask for permission to plant some before they move in and plant the remainder in the spring. She said that the Soil Conservation Center would have the trees at a low cost if they needed to get some. Ms Connolly stated that the size of the trees they are thinking of are 1 to 1 ½ inches or less. She asked if they could have that written in and that no charges of any kind would be brought against them if they agreed to this.

Steve Stancel stated that they would just be needing some kind of letter of credit or bonding if things were not planted before the Certificate of Occupancy.

Pete Lavoie stated that City Arborist Ralph Phipps looked at the site and said that the trees were mainly ash and recommended that the same type be put back in. He said they are abundant.

Lisa Connolly stated that Bambi Miller mentioned that lilacs could be a good underbrush but she didn't know how much of an influence any of the neighbors are going to have on what can and cannot be planted.

Steve Stancel stated that the abutters won't have any input but she will have to come to an agreement with the three resources and if she can't, then she will have to come back to the Planning Board.

Lisa Connolly stated that as far as the 25 to 30 feet, the contractor would feel more comfortable with 20 feet with the septic being where it is. She said that 25 feet is not that big of a difference but 30 is quite a bit different.

Steve Stancel stated that he said 25 to 30 feet to leave some flexibility and he will leave it up to the vegetation people.

Lisa Connolly asked if they have to draw up some sort of a legal document and come back to the Planning Board.

Steve Stancel said yes and the type of document that he would be looking for would be more of a protective covenant that would be recorded so whatever gets planted there, other than maintenance, is to remain.

Frank Torr asked Lisa and Peter if they were comfortable with this?

Lisa said that they feel that they don't have a choice and feel that the neighbors have a lot of influence and they will get what they want.

Frank Torr said that he is a bit uncomfortable with the covenant because no one else on that road has a covenant on their property dictating what occurs on their side of the stone wall. He said they were intending to plant trees there anyway and if they did nothing the growth would come back automatically. He felt that an agreement to work with the Conservation Commission and the Soil Conservation would be sufficient.

David Landry stated that we need to revisit this section of the regulations and make changes and attach fines or penalties. He would rather not grant the permit, have them put the rock wall back and not require them to do anything with the land on the other side of the wall, even if it might look awful. He felt that the agreement is a recipe for disaster.

Margaret Stevenson stated that she agrees with David and we should adhere to the original restrictions that were put on the approval of that lot and as a Planning Board we have a responsibility to do this. She said that we should require that the stone wall be restored and the original plan for the shared driveway be adhered to.

Jeff Mason stated that he agrees with Dave as well and should go with the original plan.

Steve Stancel reminded everyone how 30 or 40 people stood out in the rain at the site walk. He said that he thought that everyone had come to a consensus because no one said otherwise. He said that one of the reasons that none of the neighbors were present tonight was because they thought that we had come to an agreement. He said the applicants would prefer to have the driveway and the neighbors would prefer to have a vegetative buffer in allowance of the driveway. That vegetative buffer is going to be agreed upon by experts in the field and the concept is that, eventually, it will look like the rest of the road. The purpose of the covenant was to protect from people coming in in 2 or 3 years, whether it's this owner or new owners, and completely cutting everything down again. The purpose for not allowing the driveway was for aesthetic reasons. He said that he thinks when everybody saw the lot, they felt more comfortable aesthetically with having the buffer and the driveway, rather than forcing these people to come in off the shared drive and possibly keeping their front yard clear cut and having a portion of their front yard paved.

Lisa Connolly stated that she believes that the neighbors will be much more upset if they keep the shared driveway.

Ron Cole stated that his feeling is that if the Board opts to consider going back to the original plan, which would be the sideways driveway, he would strongly recommend that the Board not take action tonight on this. He reminded them to keep in mind that there was pretty much a verbal agreement at the site walk as to what was going to occur this evening.

Tony McManus stated that his first reaction was that we ought to prosecute the contractor for the violation and require him to restore the property at his cost. He said that we would accomplish more with Steve's suggestion of a separate driveway and restoring the property than by seeing a long snake of an asphalt driveway across the front yard.

Frank Torr said that he is taking the same position as Tony and more will be accomplished that way than by putting the driveway across the front along the stone wall.

Frank Torr made the motion to approve this subject to the following conditions as follows:

1. That the driveway be no wider than 12 feet wide.
2. That the stone wall be reconstructed to the edges of the drive.
3. That the applicants shall consult with the Conservation Commission Chairman, the City Arborist, and the Strafford County Extension Service and complete revegetation within 25 - 30 feet of the front property line as well as the right-of-way as agreed upon. Said revegetation shall not be unreasonable in nature but the Planning Board to be ultimate decision maker in a dispute.
4. A protective covenant be attached to the deed restricting the removal of the vegetation other than for maintenance purposes.
5. The revegetation shall be completed prior to a issuance of a Certificate of Occupancy or a letter of credit if some of the revegetation is delayed to the spring.
6. Failure to comply will result in the City pursuing legal action pursuant to the several RSAs and ordinances as discussed.

Tony McManus seconded.

Steve Stancel explained that normally we allow Certificates of Occupancy and if there are any outstanding issues, we take out a letter of credit, a bond or even a check for the amount, just to assure that it is done.

Frank asked if there is any flexibility in condition #3 to do 20 – 30 feet in case it is necessary?

Everyone agreed that Frank should make that part of the motion.

Jerry Reese stated that he is abstaining from the vote because he was not at the site walk or the meeting.

VOTE 3 – 3 **Opposed – Margaret Stevenson, Pete Lavoie, David Landry**
Ron Cole broke the tie and voted in favor.

VOTE 4 – 3 Motion passed.

b. Discussion and possible vote on a site plan for Wentworth-Douglass Hospital, located on Central Avenue

Frank Torr stated that he is recusing himself.

Jim Hageman stated that they are here seeking approval tonight.

Steve Stancel gave the staff recommended conditions of approval and said that they also recommend approval of the waiver requests as they feel that they are consistent with the ordinances.

Jerry Reese asked how the negotiations with COAST were going. He asked how long we would wait for the \$2,000. How long do they have to negotiate with these people.

Steve Stancel stated that was left open ended so if and when it does occur, even if it's years down the road, we can extract the \$2,000. Steve said that we hope to talk to COAST because if the stop were moved to the back, it would be in the best interest of everyone. He said that COAST's concern is the timing issue of turning into the site and coming back out of the site. It will add a little more time.

David Landry made the motion to approve the waivers and the site plan with the following conditions:

1. Add owner's signature to the plan.
2. Add engineer's stamp and signature to all plan sheets.
3. Provide the Planning Department with a detailed lighting plan that complies with Chapter 149-14-E-2.
4. Provide the Planning Department with an erosion and sediment control plan.
5. Revise the site plan to add the standard note that requires as-built plans to be submitted to the City.
6. The applicant shall install a sidewalk with granite curbing along the Central Avenue frontage and within the channelized island at the Old Rollinsford Road intersection. This work shall be completed and accepted by the City prior to the issuance of an occupancy permit.
7. The applicant shall hire a traffic consultant to prepare a lane striping optimization plan for Central Avenue from Oak Street to the Shop 'N Save plaza. Said plan shall be submitted to the Planning Department prior to the issuance of an occupancy permit.
8. The applicant shall contribute the sum of \$7,000 towards the City's 20 percent funding match for the Central Avenue traffic signal coordination project. This contribution shall be paid prior to the issuance of the building permit.
9. The applicant shall contribute the sum of \$2,000 towards the cost of a new COAST bus shelter. This contribution shall be paid when an agreement with COAST is made to relocate the existing bus shelter.

10. The additional 5 conditions of approval recommended by the City Engineer in his memo of 8/8/00 as follows:
11. He recommends that the sewer manholes and piping be relocated from under the proposed loading dock are and be rerouted from beneath the building.
12. The proposed watermain and services to the new addition need to be shown as previously discussed.
13. A catchbasin should be installed on the south side of the emergency entrance by Central Ave.
14. A tip-down should be installed on the proposed sidewalk at the corner of Central Avenue and Old Rollinsford Road.
15. The utility department has requested that the existing roof drain out-falls be investigated to determine if they tie into the storm drain or the sewer main. This is part of the City's effort to investigate inflow and infiltration problems, which add unnecessary water into the sewer system. This investigation should be done before issuance of an occupancy permit.

Also approval of the waiver of the requirement that a parking lot with more than two parallel aisles have a landscape island between the rows of parking and a second waiver for the requirement of 24 foot access way.

Jerry Reese seconded.

VOTE U/A

Abstained – Frank Torr

d. Request for an extension of approval for Motiva Enterprises, located on Longhill Road/Route 108.

Malcolm McNeill stated that Somersworth requested a change in the access on the highway to eliminate a left hand turn, which also required DOT approval and he hasn't received a response from DOT yet. He said that is why they are requesting the extension. Malcom stated that the 60 day rule for a project of any consequence is very difficult to achieve because the State Permit or DOT Permit never gets done within 60 days. He said that perhaps there may be an appropriate time such as four months. He said that is a problem they have been having this year.

Frank Torr made the motion to approve the extension.

Margaret Stevenson seconded.

VOTE U/A

Tony McManus stated that on the minutes on page 8, Brad Walker should be Greg Walker.

ITEM 7: New Business

There was none.

ITEM 8: Adjournment

Jerry Reese made the motion to adjourn.

Jeff Mason seconded.

VOTE U/A