

**DOVER PLANNING BOARD
MINUTES OF MEETING
MARCH 11, 1997**

MEMBERS PRESENT: Martin Smith, Mike Bobinsky, Otis Perry, Dennis Ciotti, Reuben Hull, Brian Preston, Ron Cole, Charles Maglaras, Anthony McManus

MEMBERS ABSENT: Paul Beecher

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

Chairman Cole brought the meeting to order at 7:06.

ITEM #1: Approval of minutes

Reuben Hull made the motion to approve the minutes.

Mike Bobinsky seconded.

VOTE U/A

ITEM #2: Consideration and acceptance of an application for a site review, conditional use and minor lot line adjustment of land for NH Catholic Charities, Inc., (St. Ann's Home) Assessor's Map L, Lot 15A, zoned R-20, located on Dover Point Road.

Ron Cole stated a letter was received from David Choate requesting that this hearing be withdrawn and continued at the meeting of March 25, 1997 to allow them to address the concerns of the parents of the St. Thomas Aquinas High School students.

ITEM #3: Consideration and acceptance of an application for a site review of land for Sarnia Seacoast, LLC, Assessor's Map 6, Lot 46, zoned B-2, located at 488 Central Avenue/Third Street.

Ann Whiting represented the applicant. She stated that there is a new bank going into the 1st floor. She stated that there are 1 bedroom apartments on the 3rd floor and they are looking to convert the second floor to 6 apartment units. She stated the 45 parking spaces are more than adequate for their needs but she would like Board approval for the conditional use of one space to comply with the City requirements.

James Kenny stated that a condition of approval can be that they provide a boundary survey plan but at this point they don't have it.

Otis Perry made the motion to accept.

Charles Maglaras seconded.

VOTE U/A

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

Steve Stancel stated that this is a perfect example of shared parking. He stated that many residents will be gone by the time the bank opens. Steve stated that a request can be made to receive City rubbish disposal but it must be requested in writing.

James Kenny stated that the top floor residents are living with City collection. He said they can find a suitable space for a dumpster if they have to.

Charles Maglaras stated he would like to change the Conditional use to 2 spaces.

Mike Bobinsky stated he endorses the 2 spaces also.

Reuben Hull asked that a sign be placed stating the handicap space is van accessible.

Otis Perry stated he would like to approve with the staff recommended conditions as follows:

1. The owner's signature be added to the site plan.
2. The applicant provide a boundary survey plan or boundary reference plans to the Planning Department
3. The owner, by a note on the plan, indicate their responsibility for repair and maintenance of the concrete wall located adjacent to the parking lot.
4. The conditional use permit for 2 spaces is to be shared by the bank and the residential units.
5. A dumpster with screening is required and acceptable to the Planning Director and staff.
6. A sign be provided stating the handicap space is van accessible.

Martin Smith seconded.

Anthony McManus stated that shrubs and trees would improve the looks of that area.

James Kenny stated he would look into that.

VOTE U/A

Ron Cole asked if anyone minded switching items a. and b. under Old Business

ITEM #4: Old Business

b. Discussion and possible vote on Dover Bingo site plan amendment.

Malcolm McNeill introduced Anders Albertson, Eric Ebe, of RD Vanesse and Associates, who did the traffic report and Mike Labrie, the Manager of the Bingo Hall. Malcolm stated they provided the traffic numbers requested at the last meeting. He said he feels it is important when looking at these numbers that the Sat. matinee is clearly the most analogous Bingo game to the one that they are requesting on Sunday. Mr. McNeill stated that the Saturday matinee has been

in existence for almost a year and the average attendance has been 235 players. He added that the present capacity of the hall is 650 and with the addition it will be 800. He said that there is a count taken after the games begin. The 235 represents all the people playing the game but it doesn't represent all the people leaving. He stated that with regard to the Saturday matinee, that approximately 50 people stay in the parking lot after the game because they stay for the evening game. In terms of the impact, the matinees are different than the evening sessions because at the evening games the people who come in are the people who go out, but not so with the matinees the number of people who leave is significantly less. Malcolm stated that the Planning Director requested background traffic information for the Sunday time period that is the subject of this request. He stated a letter was submitted stating the following: "In general the Sunday traffic counts were slightly less than the previous Saturday peak hour counts conducted by Vanesse & Associates, Inc. During the previous Friday and Saturday exiting observation periods, people leaving the bingo were observed for a 5 to 10 minutes period at the Central/Cataract Ave. Intersection and then subsided." He said that the background traffic on Sunday is less than on Saturday and as such, it is the opinion of the traffic engineer that the impacts will be less. He said from his own observations the exiting takes approximately 8 to 10 minutes. He said basically, Sunday is better than Saturday and Saturday has not created any problems. He indicated that the user for the Sunday matinee will be Dover Youth Hockey. He said they expect by being involved in Dover Bingo to reduce their cost and expand their program. He said they expect to generate between \$50,000 and \$100,000 for Dover Youth Hockey on Sunday afternoon. Atty. McNeill stated they indicated in writing that the applicant will not seek approval of additional bingo games beyond the games previously approved by the Board and the Sunday matinee which is being requested.

Atty. McNeill stated the Police Department has no complaints with regard to the existing traffic conditions and no recommendations with regard to any change in operations. He said there have been no complaints from any regulatory officials of the City of Dover with regard to this proposal. He said they would like to propose the following:

1. Delete the prior condition of approval in 1995 with regard to the flagman and make it tighter in terms of the conditions of approval. He said they would like to propose the following: A flagman shall monitor and direct traffic as it leaves the bingo center parking lot after both the Saturday and Sunday matinees. The flagman shall control the flow of left turning traffic from the parking so as to limit the Central Avenue/Cataract Avenue queue to a maximum of approximately 400 feet to terminate at a telephone pole which we identified to the Planning Director. In addition, the flagman shall control the flow of the existing traffic from the parking lot in a manner to provide reasonable safety regarding vehicular traffic and pedestrian traffic on Cataract Ave. and traffic entering the bingo center. We would also propose the following, that the applicant shall post "left turn only" and "right turn only" signs on appropriate monuments located at the exit to the bingo hall. The applicant will then re-stripe the exit area in accordance with designs approved by the Planning Director.

Malcolm stated that they continue to say that a flagman is not necessary but they are aware of the concerns that have been expressed. He said the flagman would be at the exit of the facility. The right hand turns have never been alleged to be a problem, right hand patrons leaving the facility bear to the right on Rutland or Cataract Ave. and proceed to the right and they have basically three travel options as they proceed to the right. He said that the traffic turning to the left

inevitably finds its way to the queue area. He stated that if the traffic coming out of the facility is controlled, we control the queue. Mr. McNeill stated that from the location at the exit to this facility, the monument that was disclosed to the Planning Department is clearly visible. He said by utilizing that monument in terms of controlling the flow of traffic, which is a condition of approval, they can go down and inspect it at any time. He said there will be an ability to monitor that queue. He said based on all the traffic studies a queue limitation in the area that we are proposing exceeds the normal queue but does not render the level of service below the C capacity. He said there is another component to the monument, on the right hand side of the street, from the intersection of Cataract Ave. and Central to the monument, on the right hand side where the pole is located, there are no houses on that side of the street. He said as to the side of the street where the cars are the closest because they are in the right hand lane in the area that we are limiting the queue to, there are in fact no houses. There are a few houses on the other side of the street he said, but this controls the queue into an area that meets the service requirements, limits the adverse impact to the neighborhood and also is something that is readily controllable by a flagman on both Saturday and Sunday.

Malcolm McNeill stated the bingo center complies with all state regulations. He said there has never been anyone that has complained about the 2:00 o'clock start up on Saturday or any other start up because between 10:30 AM and 12:30 PM people are dribbling into the center, just like people dribble into church on Sunday or to start a shift at other industrially zoned property. He said the only concern is at the time that people are exiting the facility at 3:00 to 3:15 PM. Atty. McNeill stated that there is a concern that people have quiet time in the morning to go to church. He added if there is a concern at interrupting dinner, in terms of what has previously been alleged to be offensive conduct with regard to traffic at this facility, the traffic will start at 3:00 or 3:15 in the afternoon. He said if any other industrial user ran a shift during the morning on Sunday, he doubts that there would be the type of concern that's been expressed here. Mr. McNeill stated with regard to the afternoon let-out on Sunday at 3:00 or 3:15, what we are asking to do is to commence the first game at 12:30 and end it about 3:00 and then there will be another game starting at 5:30. If history is a guide, approximately 50 people will never leave the parking lot until the conclusion of the game at 8:30 at night. This use, even with the matinees, is open far fewer hours than other permitted uses could be anticipated to use this particular site. Even with the expansion that is being proposed on the weekend, this is not a round the clock industrial facility in an industrial zone, it is not something that is anywhere akin to the hours that we are proposing in terms of adverse impacts. With the regard to the land use regulations of the City of Dover, this use is in complete compliance with your regulations. We have not made any request for waivers, variances, or any request for any modifications of the regulations in any manner. The Planning Department has not advised us at any time of any violation with our operations, nor have we received an official complain from the Police Department or the Fire Dept. with regard to a violation. He said they are in compliance with the regulations of the City of Dover and the State of New Hampshire. The licenses for the State of NH are controlled by the State of NH. The issue with regard to the Planning Board is if we comply with your regulation. With regard to the conditions of approval that I've discussed with you, these have been discussed with the City Officials with regard to impacts, level of service, and other components of the traffic picture. Atty. McNeill stated that the bottom line is that we respectfully request that facts and the law control in the regulation of this use. He said he doesn't think there is any dispute by anyone

that the impact with regard to the level of service occurs for approximately 10 minutes. That's the extent of the impact that anyone has found objectionable.

Councilor Scott Rawding asked to be heard.

Chairman Cole asked all who were in favor to let him speak to raise their hand.

For: Bobinsky, Perry, Ciotti, Preston, McManus Opposed: Maglaras, Smith, Hull

Scott Rawding stated if he gets into trouble he will hire Malcolm McNeill. He said he feels it is important for the Board to hear the other side. He said it is a little unfair to have the Dover Youth Hockey brought up because in bringing up a potential client for a Sunday matinee that has not been approved, the Board may have in their minds that if this is turned down, they will be taking money away from the good Dover Youth Hockey Association. He said the flip side of that is that all the neighbors are the people we should be concerned about. The people who need the most help are the people who have to put up with the noise, the fumes and the safety problems. He said he was very pleased to hear that Mr. McNeill had offered a solution to try to straighten out the flagman problem, but as far as he's concerned, that's like the farmer closing the barn door after the animals are already out. Scott suggested having a flagman there and having a policeman to watch the flagman stay on his duty. He said he was disturbed in the past when one of the conditions of approval had been violated and he hopes that this Board takes that into consideration. He said that the neighbors have objected to City Officials, they came here two weeks ago and stated there were problems. Scott said he would like a policeman instead of a flagman. Councilor Rawding stated another problem is the expansion of the current bingo. He said he would ask the Board to take into consideration the friends and neighbors of the community when they make their decision and vote. He said seven days a week is enough, and lets give the people of that neighborhood some relief. He asked each member to put themselves in the neighbors' homes.

Malcolm McNeill stated that a policeman and a flagman, was discussed with Capt. DeColfmacker, and Capt. DeColfmacker authorized him to say that a policeman is both unnecessary and impractical with regard to this site. Captain DeColfmacker said under the procedures in this City, the City encourages the use of flagmen. He said the Police get involved occasionally, and sometimes with companies that have unions and other kinds of requirements who specifically require a policeman. He said the period of time in issue here is 10 minutes and the minimum period of time that a policeman can be hired is 3 hours at a rate of approximately \$30.00 per hour.

Charles Maglaras asked about busses.

Malcolm McNeill stated that whatever bus traffic there is, it would reduce the number of cars exiting.

Steve Stancel stated that the Planning Board's responsibilities are somewhat limited in terms of requiring specific hours of businesses for any particular use. He said you can limit hours of a business if you can show there is a detriment to the health, safety or general welfare of the

immediately surrounding residents. He said that is the approach we took in looking at this approval and the only legitimate possible detriment in our opinion is traffic. He said we took a very detailed scientific approach to the traffic analysis in the area. Steve said we not only looked at the traffic analyses but we went ahead and added up to 100% capacity as if the expansion had been completed.

Bruce Woodruff explained the Planning Department analysis on the level of service threshold sheet that was handed out to the Board. Bruce stated that the traffic analysis is not based on what is happening now but what could happen given the expansion that was approved in 1995. Bruce stated that assuming that the expansion happens, the hall will be able to hold 795 patrons using 414 parking spaces. He said we didn't take into account the percent of bus use, and we didn't take into account that the hall is currently running at a 30 - 40% vacancy rate. Bruce stated that on weekday nights and Saturday nights there are no problems. He said there is a lot more traffic on Central Avenue during the day when the hall lets out for the Saturday matinees. He added it is more than double what there is at night or on weekdays. He stated that even though the number of patrons at the Saturday matinees are lower, the opposing traffic that keeps the people from turning left and right out of Cataract Avenue from having acceptable gaps is increased. He said these numbers were done without considering that 30 to 50 people would stay in the parking lot during the matinee for the evening session. Bruce stated that Level A is fantastic, B is real real good, C is average, D is considered average in urban areas, E is marginally acceptable, and F is failing and you can go beyond that and your in trouble congestion wise. He said the only movement that experiences any trouble is the left turn out of Cataract on to Central. He said he agrees with Malcolm that this only occurs for 10 or 15 minutes tops at the end of every session. Bruce stated the Sunday matinee would operate similarly to the Saturday matinee and possibly a little better. Using the 235 patron average that the document that the applicant has provided to the Planning Department, you are still operating at an overall C. He reiterated the only movement that experiences any trouble is the left turn out of Cataract on to Central.

Otis Perry asked what would happen if all the traffic turned left and what about the level of service after they have added on and are at full capacity.

Bruce Woodruff stated all of the counts that have been taken show that about 50% exiting the site drive turn left and 50% turn right. The cars that turn right have about 4 other paths to take once they get onto Cataract and Rutland and that works pretty well. But if you start making everyone go left you are really in trouble because you only have one way out and it's at that key intersection. The Saturday matinee averages about 235 patrons and that's an overall C for the whole intersection. Bruce stated the flagman can keep the queue amount at a status quo and lessen the congestion at the intersection while also reducing the length of the queue and the amount of vehicles that are idling by houses.

Steve Stancel explained that condition #4 is an initial monitor because we want to make sure that the queuing system works. What the traffic analysis does is it protects the City even down the road because we are saying that weeknights and Saturday nights, even at full capacity, even if the bingo hall expanded we are OK. On weekends we are not OK but with the flagman, the traffic will be controlled even if the capacity does increase.

Steve Stancel stated there is mechanism in the Zoning Ordinance that allows us to fine the applicant if he doesn't meet the conditions of approval. He added if anyone lets us know there is a violation, we immediately follow up on it.

Ron Cole stated he doesn't think anyone here wants to inconvenience citizens, taxpayers, or residents of the community, however, a business has certainly equal rights in many respects and the applicants are playing the game by the rules. He stated the detriment to health, safety and public welfare is so nebulous that if it went before a judge we would be in serious trouble.

Martin Smith made the motion that the application be approved with staff recommendations as follows:

1. The applicant shall provide (a) flagman or flagmen during all Saturday, Sunday and Holiday matinee bingo sessions, where the flagman responsibilities include the following:
 - a. Control left turning outbound traffic from the site so as to limit the queue at the Central Ave./Cataract Ave. intersection such that no vehicles will stack up beyond the second telephone pole located on the southern side of Cataract Avenue.
 - b. Ensure that site traffic is safely stopped for all pedestrians.
 - c. Ensure that through traffic on Cataract is not interrupted.
 - d. Control left and right turning channelization of existing traffic in a safe manner.
2. The applicant shall provide striping and signage for channelization at the site drive as approved by the Planning Department.
3. All previously agreed-to conditions shall remain in force.
4. City staff shall initially monitor effectiveness of the responsibilities of the flagman outlined above. The applicant shall agree to make necessary modifications to the queue control as required by staff in order to ensure levels of service are not degraded and/or queue lengths do not lengthen.
5. The applicant shall agree not to request any additional Bingo sessions.

Otis Perry stated he is opposed to this especially after hearing we are in trouble traffic wise on Sunday and Saturday afternoons. We will be giving them permission to put all of those cars into a neighborhood that already is burdened with those cars in a way that the neighbors find offensive and detrimental. He said this is Sunday afternoon in New England, when it's a time for quiet. He said we may have a responsibility to the business community and maybe to the kids who play hockey, but we also have a responsibility to the people who live in the neighborhood.

Martin Smith stated he thinks we ought to stop micro-managing people's business. If the applicant has the permits to expand and wants to expand, then more power to him. He stated a man has a right to obtain the maximum economic benefit of the land he owns if he does it within the rules and regulations of the law as it exists. Marty stated the applicant is meeting all of the

rules and regulations. He added that it is not our mandate or position to hold back the future and to protect the residents who happen to live across the street from an industrial zone. He said if Hidelberg Harris was bringing in 50 trailer trucks on Sunday afternoon, we would not have the least concern in the world. He added we would be tickled to death that they were doing such a big business and if they ran 3 shifts a day we would not be objecting to it if they were doing it within the regulations. Martin stated that we've put regulations and additional conditions and we've done everything that we can do. He said if we really feel that there is a problem for the people in the neighborhood, and he appreciates that there is for them, then maybe we ought to rezone the site. He added that we didn't have all these concerns about the impact on the landowners and the residents when we rezoned the north end of Dover. He said change happens, the future comes and things move on and now you have a relatively innocuous operation on that site compared to what could be there. He said a man is certainly within his rights to get the most benefit he can from his property. He said he thinks it is the Board's job to approve it.

Brian Preston made the motion to add a condition e. under #1 and it would read "If flagman is not present to provide these responsibilities at the above stated matinees, the Dover Planning Department will be notified in writing within 24 hours of when and why these violations occurred.

There was no second to that motion.

VOTE 5 - 4

Opposed - Perry, Hull, Ciotti, McManus

a. Discussion and possible vote on the Community Development Block Grant (CDBG) requests from Public Service Agencies.

Chairman Cole stated the Board had before them the results of the Planning Board Workshop.

Steve Stancel stated that some of the numbers were transposed so he has the correct version.

Anthony McManus made the motion to adopt.

Dennis Ciotti seconded.

VOTE U/A

c. Boston Market extension.

Charles Maglaras made the motion to approve.

Dennis Ciotti seconded.

VOTE U/A

Abstained - Anthony McManus

d. Request for a 30 day extension for Dan Ayer minor subdivision on Back Road & McKone Lane

Charles Maglaras made the motion to approve.

Mike Bobinsky seconded.

VOTE U/A

Reuben Hull stated he attended a meeting for Willand Pond. He said he brought some things that he wanted Steve to make copies of for the Planning Board packets. He suggested that this be discussed at the next meeting as opposed to this meeting. He said this will give everyone time to read the information.

Steve Stancel stated that he has no problem with that. He said tonight is a light schedule, but next week will be the nursing home. Steve stated he would like to hold neighborhood meetings with the residents for the Willand Pond Area.

Reuben Hull stated that as a committee they should have a direction that either they are going to do something or nothing. He also stated they should probably replace Lee Martel. He said that the background on the Willand Pond committee is to see where this is going in terms of recreational facilities. He said that committee seems to be geared to the neighborhood.

Mike Bobinsky stated his impression of the establishment of that committee is to monitor the development and address the zoning issues.

Dennis Ciotti stated that the committee wants to tie up all the loose ends at Willand Pond first before they move forward to a zoning change.

Steve Stancel stated that he does not think we can do this issue justice at the next meeting. He said that that committee was put together to protect Willand Pond. He said he doesn't want that group to think they are the engine that is pulling the train. It should be just one of the committees involved.

Brian Preston asked if it has been formally requested that Dennis Ciotti be put on the School Space Needs Committee as they will be meeting at Horne Street School, at 8:00 on Saturday.

Ron Cole stated he will make the recommendation and phone calls.

ITEM #5: New Business

Steve Stancel stated that in the packets are tables of our fees and at the next meeting he will give recommendations as to where we can increase our fees.

ITEM #6: Adjournment

Mike Bobinsky made the motion to adjourn.

Dennis Ciotti seconded.

VOTE U/A