

**DOVER PLANNING BOARD  
MINUTES OF MEETING  
NOVEMBER 13, 1997**

**MEMBERS PRESENT:** Kathleen Taylor, Brian Preston, Ronald Cole, Dennis Ciotti, Reuben Hull, Michael Bobinsky, Margaret Stevenson

**MEMBERS ABSENT:** Paul Beecher, Otis Perry, Karin Crittenden, Anthony McManus, Charles Maglaras

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

Chairman Cole brought the meeting to order at 7:07

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

Dennis Ciotti made the motion to accept.

Mike Bobinsky seconded.

**VOTE U/A**

**ITEM #2: Consideration and acceptance of an application for a minor subdivision of land for Frank & Maureen Wentworth, Assessor's Map I, Lots 25B, 25B-1, & 25E, zoned R-40, located on Drew Road.**

Kevin McEneaney represented the Wentworths. He explained that there are now three separate lots that are all over 2 acres. Kevin said they want to combine them and adjust the lot line to end up with two lots. He said that in order to put a mobile home on the lot they are required to create a mobile home subdivision. He stated that they have construction approval for a septic system.

Mike Bobinsky made the motion to accept.

Kathy Taylor seconded.

**VOTE U/A**

The public hearing was opened.

There were no comments.

The public hearing was closed.

Dennis Ciotti asked who would take on the maintenance of the Jenkins' cemetery located on the lot.

Steve Stancel said that the owners only have to provide access, not maintenance.

Kathy Taylor made the motion to approve with the following conditions:

1. Add the owners' signatures to the plat.
2. Add the L1-L7 table of dimensions to the plat.
3. Add setback lines per State RSA's for the cemetery to the plat.
4. Identify soil types in a note on the plat.

Reuben Hull seconded.

**VOTE U/A**

**ITEM #3: Consideration and acceptance of an application for a site review of land for Bill Dube Inc., Assessor's Map K, Lot 25B, zoned B-3, located at 40 Dover Point Road.**

Chairman Cole stepped down and Vice-Chairman Reuben Hull took his place.

Don Rhodes, of Norway Plains Associates, represented the applicant. He stated that the lot is 3.3 acres with two buildings. One building houses the service dept. and the other the sales office. They propose to demolish the service building and construct a 12,500 sq. ft. addition to the existing sales office. In addition, they are requesting a waiver for one of the two curb cuts from 40 ft. to 50 ft. There is space for 200 parked vehicles on the site and 57 spaces will be striped for employees and customer parking. He said the balance of spaces will be used for vehicle display and storage. He explained the drainage problems and stated that Bill Dube will remedy the problem to the satisfaction of the City, State, and abutter. He said they wish to get started on the structure this fall and do the paving next spring. He said they are asking to be allowed to get started on the construction of the building with the understanding that the work on the drainage be done in the spring. He said the City is applying for State grant money and the Dubes will match the local share of the grant. Don Rhodes stated that landscaping is an issue. He stated that the visibility from the road is very important and the Dubes agreed to do a compromise by planting low-lying shrubs in front of the 11 light poles.

Brian Preston made the motion to accept the application.

Kathy Taylor seconded.

**VOTE U/A**

The public hearing was opened.

Craig Williams, abutter to the rear, stated there are problems with drainage, snow and erosion. He went over the agreement entitled **Between Elliott Rose Company of Dover Inc, and Bill Dube Ford Inc. Regarding Drainage and Boundary Issues.** He added that Bill Dube has agreed to this document.

The public hearing was closed.

Steve Stancel stated that the Planning staff recommends approval with the following conditions:

1. Subject to applicant acceptance of agreements between the abutter, Mr. Williams and Bill Dube regarding drainage and boundary issues and subject to applicant posting a bond prior to issuance of the building permit for the cost of correcting the identified drainage issues. Said plans to be approved by NH DES and the City Engineers.
2. Add a note to the plan stating that exterior lighting shall be directed on-site only.
3. Add screening for the dumpster to the plan.
4. Applicant provide a revised landscaping plan that is satisfactory to the Planning Department.
5. A waiver from the Board providing a curb cut (when there are more than one), beyond the 24 ft. is required (Article 92 Driveways, Section 92-6, I.2).
6. Add the owner's signature to the plat.
7. Provide the Planning Department with the Driveway permit from the State.
8. Add the engineer's stamp and signature, and the surveyor's stamp and signature to the plan.
9. Show the drainage system piping under the proposed addition moved to eliminate the conflict.
10. Add Engineering Dept. request as outlined in their memo of 11-13-97 as follows:
  1. Locate and show on the plans the existing water service and note that it is to be discontinued at the main.
  2. Show a shutoff on the one inch service outside the building
  3. Address the drainage/erosion problem at the outfall.
  4. Place a PE stamp on plans.

Mike Bobinsky stated he would like to add a condition #11., that the applicant shall cover the cost of the local share of the State grant for the drainage problem related to Dube Ford as follows:

11. The applicant shall cover the cost of the local share of the Grant that the City of Dover will be applying for applicable to the drainage improvement for Dube Ford.

Steve Stancel stated they are asking for 7 or 8 small trees along the front of the property lines because of the large expanse of pavement. He said they can be small ornamental trees 2 to 3" at the base, and 15 to 17 ft. in height, or landscaping in the parking lot is an option.

Don Rhodes requested a clarification that the grant match would only apply to the amount of the grant that would apply to the amount of the drainage work on the plan. He said if there are other drainage problems they will not cover it.

Steve Stancel explained that the other drainage concern is an existing catch basin on Dover Point Road that drains through a pipe through Williams Cadillac and outfalls onto Dube property causing water to back up into the cemetery. The Dubes have agreed to work on a solution as part of the first condition. Steve added that this is not related to the grant.

Mike Bobinsky made the motion to approved with the conditions 1 through 11 and including the waiver.

Dennis Ciotti seconded.

**VOTE U/A**

Chairman Cole took his seat.

**ITEM #4: Consideration and acceptance of an application for a site review of land for Civilworks, Inc., (Owner Bank of New Hampshire) Assessor's Map E, Lot 32-1, zoned ETP, located on Watson Road.**

Dana Lynch introduced his partner Paul Connolly and stated they are representing themselves. He explained the history of the lot and stated that the previous owners were foreclosed by the Bank of NH. He explained the underground utilities, lighting and parking. He said the City Engineering Office has approved the septic design and it has been sent to the State of NH. Dana stated the driveway will require that they fill an additional 700 sq. ft. of wetlands. Dana said there is a makeshift accessway to get into the lot. He stated that this is not wide enough to accommodate their proposed driveway. He stated that he met with the Conservation Commission and has received approval. He stated they have submitted an expedited dredge and fill application to the State of NH. Dana stated that 87% of the lot will remain as green space. They are proposing to leave the better part of the vegetation on the southerly boundary with the exception of some minor clearing to create a park-like effect and enhance the visibility of the stone wall.

Brian Preston made the motion to accept.

Dennis Ciotti seconded.

**VOTE U/A**

The public hearing was opened.

John Goodman, Facilities Manager at Advanced Systems, stated that he wants to inform the Board that they have submitted paperwork for a Motion for Rehearing with respect to the Variance that Civilworks was granted.

The public hearing was closed.

Mike Bobinsky made the motion to approve with the following conditions:

1. Add the owners' signatures to the site plan.
2. Submit the NH Wetlands Board Dredge and Fill permit to the Planning Department when received.
3. The receipt of a Conditional Use permit.
4. The Planning Board needs to consider granting a waiver for access way width less than 24 ft. and for aisle width less than 22 ft.
5. Minor revisions as outlined by the Engineering Department memo of 11-07-97 as follows:

1. The proposed 12" RCP outfall should be pulled back to the 142' elevation line and run parallel with the drain easement boundary.
2. The proposed SGC at the entrance should be connected to the existing curb on Watson Road.
3. The outfall area at the 15" cmp should be cleaned of debris and a rip-rap apron placed.

Dennis Ciotti seconded.

**VOTE U/A**

**ITEM #5: Continuation of public hearing on proposed zoning amendment for Telecommunications Facilities, Chapter 170 Zoning. The full text of the ordinance is available in the Planning Department.**

**Chairman Cole re-opened the public hearing.**

George Whitehead stated he is representing himself and the amateur radio community. He said amateurs have been around since the beginning of radio. This service was formalized with the Communications Act of 1934. He explained the different roles that amateur radio people play during emergencies. He said there are 7,000 amateurs in the US and 12 satellites are devoted to Amateur Radio communications. He said he would like to point out that on Page 9, item (G) Exemptions, in the last sentence, it adopts the provisions and limitations as referenced in NH RSA 674-16 IV. He said most cities, towns and counties shall adopt or amend a zoning ordinance or regulation with respect to antennas used exclusively in the amateur radio services, that fails to conform to the limited federal preemption entitled Amateur Radio Preemption 101 FCC 2nd 1952 (1985) issued by the Federal Communications Commission. However, one important element of that federal preemptive regulation is that no arbitrary type limitation may be imposed. He said he finds that the language in the Dover Ordinance is confusing because it seems to indicate that it relates to receive only, but it does it does apply to transmitting and receiving facilities for amateur radio. The problem is that it imposes an arbitrary height limitation based on the requirements of the Federal law to reasonably accommodate amateur radio communications. He said there is enough case law established now that has indicated that one of the differences between Amateur and Citizens Band is limited to a very narrow single band of frequencies for which 70 feet is an adequate height. He wants to point out that he thinks it would be wise to improve the wording in the ordinance to be more complete, less ambiguous, and to be more in compliance with the preemptive federal statutes. Mr. Whitehead said that Derry's proposed ordinance is suitably compliant and gave a copy to Steve Stancel. He said it is structured in such a way that it will help clarify the intent of the Dover ordinance. It separates the paragraphs related to amateur service, citizen's band, and receive only antennas into three simple paragraphs. This would greatly reduce the likelihood of any future litigation associated with this provision. He said the solution is to simply remove the height limitation because State and Federal Statutes provide for the local authorities to make decisions regarding height based on a particular situation and the need. The following is from the Federal Regulations outlining three rules for local municipalities to follow regulating antenna structures:

1. State and local regulations that operate to preclude amateur communications are in direct conflict with Federal objectives and must be preempted.
2. Local regulations that involve placement, screening or height of antennas based on health, safety or aesthetic considerations must be crafted to reasonably accommodate amateur communications.
3. Such local regulations must represent the minimum practical regulation to accomplish the local authority's legitimate purpose.

He said he would like to see a paragraph to replace the current wording to read as follows: The section shall not govern any tower or installation of any antenna that is owned and operated by a Federally licensed amateur radio station operator and the tower or antenna that is used for the exclusive purpose of amateur radio operations. This application adopts the provisions and limitations as referenced in RSA 674:16 IV. Mr. Whitehead said a second paragraph says this section shall not govern the installation of any antenna that is used for the exclusive purpose of facilitating the use of citizen's band radio any towers in this section shall be limited to 70 feet in height. He finished by suggesting that the Board and staff communicate with their counterparts in Derry who have been addressing this issue in a very constructive way over the last couple of months.

Dale Drake, 513 Sixth Street, stated that he wants to echo Mr. Whithead's comments.

David Economos, 6 Old English Drive, stated that amateur radio affects each and everyone. He gave examples how important ham radio operators are when there are disasters.

Jeff Townsend, stated that Map J, Lot 3, on Garrison Road may be in conflict. He said the City of Dover deeded this to the State. It is recorded under book 1533 page 614. It has a section 1 use limitations Item C. - No tower shall be constructed or placed or introduced onto the property.

James Wilson, Senior engineer for Bangor Cellular, who does business in the area as Cellular One, stated that they are one of the users of the lattice tower on Garrison Hill. Mr. Wilson stated that as a cellular system matures there are changes that are made to the antennas that are on the tower. He stated that if they do not do so, it will have a drastic effect on the quality of the coverage. He spoke about point to point antennas. He said their purpose is that any call that is placed on a cellular system must at some point go through a switch which is what these network antennas are for. He said as time goes on they may reorient one, take one off or add one, which is part of the normal evolution of a cellular system. He said he is primarily concerned with Page 9, Section H. He said if he was on any other location in town he would be free to make any changes. He said it can be somewhat discriminatory that Garrison Hill is the only location in town with these restrictions. He stated it will render great harm to the coverage that he currently has.

Jim Andrews, Communication Specialists, and Vertical Realty Properties, stated that five City services use the Garrison Hill site. Recently, one particular division required a change in an antenna in which they had to go higher to make that service work properly. He said this could happen to the Police, Fire, Public Works, Recreation, or School Dept. He asks the Board if it is

OK to change City antennas on those towers and not be concerned about the impact that this would have on his customers. He said this will have a great impact on telecommunications users in Dover and also on small businesses. He asked that this ordinance be looked at very carefully before a decision is made.

Barry Bobbins, stated he is with Bangor Cellular. He said he is an attorney but is not licensed in NH. He referred to Page 4 a. and said that it seems that the burden is shifted to the applicant to provide substantial evidence. He said this could be problematic, as it holds them to a higher standard in the review process. He said in reference to Page 7, the Board might want to consider a fall down easement that can be granted by an abutting land owner. He asked if there are any waiver provision for this.

Steve Stancel stated that there is a waiver provision in the height requirement only.

The public hearing was closed.

**ITEM #6: Public hearing to hear Community Development Block Grant (CDBG) funding requests.**

Steve Stancel stated that \$197,700.00 will be available when the money comes in from the one remaining house at Alder Meadow. He stated that Head Start requested that their application be withdrawn. He said there are two other proposals from two agencies who have pending Purchase & Sales agreements.

The public hearing was opened.

Chirstine Rockerfeller, Vice President of the Board of Directors, for Dover Day Care Learning Center, stated they are requesting \$150,000.00 for a new facility that would see them through the next 30 years.

Steve Stancel stated that 93% of their clientele is low income and 90 to 95% are Dover Residents of which 80% are single parent families.

Mary Rizzuto, Executive Director of Our House, said they are asking for \$90,000.00 for the purchase of property on Central Avenue. She stated they are actively pursuing fundraising efforts with private donors and organizations. She stated the Dover Police can call her when they pick up a girl and do not want to put her in jail overnight. She stressed that they do not want to exist in a community without giving back to the community. Mary stated that 2 of the 9 girls housed there are from Dover.

Steve Stancel stated that he would like to see the Board make a specific recommendation tonight so that it goes to the Council on December 10th. He said the Planning Board will start the 30-day public comment period so the Council can address it on December 10th. Steve said the new grant cycle begins again in January and each of these agencies will know if they need to apply for more money. He stated that the staff recommends that the Dover Day Care receive \$125,000

as opposed to \$150,000 they requested, and that Our House receive the balance of \$72,700 as opposed to the \$90,000 they requested.

Christine Rockerfeller said they are anticipating they will have \$200,000 in pledges and possibly another \$100,000 in the following year.

Brian Preston stated, for the record, that he will vote for the recommendations but he does feel uncomfortable with Our House. He stated he wishes that there was another agency that did more in the community for people in the community. He said he will vote for it since there are no other agencies here asking for money.

Mike Bobinsky made the motion that we accept the staff's recommendations for \$125,000 for Dover Day Care and \$72,700 for Our House in support of purchases of property.

Kathleen Taylor seconded.

**VOTE U/A**

**ITEM #7: Old Business**

**a. Discussion on Proposed Telecommunications Ordinance.**

Steve Stancel went over his draft on the amended changes based on the public hearing, as well as conversations with the legal attorney, Rob Ciandella, who has review this proposal extensively. He said he will formalize them for the next meeting. Steve said Garrison Road, Tax Map J, Lot 3 does indeed have a conservation easement on it. The conservation easement does indicate that any tower, would not be allowed on the property. He said he will have our attorney take a look at it to be sure that it does also mean a communication tower. He said they are establishing a simple application for administration review only for future co-locations and placements on existing towers. He said they are thinking of adding that co-location opportunities be promoted and in no event fewer than three additional antennas from three additional providers be included for future co-locations. This is to be sure that co-location opportunities are available. He said included in that section would be that disputes on terms and conditions of co-locations between co-locators, shall be submitted to a commercial arbitration board and their decision to be final.

Ron Cole stated the changes should make provisions for technological advances.

Mike Bobinsky stated that he has concerns with the Tolend Road Landfill. He said he doesn't think that parcel is appropriate at this time.

**ITEM # 8: New Business**

James Parcel stated he is a native of Dover and a member of the Dover Moose Lodge. He stated that he would be interested in getting some CDBG money for handicap accessibility at the Lodge. He stated that Rick Jones, Community Development Coordinator said that the Lodge is not eligible. He said the Lodge has the Red Cross Blood Mobile 5 times a year, and they hold

many banquets for Little League, Police, etc. He said they are a private non-profit organization and \$12,000 for handicapped bathrooms is a lot of money.

Brian Preston stated that this is the kind of organization he would like to help because of their community spirit.

Steve Stancel stated that Rick looked into it but they have to show that 50% of their clients are low income.

**ITEM #9: Adjournment**

Kathy Taylor made the motion to adjourn.

Reuben Hull seconded.

**VOTE U/A**