

**DOVER PLANNING BOARD
MINUTES OF MEETING
DECEMBER 9, 1997**

MEMBERS PRESENT: Otis Perry, Anthony McManus, Brian Preston, Margaret Stevenson, Karin Crittenden, Mike Bobinsky, Charles Maglaras, Ron Cole, Reuben Hull

MEMBERS ABSENT: Paul Beecher, Dennis Ciotti

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

Chairman Cole brought the meeting to order at 7:03 PM.

ITEM #1: Approval of minutes.

Brian Preston made the motion to approve the minutes.

Chuck Maglaras seconded.

VOTE U/A

ITEM #2: Consideration and acceptance of an application for a Conditional Use Application for Troy Payne, Assessor's Map J, Lot 21-2, zoned R-40, located off Bay View Road.

Jed Shephard, Soils Specialist, stated that Mr. Payne bought 2 lots from Mr. Callan in 1987. He said there is a small wooded rise in the back of the lot that is suitable for a septic system. He said he met with the Building Inspector and it was determined that there is plenty of upland in the front of the lot for a house. Mr. Shephard said the septic system design exceeds all the requirements but they must construct a 60 ft. woods road for construction and maintenance of the system.

Mike Bobinsky made the motion to accept the application.

Chuck Maglaras seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Otis Perry made the motion to approve with the following conditions:

1. Add a note to the plan stating that riprap shall be used all along the shoulders of the raised roadway to be constructed for access to the septic system. Also a silt fence is to be used during construction.
2. Submit the NH Wetlands Board Dredge and Fill permit to the Planning Department when received.
3. Receive NH DES septic approval.

Mike Bobinsky seconded.

VOTE U/A

ITEM #3: Consideration and acceptance of an application for a minor lot line adjustment of land for Robert & Carol Straton, Assessor's Map 12, Lots 138 + 139, zoned R-12, located at 46 Rutland Street.

Robert Straton stated he owns both lots and he is making his lot larger for added garden space and will probably sell the other lot.

Brian Preston made the motion to accept the application.

Otis Perry seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Otis Perry made the motion to approve with the condition that a note be added to the plat stating that all new lot corner pins shall be set.

Brian Preston seconded.

VOTE U/A

ITEM #4: Consideration and acceptance of an application for a minor lot line adjustment of land for William Leavitt, Assessor's Map J, Lots 19E-4 + 19E, zoned R-40, located on Old Garrison Road.

Randy Orvis stated they are transferring 15,825 sq. ft. from Lot 19-E to Lot 19-E-4.

Otis Perry made the motion to accept the application.

Brian Preston seconded.

VOTE U/A

The public hearing was opened.

Peggy McLaughlin, an abutter, stated that Mr. Leavitt has 4 lots on Old Garrison Road and 1 on Bay View Road. She said she is in favor of the lot line adjustment. She said that Old Garrison Road is the only Scenic Road left in Dover and it is used for recreation. She said her problem

with approval is that Mr. Leavitt has not complied with the conditions of his major subdivision, such as 2 driveways on Old Garrison Rd. for 3 lots, and 1 driveway on Bay View. She said he has removed portions of the stone wall on Old Garrison to make 3 openings to coincide with the 3 lots and has put in a driveway without a permit. She favors not giving him approval of this plan until he comes into compliance with the original subdivision conditions of approval.

Joseph Lavin stated he will be purchasing the land and agrees with Mrs. McLaughlin. He said that it is a beautiful area and he wants it preserved also.

Dr. Tom ^{McSherr} Sheriff, and abutter, stated that Mr. Leavitt is ripping the landscape apart by cutting trees and damaging the stone walls. He wants Mr. Leavitt to have to adhere to the conditions of approval from his subdivision.

The public hearing was closed.

Steve Stancel stated that the conditions of approval for the subdivision have to be met at the time of the first building permit. He stated he would like to see the approval go through tonight with the condition that the subdivision conditions be adhered to. Also, he would like to see the stone wall repair become another condition.

Anthony McManus stated that the burden will fall on Mr. Lavin who is going to purchase the property.

Steve Stancel stated that Mr. Leavitt will have to come to the Planning Board for his driveway and before the Council for a Building Permit because of the Scenic Road status.

Mr. Lavin stated that he believes Mr. Leavitt created the drives temporarily to facilitate getting the trees out. He said he will iron out the issues with Mr. Leavitt before he purchases the property.

Reuben Hull stated that the lots are mislabeled.

Karen Crittenden stated she would like to see the repair of the stone walls as a condition.

Otis Perry made the motion to approve with the following conditions:

1. Note 7 indicates the presence of burial grounds. Add the burial ground to the plat including the 25-ft. setback lines must be shown.
2. The applicant shall comply with any and all of the original conditions of approval that have not previously been accomplished. All road and swale work shall be completed prior to issuance of the first Certificate of Occupancy. (Refer to the December 21, 1988 approval letter for the original subdivision)
3. Obtain written confirmation from NH DES WSPCC that the NH WSPCC Subdivision approval is still valid after Map J, Lot 19E lot area falls below 5 acres with the lot line adjustment and provide the written answer to the Planning Department.
4. Make correction to mislabeled lot.

5. Mr. Leavitt obtain all permits for construction of proposed drive and reconstruction of the stone walls.

Charles Maglaras seconded.

VOTE U/A

Brian Preston asked that the staff follow up by having Tom Clark follow through.

ITEM #5: Consideration and acceptance of an application for a minor subdivision and minor lot line adjustment of land for James Smith & Lenore Ekwurtzel, Assessor's Map B, Lot 17 & 17A, zoned R-40, located on County Farm Cross Road.

John Murphy represented the Smiths and explained the subdivision and lot line adjustment. He said there is a question of the liability of the Conservation easement.

Steve Stancel stated that the easement will tie into the Gabriel land and the liability can be worked out.

Lenore Ekwurtzel stated that they have a business and they are more concerned with liability than an ordinary homeowner who is covered under their homeowner insurance. She said until the State resolves the liability regarding horses she is greatly concerned about granting an easement to the City. She stated that they enjoy riding the horses along the river also, but she wants to see how the State handles this issue before she makes a decision.

Chuck Maglaras made the motion to accept the application.

Otis Perry seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Mr. Murphy did not like the wording of condition #8. He felt that the word **finalize** would mean that the City was enforcing a liability on them. He requested that it be reworded and requested the approval not be held up because of the easement issue.

Discussion ensued regarding the easement, the liability to the land owners, and the equine industry's push for the State to provide liability protection.

Anthony McManus made a motion to approve with the original staff recommended conditions as follows:

1. Add the owners' signatures to the plat.

2. Add a note to the plat stating that a portion of property lies within the Secondary Groundwater Protection Zone, and delineate the Conservation Zone adjacent to the river and other water bodies.
3. Correct the existing and proposed lot sizes called-out in note 2. The figures are off by 0.44 acres.
4. Show the existing septic system for the small lot on the plat.
5. Provide the Planning Department with the NH WSPCC Subdivision Permit for the small lot.
6. Add building setback lines and 75-ft. setback lines from very poorly drained soils on the plat.
7. If the water source for the existing house on the small lot is the existing well, then a well radius and water line easement from the adjacent lot will be required.
8. Consider granting a Conservation Easement along the river that would connect county land with Gabriel Conservation easement land.
9. Call-out new lot lines on the plat.

Mike Bobinsky seconded.

VOTE U/A

ITEM #6: Old Business

a. Discussion and possible vote on Telecommunication Ordinance.

Chairman Cole stated that he had a request from a local business person that the Board not take action on the ordinance this evening. Ron said there were questions that were brought up that he did not have the answers to and would prefer postponing voting tonight.

Chuck Maglaras asked about Atty. Schulty's letter requesting that a private piece of property (Lot D-14) be added to the allowed sites. He said he wanted to know whether the Planning Department had any objections to this property being added in.

Steve Stancel stated that he did because the policy is that the City identify City-owned parcels. He said there are 2 existing, privately owned, parcels that have existing towers on them, but they want to promote City-owned parcels. He said the City will have control of those towers and the City will derive income from the towers. He said he spoke to Atty. Ciandella regarding the request and he felt the City would be on very strong ground in maintaining a consistent policy in just identifying City-owned land at this point. He said the Federal Communications Act promotes utilizing governmental properties before using private property.

Otis Perry stated that if we do respond positively to that letter we can expect requests from every other property owner in town and we would have to reopen the entire process. He said he feels the size requirement for the setback should be taken out. He said the concern of a tower blowing over has been addressed. If it's not a valid requirement, it should be removed from the ordinance.

Steve went over the changes that were made to the ordinance since the last meeting. Steve said the height can be reduced instead of getting rid of it entirely to 50% if the Board agrees. The concept of the waiver is there will be instances where there would be wetlands on abutting

property where no further residential development could occur. He said keeping the 50% would be to protect the abutting property. He said there is some protection in requesting on an annual basis, some certification that the tower is in good condition.

Chuck Maglaras stated that there should be something in the ordinance that says that the Planning Department should notify the owners of the certification deadline within a two week time frame from the 31st and give them 30 days to comply. He said after the 30 days is up, if they don't comply, then the process can be started. He asked if there is a requirement that we have to have a public hearing to tell them to take down the tower. He also asked about the co-locators that may be on the tower at that time.

Steve said the public hearing would be to give the owner of the tower the opportunity to explain why he needs it. He said the tenants of the tower can buy him out and fix it. Steve spoke on alternative tower structures. He said the concept is that they would be made to be camouflaged to the greatest extent possible.

Brian Preston asked if all the corridors in the City are covered by the identified parcels and the rooftop antennas placements.

Steve Stancel stated that it is hard to say because each user has varied needs but he believes that from what has occurred, there appears to be enough coverage of the City with these parcels.

Ron Cole asked the board members if they felt there should be another public hearing on this ordinance because of the changes that have been made.

Anthony McManus stated he does not see the need for another public hearing.

Steve Stancel stated that the next Planning Board meeting will be January 14th. He said because no plans have come in, there will be no need for a meeting December 23rd.

ITEM # 7: New Business

Otis Perry stated he enjoyed working with the Board.

Steve Stancel discussed the budget, major functions and key issues of the Planning Department.

ITEM #8: Adjournment

Anthony McManus made the motion to adjourn.

Otis Perry seconded.

VOTE U/A