

**DOVER PLANNING BOARD
MINUTES OF MEETING
MARCH 23, 1999**

MEMBERS PRESENT: Jeff Peasley, Margaret Stevenson, Jeff Mason, Jerry Reese, Tony McManus, Chuck Maglaras, Mike Bobinsky, Karen Crittenden, Frank Torr, Ron Cole, late

MEMBERS ABSENT: Paul Beecher, Reuben Hull

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

Jerry Reese brought the meeting to order at 7:05. He said that the first order of business would be to appoint an interim Chairman since the Chairman and Vice Chair were not present.

Tony McManus nominated Jerry Reese.
Peg Stevenson seconded.

VOTE U/A

Jerry introduced the new Planning Board alternate Jeff Mason.

ITEM #1: Approval of minutes.

Mike Bobinsky made the motion to approve.
Peg Stevenson seconded.

VOTE U/A

ITEM #2: Consideration and acceptance of an application for a Conditional Use Permit for John Chagnon (Owner Christi Haffner), Assessor's Map 7, Lot 17A, zoned RM-12, located at 45 Boston Harbor Road.

John Chagnon, represented Christi Haffner. He stated that the retaining wall is currently wooden and needs replacement. He said that their application to the NH Wetlands Board has been made and the Conservation Commission has given its approval.

Chuck Maglaras made the motion to accept the application.
Mike Bobinsky 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 they obtain the NH Wetlands Board permit and provide a copy to the Planning Department.

Peg Stevenson seconded.

VOTE U/A

ITEM #3: Consideration and acceptance of an application for a major subdivision of land for Robert Bate & Laura Kincaid, Assessor's Map C, Lot 2-B, zoned R-40, located on Watson Road.

Bob Stowell, Trittech Engineering, represented the applicants. He said the parcel is 31 acres of land on the westerly side of the Watson Road Bridge. He said that 9 lots will have direct access to the Cochecho River and 7 will be back lots that will have access through a common accessway between lots 15 & 16. He said that the R-40 requires that they have 30,000 sq. ft. of land when they provide water & sewer and all the lots have 30,000 sq. ft. exclusive of any conservation or wetlands. He said they have filed their wetlands application and it will be reviewed on April 12. He said they can connect to water at their entrance in Watson Road. He said that the location for the sewer is in the old railroad bed. He said that they have proposed a location on lot 16 for a pump station that would pump the sewage out of the subdivision and up to the existing gravity sewer up in the railroad grade. The other utilities, electric, telephone and cable TV will be installed underground as required. He said they are requesting 3 waivers: 1) Install an 8' water line where 12" is required; 2) 24' of pavement where 28' is required; 3) 1,400 cul-de-sac where 1,000 is required. He said if they could get the waiver for the 1,400 foot cul-de-sac which would allow them to get a few more lots, it would make it economical to extend the City sewer to this subdivision, as well as opening up the Watson Road area for city sewer in the future.

Mike Bobinsky said that they are going to be interested in having the pump station site deeded as opposed to an easement. He asked about the recreation aspect.

Bob Stowell stated that a contribution for recreation off site, is still under discussion and they are still working on the site distance for the road.

Jerry asked if the sewer line will be big enough to support any further development?

Bob Stowell stated that it would be.

Steve Stancel stated that there may be some other parcels that would be feeding into this pump station and they are in the process of taking a look at slightly oversizing that pump station.

Mike Bobinsky made the motion to accept the application.

Peg Stevenson seconded.

VOTE U/A

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

Steve Stancel stated that the Planning staff recommends this application be tabled and a site walk take place. He said that there are about 28 outstanding issues with this project. He went over some of the main issues.

Chuck Maglaras made the motion to table.
Frank Torr seconded.
VOTE U/A

The site walk was set for 9:00 AM on Saturday, March 27, 1999.

ITEM #4: Consideration and acceptance of an application for a site review of land for Sam U. Haddadin, Assessor's Map 40, Lot 18A, zoned B-3, located on Route 108.

David Berry of Berry Surveying represented Mr. Haddadin. He stated that the lot is a little over 1 acre on the easterly side of Route 108, just at the crossing of the Somersworth Dover town line. About 2/3 of the land is in Somersworth. He said that the building will be wholly in Dover. He explained how he came up with the location of the town line. He said the building will be 48' x 64' and Sam Haddadin will use half of the space for his State Farm Insurance office and will rent out the other half. He said they are keeping the building to 5,000 sq. ft. so it will not require sprinklers. He said they will have a well and a private septic. He said that the maximum number of employees will be 5 including himself. Mr. Berry said that the septic system has been submitted to the City Engineer and to DES, but they have not received approval yet. He stated that there are plans to rebuild the intersection with Longhill Road where it connects the Old Dover Road in 2004 and that this driveway will be part of that revision of the intersection. He said that the driveway for Portland Glass will be used for this installation also. He said when the lot was subdivided, a 30' right-of-way was granted across the Portland Glass property so that there will be just one entrance and exit off Route 108 and now a new curb cut will be made. He said that they have moved the driveway back as far as the 30' right-of-way would allow to allow for some stacking of waiting traffic. They did move the signage and some of the landscaping another 5' back from the property line to make room for additional improvements and widening of the intersection.

Chuck asked about the septic size and the new lane.

Mr. Berry stated that the State has minimum septic requirements for the population of a commercial building and this more than meets the requirements. He said that even the existing right-of-way would allow for an additional 12' traffic lane on that side of the road. He added that he does not believe that there would even be a taking of property.

Steve Stancel stated that the NHDES and the City's engineering will have to give a permit for that septic and that is when they will review the size.

Mr. Berry said that they have very severe drainage problems now. He said that they will remove the existing drainage basin and a new one will be put in. He said that they will put in a shallow swale near the property line next to Portland Glass which will direct the water flow from both properties and conduct it to the rear of the lot where it will be absorbed in the ground.

Mike made the motion to accept the application.

Karen Crittenden 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 with the following conditions:

1. Add the owner's signature to the plat.
2. Obtain approval from the City of Somersworth.
3. Provide the Planning Department with a copy of the Department of Environmental Services' septic system design permit.
4. Revise plan to regrade the common access area towards the proposed catch basin
5. Revise plan to show the proposed curb installed with a radius.

Chuck Maglaras seconded.

VOTE U/A

ITEM #5: Public hearing on the following gravel pit renewals:

- a. Public hearing and consideration of a request for an extraction permit by Dowaliby Trucking, Assessor's Map H, Lot 556, zoned R-40, located on Mast Road and Cold Springs Road.**

George Dowaliby stated that he is asking for a routine renewal. He stated that he hasn't been in the pit for two years. He said it is in the middle of nowhere, and it doesn't access near any house. He added that he has no special hours.

The public hearing was opened.

There were no comments.

The public hearing was closed.

Bruce Woodruff stated that Mr. Dowaliby has not taken anything out of the pit. Discussion ensued on the process of determining how much gravel is taken out of the pit. Steve Stancel stated that detail logs are kept to record the amount of materials that are

taken out. He said that he believes that the estimation is only to help the City determine potential revenue.

Frank Torr stated that pit owners have to receive an excavation permit each year from the State. He said that as of March 31, they are required to file a report by April 15, of the excavation that took place so they can be taxed. He added that it is taxed at 2 cents per cubic yard.

Tony McManus made the motion to approve with the following conditions:

1. No off-site materials, fuels, lubricants or other toxic or polluting materials be stored on site without being in compliance with State rules and regulations pertaining to such materials and receiving approval by the Dover Planning Board.
2. Minimum setbacks from property line be flagged in the field to facilitate inspections. The pit owner shall contact the Planning Department when flagging is complete for inspection.
3. The applicant obtain the annual license renewal from the Dover City Council for permission to cross City property to access this pit.
4. The provisions contained in the letter to the Planning Board be considered part of the application and serve as requirements thereof.
5. Update existing conditions contours on the plan to reflect current extend of excavation, if any.
6. Add a note to the plan providing an estimate of the amount of materials (in cubic yards) to be removed during 1999
7. Complete the "Professional Signoff" page of the application.

Mike Bobinsky seconded.

VOTE U/A

b. Public hearing and consideration of a request for an extraction permit by Brox Industries, Inc., Assessor's Map C, Lots 12-A, 13, 14-2, zoned R-40, located on Glen Hill Road.

David Cluff, manager of Brox Industries, stated that nothing has changed in the pit.

Peg Stevenson made the motion to accept the application.

Mike Bobinsky seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Bruce Woodruff stated that he performed an onsite inspection and commented that Mr. Cluff did a very professional job in stopping the drainage problem that existed last year.

Peg Stevenson made the motion to approve with the following conditions:

1. No off-site materials, fuels, lubricants or other toxic or polluting materials be stored on site without being in compliance with State rules and regulations pertaining to such materials and receiving approval by the Dover Planning Board.
2. Minimum setbacks from property lines be flagged in the field to facilitate inspections. The pit owner shall contact the Planning Department when flagging is complete for inspection.

Mike Bobinsky seconded.

VOTE U/A

- c. **Public hearing and consideration of a request for an extraction permit by James P. Griffin and Tyra, Inc., Assessor's Map H, Lot 62 & 60, zoned R-40, located off Mast Road.***

Paul Griffin stated there have been no changes. He stated that they operate a normal work week which is Monday through Friday and occasionally they will work on a Saturday. He said that the trucks are allowed in the pit at 6:30 AM and remain in the pit until 7:00 AM. He said that 5:00 PM is the latest, normally the last truck is out of there around 3:00 PM. He said on Saturdays they usually stop at about 1:00 PM.

Peg asked about the noise level when the trucks are loading up at 6:30 AM.

Paul Griffin stated that there isn't much noise because there is a large banking between any residential area and where they are loading. Paul added that the trucks are not allowed to leave the pit before 7:00 AM. He said that hours have never been a part of the permit process, and it is just the way they have run the pit over the years.

Steve Stancel stated that there never were any hours of operation on this pit. He said they established hours of operation only on pits that were closer to neighborhoods where they received complaints.

Mike Bobinsky made the motion to accept the application.

Frank Torr seconded.

VOTE U/A

The public hearing was opened.

Joan Sundberg, Selectman in Madbury, stated that the access to the pit is through Madbury. She said that they have two pits in that area where they have received complaints from abutters. She said that they are working with the owner of the pit which is located completely in Madbury, however, the excavation in the Griffin pit is going on in Dover. They are having problems with the hours. She said they have received complaints of activity anytime after 5:00 AM. She said the trucks line up early in the morning and it gets very noisy. She said that dust is a problem because the access road

within the pit is not paved. She said they have tried to work with watering and it has not been effective. The neighbors can't open their windows in the summer. She said they are asking for the Board's help in setting some operation and a dust mitigation policy that can be enforced.

Dick Davis, 2 Garrison Lane in Madbury, lives right across the street from the egress of the Griffin pit. He stated that there is little or no concern for the neighbors. He said that the last couple of years have been intolerable and he seconds what Mrs. Sundberg said. He said that hours of operation should be within the pit as well. He stated that the pavement is never cleaned and paving within the pit would be helpful. He said it is one thing to have conditions and another to enforce them. He would like to have penalties and fines. He said that a lot of the dump trucks are not covered. He said trucks occasionally go down Pudding Hill Road.

Bobby Aijo, stated that he lives on Pudding Hill Road, and has two young children who go out and wait for the bus in the morning. He said that the noise level is very loud at 5:00 AM. He said that it is not just the trucks but the bulldozers. He said that there is a weight limit on Pudding Hill Road of 10 ton and there are 18 wheelers that go though there. He said that they should enter and exit through Mast Road onto Route 108 instead of coming down Pudding Hill Road and going out to Route 155. He said he is terrified for his kids waiting out there with trucks going by, uncovered. He said it is very stressful and their road is all pot holes.

Ron Cole, Chairman of the Planning Board, stated that he has received communications from Joan Sundberg and from the State Representative from Madbury expressing their concern on the part of the citizens with respect to anything that the City of Dover can do. He said that he told them that we would do what we could that is within the realm of possibility to cooperate with Madbury.

Joseph Moriarty, Board of Selectmen in Madbury, stated that most of the operators try to comply and be helpful. He said that turning the wrong way and going down our road, is an issue that Madbury has to address. He said the primary problem is dust and the hours of operation. He said that they have seen attempts to clean up and sprinkle but it comes too late. He said that some of this comes from within the town of Madbury. We realize these are difficult issues to address and it infringes on the operation of businesses that are generally geared to early operation. He said that there are trucks that are lined up 14 deep at 5:00 AM, and we would appreciate it if Dover would put something in the permit governing hours of operation and have some reference to the dust mitigation. He said the house right across from the pit is in a tough situation. He said that they have been working very hard on this for three years and have not seen any results.

The public hearing was closed.

Bruce Woodruff stated this is the most complicated of the pits due to the number of parties that have an interest in the access. When you take a look at the existing conditions both the Griffin pit trucks and the Madbury pit trucks use the same gravel road

and that portion is owned by Mr. Proulx. They use the same gravel road that exists on Mast Road intersection with Pudding Hill Road and Freshet Road. He said that any solution must bring the three parties together so it will take some cooperation, the responsibility can't be put on one person. He said there is an existing stop sign with a No Right Turn sign. He said that Madbury has to enforce that because none of that is in Dover. Bruce said that he would recommend that the issue of the trucks that are parking on Mast Road waiting to go in the pit be referred to the Parking and Traffic Committee. Bruce gave the staff recommended conditions as follows:

1. No off-site materials, fuels, lubricants or other toxic or polluting materials be stored on site without being in compliance with State rules and regulations pertaining to such materials and receiving approval by the Dover Planning Board.
2. Minimum setbacks from property lines and the Conservation District adjacent to the Bellamy River be flagged in the field to facilitate inspections. The pit owner shall contact the Planning Department when flagging is completed for inspection.
3. Update existing conditions contours on the plan to reflect current extent of excavation.
4. Ensure that the stored loam be clean and free from contaminants and hazardous materials.
5. Complete the professional signoff part of the application.
6. Add a note to the plan providing an estimate of the amount of material in cubic yards to be removed during 1999.
7. Pay the back property taxes due on Map H, Lot 62.
8. Set the operation hours at 7:00 AM – 5:00 PM on weekdays and the gates opening at 6:30 AM and 7:00 AM - 2:00 PM on Saturday.
9. Obtain approval from the Planning Board for a lot line adjustment to implement the adjustment shown on the Existing Conditions Plan, by July 1, 1999.
10. Identify the areas of the pit that have a grade of 1:1 and install a fence or other suitable barricade to warn of danger or limit access to the site, as required by RSA 155-E:4-a, VI.

Chuck Maglaras stated that he doesn't want to set hours of operations if the Board does not have the authority to do that. He felt we should get a legal opinion.

Jeff Peasley stated that it seems that different permits have different requirements. He asked if we should have the pits along Mast Road be involved in cleaning up the dust.

Jerry Reese said that the dust that the Madbury people were talking about was the dust from the pit not just the road dust. Jerry said that the City sweeps the road.

Frank Torr said that we are being asked to resolve a problem that exists mainly in Madbury. He said it is incumbent upon the Madbury Selectmen to gather the three individuals involved and try to resolve it. He said that one of the conditions that we could put on is the fact that the right-of-way should be swept on a weekly basis. The control of the vehicles regarding the covering is up to the individuals.

Mr. Mroriarty stated that a berm was built on Freshett Road by Martel. He said that it is approximately 10 or 12 feet high, covered with bark mulch and planted with some bushes. He said that it is a start towards mitigating some of the noise. There have been negotiations with the three people in the past that have been complicated by legal issues. He said that some of these problems are Madbury's responsibility. He said that he would like to see hours of operation that coincide with their hours of operation so they would have something they could go by. He said that the road is definitely in the town of Madbury. He said that the hours of operation on the pit in Madbury are 7:00 AM to 5:00 PM weekdays, and 7:00 AM to 2:00 PM on Saturday.

Frank Torr said that he is finding himself in the same situation as Chuck as far as the time element is concerned, but that property sets back a considerable distance from the road. He said he is not sure if Mr. Proulx would go along with putting a berm up where he is not the person doing the excavating.

Chuck Maglaras said that due to partying a few years ago they restricted parking along Mast Road with a sign "No Parking from 8:00 PM until 6:00 AM." He said that Madbury may want to do that also.

Jerry Reese asked them to speak to Captain DeColfmacker in the Police Department to see if that restriction is still on the books.

Bruce Woodruff stated that he doesn't think that Mr. Proulx uses that entrance but he said that he feels that a lot of the dust and noise comes from the stationary plant that is located on that parcel.

Steve Stancel stated that what complicates this is that the Proulx pit is a grandfathered pit and is not required to receive a permit on a regular basis like the other pits. He said that some of the traffic and noise is coming from that pit. Steve said that the tax issue has to do with a portion of the parcel that has gone through a court proceeding and that is one reasons why the applicant has not paid the taxes because he is waiting for the decision of the courts. Steve said the staff feels that the portion that he is excavating from should be paid even if he has to pay the entire parcel, because he is reaping a profit from that.

Chuck Maglaras said that people have up to 3 years to pay their taxes. He said that he doesn't think that as a Board we should force him to pay his taxes.

Steve Stancel stated that it is a specified requirement of our ordinance and the only people that can wave this requirement is the Zoning Board of Adjustment. Steve stated that the State law defers to the more strict.

Bruce Woodruff stated that as of July 1 it will be three years, and you are going to issue this year's permit.

Chuck Maglaras stated that if after July 1 he doesn't pay his back taxes, then the City ought to start the process to take the land.

Steve Stancel stated that the forefathers of the City placed this requirement in the regulations, it may be something that should be looked at, but it is not the place of the Board to be debating this issue this evening.

Tony McManus stated that there are a lot of unanswered questions and said that he feels we have the authority to deny the permit until the taxes are paid.

Frank Torr stated that when you specify the time, you just don't start this operation, you have to prepare and in his opinion, a 7:00 AM starting time is not realistic. You have to have the flexibility. He said probably a lot of the noise is not from this operation but from the stationary plan that exists there in the same area.

Tony McManus made the motion to table pending completion of some of the conditions and the Planning Board getting some answers from staff.

Peg Stevenson seconded.

VOTE 7 - 1

Opposed - Frank Torr

Frank Torr stated that it would be appropriate to get a legal opinion from our City Attorney relative to the time element.

Karin Crittenden left the meeting at 9:00 PM.

d. Public hearing and consideration of a request for an extraction permit by Mast Road Sand and Gravel, Assessor's Map H, Lot 53, zoned R-40, zoned R-40, located on Mast Road.

Kevin McEneaney represented the owners and said that there have been no changes.

Mike Bobinsky made the motion to accept the application.

Frank Torr seconded.

VOTE U/A

The public hearing was opened.

Christine Janis-Chandler, 65A Bellamy Road, stated that she is a backyard abutter. She asked in which direction they are excavating and how many remaining years did the pit have. She said that she was concerned with a large piece of machinery that is very close to her property and the noise in her home had increased 10 fold in the last year. She asked if there were any plans to move the crusher/separator.

Kevin stated that they will be excavating in basically the same area as last year, the west central part of the pit. He said that the pit had many years left. He said that the screening plant gets moved according to what material is being extracted.

The public hearing was closed.

Kevin McEneaney stated that he is currently in the process of developing the plan of Phase III of the Mathes Hill subdivision and he expects to submit them in April. He said they voluntarily are going to extend the surety bond through the approval process of the phase III and for several weeks after that. Kevin explained that both pits had specific times, but the pit on Spruce Lane had voluntarily later hours.

Jeff Peasley asked if there were trees to abate the noise adjoining Mrs. Chandler's property.

Bruce Woodruff stated that Mrs. Chandler wrote the disapproving abutter letter this year. He said that the excavation has already taken place up to the approving abutter line so the letter is a moot issue.

Anthony McManus made the motion to approve the application with the following conditions:

1. No off-site materials, fuels, lubricants or other toxic or polluting materials be stored on site without being in compliance with State rules and regulations pertaining to such materials and receiving approval by the Dover Planning Board
2. Minimum setbacks from property lines be flagged in the field to facilitate inspections. The pit owner shall contact the Planning Department when flagging is completed for inspection.
3. The 1999 reclamation and operational plan documents shall be considered as part of the permit and the hours of operation hours are as follows: 7:00 AM – 5:00 PM on weekdays with the gates opening at 6:30 AM, and 7:00 AM - 2:00 PM on Saturday.
4. Limit excavation at the property lines of disapproving abutters to no closer than 50 ft.
5. Add a note to the plan providing an estimate of the amount of material in cubic yards to be removed during 1999 and show the areas to be excavated during 1999.
6. The pit owner shall submit the usual surety bond for reclamation of the Spruce Lane pit, Map I, Lot 47, even though no application to continue material extraction is being sought this year.
7. Depending on the timeliness of the planned subdivision application for that parcel, suitable cover crop may be required to stabilize denuded areas in the inactive (Sullivan) pit behind Mathes Hill.
8. Continue the condition from the lot line adjustment plat that states no excavation shall take place beyond Cold Springs Road (So-called).

Mike Bobinsky seconded.

VOTE U/A

ITEM #6: Old Business

a. Request for extensions for a major subdivision for Ismalia Perry.

Tom Perry represented Ismalia Perry, and stated that he is requesting an extension. He explained how his wetlands applications were delayed. He stated that he should have all his approval in prior to April 15th.

Chuck Maglaras made the motion to approve the extension for 60 days, until May 23. Mike Bobinsky seconded.

VOTE U/A

b. Request for an extension for a lot line adjustment for Paula and Thom Forbes.

Frank Torr made the motion to approve the 30 day extension. Peg Stevenson seconded.

VOTE U/A

Steve Stancel reminded the Board of the 9 AM site walk on Saturday and the workshop at 6:30 PM on Tuesday.

Tony McManus stated that he would like to see us, with the Town of Rollinsford, take a look at some ideas into using a bypass or using Old Rollinsford Road.

Steve Stancel stated that he will pull out some old files because there was some research done on that several years ago and he believes there were some serious issues with wetlands as well as other issues.

Chuck Maglaras thought that he had heard that the town of Rollinsford does not want another road.

Tony stated that he would like to hear Rollinsford's response, because it would be to their advantage to open that up.

Jeff Peasley asked about the fertilizer on the Severino plan.

Mike Bobinsky said that they commissioned a study on groundwater at that site in relationship to a future athletic field complex. He said that the whole study was done by Airies Engineering, and they gave us "Best Management Practices" to follow for maintenance, revegetation, fertilization and they had limits to that as it relates to the impact to the recharge basin and the groundwater quality. He said that the bottom line is that document was made a part of our competitive bid exercise and part of the agreement that we struck with Severino Trucking.

Jeff Peasley stated that his concern was that fertilizer eats into the groundwater and it can't be cleaned up and leaves the well useless. His concern is that they were going to revegetate the whole side and they were going to put all this fertilizer on it. He said that they volunteered to add some sort of monitoring wells. He asked if they had gotten back to us or not.

Steve Stancel stated that he will follow up on it.

Discussion ensued on the hours of operation for gravel pits.

Steve Stancel stated that Mr. Griffin voluntarily agreed to the times of operation.

Anthony McManus asked for a copy of his last year's approval so he can see what the terms and the conditions were.

ITEM #7: New Business

Tony McManus said that in the SRPC News Letter that there may be money available from EPA to study sprawl. He said he was wondering if there is any money that Dover can apply for.

Steve Stancel stated that he will look into it.

Jerry Reese stated that the appointments committee and City Council has nominated and approved Peg Stevenson as a regular member and Jeff Mason as a new alternate.

Anthony McManus made the motion to adjourn.

Frank Torr seconded.

VOTE U/A