

**PLANNING BOARD  
MINUTES OF MEETING  
OCTOBER 12, 1999**

**MEMBERS PRESENT:** Jeff Mason, Jeff Peasley, Anthony McManus, Reuben Hull,  
Ron Cole, Frank Torr, Jerry Reese, Margaret Stevenson, Pete  
Lavoie

**MEMBERS ABSENT:** Paul Beecher, Karin Crittenden, Charles Maglaras

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

Chairman Cole brought the meeting to order at 7:00 PM.

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

Frank Torr made the motion to approve the minutes.  
Jeff Peasley seconded.

Anthony McManus stated on Page 6, bottom of the page, after vote 7-1, it should read that McManus abstained because he did not attend the sitewalk.

Jerry Reese stated that on Page 2 and Page 6, the votes should be 7 – 0.

**VOTE U/A**

**ITEM #2: Consideration and acceptance of an application for a Conditional Use permit for W. Scott Trafton, Assessor's Map 8, Lot 33, zoned R-20, located on 6 Wentworth Terrace.\***

Scott Trafton, stated that he has a proposal for two additions to his home over a two-year span. First to replace a 2 story deck within the same footprint with a 2 story addition and to add a third bedroom on the east side of the house.

Jerry Reese made a motion to accept the application.  
Jeff Mason seconded.

**VOTE U/A**

The public hearing was opened.

James McCooey, 5 Wentworth Terrace, stated he was representing his wife and two daughters. He said that he owns 6 Wentworth Terrace and it has been 6 for 75 years or better.

Scott Trafton explained that at the time he bought his house, the previous owner had also had a problem with the numbering. He said that his deed at the Strafford County Registry says Lot 6, on Wentworth Terrace. He said that he had a hard time just getting the electricity hooked up because there was no clear definition of what the number for his house should be. He said that he called Tom Clark on several occasions asking him to renumber the street for 911 purposes and Tom told him it was on his list of things to be done. Scott indicated there are several duplicate numbers on that street and that he had to call it number 6 because it was all he had to go by.

Mr. McCooey asked what the setback requirements from the high water mark and the Conservation District were.

Steve Stancel stated that it is 100 feet, but you are allowed closer by a Conditional Use Permit, which is why the applicant is here.

Mr. McCooey read from the zoning ordinance. He asked how many feet new construction could be from the high water mark.

Scott Trafton stated that his deck is approximately 69 feet and the bedroom addition will be 75 from the high water mark.

Mr. McCooey stated that on June 21, 1999, he applied for a building permit to add a bathroom to the rear of his house. He said that Mr. Clark asked him how far this addition was from the high water mark and indicated that it had to be over 75 feet. Mr. McCooey said that he had a problem when he put on a two car garage but he did not want to get into that.

Steve Stancel stated that the Conservation District allows flexibility. An existing structure can be expanded up to 20% as long as it does not fall within 75 feet of the water, however, via a Conditional Use Permit, the Planning Board can waive that but the applicant has to go to the Conservation Commission first and show that he is not going to impact in any way the integrity of the waterfront.

Mr. McCooey stated there is supposed to be three rights-of-way to the river on Wentworth Terrace. He asked if Mr. Trafton's addition in the right-of-way?

Scott Trafton stated that the rights-of-way were done away with in the 40's or 50's. He said that he paid for a title search when he bought his home and there was no right-of-way.

Jeff Peasley stated that this application will come up before Conservation Commission at their November 8 meeting.

Jeff Peasley made the motion to recess the public hearing and table it until after the Conservation Commission meeting.  
Jeff Mason seconded.

**VOTE U/A**

Ron Cole explained that the public hearing is being recessed subject to the Conservation Commission doing a site walk. He said they will come back with a recommendation, therefore, no action will be taken this evening. The public hearing will still be opened, when this is taken up again on the 9<sup>th</sup> of November.

**ITEM #3: Consideration and acceptance of an application for a minor subdivision of land for Roland & Helen E. Gagnon, Map C, Lot 39-A, zoned R-40, located on French Cross Road.\* (2 Lots)**

Dan Gabriel represented the Gagnon's. He said they were keeping 9.15 acres with their house, Lot 1 is 2.99 acres and Lot 2 is 2.84 acres. There is city water so there is no need for wells. The construction of the septic systems and the home will not impact the wetlands. He pointed out the Bellamy Reservoir flowage easement on the rear of the property which prohibits any further construction within that zone. He said that they are waiting for their permits from the State for their subsurface septic systems.

Anthony McManus made the motion to accept the application.  
Margaret Stevenson seconded.

**VOTE U/A**

The public hearing was opened.

Paul Edgar, 18 French Cross Road, stated that he is in favor of the subdivision.

The public hearing was closed.

Frank Torr made the motion to approve with the staff recommended conditions as follows:

1. Add owner's signatures to the plat.
2. Add surveyor's signature and stamp to the plat.
3. Supply the Planning Department with a copy of the State Subdivision Permit and add the permit number to the plat.
4. Revise the plat to add the location of existing water lines.
5. Revise plat by adding a note that the surveyor will provide the subdivision plat in a digital DXF format on disk to the City Engineer.
6. Provide the Planning Department with the test pit logs.

Jeff Peasley seconded.

**VOTE U/A**

**ITEM #4: Consideration and acceptance of an application for a minor lot line adjustment of land for Frances E. & George E. Dowaliby and Lois B. &**

**Ernest I. Estes, Map H, Lots 47A & 50, zoned R-40, located on Cold Springs Road and Bellamy Road.\***

Frances Dowaliby stated they are asking for a lot line adjustment to increase their property. She said that her parents are the owners of the other lot.

Jerry Reese made the motion to accept the application.

Reuben Hull 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 owner's signatures to the plat.
2. Add surveyor's signature and stamp to the plat.
3. Revise plat to correct building setback lines so that the front setback is on the northern lot line facing Cold Springs Road and the rear setback is on the southern lot line.
4. Revise plat to show an easement over Cold Springs Road in favor of lot H/48 and any other lots with access rights or clarify Note #7 indicating access rights.

Frank Torr seconded.

**VOTE U/A**

**ITEM #5: Consideration AND acceptance of an application for a minor lot line adjustment of land for Lucy Tuttle & William P. Tuttle, III, Map M, Lots 54 & 54A, zoned R-20 located on Middle Road.\***

Kevin McEaney stated that this is a simple lot line adjustment between Lucy Tuttle and her brother William Tuttle. He stated that the William Tuttle property is approximately 32 acres so they have not shown the entire survey on that parcel. He said they are requesting a waiver for the requirement of surveying the entire parcel.

Reuben Hull made the motion to accept the application.

Jerry 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 the lot line adjustment and the waiver with the condition that the owners' signatures be added to the plat.

Margaret Stevenson seconded.

**VOTE U/A**

**ITEM #6: Consideration and acceptance of an application for an Alternative Design Subdivision (ADS), for Katz Development Corp., (Owner: Free Trade, Inc.) Assessor's Map K, Lot 18, zoned R-40, located on Middle Road and Hawthorne Road.\* (49 lots)**

Kevin McEneaney represented the applicant and owner. He stated that this is a 49 lot ADS, off Middle Road, on 46 ½ acres. The lots will range in size from approximately 8,000 to 14,000 sq. ft. and will average slightly over 10,000 sq. ft. and will be serviced by municipal sewer and water. There will be one access off of Middle Road. This project will have covenants restricting playground equipment to attract the empty nester market. The project has gone to TRC and they are in the process of addressing the minor technical issues with Engineering and Planning. He said that at one time there was supposed to be a sidewalk from the former Adams Estates to Stark Avenue. He said that that since the road is not going to be completed through to Hawthorn, they feel that the sidewalks are not necessary. Kevin said that on several other projects in the City it has been required that they either provide on site recreation, or make a contribution towards other recreation in the City. In this particular subdivision, since all the roads are going to be privately maintained and it will be targeted to an older market, they felt that what they would like to do is to utilize the existing open space for trails and set aside some area for more active type recreation for the individuals within that subdivision and not necessarily for the community, also to be privately owned within that particular subdivision. He said that they received approval for three minor wetlands crossings from the Conservation Commission.

Paul Connolly reviewed the roadway plan and showed the connections for the water and sewer service. Paul discussed the drainage and pointed out on the plan where the water will be detained. He stated that the utilities will be underground. He spoke about a deceleration lane on Middle Road. He said that on the upper portion of Wayside they will be providing a 12' wide paved emergency access drive, where both ends of the connection will be gated with a Knox box which allows the Fire Department to unlock it in the event of an emergency.

Malcolm McNeill stated that he represents the applicant. He said that in speaking with Steve Stancel there are some engineering issues and some drainage concerns that were left to be resolved. He said that he encourages a site walk. He said that at a previous hearing an issue was raised about a possible public right-of-way over this property. He said it was raised by parties who were against this project and had their own interests with regard to probable uses of their adjoining properties, which would be compromised by a significant residential project. He said that they again examined the title to this property beyond what they had done before and reviewed all the relevant plans, even some plans that were not recorded at the Registry of Deeds. At this stage of a rather complete investigation, they believe there is no viable legal evidence of a legal public right of access over this property. Malcolm said if this road as alleged exists, it would

affect many projects and houses that are already built. It would affect the Governor Sawyer project of 30 – 50 houses, where at least 5 to 10 lawyers have done title examinations. Hubbard Road, Hawthorn Road and others would also be significantly impacted if this roadway exists. He said that there is no evidence that the roadway had been maintained by the City, layed out by the City, any funds expended upon it, or any evidence that anything exists that would substantiate the claim. He said that it is interesting to note that in the description of this property to a previous owner, one of the portions of the conveyance was the road, but it was a private road that existed within the Middlebrook Farm. He said when they looked at various plans, Grant Davis's plans and others, there is no road that is shown on the plan by the registered surveyors. There were no roads shown on a previous plan when this plan was approved back in the early 90's. He said they would like to go forward and finalize their issues with Engineering, talk with Steve about the sidewalk and the recreation issues with regard to this active adult project and try to resolve these issues before the next meeting.

Tony McManus stated that he was asked by an abutter to find out what the plans are to delineate the boundary between the open space and the existing lots of surrounding properties so that the people who are using this open space will not be wandering into someone else's back yard. He asked if there are any plans to put up markers or any kind of fence or signs.

Malcolm stated that they did not plan on it, they can look at it to see if there are any existing monuments that would differentiate it already. Some of the open space its pretty clear in terms of its delineation. He said that he would look into it.

Reuben Hull asked if Wayside Road and Marble Fawn Lane would be a separate lot of record that is in ownership of the association or some individual?

Malcolm stated that the homeowners association would own the road and the open space. Malcolm stated that he did not know how the road would be assessed here, but in some communities there is a consideration of a pro rata interest in that roadway which affects value in a private road. He said that it would be owned by a third party and he thinks that it is just a taxation issue that would have to be resolved.

Jeff Peasley asked if the developer is willing to accept the recommendations of the Conservation Commission?

Malcolm McNeill stated that his understanding of this, because he was not at the meeting, was that they would like to insert some language in the restrictive covenants just to evidence their concerns with regard to conservation issues. He said that he hasn't read the language but they would do everything they could to work in appropriate language, unless it creates something that's really unusual and then he would discuss it with Steve Stancel.

Jeff Peasley asked to have the same Conservation Commission recommendations provided again in the new Planning Board packets.

Ron Cole stated that a letter was received from Alan Green and Mary Buse verbalizing their concern with the drainage and the affect it may have on their home.

Kevin McEneaney pointed out the high point of the project and the direction that the drainage would take. He stated that they live at the top of the hill.

Steve Stancel explained that the letter expressed concern that the construction may affect the flow of the wetland and thereby possibly backing it up. He said that is something that will be reviewed by the City Engineering Department if it hasn't already, and the State. He added that the State gives the Site Specific Permit.

Steve Stancel stated that they are recommending that this project be tabled tonight after the public hearing because there are several outstanding issued on the Planning side, as well as, the Engineering side. A few of the major issues have been discussed this evening including the right-of-way issue. He said that he would like Attorney McNeill to put what he has indicated this evening into a legal opinion. He said that he will leave it to the Board to see if they want to take it further than that. He said that a major issue is the sidewalk through to Stark Avenue and the recreation fee for offsite recreational opportunities. Steve said that he feels that there will be a significant interest in walking from the residents in this particular subdivision and he feel they will want to walk out through Hawthorn Road and be able to access Stark Avenue. He said that there will be some children in this subdivision and they need to be able to access recreational opportunities in the Applevale subdivision, as well as potential bus routes. He said that they want to charge a fee so that the offsite park in the Applevale subdivision can become a resource for any children that may locate in this subdivision.

Kevin McEneaney estimated that it was approximately ½ mile from this development to the Applevale subdivision park.

Reuben Hull made the motion to accept the application.

Margaret Stevenson seconded.

**VOTE U/A**

The public hearing was opened.

Mrs. Becky, 51 Applevale Drive, stated that she has come to three different meetings and has brought up the problem of the catch basins that drain onto her property and destroy her property. She said in the last 10 years she has spent \$50,000 to try to rectify this problem. She wanted to know what is going to be done. She said that these people own one catch basin and the City of Dover owns the other. She will have to take it to court again because her house cannot take all that water.

Pete Lavoie stated that the City spent several thousand dollars in her back yard to repair a wall that was originally built by her late husband. He said they will take another look at that.

Harold Preston, stated he is the Trusty of the Preston Family Trust, which owns land on the easterly side. He said that there seems to be a problem with the surveying going back to 1965, with Grant Davis. There are 12 to 14 iron pipes in the ground which signifies a fence. He said that he has a deed issued sometime in the 1920's which specifies an iron pipe and a fence, to land of Eliot, which is now the greenhouse. He said that it is not a straight line, it goes down and bears to the right towards Dover Point Road. He said that he gave the City a sewer easement. He said that ever since he gave the City that easement, he's had a flooded field because they broke up the drainage tile that was in the ground. Back 100 years ago when Middlebrook Farm was in operation, they owned both his field and the field that is being developed. He said that there was a real prominent ditch about 18 to 20" deep and about 3 feet across. that started from the access road and ran to the Eliot land. He said the sewer easement is 5 feet away from the property line. He said that this plan doesn't show any monuments, which is the first thing that a surveyor does. He said that he would like someone to come down and look at this. Mr. Preston said that he went to the City Engineers to find out where the sewer pipes were and they could not find a plan. He said that he has had the gas company and public service down there and they tear everything up. He said when that sewer line went through, he gave an easement to the City of Dover and it was specific on the easement that it was for the benefit of the City of Dover only, forever. He said that he owns the land, all they have is the easement and he pays the taxes. So before these gentlemen have any ideas of hooking up sewers or anything else, they have better come down to see him first. They are welcome to come down and look, but he said that he wants to be there because he doesn't want any missing pipes or markers. He said that some have already disappeared and some have fallen down over the years. He said that there is a stake in a pipe sitting there today that was put in 100 years ago and it still has barbed wire attached to it and the only thing that holds it in is that it is in some thorn bushes. He said that the Board can approve anything that it wants to and he feels that it is a good concept, but they are definitely not going to hook into that sewer line on his property because they are coming across his property and that is a problem.

Jerry Reese made the motion to table the public hearing.  
Reuben Hull seconded.

**VOTE U/A**

Jerry Reese made the motion to recess the public hearing.  
Margaret Stevenson seconded.

**VOTE U/A**

Tony McManus stated that he would like to have a site walk to look at the area that is being considered and to have Harold Preston point out the areas that he is talking about.  
Tony made the motion to have a site walk.

Frank Torr seconded.

**VOTE U/A**

Ron Cole set the site walk for Tuesday, October 19, 1999, at 5:30 PM. The meeting place will be at the end of Hawthorn Road.

Mrs. Becky stated that she would also like Mr. McManus to take a look at the catch basins.

#### **ITEM #7: New Business**

Steve Stancel stated that several example of ADS subdivisions were handed out. He said that he hopes to discuss this in greater detail at the next meeting and to possibly make some changes in the ADS regulations. He said that he hopes to have Mike Joyal at the next meeting to discuss the CIP. He said that the Council will be reviewing it at the end of this month or early November so it would be advantageous for the Planning Board to have their recommendations within the next 45 to 60 days. He said that the concept is to attempt to get it approved prior to the end of December so that the bid processes for the construction season, next Spring and Fall, can happen. It makes it very difficult if the CIP is not approved until the spring.

Jeff Peasely spoke on the Conservation Commission's proposal of using fees from subdivisions and putting them into a fund where they can purchase land to keep it out of development. He said that this proposal will be going before the Council shortly.

Frank Torr asked if the road width should be changed from 32 feet to 24 feet because of all the waivers that are requested and approved?

Steve Stancel stated that a couple of years ago it was changed to make it 28'. He said that in this particular project, the road is a private drive. He said that there will be a project coming to this Board within a couple of months, that will show a 24' public road. Steve said that they support the narrower road because it works as a traffic calming method and it's lower in terms of maintenance costs. He said for specific subdivisions, where it is unlikely that it will get a continued parking on the street, they feel that 24' is adequate, as long that there is a sidewalk. Steve said they will be looking for an impact fee for any new public roads that are being proposed. A per linear foot charge that will help to offset the cost for snow plowing equipment or truck purchases is being considered.

Reuben Hull said that the width of roads is part of the ongoing review of the site review regulations. He said that a better way to approach it is to look at what type of road it serves, if a sidewalk will be there, if it's rural or if it's a short cul-de-sac. He said that we need to come up with a hierarchy, collectors, vs. service roads, etc. and each should have a different geometry. He said some roads should have sidewalks and some shouldn't and all of these things should define the road width and the speed. He said there are areas where 20' wide would be suitable. He said that it is a case by case basis.

**ITEM #2: Old Business**

- a. Mathes Hill is requesting an 30 day extension to their approval.
- b. Dover Athletic Fields is looking for a 60 day extension.

Steve said that both are looking for extensions because of the NH Wetlands Permit delays.

Tony McManus made the motion to approve both approvals.  
Margaret Stevenson seconded.

**VOTE U/A**

**ITEM # : Adjournment.**

Jerry Reese made the motion to adjourn.  
Jeff Peasley seconded.

**VOTE U/A**