

**DOVER PLANNING BOARD
MINUTES OF MEETING
AUGUST 13, 1996**

MEMBERS PRESENT: Mike Bobinsky, Scott Rawding, Martin Smith, Reuben Hull, Jerry Reese, Brian Preston, Dennis Ciotti, Lee Martel, Charles Maglaras

MEMBERS ABSENT: Paul Beecher, Ron Cole, Bob Belmore, Otis Perry

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

Steve Stancel stated that in the absence of the Chairman and Vice Chairman, the Board should recommend a member to chair the meeting.

Scott Rawding recommended Lee Martel.

Lee Martel declined.

Brian Preston recommended Jerry Reese.

VOTE U/A

Jerry Reese called the meeting to order at 7:03 PM.

ITEM #1: Approval of minutes.

Dennis Ciotti said he was not listed as being present at the last meeting.

Charles Maglaras made the motion to accept the minutes with the correction.

Mike Bobinsky seconded.

VOTE U/A abstained - Lee Martel, Scott Rawding

ITEM #2: Consideration and acceptance of a conditional use permit for Reginald & Kelly Fitzgerald, Assessor's Map M, Lot 90T, zoned R-40, located at 10 Brickyard Drive.

Reginald Fitzgerald, 8 Lagasse Street, Rochester, NH stated he and his wife bought the lot at Brickyard Drive two years ago. He said Tom Clark, the Building Inspector, told him to talk to Michael Cuomo to see if it was a buildable lot. Mr. Cuomo told him he could not place the building within 50' of the drainage ditch but could put a driveway there. He said he went to the Conservation Commission for approval and received it on August 12, 1996.

Mike Bobinsky made the motion to accept the application.

Charles Maglaras seconded.

VOTE U/A

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

Charles Maglaras made an amendment to add "until disturbed area is restored" to condition two of the Conservation Commission recommendations.

Mike Bobinsky seconded.

VOTE U/A

Charles Maglaras made the motion to approve with the following Conservation Commission conditions:

1. The northerly corner of the proposed driveway be modified with a 15 foot radius curve to set the corner back from a sloping area adjacent to the stream.
2. Install and maintain a silt fence, until disturbed area is restored, adjacent to the proposed driveway on the down slope side as shown on attached plan.

Lee Martel seconded.

VOTE U/A

ITEM #3: Consideration and acceptance of a minor subdivision of land for Clara R. Fisher, Assessor's Map 17, Lot 38, zoned R-12, located at Stark Avenue and Keating Avenue.

Martin Smith stepped down.

Atty. Hartnett represented the applicant. He asked for the record, if there was any discussion among the Board on this item prior to the meeting. He stated the land is a two acre lot which is long and narrow bordering the Spaulding Turnpike. He stated that a Zoning Variance was acquired on July 18, 1996, and now he is following up with a subdivision application. He said one condition of the variance is that a vegetative buffer be established from Stark Avenue to the Spaulding Turnpike. He said he has offered to grant the City a 30' utility easement.

Charles Maglaras asked where the 30' front setback will be.

Atty. Hartnett said the Building Inspector would determine that but he thought it would be Keating Avenue.

Mike Bobinsky made the motion to accept.

Lee Martel seconded.

VOTE U/A

The public hearing was opened.

Dan Hearley, 1 Keating Avenue, was concerned with the removal of trees along the turnpike side and how it would affect him. Also if the right-of-way that goes into the property could handle emergency vehicles.

Steve Stancel stated in regard to the concerns of erosion and slope and the visual tree vegetation being cut down, the best solution would be to put the driveway in the middle of the right-of-way. He said that there will have to be some trees cut down to get the driveway in. He added that the 16' wide driveway meets all the regulations.

Martin Smith, 2 Hayes Lane, stated he spoke against the application at the ZBA. He said he is concerned with the impact on the McManus property. He said there will be a drainage problem which will impact the McManus house. He asked if there is a catch basin and where it runs to. He said the Board might want to address these issues.

Atty. Hartnett stated he would defer to the City Engineers on this issue. He said if they want a 16"/18" culvert, he would refer to their judgment.

Mrs. McManus, 1 Hayes Lane, stated that the road is pretty near clear of trees already. She asked if the driveway will be hot top or gravel. She said she is concerned with drainage.

Martin Smith stated he doesn't believe it is the job of the City Engineer to do their drainage. He suggested that Mr. Hartnett come in with some plans for the Board to review.

Atty. Hartnett stated that to his knowledge, there has been no authorization to do any cutting. He said this is the first he's heard of this. He added that they are open to any suggestions. He said he didn't get any specific information as to what the City wanted. He said if the City wants an 18 to 20" culvert, they will do that.

The public hearing was closed.

Steve Stancel stated a 20' wide buffer to protect the abutters on Hayes Lane could be added. He said they are leveling off to put in the driveway, the road will be lower than the McManus lot.

Reuben Hull stated that the driveway will be at the same level as the McManus lot. He said there will not be much room to leave vegetation. He said he would like to see a fence on the Spaulding Turnpike side.

Scott Rawding made the motion to table the item until it is further studied to clarify how many trees will be cut down and until they come back with solid information on the drainage.

Mike Bobinsky seconded.

VOTE U/A

Martin Smith took his seat.

ITEM #4: Consideration and acceptance of a site review of land for Dover Northside Little League (Beckwith Park), Assessor's Map 34, Lot 23A, zoned R-12, zoned R-12, located off Sixth Street.

Kevin McEneaney represented the applicants. He said it is a site plan for a second ballfield. He said the park has a concession stand and bathroom facilities. He said there is 6.1 acres total. The new field will be constructed adjacent to the existing field. It will be a regulation Little League field and they will provide 90 parking spaces. He said they will remove the lower parking area and it will be used only for emergency or maintenance vehicles. Kevin said they have received approval from the Conservation Commission and they will be using silt fencing until the grass has a chance to come in. He said the construction schedule is to get as much grading done as possible this fall.

Scott Rawding said the City went to a great expense in getting rid of the hides and asked if they expect to excavate any more.

Kevin McEneaney said they do not need to do any excavating at all.

Charles Maglaras made the motion to accept.

Mike Bobinsky seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Lee Martel asked about insurance in regard to the City property.

Mike Bobinsky said the City is providing an easement for the new parking. Since accidents happen, he wants the City to have minimum risk. He said the Little League has liability insurance and the City needs to be held harmless for anything that may happen. He said one of the conditions of the easement is that Dover North makes the field available to other leagues and to the City. He said he is pleased that we have this partnership.

Mike Bobinsky made the motion to approve with the following conditions and the approval of the Conditional Use permit.

1. Add the owners' signatures to the plat.
2. Add the surveyor's statement to the site plan.
3. Add the number of estimated parking spaces to the site plan.
4. A parking easement document be approved by the City and the applicant.
5. Add the existing sewer easement to the plan.

Martin Smith seconded.

VOTE U/A

ITEM #5: Consideration and acceptance of a minor subdivision of land for Arnold C. Rigby Trust, Assessor's Map M, Lot 74, zoned R-40, located on Dover Neck Road.

Bob Stowell, President of Tritech Engineering, represented the owner. He said it is a 15 acre parcel being subdivided into two pieces. One is a 5 acre parcel and the other a 10 acre parcel. He said the lots are served with wells and septic systems and both lots meet all the subdivision standards.

Mr. Burlingame, Bank of NH Trustee, gave some background information to the Board. He passed around some preliminary plans of the property which showed a 50' right-of-way servicing the Wentworth land. He said they had anticipated 5 lots. He showed a subdivision of land approved in 1987 for 5.2 acres that is now owned by Mr. Wentworth. He spoke on the terms of the trust. He said the trustee's obligation is to subdivide off the land and to convey a Life Estate to Ms. Peterson and that the property upon her death would go to a hospital. He said the other land is to be sold and proceeds to go to other charities. He said Mr. Wentworth can move a portion of his driveway to the existing right-of-way. He said Mrs. Peterson's lot is not identical to the lot she was suppose to get under the Drew subdivision.

Reuben Hull said he doesn't think this subdivision is good planning. He said he thinks they should get a variance.

Steve Stancel stated that they discussed whether to go to the ZBA but a variance is not easily received. He feels this subdivision does meet the intent of the ordinance and limits the parcel to two lots. Steve said that up to 4 lots can be put on a private right-of-way, but you need frontage on a public right-of-way for each lot.

Mike Bobinsky made the motion to accept.

Brian Preston seconded.

VOTE U/A

The public hearing was opened.

Ardys Peterson, of 106 Dover Neck Road, stated she is the recipient of the Life Estate from her father. She stated she is concerned that the taxes would increase because she would not meet the requirement for current use. She stated she is against the subdivision as it is.

Atty. Males, of Dover Neck Road, stated he is representing the Wentworths and is speaking as an abutter adjacent to the Wentworth's lot. He said this issue may have to be settled in probate court. He said if this is appealed and upheld by the Petersons, the subdivision will be a premature subdivision. He said many municipalities have outlawed this sort of subdivision. He added that to have a lot with dimensions as this one is bad planning. He said this driveway

serves the Wentworth lot and two driveways on the Peterson lot and now another lot. He said with a bad winter, it makes it almost impossible to get emergency vehicles in. He said what is being proposed here is a legal issue to a cul-de-sac. He said emergency vehicles and school busses can't go down Dover Neck Road because there is no turn around. He said the City will have to take responsibility for adding more lots on Dover Neck Road.

Clayton Wentworth, 108 Dover Neck Road, stated he bought the property with a right-of-way and cul-de-sac. He said now the cul-de-sac has disappeared. He said that Mr. Burlingame suggested he had no right to get to the right-of-way and if he didn't like it, he should build his own road. He wanted to know where he could build his own road.

Glen Peterson, Quincy Massachusetts, thinks everything should be left the way it is. He stated that the Bank of NH has put unnecessary pressure on his mother. He said this has been going on for over 3 years. He said the Bank of NH is in a hurry.

David Choate, stated he was hired in 1993 by the bank. He said the cost of building a road on the property far exceed the cost of a two lot subdivision. He said the 5.5 acre lot is the smallest possible lot that would meet the Rigby will. He said that one additional house is not a development.

The public hearing was closed.

Steve Stancel stated that while he sympathizes, we have to look at the letter of the law of subdivision.

Mr. Burlingame stated that a large portion of Mr. Wentworth's lot can be accessed and he is offering to tender a deed to convey the necessary easement to the existing easement to Mr. Wentworth's property if he will accept. Mr. Burlingame stated they have a Purchase & Sales agreement on the new parcel they are creating. He said if the trustee's authority is contested, there will not be a house built before it is settled.

Steve Stancel stated that the Board could be sued by the trust for not approving a subdivision that meets with the subdivision regulations.

Martin Smith stated that if the Board felt it was a premature subdivision it could be denied.

Mr. Wentworth stated that he doesn't hear very well. He said he feels his rights are being destroyed by a Planning Board.

Atty. Males, explained to Mr. Wentworth that Mr. Burlingame was tendering him an easement to his driveway.

Mr. Wentworth stated he will be glad to take advantage of it.

Charles Maglaras made the motion to table this application for 2 weeks so everyone involved in the trust can get it together.

Scott Rawding seconded.

VOTE 4 - 4 For - Ciotti, Maglaras, Rawding, Smith abstained - Hull
Against - Martel, Bobinsky, Preston, Reese

Steve Stancel stated there are other ways to approach this. Steve said there is no hardship to latch onto. He said the intent of the ordinance is to limit lots off of City streets and this plan meets that criteria.

Lee Martel said we are being asked to settle a probate matter, it is not a decision for the Board to make.

Mike Bobinsky made the motion to approve the application with the staff recommended conditions and add #5 as follows:

1. Add the owners signatures to the plat.
2. Revise the setback lines on both lots to show the conservation district setback from intermittent streams (seasonal runoff).
3. Add the standard surveyor's statement to the plat.
4. Add a note to the plat stating that any driveway construction in the jurisdictional wetlands is prohibited unless a NH Wetlands Board permit is obtained from the State, and a conditional Use permit is obtained from the Planning Board.
5. The right-of-way easement of Map M, Lot 74-1 to Map M, Lot 74-A show on the plan or be relocated.

VOTE - 5 - 4 Opposed - Maglaras, Rawding, Smith, Hull

ITEM #6: Old Business

a. Discussion of parking regulations

Steve Stancel went over the draft for the parking regulations.

Charles Maglaras asked about the 1000' distance in the UMUD and CWD districts.

Steve Stancel stated it would be fine tuned and be brought back at the next meeting

ITEM #7: New Business

Lee Martel said he wanted to compliment Jerry on an excellent job done.

ITEM #8: Adjournment

Dennis Ciotti made the motion to adjourn.

Lee Martel Seconded.

VOTE U/A