



CITY OF DOVER

DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers – 288 Central Avenue, Dover, NH 03820
Meeting Date: Tuesday, January 27, 2009
Meeting Time: 7:00 pm

REGULAR MEMBERS PRESENT: Ron Cole, Frank Torr, Dean Trefethen, Don Andolina, Marcia Colbath, Kirt Schuman, Doug Steele, Perry Plummer

REGULAR MEMBERS ABSENT: John Swartzendruber

ALTERNATE MEMBERS PRESENT: Ron Stock, Linda Merullo

STAFF PRESENT: Christopher Parker, Planning Director and Jennifer Bretz, Recording Secretary

Meeting called to order at 7:04 pm.

Ron Stock sat in for John Swartzendruber

1. Citizens' Forum

David Bibber, 1 Whittier Falls Way, stated when Whittier Hills was put in, he was assured that there would be no damage to the river. The river is currently filling with silt from the Whittier Hills project. He was told by the City that it wasn't supposed to happen, it's too late now and it would cost too much to rectify it. When he was subdividing his property, he put in a silt fence to make sure that nothing went into the river. He has observed silt going into the river from Cedar on the Cove.

Cole asked what happened and why couldn't anything be done about it.

Parker stated Bibber talked to Parker and City Engineer Dave White about the silt issue. Engineering met with the developer, and want to make sure that it does stop. The Stormwater Management regulations are becoming more stringent and more of a part of every day land use decisions. As the City gets more adaptable to the regulations, they are making them more enforced within the City through the Planning, Inspection and Development process. There currently is an investigation of the activities in the development. Parker stated he will keep the Board informed.

Tom Fargo, 14 Cobble Hill Dr, Chair of Conservation Commission, gave an update on the Environmental Regulations sub-committee.

2. Approval of the January 13, 2009 Minutes

Trefethen stated that on page 1, it states Andolina wanted to know how the Planning Board measures how successful they've been. It should state Andolina asked Fracassa how to measure success.

Motion: Torr made the motion to approve the minutes with corrections, Andolina seconded. Vote: U/A

3. New Business

A. Consideration and acceptance of a Conditional Use Permit for Susan Eisler, Assessor's Map G, Lot 13, zoned R-12, located on 344 Washington Street. *(P08-43)

Cole stated that he has had a personal/business relationship with a party involved. He does not think that it will cloud his judgment.

The Eisler's Attorney asks Cole to step down at 7:25pm.

Torr sits in for Cole

Merullo sits in for Torr.



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Parker gave background related to the application regarding a dam upstream from the Eisler's and a hydraulic environmental situation existing between the Eisler's and upstream properties.

Attorney Justin Nadeau represents Susan and David Eisler. He stated that the Eislers have applied for a Conditional Use permit in regards to a small wall to diffuse the water that has been flooding onto their property. The wall is constructed with dry stack stones and no foundation. Eislers needed a permit because they are placing materials within 50 ft of a running stream. There is no environmental impact with regards to the small buffer. The Eisler's have satisfied the requirements for the Conditional Use permit. They've received a written review from the Dover Conservation Commission relative to any environmental effects. The stone wall is not being placed in wetlands therefore they would not be required to have any state permits. No Soil erosion plan is required because they are not disturbing any soil and the rocks are being placed directly on the ground. The rocks will not cause erosion to the stream. The Eisler's have satisfied all requirements for the granting of the Conditional Use permit to protect their property.

Public Hearing Open

John Penaskovic, 346 Washington St, stated he is a direct abutter to the Eisler's property. He stated that he does not believe that the wall will work. It is perpendicular to the water flow that comes over his driveway. He would like to see documentation from a professional that federal approvals are not needed.

He reads from the ordinances.

The permit is to construct a wall that is already in place. He has been in construction for 20 years. His opinion is that the wall will not work for all intents and purposes and will accelerate erosion on his property.

He passes out pictures of their properties.

Diane Dewyngaert, 346 Washington St, stated that a lot of work has been done on the properties. She agrees that the Eisler's need to protect their property because water flows through 160 acres that comes from the other side of Spaulding Turnpike. After the 2006 flood, there was a lot of erosion on her property. The rock wall is directly on the property line, there is no buffer.

J.P. Nadeau stated that he lived at 350 Washington St for 30 years. The Eisler's meet all 3 elements needed to satisfy the permit. Penaskovic does not have any basis to say that there is a permit required. Whether it works or not is not the issue. The Planning Board staff supports the permit because the Eisler's have met the three requirements.

Attorney Chris Boldt represents Mr. Penaskovic and Ms. Dewyngaert. He stated that the Conservation Commission voted against the permit. There wasn't a finding of no negative impact, there was a negative vote. He passed out a copy of the Eisler's emergency DES permit.

Read from handout. (In file)

Merullo asked Atty. Boldt if the Eisler's consulted with a professional prior to installing the wall.



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Atty. Boldt stated he was unaware.

Susan Eisler, 344 Washington St, stated the wall is 12 inches high. The wall may not deflect anything but they want to try to deflect some of it. The wall is temporary until the flooding is solved.

Public Hearing Closed

Parker explains how the Eisler's have fulfilled the three application elements and read staff recommendations:

The Planning Staff, in consultation with the Environmental Projects Manager, feels that there is no detrimental effect to the environment by allowing the stone wall to be constructed, and recommends approval.

Discussion ensued regarding grandfathered lots.

Colbath stated she would like it to be included that the wall will be removed when the situation is rectified.

Torr stated the person that makes the motion to approve should not put any conditions onto it. It is impervious stone but the work was not done by a mason who can make it very tight. Unless sufficient debris gets caught, it does not act as a dam.

Motion: Andolina made the motion to approve, Colbath seconded. Merullo opposes. Vote: 8-1

Merullo steps down, Cole sits back in.

B. Consideration and acceptance of a minor subdivision of land for BWW Trust, Assessor's Map M, Lot 101, zoned R-40, located on Middle Road. * (P09-01) (2 lots)

Kevin McEaney represents the applicant. He read from the application.

Motion: Andolina made the motion to accept the application, Plummer seconded. Vote: U/A

Public Hearing open – Public hearing closed

Parker read staff recommendations

The Planning Department recommends approval of the minor subdivision plat with the following conditions:

1. Add the owners' signatures to the plat.
2. Provide the Planning Department with a digital version of the plat.
3. Revise the plat to correct note #10 by changing 20,000 to 40,000.
4. Revise the plat by adding a note indicating the source of the wetland delineation.
5. Revise the plat by adding the location of the existing septic system.



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6. Revise the plat by adding a note indicating the source of sewer and water for the existing house and the new lot.

Conditions to Be Met Prior to Issuance of a Building Permit:

7. Any new dwelling unit shall be assessed the school impact fee of \$3,654, the recreation impact fee of \$1,184, the police impact fee of \$276, and the fire impact fee of \$530 at the time of building permit application.

8. Each new lot is subject to the water or sewer investment fee in place at the time of building permit.

Andolina asked a question about the property having access to sewer service.

Motion: Torr made the motion to approve with conditions, Andolina seconded. Vote: U/A

4. Old Business - None

A. Discussion of subcommittees work on amendments to land use regulations.

Parker stated the Dimensional Subcommittee is looking at revising setbacks in R-12 and R-20 district and rezoning areas, as well as altering parking requirements.

Colbath stated the Environmental Subcommittee has dealt with landscaping and streetscape regulations. They've also talked about open space subdivisions.

Andolina talked about the Quality of Life Subcommittee

B. Request for Time Extension - Berry Surveying for Paolini Brothers Site Plan at 54 Dover Point Road (P08-15)

Parker stated a request was made by the applicant for an extension. They are having a problem with the state driveway permits.

Motion: Trefethen made the motion to approve the 45 day extension, Andolina seconded. Vote: U/A

5. Staff Comments

Parker stated survey portion of the form based code has been completed. The next step is for the consultant to draft their plans and bring it in for the Planning Staff review.

6. Committee Reports

7. Adjournment

Motion: Trefethen made the motion to adjourn at 8:44 pm., Schuman seconded. Vote: U/A.