

DOVER PLANNING BOARD
MINUTES OF MEETING

HELD: Monday, Feb. 15, 1965
7:30 p.m.
Board Office

ATTENDING: Chairman Robert W. Lapointe, Vice-Chairman Robert T. Sheldon,
Clerk Raymond R. Ouellette, Wallace I. Akerman, Raymond H.
Bardwell, Albert O. Bernard, Donald E. Chick, Arthur J. DuBois,
Hugh C. Tuttle.

ALSO PRESENT: Councilman Raymond N. Guillemette, Vic Joss, Reporter of Foster's
Daily Democrat, twenty-five members of the public.

STAFF: Henry Neil, Planning Director.

Because of the number of people present at the meeting, Chairman Lapointe announced that the location of the Meeting would be changed to the City Hall Auditorium. Chairman Lapointe called the Meeting to order at 7:45 p.m. He welcomed those present and requested the City Planner to review for the Board the background of the zoning matter to be considered.

The Planning Director informed the Board of the history of the petition before it. Mr. Neil then read the petition aloud.

Mr. Tuttle noted that as a City Council Member he had requested that the Council forward this petition to the Board for their consideration.

Chairman Lapointe announced that the Board would welcome any comments by those present concerning this petition.

Mr. Edward Mayrand asked that he be recorded in opposition to the introduction of apartment units to this Single Family Residential District.

Mr. Charles Crocco stated that he had purchased his house, as did many others, under the understanding that this area would remain a Single Family Residential area. Mr. Crocco continued that he felt the traffic generated by these apartments would be dangerous to the school children at the Horne Street and would lead to further undesirable uses.

Mr. Chick asked if any Member of the Board wished to indicate his favor for this rezoning at this time or if any Member of the audience wished to be recorded in favor.

Mr. Lapointe stated that the chair was always open to a motion.

Mr. Sheldon then asked if any Member were in favor.

Mr. William E. Galanes announced that he had been retained by Mr. Solomon Gaber and would like at this time to speak in favor of the proposal. Mr. Galanes stated that as a former resident of this area, his first inclination had been to oppose the proposed rezoning. However, after investigating the proposal more he was convinced of the benefit of it. He noted that much of the Horne Street area was controlled by private convenience, however, the area in question was controlled in use only by zoning.

Mr. Galanes then stated that in his opinion spot zoning is not necessarily illegal and that each case must be decided on its merits. He then asked the following facts concerning the proposed apartments be noted.

- 1) The proposed apartments would be less than two stories high and would, in fact, be only as high as may of the nearby dwellings.
- 2) These would not be low cost apartments.
- 3) Off-street parking would be provided for all tenants.
- 4) The Planning Board's function is to determine whether or not there is a need for such a land use in the City.

Mr. Galanes stated his definite feeling that there is a need in the City for modern apartments.

- 5) Because of the presence of the Horne Street School the objective cannot be made that children resident in the apartments would cause a disturbance by their presence.
- 6) There are presently no areas zoned for apartment use which can be developed for such use.
- 7) The topography of the property makes it unlikely that the area can be used for single family houses.
- 8) The need for pilings is a matter for the owner to consider and is not a proper consideration for the Planning Board or taxpayer.
- 9) With respect to traffic, Horne Street is now a busy street and the proposed use would not appreciably add to the traffic using this street.
- 10) The area is proposed for R-2b and not R-3. The Planning Board must decide whether this area is suitable for the proposed use and whether the proposed use is desirable.

Mr. Galanes then announced that he would welcome any questions concerning his client's proposals.

Mr. Neil asked that prior to such discussion he be permitted to clarify a point. The Chairman invited him to do so.

Mr. Neil asked that those present realize that the Planning Board had proposed these areas for rezoning prior to any knowledge of the identity or wishes of the property owners. Several persons then expressed opposition to any proposal to build apartment houses in this area.

Mr. Galanes then asked that an architect representing the Gabers be permitted to show sketches of his proposal. Mr. Tuttle pointed out that as a Planning Board Member interested in the best use of land he would consider any further presentation on a particular proposal out of order.

A question was then raised from the floor concerning the age of the ordinance and the cost of the City to develop this ordinance. Mr. Tuttle informed the questioner that the ordinance had been approved in May of 1964 and that no outside help had been involved in its preparation. It had been prepared purely by Board Staff.

The Board was then asked why the zones had not been considered in the original proposal. Mr. Neil answered the question.

Mr. Bardwell asked if the opposition as expressed referred to both areas in the Horne Street area. Mrs. Woodbury answered that the petition pertained to both Horne Street and Redden Street areas.

Councilman Raymond N. Guillemette then noted that the signatures on the petition came from both areas and stated that in his view the quality of this area and the pride of the people in their homes should be taken into account. He praised the Planning Board for the work and their conscientiousness but asked that they give consideration to the taxpayers.

Mr. Galanes then asked if the architect might be permitted to speak on the general need for apartments in this area. Chairman Lapointe stated that in his opinion such action would be out of order. Mr. Tuttle then pointed out that in his opinion Mr. Galanes had reversed his previous position taken on spot zoning. Mr. Galanes answered that the matter under discussion was not spot zoning but was need for a particular type of land use. Mr. Tuttle then stated that the only type of the Board could hear was of a general nature and that any discussion of a particular property and a particular proposal was out of order.

Mr. Lapointe pointed out that since the architect had been retained by a particular property owner for a particular purpose

After some further discussion between Mr. Gaber and the Board Mr. Gaber announced that since he did not feel proper consideration was being given to the proposal of his client's, he would leave the hearing. He did so.

Mrs. Gaber then asked if she might be permitted to speak. She stated that she understood that the opposition expressed at the hearing to the proposed apartments was not of a personal nature. However, as a resident of Dover for thirty-one years she felt a definite need for this type of apartment existed. She stated her belief that such construction would pay reasonably high taxes and would therefore relieve the burden of other taxpayers.

Mr. Gaber then asked that the architect be permitted to show the sketches so that those present might gain a better idea of what was proposed. Mr. Crosley then stated that he did not feel the need for apartments had been proven. He stated that he felt this proposal would attract transients to the area from other communities and would not be for the economic development of the City.

Mrs. Gaber then stated that if Dover is to progress then it must be prepared to take the necessary actions.

Chairman Lapointe then invited any other Members of the Board to speak.

Mr. Tuttle pointed out that the Planning Board is an advisory body only. It is responsible for a presentation of recommendations to the City Council. The Board had felt that this area bore potential for apartment use insofar as it is presently unused and therefore submitted this to the Council which then passed it to public hearing. No opposition had been expressed at the public hearing. The Board had therefore assumed that no opposition existed.

Mr. Bernier then questioned if the Planning Board had considered zoning any of the City owned property for apartment use. Mr. Neil answered that in zoning the Planning Board by-law was not permitted to consider owner of the property. The Board may consider only the nature, location and potential of the land. A statement was then made that the Board should have given more notice of the public hearing. Mr. Neil pointed out that the proposed rezoning had been mentioned in the newspaper nine times and on the radio five times.

Mr. Neil then stated that in the future the Board would be well advised to be more specific in such notices.

Mr. DuBois noted that even as a Planning Board Member he had been unaware of the proposal to rezone Dover Point until it was presented at the public hearing.

Mr. Crocco asked the Board to consider the fact that since 140 residents had signed the petition it indicated a voluntary action. He suggested the apartments be constructed elsewhere. Mr. Chick then noted that the Planning Board had twice considered this zoning and had twice recommended it. He noted, however, that even following the public hearing no indication of opposition had come forth. He noted that the growth of a community depends on not only opportunity for employment but also on available dwelling units. Mr. Chick stated that since this area had not developed the Board had felt that it might be advisable to change its zoning. He noted that the situation seemed to be that the people who owned the property wanted it to be rezoned for apartment use, the people in the area did not want it zoned for apartment use.

Mrs. Woodbury noted that the name of a major owner of property in the area, Mr. Snow, appeared on the petition as opposed to the rezoning.

Mr. Hamon then asked what control had been placed on the Board by these apartments and what other uses might be introduced to the area by the proposed zoning.

Mr. Neil explained that the area to be occupied, height of apartments, the area set aside for parking and the area for play space for children would be all set by the Board. He noted that the other uses noted by Mrs. Woodbury as permitted by the new zone were also permitted in the existing single family residence district.

The Board was then asked whether they were aware of the fact that restrictive covenance had been placed on certain areas of this land. Mr. Neil answered that the Board had been aware of this fact but noted to ascertain such

a fact the Board would have to investigate the ownership of the property which would be improper. He further stated that despite any zoning the restrictive covenant on the property would govern the use of the land.

Mr. Chick then asked if it were not true that no matter what controls the Board placed upon the property the people in the area wished to be registered as opposed to apartments.

A statement was then made that as the first line of defense the residents of the area wished to appeal to the Board to recommend against the proposed rezoning. It was further stated that this area can be developed for single family use and that single family homes also pay taxes.

Mr. Lee Martel then asked that the Gabers' realize that this opposition was not personal. He then asked that Mr. Guillemette realize that the people of the area appreciate his concern with their welfare. Mr. Guillemette thanked the speaker and indicated that since a question had been raised at an earlier point concerning his legal status as a Councilman he wished to make known that the City Solicitor had determined that despite any change of residence Mr. Guillemette remained the Councilman for this Ward.

Mr. Chick then asked how many apartments Mr. Gaber proposed to construct and whether he would consider building them elsewhere. Mr. Gaber answered that they considered building thirty-six units and that if it were possible they would construct them elsewhere.

Some discussion then followed as to the nature of the information circulated by petition.

Mrs. Woodbury answered that she had called the Planning Director and had been notified that the proposed zone would permit two story units which would probably contain between six to ten dwelling units per structure. She had informed the people who signed the petition of this information.

Mr. Jeffrey then asked if he be permitted to speak in general of apartments. He stated that he was an architect from Portsmouth who had served on the Portsmouth Planning Board and currently is a city councilman. He noted that the Board must base its decision upon the highest and best use of the land. He stated that in his opinion this land is definitely unsuitable for single family development and this is evidenced by the fact that the land remains unused while the rest of the area has been developed.

Some discussion followed as to the reasons for the lack of development of this land. Mr. Guillemette then noted that thirteen years ago this entire area was vacant. He expressed faith that the remainder of the area might someday develop.

There being no further discussion Chairman Lapointe declared the public Planning Board Meeting be adjourned and announced that the Board would resume its deliberations in the Planning Board Office.

The meeting was adjourned at 9:15 p.m.