



CITY OF DOVER

DOVER PLANNING BOARD – MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers
Meeting Date: Tuesday, January 26, 2010
Meeting Time: 7:00 pm

MEMBERS PRESENT: Ronald Cole (Chair), Frank Torr (Vice Chair), Donald Andolina, Marcia Gasses, Linda Merullo, Perry Plummer, Doug Steele, Dean Trefethen, and Lee Skinner (Alternate).

MEMBERS ABSENT: John Swartzendruber

Staff Present: Steve Bird (City Planner) and Michelle Beauchamp (Recording Secretary).

OTHERS PRESENT: Attorney Malcolm McNeil, John O’Neill, Chad Kageliery, Robert Stowell, Kenneth Moore, Jon Berry, Paul Connelly and Kevin Collins.

The Chair called the meeting to order at 7PM. As an Alternate, Lee Skinner stood in for John Swartzendruber.

1. ELECTION OF OFFICERS

F. Torr nominated R.Cole for Planning Board Chair.
D.Andolina nominated F.Torr for Planning Board Vice Chair.

The Board voted by secret ballot. The Secretary tallied the votes and the results were announced by R.Cole. R.Cole noted that he would remain the Chair and F.Torr would remain as Vice Chair.

2. APPROVAL OF MINUTES

- December 15, 2009

F.Torr made the motion to approve the December 15, 2009 minutes. P.Plummer seconded. **Vote:** Unanimous

- January 12, 2010

L.Merullo made the motion to approve the January 12, 2010 Minutes. D.Trefethen seconded. **Vote:** Unanimous

3. OLD BUSINESS

- A.** Consideration and possible vote on an amendment to the conditions of approval from the Planning Board meeting of March 13, 2007 for a site review of land for The Village at Thornwood Commons and as amended on September 22, 2009, Assessor’s Map M, Lot 4, zoned ETP located on Middle Road. (P06-55).

S.Bird noted that the Board members should have a letter from John O’Neill to Chris Parker dated December 30, 2009 and the approval letter dated September 28, 2009 in their packets as background information.



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Attorney McNeil, representing the applicant, stated that the applicant is asking for an increase in the amount of permissible Certificates of Occupancies from 4 to 15 (11 more). Currently there are 10 foundations in the process. He added that every component from City that has reviewed this request and is in favor. He stated that there is no environmental hazard or environmental danger from what is being requested. He noted that everything that is being requested is consistent with the State permits, which have been very slowly processed.

Attorney McNeil stated that the Village at Thornwood Commons was approved in 2007 as a mixed use, which has residential property and a commercial component. He noted that 48 residential units were permitted, however only 31 units were permitted to be built out until there was at least 25% development of the commercial use. He added that to date, 4 Certificate of Occupancies have been issued. He stated that this is one of the very few projects in the Seacoast, where units are selling and people are being employed.

Attorney McNeil stated that the 2007 Planning Board approval required that any required dam site repairs must be completed prior to the issuance of a Certificate of Occupancy. He stated that previously there were over 300,000 square feet of greenhouse impermeable surface and a history of herbicide use. The Department of Environmental Services (DES) required extensive treatment to the pond which involved encapsulation and removal of 4 million gallons of water. In late fall of last year, the Planning Board granted 4 Certificate of Occupancies.

Attorney McNeil noted that after the pond was completed in October of this year, the applicant proceeded to purchase the dam equipment and at the end of the year weather conditions were such that they were unable to finish the dam work. The applicant was told by the engineers that the work cannot be completed until May or July when the weather conditions are appropriate.

Attorney McNeil stated that the applicant would not be asking for relief if anyone from the City or the State took issue with this project. All the improvements to the ponds have been approved by DES. Planning and Engineering are in concurrence with this. The City has asked for a gradual approach and John O'Neil has agreed to keep it to 15, four of which have already been granted.

P.Plummer concurs with the statement that the Fire Department had no concerns and supported this request. He questioned how many buildings were ready for occupancy. J.O'Neil stated 4 and another 6 by June.

P.Plummer asked what assurance the City has that the work will be completed. J.O'Neil stated that the materials are sitting there and ready to go and there is no reason not to move forward. Attorney McNeil stated that they want to building more than 15 houses. The Chair stated that the concern is that the applicant would be back in July for another extension or amendment. C.Kageliery clarified that the whole pond is two phases: empty the pond and test the sediments; wait for it to dry and cover it with a grass mat. We could not start the dam until that was done. We had a huge rain event in December which caused the soil to saturate and we ran out of time and spent twice what we anticipated to complete this project.



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Attorney McNeil noted that there are a total of 48 Certificate of Occupancies for the project: 31 for Phase I and 17 in Phase II. P.Plummer noted that the builder didn't come in and just sit on this; they are before us because they are selling homes.

C.Kageliery stated that they need the soils to dry out and the temperature has to be high enough for the soils to dry. In early Spring or late Summer, the engineers will do sampling and compaction tests to determine when the soils are suitable. He added that the local civil engineers, dam engineer and Dam Bureau will monitor the steps.

S.Bird noted that the Planning Department supports the request given the economic situation. The development has taken all the steps to complete the project and he felt that the 15 total Certificate of Occupancies are appropriate in this instance.

F.Torr made the motion to grant 15 total Certificate of Occupancies. D.Andolina seconded F.Torr noted that the economic aspect of this considering the climate we are in right now and if someone is able to have employment occur and be productive, then more power to them. **Vote:** Unanimous

B. Discussion on Proposed Site Review and Subdivision Regulation Amendments.

S.Bird noted that the packets include the changes the Board discussed at the last meeting. He stated that under the Site Regulations, there were only two changes:

Amendment #6: Regarding blasting – The Board discussed changing 1,000 feet to 500 feet and added that it can be increased upon recommendation of the Fire Chief if circumstances warranted.

Amendment #10 has been removed – Regarding private driveway construction standards. He added that there was a lengthy discussion at the meeting and the Board has received an email from the City Engineer giving background on his perspective. This amendment would need more work and will be brought forward in near future.

P.Plummer noted that the blasting ordinance is being worked on by the City Attorney and it will be brought to the Planning Board for recommendation.

S.Bird noted that under the Subdivision Regulations there was one change.

Amendment #8 - Table – The Board changed from yards to distance and added feet to the measurements.

D.Trefethen contended that the Board makes construction standards the same for private and public roads. He added that he would be okay with the different width, but the base of the road should be exactly the same for future homeowners. The Chair and P.Plummer agreed. It was noted that there should be clear definitions between driveway and private roads. S.Bird noted that Chapter 92 deals with driveway regulations and is under the control of Community Services. He added that in the Site Plan Regulations it talks about roads that service private subdivisions or a multi family complex. The Chair noted that the Board needs to have something of substance put in place.



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L.Skinner questioned why there were separate specifications for private roads. P.Plummer noted that they are looking to find where it came from. S.Bird noted that it is possible that the developers pushed to have lower standards to cut back on construction costs. He added that the Board can look at varying widths.

P.Plummer made the motion to advertise these items as submitted to be on the February 23, 2010 agenda for public hearing. M.Gasses seconded. **Vote:** Unanimous.

4. NEW BUSINESS

- A. Consideration and acceptance of lot line adjustments of land for Daniel & Jacqueline Ayer, (Owned by Jacqueline & Daniel W Ayer Revocable Trust), Assessor's Map N, Lot 18, Lot 18-4 & Lot 18-5, zoned R-40, located off McKone Lane *(P10-01)

K.Moore, representative for the Ayers, noted that the subdivision came in a year ago for a 3 lot subdivision. We are now back before the Board to change the size of the lots. M.Gasses questioned the changes in the lots. S.Bird noted that Note #3 on the plan lists the existing size and proposed size of each lot. M.Gasses questioned how changing the size of the lots would affect the current use status. S.Bird noted that the land was in current use, and when the subdivision was approved a year ago, Mr. Ayer went to the Assessor who noted that there were accessory structures on the new lots. This plan now consolidates all structures on one lot and will maintain the current use status.

D.Trefethen made the motion to accept. L.Merullo seconded. **Vote:** Unanimous.

The Chair opened the public hearing. No comment was made. The Chair closed the public hearing.

S.Bird noted that the Planning Department recommends approval of the lot line adjustment plat with the following conditions:

Conditions to Be Met Prior to Signing of Plats:

1. Add the owners' signature to the plat.
2. Provide the Planning Department with a digital version of the plat.
3. The applicant shall add the surveyor's stamp and signature to the plat.
4. The applicant shall revise the plat by adding the Planning Board file number in the title block.
5. The applicant shall revise the plat by correcting the front, rear and abut a street setback requirement in note #5 and on the plan.
6. The applicant shall revise the plat by correcting the spelling of the word "registry" in the legend.
7. The applicant shall revise the plat by correcting the spelling of the word "Cochecho" in the location plan.

D.Andolina made the motion to approve with staff recommendations. L.Merullo seconded. **Vote:** Unanimous.



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- B. Consideration and acceptance of a conditional use permit for Bridget Finnegan, Assessor's Map F, Lot 13A, zoned R-40, located at 62 French Cross Road * (P10-03)

J.Berry, representing Ms. Finnegan, noted that the existing house was built in 1954 and both house and lot pre-date regulations by the State. He noted that this property would need more than just a replacement septic system. He stated that Marc Jacobs, Wetland Scientist, flagged the wetlands and we found that we were not going to meet the 75 feet setback for the replacement system which is in the City Ordinance. We have balanced the new leach field in between the wetlands. As an alternative, we had the wetland scientist look on the other side of French Cross Road, but would not meet the 50 foot State setback requirement to poorly drained wetlands.

J.Berry noted that the applicant is asking for a conditional use permit to put a system and components within 50 feet of the wetland. We are improving the setback to the wetland by putting the system where we can. We have tried to balance it between the wetlands so that any impact will be spread out across the property. The applicant will need waivers from State of NH as well, which they typically grant waivers for improving the situation from what is already there. We had to go to a pump system/raised system. We will be requesting waivers for the side slopes on the leach bed. He added that the field will be raised 1 ½ feet above the ground. He stated that this is an environmental septic with 6 tubes which are 25 feet long. He added that this is designed for a 2 bedroom house, 300 gallons with a perc rate of 16 minutes per inch. He stated that it will need 3 vents in a pump situation.

J.Berry noted that he has not submitted the waiver to the State of NH, until he received Planning Board conditional use permit, which then gets sent to the City Engineering Department and then to the State. M.Gasses noted that the Conservation Commission unanimous endorsed this application because they did not see any other alternative under the circumstances.

P.Plummer made the motion to accept the application. D.Steele seconded. **Vote:** Unanimous

The Chair opened the public hearing. No comment was made. The Chair closed the public hearing.

The Planning Department recommends approval of the Conditional Use Permit with the following conditions:

1. The applicant shall obtain a NH Department of Environmental Services Septic System Design Permit and provide a copy of the permit to the Planning Department.

F.Torr made the motion to approve subject to the condition recommended by the Planning Department. D.Andolina seconded. **Vote:** Unanimous.

P.Plummer stepped down from the Board.



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- C. Consideration and acceptance of a conditional use permit for St. Thomas Aquinas (STA) High School (Owned by NH Catholic Charities), Assessor's Map L, Lot 15A, zoned R-20, located on 197 Dover Point Road. *(P10-05)

P.Connelly, representing STA, stated that the application is for work proposed to occur within a 50 foot buffer to jurisdictional wetlands. He stated that the baseball field has been there since 2000 or 2001. When the fields were constructed, there was room to have batting practice, pitcher practice, form hitting as well as football practice in the fall. In 2007 & 2008 we sought a site plan approval for our master plan phase I of IV. Phase I included impervious surfaces for parking, upslope for the parking area, relocation of an older detention basin, stormwater and a newer detention basin in the practice area.

P.Connelly noted that it had been suggested that they consider constructing a small half cage (14x35), a full batting cage (14x 70), and an area for form hitting. Pitching practice will still have to occur in foul territory adjacent to the third and first base. The batting cage areas are constructed with 10 wood utility poles about 16 feet high. The poles have cables and pulleys attached for the nets, which go up in Spring and in Fall are taken down. The surfaces of the cage area are artificial turf and do not require fertilizers, which will not effect down stream estuaries.

P.Connelly stated that they met with the Conservation Commission for recommendation and were conditionally granted approval. The condition required a program that would implement organic fertilizer for the site. He stated that he agreed to the condition until he received what the impact would be from Tom Rowell who is in the agricultural fertilizer business. He noted that the impact in material volume would be 3 – 6 times of material for each application. They would need to traverse 3-6 times over field to discharge the larger amount of material. It was relayed to him that poultry fertilizer has an odor which would require that we keep students off the field for a number of day until it gets into earth and dissipates. The cost impact would be 2 – 5 times what we are currently paying. We considered a liquid application, but there were the same cost aspects and the application needed to be applied on a 2-3 week cycle.

P.Connelly noted that we apply fertilizer 3 times a year: spring, summer and fall. We recommend that we implement, adopt and execute the program for the summer application and will not have an impact on students. He added that our fields are multi use fields for practice and game purposes by three sports going on in each season. We are seeking approval this evening because the only time of year we can implement improvement is the month of February since the ground is frozen.

M.Gasses noted that she was a Conservation Commission member and she was concerned about the runoff from STA which goes into a culvert and directly into the Bellamy River. She stated that this is highly impacted by fertilizer. She added that Dean Peschel, Environmental Programs Manager, is not aware of this change and we would want his opinion.

D.Steele noted that he doesn't want to hold up the project and would rather have them come up with an agreed upon fertilizer program that Dean Peschel and the applicant come up with. F.Torr agreed since the ground is frozen and make it subject to further consideration of the fertilizer program. The Chair suggested that Mr. Peschel get together with someone from the school and if he does not find it satisfactory, then it would be a condition that we would need to revisit. L.Skinner noted that if STA didn't put in batting cages, they could continue doing what they are doing; this is an opportunity to



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improve the situation. We can provide approvals and still maintain caveat for further consideration that this needs to be worked out with the City. P.Connelly stated that he would recommend an amendment to the staff recommendation #3: Add subject to the approval of the Environmental Project Manager.

F.Torr made the motion to accept the application. L.Merullo seconded. **Vote:** Unanimous

The Chair opened the public hearing. No comment was made. The Chair closed the public hearing.

S.Bird noted that the Planning Department recommends approval of the Conditional Use Permit with the following conditions:

1. The applicant shall add the engineer's stamp and signature to the plan.
2. The applicant shall add the plan number in the title block.
3. The applicant shall develop and implement an organic fertilizer program for the site with the understanding that the applicant will work with the Dean Peschel for a suitable fertilizer program on the site. As well as attend the next Conservation Commission meeting in February for approval of the plan.

Don Andolina made the motion to approve with staff recommendations. Dean Trefethen seconded. **Vote:** Unanimous.

P.Plummer joined the Board.

D. Consideration and acceptance of a subdivision of land for 74 Industrial Park LLC, Assessor's Map G, Lot 3A, zoned I-2, located at 74 Industrial Park Road & Littleworth Road.*(P10-06)

R.Stowell, representing 74 Industrial Park LLC, noted that this is a minor subdivision on Industrial Park Road. The land consists of 16 acres and the applicant would like to subdivide off the building from the land. He noted that this would free up an industrial lot for the area.

P.Plummer made the motion to accept the application. D.Steele seconded. **Vote Unanimous.**

The Chair opened the public hearing. No comment was made. The Chair closed the public hearing.

S.Bird noted that the Planning Department recommends approval of the subdivision plan with the following conditions:

Conditions to Be Met Prior to Signing of Plans:

1. Add the owners' signature to the plat.
2. Provide the Planning Department with a digital version of the plat.
3. The applicant shall add the surveyor's stamp and signature to the plat.

D.Trefethen made the motion to approve with Planning Staff recommendations. D.Andolina seconded. **Vote:** Unanimous.



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- E. Public Hearing on the availability of NH Coastal Program Grant funds to be used for an engineering feasibility study for the relocation of the Cochecho River Pedestrian Bridge.

The Chair removed the item from the agenda from consideration.

5. STAFF COMMENTS

S.Bird noted that at the February 9, 2010 workshop, Bruce Mayberry will be there to provide a presentation on road impact fees. He added that the zoning amendments from the last meeting will also be discussed at the workshop.

6. COMMITTEE REPORTS

F.Torr noted that he would like to strike the following meetings from the 2010 Planning Board calendar: 11/23/10 and 12/28/10. It was noted that these meeting dates will be one week before.

7. ADJOURNMENT

M.Gasses made the motion to adjourn at 8:45PM. P.Plummer seconded. **Vote:** Unanimous