

DOVER PLANNING BOARD
MINUTES OF MEETING

Meeting Held: January 13, 1987, in the Council Chambers of the Municipal Building in Dover, New Hampshire.

Members Present: George Maglaras-Chair, Harold Preston, Pierre Bouchard, H. Les Elder, Otis Perry, Thomas Scharff, Nancy Sousane, Reynold Perry (arrived late as noted in the following minutes)

Alternates Present: Joseph Etelman, Michael McDonnell

Also Present: Bill Collins-Planning Director, Berrie Donovan-Recording Secretary.

Mr. Maglaras opened the meeting at 7:10 P.M. and explained the meeting procedure to the public.

Mr. Maglaras submitted his resignation, effective immediately, as he has been elected Chairman of the County Commissioners and will not have the necessary time to devote to the Planning Board. He turned the meeting over to Vice Chairman, Harold Preston.

Mr. Preston, as Acting Chair, explained that Alternate Joe Etelman would be sitting in this evening because of George Maglaras' vacated seat on the Board.

Item #1: Public hearing on the proposed amendment to the Zoning Code regarding the RM-10 zoning district. Proposed amendment would allow conversion of existing structures to three or four units and new construction of three or four units by special exception granted by the Zoning Board of Adjustment provided specified criteria are met. Full text of the proposed ordinance is available in the Planning Office; notice of this public hearing has been recently published in Foster's Daily Democrat.

Mr. O Perry abstained from this item because of a conflict of interest.

Mr. Preston asked Mr. McDonnell if he would be prejudiced on this item to the extent that he should abstain from the proceedings.

Mr. McDonnell stated that he would listen to the proceedings and if the Board feels he should not vote, he will abstain.

Public hearing opened:

Don Bryant, Silver Street, spoke for the proposed amendment stating that it will preserve remaining open space and that it is a compromise proposal of the original proposal which would have changed the RM-10 zone to a higher category. He noted that it is a commendable change which will enhance property values.

Tom Duffy, Councilman from Ward 2, stated that the letter of notification of this public hearing sent to those within the RM-10 zone and those within 100 feet of the zone neglected to mention that the revisions apply only to the RM-10 zone and not to the entire City. He questioned the validity of this public hearing and asked an opinion from the Planning Director.

Mr. Collins stated that this public hearing is valid as the agenda as posted and published in Foster's correctly stated that the public hearing applies to the RM-10 zone, and that the letters were mailed only to those property owners within the RM-10 zone and abutters within 100 feet.

Mr. Duffy requested that in the future the specific zone be stated.

Iris Valley, 129 Silver Street, spoke for the proposed change stating that a result would be that the RM-10 neighborhoods would remain stable.

Ted Ackman, Niles Street, asked for a definition of open space.

Mr. Collins explained that open space is that area of the parcel left in a natural state.

Joe Vitko, 32 Lexington Street, agreed with most of the ordinance, but spoke against requiring a special exception before the Zoning Board of Adjustment for something that is now permitted.

Myrtle Allen, 134 Silver Street, spoke for the proposal as a fair one.

Bill St. Laurent, Ash Street, expressed concern that conversion to four units in the RM-10 zone will be eliminated and stated that if that is the intention of the Board, then it should be done right up front. He spoke for the proposed parking requirement and asked that the size of some spaces be downsized for compact cars. He spoke against the screening requirement and stated that too much (size, placement) is left up to someone's discretion.

Michael Remington, 36 Mt. Vernon Street, spoke against what he thought were new setbacks in the proposed ordinance. Mr. Collins

explained that the setbacks in the proposed ordinance are the same as those in the current zoning code, but were placed in this portion of the special exception for convenience.

Joe Schiro, Cushing Street, spoke against the proposed change as too restrictive for those who wish to convert.

Mr. Duffy stated that when this issue goes to the Ordinance Committee, more back up information will be necessary.

Mr. Preston stated that he has done some research and found that there are 740 lots in the zone and 40 can be subdivided strictly on the basis of the minimum frontage requirement (note: 80 feet is the minimum frontage requirement for the RM-10 zone.)

Mr. Collins stated that there are 139 lots in the Silver/Lexington Street area alone, and that 24 of those structures could be converted. He also stated that the 2.5 parking space requirement will probably be a City wide requirement in the near future. He explained that many developers are voluntarily proposing the 2.5 spaces, and that the larger projects may be less than the 2.5 on a sliding scale basis

Mr. Duffy stated that it is not fair to make Ward 2 property owners suffer because of the concerns of the neighbors in the Silver/Lexington Street area, that that area should be treated separately and possibly an Historic District could be established.

Mr. Scharff told Mr. Duffy that the historic district approach has been researched and presented to the City Council.

Elizabeth Fisher, Barrington, but pays taxes in Dover, spoke against the ordinance stating that she went through the building permit process last summer and found it thorough.

Carol Mairs, 14 Roberts Road, spoke against the proposed ordinance stating that it is okay for the Silver/Lexington Street area but not the other RM-10 zones.

Theresa Foley, 129 Silver Street, spoke for the change and stated that she and others in the Silver/Lexington Street area had hoped that this would apply only to that area but that at a Planning Board workshop it was determined that it would be better for the on-going master plan process to address all the RM-10 zones.

David Dopp, 120 Silver Street, spoke for the changes.

Jim McAdams, City Councilman, stated that this ordinance would give property owners the chance to maintain neighborhoods in the same fashion and those who face hardship could go to the ZBA for a special exception. He felt that the concerns of those in the RM-10 zone could be valid, and that it would not be spot zoning to take care of only the Silver/Lexington Street area.

Bruce Nedeau whose family has owned property in Dover for years, noted that the problem of the Silver/Lexington Street area needs to be addressed but the other RM-10 zones are all right the way they are.

Public hearing closed (8:35 P.M.)

Mr. Preston explained that the Board would not vote tonite, but would bring this issue up under "Old Business" at the next meeting.

Mr. Preston declared a 2-minute recess.

Mr. O. Perry once again assumed his seat on the Board.

Item #2: Consideration of acceptance of an application for site review of land owned by Nick Skaltsis, Assessor's Map 6, lots 35A, 36 and 36A, zoned B-2 on Central Avenue. (18 residential units above the Morrill Building)

Mr. Bouchard motioned to accept; Mr. Elder seconded.

Mr. Collins stated that the site plan and application is complete, and distributed copies of extra plans that members did not have.

Mr. Skaltsis stated that he continues to disagree with the fact that he must go to site review for this item, and that the Board does not possess the authority or criteria to examine.

Mr. Skaltsis explained the details of the building stating that 17,000 square feet would be store space and the rest residential. He noted that there may be fewer than the 18 units proposed, that all storefronts are to be natural mahogany with a brick face, mill motif design. All three floors will be sprinklered and there will be an elevator on the outside of the building to all three floors.

Vote: U/A to accept the application for discussion.

Public hearing opened:

Mr. Preston noted that the site plan has not been stamped by a licensed engineer and must be before it is signed.

Public hearing closed.

Councilman Tom Duffy questioned where the parking would be.

Mr. Collins stated that the parking area to the rear of the building will be utilized.

Mr. Preston noted that the zoning code exempts the parking requirement in the B-2, UMUD and CWD zones in Dover.

Mr. Collins stated that the benefit of having this item come before the Planning Board for site review is that the Board will be able to see the impact of these projects. He also stated that additional off-site parking cannot be required of the developer according to code.

Councilman Duffy questioned whether the City Council will have to address parking downtown because of this project.

Mr. Skaltsis explained that a day/night shift situation will occur, and that downtown needs the residential units mixed with business to survive. He further noted that the developer should not have to take the heat, especially after trying to work with the City Council on the parking problem downtown.

George Tsimikles, Long Hill Road, spoke after no objections were noted from Board members. He questioned why the City should provide parking for developers downtown while other developers must provide their own.

Mr. Scharff noted that he has just received a site plan and would like time to review it before a vote is taken.

A consensus of the Board showed that Members were ready to vote on this item.

Mr. Elder motioned to approve the site review subject to :

1. A licensed engineer's stamp on the mylar.
2. No curb cut on Second Street.

Mr. O. Perry seconded.

The second condition of approval was removed as ordinances cover the cuts.

Mr. Skaltsis stated that he has problems with not being able to cut into Second Street because if he doesn't he will have to cut into Central Avenue and block traffic. He noted that he would rather spend the \$2,000 and go down Second Street.

Mr. Bouchard noted that he could only cut into Second Street if it is an emergency by Code. Otherwise, he will have to go to the City Council and request the cut.

Vote: U/A to approve the application for site review.

Mr. Preston requested that the rules be suspended and "New Business" be discussed after "Old Business".

Mr. Elder motioned to suspend the rules; Mr. Scharff seconded.

Vote: U/A to suspend the rules.

Item #4: Old Business.

a. Discussion of Alpine Ridge, major subdivision on Longhill Road. (Haggenmiller property)

Mr. Preston explained that the City Attorney stated that this issue is hanging in the air because it has not yet been approved or disapproved, rather a motion to approve was denied. Further action must be taken.

Malcolm MacNeill, Attorney representing the developers explained the background of this proposal and the fact that letters were sent to the Planning Department from both hydrologists who spoke at the last meeting indicating that unreasonable risk of water contamination would not result from the septic systems. He further stated that the developers are providing a two-fold policing strategy as follows:

1. A note stating that "All wells installed in the subdivision must comply with the conditions for approval relating to well installation recoded with the Dover Planning Office, Dover City Hall, Dover, New Hampshire. No certificate of occupancy may be issued for any building serviced by well until the Dover Building Inspector and the Dover City Engineer certifies

compliance with said conditions of approval relating to well installation".

2. A "Certificate of Compliance" (Note: see attached) be inserted in every deed.

(Mr. R. Perry arrived and assumed his seat on the Board)

Attorney MacNeill further stated that no contradictory scientific evidence has been provided to dispute the testimony of the hydrologists, and all State permits have been obtained. He stated that Board Member Jack Kepics, who was absent, was to have spoken on the safety of the wells after having had a discussion with a professional well driller, Elmer Tasker.

Mr. Collins stated that Mr. Kepics had spoken with him and relayed the message that he (Mr. Kepics) was convinced that the wells could be constructed, certified and guaranteed to last for at least one to two years. Mr. Collins further stated that he wished Mr. Kepics were here also, as this is hearsay information.

In response to a question from Mr. Scharff concerning the January 1, 1987 deadline the developers imposed on themselves to buy the Haggemiller property, Attorney MacNeill stated that the developers are continuing to proceed with financing and have until December, 1987 to do so. He noted that if there is no approval, there will be no financing.

Mr. Preston stated that the State requires perc tests be done in all leachfields and wondered out loud how the State could approve leachfields which have changed on the plan.

Attorney MacNeill stated that the Board should approve this project contingent upon all State approvals and that would cover the leachfield question.

Eric Rogers, developer, stated that the septic system locations are not cut in stone and will be approved when settled.

Mr. Preston noted that lots 15 and 17 have not received State approval. Upon further review of the plan, Mr. Preston noted that lots 15 and 17 do not need State approval because they are larger than five acres.

Mr. Elder asked what recourse homeowners would have in two years if the wells do become contaminated, to which Attorney MacNeill responded that action should be taken against the system designer

and that the City would not be required to remedy the situation.

Mr. Preston noted that there has been no mention of bacteria as opposed to nutrients. He noted that bacteria is lethal whereas nutrients in the well are not.

Mr. R. Perry stated that he was not convinced that the well and septic system will work and stated that it was his feeling that the City would be on the hook. He noted that he did not want to be known as one who voted for this proposal.

Attorney MacNeill stated that no contradictory evidence has been submitted to support Mr. R. Perry's concern.

Mr. R. Perry stated that he could not be convinced of the safety of the wells and that even Mr. Jaworski stated that he could not be certain.

Attorney MacNeill read the statements from the two hydrologists (see attached) and stated that he would rather deal with fact than opinion.

Mr. Preston noted that Varney Road homes now have problems with septic systems floating.

Mr. Collins stated that until scientific evidence is presented on the opposite side, conditional approval is the appropriate action on the Board's part.

Mr. Etelman asked what different evidence Superior Court would have than what the Board has, and suggested that a vote be taken on this item.

Mr. Scharff asked if the developer was adding an item to the conditions of approval to which Attorney MacNeill stated that they are.

Mr. Bouchard asked once again about the developer bringing a water line to the property.

Mr. Collins stated that the developer considered bring water from the cul-de-sac of the approved Quadrant subdivision on Sixth Street, but was unable to get the easments across private property that would be necessary.

Mr. Bouchard repeated that Mr. Jaworski stated that there "should" not be a problem with the wells, but it would still be a

possibility. He further stated that this is a premature subdivision, that water will eventually be brought out that way, and in fact was considered in one Capital Improvements Program a year ago.

Mr. O. Perry asked if the developers would be willing to agree to a condition of approval that would require a bedrock investigation.

Attorney MacNeill stated that this would cost in the vicinity of \$25,000 other development has been permitted in the area without the investigation.

Mr. Scharff motioned to approve with the same conditions included in the motion to approve but with the addition of the following:

4. That the mylar be noted with the following statement:

"All wells installed in the subdivision must comply with the conditions for approval relating to well installation recorded with the Dover Planning Office, Dover City Hall, Dover, New Hampshire. No certificate of occupancy may be issued for any building serviced by a well until the Dover Building Inspector and the Dover City Engineer certifies compliance with said conditions of approval relating to well installation." (see attached for other conditions of approval)

Mr. Elder seconded.

Mr. McDonnell asked if this puts the City in the position of being well specialists to which Mr. Collins responded that a condition of approval also is that the well installation be continuously inspected.

Mr. O. Perry noted that whoever is doing the well installation pays for the inspection. He noted that this should also be a condition of approval.

The mover and seconder agreed.

Vote: 1-7, motion denied (Scharff voted for)

Mr. O. Perry motioned to disapprove the application for major subdivision based on the following:

1. Mr. Jaworski's statements indicating that there is a questionable water supply and waste water disposal due to high water table, size of lots and surface drainage characteristics

causing unusual design and construction criteria and policing problems.

2. The minutes of 12/16/86, page 2, "(Mr. Jaworski) noted that there is no bedrock data and he could not answer whether the wells could be contaminated." "Mr. Jaworski stated that he would not go so far as to say that drinking water would be safe..."

Mr. Bouchard seconded.

Vote: 7-1 (Scharff voted against)

b. Discussion of the Meadows, site review of 600 condo units on Knox Marsh Road. (Cabral Group, previously advertised as Prime Properties)

Malcolm McNeill, Attorney representing the developer, stated that the 90 days in which the Board has to make a decision will run out next week, and the developers will sign an extension for 90 days as long as a decision to approve or disapprove is made within that period of time.

Dick Millette, Millette and Associates representing the applicant, explained the proposal. He noted that a dredge and fill permit has been granted with the condition that a 50 foot buffer between the brook and building not be disturbed. Therefore, buildings 24 and 25 have been moved to comply with that stipulation. He noted that the nearest point of any building is about 50 feet from the power lines, and that nothing encroaches in the 1,000 foot well site radius.

Don Roades, Holden Engineering, summarized the Department of Transportation report stating that a recommendation was made to establish an exclusive lane to enter the Westgate apartments and the westerly entrance to The Meadows. He noted that the sidewalks could be a condition of approval of the Planning Board and that two options are proposed for the Route 155/9 intersection. He also stated that a signal analysis will be done. He noted that two conceptual plans will be completed for the intersection to review with the State and that the widening of the road will be addressed as well.

Mr. Collins stated that the City Engineer, Public Works Director and Planning Director would like to be included in the decision making process with regard to the road changes. He asked the hydrologist representing the developer about the contaminants from the parking lot to Knox Marsh Brook, noting that no mention is made

in the report of gasoline and oil.

(The hydrologist) noted that no typical data exists to judge the gasoline and oil and that the State has no standard either. He further stated that both have a high affinity for absorption, and that the proposed open drainage to the brook along with the buffer should be enough to address the gas and oil problem.

Mr. Millette noted that the catch basin theory is outdated and the State now requires a natural runoff.

Mr. Preston noted that the Conservation Commission would like to know the quality of the water now to compare it in the future with regard to the proposed development.

Mr. Millette noted that current mudiness in the brook is from construction in the Industrial Park.

Attorney McNeill requested that this item be rescheduled in 30-45 days after discussions by the City and State have been completed, and noted that he will submit an extension in writing this week. He noted that the developers will be working on the list of comments submitted by the Public Works Department and on the traffic problem at the intersection of Routes 155/9.

Mr. Scharff stated that he will request a 90 day extension from the City Council.

c. Discussion of the Conservation District.

Mr. Collins stated that the revised Conservation District ordinance is ready and ready for the Planning Board to take action on at the next meeting.

d. Discussion on revisions to the zoning ordinance.

Mr. Collins stated that a workshop will be held on this item on January 20, and that a notice of the public hearing must be sent to all property owners in the City.

Item #3: New Business.

a. Approval of minutes.

Mr. Scharff motioned to approve the minutes of December 16, 1986;
Mr. Elder seconded.

Vote: U/A to approve

Mr. Scharff motioned to approve the minutes of September 2, 1986;
Mr. Elder seconded.

Vote: U/A to approve

b. Election of Officers.

Les Elder nominated Harold Preston as Chair; Otis Perry seconded.

Otis Perry moved to close nominations; Les Elder seconded.

Vote: U/A to close
Vote: U/A to elect Harold Preston as Chair.

Tom Scharff nominated Les Elder for Vice-Chair; Pete Bouchard seconded.

Mike McDonnell moved to close nominations; Tom Scharff seconded.

Vote: U/A to close.

Vote: U/A to elect Les Elder as Vice-Chair.

c. Workshop Date.

A workshop was scheduled for January 20, 1987 to discuss the Conservation District revisions, zoning amendments, master plan and outstanding bonds.

Mr. Elder requested that an opinion from the City Attorney be obtained as to whether another public hearing on the Conservation District revisions is necessary.

Mr. R. Perry requested that a workshop be set for discussion of the capital improvement program in a non-specific manner.

Mr. Preston stated that two regular meetings will be held each month with two workshops in between to catch up on items.

Mr. Scharff motioned to adjourn; Mr. Bouchard seconded.

Vote: U/A to adjourn

Mr. Preston adjourned the meeting at 11:05 P.M.