

DOVER PLANNING BOARD
MINUTES OF MEETING

Meeting Held: April 8, 1986, Municipal Building, Dover, New Hampshire.

Members Present: George Maglaras-Chairman, Harold Preston, H. Les Elder, Craig Williams, Robert Seaver, Otis Perry, Reynold Perry, Thomas Scharff.

Alternates Present: Nancy Sousane, Patricia Torr

Also Present: Richard Selleck-Acting Planning Director, Berrie Donovan-Recording Secretary.

Mr. Maglaras stated to members of the Public that he would reconvene the public hearing on the Forbes application, and called the meeting to order at 7:10 P.M.

Item #1: Application for site review of land owned by Ernest Carrier, Assessor's Map 30, lots 140 and 139, zoned O at 672 and 674 Central Avenue.

Mr. Maglaras stated that the applicant is requesting a waiver of the requirement prohibiting paving within seven feet of a property line.

Mr. Elder motioned to accept the application for public hearing. Mr. O. Perry seconded.

Vote: U/A

Ernest Carrier stated that all the requirements set by the SRSC have been met.

Public hearing opened.

Marty Reardon, Friendly Market owner, expressed concern over the number of parking spaces required and over the entrance and exit of the property.

Peter Loughlin, attorney for the project, stated that with the addition of the three units to the existing two units, the parking requirement is 14 spaces; 15 are being provided. This will take the parking off the street that is now on the street.

Mr. Reardon stated that the zoning should be changed to increase the amount of parking required.

Peter Sullivan, 81 Mt. Vernon Street, stated that curbing to the street would prevent parking on the culvert, that the sewer capacity was in question when he was going through the site review process a month ago in the same area, and that there is probably a drainage problem to the property in the rear of the proposed building.

Mr. Maglaras stated that the SRSC requested the drainage be set up the way it is on the plan.

Paul Connelly, engineer on the project, stated that the drainage would collect in a catch basin in the parking lot and drain to Ash Street.

Kerry Forbes, abutter, stated that if medical offices are planned for the office building, increased parking would have to be provided.

Public hearing closed.

In response to a question from Otis Perry regarding access to the building from the parking lot, Mr. Connelly stated that the residential units would be accessed from stairs to a deck on the rear, and offices would be accessed from a path from the rear to the front over the grass.

Harold Preston motioned for an on-site review. Mr. Scharff seconded.

Vote: U/A

A site review was scheduled for April 10, 1986 at 4:30 P.M. at the site.

Mr. Maglaras stated that Mr. Carrier's proposal would come up under "Old Business" at the next Planning Board meeting.

Item #2: Public hearing on minor subdivision of land owned by Dover Industrial Development Association (applicant: Forum Development), Assessor's Map G, lot 1, zoned I-1 (Industrial), on Crosby Road.

Mike Gilfoy, engineer on the project, explained the minor

subdivision and the fact that he would be before the Board for a site review on April 22, 1986.

Mr. Seaver questioned the 50 foot easement noted in the Public Works memo.

George Garrett, Economic Development Director, stated that it turns out the easement is not on this property at all.

Public hearing opened: no comment.
Public hearing closed.

Mr. Williams motioned to approve subject to Driveway Permits;
Mr. Seaver seconded.

Vote: U/A

Item #3: Old Business.

a. Final approval of site review of land owned by Grant Davis (applicant: Kerry Forbes), Assessor's Map I, lot 4A, zoned RM-12 on Mast Road Extention.

Mr. O. Perry abstained; Patricia Torr sat in as an alternate.

Mr. Forbes stated that all State permits have been obtained except Wetlands and he has been assured that that is forthcoming. He noted that the only change from the original plan is a relocation of the dam away from the slopes toward more level land.

Mr. Maglaras stated that the applicant has met with the SRSC twice and has met all their requirements.

Public hearing reconvened:

Bill Baber, Mast Road, expressed concern over: wetlands boundary not noted on the plan, how the 20% slopes were calculated, the lack of notation on the plan regarding the federal floodway mark, fire hazard with only a six inch line going to Garrison School, and the ongoing boundary dispute. He also noted that nothing has been done with the traffic problem on Mast Road and that he had asked for professional planners input before this project is approved. He also noted that Mr. Forbes has done a better than average job with this project.

Stephen Lord, Mast Road, questioned the sewer tie-in with Gavin's project and the fact that it would be in a wetlands area. He stated that the heavy equipment unloading and loading in the middle of the street, disruption of utilities, blocked driveways, severe dust and clay problems all have had a devastating effect on the small neighborhood. He asked the Board to consider the impact of an additional 175 units on a 175 foot road. 1000

Christine Baber, Mast Road, stated that she was impressed so far with the work done by Kerry Forbes but asked the Board to limit the size of the development. She expressed concern that half of Mr. Gavin's units have been sold to investors.

Kerry Forbes answered the concerns of the neighbors by stating that the density of his project is half of what is allowed in the zone, that the units will be sprinklered, that the boundary dispute has been resolved in his favor but is being appealed, and that the sewer tie-in with Gavin has been approved by the Wetlands Board. He stated that the traffic problem is the City's, not his, and that the buildings on the slopes will have walk-out basements.

Mr. Elder noted that the boundary dispute is a civil matter, not that of the Planning Board's.

Public hearing closed.

Mr. MacArthur stated that the pump station is designed to City standards and is operated by joint agreement of the two condo associations.

Mr. Forbes stated that he has a letter of intent from Mr. Gavin.

Mr. Maglaras stated that the State law is specific in its requirements. He also noted that the applicant had been to the SRSC about six weeks ago with the change in the retention pond, and that all requirements had been met.

In response to a question from Mr. Preston regarding a time frame, Mr. Forbes stated that originally he had planned on three to four years, now it will be two to three years and he is unable to keep up with the demand.

Mr. Seaver motioned to approve the Davis Farm site review subject to Wetlands approval. Mr. Elder seconded.

Mr. Maglaras asked both the movers to add that the application be approved subject to the recommendations of the SRSC as well. Both agreed.

Vote: U/A

b. Final approval of major subdivision of land owned by Phillip and Mary Crosier, Assessor's Map 17, lot 117f, zoned R-12 on Stark Avenue.

Mr. Otis Perry assumed his seat on the Board again.

Chris Jacobs, engineer for the project, stated that they have been to the SRSC three times, and passed out permits received by the State to Board Members. He requested waivers for:

1. two trees per lot; asked that they be left to the discretion of the Public Works Director.
2. twelve inch water main requested by the Fire Department in case of a future tie-in.
3. underground utilities.

Mr. Maglaras noted that there is no waiver in writing requesting a waiver of the underground utilities. He mentioned that the discretion of the two trees per lot should be left up to the SRSC not the Public Works Director.

Mr. Selleck noted that he had spoken with Mr. Boudreau and

Attorney MacNeill (both representing the applicant) regarding the wording on the mylar concerning the detention pond. He stated that the wording should be "not a buildable lot", because it is not conforming with the zoning regulations for that zone.

Mr. R. Perry asked if the twelve inch water line was recommended only because of future tie-ins, to which Mr. Jacobs responded that it was and was only recently brought up at a SRSC meeting.

Mr. Maglaras stated that the future Subdivision Ordinance will require twelve inch lines in order to prevent problems now occurring with the eight inch lines. He noted that it would be hard to accept this street now with an eight inch line and tear it up one year later to put in the twelve inch line.

Mr. R. Perry asked if the Planning Board could require a twelve inch if the eight inch is in the code.

Mr. Maglaras stated that they could if it is in the interest of good future planning.

Attorney MacNeill stated that they should be dealing with the current regulations.

Mr. Seaver inquired as to the status of the lot containing the retention pond. Does it need ZBA approval and can the Planning Board waive the non-conforming lot.?

Mr. Maglaras stated that the Planning Board can waive.

Attorney MacNeill stated that the lot is solely a utility area on record.

Mr. O. Perry inquired as to whether the City Attorney has read and agrees with Mr. Crosier's homeowner's agreement concerning the retention pond.

Mr. Maglaras stated that he has read it but has not issued a memo yet regarding this subject. He noted that the application can be approved contingent upon the City Attorney's approval of the document.

Mr. Maglaras noted that the applicant did not submit all the names of abutters within three hundred feet of the lot line and therefore, for this meeting, all abutters have been notified. He polled the Board to see if any member was opposed to letting the Public speak on this issue. There was no opposition.

He further explained to members of the Public that they would be speaking under unanimous consent, that if any member of the Board objected while they were speaking they would have to sit down.

Mr. Sanderson, Hawthorne Road, stated that he is not against the subdivision, but was concerned that the culverts would not handle the drainage. He expressed concern over the blasting still to be done in the area.

Mr. Maglaras stated that the blasting is not done, that there would be no more water in his area than there is now, and that part of the problem should be allayed when the mandatory 100 foot swale is in place.

Mr. Boudreau stated that the exact location of the swale is not yet determined.

Pat Sanderson, Hawthorne Road, expressed concern with the retention pond and its possible effects on the health and safety of the neighborhood.

Chris Jacobs stated that the pond is fenced in by State Law, has a bottom drain, and would be mostly grass and weeds with a maximum depth of six inches.

Mr. R. Perry noted that the term "retention pond" is a misconception, that it should completely drain out and its function is to slow down the flow of water.

William Slauson, 9 Woodland Avenue, stated that he is not opposed to the development of the land, only to the density of this particular plan. He asked to see a copy of the plan and one was given to him. He further complained about the blasting and its effect on the neighborhood.

Mr. Williams motioned to approve subject to:

1. The City Attorney's approval of the Homeowner's Association.
2. The SRSC comments and that the water lines be approved by Engineering.
3. That all the necessary State Permits are obtained.

Mr. O. Perry seconded.

Mr. Jacobs withdrew the request for the waiver of the requirement for a twelve inch water line over the eight inch.

Mr. Williams motioned to grant the waiver of the two street trees per lot at the SRSC's discretion. Mr. Elder seconded.

Vote: U/A

Mr. Jacobs reiterated his reasons for requesting a waiver of the underground utility requirement. He stated that only four more poles would be necessary for above ground utilities, the length of time to prepare the subdivision is longer due to the blasting necessary, and all utilities feel they service better if utilities are above ground.

Mr. Boudreau stated that the neighbor's concern over blasting would be lessened as well.

Mr. Williams stated that blasting is still necessary for water and sewer anyway.

Mr. O. Perry stated he was against above-ground utilities.

Mr. Scharff stated that he was opposed to the waiver.

Mr. Elder motioned to approve; Mr. Preston seconded.

Vote on waiver of underground utilities: 0-7 denied

Vote on main motion: U/A

Mr. Maglaras declared a two minute recess.

Item #4: New Business.

a. Postponed to after Item #4b.

b. Request for waiver of underground utilities in the major subdivision of land owned by Charles Mutrie, Assessor's Map 21, lot 26, zoned R-12 on Henry Law Avenue and Back Road.

Craig Williams abstained. Nancy Sousane sat in as an alternate.

Charles Mutrie explained that the amount of ledge and associated costs with blasting led him to ask again for the waiver. He noted that he would be willing to locate utilities underground in areas of low ledge concentration.

Mr. O. Perry stated that he is against a mixed plan of above/underground utilities even more than just above-ground utilities.

Mr. R. Perry noted that he might be in favor of a mixed plan if a plan were available for viewing, but preferred underground utilities.

Mr. Seaver motioned to approve the request for a waiver. Mr. Elder seconded.

Vote: 0-8 to deny.

c. Tolend Associates/wording on mylar as to "close proximity" of the Tolend Dump.

Mr. Maglaras stated that the City Attorney has requested that the Planning Board not require statements on the mylars and deeds of land in the area of the Tolend Landfill noting it is on the EPA's list of toxic landfills. He noted that a letter from him is forthcoming.

Mr. Maglaras further stated that the best way to handle this may be to rezone the area around the landfill itself.

Kevin McEneaney, representing Tolend Associates, passed out a letter suggesting alternatives to the wording on the mylar: notations on the tax maps and zoning maps.

Mr. Williams motioned to delete the requirement of the notation on the mylar of Tolend Associates subdivision on Tolend Road.

Mr. Seaver seconded.

Vote: U/A

Mr. R. Perry noted that he would make sure the tax and zoning maps were delineated with the proper wording noting the proximity of the Tolend Landfill.

Mr. Maglaras stated that the Planning Board would hold a workshop on the rezoning of the area.

a. Discussion of definition of "Accessory Use."

Craig Williams abstained from this discussion as a Board Member. Patricia sat in as an alternate.

Mr. Williams asked Mr. Preston to step down for reasons of bias. Mr. Preston refused.

Mr. Maglaras stated that it would be easier all the way around if Mr. Preston abstained through this discussion regarding Elliott Rose.

Mr. Preston stepped down for the Elliott Rose case only. Nancy Sousane sat in as an alternate.

Mr. Maglaras stated that the Board would discuss the Elliott Rose case with regard to accessory use first, and then accessory use in general.

Mr. Maglaras stated that the Elliott Rose case went before the SRSC twice and it was the decision of the Committee that the Planning Board would determine whether the case would be considered as an accessory use. That is why it is before the Planning Board now.

Mr. Selleck explained that he issued a Building Permit to Elliott Rose Company based on the fact that Craig Williams was on the Planning Board and claimed that agricultural uses were exempt from site review. He asked Mr. Williams to bring in a plot plan showing the greenhouse and stated that in the meantime he would look into it. He later discovered that the Planning Board considered all non-residential uses site review material, contacted the City Attorney who stated that the Building Permit was never really issued and was nul and void.

Mr. Williams stated that according to the Site Review Ordinance

and State Law his project is agricultural in nature. He stated that he gave Dick Selleck two weeks to check into it, came back and asked for a Building Permit. He noted that the two people who have brought up the issue have a direct conflict of interest...Harold Preston and Pete Bouchard.

Mr. Maglaras asked Mr. Williams if he was representing Elliott Rose now to which Mr. Williams responded that he was not.

Mr. Maglaras stated that if he is representing Elliott Rose he could speak, if not he is out of order.

Mr. Maglaras stated that the City Attorney informed the applicant that he must go through the site review process, the applicant met with the SRSC twice with the result that the SRSC wanted a determination by the Planning Board as to whether this greenhouse is an accessory use. He stated that the applicant feels that this is an accessory use. Mr. Maglaras stated that if it is not an accessory use, no reports on drainage, parking, dumpsters, etc., would ~~not~~ be required.

Mr. Seaver stated his opinion that this is a significant structure and wanted a site review.

Mr. R. Perry stated that the City Attorney has reviewed the case and has recommended that it is a site review candidate. Therefore, it cannot possess the qualities of an accessory use.

Mr. O. Perry stated that he considers this site review material.

Mr. Maglaras stated that he has been continuously told by the applicant that the greenhouse is grandfathered and there is no need for State permits, etc. He further stated that the applicant stated he would request waivers for all the site review requirements if they were requested to go for a site review.

Mr. Otis Perry motioned to require Elliott Rose go for site review approval. Mr. Seaver seconded.

Vote: U/A

Mr. Maglaras stated that the Planning Department would notify the applicant of the Planning Board's decision to require a site review.

Mr. Williams and Mr. Preston assumed their seats on the Board.

Mr. Maglaras stated that a clarification of the term "accessory use" is necessary.

Mr. Selleck noted that the Board should take a close look at the definition because the definition of "lot" in the ordinance is a primary building and its accessory uses, and this applies to every zone in the City of Dover. . . it is a permitted use on every lot in every zone in the City.

Mr. R. Perry noted that the definition as it reads is adequate but may not apply to all zones.

Mr. O. Perry suggested considering the various classes of site review again and incorporating the definition of accessory use there.

Mr. Seaver suggested keeping the definition simple and treating it on a zone by zone basis.

Mr. Maglaras stated that he will schedule a workshop on accessory use.

Mr. R. Perry stated that from his experience he notes that Dover takes on much as site review than other towns who tend to approve minor construction administratively.

Mr. Williams asked if space and time on Planning Board agendas would be allocated for established businesses.

Mr. Maglaras stated that it would not be.

Mr. Kerry Forbes asked if he could bring in his approved plan for Hanson Street for a revision. He stated that his lawyer would like to maintain the two lots instead of combining them as it appeared on the final approved plan by the Board.

Mr. Maglaras instructed him to bring the revised plan to the SRSC and it would be taken care of there.

Mr. Preston motioned to adjourn. Mr. Seaver seconded.

Vote: U/A

Mr. Maglaras adjourned the meeting at 10:35 P.M.