

DOVER PLANNING BOARD  
MINUTES OF MEETING

Meeting Held: October 28, 1986

Members Present: George Maglaras-Chair, Harold Preston, Reynold Perry, Thomas Scharff, Otis Perry, Pierre Bouchard, H. Les Elder, Patricia Torr, Nancy Sousane

Alternates Present: Michael McDonnell

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

Mr. Maglaras called the meeting to order at 7:05 P.M. and explained the Board's meeting procedure.

Item #1: Public hearing on revisions to the Cocheco Waterfront District (CWD).

Mr. Maglaras removed himself from the proceedings due to a conflict of interest; Mr. Preston would sit as Chairman, and Mr. McDonnell would sit as an alternate.

Mr. Preston explained that this public hearing has been recessed since last winter.

Public hearing opened:

Dan Ayer, member of the public, asked the reason for the change and inquired as to whether a rear setback will be required.

Mr. Preston explained that the setback is now 25 feet in the front, which on the parcels on Cocheco Street does not allow any development of the land.

Public hearing closed.

Mr. Elder questioned the sideyard setback of zero feet, stating that he had no recollection of the Board setting that setback.

Mr. Collins stated that the public hearing was advertised as such because of previous discussions at workshops.

Mr. Preston stated that it is the Board's policy not to vote on

the same evening on zoning changes, and that a vote would be taken at a later date.

Mr. Maglaras assumed position as Chair, Mr. Preston went back to his seat, and Mr. McDonnell removed himself from the Board.

Item #2: Public hearing on revisions to the Conservation District.

Mr. Collins explained the revisions to the ordinance and clarified a few points:

Previously approved, recorded subdivisions within the past four years, are exempt.

Land within the Conservation District remains in private ownership.

If setbacks do not allow buildable space, recourse may be taken through the ZBA for variance, or the Planning Board may set up an automatic approval.

The Conservation District does not prevent landscaping.

Mr. Preston noted that a provision will be necessary for removal of dead trees.

Mr. Maglaras noted these points:

1. We have over 1,000 single family homes on the riverfront, the riverfront is eroding and needs some form of preservation.

2. We now cannot use the CD to calculate density.

3. Maine has a coastal zone management zone of 200 feet in existence now.

4. The State will impose restrictions with Coastal Zone management soon anyway.

5. We need to prevent strip development along the riverfront as old farms are being sold and the land subdivided.

Mr. Preston noted that the septic systems need to be addressed within the CD as well.

Public hearing opened:

Geraldine Sylvester, 115 Cocheco Street, spoke against noting concern with blanket restrictions to control incorrect problems of the past. She requested another public hearing after the fine tuning of this ordinance, and noted that this prevents the passing of land to family members for their housing needs.

Mark Blumenthal, Bayview Road, applauded the Board for its stand supporting preservation of the Great Bay Estuary, and requesting that cases be considered on a site by site basis. He noted that Dover could take the lead in riverfront preservation.

Bernard F. Sears, Jr., Nute Road, spoke against, stating that he would like to build a house on his land and this prevents it.

Chris Wyskiel, Attorney representing Cote Drive residents, spoke against the docking requirements and requested that easements to the river for those with no frontage be preserved.

Jack Newick, Dover Point Road, asked why the Planning Board is involved with docks when the Port Authority is the only arm of government involved in this type of regulation.

Dan Ayers requested that the information be obtained as to who has jurisdiction over moorings and piers, that the 20% slopes be relaxed to 6%, that erosion be controlled by boat speed in the rivers, and that individual landowners be given credit for the conservation of their own land.

Ray Proulx, spoke against.

Morothy Nason congratulated the Board stating that she has property on the Bellamy River and is willing to abide by the new rules.

Wardon Dexter, land owner living in Massachusetts, stated that he would like to cut the trees for a view of the water and that these are arbitrary rules being developed.

Paul Gasses, Garrison Road, agreed stating that landowners should not have to go before the Planning Board to cut trees.

Doger Turgeon, Cocheco Street, noted that he has lost land to erosion because of boat speeds.

Jack McLatchie, Dover Point Road, spoke of family land and how prohibitive the cost is to come before the Planning Board to give land to children to build.

Ed Hoginski, Dover Point Road, noted that the value of land is related to its access to the water, is this a form of confiscation? He noted that only the State has the authority to regulate moorings.

Mr. Maglaras noted that if docks are attached to the land they are part of land use law, and that this proposal is to prevent developers from starting marinas or commercial operations along the riverfront.

Lew McIntosh, Dover Point Road, spoke of concerns of moorings and docks noting that he is a marina owner; he noted that it is actually better to leave the smaller vegetation than larger trees to control erosion.

Mr. Maglaras noted that Mr. McIntosh is grandfathered, but if the business were closed for a period of time this type of business would not be allowed. He noted that the 75 foot requirement was adopted because the State did not allow septic within 75 feet, and the City went along with it. Now that clear cutting to the river is taking place throughout the City, the danger of erosion is evident and can be seen by taking a boat ride down the rivers. The City is trying to prevent careless development along its rivers and waterways.

Ray Ouillette, member of Great Bay Sailing Club, noted that moorings are obtained from the Harbor Master on a one by one basis, and requested that the club not be limited to one mooring.

Leroy Smith, Dover, noted that he has planted 3,500 trees and requested that land in the CD be tax exempt and considered on a site by site basis.

Heidi Dixum, Dover landowner living in Topsfield, noted that she comes from a communist country, and is finding that her land here is becoming more and more restricted. She noted also that lawn chemicals are a cause of the water's pollution.

Peggy McLaughlin, Dover, spoke in favor of the concept and noted that the waterways belong to all the residents of Dover.

Carolyn Ricker, Littleworth Road, requested a fact finding report indicating that 150 feet is more advantageous than the 75 foot

existing requirement.

Mr. Maglaras noted that the CD can be used to calculate density, that a site by site provision is not feasible and would take several years which we do not have to develop a plan, and by that time would not be effective. He noted that to build within the CD now, a variance is required which is much more difficult to get. The Board is considering a proposal which would set up building and expansion of existing dwellings within the CD allowable via a special exception through the ZBA which is easier to achieve if all conditions are met. He explained that building permits may now be issued on grandfathered subdivisions.

Malcolm McNeill, attorney representing Bellamy River Green, spoke against the blanket CD expansion stating that there is no study for a basis and that non-conforming lots should not be created.

Holly Ayer, Spur Road, spoke against the ordinance in its present form and requested that another public hearing be held if and when a new ordinance is proposed. She requested to know how many are for and against the proposal.

Mr. Maglaras explained that the Board does not base its vote on how many are for and against the proposal, and that another public hearing would be held only based on whether the Board made substantial changes in the proposed ordinance.

Ashton Hallet, Three Rivers Farm, noted that his family has self imposed a 150 foot CD and commended the Board on its proposal.

Bob Gagnon, Whittier Street, noted that several restrictions on his land have been enacted with no notice to the landowner.

Mr. Maglaras explained that prior to 1982 no notice was necessary.

Mr. Maglaras declared a ten minute recess.

Arthur Gasses, Garrison Road, spoke against.

Byrong Reardon, Dover Point Road, stated that he was denied a building permit in a previously approved subdivision; does the Building Inspector know that these subdivisions are grandfathered.

Mr. Collins noted that the Building Inspector should be made aware when a building permit is applied for that the subdivision

was approved within the past four years.

Mr. Maglaras stated that the Board will work more on this proposal; that the public should watch the media for workshops and meetings on the proposal.

Public hearing closed.

Item #3: Consideration of acceptance of an application for site review of land owned by Tuttle Market Gardens, Inc., Assessor's Map M, lot 52B, zoned R-20 on Dover Point Road. (Retail sales addition).

Hugh Tuttle explained the increase in retail space and the addition of a shed/greenhouse to the back.

Steve Stancel, Planner, read the recommendations of the Technical Review Committee.

Mr. Scharff motioned to accept for discussion; Mr. O. Perry seconded.

Vote: U/A to accept.

Public hearing opened: no comment.

Public hearing closed.

Mr. Collins stated that both the EPA and WSPCC have written letters stating that no permit is necessary for the water discharge.

Mr. Scharff motioned to approve subject to noting the book and page of the drainage easement deed on the plan; Mr. Elder seconded.

Vote: U/A to approve.

Item #4: Consideration of acceptance of an application for site review of land owned by Prime Properties (applicant: Richard P. Millette & Associates), Assessor's Map H. lots 35D, 35E, 40A, zoned RM-20 on Knox Marsh Road. (600 condo units)

Malcolm McNeill, Attorney representing the applicant, explained that they have been before the Conservation Commission and will

provide hydrogeologic information.

Richard Millette showed a sketch of the land use and explained the project.

Paul Brown, Architect, showed pictures of the proposed facade.

Charles Head, ZBA Associates, explained that the potential impact on the City wells is insignificant.

Malcolm McNeill noted that the Technical Review Committee has requested a traffic study, that the State results are not ready as yet, but the developer would like to start the approval process.

Mr. Collins stated that the issues not yet addressed are:

1. Traffic - the impact on the highway and intersection of routes 9 and 155; that a Driveway Permit has been submitted to the State with no results yet; approval cannot be granted without DOT comments.

2. City Wells - the project exceeds the well site protection requirements; the Technical Review Committee (TRC) is concerned with the aquifer recharge area, we should accept the report and study it further.

3. Fee issue - the developer must pay the new fee which is \$43,500 compared to the \$1,500 paid earlier.

4. Names of streets and numbers of buildings.

5. Phasing.

Mr. Preston noted that Henry McCrone, Highway Dept. of NH, is concerned with the drainage ditches along the highway; he noted that if the Board accepts this application for discussion tonight, a decision must be made to approve or deny within 90 days.

Mr. O. Perry noted that the fee is part of the application, the application is not complete and should not be accepted tonight.

Mr. Bouchard noted that the developer was required on August 28, 1986 to submit a hydrologist's report and has not done so.

Attorney McNeill protested paying the fee but stated that he would do so to move the approval process on.

Mr. Scharff motioned to accept the application for discussion subject to payment of the application fee; Ms. Torr seconded.

Vote: 4-4 (Bouchard, Elder, Preston, Sousane against)  
Maglaras voted yes to break the tie resulting in a 5-4 vote.

Public hearing opened:

Larry Pippin, 82 1/2 Littleworth Road, spoke against noting the addition of at least 600 cars on the highway.

Michael Cochetti, Dover, spoke against citing the poor intersection at routes 155 and 9.

Public hearing was recessed.

An on-site review was scheduled for Sat., 11/8/86 at 9:00 A.M.; applicant was requested to stake out the access/egress, 1,000 foot well radius, the corner of the building closest to the brook, and the center of the road.

Item #5: New Business.

a. Request by Charles Mutrie for waiver of underground utilities on those lots in Mount Pleasant Estates with frontage on Henry Law Avenue and Back Road.

Mr. Mutrie explained his desire to have overhead utilities on the perimeter of his project, that poles and transformers are existing on 16 lots.

Mr. O. Perry expressed reservations and noted that the waiver should have been granted in the beginning.

Mr. Scharff stated his opinion that we should stick to the ordinance and not grant the waiver.

Mr. Mutrie stated that the ordinance calls for underground on new roads only.

Mr. R. Perry stated that he has no objection to the waiver on an existing city street.

Mr. Collins stated that the reason for underground is aesthetics and the poles are already existing.

Mr. Elder motioned to approve the waiver for the 17 lots with frontage on Henry Law and Back Road; Ms. Torr seconded.

Vote: 6-2 (O. Perry, Scharff)

b. Request by Neal Lavoie for a waiver of the five foot paving setback. Applicant wishes to pave within two feet of a property line. (corner of Wallingford/Paul Streets)

Mr. Lavoie explained his request and presented written permission from the abutter involved.

Mr. O. Perry motioned to approve, Mr. Preston seconded.

Vote: 7-0 (Mr. Bouchard abstained)

Item #6: Old Business.

a. Discussion of Haggemiller major subdivision.

Mr. Collins explained that we are continuing to pursue ownership of the land at the Sixth Street/Longhill Road intersection to change the configuration of that intersection; that a subsurface application has been received from the State.

Attorney McNeill spoke of State approvals and that the procedure was double checked because of abutters concerns; that appropriations have been made for sidewalks and negotiations are still going on for the intersection of Sixth and Longhill Road. He requested a waiver of the active recreation requirement because of the close proximity of the Longhill playground.

Mr. Collins suggested that the hydrologist's report address the suitability of on site septic and wells within and abutting the subdivision, that the State approval addresses lot size, not the issue of contamination; that a study be done addressing the intersection; that the Recreation Director recommends a small tot lot.

Mr. Maglaras noted that preliminary approval can be granted on the concept only.

Mr. Preston noted that the State has turned down approval on lots 15 and 17.

Mr. R. Perry noted that the City will be responsible if the wells are contaminated by the septic systems, and he would like to wait for a report on this.

Ray Shea, Engineer for applicant, stated that State approval does not require approval of lots over five acres.

Mr. Preston noted that State approvals are minimum approvals, and stated that once again, he would like to see a plan of the wells and septic locations.

Mr. Collins noted that there is still a question of whether Mr. Byrnes will make available the land in question for the intersection.

Mr. O. Perry motioned to require a hydrologist's report of the impact of septic systems on the surrounding wells and wells within the proposed subdivision; Mr. Preston seconded.

Vote: 6-1 (Elder; Mr. Bouchard was not in his seat to vote)

b. Recommendation on appointment of a member to the Strafford Regional Planning Commission.

Mr. Scharff motioned to nominate Bill Baber to the position; Mr. O. Perry seconded.

Vote: U/A

Mr. Collins introduced new Planner Jim Chaput to the Board.

Mr. Maglaras adjourned the meeting at 12:00 A.M.