

**DOVER PLANNING BOARD
MINUTES OF MEETING**

Held: February 25, 1985
Council Chambers
Municipal Building
Dover, NH

Members Present: Vice-Chair Harold Preston, Robert Steele, J. Andrew Galt, R. Craig Williams, Pierre Bouchard, Robert Weisner, H. Les Elder.

Alternate Member Present: Robert Seaver.

Other: Planning Director Timothy Sheldon, Recording Secretary Kathleen Brown.

The Vice-Chair called the meeting to order at 7:02 p.m.

ITEM #1: Public Hearing on the minor subdivision of land owned by Alfred Hall, (applicant Dover Southside Little League), Assessor's Map K, Lot 4, zoned R-12, on Henry Law Avenue.

Public Hearing Opened.

Catherine McSherer, whose mother is an adjacent property owner, asked to see the plat under consideration.

Mr. Sheldon explained the application for minor subdivision. He noted that the applicant has received a variance from the Zoning Board of Adjustment for relief from frontage requirements. Mr. Steele stated that the City Council has granted the applicant a right-of-way through Maglaras Park.

Public Hearing Closed.

Mr. Williams inquired about the possibility of placing a condition of approval which would permit operation of the park only during daylight hours. He suggested that this may eliminate the possibility of the future use of the land for other types of recreation such as evening dances.

Mr. Bouchard noted that at this time the Board was considering only the application for subdivision. Mr. Preston stated that the applicant will be appearing before the Board at the next

regularly scheduled meeting with a request for site review.

Moved by Mr. Weisner and seconded by Mr. Bouchard to approve the minor subdivision as submitted.

U.A.

ITEM #2: Public Hearing on the site review of land owned by Robert Brunelle & Eleanor Able, (applicant F.W. Webb), Assessor's Map H, Lot 35C-3C, zoned I-1, on Sumner Drive.

Robert Brunelle explained the proposal.

Public Hearing Opened - No one spoke in favor or in opposition to the proposal.

Public Hearing Closed.

Mr. Sheldon read the report of the Site Review Screening Committee.

In response to the comment offered by Fire Chief Bibber and included in the SRSC report, Mr. Brunelle explained that the existing building does have a sprinkler system. He stated that he had discussed possible alternatives to expanding the system with a Fire Department Representative, and had been informed that because the intended use of the building was cold storage, it may be possible to consider a fire-proof wall or a dry sprinkler system.

Mr. Sheldon stated that because Chief Bibber had reiterated his concerns at the SRSC meeting that afternoon, the Board may wish to consider granting approval of the application contingent upon Chief Bibber's approval of the fire protection system.

Moved by Mr. Steele, seconded by Mr. Weisner to approve the application for site review, contingent upon the following conditions:

- 1) Granite curbing shall be installed at the entry-way.
- 2) A landscape plan shall be submitted to the Planning Director for his review and approval.

- 3) A fire protection system which meets all building codes and the approval of the Fire Chief shall be installed.

In response to a question from Mr. Williams, Mr. Steele indicated that his motion inherently included compliance with all applicable building codes.

Vote on motion: U.A.

ITEM #3: Public Hearing on the minor subdivision of land owned by William E. Cusack Jr., Assessor's Map B, Lot 11, zoned R-40, on County Farm Cross Road.

Mr. Sheldon explained the minor subdivision.

Public Hearing - No one spoke in favor or in opposition to the proposal.

Public Hearing Closed.

Mr. Sheldon noted that the receipt of a driveway permit and City septic approval would be required for the subdivision.

Moved by Mr. Bouchard, seconded by Mr. Galt to approve the application for minor subdivision, contingent upon the following conditions:

- 1) Receipt of driveway permit, when necessary.
- 2) Receipt of City septic approval.

U.A.

ITEM #4: Old Business

- 1) Review of the application of the major subdivision of land owned by Rohe Pennington, on Gulf Road.

Mr. Sheldon reviewed the history of the project and stated that he had received a letter from Rohe and Ellen Pennington, dated 2/21/85, in which the applicants have agreed to comply with all the recommendations of the SRSC, excepting one. Mr. Sheldon explained that the applicant did not wish to provide for a fifty

(50) foot right-of-way to the adjacent property.

Mr. Pennington explained his objections to the provision requiring the placement of a ROW to the adjacent property and suggested that, in his opinion, the request would create an unnecessary hardship. He noted that the adjacent lot presently contains over one thousand (1000) feet of frontage, thus providing an opportunity for the development of more than one access to the parcel. Mr. Pennington stated that the future development of the ROW may create a traffic problem within his subdivision.

Mr. Sheldon explained that the Board has the option to grant the application for major subdivision approval contingent upon the recommendations of the SRSC, in light of the Pennington's letter.

Mr. Williams expressed his concerns regarding the requirement of the fifty foot ROW and suggested that he would not be supportive of such a provision, as it may create a hardship for the developer.

Mr. Bouchard stated that without the provision for the ROW, the area would always remain a dead-end street with no opportunity for a future connection to the adjacent property should a need arise. He noted that the option to develop the ROW may or may not be exercised, however he stated that if the Board does not make some provision in its approval, the option will never exist.

In response to Mr. Bouchard's comment regarding the nondevelopment of the ROW off of Toftree Lane, Mr. Sheldon explained that the desire to utilize or to not utilize the connection would depend upon the type of development on the adjacent land.

Mr. Williams reiterated his concern that the connection may prove to be detrimental to the single family homeowners in the area.

Mr. Sheldon explained the history of policy requiring the ROW and stated that it had originally been initiated in response to the grid-style of development.

Mr. Pennington restated his opposition to the recommendation and stated that he felt that the ROW would devalue the lots directly affected by it.

Mr. Bouchard restated his position regarding the preservation of the ROW as a future option.

Mr. Williams rebutted Mr. Bouchard's argument that the opportunity to develop the connector street would not exist should the Board chose not to require the ROW. He suggested that the potential to develop the street would hinge on the economic advantage/disadvantage involved.

Moved by Mr. Williams, seconded by Mr. Galt to approve the application for major subdivision, contingent upon all recommendations of the SRSC, excepting the provision for the ROW.

Mr. Galt suggested that the status of the development of a ROW between the Shaw's and Shop 'N Save plazas may be similar to the situation at hand.

Mr. Sheldon explained that the conditions of approval for the two shopping centers included the provision for consistent grades between the two sites, as well as access for emergency vehicles. He stated that because of unanticipated construction problems, this has yet to be completed. However, Mr. Sheldon noted that he has spoken with representatives of both companies and has been assured that the project will be finished in accordance with the Planning Board approval.

Mr. Steele stated that in his opinion, the application before the Board was not similar to the case of the two shopping plazas. He explained that in the case of Mr. Pennington's proposal, the Board would not be requiring that access to the adjacent property be developed, but rather that a 50 foot ROW be set aside for possible future negotiations between the adjacent property owners.

Mr. Pennington stated that the placement of the 50 foot ROW may necessitate the redrafting of the lot lines and may force a reduction in the number of lots.

Discussion between Mr. Williams and Mr. Steele ensued regarding the rights of the property owner relative to the ROW. Mr. Steele explained that the developer would own the ROW and would be responsible for any taxes assessed to it. Mr. Williams stated that he was concerned that the deprivation of the right to develop the land, coupled with the collection of property taxes, may constitute a taking of the land.

Mr. Pennington restated the fact that the adjacent parcel currently supports 1000 feet of frontage which may be used for multiple points of access.

Mr. Steele stated that the elimination of the ROW will result in a development which is limited to one access point, a design which may not be acceptable to future property owners.

Mr. Pennington stated that the Subdivision Ordinance of the City of Dover includes a section which encourages the development of lots off of a cul-de-sac.

In response to a question from Mr. Galt, Mr. Bouchard explained that the ROW could also be used to grid the utilities in the area.

Vote on motion: 2-5 (Steele, Seaver, Weisner, Bouchard, Galt)

Moved by Mr. Galt, seconded by Mr. Seaver to approve the application for major subdivision, contingent upon the following conditions:

- 1) Plans shall note that all cut and fill slopes are 2:1 or less (no steeper). Proposed contour lines are insufficient.
- 2) There shall be an area (50 feet wide) designated as a possible ROW to land of Sylvester for a future road.
- 3) Since the 8" main on the Gulf Road is replacing a 6" line, it cannot end in a plug; it shall reconnect to the 6" line headed for Country Club Estates.
- 4) Notes and/or changes will be added to the existing plan to conform to all of the City engineer's drainage recommendations, including:
 - a) Headwall detail deals with only one size.
 - b) A note on the rip-rap at the end of the culverts and

- culvert profiles shall be shown.
- c) No drainline shall be smaller than 12" per ordinance.
 - d) Drainage easements are needed for ALL culverts.
 - e) The proposed culvert @ 1+25 will not operate properly. Instead, the low area shall be filled (\pm 12") and CB's shall be installed at 1+30 & 2+00 (entrance rd) to collect water from the area.
 - f) The culvert @ 8+30 shall tie into CB# 3 and shall not cross the road.
 - g) CB's 10 & 10A shall be relocated over and tied to culvert @ 15+50. This will keep water in natural water shed and eliminate the need for some pipe. CB# 9 could be eliminated.
 - h) Several other line sizes need adjustment. Modification to drainage proposal per City Engineer's calculations shall be suitable. PVC or RCP shall be used for drain lines. CMP will not provide the necessary capacities at the slopes shown.

Upon the suggestion of Mr. Sheldon and Mr. Steele, Mr. Galt and Mr. Seaver amended the motion to include the following statement: "The location of the 50' ROW shall be determined by the developer and approved by the City Engineer."

In response to a question from Mr. Williams regarding the ownership of the proposed ROW, Mr. Steele explained that the developer would be responsible for the ownership of the property. Mr. Bouchard reminded the Board that should the property owner default on property taxes, the ownership would fall to the City.

Mr. Pennington stated that he was concerned about lack of the possibility for impartial future negotiation between the respective property owners, given the potential for ownership by the City. He then reiterated the history of his role in this development plan and requested the cooperation of the Board regarding this one point.

A lengthy discussion regarding the possibility of the placement of the ROW ensued between the developer and the Board. Mr. Pennington made it clear that he did not wish to provide for a fifty foot ROW.

In response to a question from Mr. Galt, Mr. Bouchard stated that a minimum of thirty (30) feet would be required for a utility easement. He suggested that an easement forty (40) feet in width would be better.

Moved by Mr. Galt, seconded by Mr. Weisner, to amend the original motion to delete the portion dealing with the 50' ROW and to include the following statement:

"A thirty (30) foot wide area shall be designated as an easement to the land of Sylvester for future underground utilities. The location of said easement is subject to the approval of the Department of Public Works."

Vote on motion as amended: 6-1 (Bouchard)

- 2) Review of the application for major subdivision of land owned by Matt R. Jr. and Helen Williams, on Dover Point Road.

Mr. Williams abstained from this item.

Mr. Sheldon offered a review of the history of the application.

Mr. Preston stated that the review of the drainage calculations by the City Engineer was not available for this meeting.

Alexandria Breed, an attorney representing the applicant, requested a clarification of the time frame within which the Planning Board is working. Mr. Sheldon explained that should the Board decide to take no action on this item at this time, the City Manager will be asked to request a ninety (90) day extension from the City Council for consideration of the application. Ms. Breed raised concerns regarding the possibility of the 90 day extension, as her client has indicated an interest in beginning the project relatively soon.

Bonnye McGeary addressed the list of recommendations offered by the SRSC in a memo dated January 28, 1985.

Raymond Taylor, engineer for the project, addressed the issue of the request for a waiver of the 6% grade requirement. He stated that this requirement would be difficult to engineer and that the

alternative offered (8% grade) is more consistent with the character of the existing terrain.

Mr. Sheldon generated discussion among the Board members regarding the outstanding items in the letter from the SRSC.

Mr. Galt reported that the City Council had concurred that the waiver of the City street specifications is solely under the jurisdiction of the Planning Board. He further added that some of the Council members did suggest that the Board grant any waivers which may encumber the City with caution.

Mr. Sheldon explained that the past policy of the Board has been to grant waivers of the sidewalk requirement when the adjacent streets do not have sidewalks, and when the area being developed is not subject to heavy pedestrian traffic.

Moved by Mr. Steele, seconded by Mr. Galt, to approve a waiver of the sidewalk requirements.

U.A.

Mr. Sheldon explained to the Board that the recent specifications forwarded to the City Council relative to the construction of private drives do include provision for the hammerhead configuration. He noted however, that the specifications for the construction of a City street provide only for a teardrop configuration.

Mr. Bouchard stated that his recommendation to the Board is to require compliance with the construction specifications for a City Street. He reminded the Board of potential problems which could exist from winter maintenance and emergency access with regard to the configuration of the cul-de-sac and the proposed 8% grade.

Ms. Breed commented that the developer is willing to maintain the road.

Mr. Elder stated that in his opinion, if the road is to be a City owned and maintained street, it should be built to the DOVER

specifications outlined for this purpose. He noted that if the road were to be privately maintained, he may be willing to consider other options.

Mr. Galt reminded the Board that the specifications recently forwarded to the City Council pertain only to private drives. Mr. Bouchard clarified the fact that those specifications do not apply to the project under consideration.

Moved by Mr. Bouchard, seconded by Mr. Elder that the cul-de-sacs be built so as to conform to the criteria for the design and construction of a City Street (teardrop).

U.A.

The Board discussed the request for a waiver of the requirement relative to the 6% grade. Mr. Bouchard offered examples of streets with similar grades throughout the City for comparison purposes.

Ms. Breed offered to show the Board a set of plans designed to provide for a 6% roadway grade. She stated that not much traffic is expected in the subdivision and that environmental problems may result from compliance with the ordinance.

Moved by Mr. Elder, seconded by Mr. Galt to approve the request for a waiver of the 6% grade requirement relative to the road construction.

Mr. Bouchard reminded the Board of potential maintenance problems which may result from the proposed 8% grade. He stated that because the street will be owned and maintained by the City, the Board is in essence accepting responsibility for any problems which may result from the waivers.

In response to a question from Mr. Preston, Mr. Bouchard stated that he believes that the grade along Roberts Road is 6-7%.

Mr. Taylor explained that one percentage change in the slope is equal to a one foot differential in a length of one hundred feet.

Vote on the motion: 4-3 (Steele, Bouchard, Weisner). Mr. Preston cast an affirmative vote to break the tie.

Mr. Sheldon stated that the Board will not be able to address the proposal for the drainage system until the City engineer has completed his review. In response to a question from Mr. Elder, Mr. Preston and Mr. Taylor attempted to clarify the amount of time presently involved in the review process.

Mr. Sheldon reminded the Board that they have the option to grant approval of the proposal contingent upon the review of the drainage by the City engineer.

Mr. Preston requested input from the Chair of the Dover Conservation Commission, Skip Thomits, with regard to the location of the mean high tide. Mr. Thomits and Mr. Preston explained that the Commission had determined the location of the Conservation District to be eight-ten feet inland from the applicant's stake.

Mr. Taylor explained that the mean high tide varies on a day to day basis, and that even if there is a discrepancy of 8-10 feet, the lots created will still support the legal lot size exclusive of the Conservation District. He stated that the Board members attending the formal on-site review were generally able to confirm his determination of the location of the Conservation District. He reiterated the fact that the plan presented was consistent with the spirit and intent of the ordinance.

Mr. Thomits noted that at this time of year it is difficult to determine the mean high tide and that in his opinion, the plan presented was close enough.

Mr. Preston polled the Board and it was unanimously indicated that the location of the Conservation District depicted on the plan was satisfactory.

In response to concerns raised by Mr. Sheldon regarding the provision for the possible future connection of the street with the existing ROW on the adjacent property, Mr. Galt noted that the applicant has indicated a willingness to provide for an

easement along the back of lot four to provide for emergency access.

Mr. Preston stated that a letter from Fire Chief Bibber had been placed on file which indicated his support of the lining up of the ROWs.

Mr. Bouchard answered questions from Mr. Elder regarding the necessity of the connection of the ROWs.

Ms. Breed explained to the Board the exact location of the existing ROW on the adjacent property. She suggested that requiring the applicant to line up the proposed road with this ROW would be a hardship, as it would necessitate redrawing of the plan. She stated that the Board had denied an application from the Williams' in the Spring of 1984 which had depicted the use of the existing ROW. She stated that the applicant is willing to provide an access easement for emergency vehicles.

Mr. Galt stated that the application which had been submitted in the Spring and which had been referred to by Ms. Breed, was denied because of drainage problems in the area.

Mr. Preston stated that the topography of the site may not permit the development of the ROW to City Street specifications.

Ms. Breed offered a plan depicting the existing ROW to the Board.

Moved by Mr. Elder, seconded by Mr. Galt to delete Item #9 entirely from the list of recommendations by the SRSC.

Mr. Sheldon noted that because the applicant will be required to redesign the cul-de-sac, the placement of the emergency access road may be determined after that is complete.

Mr. Elder and Mr. Sheldon clarified Mr. Elder's motion.

Mr. Preston stated that he would like to see a connection of the ROW for emergency access.

Mr. Bouchard stated that perhaps the Board could see where the cul-de-sac is positioned before making any determination

regarding the ROW.

Mr. Galt and Mr. Elder withdrew the motion.

The Board clarified their action on the ROW for the benefit of the applicant.

Mr. Taylor requested direction from the Board regarding the the width which will be required for the cul-de-sac. He suggested that the applicant may wish to submit an alternatative design to the City Street specifications.

Mr. Bouchard stated that the City specifications have found by his department to be adequate.

In response to Mr. Taylor's further request for direction, Mr. Elder stated that he was in agreement with the statements made by Mr. Bouchard. Mr. Galt stated that he stood by his original vote which would require comformance to the City ordinance.

Mr. Sheldon stated that the Board had expressed a desire to require the proposed City street to be designed with a cul-de-sac which meets City specifications and which provides access via an easement/ROW to the Roberts Road ROW.

Mr. Sheldon raised the issue of the recommendation that the water line be continued to Roberts Road so as to create for a grid system. Mr. Bouchard stated that the City does not look favorable on dead end lines.

Mr. Taylor stated that the applicant is agreeable to connecting the line to Roberts Road and is willing to front the cost of the project. However, Mr. Taylor suggested that a "hostile situation" exists with respect to the adjacent property owner, which would prohibit the actual physical construction of the utilities beyond the applicant's property line.

Upon the unanimous consent of the Board, Ed Hoginski was permitted to speak. Mr. Hoginski stated that Mr. Williams' deed gives him the right to construct utility/street improvements within the ROW.

In response to a question from Ms. McGeary, Mr. Bouchard stated that the applicant will be responsible for the construction of the line to Roberts Road.

Ms. Breed stated that her client was willing to provide the City with an easement for the purpose of utility construction, but is not willing to do the construction himself.

In response to a question from Ms. McGeary, Mr. Bouchard stated that he would be willing to approve the looping of the line back through the subdivision and back out to Rt. 16.

In response to a question from Mr. Galt, Mr. Sheldon read the following list of conditions which had been developed by the Board thus far:

- 1) Waiver of the sidewalk requirement is granted.
- 2) The drainage plan shall be approved by the City engineer.
- 3) The proposed City street shall be designed with cul-de-sacs which meet City specifications and shall provide for an access via an easement/ROW to the Roberts' Road ROW.
- 4) Waiver of the 6% grade specification is granted.
- 5) The water line shall be connected to the water system on Roberts Road. The line shall be 8" ductile iron.
- 6) A bond for the roadway shall be set by the City Engineer.

In addition to the above concerns, Mr. Sheldon expressed concerns regarding the shape of lot 15. He suggested that the Board consider providing for a seventy foot ROW for the roadway immediately off of Dover Point Road and the limitation of frontage for lot #15 to 150 feet.

Moved by Mr. Galt, seconded by Mr. Elder and Mr. Seaver to approve the application for major subdivision, contingent upon the above mentioned conditions, and including the following:

- 7) The frontage for lot #15 shall be limited to 150 feet and a 70 foot ROW shall be depicted for the proposed City street.

U.A.

Mr. Williams returned to his seat on the Board for the remainder of the meeting.

- 3) Review of the proposed Capital Improvements Program for 1985-86 through 1990-91.

The Board decided to postpone action on this item until its next regularly scheduled meeting.

ITEM #5: New Business

- 1) Correspondence from E. Richard Rowell regarding the preliminary approval granted to the application for major subdivision, at the corner of Dover Neck and Middle Roads.

Mr. Sheldon explained that the applicant has withdrawn his former application for the major subdivision of the above-referenced property and has submitted a new application for major subdivision which will include 64 lots. He stated that the Board will be considering the new application at its next regularly scheduled meeting.

- 2) Review of the site review applications determined by the Site Review Screening Committee to have no adverse impact on the site or immediate locale: 1980-1984.

Mr. Preston requested that this item be moved to the next regularly scheduled meeting, as he has some questions regarding the items listed.

Mr. Williams suggested that a listing of all waivers of City ordinances granted by the Site Review Screening Committee relative to the applications listed may be helpful to the Board.

Mr. Preston suggested that any Board member with questions regarding specific applications should attempt to meet with Mr. Sheldon.

- 3) Approval of the minutes of the workshop session held on January 29, 1985

Moved by Mr. Steele, seconded by Mr. Galt to approve the minutes.

U.A.

- 4) Approval of the minutes of the regularly scheduled meeting held on February 5, 1985.

Moved by Mr. Weisner, seconded by Mr. Bouchard to approve the minutes.

Vote on motion: 6-0-1 (Williams abstained.)

- 5) Introduction of the petition for the rezoning of that area of land generally bounded by Mast Road, Garrison Road, Back River Road and the Bellamy River, from medium density multi-residential (RM-12) to medium density single family residential (R-12).

Mr. Sheldon explained the petition forwarded to the Planning Board from the City Council and suggested that a waiver of the requirement which provides for action on the petition by the Planning Board within thirty days, may need to be waived. In response to a question from Mr. Elder, Mr. Sheldon offered a brief explanation for the 1979 rezoning in that area.

Mr. Galt noted that little provision exists within the current Zoning Ordinance to permit cluster zoning.

Mr. Preston raised concerns regarding the permitted right of condominium developers to provide access to those units along a private drive. Mr. Sheldon explained the difference between this type of development and the subdivision of land for single family house lots.

Moved by Mr. Steele, seconded by Mr. Bouchard to adjourn the meeting at 9:30 p.m.

U.A.