

DOVER PLANNING BOARD
MINUTES OF MEETING

Held: March 12, 1985
Council Chambers
Municipal Building
Dover, NH

Members Present: Chair George Maglaras, Vice-Chair Harold Preston, Stephanie Faria, Robert Steele, Pierre Bouchard, H. Les Elder, R. Craig Williams, Robert Weisner.

Alternate Members Present: Robert Seaver, Otis Perry.

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

The Chair called the meeting to order at 7:04 p.m.

ITEM #1: Public Hearing on the site review of land owned by the Dover Southside Little League, Assessor's Map K, Lot 4, zoned R-12, on Henry Law Avenue.

Steve Towne, a representative of the DSLL, explained the proposal.

In response to questions from Mr. Williams, Mr. Towne stated that the existing parking in the adjacent Maglaras Park would serve the proposed facility. He suggested that this would be adequate to serve the immediate needs of both recreation areas, but that at some future date the parking may need to be expanded.

Mr. Maglaras noted the report of the Site Review Screening Committee.

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

Public Hearing Closed.

Moved by Mr. Galt, seconded by Mr. Weisner, to approve the application for site review as submitted.

U.A.

ITEM #2: Public Hearing on the minor subdivision of land owned

DOVER PLANNING BOARD
March 12, 1985
Page 2 ...

by Seacoast Savings Bank, (applicant William St. Laurent),
Assessor's Map C, Lot 3B, zoned R-40, on County Farm Road.

William St. Laurent explained the minor subdivision.

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

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

Public Hearing Closed.

In response to a question from Mr. Galt, Mr. Sheldon stated that,
as presented, there was no problem with the placement of the ROW
within the Conservation District.

In response to a question from Mr. Williams, Mr. Sheldon
explained that no building or other encroachment within the
Conservation District may occur without the receipt of a special
exception from the Zoning Board of Adjustment.

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

- 1) Receipt of WSPCC and City septic.
- 2) Receipt of driveway permits, when necessary.

U.A.

ITEM #3: Preliminary review of the application for the major
subdivision of land owned by E. Richard Rowell, Assessor's Map M,
Lot 90, zoned R-40, on the corner of Dover Neck and Middle Roads.

Mr. Maglaras offered a brief history of Mr. Rowell's application
for subdivision and indicated that a public hearing on this item
would not be held until the application was formally accepted by
the Board at the meeting of March 26.

Richard Rowell explained the proposal before the Board and stated
that it was his intention to complete the project in two phases.

He noted that the City Engineer has not yet had an opportunity to review the plans.

In response to a question from Mr. Maglaras, Mr. Rowell explained that his previous application had encompassed subdividing 32 of the 66+ acres into 25 lots.

In response to a question from Mr. Maglaras, Mr. Rowell indicated that there would be a pump station for the project and then explained to the Board the path that the sewer lines would take. He stated that it was first intended that the line be run through the Public Service Co. easement to Toftree Lane, however he now understands that the City's position is to sanction the placement of the lines only on City property. He stated that he would be willing to run the line down Middle Road to Tuttle Lane.

In response to further questioning by Mr. Maglaras, Mr. Rowell indicated that the proposed roadways will be City Streets.

Mr. Rowell stated that he has hired Civil Consultants of Berwick, Maine to engineer the design of the infrastructure. He again reiterated his willingness to run the sewer line to Tuttle Lane if this is what the City wants.

Mr. Preston questioned Mr. Rowell regarding the placement of fire hydrants within the subdivision. Mr. Maglaras explained that the Site Review Screening Committee has not yet reviewed the proposal but that when it does, its report will include a review of the fire protection provisions. He further explained that the presentation being made was an only an effort to make the Board aware of the plan, and that comments and concerns that the Board has will be addressed at the public hearing.

Mr. Rowell noted that the plan depicted 3.3 acres for a recreation/picnic area. In response to a question from Mr. Maglaras, Mr. Rowell indicated that he was aware of the fact that he may be required to seek a special exception for encroachment into the conservation district and a variance for relief from frontage requirements for those lots on the private drive.

In response to Mr. Galt's question regarding the off-site sewer

DOVER PLANNING BOARD
March 12, 1985
Page 4 ...

design, Mr. Rowell stated that the sewer line will be gravity fed until it reaches the corner of Middle Road and Tuttle Lane.

In response to a question from Mr. Williams, Mr. Bouchard stated that the minimum pipe size permitted for the gravity line is 8".

In response to a question from Mr. Rowell, Mr. Bouchard stated that he had no objections to his choice of engineers for the project.

Mr. Maglaras again noted that the public hearing on this item will be held on March 26.

Mr. Rowell indicated that he will instruct the engineers to begin work on the proposal.

ITEM #4: Preliminary review of the application for the site review of land owned by John Gavin, Assessor's Map I, Lot 3B, zoned RM-12, on Mast Road.

Mr. Maglaras stated that a public hearing will not be held on this item until the Board formally accepts the application on March 26.

Peter Loughlin, an attorney representing Mr. Gavin, offered a brief history of the application. He noted that a formal presentation will be made by the applicant on March 26, at the time of the public hearing. Mr. Loughlin then presented the Board with an overview of the proposal. (Mr. Gavin and Fred Srague, of Richard Millette Associates, were also present to answer any questions of the Board.)

In response to Mr. Loughlin's comments, Mr. Bouchard inquired about the extent of the traffic analysis undertaken by the applicant. Mr. Loughlin explained that Mr. Gavin had provided the Board with a projection of the number of trip ends from the project, however, he has not done any traffic counts in the area.

Mr. Bouchard inquired about proposed roadway improvements in the area, in addition to the planned sidewalk on Mast Road. Mr. Loughlin explained that a 38' wide cul-de-sac has been provided

at the end of Mast Road, for use as a turn-around for City maintenance vehicles. Mr. Loughlin stated that he assumes that the cul-de-sac will eventually be deeded to the City. He further added that the narrowest part of Mast Road, now measuring about 22' wide, would remain as it is.

Mr. Sheldon stated that, while the Planning Board has the sole authority to regulate the construction standards for proposed City streets within a subdivision, it is the City Council who has the authority to authorize changes in existing City streets. Mr. Loughlin stated that he was aware of the fact that the applicant would be required to seek the approval of the City Council should he desire to make any off-site roadway improvements.

Mr. Maglaras stated that an on-site review of the property will be scheduled after the public hearing.

Mr. Sheldon stated that each Board member should be provided with a complete set of plans before the public hearing. Mr. Loughlin stated that this would be done.

In response to Mr. Galt's concerns regarding the location of the Conservation District on the plans, Mr. Loughlin stated that the applicant will address this issue at the public hearing.

ITEM #5: Old Business

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

In response to a question from Mr. Maglaras, Mr. Preston explained that the Board had decided to postpone discussion of this item at the last meeting.

In response to a question from Mr. Maglaras, Mr. Steele stated that there was no deadline by which the Board must submit its recommendations to the City Council.

In response to a question from Mr. Preston regarding the status of the Sawyer Bridge project, Mr. Steele stated that the bids received were higher than were anticipated, however the City's

share of the cost was only \$304,000. The original amount budgeted for this project was \$340,000.

In response to a question from Mr. Maglaras, Mr. Steele explained that when the City initiated the CIP, it was anticipated that a debt of \$1m annually would be incurred and that that same figure would be the amount of the debt retired annually. The proposed CIP for 1985-86 would require the expenditure of \$1.3m and could be forwarded to the Council as it stands. If the Board chooses to do so, Mr. Steele explained, the unused debt capacity of the City would become \$2.6m (municipal portion).

In response to a suggestion by Mr. Maglaras that a workshop session be scheduled for this item, Mr. Bouchard requested that action be taken tonight, if time permits.

Mr. Maglaras moved the item to the end of the agenda.

- 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. Maglaras moved this item to the end of the agenda.

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

Mr. Maglaras explained to the Board that this item was in response to a petition received by the City Council and referred to the Planning Board.

Mr. Sheldon explained that a public hearing on the rezoning has been scheduled for March 26.

Mr. Maglaras stated that a workshop on the information presented to the Board at the public hearing should be scheduled for April 2.

Mr. Sheldon stated that the Planning Office has done some

DOVER PLANNING BOARD
March 12, 1985
Page 7 ...

technical research regarding the existing density of the area, sewer and water capacity, potential growth, etc. however, he noted that because the petition was initiated by the residents in the area, the primary reason for the public hearing is to obtain citizen input.

Mr. Galt concurred with Mr. Maglaras' suggestion that a workshop be scheduled for the week following the public hearing so that the Planning Board has an opportunity to digest the information presented.

In response to a question from Mr. Galt, Mr. Sheldon explained that because the petition for rezoning has been initiated by a group other than the Planning Board, the Board must consider the specific request of the citizens, that being to change the zoning from RM-12 to R-12. He stressed that the public hearing will be held only on this issue.

Mr. Steele explained that should the Board deny the rezoning petition, it will take a 2/3 vote by the City Council to overrule the denial. If the Board approves the petition, a simple majority vote by the Council is all that is required.

Mr. Sheldon requested that Mr. Steele request a 90-day extension from the City Council for Board consideration of the petition.

In response to a question from Mr. Williams, Mr. Sheldon stated that any Board member, as well as any member of the public is welcome to view all maps/data prepared by the Planning Office prior to the Public Hearing.

Mr. Preston restated, for clarification purposes, that the the public hearing will be held only on rezoning the area in question from RM-12 to R-12, with no other options being considered at this time.

Mr. Steele, in response to Mr. Preston's comments, stated that the Planning Board may present alternative recommendations to the City Council, after it has held a public hearing on the proposal that it develops.

DOVER PLANNING BOARD
March 12, 1985
Page 8 ...

The Board discussed the items to be placed on the agenda for the March 26 meeting.

Mr. Galt expressed concerns regarding the potential conflict which may arise as the result of pending site review disapproval/approval for the Gavin project and the rezoning petition.

4) Well Site Protection Amendment to Zoning Ordinance - update.

Mr. Sheldon explained that the City Attorney upon further review of the proposed amendment, has determined that the development restrictions outlined for those properties lying within 0-400 feet of the City's wells may be constituted as a taking of land. He suggested that the Board address this issue before passing the ordinance onto the Council in a form which may be unconstitutional. Mr. Sheldon explained that this may be accomplished by including a section which would permit development within the 400 foot radius of the wells if it is determined by an expert (ie. soils scientist, hydrologist) that there will be no adverse environmental impact as the result of the proposal.

Mr. Galt stated that since money for the aquisition of the land around the wells has been included in the proposed CIP, the restriction of development within the four hundred foot radius should remain as it is since the intent of it is good.

Mr. Sheldon explained that the four properties around the City-owned well which are not currently owned by the City are currently being surveyed. He noted that while this is a positive step toward purchasing the land, in his opinion the ordinance should not be forwarded to the City Council in the form that it is.

Mr. Maglaras suggested that the Board pass the amendment to the Council as it is, as well as to remind the Council of the option to provide funding for land aquisition.

Mr. Bouchard stated that he believes that the amendment should be forwarded to the Council as it is, so that well site protection

DOVER PLANNING BOARD
March 12, 1985
Page 9 ...

can begin to be enforced.

Mr. Preston stated that State statues provide an opportunity for a City to take land around its well sites if it is so ordered by WSPCC.

Mr. Sheldon reiterated his concerns regarding the current form of the amendment. He read the excerpts from the letter received from the City Attorney in which he expresses his belief that the ordinance may be found to be unconsitutional. Mr. Sheldon requested that the Board respect the opinion of the City Attorney in this matter.

Mr. Bouchard reminded the Board that the State has indicated to his department that the City must seek to regulate that land within 400 feet of the municipal wells.

Mr. Williams expressed his belief that the amendment should remain as it is. He suggested that while the City is in the process of negotiating the land acquisition, the ordinance will deter development in the well site areas.

Mr. Sheldon reiterated his support for the determination made by the City Attorney.

Mr. Steele stated that he has contacted all the property owners within a four hundred foot radius of the wells and has received permission from each of them for the survey of the property by the City. He stated that this indicates that the City is willing to provide just compensation for the land involved. He suggested that the affected property owners may not challenge the ordinance if they are aware of the fact that the City wishes to purchase the land.

Mr. Preston stated that he would like to see the ordinance sent to the Council as it is.

In response to a question from Mr. Galt, Mr. Steele stated that he was not uncomfortable with the ordinance as it stands. Mr. Steele suggested that the Council's Ordinance Committee has the option to amend the ordinance before sending it to the full

DOVER PLANNING BOARD
March 12, 1985
Page 10 ...

council for a vote.

Moved by Mr. Williams, seconded by Mr. Elder to forward the Well Site Protection Amendment to the City Council in its present form.

Mr. Galt requested that the City Attorney's comments be forwarded as well.

Vote on motion: U.A.

Mr. Maglaras wished to appear on record as opposed to this action.

2) Review of the site review applications . . .

Mr. Preston raised concerns regarding his ability to participate in this discussion since he was not on the Board when most of the applications were approved by the Site Review Screening Committee.

Mr. Sheldon explained that the Dover Site Review Ordinance was patterned after a similar ordinance in Portsmouth which was challenged in Rockingham Superior Court last fall. He noted that in that case the judge ruled that State statutes do not permit a the Planning Board to delegate its powers to the Site Review Screening Committee. The City Attorney has suggested that the Board ratify decisions made by the SRSC, in an effort to comply with orders given to Portsmouth officials.

Mr. Williams suggested that he considers some of the applications approved by the SRSC to be "quite substantial". He specifically noted the rebuilding of Newick's Restaurant on the Dover Point Road.

Mr. Sheldon reviewed the history of that particular decision. He explained that the City Attorney had at that time advised him that the Building Inspector had the authority to determine the impact on the conservation district by using the flood hazard maps. Mr. Selleck made the decision to permit the rebuilding of the structure based on the City Attorney's input. Mr. Sheldon

DOVER PLANNING BOARD
March 12, 1985
Page 11 ...

noted that the restaurant meets the parking requirements outlined in the Zoning Ordinance.

Mr. Williams stated his concerns regarding the amount of dust generated by the parking facilities.

In response to a comment by Mr. Weisner, Mr. Maglaras clarified Mr. Williams' concerns.

Moved by Mr. Bouchard, seconded by Ms. Faria to ratify those site review applications determined by the Site Review Screening Committee to have no adverse impact on the site or immediate locale: 1980-1984.

Mr. Galt expressed his desire to abstain from the vote since he has been a member of the Board only since January of 1984. Mr. Maglaras reminded members of the Board that the by-laws indicate that a member may abstain only if there is a potential conflict-of-interest.

Mr. Williams requested that each application be explained by Mr. Sheldon and that a listing of all waivers granted be indicated.

Mr. Sheldon explained the theory of estoppel: the Planning Board's ratification of the applications under consideration would merely indicate that the Board believes that the SRSC had acted in good faith when making its decisions.

Mr. Williams restated his request for a case-by-case review of the applications.

Mr. Steele moved the question.

Vote to limit debate: U.A.

Vote on motion: 3-4-1 (Preston, Williams, Galt, Weisner). Mr. Elder abstained, claiming a conflict-of-interest.

Mr. Galt noted that the Chair did not follow proper procedure when taking the vote on the motion, as no alternate was assigned to take the place of Mr. Elder.

DOVER PLANNING BOARD
March 12, 1985
Page 12 ...

Mr. Maglaras requested Mr. Seaver to take Mr. Elder's place on the Board.

For the benefit of Mr. Seaver, Mr. Maglaras and Mr. Sheldon restated the issues before the Board.

Mr. Bouchard requested that his motion be withdrawn since he is a member of the SRSC. Upon this suggestion, Ms. Faria withdrew her second and then made the motion. Mr. Bouchard then seconded the motion.

Mr. Williams again stated that he would like an explanation of each application.

Mr. Bouchard and Mr. Sheldon noted that any member may review all the applications in the Planning Office. The files are readily available and have been since this item first appeared on the agenda.

Ms. Faria asked the Board members if they agreed with the theory of estoppel.

Mr. Sheldon reiterated the fact that the ordinance had empowered the SRSC to make determinations of impact and that the Committee had acted in good faith when doing so.

In response to a question from Mr. Weisner regarding the personal liability of Planning Board members for an action by the group, Mr. Steele indicated that the City maintains insurance against this type of lawsuit.

Ms. Faria stated that she believed that the SRSC had acted in good faith.

In response to a question from Mr. Preston, Mr. Sheldon stated that all applications are now being forwarded to the Planning Board and that the SRSC is not taking any actions other than offering the Board its recommendations.

Mr. Galt stated that he has no problem with the concept that the SCSC acted in good faith.

Vote on motion: 5-2 (Williams, Galt)

Mr. Elder returned to his position on the Board.

1) Review of the proposed Capital Improvements Program . . .

In response to a question from Mr. Galt, Mr. Steele indicated that the operating budget has been revised to include funding for additional personnel in the Engineering Department. Aerial photography will be funded out of the water/sewer budget.

The Board examined the CIP on a department by department basis in order to clarify the priorities for 1985-86 as set by the Department Heads. After completing this listing of the items, the Board proceeded to vote on each request. The outcome was as follows:

ARENA DEPARTMENT

- | | |
|-----------------------------|--------|
| 1) Insulation of main Arena | 60,000 |
| APPROVED: 7-2 | |

CITY HALL

- | | |
|---|--------|
| 1) Emergency Lighting | 16,000 |
| - Exit Signs with Backup | 2,000 |
| - Fire Alarm System - 4 Zone with Backup | 10,000 |
| - Heat & Smoke Detectors to Fire Alarm Systems | 12,000 |
| - Fire Extinguishers - Halon | 600 |
| - Bring Wire to Code | 2,000 |
| - Increase Fire extinguishers | 400 |
| - Public Address System - Auditorium | 2,000 |
| APPROVED: U.A. | |

FIRE DEPARTMENT

- | | |
|---|--------|
| 1) Study for Expansion of South End Station & North End Station | 35,000 |
| APPROVED: 5-3-1 | |
| 2) Para-Medic Cardiac Care | 35,000 |

Ambulance Service
APPROVED: 8-1

LIBRARY

- | | |
|---|---------|
| 1) Construction costs for 5,400 square feet on two levels and renovation of Children's area and installation of air conditioner | 361,900 |
| - Architectural and Engineering fees | 35,600 |
| - Construction Administration | 10,500 |
- APPROVED: 8-1

PARKS & RECREATION DEPARTMENT

- | | |
|---|---------|
| 1) Indoor Pool Dehumidization/ Heating | 100,000 |
|---|---------|
- APPROVED: 7-2
- | | |
|---|----------|
| 2) Study to determine need for land acquisition for future development of outdoor recreational facilities. | [30,000] |
|---|----------|
- DENIED: 1-8

POLICE DEPARTMENT

- | | |
|---|--------|
| 1) Police Headquarters renovation, Second Phase, exclusive of Laboratory & Cell Block areas. | 45,000 |
| 2) Computer System | 35,000 |
- APPROVED: 7-2

PUBLIC WORKS DEPARTMENT

- | | |
|---|---------|
| 1) Watson Road Bridge (Previously Allocated) | 235,000 |
| 2) Vehicle Replacement | 80,000 |
- APPROVED: U.A.
- | | |
|---|--------|
| 3) Replacement of all street lights (3 year program) | 90,000 |
|---|--------|
- APPROVED: U.A.
- | | |
|---------------------------|--------|
| 4) Reconstruct Locust St. | 18,000 |
|---------------------------|--------|

- from Hale to Washington (620')
APPROVED: U.A.
- 5) Pave Central Avenue from RR [42,000]
to Oak Street (3200' x 50')
WITHDRAWN: 6-3
- 6) Reconstruction of Fourth [25,000]
St. Intersection
DENIED: 3-5

PUBLIC WORKS DEPARTMENT
Curbs and Sidewalks Program

- 1) Garrison Road - Back River 50,000
Road to School
APPROVED: 6-3

PUBLIC WORKS DEPARTMENT
Sewer Department

- 1) Varney St. to Oak St. 35,000
1000' 8" sewer @ \$35/ft
- 2) Portland Ave. (near Essex 22,750
St. and near St. John St.)
650' 8" sewer @ \$35/ft
- 3) Broadway (near Fire Station) 14,000
400' 8" sewer @ \$35/ft
APPROVED: U.A.

PUBLIC WORKS DEPARTMENT
Storm Drains

- 1) Drainage on Prospect St. 32,000
800' of 12" @ \$40/ft
APPROVED: 7-2

PUBLIC WORKS DEPARTMENT
Water Department

- Cleaning and Lining of Water Mains
- 1) Water Main from Ascension 600,000
Ave. (Abbey Sawyer Memorial
Drive) to Silver St. and
to Arch St.
- 2) Land Acquisition 100,000
- 3) Leak Detection 20,000

APPROVED: U.A.

SCHOOL DEPARTMENT

- | | |
|--|-----------|
| 1) Dover Junior High School School Boiler APPROVED: U.A. | 70,000 |
| 2) Woodman Park School - Replace Gym Floor APPROVED: U.A. | 35,000 |
| 3) Dover Junior High - Athletic Fields including tennis courts and track repairs WITHDRAWN: Determined to be premature | [155,000] |
| 4) Dover High School - Athletic field APPROVED: U.A. | 100,000 |
| 5) Dover High School - Greenhouse Boiler APPROVED: U.A. | 5,000 |
| 6) Woodman Park School - 11 double doors and 6 single doors APPROVED: 6-3 | 24,200 |
| 7) Woodman Park School- Hot Water Heater APPROVED: U.A. | 10,000 |
| 8) Woodman Park School - Caulk Exterior Windows APPROVED: U.A. | 10,000 |
| 9) Replace Incandescent Lighting APPROVED: U.A. | 30,800 |

SUMMARY

| | |
|-----------------|---------|
| Arena | 60,000 |
| City Hall | 45,000 |
| Fire Department | 70,000 |
| Library | 408,000 |

DOVER PLANNING BOARD
March 12, 1985
Page 17 ...

| | |
|------------------------|--------------|
| Parks & Recreation | 100,000 |
| Police | 80,000 |
| Public Works | 423,000 |
| P.W. Curbs & Sidewalks | 50,000 |
| Public Works Sewer | 71,750 * |
| P.W. Storm Drain | 32,000 |
| P.W. Water | 720,000 & |
| School Department | 285,000 # |
| GRAND TOTAL | \$ 2,344,750 |

| | | | |
|-----------|---|----|-----------|
| * Sewer | = | \$ | 71,750 |
| & Water | = | \$ | 720,000 |
| # School | = | \$ | 285,000 |
| Municipal | = | \$ | 1,268,000 |

These recommendations will be forwarded to the City Council.

ITEM #6: New Business

- 1) Approval of the minutes of the regularly scheduled meeting held on February 25, 1985.

Moved by Mr. Weisner, seconded by Mr. Elder to approve the minutes as submitted.

In response to a question from Mr. Williams, the Board determined that a waiver of the curbing requirement, relative to the street construction for the major subdivision of land of Matt & Helen Williams, was not granted at the time of the approval of the application.

Vote on motion: U.A.

Moved by Ms. Faria, seconded by Weisner to adjourn at 9:40 p.m.