

DOVER PLANNING BOARD  
MINUTES OF MEETING

Held: November 26, 1985  
Council Chambers  
Dover, N.H.

Members Present: George Maglaras-Chairman, Harold Preston, J. Andrew Galt, Craig Williams, Robert Seaver, Reynold Perry, Pierre Bouchard, Les Elder (assumed position on Board at the beginning of the discussion on Convenient Med Care proposal).

Also Present: Richard Selleck-Acting Planning Director, Berrie Donovan-Recording Secretary, Scott Woodman-City Attorney.

ITEM #1: Public hearing on site review of land owned by Raymond Hennessey (applicant: A. Lipson, Inc.), Assessor's Map 31, lot 4A, zoned RM-8, at 69 Fifth Street.

Steven Morrison, Attorney representing A. Lipson, Inc., explained the site review. He noted that the Zoning Board of Adjustment has granted Mr. Hennessey a variance to expand the non-conforming structure and non-conforming use on his property. Attorney Morrison explained that the proposal is to add a refrigeration unit to the existing building.

Mr. Maglaras inquired as to whether there are any plans for future expansion to which Attorney Morrison responded that there are none at present.

In response to a question from Mr. Seaver regarding trucks currently located on the property, Attorney Morrison indicated that the refrigeration unit will replace the trucks, and the trucks will be removed.

Public hearing opened: no comment.  
Public hearing closed.

Mr. Maglaras explained that a Building Permit cannot be obtained until the twenty day appeal period for the Zoning Board of Adjustment has passed.

Mr. Preston noted that there is no seal of a licensed land surveyor on the plan.

Mr. Maglaras stated that a reference can be noted on the mylar to a surveyed plan.

Mr. Galt inquired as to whether the existing building is built on the Boston and Maine Railroad property.

Mr. Hennessey stated that it is right on the property line.

Mr. Seaver motioned to approve the application for site review subject to reference on the mylar to a survey, future addition removed from the mylar, and a seal.

Mr. Galt mentioned the additional provision that no building permit can be issued until the twenty day appeal period of the Zoning Board of Adjustment is observed.

Attorney Morrison explained that the Building Inspector has agreed to issue a permit at the applicant's risk due to the fact that construction should begin as soon as possible. Attorney Morrison stated that the applicant is willing to take the risk that the ZBA's decision may be overturned.

Mr. Maglaras insisted that the applicant state in a letter the fact that he holds the City harmless in the event the ZBA decision is overturned, and stated that it is the policy of the Board to observe the twenty day appeal period of the ZBA by not approving building permits on applications involved.

Mr. Seaver's motion was seconded by Mr. Williams.

Vote: 6-0

Mr. Maglaras asked the Board's indulgence to bring up Item #4, New Business, before acting on Item #3, Old Business. No objection.

#### Item #4: New Business

1) Request for a Driveway Waiver on land owned by Norm Champagne, Assessor's Map 9, lot 90, zoned O, at 13 Church Street.

Norman Champagne explained that he would like to asphalt a 20 foot by 20 foot area to park two cars because he registers four

vehicles and needs to get them off the street.

Mr. Maglaras noted that the applicant is before the Planning Board because two driveways are not permitted on the same lot.

Mr. Galt moved to grant. Mr. Preston seconded.

Vote: 5-0 (Mr. Bouchard did not vote)

### Item #3: Old Business

Mr. Elder assumed his seat on the Board at this point.

Mr. Maglaras asked the Board's indulgence to bring up other Old Business before acting on Items number 1 and 2. No objection.

3) Public hearing on site review of land owned by Richard Payeur, Susan Beaulieu, Louise Osborne, and Denise Payeur (applicant: Convenient Med Care Partners), Assessor's Map 37, lot 37, zoned O on the corner of Glenwood and Central Avenues.

Mr. Williams stepped down from his position on the Board for this item to avoid a possible conflict of interest.

Malcolm MacNeil, Attorney representing both the property owners and the developers, explained the developer's three alternatives to the entrance/exit on the site:

1. Site Review Screening Committee's alternative: extension of the island and a cut in the island for a left hand turn effectively prohibiting a left hand exit out onto Glenwood Avenue.

2. The initial proposal submitted by the developer, of a cutback of the island and modification of the island, narrowing it.

3. Take land in vicinity of a five foot strip off the City owned land in front of the Ouellette, Hallisey Law Office to expand the areas available for vehicles in increased avoidance with regard to providing adequate access around a vehicle turning left, stopped to turn into Convenient Med Care.

Mr. MacNeil proposed a new alternative: the island would stay at its existing length with a cut in the island and narrowing of

the island up to the cut for economic and engineering reasons.

In addition, the developer would like to be allowed 18 to 24 months to see if the design works. If it doesn't work the developer asks to be allowed the five foot cut on the other side of the road and thereby wipe out the island and revert back to the cut initially proposed.

Mr. MacNeil asked for an approval based on Mr. Stevens' and Mr. Bouchard's approval of the site plan, not having to come before the department heads again.

Mr. Maglaras explained the policy of having all changes in plans revert back to the SRSC rather than the department heads.

Mr. Bouchard disagreed with allowing the applicant the 18 to 24 months to see if the design works.

Mr. MacNeil asked for approval of one of the proposals or discussion of any other.

Mr. R. Perry expressed concern over having the developer make the final decision rather than the City, where two different viewpoints are involved.

Mr. Seaver recommended leaving the decision up to the City Council; Mr. Maglaras stated that this is a Planning Board Decision.

Mr. Galt stated that he would be against a plan which would route more traffic onto Central Avenue, and would be for the last suggestion made by Attorney MacNeil.

Mr. Bouchard inquired as to what the Police Department wanted in the way of an entrance/exit.

Mr. Maglaras responded by stating that their suggestion was that adopted by the SRSC.

Attorney MacNeil explained the four proposals once again.

Mr. Perry suggested painting in a merging line to the left upon exiting the site which would create a third lane heading south on Glenwood Avenue.

Mr. Maglaras stated that the Planning Board has set a precedent with the Vittands and Koutrelakos applications by setting up

signage prohibiting left hand turns and that the SRSC has serious concerns in allowing a left hand turn.

Mr. Maglaras asked if the Planning Board had any objections to approving the application subject to conditions. There were no objections.

Mr. Maglaras noted that the Chair would entertain a motion to divide the question; that of approval of the plan based on the SRSC recommendations and the change depicted on the plan in front of the members) if there were grave objections to the plan.

Mr. Preston motioned to approve the plan subject to the SRSC reports and Phase II of the plan.

Attorney MacNeil requested clarification of the SRSC report with regard to the exit/entrance.

Mr. Preston read the SRSC report dated November 19, 1985.

Attorney MacNeil stated that the SRSC report is inconsistent with the Phase II plan.

Mr. Maglaras stated that the Planning Board's approval of the Phase II plan negates that suggested in the SRSC report.

Mr. Preston noted that he went to the Courthouse to find the deed reference on the plan and there was none (Book 974 page 280).

Mr. Maglaras stated that that problem could be resolved.

Mr. Preston explained Phase II as widening the road, putting another lane on City property, shorten the island, and appropriate pavement marking to show the merging lane.

Motion to approve was modified to read: approval based on what Planning Board has in front of them known as Phase II, to have appropriate marking on the merging lane, widen the road in accordance with the plan, adjustment or relocation of any catch basins. seconded by Mr. Elder.

Mr. Elder questioned if there would be any left hand restriction whatsoever.

Mr. Maglaras stated that there is none.

Mr. Seaver amended the motion to read that there should be signage on the exit of the site to prohibit a left-hand turn. Mr. Elder seconded.

Mr. Perry stated that a conflict exists with a merge for a left hand turn and prohibition of a left-hand turn.

Mr. Seaver stated that he is against a left-hand turn as the snow will cover up the markings on the road and a safety hazard exists.

Vote on amendment: 3-3 (Elder, Seaver, Galt)  
Mr. Maglaras voted yes to break the tie. The amendment passed, 4-3.

Mr. Galt asked if the signage would be private, to which Mr. Maglaras stated that it would.

Attorney MacNeil stated that his clients would rather have the island extended because with the motion as it stands they would put money into construction for a left hand turn that will be prohibited.

Vote on main motion as amended: 5-1 (Galt)

Mr. Elder motioned to reconsider. Mr. Perry seconded.

Vote: 4-1 (Seaver)

Mr. Seaver stated his position that the widening of Glenwood Avenue is not to create a left hand turn upon exit of the site, but to facilitate traffic flow for those turning onto Glenwood from Central Avenue. Mr. Seaver indicated that the Planning Board should not have to bend over backwards to come up with a situation to allow one car, or twenty percent of the traffic exiting the proposed site to go south on Glenwood Avenue.

Mr. R. Perry motioned to amend the motion to delete the signage for a left-hand turn. Mr. Elder seconded.

Mr. R. Perry explained his position that with the originally he was against the left-hand turn, but with the current proposal of widening the road and providing a merging lane the safety issue may be resolved.

Mr. Maglaras stated that if the approved plan does not work out

for safety reasons, the City Council, through recommendations of the Police Chief can pass an ordinance prohibiting left hand turns on this and all parcels along the westerly side of Central Avenue to Ash Street.

Mr. Seaver noted that just because signs prohibiting left-hand turns are not posted by ordinance does not mean they should be taken lightly.

Mr. Bouchard noted that every time a sign is removed, his Department is required to repost the signs.

Mr. Maglaras noted that those signs are allowed by ordinance and the last four the Planning Board has required are not by ordinance and are not enforceable.

Mr. Preston motioned to move the question. Mr. Elder seconded.

Vote: U/A

Vote on amendment by Mr. R. Perry: 4-2 (Bouchard, Seaver)

Vote on amended motion: 3-3 (Elder, Seaver, Galt)  
Mr. Maglaras voted yes; final vote, 4-3

The Chair declared a one minute recess.

- 2) Discussion of Demosthenes vs. City of Dover.
- 3) Discussion of Elliott Rose vs. City of Dover.

Attorney MacNeil explained that the plaintiff in the Tapscott issue is Elliott Rose Company, that where Craig Williams has an interest in Elliott Rose Company and as an interested party in a pending case he recommends Mr. Williams not sit on the Board when it considers this case. He also noted that Mr. Preston is also involved in the case and is an owner in the abutting property and the case should be treated consistently.

Mr. Preston explained that he is named in the Elliott Rose Company case and feels that the case should be considered openly.

City Attorney Scott Woodman stated that he felt the Planning Board could be consistent in asking that Craig Williams not participate in the Elliott Rose discussion because he is an

actual party involved.

Attorney Woodman stated that he would rather discuss both cases in executive session.

Mr. Bouchard motioned to move into executive session on the Demosthenes vs. the City of Dover discussion. Seconded by Mr. Elder.

Vote: 6-2 (Williams, Preston)

As a courtesy to the press and Attorney MacNeil, Mr. Maglaras entertained a motion to go into executive session for discussion on the Elliott Rose case.

Mr. Elder motioned to move into executive session on the Elliott Rose vs. the City of Dover discussion. Mr. Bouchard seconded.

Vote: 6-1 (Preston) Williams abstained.

The Planning Board voted to suppress the minutes of executive session.

#### Approval of Minutes:

##### 1) Minutes of August 27, 1985.

Mr. Seaver motioned to approve. Mr. Elder seconded.  
Vote: 6-0 (Perry abstained)

##### 2) Minutes of September 10, 1985.

Mr. Williams motioned to approve. Mr. Elder seconded.  
Vote: 6-0 (Perry abstained)

##### 3) Minutes of September 24, 1985.

Item #2: Old Business - 2) Dumont; motion to approve should include a revised lighting plan.

Mr. Galt motioned to approve minutes as amended. Mr. Bouchard seconded.  
Vote: 6-0 (Perry abstained)

##### 4) Minutes of October 8, 1985.

Mr. Galt motioned to table pending replay of tape. Mr. Elder seconded.

Vote: 6-0 (Perry abstained)

5) Minutes of October 22, 1985.

Page 2: Kimball-Chase, not Kimball-Davis

Mr. Galt motioned to approve. Mr. Seaver seconded.

6) Minutes of October 29, 1985.

Mr. Galt motioned to table pending replay of tape. Mr. Seaver seconded.

Vote: 6-0 (Perry)