

DOVER PLANNING BOARD
MINUTES OF MEETING

Held: December 17, 1985
Council Chambers
Municipal Building
Dover, NH

Members Present: George Maglaras-Chairman, Harold Preston, J. Andrew Galt, Pierre Bouchard, Craig Williams, Reynold Perry, Robert Weisner.

Alternates Present: Nancy Sousane

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

Mr. Maglaras called the meeting to order at 7:10 P.M.

1. Public Hearing to amend chapter 170 of the code of Dover, entitled Zoning, by amending the Applicability of Table of Dimensional Regulations (170-16). The purpose of the amendment is to delete the Front and Abut a Street Side Yard Setback Requirements and substitute the following:

CWD Building Setbacks:

Front:

0-15¹²

Side Yard Abutting a Street:

0-15¹² feet

12

The Planning Board will determine on a site by site basis to ensure conformity to adjacent properties and/or take into consideration unique site configuration.

Mr. Maglaras stepped down from his position; Harold Preston assumed position as Chairman for all three public hearings.

Public Hearing opened:

Robert Mears, property owner in the CWD, spoke in favor of the proposed change.

Tom Duffy, City Council Member, stated that Front and Side Yard Abutting a Street setbacks are usually the same and one should not be adopted without the other. He stated that the roadway is

a problem, and until the City Council acquires the property to widen the street, these changes should be postponed.

Lloyd Plummer, Lexington Street, stated that there is no traffic problem as the street currently exists. He noted that no changes in the setbacks have been made over the years and the area is due for some.

John Lambert, 67 Portland Avenue, stated that the setbacks should be arranged to avoid deterioration of land, to leave the area in an aesthetically pleasing way and a pathway might be established along the river.

Kerry Forbes, Longhill Road, spoke in favor. He stated that he was on the Planning Board when the current setbacks were approved, was against them as unreasonable restrictions, and as long as the Planning Board maintains some control the proposed changes would work.

James McAdams, 7 Riverside Drive (Council Member), questioned the rationale behind no sideyard setbacks.

Mr. Preston explained that parking would be under the building and that you cannot have 25 foot setbacks on a 50 foot lot.

Mr. McAdams stated that there is no need to build on every lot in Dover and expressed concern for traffic problems in the area.

Mr. Preston noted that any plan submitted to the Planning Board will have to provide parking and the Board would cover traffic problems.

Mr. Bouchard noted that old blueprints show a 50 foot right of way in front of George Maglaras' property.

Anthony McManus, stated that the Planning Board should discourage development and protect the area as a natural resource maintained for public use. He noted that it is not the roll of the Planning Board to enable landowners to maximize their investment, and reiterated the fact that if the area is to be developed similarly to that of the Ceres Street/Bow Street area, there are setback requirements there.

Mr. Plummer stated that the City owns land on the opposite side of the River that could be used for the public, and that private landowners should not be penalized.

Mr. Preston showed the public the Cocheco Waterfront District on a map and explained that it is approximately 3,000 feet long.

Mr. Duffy inquired as to why footnote number 12 is only for front and sideyard abutting a street setbacks, and why it should not include the entire Table of Dimensional Regulations.

George Maglaras, speaking as a member of the public, explained that only one building now meets the requirements. Cocheco Street is developable now, but can only provide one style. Zoning Board of Adjustment requirements must be met; there is no flexibility. Historically, no development has taken place in the Cocheco Waterfront District in the past 50 years.

Jim Breshin, Sixth Street, questioned what in the changes are assuring good planning and quality development.

Mr. Mears asked what the Rist-Frost report recommended in the form of setbacks, to which Mr. Maglaras responded that no sideyard setbacks were recommended, and a 10 foot front setback was recommended.

Kevin McEneaney, surveyor in Dover, compared the district with those in Newburyport and Portsmouth and noted that minimal setbacks are required in those two areas.

Wilfred Legasse, School Street, requested that sideyard setbacks be maintained to allow access to the river.

Mr. Preston noted that the area used to be wall to wall buildings running from the River to the road, and was the original business district.

Kerry Forbes noted that waterfront development in Portsmouth sparked redevelopment downtown, something downtown Dover could use.

Mr. Duffy agreed with Mr. Forbes stating that downtown Dover should be utilized, but not compared with Portsmouth's waterfront as there are no new buildings there.

John Lambert stressed that the legal layout of Cocheco Street needs to be determined before anything can be done about development.

Mr. Maglaras noted that Young, Water and Washington Streets in the CWD are not buildable because all existing buildings are

within five feet of the road.

Public Hearing closed.

Mr. Preston polled the Board members to see if there was any objection to holding all three public hearings before Board discussion.

No objection.

2. Public Hearing to amend Chapter 170 of the Code of Dover, entitled Zoning, by amending the Conservation District (170-27). The purpose of the amendment is to revise the Conservation District to reflect the following:

Delete Section 170-27-C(3).

Add Section 170-27-F to read:

The provisions of the Conservation District adopted herein shall not be binding on Cocheco waterfront lots located in the B-2, UMUD, CWD zoning districts provided any proposed development actively integrates and makes use of the Cocheco River waterfront resource.

Public Hearing opened:

John Lambert, 67 Portland Avenue, spoke against the proposal.

Mr. Seaver explained that the CD would not be eliminated from the whole City, only from the CWD...3,000 feet.

Mr. Maglaras explained that the change in language makes the CD non-binding in the CWD, UMUD and B-2, not requiring a special exception in the CWD as it does now.

Skip Thomits, Chairman of the Conservation Commission, was in favor of the change noting that the CD is being expanded in environmentally sensitive areas only.

Tom Duffy, Councilman, spoke in favor of the change noting that other areas integrate with the water resource in the form of walkways, bay windows, etc.

Mr. Preston noted a decision by the City Attorney stating that if City water and sewer are available, building may take place in the CD.

Kerry Forbes spoke in favor noting that if the CD was in effect 50 years ago, there would be no Dover, and that the CD makes no sense in a business section.

3. Public Hearing to amend Chapter 170 of the Code of Dover, entitled Zoning, by amending the Applicability of Table of Use Regulation, Table I: Principle Uses, Part A (170-12), the purpose of which is to amend note number twelve (12) to read as follows:

12

Provided that the lots contains at least 600 square feet for each dwelling unit. Open space standards for multifamily development shall be set at 200 square feet of land area per development.

Harold Preston explained that 600 square feet is all that is currently required in the UMUD and B-2 districts.

Mr. Maglaras noted that the wording in this note was approved in 1983, the only change would be in the amount of square footage (currently 1,000 square feet) required in the lot per unit.

Mr. Galt questioned the 200 square feet of land per "development" to which Mr. Maglaras again noted that that is how it is currently worded.

Mr. Duffy spoke against, stating that the CWD should not be equated with UMUD.

Mr. Forbes spoke against, stating that 1,000 feet is necessary to encourage developers. He also stated that 600 square feet would encourage high rise development not in keeping with the area.

Mr. McAdams noted that a 200 square foot area is small, only 10 feet by 20 feet.

Mr. Maglaras noted that there is a typographical mistake in the footnote and that it should read "provided the lot contain at least 600 square feet of land area per dwelling unit" as it now states.

Mr. Duffy questioned if "and that each dwelling unit contains at least six hundred (600) square feet of gross floor area" (its omission) was also a typographical mistake.

Mr. Maglaras noted that that was supposed to remain in the footnote, and that it was improperly advertised.

Mr. Preston closed the Public Hearing.

Mr. Galt stated his opposition to requiring a 25 foot setback in the CWD. He noted that to go to "0" setback may be detrimental to the City in the future if it is necessary for the City to take land. He proposed 10-15, or 10-25 foot front yard setbacks. He suggested waiting for a full time Planning Director to look at the changes. He suggested the rear setbacks be examined, approaching the water.

Mr. Williams suggested adding that "in no case can the building be within 25 feet of the center line of the road", and that any kind of construction within 15 feet of the road must have Planning Board approval.

Mr. Preston noted that the configuration of the road is in question. He showed the audience some early pictures which showed the close proximity of the buildings to the water and to each other.

Mr. Seaver took exception to Public comments on the lack of Planning Board consideration of environmental protection. He noted that presently the Board is working on extending the Conservation District. He noted that Planning Board approval on a site by site basis is the key to good planning in the CWD. He noted that access to the waterfront in that area would be at the

owner's convenience. He felt that 0-15 foot setbacks is a step in the right direction.

Mr. R. Perry noted that with 0-15 foot setbacks some set of criteria must be developed. Otherwise equitable treatment is difficult. He noted that he preferred not to vote this evening, and if he had to, would vote "no", needing more information. On Item #2, Mr. Perry stated he would rather have the Planning Board than the Zoning Board of Adjustment make a judgement, but has trouble with "actively integrates" and suggested more criteria for that phrase. He noted he would probably vote "yes" on item #2. Mr. Perry stated he would vote "no" tonight on Item #3 as he required more information.

Mr. Bouchard stated that changes are necessary in the CWD, that Planning Board approval on a site by site basis was a good solution, and that 25 foot setbacks are too much.

Mr. Maglaras asked to speak; no objection from Board members.

Mr. Maglaras referred to a professional opinion from a planner in the \$25,000 Rist-Frost report. He noted that the report recommended removing the Conservation District from the CWD, and no more than ten foot setbacks.

Mr. Galt motioned to pass this zoning amendment to the City Council. Mr. Bouchard seconded.

Mr. Galt proposed an amendment to change the front and sideyard abutting a street setbacks to 10 feet. Mr. Bouchard seconded.

Mr. R. Perry agreed that 25 foot setbacks are too much for the area but expressed concern that procedurally and legally, criteria should be set to implement the changes.

Mr. Bouchard stated that he would like to see the Planning Board be able to waive the 10 foot setbacks, but expressed concern that the Planning Board would automatically waive as is now done with Driveway waivers. He agreed with having some criteria to waive.

Mr. Maglaras asked to speak again; no objection from the Board.

Mr. Maglaras noted that requirements should be in the Site Review Ordinance.

Mr. Galt noted that it was not the intent of his amendment to

change from 0-15 or 0-10, but if the Board is to take any action at all tonite, it will take the City Council two months to act. He stated that the intent of his amendment was to prompt the Board to take action now. He stated that if no action is taken, he will withdraw the motion and amendment and move that it be tabled.

Mr. Seaver expressed his opinion that the setbacks be left the way they are proposed, and that site by site inspection by the Planning Board is the best procedure for this district.

Mr. Preston read the main motion by Mr. Galt to be: approve with front setbacks of 0-15 feet. He read the amendment to be: ten feet.

Mr. Perry again stressed for some criteria in the amendment whether it be in the Site Review Ordinance or in other ways. He suggested tabling the amendment.

Vote on amendment: Galt=yes, Bouchard=no, Sousane=no, Williams=no, R. Perry=no, Seaver=no. 1-5

Mr. Galt motioned to table the main motion of 0-15 feet. Mr. Elder seconded.

Vote: 5-1 (Bouchard)

Mr. Seaver motioned to reconsider. Mr. Elder seconded.

Mr. Seaver explained that the Planning Board has discussed this issue for months and that the recommendations presented this evening are those decided upon. The development of criteria brings on too many interpretations.

Mr. Bouchard withdrew his second to the motion to reconsider.

No second to the motion to reconsider.

Mr. Maglaras asked the Planning Board if it is its intent to consider these changes.

Mr. Perry indicated that changes need to be made, but with criteria to back up decisions.

Mr. Williams expressed concern over a sidewalk and access and egress to the properties.

Mr. Galt suggested a road survey be done, and that these zoning changes be referred to the Acting Planning Director.

Mr. Seaver motioned to approve the proposed changes in Item #2. Mr. Galt seconded.

Vote: 6-0

Mr. Seaver motioned to table Item #3. Mr. Williams seconded.

Vote: 6-1 (Elder)

Mr. Maglaras assumed the Chairman's position.

Mr. Maglaras declared a one-minute recess.

Item #4: Old Business.

1. Forbes site review on Mast Road Extension (Davis Farm)

Mr. Maglaras explained that in order for the State to review Mr. Forbes' application, they wish to have an indication from the Planning Board as to how they feel about it. Mr. Maglaras noted that the Site Review Screening Committee has worked with Mr. Forbes and worked out all the problems. He explained that preliminary approval would enable the State to go over the necessary approvals and Mr. Forbes would come back to the Planning Board when permits have been granted, allowing the Public to comment on the State approvals.

In response to Mr. Seaver's question on the recommendations of the Site Review Screening Committee, Mr. Maglaras stated the following:

1. A landscaping plan should be submitted. Mr. Maglaras noted that it has been submitted to the Planning Office.
2. Cul-de-sac. Site Review Screening Committee recommends that the cul-de-sac not be used; no safety problems involved.
3. A three foot minimum cover should be noted. Applicant has agreed to this requirement.
4. Sewer profile between manhole 8 and manhole 9 must be altered to provide a minimum of four inches of separation between the sewer line and bottom of the gully. Applicant has agreed to comply.

Mr. Seaver stated that policy stated that he has not had time to

review a plan, and would like a chance to do so.

Mr. Maglaras noted that only minor changes have been recommended by the SRSC, that the Planning Board has recessed the Public Hearing.

Mr. Seaver noted that because of the holidays, he would be willing to relax his position.

Kerry Forbes, applicant, explained that his assumption was that the public hearing was closed to receive a report from the SRSC and that when the report was received, the public hearing would be reopened. He stated his understanding is that the public hearing has not been reopened because there is some reluctance on the part of the State Wetlands Board to review plans not having final approval. He noted that he wanted proper procedure to be followed in order not to jeopardize his project.

Mr. Maglaras noted that Mr. Forbes is in a "catch 22" situation, and the Planning Board should act; he suggested suspending the rules in order to protect the applicant from any further ramifications.

Mr. R. Perry noted that the Planning Board can pass a motion that they have reviewed the plan and the applicant has complied with all criteria, rather than grant preliminary approval.

In response to a question from Mr. Galt, Mr. Forbes indicated he would install sprinkler systems in the buildings.

Mr. Maglaras noted that he specifically told residents in the area that when the public hearing was reconvened he would publish it in the papers and that is the reason he is reluctant to reconvene the public hearing this evening. Preliminary approval, he stated, would be on concept for permits only.

Mr. Bouchard motioned to grant preliminary approval to the site review for the purpose of obtaining State permits only. Mr. Seaver seconded.

Vote: U/A

Mr. Bouchard noted that City permits are in addition to the State permits.

2. Preliminary discussion by Kevin McEneaney of major

subdivision on Tolend Road.

Kevin McEneaney presented the Board with plans for the subdivision and explained the seven lot subdivision.

Mr. Elder noted a problem with road access from French Cross Road.

Mr. McEneaney explained that the SRSC recommended that the ideal position for access would be directly opposite the intersection.

Mr. Preston questioned the provision for drainage on those lots.

Mr. McEneaney noted that there is a culvert not noted on the plan.

Approval of Minutes:

Minutes of October 8, 1985: Mr. Seaver listened to the Tapscott tape and concurred with Mr. Preston that he (Mr. Preston) indicated he was speaking as a neighbor rather than as her representative.

Mr. Galt noted that other changes have been indicated in those minutes.

Mr. Maglaras appointed a three man committee to review the tape and come back to the Planning Board with a report: Mr. Seaver, Mr. Elder and Mr. Bouchard.

Mr. Seaver asked Mr. R. Perry if any new information is available on the sewage treatment plant, to which Mr. Perry responded that there is none available at this point.

Mr. Galt motioned to adjourn. Mr. Seaver seconded.

Vote: U/A

Mr. Maglaras adjourned the meeting at 10:55 P.M.

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