

DOVER PLANNING BOARD
MINUTES OF MEETING

Held: May 8, 1984
Council Chambers
Municipal Building
Dover, NH

Members Present: Chair George Maglaras, Vice-Chair Stephanie Faria, R. Craig Williams, Harold Preston, Robert Steele, Pierre Bouchard, Jesse Andrew Galt, James Beckingham.

Alternate Members Present: Robert Weisner, (H. Les Elder).

Other: Planning Director Timothy Sheldon.

Chair Maglaras called the meeting to order at 7:08 p.m.

ITEM #1: Public Hearing on the site review of land owned by Kendall Real Estate, Assessor's Map 5, Lot 17, zoned B-2, on Central Avenue.

- Mr. Maglaras stated that this item had been cancelled.

ITEM #2: Public Hearing on the major subdivision of land owned by Matt R. and Helen Williams Jr. and Elliot Rose Co. of Dover, Assessor's Map L, Lot 95 and Lot 94B, zoned R-20, on Dover Point Road.

- Mr. Sheldon gave a brief explanation of the characteristics of an Alternative Design Subdivision.
- Mr. Maglaras appointed Mr. Elder to replace Mr. Williams, who abstained.
- Roger Knowle, Knowle Design Inc., an architect representing Mr. Williams, explained the overall concept of the proposal.
- Ray Taylor, Roaring Brook Consultants, the site engineer, explained the technical specifics of the plan.
- Mr. Taylor responded to a series of questions by Mr. Galt and noted that of the total 12.2 acres, 5-6 acres would be designated as open space.
- Mr. Taylor, upon questioning by Mr. Maglaras regarding the natural topography of the site, stated that there would not be a disruption of the existing banks.
- In response to a statement by Mr. Matt Williams, Mr. Maglaras noted a ruling by the City Attorney which indicated that a property owner may build within the 75 foot conservation district, providing there is City water and sewer.
- Mr. Knowle stated that the developer wishes to maintain the character of the site and did not intend to build within the 75 foot area.

- Mr. Knowles responded to a question by Mr. Galt regarding the sewage easement and the proposed placement of the house on Lot 6.
- Mr. Steele inquired if the developer believed the design of the subdivision meets the requirements set forth in Dover's ordinance. Mr. Knowles responded that he did believe this to be the case.
- Mr. Taylor noted that the roadway was designed with a six percent grade in certain areas, however he did not feel that this was a major problem.
- Mr. Maglaras stated that if the intention of the developer is to make this road a City street, a waiver from the City Council may be necessary.
- Public Hearing Opened -- No one spoke in favor of the proposal.
- Ed Hoginski, 230 Dover Point Road, directed a series of questions and comments to the Board:
 - Mr. Sheldon noted that a utilities plan had been submitted with the original application.
 - Mr. Hoginski noted the lack of room on proposed Lot 1 for a luxury-type dwelling.
 - Mr. Hoginski stated that he believed that the proposed subdivision would diminish area property values.
 - Mr. Hoginski noted that the northern section of the proposal had been subdivided in 1979, contingent upon a deed restriction prohibiting further subdivision.
 - Mr. Hoginski presented a letter to the Board, dated April 6, 1982, written by Mr. Williams. The content revealed that at that time Mr. Williams believed that further subdivision of area properties would diminish values of abutting properties.
 - Mr. Hoginski stated that the positioning of Lot 2 was of concern to residents on Roberts Road, as it appeared to infringe upon their right-of-way to the water.
 - Mr. Hoginski noted that the application did not include "appropriate documents defining the deed restrictions and other provisions under which all common open spaces will be established."
 - Mr. Hoginski raised concerns regarding the non-conforming use currently existing on the parcel (in the form of an orchard).
- Arthur J. Grimes, 252 Dover Point Road, stated his opposition to the proposal and noted that he did not feel that 12,000 sq. ft. lots were appropriate for Dover Point Road.
- Renee Plante, 222 Dover Point Road, stated that he did not believe that Mr. Williams owned the ten acres of land as required by the ordinance. He noted that a deed restriction had been placed upon the smaller of the two parcels, upon its subdivision.

- Mr. Maglaras noted that the Board was aware of a possible legal conflict and reminded the public that the hearing was only preliminary.
- Don MacLatchy, 245 Dover Point Road, spoke in opposition to the proposal and raised questions regarding the special characteristics of Mr. Williams parcel of land. He urged a minimum lot size of 20,000 sq. ft.
- Mr. Maglaras reviewed the requirements which must be met when applying for a regular subdivision and noted that this parcel of land could potentially be subdivided into 28 lots.
- Jerome Lipman, 218 Dover Point Road, asked Mr. Maglaras to clarify his last point and then stated his opposition to the proposal. He noted that he did not believe that the proposal meets the spirit and intent of the ordinance.
- Mrs. Francis Merciant, 2 Roberts Road, raised concerns about the right-of-way to the water.
- Bill Wilson, 225 Dover Point Road, spoke in opposition to the proposal.
- Tim Pearson, Dover Point Road, directed questions to the Board. He raised concerns regarding changes in the natural topography and noted the potential for increased traffic in the area. He stated his opposition to the proposal.
- Mr. Maglaras, upon questioning by Mr. Plante, reviewed the role of the Board in this proposal and reminded the public that it required court action to lift a deed restriction.
- Mr. Matt Williams responded to some of the concerns raised by the public.
- Mr. Taylor commented upon the questions raised by the public and reiterated that the presentation was of a conceptual nature and that the technical details had not yet been ironed out. He restated the applicant's desire to conform to the spirit and the intent of the ordinance. He then reread part A of the ADS ordinance.
- Mr. Taylor, upon questioning by Mr. Maglaras, explained that he believed that the intent of the ordinance was to prohibit a greater density than would be permitted by the regular subdivision of the property. Mr. Knowles stated that the plan conformed to this notion.
- Mr. Grimes again spoke in opposition to the proposal.
- Mr. Hoginski requested to view the utilities plan at the close of the meeting.

- Mr. Williams presented a letter to the Board, regarding research completed by attorneys hired by him concerning the parcel with the deed restriction.
- Public Hearing Closed.
- The Board decided to hold an on-site review of the property on Tuesday, May 15, at 4:00 p.m., to review the concept with the applicant. The Board will not take any action on the application at that time, however the public is cordially invited. Scott Woodman is expected to have reviewed the application by that time.

ITEM #3: Public Hearing on the minor subdivision of land owned by Pierre J. Labrie, (applicant Norman Labrie), Assessor's Map 27, Lot 86, zoned RM-8, on Everett Street.

- Norman Labrie and Mr. Sheldon explained the proposal.
- Public Hearing Opened.
- Nick Skaltsis, Eric Drive, spoke in favor of the proposal.
- No one spoke in opposition.
- Public Hearing Closed.
- Upon questioning by Mr. Galt, Mr. Labrie reviewed the plans for parking.
- Moved by Williams, seconded by Faria to approve as submitted.
- U.A.

ITEM #4: Old Business

1) Formal Action on Capital Improvements Plan, as Amended

- Mr. Sheldon and Mr. Bouchard reviewed the Public Works' requests not previously discussed by the Board.
- Mr. Bouchard reminded the Board that these items were deemed to be high priorities.
- Mr. Galt reiterated the Council's concern over the City water supply.
- Mr. Maglaras read a letter from Police Chief Reynolds asking for

reconsideration of his department's request.

- Moved by Steele, seconded by Preston that copies of the letter be distributed to the Board members for consideration at the next regularly scheduled meeting.
- Mrs. Faria stated her desire to place the letter on file.
- Mr. Steele responded to questions raised by Mr. Beckingham regarding the proposal to purchase tracts of land adjacent to City wells.
- Moved by Faria, seconded by Bouchard to forward the Capital Improvements Plan to the City Council as it is.
- Mr. Steele tallied the figures listed on the proposal and stated that the Board was recommending that \$1,656,000 be expended for 1984 from the general fund.
- Mr. Steele responded to a question by Mr. Galt regarding the funding for the Dover Arena.
- After a question by Mr. Bouchard, discussion among the Board ensued regarding the funding necessary to complete the renovation of the Public Library.
- Mr. Maglaras called the question.
- U.A.

2) Review of Site Review application of Seaboard Investment Corp., (applicants D. James McAtavey and Kerry D. Forbes), Assessor's Map 29, Lots 18 and 19, zoned O, on Central Avenue.

- Mr. Galt questioned Mr. Forbes regarding a possible boundary dispute that had been mentioned at the site review. Mr. Forbes noted that the surveyors had determined that the original measurements submitted by the applicants were correct. Mr. Galt requested that this information be forwarded to the abutter, Mr. Tasker.
- Mr. Maglaras, after a suggestion by Mrs. Faria that Mr. Galt abstain, noted that an Alternate cannot replace the City Council representative.
- Mr. Galt stated that he did not feel that there was a conflict of interest.
- The Board sought assurance from Mr. Forbes that he had seen the recommendations of the Site Review Screening Committee and was able to comply to the requests. Mr. Forbes responded that this was not

a problem.

- Moved by Steele, seconded by Faria, to approve the application contingent upon the conditions set forth by the Site Review Screening Committee:

- 1) The proposed 6" water line shall be Ductile Iron.
- 2) The proposed drainlines shall be 12" (6" foundation drains OK).
- 3) Driveway widths shall be reduced to 16'.
- 4) Granite curbing shall be used at the entrances on Central Avenue.
- 5) The drainage plan shown needs to be revised as follows:
 - a) Extend the one CB shown north to the vicinity of the 30" Ash being saved.
 - b) Change the top of the Drain MH shown to a CB top.
 - c) Add a CB near the dumpster site and another near the sidewalk ramp at the NW corner of the front building.
- 6) Landscape plan, approved by the Planning Director.
- 7) Phasing plan - building and parking/site work.
- 8) Enter/exit sign placement.
- 9) Dumpster must be screened.
- 10) Curbing is needed on site.

- Mr. Galt directed questions concerning the project to Mr. Bouchard and then expressed reservations he had about the proposal, in regard to traffic on Central Avenue.

- Moved by Faria, seconded by Steele to move the question. U.A.

- Mr. Maglaras called the question.

- U.A. (Mr. Galt abstained.)

3) Review of Site Review application of James and Irene York, (applicant Bellamy Builders), Assessor's Map I, Lot 1N, zoned RM-12, on Garrison Road.

- Mr. Forbes presented an amended plan to the Board, which included phase lines for the project. He requested that the Board approve Phase I, consisting of twelve units, and withhold action on the balance of the proposal until after the sewer problem has been resolved.
- Mr. Sheldon informed the Board that the flow tests requested by the Site Review Screening Committee had been conducted, however because of error, the results were not available.
- Mr. Forbes requested to be present at the next text, to be conducted sometime during the week of May 14, 1984.

- Mr. Galt expressed his reservations about granting approval of the proposal without the results of the water tests.
- The Board and Mr. Forbes discussed the necessity of the tests.
- Mr. Maglaras reviewed the options open to the Board at this time.
- Mr. Forbes noted that he would voluntarily allow for an extension on the Board's action until the next regularly scheduled meeting.
- Mr. Steele clarified Mr. Forbes request for approval of Phase I only.
- Mr. Forbes addressed the issue regarding the adequacy of the City water supply in the area.
- Mr. Maglaras and Mr. Sheldon, after a question by Mr. Williams, noted that a new public hearing would be necessary, if the application were approved only for Phase I and the applicant wished further consideration of the entire proposal.
- Moved by Preston, seconded by Williams to approve Phase I of the project, contingent upon the positive determination by the City Engineer and Fire Chief as to the adequate availability of water and sewer service, as well as by the following conditions set forth by the Site Review Screening Committee:
 - 1) Landscape plan to be approved by the Planning Director.
 - 2) Delineation of all parking spaces, with dimensions shown.
 - 3) Roadway lighting detail.
 - 4) Delineation of Flood Plain and Conservation District.
 - 5) Due to the size of the complex standby power will be required for the sewage pumping station. The City requires that the station be a Gorman Rupp, duplex, above ground type similar to the four others operated by the City.
 - 6) Granite curbing shall be used at the entrance. The extent should be shown on the plan.
 - 7) The developer shall add two notes to the plans:
 - a) No City services shall be provided on this driveway.
 - b) The road does not meet current street specs and therefore will not be accepted as a City Street at a further date.
- U.A. (Mr. Beckingham abstained.)
- 4) Review of Site Review application of William P. Valliere, (applicant Bellamy Builders), Assessor's Map 34, Lot 13, zoned RM-12, on Sixth Street.
- Mr. Maglaras noted the ruling by City Attorney, Scott Woodman,

and a letter from the applicant (Attorney Malcolm McNeil), requesting reconsideration of the item at the May 8, 1984 meeting.

- Mrs. Faria read the letter from the applicant.
- Moved by Galt, seconded by Faria to place the letter on file.
- Mr. Maglaras clarified the intent of the motion, after a question by Mr. Beckingham.
- Mr. Preston restated his reasons for voting in favor of the original denial of the application. He reiterated his contention that the site was deemed to have problems regarding traffic.
- Mr. Beckingham questioned Mr. Preston concerning the method of his determination.
- Mr. Magalaras stated that the line of sight met the standard and explained to the Board that the applicant should be allowed to present alternatives to the Board.
- Mr. Williams asked for a clarification of the procedure involved in the reconsideration of the case.
- Mr. Beckingham questioned Mr. Maglaras about a point of order. He then stated that he would encourage the Board to reconsider their previous action and give the applicant the opportunity to provide additional information.
- Mr. Galt reiterated opposition to the request because of the excessive speed of traffic in the area. In reference to the City Attorney's letter, Mr. Galt stated that he believed there was a distinction between the legal obligations of the Board and the moral obligations outlined in the last paragraph.
- In response to questions by Mr. Williams and Mr. Weisner, Mr. Maglaras noted that while he did not have any problem representing the Board's denial in court should the need arise, he was concerned that there was no professional data to support the denial.
- Moved by Steele, seconded by Faria to move the question.
- 8-1 (Beckingham).
- Vote on question: 8-1 (Beckingham).

5) Review of Site Review application of James Coughlin, Assessor's Map H, Lot 41, zoned RM-20, on Knox Marsh Road.

- Moved by Steele, seconded by Galt to delay action on this application and to request a 90-day extension from the City Council.
- In response to a question by Mr. Preston, Mr. Steele read the resolutions that will be acted upon by the City Council on May 9, 1984.
- Mr. Coughlin requested that the Board grant preliminary approval of his application tonight, with final approval contingent upon the Council's approval of the resolutions. He also requested that the Board recommend that the Council recommend the resolutions.
- Mr. Galt reminded the Board that the Council has not yet acted upon the Capital Improvements Program.
- Mr. Maglaras noted his concern, as the Chair, regarding the pressuring of the Council.
- Mr. Coughlin reread the request to the Board and submitted a copy for the file.
- Mr. Steele withdrew the original motion. Mr. Galt withdrew the second.
- Mrs. Faria moved to approve the application, subject to the availability of the sewer and the granting of the easement.
- There was no second to the motion.
- Discussion among the Board concerning its options ensued.
- Moved by Galt, seconded by Preston to request a 90-day extension from the City Council.
- Mr. Coughlin, in response to Mr. Steele, stated that his offer to contribute \$50,000 toward the capital cost of the sewer would remain in effect until May 9, 1984.
- Mr. Maglaras stated that he would be willing to attend the Council session as a representative of the Board.
- Mr. Steele noted that he had no objection to granting preliminary approval of the application, contingent upon the action of the Council.
- Mr. Sheldon recommended that the Board request a 90-day extension from the Council, based on the following reasons:
 - 1) The Board has indicated that sewer expansion is a high priority simply by approving the Capital Improvements Program.
 - 2) Preliminary approval was not granted at the last meeting held by the Board because it was the wish of the members not to encumber the Council. Nothing has changed since that time, regarding this application.

- Mr. Maglaras read a letter from the applicant.
- Mr. Galt expressed his concern regarding the protection of the City's water supplies.
- Mr. Steele stated that he believed that the applicant's proposal was a benefit to the City for two reasons:
 - 1) The applicant has offered to deter capital costs.
 - 2) The applicant has offered to upgrade a hazardous intersection.Mr. Steele recommended that the Board grant preliminary approval of the application contingent upon sewer and easement access, and added this as an amendment to the motion on the floor.
- Mr. Steele, Mr. Bouchard and Mr. Preston clarified that there is a minimal possibility of pollution of the City well as the result of this project.
- Mr. Maglaras noted parliamentary procedure regarding the amendment presented by Mr. Steele.
- Mr. Bouchard asked if the 90-day extension would still be necessary should preliminary approval be granted.
- Moved by Williams, seconded by Bouchard to call the question.
- Vote on amendment: defeated by a voice vote (Weisner abstaining).
- Vote on motion to request a 90-day extension from the City Council
- U.A.

6) Growth Management Policy/ North End

- Mr. Sheldon informed the Board that statistics show that growth in the North End of the City should only be prohibited on property directly abutting the Weeks' Traffic Circle. Jay Stevens, City Engineer, will present information regarding the sewer capacity in the area at the next meeting.
- Discussion among the Board followed.

ITEM #5: New Business

- 1) Mr. Sheldon asked for an interpretation of the Board's action regarding the zoning of the RM-8 zone.
 - Based on the Board's comments, Mr. Sheldon will recommend that the area be changed to an RM-10 zone. A workshop on this subject will be held at a future date.

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2) Attendance of Members at the regularly scheduled meetings and on-site reviews.

- Concerns have been raised by a number of members regarding this subject.
- After some discussion, the Board decided to recommend that the City Council amend the attendance requirements of the Board to include both workshop meetings and on-site reviews.
- Mr. Galt will bring this concern to the attention of the Ordinance Committee.

3) Moved by Galt, seconded by Faria, to approve the minutes of the regularly scheduled meeting held on April 17, 1984.

- U.A.

4) Moved by Galt, seconded by Faria to approve the minutes of the workshop session held April 24, 1984.

- U.A.

Moved by Steele, seconded by Faria to adjourn the meeting at 10:08 p.m.