

DOVER PLANNING BOARD  
MINUTES OF MEETING

Held: July, 10, 1984  
Council Chambers  
Municipal Building  
Dover, NH

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

Alternate Members Present: James McAdams, H. Les Elder.

Other: Timothy C. Sheldon, Planning Director.

Mr. Maglaras called the meeting to order at 7:05 p.m.

ITEM #1: Public Hearing on the major subdivision of land owned by Dover Industrial Development Authority, Assessor's Map G, Lot 1G, zoned I-1, on Crosby Road.

- George Garrett, Economic Development Director, explained the proposal.
- Mr. Maglaras noted that a copy of the Site Review Screening Committee report had been forwarded to the Board members. Mr. Sheldon read the report for the benefit of the public.
- Public Hearing Opened.
- Bill McQuade, representing McQuade Realty, directed questions to the Board regarding the location of the City's sewer easement and the sewer capacity in the area. Mr. Steele and Mr. Maglaras attempted to address the issue of possible hinderance of Mr. McQuade's development potential along the existing sewer line.
- Mr. Steele stated that this proposal (the application for the major subdivision), was in accordance with the growth management policy enacted by the City Council, with respect to the area.
- Public Hearing Closed.
- Moved by Mrs. Faria, seconded by Mr. Williams to approve the major subdivision, contingent upon the following conditions:
  - 1) WSPCC and/or City sewer approval.
  - 2) Driveway permit, when necessary.
- U.A.

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

- Craig Williams abstained from the Public Hearing.
- Mr. Maglaras noted the report of the Site Review Screening Committee, dated July 3, 1984.

- Public Hearing Opened.
- Ed Hoginski, Dover Point Road, questioned the Board regarding the intended use for the remaining lot. Mr. Maglaras and Mr. Williams noted that this is not a matter which falls within the jurisdiction of the Board.
- Public Hearing Closed.
- Moved by Mr. Steele, seconded by Mr. Elder to approve the minor subdivision, contingent upon the following conditions:
  - 1) WSPCC and/or City Sewer approval.
  - 2) Driveway permit, when necessary.
- U.A.

ITEM #3: Old Business

- 1) Review of letter from Jamar Investments, Inc., re: site review application.
  - Mr. Maglaras noted the history of the application and stated that Jay Stevens, City Engineer, had not yet had an opportunity to review the most recent drainage plan.
  - Mr. Lyons, applicant, gave a brief explanation of the changes in the drainage plans.
  - Mr. Maglaras reviewed the options of the Board.
  - Moved by Mr. Elder, seconded by Mrs. Faria, to approve the application for site review contingent upon the original conditions as stated at the Public Hearing held on May 22, 1984 and, the approval of the City Engineer relative to the drainage plan changes.
  - Mr. Steele directed a question to Mr. Lyons regarding the drainage flow path.
  - Mr. Preston stated that he believed an on-site review of the property might be necessary.
  - Mr. Steele suggested that an on-site review should be held because conditions relative to the drainage easement had changed since the original hearing.
  - Mr. McAdams concurred with both Mr. Preston and Mr. Steele.
  - Mr. Elder and Mrs. Faria withdrew the motion on the floor and the second to that motion.
  - The Board decided to hold an on-site review on Tuesday, July 17, at 4:00 p.m.

- Action will be taken regarding the application at the on-site review:  
5-3 (Williams, Preston and Beckingham) Mr. Maglaras cast the deciding vote.
- 2) Review of letter from Shaw's Realty Co., re: subdivision application.
- Mr. Maglaras explained the history of the application and the letter from the applicant and then noted the options before the Board.
  - Moved by Mr. Williams, seconded by Mr. Elder to place the letter on file.
  - Mr. Bouchard stated that he felt the condition of approval for the subdivision was a matter for the Site Review Screening Committee and not the Planning Board.
  - Mr. Williams explained what he believed the intent behind the motion was.
  - Mr. McAdams reminded the Board of the history of the proposed access for the parcel and stated that the applicant's request may not be in keeping with previous submissions to the City.
  - A number of the Board members noted that Mr. Thorton, representative for Shaw's, stated that he did not wish a curb-cut for the parcel.
  - Mr. Maglaras stated that he agreed with Mr. Thorton in principle: the condition of approval falls within the jurisdiction of the Site Review Screening Committee. He did note however, that this was a grey area and that there was no clear answer to the question.
  - Mr. Preston concurred with Mr. Maglaras.
  - Mr. Maglaras reviewed the options before the Board.
  - Mr. Williams and Mr. Elder restated the motion on the floor.
  - Vote: 5-3 (Faria, McAdams, Bouchard).
- 3) Review of the letter from Matt and Helen Williams Jr., re: ADS application.
- Mr. Maglaras reviewed the history of the application and the subsequent letter requesting reconsideration.
  - Mr. Craig Williams abstained from voting on the matter.
  - Mr. Beckingham noted that the original review of the Board was required to deal only with the concept of the proposal. He stated that perhaps the denial of the application was the result of the Board's consideration of a technical system and he requested clarification of the decision.
  - Mr. Maglaras read from the minutes of the meeting held May 22, 1984, regarding the said denial.

- Mr. Maglaras and Mrs. Faria noted that the "environmentally sensitive" areas being referred to were the areas with an excess of 15% slopes.
- Mr. Maglaras and Mr. Sheldon answered a question from Mr. Beckingham regarding the limitations of development in "environmentally sensitive" areas within a regular subdivision.
- Mr. Beckingham stated that he believed the applicant was attempting to make the best use of the land, with regard to the concept proposed. He raised concerns that the Board did not offer the applicant alternatives upon denial of the plan.
- Mr. Steele responded to the concerns raised by Mr. Beckingham. He stated that he did not feel that the Board needs to offer alternatives to an applicant. In addition, he stated that, after the on-site review of the parcel, he believed the proposal, because of the current topography, was detrimental to the intent of the ordinance that he helped to develop.
- Mr. McAdams raised questions of the credibility of both the Planning Board and the applicant, relative to the past history of the parcel of land.
- Mr. Beckingham reiterated that he believed that this proposal was developed with "the best use in mind" and that it was a good example of ADS which could be used as a basis for further applications.
- Mr. McAdams noted that the ADS ordinance was not developed for this particular parcel. Mr. Beckingham agreed with this point.
- Moved By Mrs. Faria, seconded by Mr. Bouchard, to place the letter on file.
- Vote: 4-4 (Preston, Beckingham, Elder and Maglaras casting "no" votes.)  
Motion Defeated.
- Mr. Maglaras noted that he wished to afford the applicant the opportunity to appeal the Board's decision and therefore voted against the motion.
- Mr. Steele stated that the applicant has an opportunity to appeal the decision at the Supreme Court level and that he did not believe a letter of review should be considered. Mr. Maglaras responded to those concerns.
- Mr. Beckingham raised concerns about the Board's lack of consistency. He then made a motion to reconsider the application.
- Mr. Maglaras noted that because Mr. Beckingham did not vote on the prevailing side of the decision made at the Public Hearing on May 22, 1984, the motion was not proper.
- Mr. Sheldon explained the history of the procedure relative to the letter for reconsideration.

- After further clarification of the procedure, Mr. Sheldon suggested that all applicants should be notified of the process prior to the 30-day Supreme Court appeal deadline.
  - Mr. Steele suggested that the applicant resubmit the application, as conditions on the site have changed.
  - After further discussion, the Board generally agreed with Mr. Steele's suggestion.
- 4) Review of the site review application of Samuel and James Tamposi and Gerald Nash.
- Mr. Maglaras noted that technical review of the sewer proposal will be conducted on Friday, July 13, 1984. He suggested that the Board request a 90-day extension from the City Council, relative to the consideration of this application. He stated that this will permit the Board to utilize the Council's decision regarding the Maple Street sewer expansion as a basis for its decision.
  - Moved by Mr. Steele, seconded by Mr. Bouchard, to request a 90-day extension from the City Council relative to consideration of this application.
  - Mr. Sheldon read a letter from Grant Davis, applicant, which was his response to the Board's request for a sewer analysis and a traffic analysis.
  - Vote: U.A.
- 5) Review of the site review application of William P. Valliere. (applicant Bellamy Builders).
- Mr. Maglaras noted the report of the Site Review Screening Committee.
  - Mr. Forbes, applicant, stated that the most recent plans submitted to the Board depict all the recommendations of the Committee.
  - Mr. Maglaras reviewed the history of the application(s).
  - Mr. Maglaras noted the letter from the Soil Conservation Committee regarding the drainage.
  - Mr. McAdams requested that the specifics of the plan be reviewed, as he was not present at the original hearing.
  - Mr. Maglaras directed a question to Mr. MacArthur concerning the drainage proposal.
  - Mrs. Maglaras, in response to a question from Mrs. Faria, explained that the Site Review Screening Committee had reviewed the two different traffic analyses presented to the Board and determined that stopping distance was more important than site distance.

- Mr. Sheldon stated that both reports dealt with the problem and both reports were excellent, however, each approached the matter differently. He noted that the City Council may consider prohibiting parking on the street, and that the widening of the street makes sense, as do signs forewarning the intersection. He further stated that the Site Review Screening Committee deemed the access proposed as acceptable to the City.
- In response to Mr. McAdams, Mr. Sheldon stated that the proposal would not require a second Public Hearing as the result of the roadway changes.
- Mr. Maglaras, in response to Mr. McAdams, stated that the Parking/Traffic Committee of the City Council would be asked to review the matter of on-street parking along Sixth Street (as far as Orange Street).
- Mr. Maglaras and Mr. Sheldon stated that this matter was a strong recommendation from the Site Review Screening Committee, and not a condition of approval.
- Mr. Maglaras, in response to a question from Mr. Beckingham, noted that the drainage plan was approved by the City Engineer.
- Mr. Sheldon, in response to Mr. Beckingham, stated that the height of the entrance way was designed in accordance with the restrictions outlined in the driveway ordinance.
- The Chair received a request from the Public, relative to providing further information to the Board. Mr. Beckingham objected to the request.
- Mr. Maglaras reviewed the policy of the Board and noted that the public would be permitted to address the Board only upon the unanimous consent of the Board. He stated that this policy did not apply to the applicant, as s/he would be permitted to answer any questions raised by the Board.
- Upon questioning by Mr. McAdams, Mr. Maglaras and Mr. Sheldon once again reviewed the history of the application pending.
- Mr. Elder stated that he believed that it was in the best interest of the Board to allow the public the right to further address the issue.
- Mr. Beckingham stated that he was still strongly opposed to the idea.
- Mrs. Faria stated that she agreed with Mr. Elder's remarks.
- Upon questioning by Mr. Preston, Mr. Sheldon stated that the widening of the road would be undertaken at the developer's expense.
- Moved by Mr. Beckingham to approve the application for site review, contingent upon the conditions set forth by the Site Review Screening Committee.

- Mr. Bouchard stated that he believed that the public should be permitted to address the Board, as it could change the vote of some members should new evidence be introduced.
  - Mr. McAdams seconded the motion made by Mr. Beckingham.
  - Mr. Sheldon asked for a clarification of the conditions included in the motion. Mr. Beckingham stated the conditions as follows:
    - 1) Signage identifying the driveway should be installed at least 300 feet before the entryway on both approaches.
    - 2) Straight-edge curbing should be installed along the radii of the entrance, extending to the end of both the Verschuren and Hayes properties.
    - 3) The roadway realignment should be constructed by the developer. The stripping of the acceleration lane is not recommended.Item #4 of the Site Review Screening Committee's report, shall be forwarded to the City Council in the form of a recommendation and is not included in the conditions of approval.
  - 4) The Planning Board should request that the City Council' Parking and Traffic Committee review the on-street parking in the vicinity of the entryway.
  - Further discussion regarding the issue of the public right to address the Board followed. Mr. Maglaras ruled that Mr. McManus (an attorney representing the abutters) and Mr. Forbes could address the Board providing that the information presented was new evidence.
  - Mr. McManus outlined the findings of a title search he conducted on the Verschuren's property and noted that he believed that the applicant's proposal violated his clients' right-of-way.
  - Mr. Forbes stated that he had only wished to request that the Board permit Mr. McManus an opportunity to speak.
  - Mr. McManus further explained the history of the Verschuren deed.
  - Mr. Maglaras noted that the information presented by Mr. McManus was a civil matter and not within the Board's jurisdiction.
  - After further discussion, moved by Mr. Bouchard, seconded by Mr. Steele, to move the question.
  - U.A.
  - Vote: 5-3 (Steele, McAdams, Preston).
- 6) Amendments to the Planning Board By-Laws - Alternates to Meetings, Scheduling of Regular Meeting Dates, Possible Attendance Policies, and Conflicts of Interest.

- The Chair requested that this item be postponed until the next regularly scheduled meeting.
- The Board discussed the issue of the Chair not voting as a regular member of the Board and decided that this was in accordance with the Board's decision to adopt Robert's Rules of Order.

ITEM #4: New Business

- 1) Approval of the minutes of the regularly scheduled meeting held on June 26, 1984.

- So moved by Mr. Elder, seconded by Mr. Beckingham.

- U.A.

2) Miscellaneous

- The Board noted that pending applications (site review and subdivision) cannot be put into abeyance because of potential rezoning of the area.

- The Board clarified the role of ex officio members of the Board relative to voting.

- Moved by Mr. Williams, seconded by Mrs. Faria to adjourn the meeting at 8:55 p.m.

- U.A.

## AMENDMENTS

Amendments per the meeting of July 24, 1984:

- 1) Mr. Galt was absent from the meeting because he was out of town on business.
- 2) The reference to "Orange Street" on page six should read "Autumn Street".
- 3) The reference to "Supreme Court" on page four should read "Superior Court".