

DOVER PLANNING BOARD
MINUTES OF MEETING

HELD: Tuesday, March 2, 1971
7:00 p.m.
Municipal Courtroom
Municipal Building
Dover, New Hampshire

ITEM NO. 1: ROLL CALL:

On Roll Call the following were present:
Vice-Chairman R. Normand Alie, Secretary Raymond A. Bourque,
Mr. Donald E. Chick, Mr. Frank O. Estes, Mrs. Lois Schofield,
Mr. Hugh C. Tuttle, Mr. John H. Sowerby

Also attending were: Attorney Robert Fisher,
representing approximately 25 residents of the area
regarding the public hearing (Rutland Street and Cataract
Avenue), Attorney Donald Bryant, attorney for developer
Walter W. Fischer, and Mr. Fischer.

ITEM NO. 2: PUBLIC HEARING ON ASSESSOR'S LOT 14-14
(CATARACT AVENUE AND RUTLAND STREET)
SUBDIVISION OF R 2B ZONED LAND OWNED BY
WALTER W. FISCHER:

Attorney Donald Bryant represented the developer
Walter W. Fischer. It was noted that the plan was in
accordance with all ordinances and regulations of the City
of Dover. Plans were put on display for the public.

Vice-Chairman Alie declared the hearing open for
discussion and asked if anyone wished to speak on the matter.

Attorney Fisher explained that the case had
previously been brought to Court with respect to the
rezoning and that now an appeal was pending. He continued
that the residents consider the use of the land for
apartment dwellings to be destructive to the neighborhood
and will destroy the neighborhood. He stated that his
clients believe this is not in the best interests of the
City of Dover. He pointed out a section in the Subdivision
Regulations entitled "undesirable land".

Attorney Fisher stated that his clients were
opposed to the rezoning for the following reasons:

1) The sewer situation. He stated that at a
public hearing held one year ago, they had received
guarantees that before any buildings would be constructed
on this land the sewer situation would be cleared up. He
not the serious drainage problem in the area at present,
stating that in the Spring, the entire area is characteristic
of a swamp, and that some of the residents must pump out
their cellars because of excess drainage. He continued
that the brook which runs across the land adds to the

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Attorney Fisher asked the Board, on behalf of his clients, that no building permit be granted until the City upgrades sewage facilities so that the use of this complex and added burden of 50 additional units will be taken care of. He noted that at present the City has an exception to dump sewage into the river. He stated that although the City does have this exception at present, he felt it was granted because it was felt that a pumping station would be built.

2) He asked the Board to note where the roadway and the parking areas were located. He stated that the roadway is directly next to the property of one of his clients, as is the parking lot. Attorney Fisher asked that the Board consider changing this, continuing that this is a nuisance with much noise involved, excess traffic and the general commotion involved in an apartment complex of 50 units. He re-iterated that this constitutes a nuisance and interferes with the right of his clients to enjoy their land. He cited several instances where cases have been brought into court concerning such nuisances.

3) Attorney Fisher stated that his clients wish to state their objections due to the already heavy traffic in the area. He continued that Rutland Street is used by school buses to Woodman Park School and Dover High School all the time and for fire trucks. He stated that the most serious complaint is the trucks. Attorney Fischer noted that it was his understanding that presently trucks are barred from using Bellamy Road and use Rutland Street as a by-pass. It was noted that if these apartments were built and occupied by families, children walking to school would face school buses and trucks, plus cars for 50 dwelling units. He cited several accidents in the past year on Rutland Street. In summation, he stated that this apartment complex would only magnify this hazard.

4) He noted that the Rutland Street community is very close knit and should 50 new units be built, it could separate them. He described these new units as a cancer spreading through the neighborhood and rendering the homes no good.

Attorney Fisher stated that he didn't wish to be unreasonable and was not questioning the integrity of the Board Members or Attorney Bryant of Mr. Walter Fischer, however, he did feel that building under the present plans as submitted will not be in the best interests of the citizens in the neighborhood or the City in general.

Mr. Fisher then asked that the plan be revised as to the number of units which will be built. He continued that he didn't feel that 50 new units could in any way assimilate itself into the neighborhood.

He stated that if there were less units, the neighborhood could handle it. He continued that he hoped the changes in the plan can be made to the benefit of both the developer and the neighborhood. Attorney Fisher reminded the Planning Board that Dover is composed of many individual neighborhoods such as this one and it is the composition of all these individual neighborhoods which gives Dover its character. He stated that he felt that the destruction of these individual neighborhoods would be detrimental.

Mr. Lawrence Clement, 76 Rutland Street, stated that he owned property abutting this, and has lived there for eight years. He stated that there is a swamp there nearly every day of the year. Mr. Clement continued that the general nature of the area is such that the swamp area runs to five feet of water at times. He noted that the plans showed no adequate provisions for adequate drainage away from the development. Mr. Clement stated that taking into consideration the size of the property and parking lot, he would think that the obvious question would be where the proposed play area for the children would be. He noted there was not enough provision made for the number of units for play areas. Regarding the sewer situation, Mr. Clement stated that the City did promise a solution to this. Mr. Clement continued that the location of the road is a nuisance to him. He asked why the access road couldn't be away from his home. He expressed the desire to alleviate traffic in this area.

Mr. Stanley Cole, 43 Cataract Avenue, expressed his dissatisfaction with the extension of the road when the bridge was opened in 1957. He considered this extension to be extremely dangerous. Mr. Cole also stated that it was his opinion that no more additional buildings should be constructed until the sewerage situation is taken care of.

Mr. Thomas Hardiman, 71 Rutland Street, stated that he owned land on the corner of Cataract Avenue and Rutland Street. He continued that there was already a grave congestion problem, and should there be 60 to 100 children going to Woodman Park School it would add further to the problem. He noted that much destruction had already occurred on property in the area by children passing by.

Mrs. Philip Lapoint, 96 Rutland Street, stated that she has lived in the area for thirteen years and is opposed to the proposed construction of apartments. She continued that there are two or three accidents every Spring and that the traffic situation in the area is extremely hazardous.

Attorney Donald Bryant, representing the developer, Mr. Fischer, stated that in response to some matters brought up, it was important to recognize that the matter in question

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was whether or not there should be a subdivision approved. He continued that some of the arguments presented don't have anything to do with that matter. He stated that the people were talking about rezoning. Mr. Bryant continued that the subdivision meets every ordinance of the City of Dover. Attorney Bryant stated that all of the arguments presented had already been presented the year before both the City Council and the Planning Board. He reminded the Board that after a trial in Court, the Judge sustained the decision of the City Council and approved the rezoning of the area. Mr. Bryant continued that the City Council already had the plans for the creation of a new storm sewer system in the planning stage and this will relieve any backups which will occur this year.

Mr. Clement asked that the Planning Board, in its deliberations, consider the needs and welfare of the residents of the area.

Attorney Fisher re-iterated his argument on the provisions in the Subdivision Regulations pertaining to "undesirable land". Mr. Fisher stated that he did want to advise the Board that there is an appeal pending relative to the rezoning of said property being rezoned. He stated that he and his clients understand that apartment buildings could be put on this property at the present. Attorney Fisher continued that in reading the Subdivision Regulations, it should be noted that the Planning Board has the power to bar the use of land for certain things which would be detrimental to the neighborhood. With the fact that neither a suitable storm drainage system nor a pumping station are available in mind, Mr. Fisher asked that the Board consider this apartment complex to be a undesirable use.

Mr. James Austin, Fisher Street, stated his opposition to the rezoning.

The Hearing was then declared closed. (8:25 p.m.)

The Planning Board then proceeded with their regular meeting.

ITEM NO. 3: MEETING WITH MR. WILLIAM RIZZO, TRANSPORTATION PLANNER, METCALF & EDDY:

Mr. Rizzo presented the final land use plan to the Board. He explained each use as pointed out on displayed maps. Mr. Rizzo stated that he would present the final plan at the next meeting of the Board.

Attorney Fisher asked Mr. Rizzo what he anticipated for the future land use of the area of Rutland Street and Cataract Avenue, which had been discussed at the hearing previously.

Mr. Rizzo answered that in Metcalf & Eddy's studies they looked at the City as a whole and not at individual pieces of land.

ITEM NO. 4: APPROVAL OF MINUTES OF MEETING HELD ON 2/2/71:

Moved by Tuttle, seconded by Estes, to approve as written. Unanimously adopted.

ITEM NO. 5: APPROVAL OF MINUTES OF MEETING HELD ON 2/11/71:

Moved by Estes, seconded by Bourque, to approve as written.

ITEM NO. 6: ELECTION OF OFFICERS FOR THE YEAR 1971:

Moved by Tuttle, seconded by Estes, that Mr. R. Normand Alie be nominated as Chairman of the Board.

Moved by Sowerby, seconded by Tuttle, that nominations cease and that the Secretary cast one ballot for Mr. Alie as Chairman. Unanimously adopted.

Moved by Tuttle, seconded by Estes, that Mr. Raymond Bourque, be nominated as Vice-Chairman of the Board.

Moved by Tuttle, seconded by Sowerby, that nomination cease and the Clerk cast one ballot for Mr. Bourque as Vice-Chairman of the Board. Unanimously adopted.

Moved by Tuttle, seconded by Bourque, that Mr. Frank O. Estes be nominated as Secretary of the Board.

Moved by Sowerby, seconded by Bourque, that nominations cease and the Clerk cast one ballot for Mr. Estes as Clerk of the Board. Unanimously adopted.

ITEM NO. 7: COMMUNICATION FROM WALWORTH JOHNSON, CHAIRMAN OF THE STRAFFORD REGIONAL PLANNING COMMISSION, REQUESTING THE USE OF THE PLANNING BOARD OFFICE FOR THE COMMISSION'S NEW DIRECTOR, MR. NOYES, ON A TEMPORARY BASIS:

Mr. Tuttle stated that he was Dover's alternate member of the Strafford Regional Planning Commission and as such had attended their last meeting. He continued that he had previously been approached with respect to the search for office space for the Director. It was noted that this request was for temporary office space until an office could be found.

Moved by Tuttle, seconded by Bourque, that the Board send a letter to the City Council with the request attached, indicating that the Board would approve the use of

office space only for Mr. Noyes in the Dover Planning Board Office for a period not to exceed six weeks from March 1, 1971 - prior vacating to be predicated on a one week's notice from the Dover Planning Board in case the Board hires a Director prior to the end of the six weeks. Unanimously adopted.

ITEM NO. 8: COMMUNICATION FROM CITY CLERK REGARDING REFERRAL OF LETTER FROM THE NEW HAMPSHIRE LAND SURVEYORS ASSOCIATION:

Moved by Tuttle, seconded by Bourque, that this communication be referred to the City Attorney with respect to obtaining a legal opinion as to whether or not provisions of RSA 319 apply to limited subdivision and that the City Council be informed that the Planning Board is withholding a report back pending the receipt of the City Attorney's opinion by the next meeting of the Board. Unanimously adopted.

ITEM NO. 9: COMMUNICATION FROM THE STATE WATER SUPPLY AND POLLUTION CONTROL COMMISSION REGARDING LOCAL AND STATE APPROVAL OF PROPOSED SUBDIVISIONS:

Moved by Tuttle, seconded by Sowerby, to accept the communication and place on file and refer to the State Planning Office, which is compiling proposed subdivision regulations, for possible incorporation into the proposal. Unanimously adopted.

ITEM NO. 10: COMMUNICATION FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REGARDING THE CLARIFICATION OF HOUSING AND URBAN DEVELOPMENT POLICIES RELATIVE TO CODES WITHIN THE WORKABLE PROGRAM:

Moved by Sowerby, seconded by Tuttle, to refer this communication to the Building Inspector and the Fire Chief to report back on the status of building, plumbing, electrical and fire codes in the City. Unanimously adopted.

ITEM NO. 11: COMMUNICATION FROM STATE OF NEW HAMPSHIRE, DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS:

This communication dated Feb. 11, 1971, pertained to a resolution by Dover's City Council on Jan. 20, requesting that authorization be granted to the City of Dover to construct a City street intersecting the limited access highway leading from the so-called Somersworth interchange on the Spaulding Turnpike, to the traffic circle at the so-called Week's Dairy Bar. The letter granted authorization to the City with three conditions.

Moved by Tuttle, seconded by Bourque, to accept the communication and place on file. Unanimously adopted.

ITEM NO. 12: REPORT OF RECRUITMENT COMMITTEE ON THE
SELECTION OF A PLANNING DIRECTOR:

The Committee reported that the advertisement in ASPO would be printed shortly and that they hoped to begin interviewing soon.

ITEM NO. 13: ADJOURNMENT:

Moved by Tuttle, seconded by Estes, to adjourn.
Unanimously adopted.

Respectfully submitted,

Raymond A. Bourque
Clerk

RAB:c