

DOVER PLANNING BOARD
MINUTES OF MEETING

HELD: Monday, Feb. 16, 1970
7:30 p.m.
Municipal Courtroom
Municipal Building
Dover, New Hampshire

ATTENDING: Chairman Albert O. Bernard, Vice-Chairman R. Normand Alie, Clerk Raymond A. Bourque, Donald E. Chick, Armand J. Dimambro.

ALSO ATTENDING: Planning Director James F. Harrow, Arthur Davis of New Hampshire Builders, Inc., Mr. Grant Davis, Mr. Patrick Cragin, Mr. Henry McCrone, Members of the Press.

CASE 3-70-S: OLDE MADBURY LANE APARTMENTS, PHASE II:

Chairman Bernard called the meeting to order at 7:30 p.m. and turned the Chair over to Vice-Chairman Alie because he (Mr. Bernard) was associated with New Hampshire Builders, Inc. He informed the Board and those present that he would also refrain from voting on any issue concerning New Hampshire Builders, Inc.

The Meeting was then turned over to Planning Director Harrow. Mr. Harrow stated that the hearing had been properly advertised and abutters had been notified. He informed those present of the purpose of the public hearing and stated that the Board would hear from the applicant first.

Mr. Arthur Davis, Applicant, stated that the subdivision application provides for a private way to serve this project. He stated that Judge Galanes had intended to be at the meeting but was unable because of illness.

Mr. Harrow stated that he thought the Board was in a bind insofar as approving street pavement widths less than 32 feet wide. He stated that the Subdivision Regulations refer to an ordinance 5-63 on construction specifications which states that all roadways in the City shall be constructed to a width of 32 feet. He mentioned the 50 foot right-of-way requirement stating that the City has ordinances which specify construction but as far as the width was concerned, he thought this was probably a mistake. He continued that we are now faced with the problem that the only way Chapter 19B (Construction Specifications) can be waived or modified is by Council action.

Mr. Harrow read a letter from City Attorney McManus dated Feb. 7 stating that in his opinion this project was a subdivision within the definition of RSA Chapter 36:1 (VIII). Plans for construction of this project must therefore conform to the requirements of that statute and our own ordinances pertaining to subdivisions. Mr. McManus' letter continued that certain requirements of the Subdivision Regulations may be varied

"where a subdivider...can clearly demonstrate...that because of conditions unique to his property, a rigid enforcement of these regulations would cause unnecessary hardship..." He continued that in his opinion, financial hardship alone is not a sufficient basis for a variance. He reported that in any case, the Planning Board may not vary a requirement of any ordinance of the City.

Mr. Arthur Davis stated that it was his original intent to build this entirely as a private development. He stated that it was then suggested to him to speak with the Concord City Planner and that subsequently he and Mr. McDonald went to Concord and met with him.

Mr. Grant Davis stated that this project was planned on a scenic residential area with off-street parking provided as per ordinance and all residents have come and go traffic. All parking is off-street. Mr. Davis stated that as far as the Board waiving certain requirements, the Board has in the past done so with other projects. He cited several examples.

Mr. Davis stated that the developer is prepared to submit plans and specifications which would be done at this time if the Board wished. He stated that New Hampshire Builders, Inc did need approval for financial reasons.

Mr. Henry McCrone, Knox Marsh Road, questioned the drainage problem in the area. He mentioned a pond in the area which would flow in the Fall and Spring. He asked what would be done about the drainage.

Mr. Grant Davis stated that this new plan would continue the pond and run into an 18" pipe at the end.

Mr. McCrone stated that as long as the highway drain is taken care of, he has no objections.

Mr. Arthur Davis stated that New Hampshire Builders, Inc. would still like to build a 24 foot street in time. He stated that they would submit these plans at present with a 32 foot street with parking on both sides of the street. He stated that they wanted to keep cars off the streets. He continued that they would provide 50 per cent more parking spaces at least. He stated that as he saw it, the main reason for a 32 foot street was to allow for parking on both sides of the street. He stated that they would continue to look for ways to use the 24 foot street and if it becomes possible, they would request another meeting with the Planning Board, and if not, they would start in immediately with a 32 foot street.

Planning Director Harrow stated that the Planning Board is hampered by the way things are set down. He continued that he would recommend, if legal, to go to 24 feet but the Board has no jurisdiction right now. He stated that it's good to have construction specifications in the Subdivision

Regulations but that pavement width requirements, curbs and storm sewers should be specifically stated subject to waiver and modification by the Planning Board.

Mr. Dimambro asked Mr. Davis several questions concerning drainage. He then asked if New Hampshire Builders, Inc. intended to hottop. Mr. Davis replied that they did.

Mr. Davis asked if it would be possible for the Board to act upon this project that evening.

Mr. Harrow stated that as far as he could see, the plans were in order and he would have no objection to the Board granting preliminary approval now.

Mr. Grant Davis stated that any changes that would be made on the plans would be to revert back to the original.

Mr. Arthur Davis stated that all New Hampshire Builders, Inc. were asking was that if something significant came to light, could they come back and speak again to the Board about a 24 foot road.

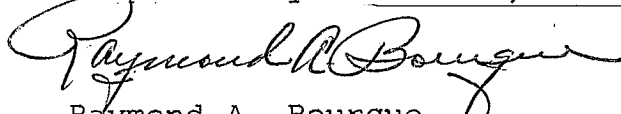
Mr. Chick stated that he would say that the Board approve the plans subject to the provision that the City would never be requested to provide municipal services without living up to City Ordinances at the cost of the property owner and as long as none of the property was owned by other than the single owners.

Secretary Bourque asked if the Board could stop the developers from building 24 feet.

Mr. Harrow stated that the City Attorney has given the opinion that this is a subdivision. He stated that the Subdivision Regulations make no reference as to public or private streets.

Moved by Dimambro, seconded by Bourque, that plans dated February, 1970 showing a 32 foot wide street be accepted for preliminary approval as outlined in detail. Unanimously adopted with Chairman Bernard abstaining. Request for preliminary approval granted.

Respectfully submitted,



Raymond A. Bourque
Clerk