



**CITY OF DOVER**

## DOVER PLANNING BOARD – MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Tuesday, December 18, 2012**  
Meeting Time: **7:00 pm**

**Members Present:** Dennis Ciotti (Chair), Frank Torr (Vice Chair); Dean Trefethen, Mayor; Tom Clark, Gary Green, Lee Skinner, John Leggett, Dexter Tarbox.

**Members Not Present:** Dave White, Kirt Schuman, Jake Forget (Alternate).

**Staff Present:** Christopher Parker (Planning Director); Gail Pare (Recording Secretary)

*The Chair called the meeting to order at 7:05 pm.*

### 1. CITIZENS' FORUM

*Citizen's forum open.*

Harold Clark, 131 Back River Road, requested an update on the waterfront plans and extension for the Dickinson project. He asked if the Planning Board is required to approve the extension.

D.Ciotti stated that the Planning Board has no say in the plans unless the approved plans change, in which time the Board would need to review any changes. The developer has five years from the approval date to move forward.

D.Trefethen stated that the most recent request would have to go before the Dover Housing Authority first, and they will work out an agreement. Once the agreement is worked out, it would be submitted to the City Council for acceptance or rejection.

*Citizens forum closed.*

### 2. APPROVAL OF THE PRIOR MINUTES

- November 27, 2012 Regular Meeting Minutes

**Motion:** F.Torr motioned to approve the November 27, 2012 meeting minutes. Seconded by G.Green.  
Vote: U/A

### 3. OLD BUSINESS

- A.** Update on the Open Space Concept Plan for Salmon Falls Holdings, LLC, Assessor's Map 11, Lot 16 & 16-1, zoned R-12, located on Arch Street. (3 duplexes) (P12-28)

**Motion:** F.Torr motioned to remove from the table. Seconded by L.Skinner. Vote: U/A.

Henry Brandt, owner of 46-48 Arch Street and the abutting property at 41 Arch Street gave an update of his plans for Arch Street. This case was discussed at the October 23, 2012 Planning Board meeting as an OSS development and then he met with residents of the neighborhood on November 18, 2012. He stated that his recent plan requires going back to the Zoning Board for two items. The first item is that the neighbors requested to see a comprehensive plan, incorporating both parcels. The second item is that they want the quality of the proposed plan be in keeping with the current neighborhood. They would like to see primarily low rise, single family structures. In addition, they would like a review of the setbacks, aligning of the driveways, roof lines, minimize the curb cuts, and to look at the mass. He spoke about the building at 40



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Arch Street, and the possibility of relocating the current structure. To sum it all up, neighbors want to see something compatible with the current neighborhood, and protect the values of their homes. Special attention will place the larger buildings to the back and to the north and provide privacy to the abutters. He is wiping the slate clean and starting over from scratch.

Chris Berry, owner of Berry Surveying & Engineering, has been working with Mr. Brandt on the project for the past year and a half. The proposed plan has been discussed with Chris Parker and identified how they moved through the design project and the final solutions. C.Berry reviewed the new design plan. The following was discussed:

- Establishing the existing condition: Three parcels of land, Lot 16-1, Lot 16, and 40 Arch Street. The proposed plan would include 40 Arch Street. A total of 4 curb cuts are proposed. The third lot would be included in the design. This plan is now a clean slate. You are left with a 3 unit structure and a structure that could be converted to a duplex. The plan allows 5 units per property by right, including the duplex, and there will be no change in density. The current 3 unit structure would be moved to the north. A variance is not required to move the building, but a modification to the approved variance they already have. The next step would be to apply for a modification of the current variance. The yield plan is to build six proposed units, a total of 11 units. Three single family units will be up front along the street, with the rest being duplexes. He discussed that there would be no loops, and curb cuts would be aligned with those across the street on Arch Street.
- For accessing the property they looked at topographies, geometry, curb cuts, site distances, and the most construction feasibility for the property.
- The major concern with the abutters is their property values, and quality of neighborhood. These lots could be sold fee simple, to any developer, or builder, which allows for the most value in a subdivision. This is the final layout.

H.Brandt met with the abutters on December 5, 2012 and they were universally in agreement that this is the best plan. He will bring this proposal to the Zoning Board in January and lift the restriction and relocate the duplex. Brandt stated that at that meeting, feedback from C.Parker in the Planning Dept. was positive and he stated that the developer was listening to the abutters and citizens concerns. C.Parker had asked if the abutters would support the variance request, and they were universally in agreement.

Chair Ciotti stated that there will be no vote on this tonight.

G.Green felt that by combining the two lots, it gives more potential. The buildings in the rear are lower and would have less impact on Arch Street. He complimented the process of the developer, and that this should be used as a model.

T.Clark questioned the gravel area and its purpose. The Open Space Subdivision (OSS) regulations state that all buildings in the OSS have access to the open space area.

H.Brandt confirmed that this gravel area would lead to future recreational areas.

Chair Ciotti thanked the Hank Brandt, and Chris Berry for working with the abutters, and taking the neighborhood into consideration.



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D.Trefethen asked about the three single family dwellings on Arch Street, and questioned why they were not using a shared driveway.

C.Berry responded that future engineering, drainage and elevation has to be considered.

T.Clark asked if the Planning Board should send a letter of recommendation to the Zoning Board.

Chair Ciotti and C.Parker agreed and will make sure the Zoning Board is notified.

**Motion:** L.Skinner motioned to put back on the table. Seconded by F.Torr. Vote: U/A.

#### 4. NEW BUSINESS

A. Public Hearing to consider and possibly vote on amendments to Chapter 155, entitled "Subdivision of Land" of the code of the City of Dover. Amendments include removing mylar requirement; specifying buffer requirements and external buffers in Open Space Subdivisions; extending deadline for completion of improvements from 4 to 5 years; specifying placement of improvements within streets; specifying that underground utilities are only required in subdivisions with a new road; replacing the term mobile home with manufactured housing and adding a new definition of manufactured housing; amending the definitions of abutter, certificate of occupancy, multi-family dwelling unit, agriculture, lot, lot line, plat, right-of-way, and setback line. The complete wording of each amendment is available in the Planning Department and on the City's website at [www.dover.nh.gov](http://www.dover.nh.gov).

*Public hearing open. Nobody spoke. Public hearing closed.*

**Motion:** T.Clark motioned to approve as submitted. Seconded by F.Torr.

*Discussion on the motion.*

G.Green stated that at the last meeting, Chapter 149 item #8, subparagraph #3 – he mentioned a concern about the definition of abutter. He believes the wording is not consistent with the definition of condominium ownership as it refers to common land or common area. He explained RSA 356:B:23 and RSA 356:B:17. Green expressed concerns about whether condominiums were being treated fairly. He feels that using the City Tax Assessment office for a list of abutters is flawed because condominium associations do not pay taxes. He recommends that all unit owners be notified by "first class mail" and all associations by "certified mail". He mentioned a letter written by the president of his condominium association, Mr. Thomas Smith. He stated Chapter 170 should be looked at next time.

D.Trefethen stated this was a compromise, and he feels that the chapter does not need to be revisited. He agrees it would be great to notify all condominium associations by certified mail, but it would be costly.

D.Tarbox asked if a condominium association has a legal requirement to notify their property owners.

D.Ciotti stated that the by-laws should state that all unit owners should be notified, but that all condominium associations are run differently.

C.Parker stated that the condominium associations are notified and it is up to the association to notify the unit owners.



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J.Leggett questioned the street lighting in the amendments.

C.Parker clarified the definition of street lighting in the amendment.

After further discussion the vote on the motion was Vote: 7/1 (Green opposed).

B. Public Hearing to consider and possibly vote on amendments to Chapter 149, entitled “Site Review Regulations” of the code of the City of Dover. Amendments include clarifying the Technical Review Committee procedures; removing the Mylar requirement; extending the plan expiration period from 4 to 5 years; reducing the required parking spaces in the CBD and CWD districts for 3+ units if on street parking is available; adding standards and a definition for electric vehicle charging stations; revising the requirements for parking lot locations in the B-4 district by lowering the threshold from 100 spaces to 50 spaces; changing the architectural design guidelines to standards; replacing the term mobile home with manufactured housing; amending the definitions of abutter, certificate of occupancy, agriculture, and parapet; and deleting the definition for build to line. The complete wording of each amendment is available in the Planning Department and on the City’s website at [www.dover.nh.gov](http://www.dover.nh.gov).

*Public hearing open. Nobody spoke. Public hearing closed.*

**Motion:** L.Skinner motioned to approve. Seconded by T.Clark.

*Discussion on the motion: None*

Vote: 7/1 (Green opposed).

C. Consideration and acceptance of a Conditional Use Permit for James DiRosa, (Owner: Robert Weisner) Assessor’s Map 2, Lot 6, zoned CBD, located at 110 Washington Street. \*(P12-37) (Hookah/smoking lounge)

James DiRosa represented himself and gave a brief overview of the planned use of the space. He stated that his facility will give younger adults an alternative to the bar scene. There will be coffee and tea and smoking similar to middle eastern style. There will not be any alcohol.

C.Parker discussed the table of uses in the CBD which has 7 uses and an “other” category. He explained that if the use does not fit, which in this case it did not, then a conditional use permit is required. He pointed out that this is not a cigar lounge which is considered a retail establishment, or a restaurant/eating/drinking establishment.

G.Green asked about ventilation and if there would be any concerns with neighbors.

The applicant stated that there are no regulations requiring him to vent. The building and abutters are primarily commercial spaces. He would consider putting in smoke eaters to minimize the smoke. The smoke dissipates quicker because it is diluted with water.

Chair Ciotti confirmed with T.Clark that there are not any smoking regulations on smoking lounges in Dover.

**Motion:** J.Leggett motioned to accept the application. Seconded by G.Green. Vote: U/A.



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*Public hearing open.*

Harold Clark, 131 Back River Road, asked how many people the lounge would hold.

The applicant confirmed it would hold approximately 35-50 people at any time.

D.Tarbox asked about similar facilities within the City and asked what building it is and if there is residential in the building.

C.Parker stated this is the first such use in the building, which is all non-residential.

*Public hearing closed.*

Chair Ciotti asked Mr. DiRosa to explain for the public how a Hookah lounge works.

Mr. DiRosa explained how a Hookah lounge works. Typically the patron will rent a session for 45-minutes to an hour, and pay \$5.00 each, up to four people, for the setup of the Hookah. A staff member would handle the set up and if they wanted a refill, they would pay an additional \$5.00 each to replenish the Hookah. It's a relaxing, social community option. He plans on having light, live music, poetry, film, book readings, and other public events. He will be offering coffees using French presses and teas.

### **STAFF RECOMMENDATION:**

The Planning Department finds that the Conditional Use Permit request is warranted because we support the adaptive reuse of existing buildings that support the Form Based Code principles. Most of the criteria do not apply to a proposed use in an existing building. The Planning Department recommends the Planning Board approve the Conditional Use Permit based on the findings outlined above.

**Motion:** T.Clark motioned to approve the Conditional Use Permit. Seconded by D.Tarbox. Vote: U/A.

*The Chair recommended that both items D & E be heard and discussed at the same time.*

D. Consideration and acceptance of a Minor Lot Line Adjustment for Dave Lemieux and Darlene White, Assessor's Map I, Lots 96B, 96C, & 96, zoned R-40, located at 32 Piscataqua Road. \*(P12-40)

E. Consideration and acceptance of a Minor Subdivision for Dave Lemieux, Assessor's Map I, Lots 96B, 96C, & 96, zoned R-40, located on Piscataqua Road. (1 additional lot). \*(P12-41)

Jason Pohopek, of Pohopek Land Surveying & Septic System Design, LLC, represented the applicants Dave Lemieux, of D.R.Lemieux Builders, Inc. and Darlene White. He gave a brief overview of the proposed lot line adjustment. After the lot line adjustments are made, they will move forward and subdivide the lots. He is requesting a waiver for the entire perimeter boundary survey of the 38 acre +/- Lot 96 to meet the minimum lot size criteria outlined by the State and Dover. There is a State subdivision plan, and lots will be serviced by on-site wells. He discussed a driveway permit for lot 96B which is reconfigured and a proposed curb cut. He has a verbal approval for two more driveway cuts for 96C and 96D and curb cuts.

C.Parker asked if Map I, lot 96A have an easement over 96B for the driveway.



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J.Pohopek confirmed there are no easements, and referred to a subdivision back in 1964-69, three lots but only one was developed at that time.

T.Clark suggested not review when it has been nearly 50 years.

Atty. J.Schulte discussed adverse possession. It would make sense for the owner of this lot to have an easement granted on this corner of the lot. His suggestion would be when lot 96B is sold, that it be subject to an easement for the benefit of lot 96A. He discussed the location of the driveway for 96B with Mr. Pohopek.

**Motion:** F.Torr motioned to accept the applications for Items D and E. Seconded by T.Clark. Vote: U/A.

J.Pohopek confirmed for G.Green what is showing as a stone wall on the drawing.

G.Pare told T.Clark about the error on the title block for land identified as Tax Map I, Lots 69, 69B & 69C which should all be lots 96, 96B, & 96C.

C.Parker will make the correction part of the conditions of approval.

*Public hearing open on both items D & E. Nobody spoke. Public hearing closed.*

### **STAFF RECOMMENDATION:**

The Planning Department recommends that the Planning Board approve both the lot line adjustment and subdivision applications with the following conditions:

#### **Conditions to Be Met Prior to Signing of Plans:**

1. The owner's signatures shall be added to the final plat submitted for signature.
2. The applicant shall provide the Planning Department with a digital version of the final plat.
3. The approval includes the granting of the waiver requested for the reasons stated by the applicant and as outlined above. The Board finds that the criteria of Chapter 155-51-A have been met.
4. The applicant shall add the surveyor's stamp and signature to the plat.
5. The applicant shall revise the plat to add the Planning File numbers P12-40 and P12-41 to the title block.
6. The applicant shall revise the plat to add sheet numbers to each sheet.
7. The applicant shall revise sheet #1 to add the minimum building setback lines to each lot.
8. The applicant shall provide the Planning Department with a copy of the NH Department of Environmental Services Subdivision Permit and add the permit number to the plat.
9. The applicant shall revise the plat to add a 75' no cut buffer on lots I-96B, 96C, and 96D.
10. The applicant shall revise the plat to correct the title box to indicate the correct lot numbers.

#### **Conditions to Be Met Prior to Issuance of a Building Permit:**

11. Any new dwelling unit shall be assessed the current impact fees in place at the time of building permit application.
12. The applicant shall submit an easement document over lot 96B in favor of 96A along the driveway to 96A to the Planning Department.

**Motion:** F.Torr motioned to conditionally approve the Minor Lot Line Adjustment and the Minor Subdivision as recommended by Planning Staff. Seconded by T.Clark. Vote: U/A.



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### 5. STAFF COMMENTS

- The Planning Department 2013 Meeting schedule was handed out.
- C.Parker would like to resume the workshop meetings starting with the January 8<sup>th</sup> meeting date. Board members should consider what goals should be discussed in 2013.
- Updated Land Use regulations will be handed out in January.
- Chris Parker thanked all the Board members for serving on the Board and for the City.

### 6. COMMITTEE REPORTS

D.Ciotti requested a volunteer to represent the Planning Board for the Thornwood Farms committee. A meeting will be held on Wednesday, January 9, 2013. Tom Clark volunteered as representative.

### 7. ADJOURNMENT

**Motion:** L.Skinner motioned to adjourn at 8:30 pm. Seconded by F.Torr. Vote: U/A.