



CITY OF DOVER

DOVER PLANNING BOARD – MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Tuesday, February 25, 2014**
Meeting Time: **7:00 pm**

Members Present: Kirt Schuman (Acting Chair), Frank Torr (Acting Vice Chair), Tom Clark, Gary Green, Lee Skinner, Christopher Lawrence (Alternate), Maggie Fogarty (Alternate), Gina Cruikshank (Alternate)

Members Not Present: Dennis Ciotti, William Garrison (Councilor), Catherine Plante, Dave White

Staff Present: Christopher Parker (Planning Director); Diane Britt (Recording Secretary)

The Chair called the meeting to order at 7:00 p.m.

The Acting Chair announced an agenda adjustment: Because the First Street project is a major project and will take some time, the Board will start with 4C of New Business and work down the list, then will go back to Old Business 3A and 3B4, and New Business 4A and 4B, and also announced that 4E will have public hearing at another time but all other items will have a public hearing tonight.

1. CITIZENS' FORUM

Citizens Forum Open. Nobody spoke. Citizens Forum Closed.

2. APPROVAL OF THE PRIOR MINUTES

- February 11, 2014 Regular Meeting Minutes

G.Green stated page 2, fourth full paragraph down, at the end of the first sentence it should read “and this has been removed”.

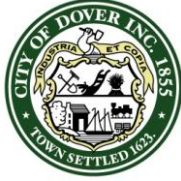
Motion: G.Green made the motion to approve the minutes as amended. Seconded by F.Torr. Vote: U/A

4. NEW BUSINESS

- C. Consideration and acceptance of a Conditional Use Permit for Susan Niedoroda (Owner: Russell T. & Frances V. Browne Living Revocable Trust of 1999), Assessor's Map A, Lot 23-2-1, zoned R-40, located on Blackwater Road. Proposal is to construct a 12-foot wide asphalt driveway to access a building lot in Somersworth. The work would fill 990 sq. ft. of wetlands and impact 6,870 sq. ft. within the 50-foot wetlands buffer. (P13-58)

Kevin McEneaney, of McEneaney Survey Associates, Inc., represents the applicant. This is a Conditional Use Permit application for a driveway on an odd lot which is partially located in Somersworth and partially located in Dover. The frontage in the driveway is in Dover and the buildable area is located in Somersworth. There are two areas of impact: (1) the actual wetland crossing which is 990 sq. ft., and (2) the impact area to the wetlands buffer which is a 50-foot buffer from the wetlands. This application has gone to the Conservation Commission who voted unanimously to endorse the Conditional Use Permit.

T.Clark asked K.McEneaney what the square footage of the viable proposed building area was.



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K.McEneaney stated there are three setbacks on the Somersworth lot, a 25 ft. buffer, a 50 ft. building setback, and a 75 ft. septic system setback. There is also a 4,000 sq. ft. receiving area.

C.Parker asked K.McEneaney to go over the process for this split community project.

K.McEneaney stated he first went to the City of Somersworth about this approximately 30-acre piece of land. The area of this lot was reduced by adding a portion of it to an abutting family member's lot, which resulted in the lot being discussed tonight, which is almost 3 acres in size. The frontage of the area in Dover shown on the plan did not change. Because of this lot line adjustment which reduced the lot size to less than 5 acres, which is the minimum that the State would allow without state subdivision approval, state subdivision approval was applied for and this required them to apply for a wetlands permit for the driveway crossing. This has been a 2-year process to get a simple lot line adjustment through in Somersworth.

Motion: F.Torr made the motion to accept the application. Seconded by G.Cruikshank.

Board discussion on the motion.

G.Green asked if Somersworth or Dover would provide the public services, fire department, etc.

T.Clark asked if K.McEneaney knew what the address of the property would be.

K.McEneaney stated he assumed it would be a Blackwater Road Somersworth address with a Dover entrance.

Discussion on the address ensued.

Motion on table to accept. Vote: U/A

Public Hearing Open

Harry Hallway, speaking for Mrs. Robbins who lives at 194 Blackwater Road which is right next to the proposed location of the driveway to access this property, stated the cornfield on one side and the piece on the opposite side of the road is well field protection land. He stated the stream has gone up to Mrs. Robbins foundation in the past at times. There are wells in the area that should be protected and he is opposed to this application.

Ronald Plante, 193 Blackwater Road, stated he has lived there since 1974. In the spring the land is flooded. He asked why access to the lot could not come from Route 16B instead of from Dover.

Joy Robbins, 194 Blackwater Road, stated that the stream runs right by her house. She has lived there for 35 years and has a well. She wanted to know if a culvert was being put there.

Public Hearing Closed

C.Parker stated the culvert under Blackwater Road is 24 inches, larger than the 15 inch culvert proposed.



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K.McEneaney stated there is no intent to block the drainage and a culvert has been provided, and the size of the driveway has been reduced. He plans to meet all of the State's requirements. If Route 16B was used for access, the distance to get to the buildable area would be approximately 1,200 feet and it would require 3 wetland crossings. The proposed plan minimizes the wetland crossings and reduces the impact on the wetlands.

C.Parker confirmed with K.McEneaney that the house to be built would be a 3-bedroom house and the septic system has already been designed.

STAFF RECOMMENDATION:

C.Parker stated the Conservation Commission reviewed this on 2/10/2014 and unanimously endorsed it. The Planning Department recommends approval with the following conditions:

Conditions to Be Met Prior to the Issuance of the Conditional Use Permit:

1. The applicant shall provide the Planning Department with a copy of the NH Department of Environmental Services Wetlands Permit.

G.Green confirmed with C.Parker that the septic and other entities for this lot were not in the jurisdiction of the City of Dover.

L.Skinner confirmed with C.Parker that abutters along Blackwater Road have wells and septic systems on their properties.

Motion: L.Skinner made the motion to approve with staff recommendations. Seconded by F.Torr.
Vote: U/A

- D. Consideration and acceptance of an Open Space Subdivision for Tuck Realty Corp., (Owner: Paul & Maria Rouillard Revocable Trust), Assessor's Map G, Lot 36, zoned R-40, located at 4 Old Stage Road. (1 existing lot subdivided into 9 total lots) (P14-01)

Kevin McEneaney, McEneaney Survey Associates, Inc., represents the applicant. He stated this is a 9 lot subdivision and the lot area consists of 28.89 acres with 22.46 acres in Dover and 6.43 acres in Madbury. The existing farmhouse is on a lot of approximately 18 acres with 15.5 acres of open space. This lot also contains the Madbury parcel. The second lot is 0.8 acres and the other lots are all approximately 0.5 acres each. There is municipal water which will service these lots and the sewer will be extended to the last lot in the subdivision to service the single family lots. Three waivers are being requested: a reduction of the required 100 foot buffer along roads down to 50 feet, 15 foot side setback instead of the required 20 feet on most but not all lots, and the existing house is within the 100 foot building buffer, so a waiver is being requested for that.

K.Schuman asked K.McEneaney to further explain the Open Space, ownership, etc.

K.McEneaney stated there would be a Home Owners Association.

Mike Garrepy, of Tuck Realty, explained that the farmhouse lot was reconfigured after technical review, and contains all of the open space.



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C.Parker commented that he and M.Garrepy met with the Madbury planner and went over the cross-boundary issues and clarified the jurisdictions and how that would be handled.

Motion: G.Green made the motion to accept the application. T.Clark seconded. Vote: U/A

Public Hearing Open

Susan Adams, 7 Old Stage Road, asked for clarification of the proposed lots. She stated she has concerns about wetlands and drainage issues, and the placement of the houses on the lots.

K.Schuman explained to S.Adams that at the conclusion of the public hearing the applicant will have the opportunity to answer questions. He stated there will likely be a site walk on this property, after which the public hearing will be reset.

David Redfearn, 46 Old Stage Road Madbury, is an abutter and owns the Old Stage Campground which has been in business since 1962. He is concerned about seasonal traffic due to his business going through this subdivision and what the response of the residents would be to this traffic. He also stated he felt the tree removal at the back of the lot was a shame.

Public Hearing Recessed

C.Parker stated he would like the applicant to address the issues brought up by the abutters and he asked the Board to consider a site walk.

M.Garrepy explained the waiver requests, the requirements for open space subdivisions regarding buffers and setbacks, and how he is trying to be consistent with the neighborhood regarding placement of the new homes with a maximum setback of 50 feet and a minimum setback of 25 feet. He stated the tree removal occurred on the Madbury parcel and that is not part of this application.

Discussion ensued regarding the location of wetlands near the property and how water drainage would be controlled.

C.Parker explained the yield plan and the number of lots, the open space plan and wetlands, and the location of the tree lines which helped with the waiver request for the front setback.

K.Schuman confirmed with C.Parker that there was no new storm water utility on Old Stage Road.

M.Garrepy displayed a plan that shows driveway locations along with tree removals for driveways, and explained that there will be positive pitch drainage with no culverts.

There was discussion regarding the waiver request for a reduced setback, and that reconfiguring the lots would eliminate the need for the waiver.

M.Garrepy stated he does not need the waiver but with it he will have more flexibility as to where the proposed houses can be located on the lots.



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G.Green asked staff to make a note that this is not the first time a waiver is needed to keep an existing house where it is, and a change in regulations should be made.

Discussion ensued as to a date and time for the site walk, and it was decided the site walk would on 3/8/2014 at 9:00 a.m., and it was decided that the date that this will come before the Board next would be 3/25/2014.

K.Schuman invited the public to the site walk and also encouraged those interested to meet with the Planning Director to discuss their concerns.

Motion: G.Cruikshank made the motion to table. Seconded by L.Skinner. Vote: U/A

- E. Consideration and acceptance of a Citizen's Petition for a Zoning Amendment for White Dove Properties, LLC, Assessor's Map 20, Lots 33, 34, 35, 35-1, 35-2, 36, 37, 40, 41 & 42, located on Hanson, George & Sonnett Streets. (rezone 2.2 acres of land from Urban Density Multi-residential District (RM-U) to Central Business District-Residential (CBD-R) (P14-05)

Attorney F.X. Bruton represents the petitioner. He explained the area in question, stating that the petitioner is requesting a more unified zone layout and that it be zoned CBD-residential. He stated owners in the area were supportive of this request. He said the proposal was reviewed with the Planning Department to ensure that this was an appropriate request. He explained that the area had single family homes, duplexes, 4-unit buildings and condominiums, and feels it would be more in character to rezone the area as CBD-R. The entire area is surrounded by the CBD zone.

T.Clark explained that a 6-unit building was just approved for that area and asked if this would make it nonconforming.

F.Bruton stated that it would make it conforming.

C.Parker gave some history regarding the creation of the CBD and explained variances vs. rezoning. He explained the three types of petitions, and he recommended that the amendment be posted as presented and hold a public hearing on 3/25/2014.

Motion: G.Green made the motion to post the citizen's petition as recommended and hold a public hearing. Seconded by L.Skinner. Vote: U/A

- F. Consideration and acceptance of a Conditional Use Permit for McEneaney Survey Associates, Inc., (Owner: Susan McCooley Drady), Assessor's Map 8, Lot 34, zoned R-20, located at 9 Wentworth Terrace. Proposal is to replace a concrete rubble sea wall with a dry stone retaining wall, within the Conservation District adjacent to the Piscataqua River. The retaining wall is 436 sq. ft. and the area of fill behind the wall is 680 sq. ft. (P14-06)

K.McEneaney, McEneaney Survey Associates, Inc., represents the owner. He explained that the property currently has a concrete rubble sea wall made of large pieces of concrete which extends at a very shallow angle down into the tidal area. He is proposing to construct a dry stone retaining wall,



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approximately 3 to 3-1/2 feet tall with a length of approximately 86 feet, with a steeper angle which reduces the impact area. This has gone before the Conservation Commission who voted unanimously to endorse this with conditions. He explained that this will have to go before the State Wetlands Bureau and get DES approval.

Motion: F.Torr made the motion to accept the application. Seconded by G.Cruikshank. Vote: U/A

Public Hearing Open. Nobody Spoke. Public Hearing Closed.

STAFF RECOMMENDATION:

C.Parker stated this went before the Conservation Commission on 2/10/2014 and was endorsed by them. He stated the Planning Department recommends approval with the following conditions:

Conditions to Be Met Prior to the Issuance of the Conditional Use Permit:

1. The applicant shall provide the Planning Department with a copy of the NH Department of Environmental Services Wetlands Permit.
2. The applicant shall revise the plan to add the requirement that material removed from the existing wall be removed off-site.
3. The applicant shall revise the plan to add the requirement that construction will take place from the upland.
4. The applicant shall revise the plan to add a turbidity curtain for erosion and sedimentation control.
5. The applicant shall revise the plan to add a revegetation plan for the base of the wall area.

Motion: F.Torr made the motion to approve. Seconded by D.Thibodeaux. Vote: U/A

3. OLD BUSINESS

- A. Consideration and possible vote on a Site Plan Review for First Street at Garrison, LLC, (Owner: City of Dover), Assessor's Map 6, Lot 3, zoned CBD-G, located at First Street and Chestnut Street. (A five story building with 9,158 sq. ft. of retail and restaurant space on the first floor and 32 residential units on the upper floors and 94 parking spaces) (P14-03)
- B. Consideration and possible vote on a minor subdivision for First Street at Garrison, LLC, (Owner: City of Dover), Assessor's Map 6, Lot 3, zoned CBD-G, located at First Street & Chestnut Street. (1 new lot) (P14-04)

4. NEW BUSINESS

- A. Consideration and acceptance of a Conditional Use Permit for reduced parking for First Street at Garrison, LLC, (Owner: City of Dover), Assessor's Map 6, Lot 3, zoned CBD-G, located at First St. & Chestnut St. (P14-10)
- B. Consideration and acceptance of a Conditional Use Permit per Chapter 170-20-D(2) for First Street at Garrison, LLC, (Owner: City of Dover), Assessor's Map 6, Lot 3, zoned



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CBD-G, located at First St. & Chestnut St. (Relief from side build to line for building, frontage buildout and lot coverage) (P14-11)

The Chair stated all four items would be heard together and voted on separately.

G.Cruikshank recused herself.

Motion: L.Skinner made the motion to remove items 3A and 3B from the table. Seconded by C.Lawrence. Vote: U/A

Kevin McEneaney, McEneaney Survey Associates, Inc., gave an overview of the project. He explained some revisions made to the plan due to issues raised by the Technical Review Committee since the last Planning Board meeting. The issues addressed were eliminating the parking spaces near Chestnut Street, improvements in the traffic pattern with the addition of some stop signs and crosswalks, dumpster adequacy and location, and additional landscaping. He explained the waivers and the reasons for them for reduced parking, building coverage and frontage, and side setback relief.

T.Clark confirmed the snow removal plan with K.McEneaney which may include an ice melt coil system in the walkways and possibly in the parking area and, if that is not feasible, snow will be removed from the lot.

F.Torr asked K.McEneaney to explain how he would handle snow removal from the angled parking area that is leased from the City of Dover.

K.McEneaney explained he would be responsible to remove the snow from that area and he would plan to coordinate this with the Director of Community Services.

G.Green commented that he recently noticed that First Street was very narrow with all the snow that is there and he wanted to know the plan for widening First Street.

K.McEneaney explained that the angled parking takes up 16-1/2 feet, there is a 19 foot travel way in the middle, and angled parking on the other side.

F.Torr asked about the lighting plan and expressed his concern that he would like the Planning Board to have the opportunity to see it.

K.McEneaney stated the landscaping and lighting plan is a condition of approval and will need to be completed to the satisfaction of the Planning Department before the Building Permit is issued.

C.Parker explained that the Cecil Group has been hired to do a downtown streetscape project and a pedestrian/vehicular access study which would be available in April. The hope is that the First Street project will match what will be done at the police station and other projects downtown, and to have something that will set the tone for other streetscape improvements.

Motion: G.Green made the motion to accept 4A and 4B. Seconded by L.Skinner. Vote: U/A

Public Hearing Reopened on 3A and 3B and Open on 4A and 4B



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Jean Field, 24 Second Street, stated that she objects to the Conditional Use Permit for reduced parking. She explained the number of parking spaces in the area that are available, that owners in the area are told to guarantee two parking spaces per unit within 1000 feet, and the number of parking spaces required for restaurants. She requests that there be no reduced parking for residents in the area. She submitted a letter to the Board.

Public Hearing Closed

C.Parker stated that there are 402 spaces in the transportation lot that are available to the public. He explained that the winter parking ban plan for First Street going forward would be to use the transportation center lot and there will be no charge for using that lot, and also the proposed parking garage will be used in the future.

L.Skinner confirmed with C.Parker that there are only 16 remaining unresolved issues by the TRC.

Discussion ensued regarding the traffic study, parking meters and permits, leasing and swapping of parking spaces, the Parking Commission supports what is proposed, public access to the river, and the LDA requires that \$120,000 in public improvements be done on First Street and the river, the timeline and construction window for the project.

C.Parker provided clarification of issues for board members. He reminded the board that this is Phase 1 and there will be a Phase 2, and these are intentionally separated.

G.Green asked C.Parker if access to Chestnut Street could be restored.

C.Parker stated that this could be a condition of approval for Phase 2.

K.McEneaney explained the plan for parking for residents of the proposed building, and deliveries for the restaurants would be done on the easterly side of the building not on the street side.

K.Schuman suggested making larger the easterly-most island in the northerly side of the parking lot, and constructing a mid-block crosswalk on the northerly side.

K.McEneaney stated they will make the islands in the parking lot as large as possible and stated they will also be maintaining these islands, and he mentioned three places where he thought crosswalks would be a good idea. He also addressed the timeline for the project and stated there are financial penalties for not completing certain aspects of the project in a timely manner.

F.Torr suggested making a modification that the landscaping and lighting plan come back to the Board for approval.

STAFF RECOMMENDATION:

The Planning Department recommends the Planning Board approve the Site Plan Review with the following conditions:

Conditions to Be Met Prior to Signing of Plans:

1. The owner's signature shall be added to the final plan set submitted for signature.



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2. The applicant shall provide the Planning Department with a digital version of the final plan.
3. The applicant shall add the surveyor's and engineer's stamp and signatures to the appropriate sheets.
4. The applicant shall have the Stormwater Management Maintenance and Inspection Plan approved by the Community Services Department.
5. The approval includes the granting of the waiver requested for the reasons stated by staff. The Board finds that the criteria of Chapter 149-19.A have been met.
6. The applicant shall prepare a detailed plan depicting the proposed public improvements, with a minimum value of \$90,000 for phase 1, in accordance with Section 6.05 of the Land Development Agreement, as revised. The plan shall also document the maintenance, operation, repair and replacement of said improvements.
7. The applicant shall revise the plan to add a note indicating that any additional improvements proposed in the river will require separate Conditional Use Permits and state permits.
8. The applicant shall revise sheet #5 to add details of how the phase 2 parking lot will be improved.
9. The applicant shall meet with representatives of Community Services to formulate a snow removal plan for the parking spaces within First Street and discuss the installation of any snow melting infrastructure.
10. The applicant shall revise the plans to address the following issues from the City Engineer:
 - a) Add a note that requires that the pavement on First Street be cold planed down two inches and add 1.5 inches of overlay.
 - b) Add a note requiring that the sewer main be inspected by camera prior to construction and relining.
 - c) Show how the existing sewer main will be protected during and after construction, to the satisfaction of the City Engineer.
 - d) Add a gate valve to the fire water line outside of the building.
 - e) Add a detail of the proposed retaining wall and to add a note requiring that the engineered retaining wall plans be submitted to the City Engineer for review and approval.

Conditions to Be Met Prior to Any Construction Activity:

11. Construction hours shall be limited to Monday-Friday 7 AM-6 PM, Saturday 8 AM-5 PM, with no Sunday hours. Hours of construction shall be documented on a site construction sign along with the contact information for the general contractor. Said signage shall be located and approved by the City Engineer or Director of Planning and Community Development.

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

12. Any new non-residential use and new dwelling units shall pay the current impact fees in place at the time of building permit application.
13. Any new non-residential use and new dwelling units shall be assessed the current water/sewer investment fees in place at the time of application for water/sewer service.

Conditions to Be Met Prior to Issuance of a Certificate of Occupancy:

14. The applicant shall prepare a landscape plan that complies with Chapter 149-13-A-12 and Chapter 170-20(E) to satisfaction of Planning Board.
15. The applicant shall prepare a lighting plan that complies with Chapter 149-14-E to satisfaction of Planning Board.
16. The applicant shall provide a letter of credit or other form of security acceptable to the City for any unfinished work, including any public improvements as outlined in the Land Development Agreement, as revised.



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L.Skinner asked for clarification between construction activity and issuance of a building permit. He suggested adding a condition regarding approval of the landscaping and lighting plan.

C.Parker suggested adding some additional language to condition #12 and #13.

K.McEneaney gave details of the timeline for construction and expressed concern that approval of the landscaping and lighting plan would hold up obtaining the building permit.

Discussion ensued regarding when the landscaping and lighting plan would be completed and timing of issuance of building permit and certificate of occupancy. It was stated that landscaping and lighting are the last things to be done.

C.Parker read the amended conditions #12 and #13 for the record.

Motion: T.Clark made the motion to approve the Site Plan to include the staff recommendations as amended. Seconded by L.Skinner. Vote: 7/1 (abstention)

STAFF RECOMMENDATION:

The Planning Board recommends the Planning Board approve the Minor Subdivision 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.

Motion: L.Skinner made the motion to approve the Minor Subdivision with staff recommendations. Seconded by T.Clark. Vote: 7/1(abstention)

STAFF RECOMMENDATION:

The Planning Board recommends the Planning Board approve the Conditional Use Permit for reduced parking with the following conditions:

Conditions to Be Met Prior to the Issuance of the Conditional Use Permit:

1. The Site Plan (P14-03) for the property must be approved.
2. A formal agreement between the Planning Board and the applicant shall be prepared and recorded at the Strafford County Registry of Deeds.

Motion: T.Clark made the motion to approve the Conditional Use Permit. Seconded by F.Torr. Vote: U/A

STAFF RECOMMENDATION:

The Planning Department recommends the Planning Board approve the Conditional Use Permit for relief from side build to line for building, frontage buildout and lot coverage with the following conditions:

Conditions to Be Met Prior to the Issuance of the Conditional Use Permit:



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1. The Site Plan (P14-03) for the property must be approved.
2. A formal agreement between the Planning Board and the applicant shall be prepared and recorded at the Strafford County Registry of Deeds.

Motion: F.Torr made the motion to approve the Conditional Use Permit application. Seconded by D.Thibodeaux. Vote: U/A

C.Parker commented that the same agreement will be used for both Conditional Use Permits.

5. STAFF COMMENTS

C.Parker stated the City Council will be holding a public hearing on 2/26/2014 and deliberating on the Zoning Amendments which the Board forwarded to the Council in December 2013.

C.Parker stated there are ongoing discussions at the council level regarding the TIF district.

C.Parker wanted to clarify that after the first application (4C) he left the room so that he could give his card to the abutters and encourage them to come in so that he could address their concerns about jurisdiction over the wetlands. He apologized for leaving the room. He stated he also did this for the second application, 4D, giving the abutters his card and encouraging them to come in to go over the plan with them.

There was discussion about the School Street Condominium and the fact that they have one more year left on an agreement to lease parking spaces at the School Street lot.

6. COMMITTEE REPORTS

C.Parker stated he is looking to start the Land Use Chapter Steering Committee. There is a copy of the press release in the packets for tonight's meeting and he stated 10 people have expressed an interest to be on the committee. D.Ciotti will develop a process to meet with those applicants. It would be a 7-member committee made up of 2 Planning Board members, 1 from DBIDA and 4 citizens.

G.Cruikshank and D.Ciotti have volunteered to be the Planning Board members on that committee.

G.Green stated the Sign Committee is meeting for the first time on 3/06/2014 at Room 305 in the McConnell Center at 8:30 a.m. This will be an organizational meeting.

7. ADJOURNMENT

Motion: T.Clark made the motion to adjourn at 10:16 p.m. Seconded by G.Cruikshank. Vote: U/A