



CITY OF DOVER

DOVER PLANNING BOARD – MINUTES

Meeting Type: Regular Meeting
Meeting Location: McConnell Center Room 306, 61 Locust St. Dover, NH 03820
Meeting Date: **Tuesday, August 22, 2017**
Meeting Time: **7:00 pm**

Members Present: Kirt Schuman (Chair), Gina Cruikshank (Vice Chair), Dennis Ciotti (Councilor), Tom Clark, Frank Torr, Lee Skinner, David Landry, James Burdin (Alternate), Tristan Donovan (Alternate), Hayley Harmon (Alternate)

Members Not Present: Catherine Plante, Dave White,

Staff Present: Christopher Parker (Assistant City Manager), Donna Benton (Assistant City Planner)

The Chair called the meeting to order at 7:03p.m., and recognized Tristan Donovan and James Burdin to sit in for Dave White and Catherine Plante.

Hayley Harmon arrived at 7:05pm.

K.Schuman described the process used to hear cases and the opportunities for the public to communicate.

1. CITIZENS' FORUM

Citizens Forum Open. Nobody spoke. Citizens Forum Closed.

2. APPROVAL OF THE PRIOR MINUTES

- July 25, 2017 Regular Meeting Minutes

Motion: F.Torr made a motion to approve with changes the July 25, 2017 Regular Meeting Minutes. Seconded by D.Ciotti. Vote U/A

K.Schuman announced that item 4.C and G will not be heard.

3. OLD BUSINESS

- A. Public Hearing and Discussion of a Zoning Ordinance Amendment to rezone a 29.1 acre City owned parcel (Maglaras Park), Assessor's Map 22, Lot 42, located off Henry Law Avenue & Towne Drive from R-12 to CWD.

C.Parker stated that at the June 27th meeting the Board posted the amendment. This is the second public hearing with the intent of having a discussion after regarding the area to be rezoned and next steps.

Motion: F.Torr made a motion to remove the item from the table. Seconded by L.Skinner. Vote: U/A.

Public Hearing Opened

No one spoke.

C.Parker summarized letter from Chris Prior regarding his support for the rezoning and asking for his lot to be added to the rezoning efforts.

Public Hearing Closed

C.Parker stated that staff recommends that should the Board wish to add additional properties staff will add those to the Ordinance and create the rezoning analysis based upon that area. C.Parker also explained the nonconforming uses that would be created depending on how far the Board decides to spread the rezoning area.

D.Ciotti gained clarification of the process should the Board add the additional lots and the notification necessary.



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J.Burdin clarified that Mr. Prior's lot would be the only lot with a single family home should the Board vote to rezone only the City owned lots, Mr. Prior's lot, and the lots requested off of the paper Street.

C.Parker clarified for L. Skinner the right of way, zoning boundaries and split zoning.

Chairman Schuman noted that he found it more prudent to focus on the initial request and wait for a future rezoning effort for the private lots. D.Landry agreed.

J.Burdin said he would consider adding the few private lots who have requested to be added during this effort at the same time, especially considering that only one nonconformity would be created.

Chairman Schuman reminded the Board about the goal of creating a rezoning subcommittee that should look at the additional lots as part of the greater rezoning.

T. Clark agreed that adding in lots in pieces could be complicated and also felt the Board should only consider the initial request.

The Board decided to leave the ordinance as is and to continue the conversation with the property owners along the paper street. Noting that C.Prior could go through the standard petition process. Therefore, no further public hearing is necessary and the Board can potentially vote at their next meeting.

Motion: F.Torr made a motion to table the rezoning to the September 12th Regular Planning Board Meeting. Seconded by T. Clark. Vote: U/A.

G.Cruikshank announced that items 4.A & B would be heard together and voted on separately.

4. NEW BUSINESS

- A. Consideration and acceptance of a Conditional Use Permit for Arthur & Mary DuBois, Assessor's Map L, Lot 48-A, zoned R-20, located at 283 Dover Point Rd. *(P17-53) (Proposal is to allow a driveway within wetland buffer with approximately 3,964 s.f. of wetland buffer impact)
- B. Consideration and acceptance of a Minor Subdivision for Arthur & Mary DuBois, Assessor's Map L, Lot 48-A, zoned R-20, located at 283 Dover Point Rd. *(P17-56) (1 new lot)

C.Parker stated that the request is to create a new lot between 283 and 285 Dover Point Road, with a driveway, which requires a Conditional Use Permit, due to the proximity of wetlands and wetland buffers. This application went to the Zoning Board for relief on frontage and front setback on May 19 2016. The Board reheard the request on July 21, 2016. The Conservation Commission reviewed the Conditional Use Permit request on August 14, 2017.

Staff did have some concerns relative to a Condition the Zoning Board placed upon the approval. It stated that the larger lot should be 2.6+/- as depicted upon the Variance application, as opposed to 2.39 acres. Upon review with ZBA members, and reviewing the minutes and video of the meeting, it became clear the intent was to not allow further adjustment of the newly created lot.

Staff has some concern relative to the tight space the driveway will inhabit, and the potential drainage issues which might result, due to the topography of the lot. Staff believes that, if created, the new lot should have proper stormwater management to ensure that runoff onto abutting lots does not result.



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Kevin McEneaney represented the application. He described the lots and why lot 2 where 283 Dover Point Road is located is one acre where 20,000 s.f. is required.

F. Torr understands the spirit and intent but still expressed his concern that the conclusion was 2.6 not 2.39 acres.

C. Parker explained staff concerns regarding the plan differences in detail between the Zoning Board of Adjustment (ZBA) and the Planning Board submittal.

K. McEneaney reiterated the process.

T. Clark agrees with F. Torr and doesn't feel the Board should accept the application until it goes back to the ZBA for clarification.

D. Landry noted that based on the viewing of the ZBA meeting, if the Board adds a condition, limiting future subdivision, does that suffice for the future?

D. Ciotti thinks the difference is the spirit and intent is appropriate and the difference between the Planning Board requiring a full plan with metes and bounds versus the representation to the ZBA.

T. Clark and F. Torr were concerned with the condition removed.

Attorney F.X. Bruton explained the representation to the ZBA.

L. Skinner asked how to measure what the "+/-" is defined as.

G. Cruikshank read a statement from the July 21 ZBA minutes and expressed her impression.

Motion: J. Burdin made a motion to accept the applications for item 4.A & B. Seconded by F. Torr. Vote U/A

Public Hearing Opened

M. Garofano, 258 Dover Point Road spoke against the application. He expressed his concerns about the new lot not meeting neighborhood lot sizes and his belief this item should not be approved. M. Garofano addressed his letter provided to the Planning Board.

H. Brown, 85 Dover Point Road, expressed his concern about the driveway, slope and contour of the property, bringing runoff onto the lot.

M. Garofano, 258 Dover Point Road, would like to see the driveway paved due to concern of slope and grade.

The Public Hearing was recessed at 8:11 and reopened at 8:17.

Public Hearing Closed

C. Parker responded to concerns about the driveway.

K. McEneaney will redraw the plan so the crown of the driveway runs towards 283 Dover Point Road. He also clarified for J. Burdin that the driveway runoff will flow onto lot 2 and the distance from driveway to wetlands. It was clarified by K. McEneaney that it is acceptable to set rebar points in wetlands.

K. McEneaney also clarified for D. Ciotti the driveway grade and clarified runoff on driveway for L. Skinner.



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Attorney Bruton responded to M. Garofano's email.

C.Parker clarified for J.Burdin no closed drainage on Dover Point Road exists in that area.

K.McEneaney clarified the easement for D.Landry.

Discussion ensued regarding the driveway and potential site walk.

STAFF RECOMMENDATION: (P17-53)

C.Parker stated that Chapter 170 of the City Code allows for relief within the wetlands buffer should there be no other means available for accessing a lot. The Planning Department recommends that the vote to approve the application with the following Conditions:

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

1. The applicant shall revise the plat to:
 - a. Add the owner's signatures
 - b. Add the Licensed Land Surveyor, Professional Engineer, and Wetland Soil Scientist stamps and signatures
 - c. Identify the location of wetland buffer placards every 50'
 - d. Add Planning File Number P17-53
 - e. Note the size of the rip rap to be used
 - f. Redraw cross section to show slope of driveway towards lot 2.
2. The applicant shall provide
 - a. The Planning Department with a digital version of the final plat.
3. That subdivision P17-56 is approved.

Motion: J. Burdin made a motion to adjust the agenda to vote on item 4B before item 4A Seconded by D. Ciotti. Vote 1-8. J.Burdin voted in the affirmative.

Motion: T.Donovan made a motion to approve the Conditional Use Permit subject to staff recommended conditions. Seconded by F.Torr. Vote 6-3. K.Schuman, J.Burdin, and D.Landry voted in the negative.

STAFF RECOMMENDATION: (P17-56)

C.Parker stated that the application meets the requirements of chapter 155, to subdivide the lot into two lots. The Planning Department recommends that the vote to approve the minor subdivision plat with the following conditions:

Conditions to Be Met Prior to Signing of Plans:

1. The Conditional Use Permit P17-53 shall be approved
2. The applicant shall provide the Planning Department with:
 - a. A digital version of the final plat
 - b. A drainage analysis indicating that no run off from the proposed driveway will be generated onto abutting lots L 48C, 48F, 48H and lot 2
 - c. Should an easement be required for stormwaer onto lot 2, provide copy of deed to the Planning Department
3. The applicant shall pay any outstanding Planning Board application fees as invoiced
4. The applicant shall revise the plat to:



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- a. Add the owner's signatures to the final plat submitted for signature to be recorded at the Strafford County Registry of Deeds
- b. Add the Licensed Land Surveyor and Wetland Scientist's signature and stamp to the final plat
- c. Provide neighborhood plan with aerial underlay
- d. Indicate proposed electric, telephone, gas, cable, water, and sewer to the Assistant City Manager's satisfaction
- e. Add Planning Board file # P17-56 to all sheets of the plat set
- f. Add note that house on lot 2 shall have a fire suppression system
- g. Revise Note 3 to remove ZBA info and add a separate ZBA note to include the proper dates the ZBA met, case numbers and the conditions of approval
- h. Add common minor subdivision notes 13, 16, 19, 20, and 26
- i. Add screening between the proposed driveway and abutting lots L 48C, 48F and 48H
- j. Add a note that the lot shall not be further subdivided or adjusted
- k. Add a topography sheet as shown on the Conditional Use Permit application

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

5. The City Engineer is satisfied that run off from the driveway will not flow onto adjacent lots.

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

6. Any new dwelling unit shall be assessed the current impact fees in place at the time of building permit application
7. Any new dwelling unit shall be assess the current water and sewer investment fees at time of water/sewer tie in service.

Motion: F.Torr made a motion to approve the minor subdivision subject to staff recommended conditions. Seconded by T. Donovan. Vote: 8-1. J.Burdin voted in the negative.

- C. Consideration and acceptance of a Minor Subdivision for Thomas & Evelyn Backowies, Assessor's Map 26, Lot 9, zoned CBD-Gateway, located at 99-101 Broadway. *(P17-48) (1 new lot)

C.Parker stated that the applicant submitted a request to withdraw from the agenda.

- D. Consideration and acceptance of a Minor Lot Line Adjustment for Timothy and Marilyn Donnelly (Owners: McBeau LLC & Timothy & Marilyn Donnelly), Assessor's Map 24, Lots 129-1 & 130, zoned CBD (Downtown Gateway Overlay), located at 109 & 119-121 Portland Ave. *(P17-52)

C.Parker stated that the request is to adjust the lot line between two properties on Portland Avenue. The adjustment will relocate roughly a quarter of an acre between the properties. No additional dwelling units will result from this adjusement.

Kevin McEneaney representing the application, explained moving 10,000 s.f. from one lot to another of primarily steep slope which is not buildable.

Motion: F.Torr made a motion to accept the applications for item 4 D. Seconded by D.Ciotti. Vote U/A

Public Hearing Opened No one spoke. *Public Hearing Closed*

STAFF RECOMMENDATION:

C.Parker stated that the application meets the requirements of chapter 155, to adjust the boundaries between two lots. The Planning Department recommends that the vote to approve the minor lot line adjustment plat with the following conditions:

Conditions to Be Met Prior to Signing of Plans:

1. The applicant shall provide the Planning Department with a digital version of the final plat



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2. The applicant shall pay any outstanding Planning Board application fees as invoiced.
3. The applicant shall revise the plat to:
 - a. Include the Licensed Land Surveyor signature and stamp
 - b. Add the owner's signatures to the final plat submitted for signature to be recorded at the Strafford County Registry of Deeds
 - c. Revise Planning file number to be P17-52 on all sheets
 - d. Indicate zoning dimensional requirements
4. Add common subdivision notes: 8, 9, & 10
5. The shed shall be located on one lot.

Motion: D.Ciotti made a motion to approve the minor lot line adjustment subject to staff recommended conditions. Seconded by L.Skinner. Vote U/A.

- E. Consideration and acceptance of a Minor Subdivision for Bean Family Trust, Assessor's Map A, Lot 45, zoned R-40, located at 12 Olive Meadow Lane. *(P17-49) (1 new lot)

C.Parker stated that the request is to subdivide the current 4.68 acre lot on Olive Meadow Lane into two lots. Both lots will be serviced by municipal water and sewer. The sewer will connect on Sixth Street and not the Olive Meadow private sewer line.

Steve Haight representing the application, described the layout.

S.Haight confirmed for D.Ciotti that the existing well and septic will be abandoned.

Motion: F.Torr made a motion to accept the applications for item 4 E. Seconded by L.Skinner. Vote U/A

Public Hearing Opened No one spoke. *Public Hearing Closed*

STAFF RECOMMENDATION:

C.Parker stated that the application meets the requirements of chapter 155, to subdivide property into two lots. The Planning Department recommends that the vote to approve the minor subdivision plat with the following conditions:

Conditions to Be Met Prior to Signing of Plans:

1. The applicant shall provide the Planning Department with a digital version of the final plat
2. The applicant shall pay any outstanding Planning Board application fees as invoiced
3. The applicant shall revise the plat to:
 - a. Add the owner's signatures to the final plat submitted for signature to be recorded at the Strafford County Registry of Deeds
 - b. Add the Licensed Land Surveyor's signature and stamp to the final plat
 - c. Provide neighborhood plan with aerial underlay
 - d. Indicate proposed electric, telephone, gas, cable, water, and sewer to the Assistant City Manager's satisfaction
 - e. Add Planning Board file # P17-49 to all sheets of the plat set
 - f. Remove the Dover approval box
 - g. Add note that house on lot 45-2 to have a fire suppression system
 - h. Add note that final lot numbers shall be assigned by the Assessing Department
 - i. Add common minor subdivision note 13.

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

4. Any new dwelling unit shall be assessed the current impact fees in place at the time of building permit application



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5. Any new dwelling unit shall be assess the current water and sewer investment fees at time of water/sewer tie in service.

S.Haight confirmed for D.Landry the location of the driveway, and there were no wetlands impacts.

Motion: F.Torr made a motion to approve the minor subdivision subject to staff recommended conditions. Seconded by J.Burdin. Vote: U/A.

- F. Consideration and acceptance of a Minor Subdivision for Derek Fisher (Owner: The Lower Square Condominiums Association), Assessor's Map 9, Lots 113, zoned CBD, located at 266-276 Central Avenue.
*(P17-54) (1 new lot)

C.Parker stated that the request is to subdivide the current .0995 acre lot on Central Avenue into two lots. Both lots will be serviced by municipal water and sewer. The lot currently is owned by a Condominium Association which will be desolved. No adjustments to the two buildings, or the residential and commercial uses contained within them is expected by this plan.

Brenda Kolbow represented the application and waiver request.

B.Kolbow confirmed for T. Donovan the driveway and the ownership.

Derek Fisher confirmed for D.Ciotti that the garage door at the end of the driveway is not in use.

Motion: F.Torr made a motion to accept the applications for item 4 F. Seconded by T.Clark. Vote U/A

Public Hearing Opened No one spoke. *Public Hearing Closed*

Waiver Request:

The Planning Department recommends that the Board approve the waivers from Sections 155-28.H&P with the following condition:

Condition to Be Met Prior to Signing of Plans:

1. A note shall be added to the subdivision plan that the waivers were granted for the reasons stated by the applicant and that the Board found the criteria of 155-51A have been met.

Motion: T.Clark made a motion to grant the waivers subject to the staff recommended conditions per the reasons stated by the applicant. Seconded by L.Skinner. Vote: U/A.

Subdivision Plat:

C.Parker stated that the application meets the requirements of chapter 155, to subdivide property into two lots. The Planning Department recommends that the vote to approve the minor subdivision plat with the following conditions:

Conditions to Be Met Prior to Signing of Plans:

1. The applicant shall provide the Planning Department with a digital version of the final plat
2. Driveway easement shall be recorded at the Strafford County Registry of Deeds with a copy provided to the Planning Department
3. The applicant shall pay any outstanding Planning Board application fees as invoiced
4. The applicant shall revise the plat to:
 - a. Add the owner's signatures to the final plat submitted for signature to be recorded at the Strafford County Registry of Deeds
 - b. Add the Licensed Land Surveyor's signature and stamp to the final plat



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- c. Indicate proposed electric, telephone, gas, cable, water, and sewer to the Assistant City Manager's satisfaction
- d. Add Planning Board file # P17-54 to all sheets of the plat set
- e. Indicate width of sidewalk
- f. Revise note 6 so that the basis of bearing ties into City of Dover GIS
- g. Add note regarding variance granted (Z17-02)
- h. Add common minor subdivision notes: 10, 12, 13, 17, & 25
- i. Applicant to provide proof that the condominium association shall be extinguished after final plans are recorded, and Assessing Office has correct lot ownership information.

Motion: D.Ciotti made a motion to approve the minor subdivision subject to staff recommended conditions. Seconded by T.Donovan. Vote: U/A.

- G. Consideration and acceptance of a Conditional Use Permit for Changing Places LLC/Thornwood Commons, (Owner: Thornwood Commons HOA), Assessor's Map M, Lot 4-14, zoned ETP, located at Thornwood Lane. *(P06-55B) (Proposal is approximately 1,239 s.f. of wetland buffer impact to remove a retaining wall)

C.Parker stated this item was not endorsed by the Conservation Commission at its meeting on August 14, 2017. The applicant has asked that the item be continued to September 26, 2017 to allow the Conservation Commission to review and vote on an endorsement.

Motion: D.Ciotti made a motion to Continue the application until the September 26, 2017 regular Planning Board meeting. Seconded by L.Skinner. Vote: U/A.

- H. Consideration and acceptance of a Conditional Use Permit for Paul D'Orazio, (Owner: Sawyer's Mill Associates Inc), Assessor's Map 16, Lot 13, zoned R-12, located at 1 Mill Street. *(P17-55) (Proposal is to remove a dam)

C.Parker stated that the request is to remove the dam located at Sawyer Mills between Mill Street and Back River Road. In order to do this, the applicant requires a Conditional Use Permit to access, remove the dam and associated sediment from the area. This will allow the Bellamy River to revert to a natural flow.

The Conservation Commission reviewed this project at its August 14, 2017 meeting. It tabled the approval, to see if the Planning Board wanted to hold a site walk of the project, before it considered endorsement. To facilitate that question, the item was placed on the Planning Board agenda to allow the Board to review this unique application and seek public feedback on the proposal.

Mark Wamser introduced the team associated with the project and reviewed a powerpoint on the project and steps to removing the dam including the benefits and impacts. Topics he discussed included the overall review/process, structural analysis, sediment, permits, and dam removal outcomes.

Motion: T.Clark made a motion to accept the applications for item 4 H. Seconded by F.Torr. Vote U/A

Public Hearing Opened No one spoke. *Public Hearing Closed*

T.Donovan asked for clarification on head cut on the plan, tidal areas, redrafting the flood map, construction process/actions, and contingency plan for any movement in the adjacent building.

M.Wamser confirmed for L.Skinner the amount of cubic yards of silt would be removed.



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The team confirmed for F.Torr that the restoration area is already revegetating.

The team confirmed for D.Ciotti that impacted sediment removal and water quality will be looked into.

D.Landry asked fish habitat, whether there were any negative impacts and what the impact of sea level rise would be.

The team clarified for J.Burdin the timeline of the project which is to remove the dam starting in July 2018.

A site walk was scheduled for 5:30pm on Tuesday September 12, 2017 at the Sawyer Mill Dam.

STAFF RECOMMENDATION:

The Planning Department recommends that the Board table the application until October 24, 2017 at 7 pm.

Motion: F.Torr made a motion to table, until the October 24, 2017 regular Planning Board meeting. Seconded by L.Skinner. Vote U/A

5. STAFF COMMENT

C.Parker reminded the Board of going back to two meetings a month, projects recently brought to the Technical Review Committee, F.Torr's article about climate change, birthday wishes to G.Cruikshank and D.Ciotti, and the rezoning committee.

6. MEMBER COMMENTS

Discussion ensued about the rezoning committee.

D.Landry asked for an update on major projects at an upcoming meeting.

F. Torr discussed the new Dunkin Donut's parking lot and speaker system on Sterling Drive.

7. ADJOURNMENT

Motion: G.Cruikshank made a motion to adjourn at 10:38 pm. Seconded by D.Ciotti. Vote U/A.