

These minutes were approved at the January 8, 2003 meeting
DURHAM PLANNING BOARD MINUTES
WEDNESDAY, DECEMBER 11, 2002 – 7:00 P.M.
CAFETERIA- OYSTER RIVER HIGH SCHOOL

MEMBERS PRESENT: *David Pease, Chair; Neil Wylie; Amanda Merrill, Secretary; David Watt, Vice Chair; Rachel Rouillard; Suzanne Loder; Arthur Grant, Town Council; Annmarie Harris, Town Council Alternate*

MEMBERS ABSENT: *Julian Smith, Alternate*

OTHERS PRESENT: *Jim Campbell, Planner; Bob Levesque, Town Engineer; Interested members of the public*

MINUTE TAKER: *Michael Bornstein*

Chair Pease called the meeting to order at 7:00 P.M.

I. Approval of Agenda

Vice Chair Watt MOVED to approve the agenda. The motion was SECONDED by Rachel Rouillard.

Neil Wylie MOVED to not have agenda items III-V. continue past 9:15 P.M. and for item VI. not to continue past 9:30 P.M. The motion was SECONDED by Arthur Grant.

Vice Chair Watt stated the public hearing will continue to the next meeting.

The motion was APPROVED with a vote of 6-2. (Chair Pease and Suzanne Loder voting against.)

Rachael Rouillard MOVED to strike items VII.-XIII on the agenda. The motion was SECONDED by Vice Chair Watt and was unanimously APPROVED.

The amended agenda was unanimously APPROVED.

II. Report of the Planner

Jim Campbell reported on the following:

On Wednesday, December 18, 2002 the Planning Board will have a public hearing on the proposed Zoning Ordinance and will deliberate on the conservation subdivision.

Other Planning Board meetings will be on Wednesday, January 8, 2003, Wednesday, January 22, 2002 and a public hearing on the conservation subdivision will be held on Wednesday, January 29, 2002.

The Zoning Re-write Committee will be meeting on Thursday, January 2, 2002 and Wednesday, January 15, 2002.

Regarding agenda item III., the applicant has requested that their application be postponed until the next meeting.

Neil Wylie suggested the Board should deliberate on the proposed loop road North tunnel and offer guidance to UNH.

- III. Public Hearing on an Application for Subdivision submitted by Jones & Beach Engineers, Stratham, New Hampshire on behalf of J.R. Collier Corporation, c/o Sophia Collier, Portsmouth, New Hampshire, for a 25 lot subdivision. The property is located on Packers Falls Road, is shown on Tax Map 17, Lots 39-0, 39-1, 39-3 through 39-6 and 39-8 through 39-20 and is located in the Rural Zoning District.

Arthur Grant MOVED the hearing be postponed until the next meeting. The motion was SECONDED by Neil Wylie and was unanimously APPROVED.

- IV. Public Hearing on an Application for Subdivision submitted by David M. Garvey, Garvey & Co., Ltd., Durham, New Hampshire and Stonemark Management Co., Stratham, New Hampshire on behalf of Calibogue Ltd., Hilton Head Island, South Carolina, to create 12 new residential lots. The property involved is shown on Tax Map 1, Lot 6-8, is located off of Fairchild Drive and is in the Residence A Zoning District

AND

- V. Deliberation on an Application for Boundary Line Adjustment submitted by David M. Garvey, Garvey & Co. Ltd., Durham, New Hampshire and Stonemark Management Co., Stratham, New Hampshire on behalf of Calibogue Ltd., Hilton Head Island, South Carolina, to change the boundary line between two properties. The properties involved are shown on Tax Map 1, Lot 6-8 and Lot 7-6, are located between Fairchild Drive and Madbury Road and are in the Residence A Zoning District

Suzanne Loder MOVED to reopen the public hearing. The motion was SECONDED by Vice Chair Watt.

Chair Pease stated the public hearing will not be closed until every member of the public who wishes to speak is heard.

Bill Tanguay, attorney for the applicant, stated the applicant has had three approved [accepted] plans; a 14-lot subdivision approved in September, a boundary line adjustment plan and a 12-lot subdivision plan, both approved [accepted] at the Wednesday, November 13, 2002 meeting. He stated the applicant has attempted to respond to the Board's requests by providing changes to the cul-de-sac, looping of the water, replacement of the pump system using Town sewer with a 50 foot easement to the sewer line, remapping the wetlands, an easement adjustment and a survey of the front parcel. Mr. Tanguay stated he believed when the project was completed and the property will not look any different from what is currently in place and that the plan is appropriate and consistent with the Zoning Ordinance and the 2000 Master Plan. He stated the project was in the RA Zone, which is intended to be a largely developed area.

David Leach, 14 Fairchild Drive, stated the Fairchild Development Concerned Citizens Committee was strongly opposed to the application and provided for the record an outline of concerns, which included access issues, engineering and environmental issues, wetlands delineations, premature development, and incompatibility with the 2000 Master Plan, land and design issues and the quality of life.

Charles Griffin, attorney for the Fairchild Development Concerned Citizens Committee, submitted for the record a binder concerning his arguments against the application. He spoke to the access to the subdivision, that access could not be granted as proposed in the property deeds and the 1978 subdivision regulations that governed the establishment of the Fairchild and Davis Avenue subdivisions, and what he believed would be adverse consequences to the residents and he gave a history of the property.

Reuben F. Hull, Civil Design Engineering Consultant for the Fairchild Development Concerned Citizens Committee, submitted for the record his Engineering Study, Zoning and Subdivision Review concerning the application. He stated that the proposed chain of cul-de-sac would violate the Town's ordinances and regulations, and would place a dangerous and excessive traffic burden on Davis and Fairchild Avenues.

Amanda Merrill stated the Board has received information from the Conservation Commission concerning the application.

Karl Van Asselt, 17 Fairchild Drive, submitted for the record a letter from himself and Margaret Houle, 17 Fairchild Drive, opposing the application.

Jim Hewitt, 4 Fairchild Drive, gave a presentation that he believed showed how the application would negatively impact wetlands and open space.

David Funk, 10 Fairchild Drive, submitted for the record a letter from himself and Sara Funk that urged the Board to consult with the Conservation Commission before deciding on the application.

Brian Geiger, 13 Davis Avenue, submitted for the record a presentation against the application.

Vice Chair Watt suggested the Board continue the public hearing to the next meeting.

Arthur Grant stated he did not believe the Board should deliberate on new applications before hearings on current applications were completed.

Vice Chair Watt MOVED to continue the public hearing until the next meeting. The motion was SECONDED by Neil Wylie and FAILED with a vote of 3-5. (Chair Pease, Neil Wylie and Vice Chair Watt voting in favor.)

Rachel Rouillard MOVED to extend the hearing until 9:45 P.M and then continue it to the next meeting. The motion was SECONDED by Arthur Grant and was APPROVED with a vote of 7-1 (Vice Chair Watt voting against.)

Kevin Webb, 22 Davis Avenue, submitted for the record a presentation against the application.

Chair Pease extended the public hearing until 9:50 P.M.

Chair Pease called for a recess at 9:56 P.M.

Chair Pease reconvened the meeting at 10:09 P.M.

VI. Public Hearing on an Application for Site Plan review submitted by Philip Noury, Portsmouth, New Hampshire, to change the current use of a property from religious use to professional offices. The property involved is shown on Tax Map 11, Lot 23-1, is located on 1 Morgan Way and is in the RC Zoning District

Arthur Grant MOVED to open the public hearing. The motion was SECONDED by Amanda Merrill and was unanimously APPROVED.

Jim Campbell stated he could not find the original site plan of the property with the date on it or who made the plans.

Chair Pease stated the Board needed a completed plan.

Jennifer Lemire, attorney for the applicant, stated the only changes the applicant will be making to the property include removing the steeple, placing a sign on the property and changing the use of the property. She stated no chemicals would be used

on the property, the applicant had no intentions of expanding the property, there would only be 10 customers on the property at a time and that 20% of the applicant's business would be done off site.

Suzanne Dev, realtor, spoke in favor of the application.

Armida Geiger, 13 Davis Avenue, spoke in favor of the application.

Arthur Grant MOVED to close the public hearing. The motion was SECONDED by Vice Chair Watt and was unanimously APPROVED.

Arthur Grant stated he believed a site plan and Conditions of Approval needed to be prepared if the Board was going to approve the application. He stated the conditions should include the restriction of wet chemicals and should show what changes to the building would take place.

Neil Wylie stated the Board could ask for Conditions of Approval and a site plan if the site plan and conditions were seen by the Board before it decided on the application.

Jennifer Lemire stated the closing on the property was in five weeks and that the applicant wanted approval of the application as fast as the Board could give it.

The Board decided to wait on approving the application until it saw a site plan and Conditions of Approval.

XIV. Other Business

A. New Business

In response to a question from Vice Chair Watt, Chair Pease stated the matter of whether or not the Board had to accept new applications before approving older ones needed to be discussed with Town Counsel and it would be discussed at the next meeting.

Jim Campbell stated the Board should set a date for a retreat and that he would be sending Board members possible dates. He stated he would be changing the way he accepts applications in that he will be stricter on applicants by no longer placing uncompleted applications on the agenda.

B. Old Business

Discussion of possible moratorium:

Arthur Grant stated the Board needed to look at 4.04 under the subdivision regulations and that the Board was prematurely considering new applications. He stated the Town attorney should be invited to a meeting to answer concerns.

In response to a question from Neil Wylie, Jim Campbell stated that the matter of an impact fee has been deliberated by the Zoning Re-write Committee in the past.

Suzanne Loder stated the Board needed to do some thing to help it consider applications in a timely way and in a way that matches the 2000 Master Plan process. She stated the new Zoning Ordinance needed to be completed as fast as possible.

Vice Chair Watt stated applications needed to be moved along but he believed that it was not as dire as the Board thinks.

Suzanne Loder stated the applications take time away from the activities of the processing of the Zoning Re-write Committee and many applications showed the Town's need for the ordinances to be re-written.

In response to a question from Secretary Merrill, Vice Chair Watt stated he did not believe what was in the proposed administrative provisions would affect the applications before the Board.

XV. Approval of Minutes

The following changes were made to the Wednesday, November 13, 2002 minutes:

Page 5, 6th paragraph which begins "Chair Pease stated" the word "and" was changed to "or."

Page 7, 12th paragraph which begins "In response to" the word "Slepia" was changed to "Slepian."

Page 9, 11th paragraph which begins "Amanda Merrill stated" the words "Amanda Merrill" were changed to "Annmarie Harris."

Neil Wylie MOVED to adopt the Wednesday, November 13, 2002 minutes as amended. The motion was SECONDED by Arthur Grant and was approved with a vote of 5-0-2. (Suzanne Loder and Vice Chair Watt abstaining.)

Vice Chair Watt MOVED to adjourn. The motion was SECONDED by Rachel Rouillard and was unanimously APPROVED.

The meeting ADJOURNED at 11:15 P.M.

Amanda Merrill, Secretary

