

MINUTES OF REGULAR PLANNING BOARD MEETING OF DECEMBER 21, 2009

A motion was made by Mr. Larrivee, and seconded by Mrs. Miller for discussion, to approve payment of the above referenced registration for Mr. Toomey to attend the 2010 MMA Trade Show.

Board members expressed their thoughts that Mr. Perry should attend this event as well. Mr. Perry concurred.

A motion was made by Mrs. Miller, seconded by Mr. Toomey, and unanimously voted (5-0) to approve Mr. Perry's attendance at the 2010 MMA Annual Meeting and Trade Show.

(3) Correspondence

Legal Notices from Conservation Commission
Letter from David Cressman dated December 10, 2009

Brief discussion ensued on the letter from the Executive Administrator, David Cressman, describing his availability to meet with the Planning Board. Board members felt January 11, 2010 after 8:00 p.m. would be suitable since both the Select Board and Planning Board will be meeting that night. Planning Staff was asked to send Mr. Cressman a letter to see if this date was agreeable with him.

A motion was made by Mrs. Miller, seconded by Mr. Toomey, and unanimously voted (5-0), to acknowledge and file the above referenced correspondence.

(6) Request for time extension on street determination on Berkshire Street for Robert and Robin Pires, Map 169, Lot 195

The Planning Director noted that a letter was received from Robert and Robin Pires requesting the Planning Board's consideration to grant a two-year extension on a previously established road standard for property located on Berkshire Street.

Brief discussion ensued.

A motion was made by Mr. Larrivee, duly seconded by Mrs. Miller, and unanimously voted to notify the Director of Inspectional Services that the Planning Board recommends improvement of Berkshire Street to a minimum paved width of 22 feet with 1-foot Cape Cod berms to provide frontage for one lot for Robert and Robin Pires on property located on Berkshire Street. It should also be noted that all utilities are to be underground. The Planning Board recommends the applicants consult with the Dartmouth Department of Public Works for paving standards and to approve utilities and drainage. This determination is valid until December 21, 2011. In the event additional lots are requested, this same standard applies for 1 to 20 lots.

(7) Revised Planning Project Timeline Charts

Brief discussion ensued on the project timeline charts developed by the Planning Director. In referencing the timelines for the updated Section 16 zoning, the Chairman felt the dates could be tightened up. Board members agreed stating the sooner the zoning is ready for Town Meeting the better.

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Appointments and Public Hearings

(4) 7:10 P.M. – APPOINTMENT– Rich Rheume, Chairman, Padanaram Village Review Committee: Presentation of Village Business District Bylaw to Planning Board

present: Rich Rheume, Chairman
Joan Underwood, Committee member
Janet Doe, Committee member
John Montigny, Committee member

Rich Rheume, Chairman of the Padanaram Village Review Committee, addressed the Board. He said the Committee has finished their work. The group had an excellent turnout during the process and he noted in the final stages there was a mutual concurrence with Town Counsel's review. Mr. Rheume thanked the Planning Director for his general group guidance.

Various Board members expressed their gratitude with how the bylaw progressed, pointing out it's clear what the people want and this bylaw represents that.

Mr. Rheume said he would like to keep the committee together and continue to have meetings in the future.

It was suggested that Mr. Rheume present to Town Meeting a letter of recommendation signed by the committee members.

At this time John Montigny stood up and stated he wanted to speak against the bylaw. However, after a brief discussion with the Planning Board, Mr. Montigny agreed to wait for the public hearing to express his thoughts.

(5) 7:30 P.M. – CONT. PUBLIC HEARING – Definitive (OSRD) Subdivision Plan entitled “OSRD Subdivision Plan prepared for Ronald T. Bogusky and Barbara Purdy” to be located north of Rock O’Dundee Road and east of Bakerville Road

In a roll call vote, a motion was made by Mrs. Miller, seconded by Mr. Larrivee, and unanimously voted (5-0), to recess the Planning Board's regular meeting at 7:30 p.m. in order to go into a public hearing concerning the Definitive OSRD Subdivision Plan¹ entitled “OSRD Subdivision Plan prepared for Ronald T. Bogusky and Barbara Purdy”.

Lorri-Ann Miller – yes; Arthur Larrivee – yes; John Haran – yes; Joseph Toomey, Jr. – yes; John Sousa – yes.

The regular meeting resumed at 8:02 p.m.

¹ For more information, see minutes of Planning Board Public Hearing of December 21, 2009 “Bogusky and Purdy”

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Administrative Items

(8) Initial review of Definitive (OSRD) Subdivision Plan entitled “OSRD Subdivision Plan prepared for Ronald T. Bogusky and Barbara Purdy”

Following the close of this evening’s public hearing, the Planning Director commented this plan has been laid out in accordance with the requirements of the OSRD By-Law and the Subdivision Regulations. Mr. Perry stated approval will require two votes. First, the Special Permit by roll call vote which requires a 4/5 vote. Second, a vote on the Definitive Subdivision Plan under the Subdivision Control Law.

In a roll call vote, a motion was made by Mrs. Miller, and so voted (4-1), to approve the Special Permit for a Definitive OSRD Subdivision Plan prepared for Ronald T. Bogusky and Barbara Purdy in accordance with the following:

Lorri-Ann Miller – yes; John Haran – yes; Joseph Toomey, Jr. – yes; Arthur Larrivee – no; and John Sousa – yes.

Certificate of Action for a Special Permit **“Subdivision Plan for Ronald Bogusky and Barbara Purdy”** **Definitive OSRD Subdivision Plan**

There was a Planning Board public hearing advertised for Monday, December 7, 2009 which was continued to December 21, 2009 and closed on Monday, December 21, 2009 regarding the application of Ronald T. Bogusky and Barbara Purdy, 307 Rock O’Dundee Road, Dartmouth, MA 02748 who requested a Special Permit under the Dartmouth Zoning By-Laws, Section 6 - Open Space Residential Design (OSRD), to allow a reduction in lot frontage, lot area, lot shape, lot coverage, building setbacks, and driveway and parking requirements for house lots shown on a plan entitled “OSRD Subdivision Plan prepared for Ronald T. Bogusky and Barbara Purdy” for property owned by same. The plan submitted to the Planning Board and Town Clerk on September 21, 2009 proposes to create 4 new buildable lots with two open space parcels from land (Assessor’s Map 25, Lot 1-12 and Map 24, Lot 49) located north of Rock O’Dundee Road and east of Bakerville Road. A time extension for all required actions under a Special Permit was mutually agreed upon to January 20, 2010.

Complete copies of the minutes of the public hearing and discussion of the Planning Board decision are available in the Town Clerk and Planning Board offices.

DECISION

At its regular meeting of December 21, 2009 and after the close of the above described public hearing, the Planning Board voted – Arthur Larrivee – no, Lorri-Ann Miller - yes, John Haran – yes, Joseph Toomey, Jr. – yes, John Sousa – yes, to grant a Special Permit to the petitioners, Ronald T. Bogusky and Barbara Purdy, 307 Rock O’Dundee Road, Dartmouth, MA 02748 for property owned by them (Assessor’s Map 25, Lot 1-12 and Map 24, Lot 49) for an OSRD development to allow a reduction in lot frontage, lot area, lot shape, lot coverage, building setbacks, and driveway and parking requirements for house lots in accordance with Section 6

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of the Zoning By-Laws.

The Planning Board granted the Special Permit for an OSRD development because it found that the plan met the following purposes of Section 6.100:

- The plan conforms to existing topography and natural features better than a conventional development since the use of driveways minimize grade and drainage changes to the land, as well as, consuming less land for development.
- The plan allows for greater flexibility and creativity in the design of this residential development by choosing the most appropriate house sites based on existing site features to preserve.
- The plan preserves agricultural land.
- The plan eliminates the construction cost and maintenance of a new street, utilities and public services, and develops the site in a more economical and efficient manner in harmony with the site and neighborhood.
- The plan preserves and enhances Dartmouth's traditional New England landscape by preserving fields.
- The plan minimizes the total amount of disturbance on the site.
- The plan preserves open space for passive recreational use.
- The plan furthers the goals of Dartmouth's Master Plan and Open Space Plan by complementing abutting protected open space.
- The plan does not create more buildable lots than could be allowed by a conventional subdivision plan.

In accordance with Section 6.500, the Planning Board modified the following requirements of the Dartmouth Zoning By-Laws for the lots shown on the plan:

Section 4B.401, Lot Area - to allow 30,000 square feet as the minimum required lot area and the minimum required upland area.

Section 4B.402, Lot Shape - to allow the lot shapes as shown on the plan for the lots.

Section 4B.403, Lot Frontage - to allow 0 feet, minimum frontage.

Section 4B.404, Setbacks - to allow a 10-foot minimum setback from all lot lines or right-of-way lines except that the setback from Rock O'Dundee Road and Bakerville Road shall be at least 30 feet.

Section 4B.406, Percentage of Lot Coverage - to allow 70% maximum lot coverage for the buildable lots only.

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Section 4B.407, Driveway and Parking Setbacks - to allow a 5-foot minimum setback from property lines for parking and driveways (also without the requirement for an evergreen screen) on the property.

The Planning Board grants the Special Permit for "OSRD Subdivision Plan prepared for Ronald T. Bogusky and Barbara Purdy" with the following conditions and restrictions:

1. The Planning Board grants the Special Permit for an Open Space Residential Development in substantial conformance with the following plans:

<u>Title</u>	<u>Sheet</u>	<u>Date</u>
OSRD Subdivision Plan prepared for Ronald T. Bogusky and Barbara Purdy	1 of 3	9/15/09 revised 10/30/09
OSRD Subdivision Plan prepared for Ronald T. Bogusky and Barbara Purdy	2 of 3	9/15/09 revised 10/30/09
OSRD Subdivision Plan prepared for Ronald T. Bogusky and Barbara Purdy	3 of 3	9/15/09 revised 10/30/09

2. The Planning Board grants the Special Permit in conformance with the Certificate of Action dated December 22, 2009 for the plan entitled "OSRD Subdivision Plan prepared for Ronald T. Bogusky and Barbara Purdy".
3. The Special Permit is only approved for four buildable lots.
4. A Trust Document satisfying the requirements of Section 6.801 and 6.802 of the Dartmouth Zoning By-Laws shall be approved by the Planning Board prior to endorsement of the subdivision plan.
5. In accordance with Section 6.802, a conservation restriction, meeting the requirements of Section 6.802, shall be provided prior to release of lots in the subdivision plan. The Planning Board may allow release of some lots at its discretion as long as sufficient lots are held to ensure compliance with this condition.
6. The fiberglass boundary posts defining the boundary between the buildable lots and the open space parcels shall not be removed and must be maintained as boundary delineation markers and shall be maintained in good condition, and noted in the Trust Document.
7. The OSRD Trust document shall include provisions for maintenance of common driveways with respect to road surface and vegetation clearance.
8. The note on the plan on Section 4B.404 regarding reductions in zoning requirements for setbacks must be changed to reflect the actual requirements voted by the Planning Board.

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9. The Open Space Trust document, as well as the Subdivision Plan, and any covenants and restrictions associated with the Subdivision Plan, shall be duly executed and recorded at the Bristol County (S.D.) Registry of Deeds.

All conditions of approval shall be met within one (1) year from the date of filing of the Planning Board decision in the Office of the Town Clerk. A reasonable extension of said time shall be granted by the Planning Board in the case of an appeal to the Superior Court under Massachusetts General Laws (M.G.L.), Chapter 40A, Section 17 or if good cause is shown to the Planning Board for an extension.

Appeals, if any, shall be made pursuant to M.G.L., Section 17, Chapter 40A, and shall be filed within twenty (20) days after date of filing of such notice in the Office of the Town Clerk.

The Special Permit does not become effective until the Town Clerk certifies that no appeal of the decision has been filed in Superior Court within the 20-day statutory appeal period; or that if an appeal has been filed, it has been dismissed or denied and a certified copy of the decision is recorded in the Bristol County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

The applicant or petitioner is responsible for filing the certified decision in the Registry of Deeds and for paying the recording fees.

A copy of the recorded decision certified by the Registry of Deeds is necessary before a Building Permit, dependent on the Planning Board's decision, can be issued by the Director of Inspectional Services. Copies of the approved plans and this decision are on file in the Town Clerk and Planning Board offices. Copies of the complete minutes of the public hearing are available upon request at the office of the Planning Board.

Approval of this Special Permit does not imply compliance with other Town ordinances, standards, and/or requirements administered by other Town agencies.

Now comes the Planning Board's vote under the Subdivision Control Law, a motion was made by Mrs. Miller, duly seconded by Mr. Toomey, and so voted (4-1) with Mr. Larrivee opposed to approve the Definitive OSRD Subdivision Plan entitled "OSRD Subdivision Plan prepared for Ronald T. Bogusky and Barbara Purdy" in accordance with the following certificate of action:

Certificate of Action for a Definitive (OSRD) Subdivision Plan
entitled "Subdivision Plan for Ronald Bogusky and Barbara Purdy"

Pursuant to M.G.L., Chapter 41, Section 81U, (The Subdivision Control Law), you are being notified that the Planning Board, at its regular meeting of December 21, 2009, approved with conditions the Definitive Subdivision Plan entitled "OSRD Subdivision Plan prepared for Ronald T. Bogusky and Barbara Purdy" for property located north of Rock O'Dundee Road and east of Bakerville Road.

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The plan consisting of three sheets was prepared for Ronald T. Bogusky and Barbara Purdy, 307 Rock O'Dundee Road, Dartmouth, MA 02748 by Prime Engineering, Inc. and was submitted to the Planning Board office on September 21, 2009. A time extension was mutually agreed upon for all actions under the Subdivision Control Law to January 20, 2010.

The approved Definitive Subdivision Plan consists of the following:

<u>Title</u>	<u>Sheet</u>	<u>Date</u>
OSRD Subdivision Plan prepared for Ronald T. Bogusky and Barbara Purdy	1 of 3	9/15/09 revised 10/30/09
OSRD Subdivision Plan prepared for Ronald T. Bogusky and Barbara Purdy	2 of 3	9/15/09 revised 10/30/09
OSRD Subdivision Plan prepared for Ronald T. Bogusky and Barbara Purdy	3 of 3	9/15/09 revised 10/30/09

The conditions of approval are listed below:

1. This Definitive Plan is subject to an Open Space Residential Design Special Permit dated December 22, 2009.
2. The zoning requirement table needs to reflect the zoning requirements that have been modified by the Special Permit regarding: building setbacks.
3. The subdivision needs a name and the plan titles shall be changed accordingly.
4. Driveways shall be shown on the plan with widths and standards shown in cross-sections.
5. The building envelopes need to be defined by permanent concrete markers or drill holes in stonewalls to identify in the field the corners of the buildable lots.
6. A 20-foot long paved apron is required where gravel driveways intersect Town roads. This condition shall be noted on the plan.
7. Driveways serving one house shall be a minimum of 9 feet wide. If additional houses are added that use the 9-foot driveway, the driveway shall then be widened to 16 feet wide where the driveway serves more than one house. This condition shall be noted on the plan.
8. The label "Purdy Lane" shall be removed from the subdivision plan.
9. A properly executed covenant shall be prepared by the applicant and noted on the plan and recorded at the Registry of Deeds that lots 2, 3, 4, and 5 cannot be separated in ownership until the following occurs:
 - A. The plan is revised in accordance with the conditions above, as well as, revisions listed in the Special Permit OSRD Certificate.
 - B. Seven copies of the revised plan are delivered to the Planning Office.
 - C. The revised subdivision plan is recorded at the Registry of Deeds and a copy of

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the recorded plan is delivered to the Planning Office including a copy of the recorded covenants.

- D. The Planning Board approves the deed restriction on the open space parcel for conservation purposes. The Planning Board may allow release of some lots at its discretion as long as sufficient lots are held to ensure compliance with this condition.
10. The Director of Inspectional Services shall not issue a building permit for lots 2, 3, 4, and 5 until a lot release signed by the Planning Board is delivered to the Building Department for the lot requested to be built upon.

In accordance with M.G.L., Chapter 41, Section 81-R, and as part of the Board's approval of said plan, the following waivers from its Subdivision Regulations were granted:

- 3.303 Streets
- 3.304 Curbing
- 3.305 Shoulders
- 3.307 Street Trees
- 3.308 Street Signs
- 3.309 Street Monuments, except monuments shown on the plan shall be installed.
- 3.310 Drainage
- 3.311 Water Service, except as provided on the plan
- 3.312 Sewer Service, except as provided on the plan

The above waivers are needed because the applicant is submitting a "subdivision plan" that creates no new roads and has chose to voluntarily submit to the subdivision process. This has been done in order to apply for the OSRD Special Permit for a subdivision plan. The above waivers are in the public interest in order to develop an OSRD subdivision that provides open space that protects agricultural land.

Approval of this plan does not imply compliance with other Town ordinances, standards, and/or requirements administered by other Town agencies.

(9) Planner's Report

- The Planning Director informed the Board that the date of Special Town Meeting has been moved to January 26, 2010.
- Mike Courville has agreed to have a meeting with SRPEDD sometime in early January in order to get Pictometry up and running.
- The Planning Director reported on John Haran's request as to how much staff worked for the Tewksbury Planning Board. He said the Tewksbury Planning Board has the Director of Community Development and a secretary.
- Mr. Perry met last Thursday with the Finance Committee to explain the proposed Village Business District bylaw. It went well and some members thought the district should be expanded.

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The Chairman noted for the record that the Planning Board would be making a recommendation to Town Meeting on this article. However, the Finance Committee needs to know this article was developed by the Padanaram Village Review Committee at the Planning Board's request.

- There will be required online training for Town employees and Board members such as the Planning Board on ethics.
- Town employees will be attending a customer relations/services seminar to be held at Town Hall.
- Mr. Perry noted that Planning Staff attended a workshop on the Massachusetts Public Records Law and Freedom of Information Act.
- The Planning Director said he is working with Mr. Cressman on reviewing FEMA discounts on flood insurance based on activities the Town is currently doing to minimize flood hazards.

(10) For Your Information/New Business

- Letter to David Cressman dated December 8, 2009
- Public hearing notice on Village Business District
- Board of Appeals decisions
- Planning staff time sheets

New Business

- Mr. Toomey referenced the recent newspaper article regarding a casino in New Bedford. He said the creation of a local impact study group might be prudent.
- Mr. Haran spoke about a recent article in the SOCO magazine regarding nitrogen loading. He suggested the Board invite Mark Rasmussen to a meeting for a public information session.
- Mrs. Miller made mention there is talk of a new charter committee being formed.
- Discussion commenced on the Planning Director's weekly timesheet. The Board wanted to see more detail.

A motion was made by Mr. Haran, duly seconded by Mr. Larrivee, and unanimously voted (5-0) to have Mr. Perry prepare a day-by-day hourly accounting form of his work schedule for the next Planning Board meeting.

Long-Range Planning

(11) Discussion of Limited Industrial District zoning update

The Planning Director noted that this discussion is for the purpose of providing guidelines

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regarding 3-storey office buildings and “protecting” high quality office development in the Limited Industrial zoning district. Mr. Perry pointed out the current maximum height limit is 35 feet and a 7-foot increase would be necessary to allow a 3-storey building. He mentioned he needs a consensus from the Planning Board regarding their thoughts on developing separate Office Park Districts within the Limited Industrial District or reviewing the existing Limited Industrial standards to promote quality development for all Limited Industrial uses. For discussion purposes, Mr. Perry provided the Board with three scenario maps of the Faunce Corner Road Limited Industrial area showing possible Office Park Districts.

There was a lengthy exchange of ideas. One Board member felt strongly that all landowners in the Limited Industrial District should be notified of any zoning changes to that district.

Concluding discussion, the Planning Director was asked to create a larger map of the entire Limited Industrial Zoning District for the next discussion. The map should show the wetlands and exclude open space and APR land. The Board felt another brainstorming session is needed before considering whether to have an outreach session with local businesses and residents in the targeted zoning area.

At this time, John Montigny of 7 Water Street asked if he could address the Board regarding the proposed “Village Business District” Town Meeting article. Unfortunately, Mr. Montigny had stayed for the entire meeting thinking the Planning Board was holding its public hearing on this zoning article this evening.

The Planning Board informed Mr. Montigny that the public hearing is scheduled for January 11, 2010 at 7:15 p.m. in the Planning Board’s meeting room #315.

Mr. Montigny stated that he had been an active participant in the yearlong group meetings but recently missed the last two sessions. He questioned how the parking requirements for a 100-seat restaurant had been reworked to now only require 6 parking spaces. He felt the bylaw had been compromised and the Committee had gone down the wrong path.

The Planning Board strongly encouraged Mr. Montigny to attend the public hearing and express his concerns at that time.

The Chairman asked if there was any other business this evening. There was none. Mr. Sousa noted that the next Planning Board meeting is scheduled for January 11, 2009, in room #315, Town Office Building, 400 Slocum Road. He then called for a motion to adjourn the meeting.

A motion was made by Mr. Larrivee, seconded by Mr. Haran, and unanimously voted (5-0), to adjourn this evening’s meeting at 9:52 p.m.

Respectfully submitted,
Mrs. Joyce J. Couture
Planning Aide