

MINUTES OF REGULAR PLANNING BOARD MEETING OF MAY 10, 2010
Held at 7:00 p.m., Room #315, Town Office Building
400 Slocum Road, Dartmouth, MA

Planning Board

Mr. John V. Sousa, Chairman
Mr. Joseph E. Toomey, Jr., Vice-Chairman
Mr. John P. Haran, Clerk
Mrs. Lorri-Ann Miller
Mr. Arthur C. Larrivee

Planning Staff

Mr. Donald A. Perry, Planning Director
Mrs. Joyce J. Couture, Planning Aide

The Chairman called the meeting to order at 7:00 p.m. with all Planning Board members and Planning staff present.

Administrative Items

(1) Approval of Minutes

Regular Meeting of April 26, 2010

A motion was made by Mrs. Miller, duly seconded by Mr. Haran for discussion, and unanimously voted (5-0) to approve the minutes of the regular Planning Board meeting of April 26, 2010 as written.

Public Hearing of April 26, 2010 “Bethany Estates”

A motion was made by Mrs. Miller, duly seconded by Mr. Toomey for discussion, and unanimously voted (5-0) to approve the public hearing minutes of April 26, 2010 “Bethany Estates” as written.

(2) Invoices

Southcoast Media Group	dated April 26, 2010	for \$240.80
re: legal advertising		

W.B. Mason	dated May 4, 2010	for \$277.20
re: new recorder/transcriber, mini cassettes		

A motion was made by Mr. Toomey, duly seconded by Mr. Haran for discussion, and unanimously voted (5-0) to approve payment of the above referenced invoices.

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(3) Endorsement of Approval Not Required (ANR) Plans

Bruce Holden and Paul Alves Pine Island Road dated February 15, 2010

The Planning Director stated this ANR plan is for property located on the south side of Pine Island Road just west of High Hill Road. It corrects a survey error between two adjoining lots. The lots still conform to the minimum frontage and area requirements of the Single Residence B district. He recommended plan endorsement.

A motion was made by Mr. Haran, duly seconded by Mr. Larrivee, and unanimously voted (5-0) to endorse the ANR plan prepared for Bruce Holden and Paul Alves dated February 15, 2010 for property located on Pine Island Road.

Kenneth Sylvia and David Medeiros Aster Lane dated April 16, 2010

The Planning Director stated this ANR plan is a conveyance plan which exchanges two parcels of land between abutting lots. Both lots maintain minimum areas and frontages required by zoning. He noted that Aster Lane is located off Russells Mills Road opposite Rockland Street.

Brief discussion ensued.

A motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and unanimously voted (5-0) to endorse the ANR plan prepared for Kenneth Sylvia and David Medeiros dated April 16, 2010 for property located on Aster Lane.

(4) Correspondence

Legal Notices from City of Fall River
Legal Notices from Town of Freetown
Legal Notices from Board of Appeals
Legal Notices from Conservation Commission

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

(6) Update on Project Timeline Chart

The Planning Director mentioned the updated Limited Industrial zoning has been sent to the reviewers.

Brief discussion ensued.

The Planning Board requested that Planning staff send the draft zoning bylaw to additional property owners along Faunce Corner Road who would be affected by the bylaw.

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Public Hearing

(5) 7:15 P.M. – PUBLIC HEARING - Proposed Land Based Municipal Wind Turbine zoning bylaw

A motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and unanimously voted (5-0) to recess the regular meeting at 7:15 p.m. in order to go into the public hearing¹ on a proposal to amend the Dartmouth Zoning By-Laws by creating a new subsection entitled “Section 35 – Land Based Municipal Wind Turbine” which would allow Municipal Wind Turbines to be constructed as of right in all districts of the Town provided the proposed Municipal Wind Turbine complies with all Standards set forth in the Bylaw.

The regular meeting resumed at 8:43 p.m.

Administrative Items

(10) Report with Recommendations to Town Meeting on zoning articles for June Town Meeting

At this time, Mrs. Miller asked Attorney Savastano to find out if the Select Board voted this evening to adopt a policy which would require them to hold a public hearing on municipal wind turbines.

After telephone inquiry, Attorney Savastano reported that the policy was adopted.

The Chairman asked for Mr. Perry’s recommendation. The Planning Director recommended favorably on Article 21, the creation of a new subsection of the Dartmouth Zoning By-Laws entitled “Section 35 – Land Based Municipal Wind Turbines”.

Following some discussion to include a recommendation for additional language in the “Purpose” section of the bylaw, a motion was made by Mr. Larrivee, duly seconded by Mr. Toomey, and unanimously voted (5-0) to forward the following recommendation to Town Meeting on Article 21 for Annual Spring Town Meeting:

Planning Board Report with Recommendation on Article 21 Annual Spring Town Meeting, June 1, 2010

The proposed Zoning By-Law amendment was the subject of a public hearing held on May 10, 2010 and closed on May 10, 2010, notice of which was properly published in The Chronicle on April 21, 2010 and April 28, 2010. Notice of the public hearing was also sent to SRPEDD/ SEED; Municipal Zoning and Land Use; the Planning Board's of Fall River, New Bedford, Westport, Freetown, and Gosnold; and posted in the Town Office Building.

Article 21 would amend the Dartmouth Zoning By-Laws by creating a new subsection entitled “Section 35 – Land Based Municipal Wind Turbine” which would allow Municipal Wind Turbines

¹For more information see Public Hearing Minutes of May 10, 2010 “Municipal Wind Turbines”

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to be constructed as of right in all districts of the Town provided the proposed Municipal Wind Turbine complies with all Standards set forth in the Bylaw. The proposed Article 21 will also amend the existing Section 33 – Residential Wind Turbine By-Law and Section 34 – Land Based Commercial Wind Turbine, by modifying the Purpose within those sections and to generally make Sections 33 and 34 consistent with the new Section 35.

The purpose of this article is to provide standards for municipal wind turbine projects so that wind power can be realized in an expeditious and responsible manner. Wind power is a clean, effective way to reduce the Town's energy costs.

Currently, municipal projects are subject to a Special Permit review. The proposed bylaw will allow construction of a municipal wind turbine without a Special Permit. However, a building permit is required and the proposal must meet standards which protect the neighborhood and environment. Eliminating the Special Permit process is appropriate for the Town since there is still adequate public review and approval by such diverse Town Boards such as the Finance Committee, the Conservation Commission, the Select Board, and ultimately for funding which must be approved by Town Meeting. In particular, the Select Board has adopted a policy to require a public hearing for all municipal wind turbine proposals. The Planning Board felt such a policy would ensure public participation.

With regard to public hearings, as a result of resident input gathered during the Planning Board's public hearing on this article, the Planning Board recommends that the Purpose and Intent of Sections 33, 34, and 35 of the Zoning By-Laws generally include the following language "This by-law is intended to encourage the appropriate development of wind resources in a manner consistent with preserving the environmental quality of the Town while minimizing negative environmental and safety impacts of the wind turbine facilities."

With the above language added to the bylaw, the Planning Board voted unanimously to recommend favorably on passage of Article 21.

Next Article 18, a motion was made by Mr. Larrivee, duly seconded by Mr. Haran, and so voted (3-2) with Mr. Sousa and Mr. Toomey opposed, to forward the following recommendation to Town Meeting on Article 18 for Annual Spring Town Meeting:

Planning Board Report with Recommendation on Article 18 Spring Annual Town Meeting, June 1, 2010

The proposed Zoning By-Law amendment was the subject of a public hearing held on April 12, 2010 and closed on April 12, 2010, notice of which was properly published in The Chronicle on March 24, 2010 and March 31, 2010. Notice of the public hearing was also sent to SRPEDD/ SEED; Municipal Zoning and Land Use; the Planning Board's of Fall River, New Bedford, Westport, Freetown, and Gosnold; and posted in the Town Office Building.

Article 18 would amend Section 16, Off-Street Parking Regulations, to allow the repaving of a parking facility without an off-street parking plan.

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The current interpretation of Section 16 – Off-Street Parking Regulations requires review and approval by the Planning Board prior to repaving a parking lot. This citizen-sponsored article would clarify that repaving is a maintenance issue and should be allowed without said Planning Board review.

This article allows businesses to maintain their parking lots without the delays and expenses involved with filing a parking plan with the Planning Board. Because the article is written that the repaving will occur within the confines of the existing parking lot, the Planning Board voted to recommend favorably (3 in favor, 2 opposed) on the passage of Article 18.

Lastly Article 20, a motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and so voted (4-1) with Mr. Sousa opposed, to forward the following recommendation to Town Meeting on Article 20 for Annual Spring Town Meeting:

Planning Board Report with Recommendation on Article 20 Spring Annual Town Meeting, June 1, 2010

The proposed Zoning By-Law amendment was the subject of a public hearing held on April 12, 2010 and closed on April 12, 2010, notice of which was properly published in The Chronicle on March 24, 2010 and March 31, 2010. Notice of the public hearing was also sent to SRPEDD/ SEED; Municipal Zoning and Land Use; the Planning Board's of Fall River, New Bedford, Westport, Freetown, and Gosnold; and posted in the Town Office Building.

Article 20 would amend the Limited Industrial District, Section 14.402, to increase the maximum height limit from 35' to 50' and 60' and change the Special Permit for height increase above 60' from the Board of Appeals to the Planning Board.

The primary purpose of this citizen-sponsored article is to allow 3-storey office buildings. The Faunce Corner Road area has become a center for high quality, medical office buildings. In order to remain competitive and allow the highest and best use of our Limited Industrial District for office buildings, a height increase is desirable. Research indicates that high-end office buildings can use 16 feet per floor, which includes between floor space for duct work and utilities. Parapets to screen roof top facilities and elevator overruns can add up to 10 feet of additional height. The proposed 50 feet for building height and 60 feet for non-habitable parapets is reasonable and based on industry standards.

The added tax revenue generated by such office developments is obviously beneficial to Dartmouth.

The increased building height will have minimal impacts on any residential areas because the Limited Industrial District is isolated from most residential neighborhoods. Where the Limited Industrial District does abut residential districts, building setbacks from residential districts are increased.

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For these reasons, the Planning Board voted to recommend favorably (4 in favor, 1 opposed) on passage of Article 20.

(8) Planner's Report

- The Planning Director reported that he met with Anthony Savastano, Dave Cressman, and Dave Hickox regarding the new street acceptance procedure. It was agreed that because of the complexities of land ownership and rights in streets that an attorney would be needed to prepare the necessary documentation for Town acceptance.

Mr. Perry further mentioned that Anthony confirmed that the Town should not be discontinuing streets because of the possibility of underlying rights to private streets. Mrs. Miller asked specifically about what if only one person owns the street, would that be different. She asked Planning staff to get a response from Town Counsel in writing.

- The new Open Meeting Law has a requirement that all information given to the Planning Board is considered a public record and must be kept in the office files. This includes staff reports, photos, and plans.
- The Town recently conducted a training session for department heads on sexual harassment/anti-discrimination.

(9) For Your Information/New Business

- Notice from SRPEDD on Annual Meeting
- Planning Staff timesheets

(7) Election of Planning Board Officers and other appointments

Planning Board representatives in other capacities:

A motion was made by Mr. Haran, seconded by Mr. Larrivee for discussion, and unanimously voted (5-0) to appoint Lorri-Ann Miller as the Planning Board's representative on the SRPEDD Commission.

A motion was made by Mrs. Miller, seconded by Mr. Larrivee for discussion, and unanimously voted (5-0) to appoint Joseph E. Toomey, Jr. as the Planning Board's representative on the Soil Board.

A motion was made by Mr. Haran, seconded by Mrs. Miller for discussion, and unanimously voted (5-0) to appoint John V. Sousa as the Planning Board's representative on the Community Preservation Committee, the Affordable Housing Partnership, and the Community Development Group.

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A motion was made by Mrs. Miller, seconded by Mr. Larrivee for discussion, and unanimously voted (5-0) to appoint John Haran as the Planning Board's representative on the Lincoln Park Smart Growth Committee.

A motion was made by Mrs. Miller, seconded by Mr. Haran for discussion, and unanimously voted (5-0) to appoint Arthur Larrivee as the Planning Board's representative on the Agricultural Preservation Trust and the Alternate Energy Committee.

A motion was made by Mrs. Miller, seconded by Mr. Larrivee for discussion, and unanimously voted (5-0) to appoint John Haran as the Planning Board's representative on the Charter Review Committee.

A motion was made by Mrs. Miller, seconded by Mr. Larrivee for discussion, and unanimously voted (5-0) to appoint Kathleen DelSordo as the Planning Board's alternate member for Special Permits.

Planning Board Officers:

A motion was made by Mrs. Miller, seconded by Mr. Larrivee for discussion, and unanimously voted (5-0) to retain John Sousa as the Planning Board's Chairman.

A motion was made by Mr. Larrivee, seconded by Mrs. Miller for discussion, and unanimously voted (5-0) to appoint John Haran as the Planning Board's Vice Chairman.

A motion was made by Mrs. Miller, seconded by Mr. Haran for discussion, and unanimously voted (5-0) to appoint Joseph Toomey, Jr. as the Planning Board's Clerk.

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 May 24, 2010, 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 Mrs. Miller, and unanimously voted (5-0), to adjourn this evening's meeting at 9:46 p.m.

Respectfully submitted,
Mrs. Joyce J. Couture
Planning Aide