

**MINUTES OF REGULAR PLANNING BOARD MEETING OF SEPTEMBER 27, 2010**  
**Held at 7:00 p.m., Planning Board Meeting Room #315, Town Office Building**  
**400 Slocum Road, Dartmouth, MA**

**Planning Board**

Mr. John V. Sousa, Chairman  
Mr. John P. Haran, Vice Chairman  
Mr. Joseph E. Toomey, Jr., 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 September 13, 2010**

A motion was made by Mr. Larrivee, duly seconded by Mr. Haran for discussion, and unanimously voted (5-0) to approve the minutes of the regular Planning Board meeting of September 13, 2010 as written.

**Public Hearing of September 13, 2010 “Town Meeting Zoning Articles”**

A motion was made by Mr. Larrivee, duly seconded by Mr. Haran for discussion, and unanimously voted (5-0) to approve the minutes of the public hearing of September 13, 2010 “Town Meeting Zoning Articles” as amended.

**Regular Meeting of September 16, 2010**

A motion was made by Mr. Larrivee, duly seconded by Mr. Haran for discussion, and unanimously voted (5-0) to approve the minutes of the regular Planning Board meeting of September 16, 2010 as written.

**(2) Invoices**

Joyce Couture          dated September 20, 2010          for \$17.98  
reimbursement for date stamp from Office Max

A motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and unanimously voted (5-0) to approve payment of the voucher for Joyce Couture dated September 20, 2010.

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### (3) Correspondence

Legal Notices from Board of Appeals

A motion was made by Mr. Haran, duly seconded by Mr. Toomey, and unanimously voted to acknowledge and file the legal notices from the Board of Appeals.

### (4) Endorsement of Approval Not Required (ANR) Plans

#### **483 State Road Realty, LLC Cross Road/State Road 8/06/10 rev. to 9/10/10**

The Planning Director reported that this ANR plan is for property located at the southeast corner of State and Cross Roads (Barry's Nissan). It divides the property into two parcels. One parcel with the car dealership and another vacant parcel to the south on Cross Road. He stated both lots meet the requirements of the General Business District for frontage and area.

Brief discussion ensued.

A motion was made by Mr. Haran, duly seconded by Mr. Larrivee for discussion, and unanimously voted (5-0) to endorse the Approval Not Required plan for 483 State Road Realty, LLC dated August 6, 2010 revised to September 10, 2010 for property located at the southeast corner of State and Cross Roads.

**Julie Martin**

**Countryside Drive**

**September 20, 2010**

The Planning Director stated that this ANR plan is for land on Countryside Drive which is located off Hixville Road. It creates two lots, one with an existing residence and one new buildable lot. He noted the lots received variances from the Board of Appeals for area, and it is so noted on the plan, which is in accordance with the Board of Appeals decision. He recommended the plan be endorsed.

A motion was made by Mrs. Miller, duly seconded by Mr. Larrivee for discussion, and unanimously voted (5-0) to endorse the Approval Not Required plan for Julie Martin dated September 20, 2010 for property located on Countryside Drive.

**Greater N.B. Industrial Foundation Flaherty Drive**

**September 22, 2010**

The Planning Director pointed out this ANR plan is for land on Flaherty Drive located off Samuel Barnett Boulevard in the New Bedford Business Park. It creates a strip of land (Parcel A) from a larger lot (Lot 2, Acushnet Co.) which will be combined with another lot (Lot 1) to create frontage for Lot 1. He pointed out all lots will meet the frontage and area requirements for the General Industrial District. Mr. Perry recommended the plan be endorsed.

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Robert Field (Field Engineering) and Attorney Daniel Perry (representing ConEd) were present for this agenda item.

Brief discussion ensued.

In response to a concern raised by a Board member, Attorney Perry noted this ANR plan was submitted to solve a title problem regarding alternate access on the property for the proposed ConEd Solar Farm.

A motion was made by Mrs. Miller, duly seconded by Mr. Haran for discussion, and unanimously voted (5-0) to endorse the Approval Not Required plan for the Greater N.B. Industrial Foundation dated September 22, 2010 for property located off Flaherty Drive.

At this time, the Chairman noted he was jumping to the Planner's Report on the agenda. He mentioned the Planning Director was to update the Board this evening and the Director of Development, Deborah Melino-Wender, is present to further elaborate on a proposal to use the Town's SRPEDD hours to develop a gateway study for the Town.

Ms. Wender mentioned she recently spoke with SRPEDD representatives on using their expertise to develop a study on State Road from the New Bedford line to Slocum Road. She said that area of Town is undergoing changes with some businesses closing and others moving. The proposed gateway study would provide recommendations to improve economic viability, community development opportunities, and aesthetic improvements.

After general discussion, it seemed Board members felt this was a worthy task and the Chairman asked for the Planning Director's recommendation.

Mr. Perry said he felt this was an excellent use of the SRPEDD hours and recommended the Planning Board vote favorably on this proposal.

A motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and unanimously voted (5-0) to use this year's allotment of 20 hours from SRPEDD in conjunction with the Select Board's allotment of 20 hours to have SRPEDD complete a gateway study for the Town.

Additionally, the Chairman asked the Director of Development to provide the Planning Board with a copy of the updated mission statement/goals of the gateway study (including expanded pedestrian improvement language) which Ms. Wender had read to the Board earlier in the meeting.

### **(5) Update on Project Timeline Chart**

After brief discussion, the Planning Director would revise the timeline chart to clarify and reflect accurate dates on Town Counsel's review.

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### **(6) Review of waterways application for Saladar Nominee Trust, #W10-3059**

A motion was made by Mrs. Miller, duly seconded by Mr. Haran for discussion, and unanimously voted (5-0) to send the following comments to the Department of Environmental Protection regarding the granting of the waterways license for Saladar Nominee Trust, #W10-3059:

1. Dartmouth's 2007 Master Plan has a number of references encouraging access to and along the shoreline. Specifically the following wording is noted:
  - a. Increase access to and improve water resources for active use and passive enjoyment.
  - b. Promote public access to the shoreline through permitting processes.
2. The Planning Board wants to see safe access throughout the intertidal zone for the public to maintain its right to pass - particularly in the upper intertidal zone.
3. Unobstructed, public passage needs to be provided above and around the proposed dock. If access is around a dock, a defined easement needs to be provided. If the public is expected to walk under the proposed dock, adequate headroom must be provided.
4. The Planning Board is aware you normally require in these license applications expanding the public's right in the intertidal zone to strolling. The Planning Board asks for that right with this application.
5. A sign should be required on each side of the dock advising the public of its right to fish, hunt, navigate and stroll. The sign should be of reasonable size (2' x 3').
6. Require the applicant to provide as-builts and a copy of the license to the Planning Board. This would assist the Town in meeting its Master Plan goal Section 9.2 which states "Inventory public access points."

The Planning Board asks that you consider the above comments; and if you agree with them, include the above conditions on the license approval. It should be noted this property was developed as an Open Space Residential subdivision where most of the shoreline property was preserved as protected open space. Maintaining public access along the shore would be consistent with this type of development. Thank you for any consideration you may give to this request.

### **(7) Release of Covenant for Parcel A and Parcel B in the Definitive Subdivision entitled "John Alden Farms" West**

The Planning Director stated that the applicant is requesting a release of covenant for Parcels A and B in the John Alden Farm (West) Subdivision with respect to "sale" only.

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He said the applicant would like to sell one of the parcels to an abutter. Mr. Perry noted both parcels are labeled on the plan as "non-buildable" due to insufficient upland area and this request will not create a buildable lot.

A motion was made by Mrs. Miller, duly seconded by Mr. Haran for discussion and so voted (4-0) with Mr. Sousa abstaining to approve the release of Parcels A and B from the sales restriction in the Definitive Subdivision entitled "John Alden Farm" West.

### **(8) Time extension on Off-Street Parking Plan for proposed retail development, 227 State Road (former TK O'Malley's)**

Mr. Perry informed the Board that the developer is close to having an agreement with a new tenant and would like a two month time extension on the Planning Board's deadline for action.

A motion was made by Mr. Larrivee, duly seconded by Mr. Haran, and unanimously voted (5-0) to accept the time extension request on the Planning Board's deadline for action on the Off-Street Parking Plan entitled "Proposed Retail Development, 227 State Road" from October 15, 2010 to December 15, 2010.

### **(9) Request for street determination on Pearl Street, Assessor's Map 123, Lots 85 & 85-1**

The Planning Director stated that this street determination is for the end of Pearl Street. The existing Pearl Street is paved to 23 feet wide and the proposed extension would be 20 feet wide and would taper down from the existing paved portion. Mr. Perry mentioned the proposed 20-foot width meets the Subdivision Regulations requirements (16 foot minimum for a maximum of two houses served). It was also noted that due to wetlands, Pearl Street cannot be extended further. The Conservation Commission has already approved a 20-foot wide pavement.

A motion was made by Mr. Larrivee, duly seconded for discussion by Mr. Haran, and so voted (4-0) with Mrs. Miller abstaining, to send the Acting Building Commissioner a letter recommending an improvement standard of a 20 foot wide paved road to provide access to lots 85 and 85-1 at the end of Pearl Street. This determination is valid until September 27, 2011.

### **(10) Review of Off-Street Parking Plan for handicapped parking spaces at Apponagansett Park and Round Hill Beach**

The Planning Director stated that the Dartmouth Park Department is seeking permission to add additional handicapped parking spaces to Apponagansett Park and Round Hill Beach. Additionally, Mr. Perry mentioned that a small area of driveway is proposed for paving at Apponagansett Park to reduce dust during big events. He said all improvements are consistent with ADA requirements.

Brief discussion ensued.

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A motion was made by Mr. Haran, duly seconded by Mr. Larrivee, and unanimously voted (5-0) to approve the proposed ADA improvements and driveway paving for Apponagansett Park and Round Hill in accordance with the plans entitled "Apponagansett Park ADA Improvements" and "Round Hill Beach, ADA Improvements" both dated September 14, 2010.

### **(11) Planning Board's Report with Recommendation on zoning articles for Fall Annual Town Meeting**

A motion was made by Mrs. Miller, duly seconded by Mr. Toomey for discussion, and unanimously voted (5-0) to forward the following recommendation to Fall Town Meeting on Article 11:

#### Planning Board Report with Recommendation on Article 11 Fall Annual Town Meeting, October 19, 2010

The proposed Zoning By-Law was the subject of a public hearing held on September 13, 2010, notice of which was properly published in The Chronicle on August 18, 2010 and August 25, 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 11, would amend the Dartmouth Zoning By-Laws by adding new language to Section 9 – Neighborhood Business Districts, Section 10A – Limited Business Districts; and Section 11 – General Business Districts to allow temporary real estate signs. This article clarifies that temporary "for sale" signs and real estate development signs are allowed by right in Commercial and by reference in Industrial Districts. This is a housekeeping article which provides consistency throughout the Town regarding real estate signs. The proposed real estate sign language is similar to the language which allows real estate signs in residential districts. The Planning Board voted unanimously (5-0) to recommend favorably on passage of Article 11.

Next Article 12, a motion was made by Mr. Toomey, duly seconded by Mr. Larrivee for discussion, and so voted (4-1) with Mr. Haran opposed, to forward the following recommendation to Town Meeting on Article 12 for Annual Spring Town Meeting:

#### Planning Board Report with Recommendation on Article 12 Fall Annual Town Meeting, October 19, 2010

The proposed Zoning By-Law was the subject of a public hearing held on September 13, 2010, notice of which was properly published in The Chronicle on August 18, 2010 and August 25, 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.

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Article 12, would create a new Office Industrial Zoning District for Faunce Corner Road, north of the railroad tracks, from land that is currently zoned Limited Industrial. The Office Industrial Zoning District would encourage more office/medical uses and the development standards are designed to promote quality development. One of the recommendations of Dartmouth's Master Plan was to encourage "high-end" office uses on northern Faunce Corner Road. This article would accomplish that goal. Office uses, particularly medical offices, generate a higher tax base and produce well paying jobs. Such zoning will encourage office uses and protect our thriving existing office uses. In developing this bylaw, the Planning Board notified key property owners along Faunce Corner Road, as well as, conducted the legally required public hearing which no one attended. This was done to seek public input in order to develop the best bylaw possible. After due consideration, and consulting the Master Plan for policy guidance, the Planning Board voted (4-1) to recommend favorably on passage of Article 12.

### (12) Planner's Report

- The Planning Director stated he met with the Finance Committee to discuss the two zoning articles going to Town Meeting. He also mentioned that Frank Gracie was the new Finance Committee liaison to the Planning Board and Mr. Perry invited him to meet with the Planning Board if he wanted to.
- The Planning Director spoke about the recent seminar held by Town Counsel regarding changes to the Open Meeting Law. General discussion ensued on whether the Board needed to change standard agenda items such as Planner's Report and New Business. However, it was felt the Planning Board always follows the spirit of the Open Meeting Law and there was no need to make changes – especially since no votes or actions are ever taken during New Business discussions.

### (13) For Your Information/New Business

- Letter from Anthony C. Savastano dated September 21, 2010 re: Cedar Dell and Brady Estates
- Planning Staff timesheets

Mr. Toomey informed the Board that he provided Frank Gracie, the Planning Board's new liaison on the Finance Committee, with the Board's email addresses. There was a little confusion on the email addresses that were provided and brief discussion ensued. Mrs. Miller reiterated to the Board that she no longer wants to be notified by email under any circumstance and her email address should not be given out. Mr. Sousa also stated he preferred receiving information in paper form rather than email.

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Mrs. Miller updated Board members on the recent SRPEDD meeting she attended. She said an adhoc committee had met to discuss the State's 40B statute. Mrs. Miller mentioned there is a question on the ballot in November on whether to repeal it. She mentioned SRPEDD voted to recommend keeping 40B but revise it. Brief discussion ensued.

In referencing a recent mailing from SRPEDD, Mrs. Miller also identified dangerous intersections in Town and Dartmouth had about 5 intersections on the list.

Mr. Haran provided the Board with an update on the recent Charter Review Committee Meeting he attended. Mr. Toomey was also present for that meeting.

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 October 18, 2010, in room #315, Town Office Building, 400 Slocum Road. He then called for a motion to adjourn.

A motion was made by Mr. Larrivee, seconded by Mr. Haran, and unanimously voted (5-0), to adjourn this evening's regular meeting at 8:35 p.m.

Respectfully submitted,  
Mrs. Joyce J. Couture  
Planning Aide