

**MINUTES OF REGULAR PLANNING BOARD MEETING OF FEBRUARY 7, 2011
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 7:01 p.m. with all Planning Board members and Planning staff present.

Administrative Items

(1) Approval of Minutes

Regular Meeting of January 24, 2011

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 January 24, 2010 as written.

(2) Invoices

U. S. Postal Service dated February 7, 2011 for \$108.00
re: postage stamps

W.B. Mason dated February 1, 2011 for \$279.77
re: 6 cases of copy paper, other miscellaneous supplies

American Planning Assoc. dated February 7, 2011 for \$990.00
re: registration fees for annual APA conference

Southcoast Media Group dated January 23, 2011 for \$9.00
re: legal advertising

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

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(3) Correspondence

Legal Notices from City of Fall River
Legal Notices from Town of Westport

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

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

Nathan Rego

Fenton Street

January 19, 2011

The Planning Director stated that this ANR plan is for property between Spring Street and Fenton Street which are located west of Cross Road south of State Road. The plan creates a new buildable lot and one lot with an existing residence. Mr. Perry noted the new buildable lot received a variance to allow 13,800 square feet of area where 15,000 square feet is required by zoning and the variance is noted on the plan.

Brief discussion ensued.

A motion was made by Mr. Haran, duly seconded by Mrs. Miller, and unanimously voted (5-0) to endorse the Approval Not Required Plan of Nathan Rego dated January 19, 2011 for property located on Fenton Street.

(7) Update on Project Timeline Chart

The Planning Director mentioned the next Planning Board meeting will be a zoning bylaw review meeting with the Solar Farm Bylaw, the Directional Sign Bylaw, and the revised Section 16 Bylaw all on the agenda.

(8) Time extension request on deadline for action on Off-Street Parking Plan for 227 State Road (former T.K. O'Malley's)

The Planning Director pointed out the applicant, Michael Panagakos, is requesting another time extension on the off-street parking plan for 227 State Road. He said new plans have been submitted but they need to go out for departmental review and the applicant is requesting another time extension.

A motion was made by Mrs. Miller, duly seconded by Mr. Haran, and unanimously voted (5-0) to approve the time extension request on the deadline for action on the Off-Street Parking Plan for Stephen's Hair Salon from March 8, 2011 to April 8, 2011.

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(9) Request for street determination for Berkshire Street

The Planning Director noted Mr. Pires has submitted the information the Board requested showing the area with the wetlands, the existing houses, and the proposed houses for property located on Berkshire Street. Mr. Perry stated that Mike O'Reilly has confirmed that the wetlands limit development to two houses in this area.

Brief discussion ensued.

A motion was made by Mrs. Miller, duly seconded by Mr. Haran, and unanimously voted (5-0) to recommend a pavement width of 18 feet for Berkshire Street which is less than the 22 feet previously recommended. The Dartmouth Department of Public Works should be consulted for paving standards and to approve utilities and drainage. This determination for Berkshire Street (Assessor's Map 169, Lot 195) is valid until February 8, 2012.

(11) Initial review of Off-Street Parking Plan for 634/654 State Road

present: Steven Gioiosa, SITEC, Inc.

The Planning Director stated this off-street parking plan is for 634/654 State Road (Delgado Companies/Healthy Grille). The plan proposes to add 31 new parking spaces by reconfiguring the parking lots on both properties. Mr. Perry noted the reconfiguration would add landscaped islands, define a main driveway, and also create connections to an adjacent property (State Road Cement Block). He pointed out the plan significantly brings the parking lots into better compliance with the standards of Section 16.

Steven Gioiosa, representing the applicant, provided an overview of the proposal and more specific details of the cross-party agreement for a deeded easement between the two properties.

Discussion ensued.

A motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and so voted (4-1) with Mr. Haran opposed to approve the Off-Street Parking Plan entitled "634 and 654 State Road" prepared for 634 State Road, LLC, 958 Reed Road, Dartmouth, MA 02747 to be located at 634 and 654 State Road.

The Plans referred to in this action are listed below:

<u>Title</u>	<u>Sheet</u>	<u>Date</u>
Site Layout Plan, 634 and 654 State Road	1 of 4	Dec. 6, 2010 rev. Feb. 4, 2011
Landscaping Plan, 634 and 654 State Road	2 of 4	Dec. 6, 2010 rev. Feb. 4, 2011

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Existing Conditions Plan, 634 and 654 State Road	3 of 4	Dec. 6, 2010 rev. Feb. 4, 2011
Detail Sheet, 634 and 654 State Road	4 of 4	Dec. 6, 2010 rev. Feb. 4, 2011

Conditions of approval are listed below:

1. The Board of Appeals must grant relief under Section 16 of the Zoning By-Laws to allow parking spaces to straddle a lot line and to allow sharing of parking spaces between two separate properties.

Two sets of plans shall be submitted to the Planning Office.

The Director of Inspectional Services shall not issue a building permit until a letter is received from Planning Staff and an approved plan is forwarded with the letter.

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

Appointments & Public Hearings

- (5) 7:15 P.M. – PUBLIC HEARING – Proposed amendments to a Definitive (OSRD) Subdivision Plan entitled “Riverside Woods” which is located on the east side of Chase Road just south of Old Westport Road**

In a roll call vote, a motion was made by Mr. Toomey, seconded by Mrs. Miller and unanimously voted (5-0), to recess the Planning Board's regular meeting at 7:24 p.m. in order to go into a public hearing¹ concerning proposed amendments to the Definitive (OSRD) Subdivision Plan entitled “Riverside Woods”.

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

The regular meeting resumed at 8:04 p.m.

Administrative Items

- (10) Action on proposed amendments to a Definitive (OSRD) Subdivision Plan entitled “Riverside Woods”**

Following the close of this evening's public hearing, the Planning Director noted this Special Permit amendment 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 4/5th vote.

¹ For more information, see minutes of Planning Board's P. H. of February 7, 2011 “Amend. Riverside Woods”

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Second, a vote on the Definitive Subdivision Plan under the Subdivision Control Law. Mr. Perry proceeded to identify all the specific conditions and modifications to the draft certificates he had prepared for the Board's consideration including revisions as agreed to at this evening's public hearing.

In a roll call vote, a motion was made by Mrs. Miller, duly seconded by Mr. Toomey, and so voted (4-1) with Mr. Larrivee opposed, to approve the amendment to the Special Permit for a Definitive OSRD Subdivision Plan entitled "Riverside Woods" in accordance with the following:

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

Certificate of Action for Amendments to a Special Permit "Riverside Woods" OSRD Subdivision Plan

There was a Planning Board public hearing which was opened on Monday, February 7, 2011 and closed on Monday, February 7, 2011 regarding the application of Gary and Jo-Ann Bouchard, P.O. Box 878, Westport, MA 02790 who have requested amendments to a Definitive (OSRD) Subdivision Plan entitled "Riverside Woods" which is owned by them and located on the east side of Chase Road just south of Old Westport Road, and shown on Assessor's Map 50, Lot 5. One amendment would incorporate an ANR lot into the subdivision which would require waivers for frontage, area, lot coverage and setbacks, in order to add more protected open space to the subdivision. The other amendments concern moving the open space parking area and driveway to an area off Chase Road, changes to pedestrian access to open spaces and minor adjustments of lot lines. The plan was submitted to the Town Clerk and Planning Board on January 12, 2011.

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 February 7, 2011 and after the close of the above described public hearing, the Planning Board voted – Arthur Larrivee – no, Lorri-Ann Miller – yes, Joseph Toomey, Jr. – yes, John Haran – yes, John Sousa – yes, to grant the requested amendments to the Special Permit dated November 16, 2010 entitled "Certificate of Action for a Special Permit "Riverside Woods" OSRD Subdivision Plan.

The Planning Board granted the amendments to the Special Permit for the "Riverside Woods" OSRD development because it found that the amendments still met the purposes of the November 16, 2010 Special Permit which were:

- The plan allows for greater flexibility and creativity in the design of this residential development.

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- The plan preserves open space, particularly plant and wildlife habitat.
- The plan preserves open space adjacent to existing open space along the Paskamansett River and as such expands the buffer to the river.
- The plan provides physical access to protected lands along the Paskamansett River for passive recreation.
- The plan reduces the construction cost and maintenance of new streets, utilities and public services, and develops the site in a more economical and efficient manner in harmony with the site and environment.
- The plan minimizes the total amount of disturbance on the site.
- The plan does not exceed the maximum number of lots which could be built here under the Single Residence B zoning.

In accordance with Section 6.500 of the Zoning By-Laws, the Planning Board modified the following requirements of the Dartmouth Zoning By-Laws for lot 11 shown on the plan:

Section 4B.401, Lot Area, - to allow the minimum lot requirement in the Single Residence B District to be 35,000 square feet and the minimum upland requirement to be 35,000 square feet.

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

Section 4B.403, Lot Frontage - to allow a minimum of 90 feet.

Section 4B.404, Building Setbacks - to allow a 40-foot minimum building setback from Kyle Jacob Road, Chase Road, and 10 feet from any other vehicular right-of-way. To allow a minimum of 10 feet from all other property lines.

Section 4B.406 and Section 20.510, Percentage of Lot Coverage – to allow 25% maximum lot coverage.

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).

The Planning Board grants the amendments to the Special Permit for “Riverside Woods” with the following conditions and restrictions:

1. The Planning Board grants the Special Permit amendment for “Riverside Woods” OSRD in substantial conformance with the following plans:

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<u>Title</u>	<u>Sheet</u>	<u>Date</u>
Lotting Sheet OSRD Subdivision Plan of Riverside Woods	1 of 5	10/05/10 rev. 01/11/11
Overall Grading & Utilities Plan Construction Plan of Riverside Woods	2 of 5	10/05/10 rev. 01/11/11
Road Plan & Profile Construction Plan of Riverside Woods	3 of 5	10/05/10 rev. 01/11/11
Baseline Profile "A" & Details Sheet 1 Construction Plan of Riverside Woods	4 of 5	10/05/10 rev. 01/11/11
Details - Sheet 2 Construction Plan of Riverside Woods	5 of 5	10/05/10 rev. 01/11/11

2. The Planning Board grants the Special Permit amendment in conformance with the Certificate of Action for Amendments to the Approved Definitive (OSRD) Subdivision Plan entitled "Riverside Woods" dated February 8, 2011.
3. Condition #3 of the Special Permit dated November 16, 2010 is amended to be approved for eleven (11) buildable lots.
4. Condition #11 of the Special Permit dated November 16, 2010 is deleted.
5. All other conditions of the Special Permit dated November 16, 2010 which have not been amended by this certificate still apply.

All conditions of approval shall be met within two (2) years 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 amended 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.

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

Next, the Planning Board voted 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 amendment to the approved Definitive (OSRD) Subdivision Plan entitled "Riverside Woods" in accordance with the following certificate of action:

Certificate of Action for Amendments to the Approved Definitive (OSRD)
Subdivision Plan entitled "Riverside Woods"

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 February 7, 2011, approved amendments to the approved Definitive Subdivision Plan entitled "Riverside Woods" located on the east side of Chase Road just south of Old Westport Road. The amended plan consisting of 5 sheets was prepared for Gary and Jo-Ann Bouchard, P.O. Box 878, Westport, MA 02790 by Boucher & Heureux, Inc. and was submitted to the Planning Board office on January 12, 2011.

The approved amended Definitive Subdivision Plan consists of the following:

<u>Title</u>	<u>Sheet</u>	<u>Date</u>
Lotting Sheet OSRD Subdivision Plan of Riverside Woods	1 of 5	10/05/10 rev. 01/11/11
Overall Grading & Utilities Plan Construction Plan of Riverside Woods	2 of 5	10/05/10 rev. 01/11/11
Road Plan & Profile Construction Plan of Riverside Woods	3 of 5	10/05/10 rev. 01/11/11
Baseline Profile "A" & Details Sheet 1 Construction Plan of Riverside Woods	4 of 5	10/05/10 rev. 01/11/11
Details - Sheet 2 Construction Plan of Riverside Woods	5 of 5	10/05/10 rev. 01/11/11

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The conditions of amendment are listed below:

1. This Definitive Plan amendment is subject to a Certificate of Action for Amendments to a Special Permit "Riverside Woods" OSRD Subdivision Plan dated February 8, 2011.
2. The Certificate of Action for a Definitive (OSRD) Subdivision Plan entitled "Riverside Woods" dated November 16, 2010 is amended by deleting Condition #3.
3. The access easement for the Tucker/Gidley Farm needs to be noted on the plan over which parcels it is located, how wide, and the nature of the easement prior to endorsement of the Subdivision Plan.
4. Rip-rap needs to be added at the end of the 6" D.I. drainage pipe exiting the stormwater basin.
5. To help screen the five (5) foot wide pedestrian easement area, the developer will provide fifteen (15) arborvitaes (3' tall minimum) to the owner of Lot 58, Assessor's Map 158 to be planted on Lot 58 and along the lot line with Lot 1 in the subdivision.

Approval of these amendments do not imply compliance with other Town ordinances, standards, and/or requirements administered by other Town agencies.

(6) 7:45 P.M. – APPOINTMENT – Richard Rheume: Discussion of alternative parking plans for Stephen's Hair Salon and acceptance of time extension

present Richard Rheume, Prime Engineering, Inc.

While Mr. Rheume was arranging 4 large scaled Alternative Plans for this evening's discussion, a motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and unanimously voted (5-0) to grant a time extension request on the Planning Board's deadline for action on the parking plan for Stephen's Hair Salon from March 8, 2011 to April 8, 2011.

The Planning Director noted Rich Rheume, engineer for Stephen's Hair Salon, is present this evening to discuss the various alternatives for off-street parking at 8 Champion Terrace. He pointed out Mr. Rheume has submitted four different plans for discussion.

To begin with, Mr. Rheume explained that Alternative Plan 1 showed full compliance with Section 16 and contained 14 parking spaces. He pointed out the other three Alternative Plans demonstrate various parking scenarios with respect to the layout and number of parking spaces, landscaping, and entrance location.

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Discussion ensued on the various plan alternatives.

In the end, the Planning Board agreed by consensus vote (5-0) to recommend Mr. Rheaume draft another plan for the Board of Appeals which will be a hybrid of Alternative Plans 3 and 4 with the following modifications:

1. Widen the rear greenspace/buffer along the property line that abuts the Wheeler residence on State Road.
2. Add curbing (Section 16 requires concrete curbing in the public way) along the frontage of Champion Terrace.
3. Add a sidewalk from the tree/Stephen's driveway, south to the former State Police Barracks.
4. The Board of Appeals should determine how far it would scale back the number of stations based on the number of parking spaces provided onsite. The number of allowed stations which should include massage "stations" and pedicure/nail "stations" in addition to hair cutting stations need to be noted on the plan.

The plan was approved by the Planning Board only to give guidance to the Board of Appeals in determining whether to grant the requested variances. It is noted that if the Board of Appeals grants the requested relief, the plan as revised should be submitted for formal review and approval by the Planning Board under Section 16.

Administrative Items

(12) Planning Board discussion on Town Planner language in General Bylaws

The Planning Director informed Board members that the By-Law Review Committee (not the Charter Review Committee) is reviewing the General By-Laws and asking questions about various by-laws. He noted the position of Town Planner is listed in the General By-Laws and the Committee is asking for the Planning Board's comment on this by-law. Mr. Perry mentioned he met with the Committee and discussed the position of Town Planner in the General By-Laws. He noted that it was the Committee's general consensus that this could be deleted from the General By-Laws, since the Personnel By-Law addresses various Town positions as well as the Town Planner. However, the Committee is seeking Planning Board comment before they make their recommendation.

Discussion ensued.

It was the consensus of the Planning Board that for now the language should remain as is. The Planning Board felt that because of uncertainties regarding Town Charter changes and also the outcome of the recent organization of a professional union, it would be premature to alter the Town Planner position in the General By-Laws.

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When those two issues are finalized, then it would be appropriate to review the Town Planner position as outlined in the General By-Laws.

(13) Planner's Report

- In referencing Attorney Savastano's review of the revised Section 16 zoning, Mr. Perry reported that the multiple colors of the text indicated which of his staff worked on it.
- The Planning Director mentioned Margaret Brumstead at the Dartmouth High School has offered to use her students to do plantings at the Dartmouth Community Park.
- Mr. Perry mentioned an intern is working on the FEMA Community Rating Study which could reduce flood insurance rates. Planning Staff may need to provide some assistance.
- Mr. Perry reported that the principals involved in the Lincoln Park project have agreed to make design changes that he had recommended in his report to the Smart Growth Committee. In addition, they may need to change the zoning to allow the single-family homes since the State may not allow them under 40R. The developer may also have to make up lost payments.
- Mr. Haran requested that the Planning Director contact the Westport Planning Department to provide notice of upcoming meetings for Lincoln Park.

(14) For Your Information/New Business

- Planning Staff timesheets
- Board of Appeals decisions

Mr. Haran provided an update of the last Charter Review 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 February 28, 2011, 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 9:15 p.m.

Respectfully submitted,
Mrs. Joyce J. Couture
Planning Aide