

MINUTES OF REGULAR PLANNING BOARD MEETING OF FEBRUARY 6, 2012
Planning Board's Meeting Room #315, Town Office Building
400 Slocum Road, Dartmouth, MA

Planning Board

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

Planning Staff

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

The Chairman called the meeting to order at 7:03 p.m. with all Planning Board members and Planning staff present.

Administrative Items

(1) Approval of Minutes

Regular Meeting of January 23, 2012

A motion was made by Mr. Haran, duly seconded by Mr. Sousa for discussion, and unanimously voted (5-0) to approve the minutes of the regular meeting of January 23, 2012 as written.

(2) Invoices

U. S. Postal Service	dated February 6, 2012	for \$90.00
re: postage stamps		

Donald Perry	dated January 20, 2012	for \$107.14
re: MMA travel expense reimbursement		

W.B. Mason	dated February 1, 2012	for \$57.15
re: 2 boxes of custom envelopes		

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

(3) Correspondence

Legal Notices from City of Fall River
Legal Notices from City of New Bedford
Letter of resignation from John Haran dated January 19, 2012

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

(4) Report and Recommendation on Chapter 61A land located off Highland Avenue, Assessor's Map 54, Lot 3

The Planning Director spoke on a request to remove 7.8 acres of land currently under Chapter 61A located on Highland Avenue just south of I-195. He noted a large part of the lot in the central area is wetland which limits the use of the property. However, it does abut Town of Dartmouth Conservation land but the wetland makes any potential connection between Highland Avenue and the Conservation land difficult. Mr. Perry noted the Conservation Commission is not interested in the property and the land does not meet enough criteria to make it worthwhile for the Town to purchase.

A motion was made by Mr. Sousa, duly seconded by Mr. Haran, and unanimously voted (5-0) to send a letter to the Select Board stating that the Planning Board does not recommend exercising the Town's option to purchase 7.8 acres of land located off Highland Avenue, Assessor's Map 54, Lot 3, and owned by Little Wolf, LLC.

(5) Release of lots in the Definitive Subdivision Plan entitled "Taber's Way"

The Planning Director stated that the Department of Public Works has confirmed all the required subdivision improvements in the Definitive Subdivision entitled "Taber's Way" have been completed according to a final inspection. Mr. Perry recommended the lots can be released.

A motion was made by Mr. Haran, duly seconded by Mr. Sousa, and unanimously voted (4-0) with Mrs. Miller abstaining to release lots 1, 2, and 3 in the Definitive Subdivision Plan entitled "Taber's Way" located off Horseneck Road.

(6) Amendment to Open Space Covenant for Bethany Estates

Present: Lee Castignetti, Long Built Homes

The Planning Director briefed the Board on a request to amend the Open Space Covenant on the OSRD Subdivision Plan entitled "Bethany Estates" located off Old Westport Road. He noted the Covenant is being amended to satisfy Board of Health requirements on the open space parcel by adding nitrogen loading language and to take out references to allowing agricultural uses/fertilizers. Mr. Perry stated that the Board of Health has confirmed in its letter dated February 1, 2012 that the amended covenant addresses their concerns.

Brief discussion ensued. Ms. Henderson, Director of Public Health, being present on another matter, responded to questions raised by one Board member regarding the amendment.

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A motion was made by Mr. Haran, duly seconded by Mr. Sousa, and unanimously voted (5-0) to approve the revised Open Space Covenant for the Bethany Estates OSRD Subdivision dated February 6, 2012.

Appointments

(7) 7:10 P.M. – APPOINTMENT – Members of the Dartmouth Board of Health: Discussion of Commercial Wind Turbine Bylaw

Present: Wendy Henderson, Director of Public Health
Dr. Gail Davidson, Chairman of Board of Health
Thomas Hardman, Member of Board of Health
Lynne Brodeur, Member of Board of Health

The Planning Director stated the members of the Dartmouth Board of Health asked to come before the Planning Board to discuss the Town's Commercial and Residential Wind Turbine Bylaws.

Ms. Davidson addressed the Board first. She spoke about noise concerns the Board of Health has with wind turbines. Ms. Davidson stated that the main reason the Board of Health is here this evening is to request the Planning Board's support in changing the structure of the TRG (Technical Research Group) to include a member of the Board of Health.

The Director of Public Health, Wendy Henderson, presented more detailed information related to the low modulation noise generated by wind turbines and the effects it has on some individuals. Ms. Henderson mentioned there are new studies being released every week and the Board of Health feels in some instances there are valid concerns being raised.

Discussion ensued and there was an exchange of ideas on how to revise the composition of the TRG members.

All the Board members thought the request had merit and a zoning amendment to change the bylaw would be a simple housekeeping article.

Concluding discussion, a motion was made by Mr. Haran, duly seconded by Mrs. Miller, and unanimously voted (5-0) to co-sponsor an article to change the composition of the TRG to include a member of the Board of Health and a member of the Board of Assessors. The Planning Director would draft the article for the Board of Health's and the Planning Board's endorsement prior to the deadline for submitting zoning articles for Spring Town Meeting.

(8) 7:30 P.M. – APPOINTMENT – Roseanne O'Connell: Discussion of proposed amendment to existing Commercial Wind Turbine Bylaw

Present: Roseanne O'Connell, 252 Smith Neck Road

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Mr. Perry stated that Ms. O'Connell is here this evening to familiarize the Planning Board with a proposed zoning amendment to the Commercial Wind Turbine Bylaw which she will be submitting for Spring Town Meeting. He said the amendment proposes to prohibit commercial wind turbines in residential districts, and not allow variances for commercial wind turbines in residential districts. Mr. Perry stated that Ms. O'Connell would like preliminary comment from the Planning Board before formally filing the proposal with the Select Board.

Roseanne O'Connell, 252 Smith Neck Road, stated that back in 2009 wind turbines were enthusiastically received by the Town, since then things have changed, and concerns regarding noise and effects on people are apparent. She spoke about the proposed zoning article she planned on submitting to Town Meeting, and identified some of the proposed modifications. Ms. O'Connell said she was hoping to get the Planning Board's support in this matter.

General discussion ensued.

It is noted that there was standing room only in the Planning Board's meeting room with many individuals speaking in favor of this proposal.

Bringing discussion to a close, a motion was made by Mr. Sousa, duly seconded by Mr. Avila, and unanimously voted (5-0) to co-sponsor Ms. O'Connell's proposed zoning article. The Planning Director would modify the language to include suggestions received this evening and bring the article back to the Planning Board for its review of the final language.

At this time being 8:00 p.m. the Planning Board took a short recess.

The regular meeting resumed at 8:09 p.m.

Administrative Items

(9) Review of parking plan amendment for 643 State Road

Present: Steven Gioiosa, SITEC, Inc.

The Planning Director stated that this amendment is for a small restaurant in an existing retail plaza. He noted the plaza currently contains warehousing and retail space. A small 14-seat restaurant is proposed for space previously occupied by a tattoo parlor. Mr. Perry mentioned a special permit and a variance were granted in 1984 to allow the parking lot and warehousing use and the parking lot mostly complies with the requirements of Section 16 except for the width of some end islands. He pointed out the change of use from retail service to the restaurant triggers plan review.

Brief discussion ensued.

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A motion was made by Mr. Sousa, duly seconded by Mrs. Miller, and unanimously voted (5-0) to approve the site plan entitled "Proposed Restaurant – 643 State Road" dated December 27, 2011 consisting of three sheets, which is an amendment to the existing approved site plan entitled "A.D. McMullen" dated June 12, 1984. A letter would be sent to the Director of Inspectional Services.

(10) Planner's Report

- Brady Estates

The Planning Director reported on a proposal to separate the back land of Brady Estates for a solar farm and how it could not be done without a variance or modifying the Comprehensive Permit. The solar farm developer decided not to pursue the proposal.

- Tree pruning of Scenic Roads

Mr. Perry wanted the Planning Board to be aware that NSTAR will be trimming branches along a number of scenic roads in Town. The NSTAR arborist reviewed the proposed trimming with the Tree Warden/DPW and the Planning Director. All agreed the trimming would be done with minimal impact to the scenic roads.

- Westport River Estuaries Report

The Planning Director reported on the Westport River Estuary Report and model for analyzing nitrogen loading to the Westport River. Any solutions to limit nitrogen loading must include Dartmouth because at least 1/3 of the Westport River watershed is in Dartmouth.

- GEO-TMS

The Planning Director informed the Board that the Town is interested in pursuing online permitting and tracking of development, with all departments able to input data and be kept abreast of development permitting. A demonstration of the GEO-TMS program was given to the Town, but the Town may also seek other providers.

(11) For Your Information/New Business

- Material from MMA Annual Meeting
- Copy of Planning Director's position analysis questionnaire
- Subcommittee Reports

Mrs. Miller gave an update on the recent SRPEDD meeting she attended. She mentioned there are grants to create a permitting guide for communities and it was noted Dartmouth has applied.

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Mr. Toomey stated that he was asked to have the Planning Board appoint a delegate to the Green Communities Committee which will be meeting on Wednesdays. Concern was expressed that the same Boards keep getting asked to have delegates on subcommittees and it is becoming very cumbersome.

After some discussion, a motion was made by Mrs. Miller, duly seconded by Mr. Haran, and unanimously voted (5-0) to have Mr. Haran serve on the Green Communities Committee until March 31st.

At this time there was a short discussion on taking comments from the public at meetings. A motion was made by Mr. Haran, duly seconded by Mrs. Miller, and unanimously voted (5-0) to make it a Planning Board policy that the Chairman ask for the name and address of any wishing to speak at a Board meeting.

Mr. Perry spoke about the numerous calls the office has received on the solar farm off Hixville Road. He pointed out that this is a large by-right project that started construction with no one knowing about it. Mr. Perry stated while Planning has been an advocate for by-right permitting, there is merit in the Special Permit process because the public is notified and informed of a project in advance.

- John Haran – Televised Planning Board meetings

Mr. Haran mentioned that a lot of people have asked him why the Planning Board meetings are not televised. He asked Board members to reconsider their previous vote to not move Planning Board meetings to Tuesday evenings.

Each Board member voiced their opinion on this matter. Most Board members felt Tuesday evening meetings are not an option for them, citing ongoing regular commitments. Since Board attendance has never been an issue with meetings held on Mondays, it was the Board consensus to continue meeting on Monday evening. Board members expressed a strong opinion that the Planning Board's meeting room should be wired for public viewing and hopefully funding would become available.

- Article 12, Agreement between Town of Dartmouth and Department Heads

Discussion commenced on how Article 12 should be interpreted. After some discussion, the Board asked Staff to send a letter to David Cressman, the Executive Administrator, citing specific examples of hours of work and asking him how this section would be interpreted.

- Board of Appeals decisions
- Planning staff timesheets

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- As a follow-up to the joint meeting the Planning Board held with the Select Board on January 30, 2012 regarding SRPEDD'S presentation of the Route 6 Gateway Study, Mr. Perry asked the Planning Board when it would begin working on this proposal. It was agreed that the Bliss Corner/Dartmouth Street rezoning is the current priority and the Route 6 rezoning would be considered after that undertaking is done and the Planning Board considers its long range planning priority list.

(12) Long Range Planning – Discussion of Dartmouth Street/Bliss Corner zoning

The Planning Board devoted the remainder of the meeting discussing the newest long range planning project. Discussion focused on the language of the Purpose section of the draft Bliss Corner Business District zoning. It was generally agreed to label the new district the "Bliss Corner Area Business District" and to emphasize "mixed use" as a purpose.

In closing, Mr. Toomey noted that the next Planning Board meeting is scheduled for February 27, 2012, in room #315, Town Office Building, 400 Slocum Road. He then called for a motion to adjourn.

A motion was made by Mr. Sousa, duly seconded by Mr. Haran, and unanimously voted (5-0), to adjourn this evening's regular meeting at 10:05 p.m.

Respectfully submitted,
Joyce J. Couture
Planning Aide