

MINUTES OF PLANNING BOARD PUBLIC HEARING OF JUNE 17, 2013
Repetitive Petition for No Fossil Fuel, Fisher Road, to go before the Board of Appeals before 2 years have elapsed from the date of action by Board of Appeals Room #315, Town Office Building, 400 Slocum Road

Planning Board Members

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

Planning Staff

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

RECEIVED
2013 JUL - 21 A 10: 04
DARTMOUTH TOWN CLERK

The Chairman opened at 7:32 p.m. the public hearing¹ concerning a request to determine if the Planning Board should give its consent in order to allow the petition of Mary O'Donnell representing No Fossil Fuel, 54 Grove Street, Kingston, MA 02364 to go before the Dartmouth Board of Appeals to amend condition #12 of Variance Decision #2012-11 granted by the Dartmouth Zoning Board of Appeals, before two years have elapsed from the date of action by the Board of Appeals. The condition affects property owned by Philip DeMoranville located on Fisher Road, Assessor's Map 32, Lot 54; Map 37, Lots 37, 39, 40 and 41; and Map 33, Lot 71.

All Planning Board members and Planning staff were present. As a direct abutter to the proposal, Mr. Sousa recused himself from participating in this public hearing.

The Chairman provided procedural information for the general public.

A motion was made by Mr. Mickelson, seconded by Mrs. Miller for discussion, and unanimously voted (4-0), to waive the reading of the legal notice, which appeared in The Chronicle on Wednesday, May 29, 2013, and again on Wednesday, June 5, 2013.

The Planning Director stated the application for the Repetitive Petition was officially logged on May 23, 2013.

Mr. Perry proceeded to read the following correspondence into the record:

- Letter from Thomas Hardman, Site Design Engineering dated May 22, 2013
- Letter from Philip DeMoranville, King Fisher Corporation dated June 3, 2013

¹ For more information, see minutes of the Planning Board's regular meeting of June 17, 2013

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The Chairman asked if the applicant or his representative would like to speak.

Attorney John Yunits, representing No Fossil Fuel, addressed the Board members. He briefly spoke about the prior repetitive petition noting he felt the issues which were raised in the first denial have been resolved. Attorney Yunits stated Mr. DeMoranville has readily agreed not to use pesticides on the subject parcels for a period of two years, and he will be installing Silica based solar panels.

Thomas Hardman, Site Design Engineering, also encouraged the Planning Board members to reconsider this request, citing multiple and specific reasons.

Attorney Anthony Savastano, Town Counsel, stated the agreement letter from Mr. DeMoranville should be part of the official record.

The Chairman called for comments and/or questions from the public.

There were none.

The Chairman asked if the Planning Board had any comments or questions.

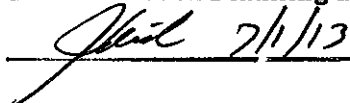
Mr. Toomey stated he is very happy with the specific and material changes that the applicant has agreed to, specifically no blasting operations or use of pesticides for a two year period, the use of Silica based solar panels, and the donation of a 26 acre parcel of land for conservation purposes.

Hearing no further comments, the Chairman recommended the Planning Board close this evening's public hearing.

A motion was made by Mrs. Miller, duly seconded by Mr. Toomey, and unanimously voted (4-0) to close this evening's public hearing at 7:46 p.m.

Respectfully submitted,
Joyce J. Couture
Planning Aide

APPROVED BY:
The Dartmouth Planning Board



MINUTES OF REGULAR PLANNING BOARD MEETING OF JUNE 17, 2013
Planning Board's Meeting Room #315, Town Office Building
400 Slocum Road, Dartmouth, MA

Planning Board

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

Planning Staff

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

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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 June 3, 2013
Executive Session of June 3, 2013
Public Hearing of June 3, 2013 Definitive Subdivision Plan "Integrity Lane"

A motion was made by Mr. Mickelson, duly seconded by Mr. Sousa for discussion, and unanimously voted (5-0) to approve the above referenced minutes as written.

(2) Correspondence

Legal Notices from Town of Freetown
Legal Notices from Dartmouth Conservation Commission
Letter from Board of Appeals dated June 13, 2013 re: King Plaza
Letter from Diane St. Pierre et al re: Old Westport Road student housing
Letter from Richard & Ann Ibara re: Old Westport Road student housing
Letter from John & Michele Lyons re: Old Westport Road student housing
Letter from Elle & Carl Martins re: Old Westport Road student housing
Letter from Peter Senuick re: Old Westport Road student housing

A motion was made by Mr. Sousa, duly seconded by Mr. Mickelson for discussion, and unanimously voted (5-0) to acknowledge and file the above referenced correspondence with the exception of the Board of Appeals letter which will be discussed later in the meeting under New Business.

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(3) Update of Planning Board's F/Y'13 budget thru May

Brief discussion ensued on the Planning Board's budget.

A motion was made by Mr. Sousa, duly seconded by Mr. Mickelson, and unanimously voted (5-0) to acknowledge and file the Planning Board's F/Y'13 budget update thru May.

(4) Approval of Planning Board's meeting schedule through September

Brief discussion ensued on the proposed meeting schedule presented to the Board members for their consideration. The Planning Director stated he would like to take vacation time in July and August. Mr. Sousa said he will not be available for the July 1st meeting and Mr. Avila mentioned he will not be present for the July 15th meeting.

A motion was made by Mr. Sousa, duly seconded by Mr. Mickelson, and unanimously voted (5-0) to approve the following meeting schedule:

Monday, June 24, 2013	-	NONE
Monday, July 1, 2013	-	Regular Meeting/Long Range Planning
Monday, July 8, 2013	-	NONE
Monday, July 15, 2013	-	Regular Meeting/Long Range Planning
Monday, July 22, 2013	-	NONE
Monday, July 29, 2013	-	NONE
Monday, August 5, 2013	-	Regular Meeting/Long Range Planning
Monday, August 12, 2013	-	NONE
Monday, August 19, 2013	-	NONE
Monday, August 26, 2013	-	Regular Meeting/Long Range Planning
Monday, September 2, 2013	-	NONE (LABOR DAY)
Monday, September 9, 2013	-	Regular Meeting/Long Range Planning
Monday, September 16, 2013	-	NONE
Monday, September 23, 2013	-	Regular Meeting/Long Range Planning
Monday, September 30, 2013	-	NONE

(5) Acknowledgement of Chapter 91 Waterways License Application for the Town of Dartmouth and the MA Department of Fish and Game Office, 75 Gulf Road

The Planning Director stated that this Chapter 91 Waterways Application submitted by the Dartmouth Harbor Master is to reconstruct the existing boat ramp at the Arthur Dias Landing.

Brief discussion ensued.

A motion was made by Mr. Sousa, duly seconded by Mr. Mickelson, and unanimously voted (5-0) to authorize the Planning Director to sign the Chapter 91 Waterways License Application for the Town of Dartmouth, Office of the Harbormaster and the Massachusetts Department of Fish and Game Office of Fishing and Boating Access for property located off 75 Gulf Road.

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(6) Endorsement of Definitive Subdivision Plan entitled "Thomas Henry Heights"

The Planning Director reported that the plans have been revised in accordance with the certificate of action. He said all the legal documents are in order. He recommended the Planning Board endorse the plan.

A motion was made by Mr. Sousa, duly seconded by Mr. Mickelson, and unanimously voted (5-0) to endorse the Definitive Subdivision Plan entitled "Thomas Henry Heights".

(7) Discussion of King Plaza sidewalk locations

The Planning Director mentioned that he spoke with Dave Hickox, the Director of Public Works, who is requesting the Board's consideration to modify the sidewalk locations required by the Planning Board in the King Plaza parking plan approval. Mr. Perry provided details of the sidewalk locations as suggested by Mr. Hickox.

Each Board member offered their opinion.

Concluding discussion, a motion was made by Mr. Mickelson, and duly seconded by Mrs. Miller, to approve the revised sidewalk locations as requested by Mr. Hickox as an amendment to the approved parking plan for King Plaza. Mr. Sousa, Mr. Toomey, and Mr. Avila opposed. Motion failed.

Public Hearing

(8) 7:30 P.M. – PUBLIC HEARING - Repetitive Petition of No Fossil Fuel to go before the Dartmouth Board of Appeals before two years have elapsed to amend condition #12 of Variance Decision #2012-11 for property owned by Philip DeMoranville located on Fisher Road, Assessor's Map 32, Lot 54; Map 37, Lots 37, 39, 40 and 41; and Map 33, Lot 71

At this time, Board member John Sousa stated that as a direct abutter, he would be recusing himself from participating in the public hearing and voting on this request.

A motion was made by Mrs. Miller, duly seconded by Mr. Mickelson, and unanimously voted (4-0), to recess the Planning Board's regular meeting at 7:32 p.m. in order to go into a public hearing¹ concerning a Repetitive Petition of No Fossil Fuel to go before the Dartmouth Board of Appeals before two years have elapsed to amend condition #12 of Variance Decision #2012-11 for property owned by Philip DeMoranville located on Fisher Road.

¹ For more information, see minutes of Planning Board's Public Hearing of June 17, 2013 "Repetitive Petition of No Fossil Fuel"

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The regular meeting resumed at 7:46 p.m.

Administrative Items

- (9) **Action on Repetitive Petition to allow No Fossil Fuel to go before the Dartmouth Board of Appeals to amend condition #12 of Variance Decision #2012-11 for property owned by Philip DeMoranville located on Fisher Road, Assessor's Map 32, Lot 54; Map 37, Lots 37, 39, 40 and 41; and Map 33, Lot 71**

Present: Attorney Anthony Savastano, Town Counsel
Attorney John Yunits, representing No Fossil Fuel
Thomas Hardman, Site Design Engineering

Directly after the duly held public hearing, a motion was made by Mr. Mickelson, and duly seconded by Mrs. Miller, to grant the petitioner, No Fossil Fuel, permission to go before the Dartmouth Board of Appeals to amend condition #12 of Variance Decision #2012-11 for property owned by Philip DeMoranville located on Fisher Road including adherence to all the conditions agreed upon and specified in the letter dated June 3, 2013 from Philip DeMoranville.

Joel Avila – yes; Joseph Toomey, Jr. – yes; Lorri-Ann Miller – yes; Stanley Mickelson – yes.

Motion carried unanimously (4-0). The Planning Board determined that specific and material changes have occurred since the decision of the Board of Appeals which include the applicant agreeing not to blast or use pesticides for a two year period, agreeing to use Silica based solar panels, and the donation of a 26 acre parcel of land for conservation purposes.

(10) Correspondence

Letter from Board of Appeals dated June 13, 2013 re: King Plaza

Discussion ensued on the above referenced letter from the Board of Appeals requesting the Planning Board's opinion on the intensity of the proposed mixed uses in conjunction with the approved off-street parking plan for King Plaza, 25 Russells Mills Road.

After some discussion, a motion was made by Mrs. Miller, duly seconded by Mr. Toomey, and unanimously voted (5-0) to send the Board of Appeals a response letter stating the Planning Board is in favor of mixed use zoning in the Bliss Corner area. The Board clarified that mixed use is when business and residential uses are allowed on the same lot. Mixing multiple business uses such as office, restaurant and retail on a property are currently allowed in the business district by right, but mixing multiple residential units with business is not currently allowed. The Planning Board supports the apartments over business uses.

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With respect to the intensity of uses, the Planning Board felt it could not make a recommendation on intensity because it does not have the benefit of all the facts raised at the public hearings – facts provided by the applicant's attorney outlining the legal hardships or abutters concerns. The Planning Board does offer that it thought the overall proposal seemed reasonable based on a parking plan that the Board considered safe and effectively designed. The Planning Board agreed some on-street parking spaces on the streets adjacent to the frontage of the property could be used for customer parking where the streets are wide enough such as Russells Mills Road.

The Planning Board also believes rehabilitating the existing buildings for business and residential uses would revitalize the local economy, upgrade the property, thereby improving neighborhood property values, and with the addition of greenery and landscaping be an improvement in aesthetics of the neighborhood. The Planning Board pointed out that by-right uses which might not need variances could potentially be worse for the neighborhood such as chain restaurants, auto body shops, or repair garages.

In summary, the Planning Board felt the Board of Appeals will need to make its decision based on all of the input it receives and if variances are granted, add conditions if necessary to approve a proposal that benefits everyone involved and improves the neighborhood.

(11) Planner's Report

- Vision Development – Old Westport Road

The Planning Director informed the Board members that Vision Development formally withdrew the student housing proposal before the Board of Appeals but the plan may be revised and come back.

(12) For Your Information/New Business

- Letter from Richard Verville (FEMA) dated May 31, 2013
- Environmental Notification from Boston Environmental for Cecil Smith Landfill Closure dated May 30, 2013
- Planning Board letters to others
- Subcommittee Reports
- Planning Director's review for Board of Appeals
- Planning staff timesheets

The Planning Director stated that Peter Spindler has submitted another request to extend the deadline on the Special Permit granted by the Planning Board for "Lot 15A" Definitive OSRD Subdivision from June 30, 2013 to June 30, 2014. He noted this is a 1 lot subdivision approved for property off Rock O'Dundee Road. The applicant had good cause for not being able to activate the Special Permit before the deadline because it took the applicant some time to find a conservation group that would hold the conservation restriction on the open space parcel.

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Brief discussion ensued.

A motion was made by Mr. Sousa, duly seconded by Mrs. Miller, and unanimously voted (5-0) to extend the deadline to begin utilizing the Special Permit for "Lot 15A", Definitive OSRD Subdivision Plan from June 30, 2013 to June 30, 2014. The original Special Permit was granted by the Planning Board and filed with the Town Clerk on June 30, 2009 with extensions granted to keep the Special Permit active. The Planning Board determined there was good cause as to why the applicant, Peter Spindler, was not able to activate the Special Permit prior to June 30, 2013.

At this time, Mrs. Miller asked the Planning Director to notify David Cressman that a traffic study is available in the Planning Board office for the Hawthorn Medical expansion.

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

The Planning Director spoke about the recent public information session the Planning Board sponsored with the Dartmouth Street/Bliss Corner neighborhood seeking their input on zoning possibilities for that area of Town. He highlighted some of the basic issues which were identified by the individuals who participated in this session.

Discussion ensued on how the Planning Board would approach the rezoning, tackle the mixed use, and carve out the residential areas.

With no further business, a motion was made by Mrs. Miller, duly seconded by Mr. Sousa, and unanimously voted (5-0) to adjourn this evening's regular meeting at 8:37 p.m.

Respectfully submitted,
Joyce J. Couture
Planning Aide

APPROVED BY:
The Dartmouth Planning Board

[Signature] 7/1/13

