

MINUTES OF REGULAR PLANNING BOARD MEETING OF AUGUST 5, 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
Ms. Jane Kirby, Planning Aide

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DARTMOUTH TOWN CLERK

The Chairman called the meeting to order at 7:02 p.m. with all Planning Board members and Planning staff present.

Administrative Items

(1) Approval of Minutes

Regular Meeting of July 1, 2013

A motion was made by Joseph Toomey, duly seconded by Stanley Mickelson for discussion, and unanimously voted (5-0) to approve the minutes of the regular meeting of July 1, 2013 as written.

(2) Correspondence

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

A motion was made by Joseph Toomey, duly seconded by Stanley Mickelson for discussion, and unanimously voted (5-0) to acknowledge and file the above referenced correspondence.

Executive Session

(3) 7:05 P.M. - EXECUTIVE SESSION - Anthony Savastano, Esq. (Town Counsel) M.G.L., Chapter 30A, Section 21a(3) re: South Wharf Subdivision ongoing litigation

This agenda item was delayed because Town Counsel was at a meeting with the Select Board longer than anticipated.

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Administrative Items

The following agenda items were taken out of order while the Board waited for Town Counsel

**(6) Endorsement of Definitive Subdivision Plan entitled
“Subdivision Plan of Lot 15A, An OSRD in Dartmouth for Peter Spindler”**

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, and the Town Clerk has certified no appeal. Mr. Perry recommended the Planning Board endorse the plan.

A motion was made by Joseph Toomey, duly seconded by John Sousa, and unanimously voted (5-0) to endorse the Definitive Subdivision Plan entitled “Subdivision Plan of Lot 15A, An OSRD in Dartmouth for Peter Spindler”.

(7) For Your Information/New Business

- Subcommittee Reports
- Board of Appeals decisions
- Planning Director’s review for Board of Appeals
- Planning staff timesheets

New Business:

Chairman Avila noted that Mr. Cressman, Town Administrator, requested a Planning Board member be assigned to the Open Space and Recreation Plan Committee. Stanley Mickelson volunteered to represent the Planning Board on the Open Space and Recreation Plan Committee.

A motion was made by Lorri-Ann Miller, duly seconded by John Sousa for discussion, and unanimously voted (5-0) to appoint Stanley Mickelson to the Open Space and Recreation Plan Committee.

Subcommittee Reports:

Joseph Toomey announced that the Soil Board will meet on August 21, 2013 at 7:00 p.m. regarding a Cease and Desist order, and the Soil Board is in the process of reviewing and rewriting its regulations.

Lorri-Ann Miller announced that Shawn McDonald was elected by the SRPEDD Commission to the Metropolitan Planning Organization (MPO) for transportation.

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(8) Long Range Planning – Discussion of Medical Marijuana Zoning Bylaw

The Planning Director referenced the draft bylaw he had prepared for Board comment. He stated the Board needs to discuss the purpose of the draft bylaw and from that they can generate the conditions and regulatory standards. Mr. Perry pointed out the draft bylaw is simple because it need only address concerns specific to Dartmouth that are not regulated by the Department of Public Health.

Mr. Perry asked the Board to consider whether this use should be allowed by right or by Special Permit.

Noticing that Town Counsel was now present for the Executive Session meeting, Chairman Avila asked that the discussion be revisited later in the evening.

(3) 7:20 P.M. - EXECUTIVE SESSION - Anthony Savastano, Esq. (Town Counsel) M.G.L., Chapter 30A, Section 21a(3) re: South Wharf Subdivision ongoing litigation

By roll call vote, a motion was made by Mr. Sousa, duly seconded by Mrs. Miller, and unanimously voted to go into Executive Session pursuant to M.G.L., Chapter 30A, Section 21a(3). It was noted that after the Executive Session, the Planning Board would continue with the regular meeting in Room #315.

Stanley M. Mickelson – yes, John V. Sousa – yes, Joseph E. Toomey, Jr. – yes, Lorri-Ann Miller – yes, Joel Avila – yes.

The Executive Session was opened in Meeting Room #301 at 7:22 p.m. and the Board reconvened in Meeting Room #315 at 8:10 P.M. for its regular meeting.

Appointments

(4) 8:10 P.M – APPOINTMENT – James Rudolph, Esq., Rudolph Friedmann LLP & Mark Schmid, Dewing & Schmid Architects: Informal discussion of South Wharf mixed use redevelopment concepts

Present: Attorney James Rudolph, representing Heritage Wharf Co., LLC
David Nolan, project principal
Mark Schmid, Dewing & Schmid Architects
Anthony C. Savastano, Esq., Town Counsel
Brian Cruise, Town Counsel - Associate

The Planning Director stressed that this was a preliminary review of a newly submitted conceptual mixed use redevelopment proposal for property located at South Wharf off Elm Street. The purpose of this review is to provide guidance for the applicant. Mr. Perry then

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reviewed the zoning bylaw history of the Waterfront Overlay District and the Village Business District with the Board.

Attorney James Rudolph, representing Heritage Wharf, LLC, introduced the project representatives and provided a brief overview of the proposal, which he stated was a result of numerous meetings with the Town Administrator, Select Board, Fire Chief, and the New Bedford Yacht Club, among others. Attorney Rudolph stated that his client is seeking to obtain a sense of the Board for the project as proposed, and an amicable resolution to move this project forward and revive Padanaram Village.

Mark Schmid, Architect, provided a detailed overview of the proposal, reviewing the conceptual plans and noting the changes from the conceptual plan submitted in November. This plan proposes 6 new buildings (Buildings A thru F) with 4 condominium units in each building, for a total of 24 condo units. As proposed, the existing Sail Loft building will be kept and renovated.

Mr. Schmid proceeded to review the proposed parking layout in detail, noting that 120 parking spaces are provided where 50 spaces would be required. The proposed new restaurant at South Wharf, along with the road way, was discussed. Mr. Schmid pointed out that the existing slips and pier will be maintained, preserving the maritime uses. He also noted that new dinghy space may be added with the addition of a board walk.

The Planning Director detailed the Special Permits that would be required for the proposal as presented under Section 18 – Waterfront Overlay District, and under Section 10 – Village Business Districts. Mr. Perry listed his comments for each requested Special Permit and concluded that the submitted conceptual plans would not meet the requirements for granting the Special Permits.

Lengthy discussion ensued regarding rezoning at the subject property location. Mr. Nolan stated that the appraised project value plummeted as a result of losing the by right residential use. The Board stressed that the residential use was not omitted; and that the purpose of the mixed use zoning was to revitalize the area with both commercial and residential uses, along with preserving the maritime use.

Board members provided comment.

Members questioned how the water dependent use zone was calculated, and where the filled tide lands were shown on the plan. Mr. Nolan, project principal, explained that the DEP provided documentation and calculations, and assured the Board that the submitted plan's calculations and lines were accurate.

Chairman Avila also questioned where the filled tide lands were on this plan, since they were shown on the November conceptual plan. Mr. Nolan stated that the DEP rendered them inaccurate. Chairman Avila requested copies of the DEP documents, which were unavailable at this meeting.

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Board members felt that the boating industry in Padanaram is a vital business for the community and suggested plan layout changes that would better preserve the maritime use, including moving the condo units closer to Elm Street, and maintaining the water edge for maritime uses. It was also noted that the current conceptual plan does not allow the ability to maneuver boats on the subject property.

The Board in general felt that a better plan could be submitted to balance the retail, residential, and marina uses. As proposed, the plan appeared to be 80% residential use, 15% retail use, and eliminated the travel lift which is vital for a marina use. The Board suggested that the plan could be revised to 1/3 residential use, 1/3 retail use, and 1/3 maritime use on the main body of the site.

The Board agreed with the Planning Director's opinion that the plans as submitted would not meet the requirements for granting the Special Permits that would be required for this project as proposed.

The Board advised that if a new plan is submitted in the future, the DEP data and Apex Engineering calculation data should be submitted as well.

Concluding discussion, the Planning Board closed this appointment at 10:10 P.M.

**(5) 10:12 P.M – APPOINTMENT – Alan Heureux, Boucher & Heureux, Inc.:
Request to amend Off-Street Parking Plan for Baycoast Bank on Old Westport
Road and State Road and request for Planning Board letter of support for
Dartmouth Pathway Committees for bike racks**

Mr. Heureux was seeking to amend the Off Street Parking Plan to allow the removal of an existing tree to provide visibility for the existing large sign formerly used for Liberty Travel. The Planning Board did not agree that the tree should be removed, and suggested a request for a sign that better fits the site should be pursued.

Regarding the second item of this appointment, Mr. Heureux, Chairman of the Pathways Committee, explained that the Pathways Committee had submitted an application with the Community Preservation Committee (CPC) seeking funding for commemorative bike racks to be installed in certain Town parks and boat landings. To date, the application was deemed incomplete due to missing submittal material. The Pathways Committee is seeking to reapply in the future, and is requesting a letter of support from the Planning Board.

A motion was made by John Sousa, duly seconded by Lorri-Ann Miller, and unanimously voted to forward a letter to support the CPC application for commemorative bike racks in certain Town parks and boat landings as requested by the Pathways Committee.

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In a related matter, the Planning Board discussed installing designated painted bike lanes on any Town roads where applicable that are reconstructed or repaved in the future. The Planning Board supports the installation of painted bike lanes that the Dartmouth Pathways Committee has designated as bike routes, but would also like to see better pedestrian and bicycle travel lanes throughout the Town wherever possible.

A motion was made by John Sousa, duly seconded by Lorri-Ann Miller, and unanimously voted to forward a letter to the Select Board and the Board of Public Works encouraging the installation of painted bike lanes on applicable reconstructed or repaved roads in the future.

Concluding discussion, the Planning Board closed this appointment at 10:47 P.M.

(8) Long Range Planning – Discussion of Medical Marijuana Zoning Bylaw

The Board resumed discussion on the Medical Marijuana Zoning Bylaw.

One specific topic discussed was that dispensaries and grow areas could be separated. Also discussed was whether the separate growing areas would be exempt from zoning under an agricultural use.

The Board supported the Planning Director's recommendation that dispensaries should be located in the Office Industrial District and the General Industrial District. The general consensus of the Board was that the Department of Public Health regulations are comprehensive enough so that the Town bylaw would not need to be complicated or duplicative.

The Planning Board also discussed whether the bylaw should be by right vs. Special Permit, and decided to direct Mr. Perry to draft a By-Right bylaw with conditions for discussion at another meeting.

With no further business, a motion was made by John Sousa, duly seconded by Stanley Mickelson, and unanimously voted (5-0) to adjourn this evening's regular meeting at 11:00 p.m.

APPROVED BY:
The Dartmouth Planning Board

John Sousa 8/7/13

Respectfully submitted,
Jane Kirby
Planning Aide