

MINUTES OF REGULAR PLANNING BOARD MEETING DECEMBER 2, 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

RECEIVED
DEC 18 2013
@ 10:40 AM
DARTMOUTH TOWN CLERK

The Chairman called the meeting to order at 7:00 p.m. in Room #315 with all Planning Board members and Planning staff present.

ADMINISTRATIVE

(1) Approval of Minutes

Regular Meeting of November 18, 2013

A motion was made by Stanley Mickelson, duly seconded by John Sousa for discussion, and voted (3-yes; 2-abstain) to approve the minutes as written.

(2) Invoice

WB Mason – Office Supplies - \$251.41

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

(3) Correspondence

Legal Notices from Dartmouth Board of Appeals
Legal Notices from Dartmouth Conservation Commission
Legal Notices from Town of Freetown

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

(4) Proposed Planning Board Meeting Schedule January thru March 2014

Discussion commenced on the proposed Planning Board meeting schedule.

The Board agreed with the following meeting schedule:

Monday, January 6, 2014 - Regular Meeting/Long Range Planning
Monday, January 13, 2014 - NONE
Monday, January 20, 2014 - NONE (Martin Luther King Day)
Monday, January 27, 2014 - Regular Meeting/Long Range Planning
Monday, February 3, 2014 - NONE
Monday, February 10, 2014 - Regular Meeting/Long Range Planning
Monday, February 17, 2014 - NONE (President's Day)
Monday, February 24, 2014 - Regular Meeting/Long Range Planning
Monday, March 3, 2014 - NONE
Monday, March 10, 2014 - Regular Meeting/Long Range Planning
Monday, March 17, 2014 - NONE
Monday, March 24, 2014 - Regular Meeting/Long Range Planning
Monday, March 31, 2014 - NONE

(5) For Your Information/New Business

- Planner's Report

RE: Bay Coast Bank

Mr. Perry stated that Bay Coast Bank will be coming before the Planning Board and will request to amend the signs on the site for the State Road property. He also noted the bank will likely be submitting a plan for a branch to be located at the Big Value Outlet on Dartmouth Street.

- FYI

Brief Planning Board discussion ensued regarding the public waterfront access way along South Wharf Pier adjacent to the yacht club. The Board thought adding signage would be beneficial. Both the public access way and signage will be discussed if development plans for this site are submitted in the future. M.G.L. Chapter 91 was also discussed regarding the public easement expiring in 30 years.

The Planning Director informed the Board that NELSON NYGAARD was the parking consultant used by the Cecil Group for information presented at the Padanaram Village Streetscape Design Charrette meeting of November 13, 2013.

A letter dated November 20, 2103 from Michael O'Reilly, Environmental

Affairs Coordinator, was forwarded to the Planning Board stating that the Conservation Commission accepted a 26.60 acre land donation from Mr. DeMoranville for a parcel identified on Map 42 as Lot 30.

The Director of Inspectional Services sent out parking plan letters of violation. Copies of the letters were forwarded to the Planning Board.

- Subcommittee Reports

Mr. Toomey reported that the Soils Board appreciated the letter from the Planning Board and submitted the letter, along with its own letter, to the Board of Health. The Board of Health will pursue regulating the dumping of fill in the Town of Dartmouth in response to the letters.

Lorri-Ann Miller questioned whether or not the Town has heard from SRPEDD regarding the Sign Bylaw review request. Mr. Perry stated that the letter was submitted in November, and to date, no response has been received. Mr. Perry will contact SRPEDD for an update.

- New Business

Lorri-Ann Miller, noting that 3 Planning Board members voted to restrict Use Variances from the Residential A, B, and C Districts, stated that she agreed with the vote. (Mrs. Miller was absent at that meeting and unable to vote at the time).

(6) Thomas Henry Heights – Request to switch released lot

Present: Joseph Lemieux

Donald Perry, Planning Director, explained that Mr. Lemieux is asking that the Planning Board allow a switch of lots for release. Mr. Perry noted that Lots 1 and 2 were not released for building or sale at this time, and that there is currently a buyer for Lot 2. Mr. Lemieux will place released Lot 3 back under the Covenant if the Board allows. Thomas Henry Heights is the former Brady Estates subdivision located off of Hixville Road.

The posted surety amount was questioned, with Mr. Perry explaining that the DPW estimates the cost of subdivision improvements, and that amount is used for surety to be posted. The DPW estimate was then forwarded to the Board, which showed that Mr. Lemieux had posted \$76,000 +/- with the Town.

Mr. Lemieux spoke at this time, and raised the issue that lots should not be held back if surety is posted to cover the cost of subdivision improvements. He questioned the legality of this practice. He argued that the Board should release all the lots, since surety has been posted with the Town that will cover the cost of all the remaining subdivision improvements.

Mr. Perry explained that the Commonwealth of Massachusetts Subdivision Control Law does not require both monetary surety to be posted and lots to be held back. He stated that the reason the lots are held back in this case, even though Mr. Lemieux has posted monetary surety, is because it is a requirement of the Planning Board's Subdivision Regulations.

Board members pointed out that all Town subdivisions are treated equally; noting that lots are held back as an additional means of ensuring that the project will be completed by the developer.

The legality of holding monetary surety while also holding back lots was questioned, and discussed at length.

Chairman Avila asked the Board to consider seeking Town Counsel's opinion on this matter. All Board members felt that Town Counsel's opinion is needed, and a request will be submitted.

Chairman Avila asked for a motion on the lot release request.

A motion was made by John Sousa to approve releasing Lot 2, with Lot 3 being placed back under the Covenant. This motion was seconded by Lorri-Ann Miller.

Brief discussion ensued.

Joseph Toomey stated that switching lots at this point in time defeated the purpose of holding back lots, since the potential sale of the lot being held back could be the incentive for subdivision improvement completion.

Mr. Perry stated that the developer doesn't have any control over which lots a buyer wants to purchase or when they will sell, and felt that the posted monetary surety is the incentive.

Chairman Avila stated that the Board has always tried to be accommodating to developers, and that two lots will still be held even if the lots are allowed to be switched.

Chairman Avila then asked for a Planning Board vote on the above-mentioned motion to approve.

The Planning Board voted (4-yes; 1-no; with Joseph Toomey opposed).

(7) Initial Review of Off Street Parking Plan for 365 Faunce Corner Road

Present: Alan Heureux, P.E. – Boucher & Heureux, Inc.

Roland Valois

Donald Perry, Planning Director, stated that this off-street parking plan proposes

to add more parking spaces on the south and east sides of the existing building to accommodate a proposed adult day care facility. Prior to this meeting, the applicant's engineer Alan Heureux had requested a copy of Mr. Perry's Planning Board recommendation. Mr. Heureux submitted a revised parking plan at this meeting that addressed some of Mr. Perry's concerns.

Mr. Heureux proceeded to review the proposed parking plan, highlighting the revisions from the originally submitted plan.

Mr. Perry noted that the plan still showed minor Section 16 non-compliances that may require relief from the Board of Appeals. Mr. Perry outlined the Board's options:

1. Disapprove the plan based on the non-compliances
2. Approve the plan, as is, subject to variances.
3. Approve the plan with modifications to achieve greater compliance, but variances may still be needed.

At this time Roland Valois spoke, questioning the need for variances for the parking plan approval. Mr. Valois explained that he's been before the Planning Board at least twice for plan approval for this site, and that plans were approved without variances.

A lengthy discussion ensued regarding past Planning Board approvals for this site, and why variances were not required in the past. The change in use to an adult daycare facility required that an off-street parking plan be submitted and approved by the Planning Board at this time.

The Board discussed the newly submitted parking plan and determined that overall; the plan complied with Section 16, with minor variances. The Board felt the plan was an improvement to existing site conditions.

The Board discussed ways in which the plan could be approved without requiring variances. Ultimately, the Board determined that the revised, newly submitted parking plan would be subject to the Board of Appeals if the Zoning Enforcement Officer agreed.

The Planning Board will send a letter of support to the Board of Appeals for the revised parking plan submitted this evening if relief is required.

A motion was made by Lorri-Ann Miller to approve the off-street parking plan, which was seconded by Joseph Toomey, and unanimously voted (5-0) to approve the plan with the following conditions:

1. The two way access aisle at the rear of the building shall be changed to one-way, with "Do Not Enter" signs placed at the end of and both sides of the one-way access aisle. The "Do Not Enter" signs shall be protected with concrete bollards.

2. This approval by the Planning Board is subject to the Zoning Board of Appeals issuing variances where the plan does not comply with the requirements of Section 16 of the Zoning Bylaws.

(8) Draft Bylaw Review:

Exemption Language Revision (General Residence Setback)
Eaves, Overhang Standards (Exemption from Setback Requirements)
Amend Parking and Driveway Bylaw to allow Horseshoe Driveways
Use Variance Amendment to Prohibit from Residential Districts

The Board reviewed the above-referenced drafts and made some revisions.

The Board asked the Planning Director to invite Paul Murphy to attend a meeting to discuss and help clarify the draft bylaw pertaining to exemptions from setback requirements.


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

Due to the late hour, this agenda item was postponed, and will be discussed at the next Planning Board meeting.

Chairman Avila noted that the next Planning Board meeting is scheduled for December 16, 2013, in Room #315, Town Office Building, 400 Slocum Road. He then called for a motion to adjourn.

A motion was made by Lorri-Ann Miller, duly seconded by Joseph Toomey, and unanimously voted (5-0), to adjourn this evening's regular meeting at 9:40 p.m.

APPROVED BY:
The Dartmouth Planning Board



Respectfully submitted,
Jane Kirby, Planning Aide