



**MINUTES OF PLANNING BOARD REGULAR MEETING
JANUARY 6, 2014
Meeting Room #315
Town Office Building, 400 Slocum Road, Dartmouth, MA**

Planning Board

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

Planning Staff

Mr. Donald A. Perry, Planning Director
Ms. Jane Kirby, Planning Aide

The Chairman called the meeting to order at 7:00 p.m., with all Planning Board members and Planning Staff present. Joseph Toomey arrived at 7:05 p.m. and was absent for the first three votes.

Administrative Items

- (1) **Approval of Minutes**
Regular Meeting of December 16, 2013

A motion was made by John Sousa, duly seconded by Lorri-Ann Miller for discussion, and voted (4 yes; 1 absent) to approve the regular Planning Board meeting minutes as amended of December 16, 2013.

- (2) **Invoices**
WB Mason – Office Supplies - \$71.74

A motion was made by John Sousa, duly seconded by Lorri-Ann Miller for discussion, and voted (4 yes; 1 absent) to approve the above-referenced invoice.

- (3) **Correspondence**
Legal Notices from Dartmouth Board of Appeals
Legal Notices from Dartmouth Conservation Commission
Legal Notices from Town of Westport
Legal Notices from City of Fall River

A motion was made by Stanley Mickelson, duly seconded by Lorri-Ann Miller for discussion, and voted (4 yes; 1 absent) to acknowledge and file the above-referenced correspondence.

DARTMOUTH TOWN CLERK

1/29/14 @ 9:44am

RECEIVED



**MINUTES OF PLANNING BOARD REGULAR MEETING
JANUARY 6, 2014
Meeting Room #315
Town Office Building, 400 Slocum Road, Dartmouth, MA**

**(6) 7:26 P.M. James Kiely – School Business Manager
RE: Middle School Parking Lot**

Present: James Kiely
Richard Ferreira

Chairman Avila explained that members of the Planning Board asked that a meeting be held to discuss the recently completed paving of the middle school parking lot on Slocum Road. What appeared to be repaving under normal circumstances resulted in some changes that went beyond normal maintenance. Chairman Avila had contacted the School Superintendent, who suggested that the Planning Board speak with Mr. Kiely.

Donald Perry, Planning Director, reviewed the parking lot violations in detail.

The reconstruction of the parking lot violated the following requirements of Section 16, Subsection 16.207:

- The repairing went beyond 3" of the old paved surface in a significant area by paving to the top of a curb that separated the sidewalk along the building from the parking area (curbs are normally 6" high).
- The parking pattern was changed by eliminating approximately 45 angled parking spaces on the building side of the access aisle. In addition, approximately 30 angled parking spaces on the Slocum Road side of the aisle were changed to 90 degree parking spaces.
- Two grassy areas on the Slocum Road side of the access aisle were paved and converted to parking spaces, which was an expansion of the paved area.

Mr. Perry stated that repaving the parking lot at the same elevation as the sidewalk resulted in no barrier to prevent vehicles from driving onto and blocking the sidewalk, or from possibly hitting pedestrians using the sidewalk.

Mr. Perry noted that Fire Chief Arruda has expressed concern with the possibility of vehicles crashing into the building and harming school children in class. Chief Arruda recently had a situation with a day care center in Town that occurred on the weekend, and luckily was closed. (The middle school is located in Chief Arruda's Fire District #3).



**MINUTES OF PLANNING BOARD REGULAR MEETING
JANUARY 6, 2014
Meeting Room #315
Town Office Building, 400 Slocum Road, Dartmouth, MA**

Mr. Perry further explained that changing the curbed sidewalk and parking spaces are violations of other subsections of Section 16, such as:

- 16.103 – Reduction of existing spaces prohibited without Section 16 review
- 16.203B – Vehicular and pedestrian circulation shall be separated to reduce hazards.
- 16.204A - Tree islands are required to break up runs of 15 or more parking spaces.

Mr. Perry recommended that the barrier between the parking lot and the middle school is restored to address the main safety concern. Installing bollards or restoring the sidewalk curbing was suggested.

At this time, James Kiely reviewed the reasoning for repaving the parking lot, which included a deteriorating 3" high curb that caused tripping, and the need for more efficient dismissal for school pick-ups along the walking area. He stated that he was unaware of the parking plan review process, and apologized to the Board.

Lengthy Board discussion ensued regarding safety. The Board stressed the need for a barrier between the parking lot and the school. The pros and cons of bollards versus reinstalling curbing were discussed.

Mr. Kiely stated that there was not enough money left in the school budget for more parking lot renovations.

The Planning Board again stressed that the safety issues cannot be ignored, and wanted this problem resolved. The Board requested that they come back with a proposal to address this concern as soon as possible.

This appointment concluded at 7:58 p.m.

Public Hearing

(7) 8:00 P.M. Repetitive Petition – Thomas Henry Heights

A motion was made by Lorri-Ann Miller, duly seconded by Joseph Toomey, and unanimously voted (5-0) to recess the Planning Board's regular meeting at 7:59 p.m. in



**MINUTES OF PLANNING BOARD REGULAR MEETING
JANUARY 6, 2014
Meeting Room #315
Town Office Building, 400 Slocum Road, Dartmouth, MA**

order to go into a public hearing² concerning a Repetitive Petition for the subdivision entitled "Thomas Henry Heights".

A motion was made by Lorri-Ann Miller, duly seconded by Stanley Mickelson, and unanimously voted (5-0) to close this public hearing at 8:24 p.m. and resume the Planning Board's regular meeting.

Appointment

(8) 8:25 P.M. Paul Murphy, Director of Inspectional Services and Zoning Enforcement Officer

RE: Draft Zoning Articles and Draft Building Overhang Setbacks

The Planning Board had asked that Paul be invited to discuss some definitions and clarifications of the proposed exemptions for some building overhangs from setback requirements.

The draft exemption language to setback requirements of bylaw sections 4A.404, 4B.404, and 5.404 were reviewed in detail. Mr. Murphy provided numerous definitions and clarifications for the Board, which will be incorporated into the next draft article for Planning Board review and approval. Mr. Murphy will work with the Planning Director. Once the language receives final Planning Board approval, the draft article will go through the public hearing process for public input.

Also Present: Steve Gioiosa, P.E., SITEC, Inc.

RE: Wall Sign Bylaw

Mr. Gioiosa had requested to meet with the Planning Board to discuss the Wall Sign Bylaw, with Paul Murphy still present. Mr. Murphy had advised Mr. Gioiosa that it might be productive to have the Planning Board review his question at this meeting. Mr. Gioiosa, representing Nissan World of Dartmouth, was questioning whether all modifications to an existing wall sign needed to comply with the new bylaw; which restricted the area of wall signs within 100 feet of a road.

Mr. Gioiosa submitted a photograph and plan depicting the building signage at 483 State Road when the property was a Nissan/Volvo dealership several years ago. Nissan World purchased the site and is in the process of upgrading and

² See Planning Board Public Hearing Minutes of January 6, 2014 for more information



**MINUTES OF PLANNING BOARD REGULAR MEETING
JANUARY 6, 2014
Meeting Room #315
Town Office Building, 400 Slocum Road, Dartmouth, MA**

renovating the building. He explained the proposed modifications to the sign, which would result in diminishing the overall signage of the building. He further explained that the upgrade would not meet the current wall sign bylaw, and he was seeking direction from the Board in order to advise his client.

The general consensus of the Board was that the new sign would need to comply with the current bylaw. The Board also discussed whether or not the existing sign had grandfathered rights. The Board felt that a new sign should comply with the new wall sign bylaw; even though the new sign was an overall improvement to what is already there. The issue of whether the proposed new sign would require a Special Permit or a Variance was discussed. Mr. Murphy interpreted the new sign as requiring a Special Permit, since it was legally in existence prior to the bylaw change and the new sign is not aggravating the use. The Planning Board agreed with the interpretation. Mr. Murphy thanked the Board for allowing this discussion. The Board thanked Mr. Murphy for raising the issue and seeking its opinion.

This appointment concluded at 9:25 p.m.

Administrative Item

(9) Clarendon Estates – Request for Lot Release

Present: Matthew Antonio

The Planning Director explained that Mr. Antonio is requesting that Lot 5 be released from the Performance Covenant, reducing the number of lots held under the covenant from three down to two. Mr. Perry noted that Town Counsel has not yet approved the easement language for Lot 9, and has not yet submitted his opinion on the legality of holding lots back along with surety to ensure the completion of subdivision improvements.

Mr. Antonio stated that the surety posted with the Town is more than enough collateral, since the subdivision is nearly completed. He felt that the request before the Board was reasonable. The Board agreed.

A motion was made by John Sousa, duly seconded by Lorri-Ann Miller, and unanimously voted (5-0) to release Lot 5 from the Performance Covenant.

This appointment concluded at 9:30 p.m., with the Chairman calling for a recess.



**MINUTES OF PLANNING BOARD REGULAR MEETING
JANUARY 6, 2014
Meeting Room #315
Town Office Building, 400 Slocum Road, Dartmouth, MA**

At 9:40 p.m., the Planning Board's regular meeting resumed.

Administrative Items

- (10) Notice of Intent to Sell (Chapter 61A, §14)
Assessor's Map 66 as Lots 13 and 14 (16.95 Acres +/-)
Vacant Lots – Hixville Road
Owners: Albert and Donna Lucardi**

The Planning Director briefed the Board, noting that the parcels met a majority of the evaluation criteria to be considered valuable land.

A motion was made by John Sousa, duly seconded by Lorri-Ann Miller, and unanimously vote (5-0) to recommend exercising the Town's option to purchase the above-referenced land.

(11) For Your Information/New Business

* Planner's Report

- State Road Gateway Zoning

Mr. Perry stated that SRPEDD did a study regarding zoning along Rte. 6 between Shaws and Slocum Road, which for now is being called "Gateway Zoning". Mr. Perry explained that the study involved seeking higher density housing in the area to create compact neighborhoods (8 units per acre of area). He noted that Gateway zoning will come before the Planning Board in the future.

- Proposed Medical Building, Faunce Corner Road

Mr. Perry informed the Board that the development of a Medical Building on Faunce Corner Road, north of Hawthorn Medical, is in the preliminary phase. The proposed 70,000 to 80,000 square foot building on 23 acres of land would be utilized as a Behavioral Care Center, and would not be associated with Hawthorn Medical.



**MINUTES OF PLANNING BOARD REGULAR MEETING
JANUARY 6, 2014
Meeting Room #315
Town Office Building, 400 Slocum Road, Dartmouth, MA**

(12) Long Range Planning – Discussion of Bliss Corner Mixed Use Zoning

Due to the late hour, this agenda item was not discussed at this meeting.

Chairman Avila noted the next Planning Board meeting is scheduled for January 27, 2014 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 Stanley Mickelson, and unanimously voted (5-0) to adjourn this evening's regular meeting at 9:55 p.m.

APPROVED BY:
The Dartmouth Planning Board

Jane Kirby 1/24/14

Respectfully submitted,
Jane Kirby
Planning Aide



**MINUTES OF PLANNING BOARD PUBLIC HEARING
JANUARY 6, 2014
"Thomas Henry Heights" Repetitive Petition
Meeting Room #315
Town Office Building, 400 Slocum Road, Dartmouth, MA**

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

The Chairman opened at 8:00 p.m. the public hearing¹ concerning a Repetitive Petition for the Definitive Subdivision entitled "Thomas Henry Heights" (formerly Brady Estates). The hearing is to determine if the Planning Board should give its consent in order to allow the petition of Joseph Lemieux, 383 Hixville Road, Dartmouth, MA to go before the Dartmouth Zoning Board of Appeals to amend Condition #14 of Variance Decision #2013-31 granted by the Board of Appeals before two years have elapsed from the date of action by the Board of Appeals. The condition affects property owned by Joseph Lemieux located on Hixville Road, Assessor's Map 56 as Lots 17, 17-3 thru 17-20, specifically Parcel B as shown on the approved subdivision plan. The applicant would like to amend the deadline for proving access to Parcel B with the Dartmouth Conservation Commission, and to extend the 20 year timeline for turnover of Parcel B to the Town of Dartmouth.

All Planning Board members and Planning staff were present.

Also Present: Joseph Lemieux
Steve Gioiosa, P.E., Sitec Engineering

The Planning Director stated that since this is a Repetitive Petition, abutter notification and publishing the legal notice in the Chronicle on Wednesday, December 18, 2013 and December 25, 2013 met the legal requirements for this public hearing.

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

- Letter from Joseph Lemieux dated November 26, 2013

Mr. Perry also reviewed the statute governing a Repetitive Petition with the Board. (M.G.L. Chapter 40A, §16)

¹ For more information, see minutes of the Planning Board's regular meeting of January 6, 2014



**MINUTES OF PLANNING BOARD PUBLIC HEARING
JANUARY 6, 2014**

**"Thomas Henry Heights" Repetitive Petition
Meeting Room #315**

Town Office Building, 400 Slocum Road, Dartmouth, MA

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

At this time, Steve Gioiosa addressed the Board. Mr. Gioiosa reviewed Condition #14 language, stating that it doesn't say that the Conservation Commission needs to approve the access to the solar field parcel at the rear of the property, but that his client must demonstrate that access is possible. He explained that "demonstrating access" is open to interpretation, and that his client is seeking permission to go before the Board of Appeals to clarify the condition language. He also pointed out that the condition states that within one year, his client must apply for a building permit for the same from the Building Department, and yet there is no building permit for obtaining access.

The Board discussed the condition language in detail, and agreed that the language needed clarification. The timelines were also discussed, and the Board determined that due to changes affecting the solar industry in the last year, the financial viability of the length of a lease should be revisited.

Chairman Avila reminded the Board that the applicant is seeking permission from the Planning Board to go back to the Board of Appeals to request amending the condition, and the Planning Board will need to vote on whether or not to give its consent.

The general consensus of the Planning Board was that enough information was given to show the Board of Appeals that specific and material changes have occurred, and the applicant should have the opportunity to request an amendment. It was noted that the Board of Appeals will make the findings and decision on whether or not to amend Condition #14, with the Planning Board simply voting on whether or not it will give its consent.

The Chairman asked for public comment. None was received.

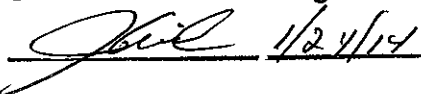
The Chairman asked if the Planning Board had any final comments or questions.

There were none.

A motion was made by Lorri-Ann Miller, duly seconded by Stanley Mickelson, and unanimously voted (5-0) to give its consent to allow the applicant to go before the Board of Appeals to request amending Condition #14 of Variance Decision #2012-31.

A motion was made by Lorri-Ann Miller, duly seconded by Stanley Mickelson, and unanimously voted (5-0) to close this public hearing at 8:24 p.m.

APPROVED BY:
The Dartmouth Planning Board



Respectfully submitted,
Jane Kirby
Planning Aide