



MINUTES OF REGULAR PLANNING BOARD MEETING
JANUARY 27, 2014
Planning Board's 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 6:30 p.m., with all Planning Board members and Planning Staff present.

DARTMOUTH TOWN CLERK

RECEIVED
2/11/14 11:15 AM

Administrative Items

(1) Approval of Minutes

Regular Meeting of January 6, 2014
Public Hearing of January 6, 2014 – Thomas Henry Heights
Executive Session of January 6, 2014 – South Wharf Ongoing Litigation

A motion was made by Joseph Toomey, duly seconded by John Sousa for discussion, and unanimously voted (5-0) to approve the above-referenced minutes.

(2) Correspondence

Legal Notices from Dartmouth Board of Appeals
Legal Notices from Dartmouth Conservation Commission
Legal Notices from Westport Planning Board

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

(3) Approval of Planning Board Annual Report for 2013

Brief discussion ensued on the draft Planning Board Annual Report for 2013 prepared by Planning Staff.

A motion was made by Joseph Toomey, duly seconded by John Sousa, and unanimously voted (5-0) to approve the Planning Board's Annual Report for 2013.



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PLANNING BOARD ANNUAL REPORT FOR 2013

PLANNING BOARD

Joel Avila, Chairman	Term Expires 2017
Joseph E. Toomey, Jr., Vice-Chairman	Term Expires 2014
Lorri-Ann Miller, Clerk	Term Expires 2016
John V. Sousa	Term Expires 2018
Stanley Mickelson	Term Expires 2015
Gus Raposo, Alternate Member	Term Expires 2014

PLANNING STAFF

Donald A. Perry, AICP	Planning Director
Joyce J. Couture	Planning Aide (Retired in August 2013)
Jane Kirby	Planning Aide (as of August 2013)

OVERVIEW

The development statistics for subdivisions reviewed by the Planning Board in the year 2013 indicated a slight growth in new lots in Dartmouth for the year. The total number of new lots created in 2013 was 33, up from 19 in 2012. This total included Definitive Subdivision lots and ANR lots. It does not include any 40B lots approved by the Board of Appeals.

The breakdown of the lots created in 2013 includes definitive subdivision lots which increased from 4 in 2012, up to 18 in 2013. The number of ANR (Approval Not Required) lots remained the same as last year at a total of 15 lots. Commercial development as measured by the number of parking spaces reviewed also increased from 460 spaces last year to 793 spaces this year.

The year 2013 produced three zoning bylaw amendments sponsored jointly by the Planning Board and Select Board. The first amendment revised the definition of signs, which among other things made it clear that a sign could be objects that draw attention to a commercial premise. The revised sign bylaw also reduced the area of wall signs located close to the street.

Another bylaw amendment was a moratorium in Town regarding the construction of Medical Marijuana Treatment Centers, in order to allow the Town time to develop a bylaw regulating such uses. This was in response to the statewide referendum



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legalizing medical marijuana. A draft bylaw was prepared in the fall of 2013 and will be placed on the Town Meeting warrant in the spring of 2014.

The final zoning amendment was to update the Town's Aquifer Protection Map as a result of new Town wells between State Road and Old Westport Road that the state required to be protected and shown on the map.

As a result of continuing concerns regarding signs in the business areas of Town, the Planning Board and Select Board agreed to use the 40 hours of municipal work time provided by the Southeastern Regional Planning and Economic Development District towards a review of Dartmouth's sign bylaws. The review will hopefully provide recommendations to improve Dartmouth's sign regulations.

The Planning Board continued to review the Bliss Corner/Dartmouth Street zoning and developed strategies for some zoning changes after a public meeting where all land owners affected by possible changes to the zoning were notified. One proposal is to change the zoning of clearly residential neighborhoods from business to residential zoning. Another proposal for the remaining business areas is to develop zoning that is more small business friendly and provide for mixed uses. Additional public hearings will be required prior to proposing any zoning changes in 2014.

In addition to their Planning Board duties, Board members served as the Planning Board's representative in the following capacities: Lorri-Ann Miller served as the Planning Board's delegate to the SRPEDD Commission and the Agricultural Preservation Trust Council; Stanley Mickelson served as the Planning Board's delegate to the Plan Approval Authority (PAA) for the Lincoln Park Development Project; Joseph Toomey served on the Soil Conservation Board, the Municipal Facilities Committee, and Technical Research Group for Special Permits under the Select Board; and John Sousa served on the Affordable Housing Partnership, the Community Preservation Committee, and the Community Development Group.

Gus Raposo, with significant experience in civil engineering, was appointed to serve as Alternate Planning Board member for Special Permits under the jurisdiction of the Planning Board. The alternate member is appointed by the Planning Board, and is requested to serve when a regular Planning Board member is unable to participate on a Special Permit application.



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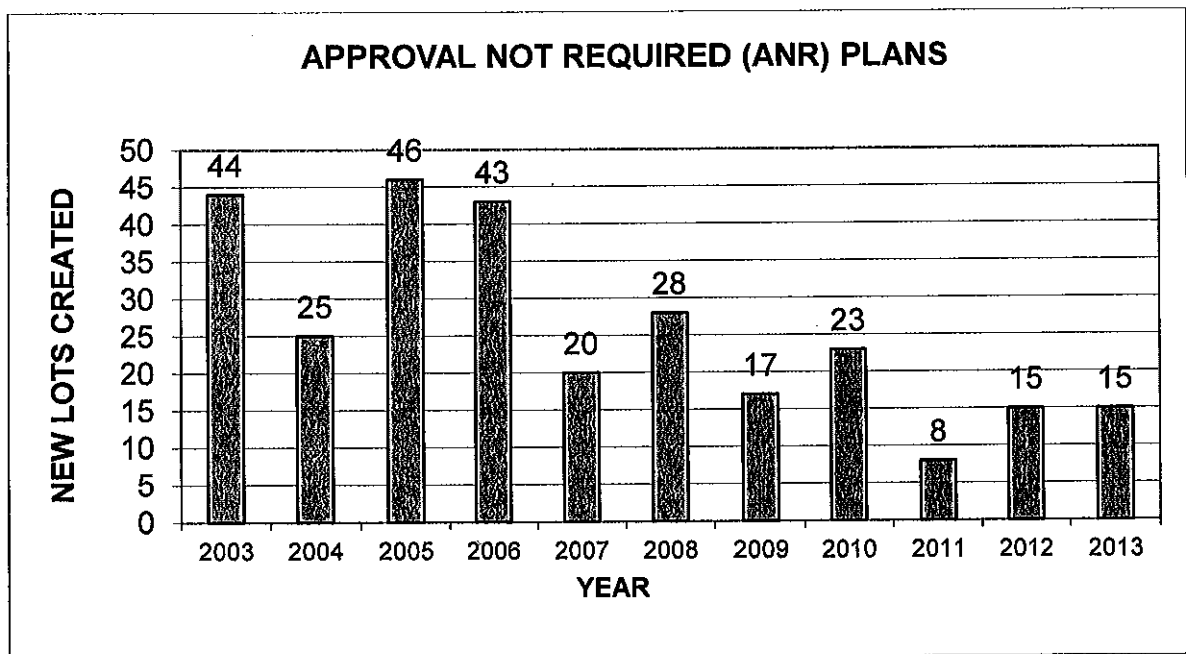
In August of 2013, long time Planning Aide Joyce Couture retired. Joyce provided highly competent and professional support to the Planning Board and Planning Director for 28 years. Her tireless effort and high standards of excellence were always admired and appreciated. Jane Kirby was hired as the Town's new Planning Aide.

Throughout 2013, the Planning Board and/or its staff continued their reviews and activities in the following areas:

- Reviewing subdivision plans and monitoring subdivision sureties;
- Reviewing parking plans and special permit requests;
- Reviewing variances submitted to the Board of Appeals;
- Reviewing Conservation Commission Notices of Intent;
- Zoning and bylaw articles;
- Preparing reports and recommendations to Town Meeting, and
- Providing technical assistance and information to citizens, Town committees, and developers

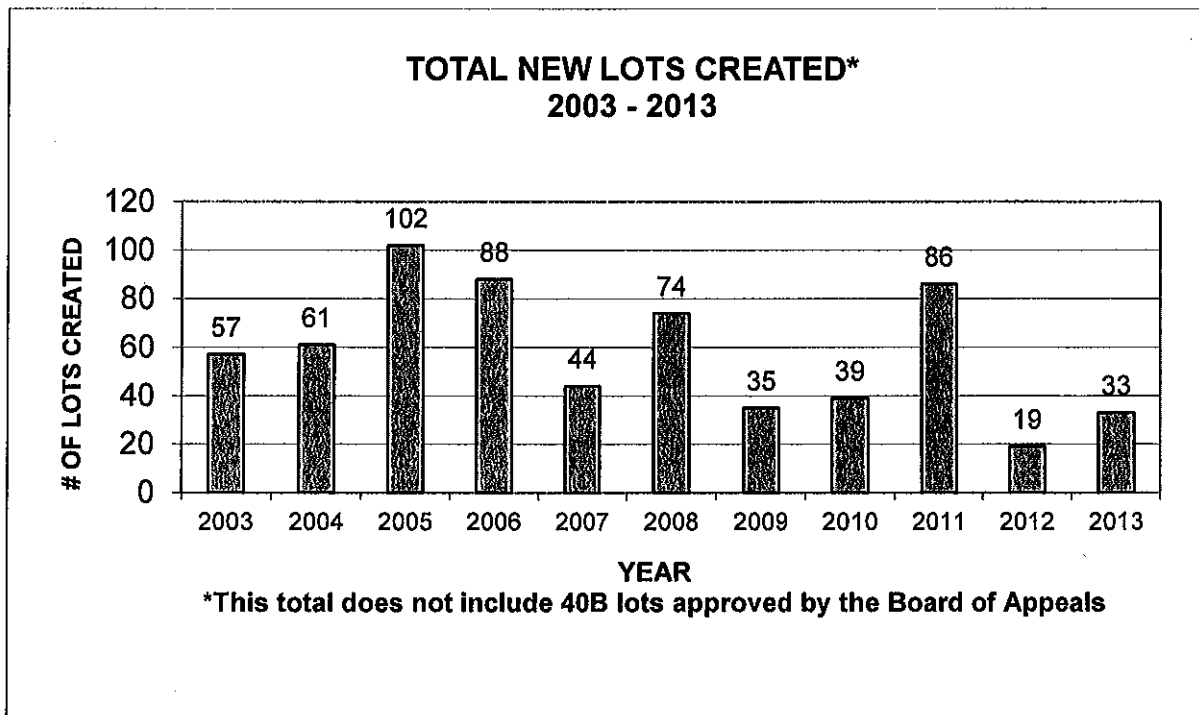
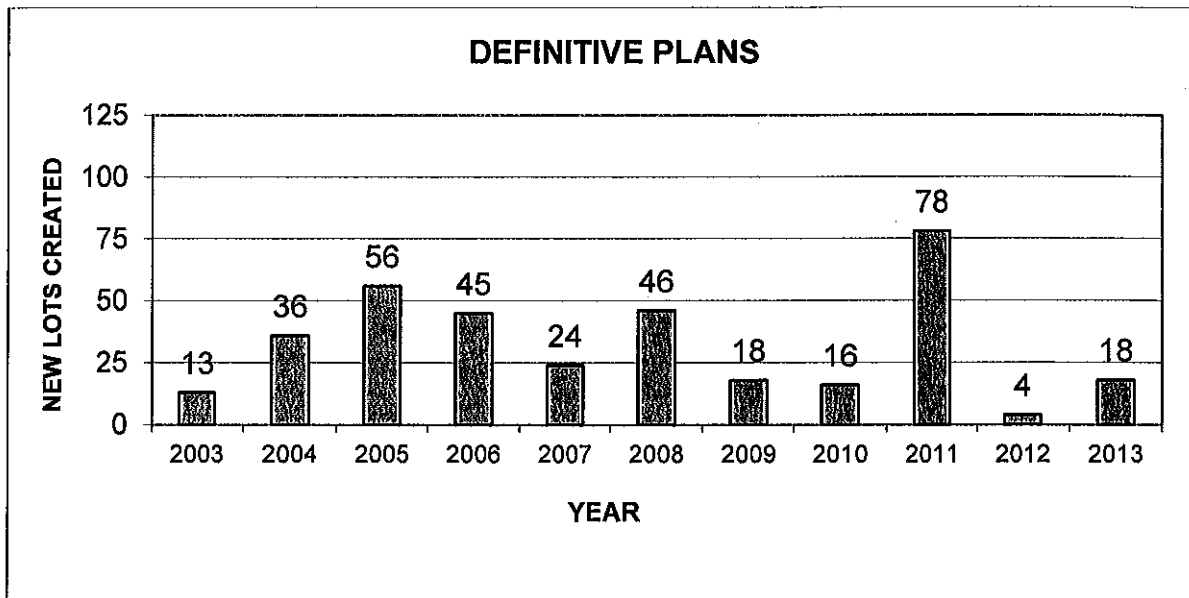
SUBDIVISION AND COMMERCIAL DEVELOPMENT

The following charts compare the level of development reviewed by the Planning Board over the specified time period:



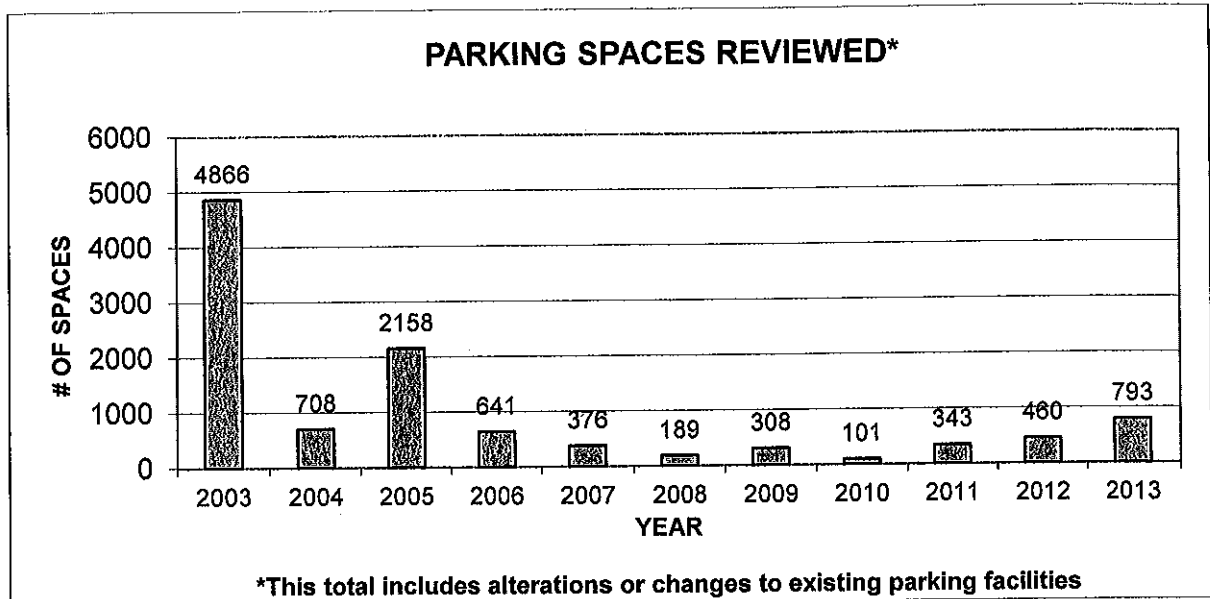


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(4) Use Variance Bylaw Amendment Article

Donald Perry, Planning Director, explained that the Select Board voted not to support the proposed article, which would prohibit granting Use Variances in the Single Residence A, Single Residence B, and Single Residence C Districts. The Board noted that the discussion to consider prohibiting Use Variances originally came from the Select Board's office, and expressed disappointment with their decision to not support the article.

The Planning Board determined that even without the support of the Select Board, Town Meeting should have the opportunity to vote on this article.

A motion was made by Lorri-Ann Miller, and duly seconded by Joseph Toomey, to proceed with the Use Variance article. The Board voted (4-Yes; 1-No). Stanley Mickelson did not support the article going to Town Meeting because he felt that Use Variances are handled adequately through the Board of Appeals process.

(5) 6:45 P.M. Recess/Reconvene in Meeting Room #304
RE: Select Board's discussion RE: Change in Government Structure

A motion was made by Lorri-Ann Miller, duly seconded by Joseph Toomey, and unanimously voted (5-0) to recess at this time and reconvene in Room #304.



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Select Board Chairman Shawn McDonald was seeking to gather input on potential future changes in the structure of Town government. Chairman McDonald wanted to know if a different type of government structure should be implemented, such as Town Manager and Town Council, or Mayor and Council, or if the Town should keep the current structure. Each Planning Board member offered an opinion at this meeting. One member thought more supervisory authority should be given to the Select Board and Town Administrator. Most members were comfortable with the current government structure, and thought if there are problems with the current structure, the problems should be clearly identified and corrected prior to the Town considering a change.

After all Planning Board members spoke, the Board reconvened in Room #314 to resume its regular meeting.

8:00 P.M. Regular meeting resumed in Room #314

(7) For Your Information/New Business

- Planner's Report

Proposed King Farm Stand RE: Stone Wall

Mr. Perry explained that Brix Bounty Farms CSA is moving to King Farm and will open a farm stand, which will result in creating two openings in the stone wall, requiring a scenic road hearing.

NStar Trees

Mr. Perry worked with Paul Sellars, the NStar arborist, to get trees planted in accordance with the scenic road permit. (10 trees on Russells Mills Road, and 25 trees on Reed Road). NStar has also started trimming trees.

- Subcommittee Reports

Joseph Toomey reported that the Soil Board supports the Board of Health's decision to move forward on a "nuisance law" to control fill being brought into Town. He further explained that the Soil Board is in the process of rewriting its bylaws.

Stanley Mickelson stated that there is an Open Space meeting on Wednesday, January 29, 2014 at 6:00 p.m.



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- **New Business**

The Board questioned whether or not a response has been received from Town Counsel regarding the Planning Board's inquiry as to requiring both monetary surety and lots being held back to guarantee the completion of subdivisions. Mr. Perry had received a verbal confirmation of its legality, but the Board requested a response from Town Counsel in writing.

(6) Draft Medical Marijuana Bylaw

The Planning Director explained that Town Counsel's Associate, Brian Cruise, called a meeting with Planning Staff and David Cressman to discuss his legal review of the Medical Marijuana Bylaw. Attorney Cruise had stated that certain conditions could not apply only to Registered Marijuana Dispenseries (RMD) that were allowed by right, but could apply if RMD's were allowed by Special Permit.

The conditions not applicable by right are as follows:

- B. A RMD shall not be located within four thousand (4,000) feet of another RMD located in the Town of Dartmouth
- D. A RMD shall not be located within one hundred (100) feet of a residential or business zoning district
- E. Any outdoor fencing shall be a non-reflective, earth tone color such as black or dark green. Security fencing shall be setback a minimum of 100 feet from any street line.
- G. On-site dispensing of product shall occur only between the hours of 7:00 p.m. to 9:00 p.m.

The Planning Director advised that the conditions must either be changed to language that will apply to all other uses in the district, or be part of a Special Permit bylaw for RMD's. He noted that if the Planning Board determined that the above-referenced conditions should remain as part of the Medical Marijuana Bylaw, a Special Permit bylaw could be drafted. He further explained that if the Planning Board would like to keep a by right bylaw, changes to language in this draft would need to be made to make it legally defensible.

Mr. Perry noted that Medical Marijuana Bylaws passed by other Town's in the State are by Special Permit, and if Dartmouth chooses a by right bylaw, it may make Dartmouth a highly preferred, desirable location for RMD facilities. He also



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stated that if Dartmouth chooses a by right bylaw, the Board of Health could adopt regulations that would address the above-referenced conditions.

Mr. Perry also noted that Attorney Cruise pointed out that the following condition should be deleted regardless of whether the language is for a by right or Special Permit bylaw for RMD's:

- A. A building permit may not be granted until the RMD has received its approval from the Mass Department of Public Health to operate under 105 CMR 725.000.

He explained that applicants will need Town approval before they can get State approval, so we cannot require State approval prior to Town approval.

The Board discussed this issue, and concluded that the Medical Marijuana Bylaw should be by Special Permit to keep the conditions. The Board agreed to delete the above-referenced condition A.

A motion was made by John Sousa, duly seconded by Stanley Mickelson, and unanimously voted (5-0) to delete condition A from this draft, and change this this draft article to a Special Permit.

(8) Draft Bliss Corner/Dartmouth Street Mixed Use Zoning

The Planning Director submitted an analysis of potential additional residential units in the lots proposed to be zoned "mixed use" (pink lots on draft rezoning map dated 9/23/14).

The following table identifies the maximum potential for additional residential units in the district with 3 different minimum lot area requirements for each residential unit.

ONE RESIDENTIAL UNIT PER:	ADDITIONAL RESIDENTIAL UNITS IN PROPOSED MIXED USE DISTRICT
5,000 s.f. minimum lot area	456 units
7,500 s.f. minimum lot area	291 units
10,000 s.f. minimum lot area	228 units



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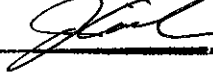
Lengthy discussion ensued in terms of the Board trying to determine an appropriate lot size per residential unit for the proposed mixed use zone. The Board could not reach a consensus at this time.

A Board member asked the Planning Director to submit a similar analysis excluding the lots for Big Value Outlet, Bennys, Rite Aid, and the Post Office due to the large lot area of those particular parcels.

With no further business to discuss, Chairman Avila noted the next Planning Board meeting is scheduled for February 10, 2014 in Room #315, Town Office Building, 400 Slocum Road. He then called for a motion to adjourn.

A motion was made by John Sousa, duly seconded by Lorri-Ann Miller, and unanimously voted (5-0) to adjourn this evening's regular meeting at 9:10 p.m.

APPROVED BY:
The Dartmouth Planning Board



Respectfully submitted,

Jane Kirby
Planning Aide