



MINUTES OF REGULAR PLANNING BOARD MEETING
March 31, 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

Chairman Joel Avila was absent.
Vice Chairman Joseph Toomey was acting Chairman.

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7:00 p.m. Acting Chairman Joseph Toomey called the meeting to order

Administrative Items

(1) Approval of Minutes

Regular Meeting of March 24, 2014

A motion was made by Lorri-Ann Miller, duly seconded by Stanley Mickelson for discussion, and voted (4 yes; 1 absent) to approve the regular Planning Board meeting minutes of March 24, 2014.

(2) Correspondence

Legal Notices from City of Fall River

Letter from Town Counsel dated March 25, 2014

RE: Withholding Release of Lots until Completion of Improvements

A motion was made by Stanley Mickelson, duly seconded by John Sousa for discussion, and voted (4 yes; 1 absent) to acknowledge and file the above-referenced correspondence. A brief discussion regarding Town Counsel's letter ensued, with the Board reassured by Town Counsel that withholding the release of lots along with requiring monetary surety to guarantee the completion of subdivision improvements is legal.

(3) Antonio Way- Bond Timeline Extension Request

Mr. Perry read the letter from Anna Soares dated March 17, 2014 requesting an extension to allow time to complete the road by April 2015. The letter indicated that the work should be completed by the end of this year. The current homeowners in the subdivision submitted a letter of support.



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A motion was made by John Sousa, duly seconded by Stanley Mickelson, and voted (4 yes; 1 absent) to allow the bond timeline extension to April 3, 2015.

(4) Endorsement of Approval Not Required (ANR) Plans

Barneys Joy Road The Trustees of the Great Neck Trust December 11, 2013

Mr. Perry explained that this ANR is for property on the east side of Barneys Joy Road and creates two non-buildable parcels, which will be traded between adjoining lots. He further stated that the area and frontage of the lots from which the parcels are taken will still comply with the Single Residence B Zoning District, and recommended endorsing the plan.

A motion was made by John Sousa, duly seconded by Stanley Mickelson, and voted (4 yes; 1 absent) to endorse the above-referenced ANR plan.

Fisher Road King Fisher Corporation January 15, 2014

John Sousa recused himself as a direct abutter to the subject property.

Mr. Perry explained that this ANR is from property on the north and east side of Fisher Road and combines existing lots into a single 195 acre parcel. He further stated that the combined lot meets the frontage and area requirements of the Single Residence B Zoning District, and recommended endorsing the plan.

A motion was made by Stanley Mickelson, duly seconded by Lorri-Ann Miller, and voted (3 yes; 1 abstain; 1 absent) to endorse the above-referenced ANR plan.

Hixville Road Albert J. Lucardi March 20, 2014

Also Present: Christian Farland, P.E., Thompson and Farland Engineering

Mr. Perry explained that this ANR is for property located on the east side of Hixville Road abutting the Shingle Island River, noting that the applicant is submitting this as an OSRD ANR. Mr. Perry further stated that the plan creates buildable lots which meet the minimum frontage and area requirements of 100 feet of frontage and 40,000 square feet of area even though the property is zoned Single Residence B, since this is an OSRD plan and 11 acres will be preserved as open space.

Mr. Perry had provided the Board with the OSRD ANR table from Section 6 of the zoning bylaws, the conventional ANR plan that could create six lots to establish



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allowed density, and the proposed OSRD plan and recommended endorsing the plan. Mr. Perry noted that if the Planning Board did endorse the plan, it must also sign the Open Space Covenant.

A motion was made by John Sousa, duly seconded by Stanley Mickelson, and voted (4 yes; 1 absent) to endorse the above-referenced ANR plan and to sign the Open Space Covenant.

Mr. Farland expressed gratitude to the Planning Director for his assistance in developing the plan.

Acting Chairman Toomey noted that the Public Hearing on the Zoning Articles is scheduled for 7:30 p.m. and it was too early to address that agenda item. The Board proceeded with the next agenda item at this time.

(6) For Your Information/New Business

Planner's Report

- Hixville Village Sidewalks

Mr. Perry informed the Board that the DPW will be installing sidewalks near the church and cemetery in Hixville Village. Improvements will include a 4-way stop sign and tree plantings which will also help enhance the village.

Middle School Parking Lot

- A letter was sent to the Zoning Enforcement Officer outlining the Board's safety concerns along with a list of zoning violations.

Subcommittee Reports

Plan Approval Authority – Lincoln Park Smart Growth Overlay District

Stanley Mickelson stated that the PAA approved Building "G" (3-story, 48 unit apartment building)

Soils Board

Joseph Toomey noted that the Soils Board is still preparing new bylaws to submit at Town Meeting, except for Comm97 regulations since the Board of Health is in the process of developing language for Comm97 soil regulations at this time.



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7:15 P.M. A motion was made by John Sousa, duly seconded by Stanley Mickelson, and voted (4 yes; 1 absent) to recess and reconvene at 7:30 p.m. for the public hearing.

Public Hearing

(5) 7:30 P.M. Zoning Articles – Spring Town Meeting 2014

Acting Chairman Toomey asked for a motion to open the public hearing on the draft Zoning Articles to be presented at Spring Town Meeting.

A motion was made by Lorri-Ann Miller, duly seconded by Stanley Mickelson, and voted (4-Yes; 1-Absent) to go into a public hearing¹ for the draft Zoning Articles for Spring Town Meeting.

Article A would amend Section 5.404 by correcting an inconsistency in the bylaws by deleting the number 30 and replacing it with 20 in the "exemptions from setbacks" subsection.

Article B would amend Sections 4A.407, 4B.407, and 5.407 to allow two driveway curb cuts on lots with frontage of 100 feet or less.

Article C would amend Sections 4A.404, 4B.404, 5.404 by allowing exemptions from setback requirements for certain standard building elements such as eaves, steps, and bay windows.

Article D would amend Section 11.503 to allow each business in a multi-business building, located closer than 100 feet to a street, to have a sign up to 12 square feet.

Article E would amend Section 4C.403 by reducing the street setback from 20 feet to 10 feet and the setback from other lot lines from 10 feet to 7 feet in the Single Residence C District.

Article F would amend Section 2A by creating a Registered Marijuana Dispensary (RMD) bylaw, which would only allow RMD's by Special Permit in the Office Industrial and General Industrial Districts.

Article G would amend Section 36.300 by prohibiting Use Variances in Single Residence A, B, and C Districts.

¹ For more information, see minutes of Planning Board's Public Hearing dated March 31, 2014 and entitled Zoning Articles – Spring Town Meeting 2014



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The regular meeting resumed at 8:23 p.m.

John Sousa motioned to recommend favorably on Articles A through G in accordance with the draft Reports with Recommendations submitted by the Planning Director, which was duly seconded by Stanley Mickelson, and voted (4 yes; 1 absent).

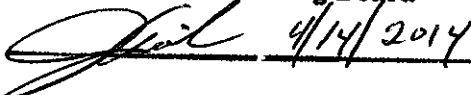
The Board members proceeded to sign the Planning Board's Reports with Recommendations for Articles A through G to be submitted for Spring Town Meeting 2014.

Acting Chairman Toomey noted the next Planning Board meeting is scheduled for 7:00 p.m. 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 Stanley Mickelson, and voted (4 yes; 1 absent) to adjourn this evening's regular meeting at 8:25 p.m.

Respectfully submitted,
Jane Kirby
Planning Aide

APPROVED BY:
The Dartmouth Planning Board





**MINUTES OF PLANNING BOARD PUBLIC HEARING
Zoning Articles A through G (Spring Town Meeting 2014)
March 31, 2014
Meeting Room #315
Town Office Building, 400 Slocum Road, Dartmouth, MA**

Planning Board Members

Mr. Joel Avila, Chairman
Mrs. Lorri-Ann Miller, Clerk
Mr. John V. Sousa
Mr. Stanley M. Mickelson
Mr. Gus Raposo (Alternate Planning Board Member)

Planning Staff

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

Acting Chairman Joseph Toomey opened the public hearing¹ at 7:30 p.m. concerning Zoning Articles A, B, C, D, E, F, & G.

Planning Board Chairman Joel Avila was absent. The remaining Planning Board members and Planning Staff were present. Joseph Toomey was acting Chairman for this public hearing.

Also Present: Jacqueline Figueiredo, Chairman – Zoning Board of Appeals
Robert Michaud, Board of Assessors
Susan Guiducci, Agricultural Commission
Jennifer Brindisi, Conservation Commission
Gloria Bancroft, 748 Collins Corner Road
Numerous Town residents

Lorri-Ann Miller motioned to waive the reading of the legal notice into the record, which was seconded by Stanley Mickelson, and voted (4 yes; 1 absent).

The Planning Director read the article descriptions into the record. Each article was discussed in detail.

Article A would amend Section 5.404 by correcting an inconsistency in the bylaws by deleting the number 30 and replacing it with 20 in the “exemptions from setbacks” subsection.

Mr. Perry explained that the Town’s Zoning Enforcement Officer noticed this bylaw inconsistency and brought it to the Board’s attention. (The street line setback was reduced to 20 feet in the minimum setback dimensions of Section 5.404. The setback reduction should have been

¹ For more information, see minutes of the Planning Board’s regular meeting of March 31, 2014

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changed to 20 feet in the subsection at that time). Acting Chairman Toomey invited public comment regarding Article A. No public comment was received.

Article B would amend Sections 4A.407, 4B.407, and 5.407 to allow two driveway curb cuts on lots with frontage of 100 feet or less.

Mr. Perry explained that the Building Department raised this issue because many people were seeking "horseshoe" driveways on lots with less than 100 feet of frontage, but were unable to obtain a permit without Variance relief. The Planning Board studied the bylaw and revised the language to allow two curb cuts, which will allow more flexibility for driveway design for smaller lots. Acting Chairman Toomey invited public comment regarding Article B. No public comment was received.

Article C would amend Sections 4A.404, 4B.404, 5.404 by allowing exemptions from setback requirements for certain standard building elements such as eaves, steps, and bay windows.

Mr. Perry explained that the Building Department raised this issue because many as-built plans would show building elements closer to the property line than allowed by zoning, requiring after-the-fact Variances. The Planning Board limited the dimensions of the exempt building elements in the bylaw language. Acting Chairman Toomey invited public comment regarding Article C. No public comment was received.

Article D would amend Section 11.503 to allow each business in a multi-business building, located closer than 100 feet to a street, to have a sign up to 12 square feet.

Mr. Perry explained the recent sign bylaw limited the square footage of a sign on a building located closer than 100 feet to a street, which created a reasonable amount of signage for a single business. He noted that the bylaw neglected to include multi-business buildings located closer than 100 feet to a street, and that this amendment will allow each business in the building to be identified with a sign on the building. Acting Chairman Toomey invited public comment.

The maximum size of 12 square feet was questioned.

Mr. Perry reviewed the existing language for wall signs on buildings, which currently limits a business closer to 100 feet of a street to have a maximum of 32 square feet of wall signage, which would be the total



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square footage for wall signs regardless of the number of businesses in a single building. He stated that the purpose of these wall signs is to identify each business located in the building and that 12 square feet (approx. 3' x 4') was adequate without going overboard. No further question or comment was received.

Article E would amend Section 4C.403 by reducing the street setback from 20 feet to 10 feet and the setback from other lot lines from 10 feet to 7 feet in the Single Residence C District.

Mr. Perry stated that the Single Residence C District is located at the south end of the former Lincoln Park, bounded by Reed and Beeden Roads and that the land is currently being developed for single family homes. He explained that a few remaining lots cannot meet the current setback requirements, so the developer chose to revise the zoning bylaw rather than have to seek Variances for those lots. Mr. Perry noted that this Article is sponsored by the developers of the property (Bristol Pacific Homes) as a Citizen's Petition. Acting Chairman Toomey invited public comment.

The current lot area requirement in the Single Residence C District was questioned. Mr. Perry responded that they are small lots and guessed 7,500 square feet of area. He reminded the public that this zoning district is within a 40R overlay district, which allows high density apartments and felt that the proposed setbacks for single family homes are appropriate.

Sidewalks and impervious lot coverage were discussed, with the Board clarifying that sidewalks are included in the development plans separate from the individual lot setbacks and that the proposed amendment language does not include a change to the amount of impervious lot coverage allowed by the Conservation Commission as part of the subdivision plans. The Board stressed that the proposed amendment language only affected where a house could be located on the lot. The Board stressed again that this is a Citizen's Petition, and not a Planning Board sponsored Article. No further comment or question was received.

Article F would amend Section 2A by creating a Registered Marijuana Dispensary (RMD) bylaw, which would only allow RMD's by Special Permit in the Office Industrial and General Industrial Districts.

Mr. Perry explained that the Town only has this Spring Town meeting and Fall Town meeting to adopt regulations or RMD's would be allowed by right in any business district. He went on to state that the proposed bylaw



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limits RMD's to the Office Industrial Zoning District located on Faunce Corner Road between the railroad tracks and the former City View Golf Course and the General Industrial District located at the northeast corner of Dartmouth, primarily the New Bedford Business Park. He noted that these districts are isolated from residential areas of Town, and the Special Permit provides for setbacks from schools and libraries and minimizes the number of RMD's within each district.

Acting Chairman Toomey invited public comment.

A question as to whether a Variance could be requested was received at this time. Mr. Perry stated that yes, a Variance could be requested. He noted that if Article G is passed by Town meeting, a Use Variance for RMD's could not be obtained in the Single Residence A, B, and C Districts. He reminded the public that the Board of Appeals could deny a Variance application.

The Board reminded the public that if this Article does not pass limiting RMD's to two zoning districts, then State law will prevail and RMD's may be allowed anywhere.

The Board also noted that a State requirement currently only allows three RMD's per county.

Article G would amend Section 36.300 by prohibiting Use Variances in Single Residence A, B, and C Districts.

Mr. Perry stated that this bylaw is in response to numerous proposals to locate prohibited developments in residentially zoned areas of the Town, which caused residents to organize, hire attorneys, and spend time and money defending the integrity of their single residence zoning.

At this time, Acting Chairman Toomey read a letter from Colleen Noseworthy received in the Planning Board office on March 20, 2014 into the record, which supported prohibiting the issuance of Use Variances in all residential districts.

Stanley Mickelson stated for the record that he originally voted against prohibiting Use Variances from the Single Residence A, B, and C Districts. He explained that at this time, he supports prohibiting Use Variances from those districts.



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Discussion regarding solar development on agricultural land ensued. Acting Chairman Toomey redirected the discussion back to Use Variances.

The opinions offered at this time were in favor of prohibiting Use Variances from the Single Residence A, B, and C Districts.

The Board requested that Paul Murphy's letter dated September 9, 2013 regarding the Parking and Driveway Article be read. Mr. Perry read the Zoning Enforcement Officer's letter into the record.

Acting Chairman Toomey asked if anyone wished to speak regarding any of the articles. No further public comment was received.

Mr. Perry stated that the Board could take action at this meeting to finalize the Planning Board's Reports with Recommendations for each Article, or could postpone action in order for the Chairman to be present. The Board decided to take action at this meeting.

John Sousa motioned to close the public the hearing and resume the Planning Board's regular meeting to vote on the zoning articles, which was duly seconded by Stanley Mickelson, and voted (4 yes; 1 absent). The public hearing closed at 8:20 p.m.

Respectfully submitted,
Jane Kirby
Planning Aide

APPROVED BY:
The Dartmouth Planning Board

