



MINUTES OF REGULAR PLANNING BOARD MEETING
June 16, 2014 – 7:00 P.M.
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. Kevin A. Melo

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 7:00 p.m., with all Planning Board members and Planning Staff present.

Administrative Items

(1) Approval of Minutes

Regular Meeting of June 2, 2014

A motion was made by Joseph Toomey, duly seconded by Lorri-Ann Miller for discussion, and unanimously voted (5-0) to approve the regular Planning Board meeting minutes of June 2, 2014.

(2) Correspondence

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

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

(3) Endorsement of Approval Not Required (ANR) Plan

Davis Street Patrick Barton & Debra Medeiros dated April 28, 2014

The Planning Director stated that this ANR is for property located at the south side of Davis Street, which is off Howland Street at Moonshine Corner. The plan creates two buildable lots from a lot with an existing home that will be removed. He explained that both lots meet the frontage and area requirements of the General Residence District, and recommended endorsement.

A motion was made by John Sousa, duly seconded by Joseph Toomey, and unanimously voted (5-0) to endorse the above-referenced ANR plan.



MINUTES OF REGULAR PLANNING BOARD MEETING
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Potomska Road

Scott R. Barrow

dated June 5, 2014

The Planning Director stated that this ANR is for property located on the southwest side of Potomska Road, just south of its intersection with Rock O'Dundee Road. The plan creates a new, buildable lot and one lot with an existing residence. He explained that both lots meet the frontage and area requirements of the Single Residence B Zoning District, and recommended endorsement.

A motion was made by John Sousa, duly seconded by Kevin Melo, and unanimously voted (5-0) to endorse the above-referenced ANR plan.

(4) Future Planning Board Meeting Schedule

Planning Board's Meeting Schedule thru October 2014
Planning Board Meeting Room #314

Monday, June 30, 2014	Regular Meeting/Long Range Planning
Monday, July 7, 2014	NONE (Donald Vacation)
Monday, July 14, 2014	NONE (Donald Vacation)
Monday, July 21, 2014	Regular Meeting <u>Public Hearing – Rezoning Bliss Co.</u>
Monday, July 28, 2014	NONE
Monday, August 4, 2014	Regular Meeting/Long Range Planning
Monday, August 11, 2014	NONE
Monday, August 18, 2014	NONE (Jane Vacation)
Monday, August 25, 2014	Regular Meeting
Monday, September 1, 2014	NONE (Labor Day)
Monday, September 8, 2014	Regular Meeting/Long Range Planning
Monday, September 15, 2014	NONE
Monday, September 22, 2014	Regular Meeting/Long Range Planning



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Monday, September 29, 2014	NONE
Monday, October 6, 2014	Regular Meeting/Long Range Planning
Monday, October 13, 2014	NONE (Columbus Day)
Monday, October 20, 2014	Regular Meeting/Long Range Planning
Tuesday, October 21, 2014	Fall Town Meeting – 7:00 p.m. DHS
Monday, October 27, 2014	NONE

A motion was made by Joseph Toomey, duly seconded by John Sousa for discussion, and unanimously voted to approve the above-referenced Planning Board meeting schedule through October 2014.

It was noted that the date for the Bliss Corner Mixed Use Zoning public hearing is tentative; and subject to change.

(5) 7:05 P.M. Appointment: Anthony C. Savastano, Esq., Town Counsel
RE: Earth Fill Bylaw

Also Present: Gloria Bancroft
John Haran

The Planning Director reminded the Board that Town Counsel was invited to meet with the Planning Board to discuss why a zoning bylaw addressing earth fill should be developed, and to answer any of the Board's questions regarding this topic.

Attorney Savastano stated that case law indicates that general bylaws must have statutory authorization, which is why a zoning bylaw is appropriate in this instance for earth filling. Examples of statutes were listed – earth removal statute, scenic road statute, historic district statute, sign statute, etc. Since there is no statute authorizing earth fill, a general bylaw is not appropriate to regulate earth fill.

As an example, Attorney Savastano explained that earth removal, up until 1970, could only be done through a zoning bylaw, until a special act was passed (MGL Chapter 40A, §21 para.17) allowing a Soils Board to regulate earth

removal. He stated that unless a special act is passed, regulating earth fill will have to be done as a zoning bylaw.



MINUTES OF REGULAR PLANNING BOARD MEETING
June 16, 2014 – 7:00 P.M.
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Attorney Savastano concluded that a zoning bylaw is the appropriate way to regulate earth fill, and that the Earth Fill Bylaw should create a permitting or site procedure to deal with issues that are generally found in zoning such as erosion, drainage, runoff, sink holes, etc. He stated that if the Planning Board determined that a Special Permit should be required for earth filling, then the Special Permit Granting Authority could be the Zoning Board of Appeals, Planning Board, or the Select Board. He stated that there are several bylaw examples from other Towns that could be used to help create a bylaw for Dartmouth, and offered to work with Mr. Perry in developing one. Attorney Savastano noted that the Town's Board of Health isn't regulating earth fill, but is focusing on health related nuisance issues regarding this this topic.

Discussion ensued. Attorney Savastano stressed that he does not make policy decisions, but could offer different options for the Planning Board to review and consider. Attorney Savastano will work with the Planning Director to draft an Earth Fill bylaw.

The Board thanked Attorney Savastano for attending this meeting.

7:22 P.M. Appointment ended

(6) Revisions to Subdivision Regulations

The Planning Director submitted proposed amendments to the Subdivision Regulations, which attempt to make the following changes:

1. Amend to correct lane inconsistencies
2. Amend to recognize that a public hearing is required for a modification or a rescission of an approved subdivision plan
3. Amend to recognize that non-buildable parcels can be created through the ANR process
4. Amend to provide street acceptance language suggested by Town Counsel
5. Amend to develop a standards pedestrian/bicycle easement

The Planning Board discussed the proposed amendments, offering some language changes and agreed that these amendments should be forward to Town Counsel for his review.

(7) Proposed Amendment to Section 6 – O.S.R.D.

The Planning Director explained that the proposed article to amend Section 6.500 is in response to a requirement in the zoning bylaws under Section 20.505 which limits the number of bedrooms for undersized lots located in the Aquifer



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Protection District. He explained that the problem occurs when an OSRD subdivision is located in the Aquifer Protection District. OSRD lots are allowed to be reduced in area, but then a variance from Section 20.505 is required to allow more bedrooms on these lots. The Planning Director felt that the environmental considerations are not compromised in the aquifer by the variance because the undersized lots are balanced by the permanently protected open space. He explained that this amendment will eliminate the uncertainty, time, and cost of a developer obtaining a variance for approved OSRD subdivisions located in the Aquifer Protection District.

The Board discussed the draft amendments and determined that the Board of Health's input is required. The Planning Director will solicit a response from the Director of Public Health.

(8) For Your Information/New Business

Planner's Report

- Town Meeting

Mr. Perry stated that all except one zoning article presented at Spring Town Meeting passed. The article which would have allowed certain building elements (roof overhang, eaves, bay windows, chimneys, etc.) to be exempt from the setback requirements failed.

- NStar Trees

Mr. Perry reported that NStar did an excellent job replacing cut trees on scenic roads. He noted that the quality, health, and age of the replacement trees went above and beyond the requirements of the scenic road conditions.

The Planning Board requested a letter of thanks be forward to Paul Sellers, Senior Arborist.

Subcommittee Report

- Soils Board

Joseph Toomey reiterated that the Soils Board is supportive of an earth fill bylaw.

Chairman Avila noted the next Planning Board meeting is scheduled for June 30, 2014, in Room #315, Town Office Building, 400 Slocum Road. He then called for a motion to adjourn.



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A motion was made by Lorri-Ann Miller, duly seconded by John Sousa, and unanimously voted (5-0) to adjourn this evening's regular meeting at 8:00 p.m.

Respectfully submitted,
Jane Kirby
Planning Aide

APPROVED BY:
The Dartmouth Planning Board



