



**MINUTES OF REGULAR PLANNING BOARD MEETING**  
**May 11, 2015**  
**Planning Board's Meeting Room #315**  
**Town Office Building, 400 Slocum Road, Dartmouth, MA**

RECEIVED  
2015 JUN 9 AM 10 03  
DARTMOUTH TOWN CLERK

**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. John Hansen, Jr., 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.

**Administrative Items**

**(1) Approval of Minutes**

Regular Meeting of April 6, 2016  
Public Hearing Minutes April 6, 2016  
Spring 2015 Town Meeting Zoning Articles

A motion was made by Joseph Toomey, which was duly seconded by Kevin Melo for discussion. Chairman Avila suggested amendment to the Regular Meeting minutes and the Board agreed with his suggestion. The Board unanimously voted (5-0) to approve the Regular Meeting minutes as amended.

A motion was made by Joseph Toomey, duly seconded by John Sousa, and unanimously voted (5-0) to approve the Public Hearing minutes of April 6, 2016.

**(2) Invoice**

John P. Hansen, Jr., Planning Director – Mileage Reimbursement \$62.22

A motion was made by Kevin Melo, duly seconded by Joseph Toomey, and unanimously voted (5-0) to approve the above-referenced invoice.

**(3) Correspondence**

Legal Notices from Dartmouth Conservation Commission

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



**MINUTES OF REGULAR PLANNING BOARD MEETING**  
**May 11, 2015**  
**Planning Board's Meeting Room #315**  
**Town Office Building, 400 Slocum Road, Dartmouth, MA**

**(4) Election of Board Officers and Other Appointments**

A motion was made by John Sousa, duly seconded by Lorri-Ann Miller, and unanimously voted (5-0) to keep the existing officers.

Joel Avila – Chairman  
Joseph Toomey, Jr. – Vice-Chairman  
Lorri-Ann Miller – Clerk

A motion was made by Lorri-Ann Miller, duly seconded by Joseph Toomey, and unanimously voted (5-0) to keep the current representatives to subcommittees.

|   |                       |
|---|-----------------------|
| SRPEDD Commission                       | Lorri-Ann Miller      |
| Soil Conservation Board                 | Joseph E. Toomey, Jr. |
| Municipal Facilities Committee          | Joseph E. Toomey, Jr. |
| Community Preservation Committee        | John Souza            |
| Agricultural Preservation Trust Council | Lorri-Ann Miller      |

A motion was made by Joseph Toomey, duly seconded by Lorri-Ann Miller, and unanimously voted (5-0) to reappoint Robert Raposa as an Alternate Board Member.

A motion was made by Lorri-Ann Miller, duly seconded by Joseph Toomey, and unanimously voted (5-0) to re-appoint John Sousa to the Lincoln Park Plan Approval Authority.

Joseph Toomey questioned whether the Technical Review Group (T.R.G.) was still active, since he previously represented the Planning Board. Planning Staff will check into it and get back to him. If it is still active, a vote will be taken at the next meeting.

**(5) 68 Hetty Green Drive, Architectural Approval (Round Hill Condominiums)**

The Planning Director explained that one of the conditions of approval for the Round Hill variance was that the Planning Board and Board of Appeals had to approve the architecture of new buildings or additions. The request is for an approval of an entrance porch. The Planning Director felt the additions are consistent with the existing approved architecture and recommended approval.

A motion was made by Kevin Melo, duly seconded by John Sousa, and unanimously voted (5-0) to approve the submitted proposed architectural plans for the entrance porch.



**MINUTES OF REGULAR PLANNING BOARD MEETING**  
**May 11, 2015**  
**Planning Board's Meeting Room #315**  
**Town Office Building, 400 Slocum Road, Dartmouth, MA**

**Public Hearing**

**(6) 7:05 P.M. Definitive Subdivision Plan entitled "Collins Corner Estates"**

Present: Steven Gioiosa, P.E., SITEC, Inc.  
Edward J. Pires, Jr., Applicant/Owner

Chairman Avila asked for a motion to recess the Board's regular meeting in order to open the public hearing<sup>1</sup> for a Definitive (OSRD) Subdivision Plan entitled "Collins Corner Estates", which proposes to create a 2-lot Open Space Residential Design (OSRD) subdivision with approximately 9 acres set aside as open space on property shown on Assessor's Map 79 as Lot 58-7. Access to the lots will be individual driveways off of Collins Corner Road.

A motion was made by Lorri-Ann Miller, duly seconded by Kevin Melo, and unanimously voted (5-0) to recess the public hearing at 7:10 p.m. in order to open the public hearing for "Collins Corner Estates".

The regular meeting resumed at 7:47 p.m.

**Administrative Item**

**(7) Action on Definitive Subdivision Plan entitled "Collins Corner Estates"**

The Planning Director recommended the approval of this Definitive (OSRD) Subdivision Plan and Special Permit for Collins Corner Estates, and reviewed the Planning Board's amendments to the conditions of approval as a result of the public hearing.

A motion was made by John Sousa, duly seconded by Lorri-Ann Miller, and unanimously voted (5-0) to approve the Certificate of Action as amended as a result of the public hearing for the Definitive Subdivision Plan for Collins Corner Estates.

**The approved Definitive (OSRD) Subdivision Plan consists of the following:**

| <u>Title</u>                  | <u>Sheet</u> | <u>Date</u>      |
|-------------------------------|--------------|------------------|
| Subdivision Plan              | 1            | October 17, 2014 |
| Site Plan                     | 2            | October 17, 2014 |
| Existing Condition            | 3            | October 17, 2014 |
| Conventional Subdivision Plan | 4            | October 17, 2014 |

<sup>1</sup> For more information, see public hearing minutes for "Definitive OSRD Subdivision Plan entitled "Collins Corner Estates"



**MINUTES OF REGULAR PLANNING BOARD MEETING**  
**May 11, 2015**  
**Planning Board's Meeting Room #315**  
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**The conditions of approval are listed below:**

1. This Definitive Plan is subject to an Open Space Residential Design Special Permit dated May 15, 2015.
2. The Director of Inspectional Services shall not issue a building permit for Stone Wall Acres until a lot release signed by the Planning Board is delivered to the Building Department.
3. The stonewalls that are to be removed to accommodate driveways shall be rebuilt to frame the entrances to said driveways.

In accordance with M.G.L., Chapter 41, Section 81-R, and as part of the Board's approval of said plan, the following waivers from its Subdivision Regulations were granted:

1. Section 3.106: Drainage Calculations; Not submitted since no roadway is proposed.
2. Section 3.110: Maintenance Documents of Drainage Facilities; Same as above
3. Section 3.207: Street & Utilities Plan; Same as above
4. Section 3.315: Stonewall Protection; Stonewall removal will be limited to driveway breaks into Collins Corner Road

Approval of this plan does not imply compliance with other Town ordinances, standards, and/or requirements administered by other Town agencies.

A motion was made by John Sousa, duly seconded by Lorri-Ann Miller, and unanimously voted (5-0) to approve the Special Permit as amended as a result of the public hearing.  
ROLL CALL: Kevin Melo-yes; John Sousa-yes; Lorri-Ann Miller-yes; Joseph Toomey, Jr.-yes; Joel Avila-yes

**The Planning Board granted the Special Permit for an OSRD development because it found that the plan met the following purposes Section 6.100:**

- The plan encourages a more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision since individual driveways are proposed as opposed to a public road with a hammerhead.
- The plan encourages the preservation of open space, forestry land, and plant and wildlife habitat by only developing 3 acres and leaving 9 acres in its natural state as opposed to developing all 12 acres under a conventional plan.



**MINUTES OF REGULAR PLANNING BOARD MEETING**  
**May 11, 2015**  
**Planning Board's Meeting Room #315**  
**Town Office Building, 400 Slocum Road, Dartmouth, MA**

- The plan preserves and enhances Dartmouth's traditional New England Landscape by preserving 9 acres of forested land.
- The plan eliminates the construction cost and maintenance of streets, utilities and public services in a more economical and efficient manner in harmony with the site and neighborhood since no road is proposed.
- The plan minimizes the total amount of disturbance on the site.
- The plan preserves open space areas for passive recreational use.

In accordance with Section 6.500, the Planning Board modified the following requirements of the Dartmouth Zoning By-Laws for lots shown on the plan:

Section 4B.401 - Lot Area: to allow the minimum lot requirement in the Single Residence B District to be 43,835 square feet and the minimum upland requirement to be 43,835 square feet.

Section 4B.402 - Lot Shape: to allow the lot shape as shown on the plan for all lots.

Section 4B.403 - Lot Frontage: to allow 139.06 feet of frontage for Lot 1 and 0' of frontage for Lot 2.

Section 4B.404 - Building Setbacks: to allow a 30-foot minimum building setback from the vehicular easement lines.

**The Planning Board grants the Special Permit for "Collins Corner Estates" with the following conditions and restrictions:**

1. The Planning Board grants the amendment to the Special Permit for an Open Space Residential Development in substantial conformance with the following plans:

| <u>Title</u>                  | <u>Sheet</u> | <u>Date</u>      |
|-------------------------------|--------------|------------------|
| Subdivision Plan              | 1            | October 17, 2014 |
| Site Plan                     | 2            | October 17, 2014 |
| Existing Condition            | 3            | October 17, 2014 |
| Conventional Subdivision Plan | 4            | October 17, 2014 |



## **MINUTES OF REGULAR PLANNING BOARD MEETING**

**May 11, 2015**

**Planning Board's Meeting Room #315**

**Town Office Building, 400 Slocum Road, Dartmouth, MA**

2. The Planning Board grants the Special Permit in conformance with the Certificate of Action for a Definitive (OSRD) Subdivision Plan dated May 15, 2015 for "Collins Corner Estates".
3. The Special Permit is only approved for two (2) buildable lots.
4. A Trust Document satisfying the requirements of Section 6.801 and 6.802 of the Dartmouth Zoning By-Laws shall be approved by the Planning Board prior to endorsement of the subdivision plan.
5. In accordance with Section 6.802, a conservation restriction, meeting the requirements of Section 6.802, shall be approved prior to endorsement of the subdivision plan.
6. Where lots abut open space boundaries, the corners of the lots along the boundary shall be marked with concrete bounds and one (1) sign a minimum of 1' x 1' shall be provided in the middle of the open space boundary between the corners. The sign shall state "Open Space Boundary". The boundary delineation markers and signs defining the boundary between the buildable lots and the open space parcel shall not be removed and must be maintained as boundary delineation markers. The markers and signs shall be maintained in good condition, and this requirement noted in the Trust Document.
7. The OSRD Trust Document shall include provisions for maintenance of the driveway, boundary delineation markers, and signs.
8. The Open Space Trust Document, as well as the Subdivision Plan, and any covenants and restrictions associated with the Subdivision Plan, shall be duly executed and recorded at the Bristol County (S.D.) Registry of Deeds.
9. Only one curb-cut, which will service both lots, will be allowed to minimize the disturbance to the stone wall.
10. The remnants of the sawmill shall be shown on the plan, maintained, and reflected in the OSRD Trust Document.
11. Public use of the driveway shall be allowed to access the open space, which shall be accessible by the public.
12. Underground utilities shall be required for both lots.

All conditions of approval shall be met within two (2) years from the date of filing of the Planning Board decision in the Office of the Town Clerk. A reasonable extension of said time shall be granted by the Planning Board in the case of an appeal to the



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**May 11, 2015**  
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Superior Court under Massachusetts General Laws (M.G.L.), Chapter 40A, Section 17 or if good cause is shown to the Planning Board for an extension.

Appeals, if any, shall be made pursuant to M.G.L., Section 17, Chapter 40A, and shall be filed within twenty (20) days after date of filing of such notice in the Office of the Town Clerk.

The Special Permit does not become effective until the Town Clerk certifies that no appeal of the decision has been filed in Superior Court within the 20-day statutory appeal period; or that if an appeal has been filed, it has been dismissed or denied and a certified copy of the decision is recorded in the Bristol County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

The applicant or petitioner is responsible for filing the certified decision in the Registry of Deeds and for paying the recording fees.

A copy of the recorded decision certified by the Registry of Deeds is necessary before a Building Permit, dependent on the Planning Board's decision, can be issued by the Director of Inspectional Services. Copies of the approved plans and this decision are on file in the Town Clerk and Planning Board offices. Copies of the complete minutes of the public hearing are available upon request at the office of the Planning Board.

Approval of this Special Permit does not imply compliance with other Town ordinances, standards, and/or requirements administered by other Town agencies.

**Public Hearing**

**(8) 7:45 P.M. Special Permit for a Bed & Breakfast – 63 Captains Lane**

Present: Ronni Krasny  
Numerous abutters

The Planning Director explained that after the application for this Special Permit was advertised and published in the local newspaper, with notice sent to abutters, the applicant submitted a letter of withdrawal to Planning Staff dated May 4, 2015. The letter asked that the abutters be notified of the withdrawal. Planning Staff sent a letter dated May 4, 2015 to the abutters as a courtesy.

At this meeting the applicant submitted a letter dated May 11, 2015 to the Planning Board, which requested the opportunity to continue with the Special Permit application rather than withdraw.



**MINUTES OF REGULAR PLANNING BOARD MEETING**  
**May 11, 2015**  
**Planning Board's Meeting Room #315**  
**Town Office Building, 400 Slocum Road, Dartmouth, MA**

Board discussion ensued. The Board concluded that some abutters may not be in attendance since they were notified that the application was being withdrawn.

The Board determined that the public hearing should be opened in order to allow the Board to vote on the withdrawal request, and/or a vote to determine whether or not to move forward with the Special Permit application.

A motion was made by John Sousa, duly seconded by Lorri-Ann Miller, and unanimously voted (5-0) to recess the Planning Board's regular meeting at 8:05 p.m. in order to open the public hearing.

8:06 P.M. Public hearing opened

Chairman Avila stated that no testimony will be accepted at this meeting.

A motion was made by Lorri-Ann Miller to not accept the withdrawal request, which was duly seconded by John Sousa for discussion.

Kevin Melo felt that the Board should vote to accept the withdrawal. He thought that if the applicant wished to proceed with the Special Permit, a new application should be submitted. The applicant would incur extra fees with a new application, legal ad, and notice sent out to the abutters. The Board determined that the current application could be continued to a date and time certain, with notice sent to abutters, if the majority decided to deny the withdrawal request.

Chairman Avila asked the Board to vote on Lorri-Ann Miller's motion to not accept the withdrawal request.

The Board voted (4 yes; 1 no) to deny the withdrawal request and to move forward with the Special Permit application. Kevin Melo was opposed.

A motion was made to continue this public hearing to June 8, 2015 at 7:45 p.m., with notice sent to abutters giving the date and time certain. This motion was made by John Sousa, duly seconded by Lorri-Ann Miller, and voted (4 yes; 1 no). Kevin Melo was opposed.

**Administrative Item**

**(9) Action on Special Permit for a Bed & Breakfast – 63 Captains Lane**

No action was taken; agenda item tabled.





**MINUTES OF REGULAR PLANNING BOARD MEETING  
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**Public Hearing**

- (10) 8:05 P.M. Applicant: Mark Roderick**  
Seeking Permission for Stonewall & Tree Removal on a Scenic Road  
- Potomska Road –

Present: Peter Saulino, Esq. (representing applicant)  
Mark Roderick  
Numerous abutters

Chairman Avila asked for a motion to recess the Board's regular meeting in order to open the public hearing<sup>2</sup> for Mark Roderick, who is requesting permission to remove four trees and to remove a 30 foot wide section of stone wall in front of Lot 87 on Assessor's Map 24 on Potomska Road, which is a designated scenic road.

A motion was made by Joseph Toomey, duly seconded by John Sousa, and unanimously voted (5-0) to recess the public hearing at 8:15 p.m. in order to open the public hearing for "Request for Permission to Remove Trees/Stonewalls – Potomska Road".

The regular meeting resumed at 9:11 p.m.

**Administrative Item**

- (11) Action on Scenic Road Request of Mark Roderick – Potomska Road**

The Planning Director recommended approving the request to remove four trees and a 30 foot wide section of stone wall, and reviewed conditions of approval discussed at the public hearing:

1. The stone removed from the opening will be used to frame the new common driveway.
2. Four new trees will be planted near the trees to be removed, as directed by the Tree Warden.

A motion was made by John Sousa, duly seconded by Joseph Toomey, and unanimously voted (5-0) to approve the request to remove trees/stonewall in front of Lot 87 on Assessor's Map 24 on Potomska Road.

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<sup>2</sup> For more information, see public hearing minutes for "Request for Permission to Remove Trees/Stonewalls – Potomska Road"



**MINUTES OF REGULAR PLANNING BOARD MEETING**  
**May 11, 2015**  
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**(12) ANR Endorsement – Mark Roderick – Potomska Road**

The Planning Director explained that this ANR plan creates 6 new lots, three with 200' of frontage on Potomska and three Estate Lots each with 50' of frontage and 240,000 sf area. The plan meets the requirements for 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.

**(13) Subdivision Improvement Timeline Extension Request**  
**RE: Cedar Dell Way**

Present: Gregory J. Koldys, Esq. (representing Cedar Dell LLC)  
Peter Rochford, Project Manager

The Planning Director explained that the developer would like to extend the deadline for completing the road improvements in the Village at Cedar Dell Subdivision located off Fisher Road. The current deadline is July 2015, and the developer would like to extend it to July 2016. The reason for the extension request is several vacant lots (4 out of 7) exist within the subdivision and construction of homes on these lots would result in damage to the road.

Attorney Koldys stated that two of the members of Cedar Dell LLC filed a bankruptcy, which cause operations at the development to cease while the remaining member dealt with the Bankruptcy Trustee to acquire the interests of the bankrupt members. He noted that this process has recently been completed and two additional lots have since sold.

The Planning Director received email correspondence from DPW staff agreeing with the concept of holding off completing the finishing touches of a roadway until at least 90% of the homes are built, but listed work that could be done earlier.

Discussion ensued. The Board determined that the project manager should communicate with the DPW for clarification on items that should be completed earlier. Action on this agenda item was postponed until the next Planning Board meeting.

**(14) Performance Covenant/Endorsement – Definitive OSRD Subdivision – Stone Wall Acres (Portion of Map 37, Lot 18 – off Fisher Road)**

Present: Richard Rheume, P.E., Prime Engineering

The Planning Director explained that the proposed surety is a Performance Covenant, which prevents lots from being built upon until the subdivision



**MINUTES OF REGULAR PLANNING BOARD MEETING**  
**May 11, 2015**  
**Planning Board's Meeting Room #315**  
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improvements are completed and approved by DPW. He noted that the conditions of approval in the Certificate of Action have been met, and recommended the Board approve the covenant and endorse the plans.

Mr. Rheume reviewed how the conditions of approval in the Certificate of Action have been met, including the Homeowner's Association and Performance Covenant that is required to ensure the common driveway will be constructed. The documents have been signed by the proponents and he is looking for the Planning Board approval and signatures at this meeting.

A motion was made by Kevin Melo, duly seconded by Joseph Toomey, and unanimously voted (5-0) to approve and sign the Performance Covenant and to endorse the plan for Stone Wall Acres.

**(15) Discontinuance of a portion of Leonard Avenue**

Present: Richard Rheume, P.E., Prime Engineering

The Planning Director explained this request to discontinue a portion of Leonard Avenue was received from Prime Engineering on behalf of Eye-Man Limited Partnership. Under MGL c.41, §1, no way shall be discontinued unless it has been referred to the Planning Board for a report.

Mr. Rheume explained that Leonard Avenue is the road just east of "Not Your Average Joes" that formally serviced a number of residences; and over the years the developer acquired all but one of the dwellings. The dwellings were raised and the parking lot was developed. He stated that the primary purpose of the road now, besides reaching the one home, is to access the parking lot. The proponent has been plowing and taking care of the road the whole time, and discontinuing it would allow for additional parking spaces without creating zoning violations. The DPW asked to at least maintain the ability to plow, but did not want it as a requirement. There is also a water main that runs the length of the road that the Town would access through a utility easement to service the hydrant.

Board discussion ensued. One member recalled that Town Counsel had advised against discontinuing streets and at other times discontinuing streets was the right thing to do; and wanted Town Counsel's opinion on this topic to eliminate the confusion.

The Planning Director stated that this request has gone before the Board of Public Works and has been approved, and is scheduled to go before the Board of Selectmen next week. He noted that any warrant item would probably be reviewed by Town Counsel, but did not know if Town Counsel has reviewed this



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**Planning Board's Meeting Room #315**  
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request.

Mr. Rheume stated that he has been in contact with Mr. Cressman numerous times, and Mr. Cressman has been in contact with various departments, and felt confident that Town Counsel would be ok with it.

Mr. Rheume also stated that the only action he is looking for from this Board is a recommendation on the discontinuance, not a legal opinion.

Chairman Avila had similar confusion regarding the issue of discontinuing streets.

One Board member recalled that Anthony Savastano, current Town Counsel, advised never to discontinue a street which had been done in the past with previous Town Counsels. This Board member wanted to hear from Town Counsel to know if he's changed his opinion, and if so, should the Board go back to allowing discontinuances. This member did not feel that a recommendation should be made until the Board heard from Town Counsel because you never know what might turn up with a Title search and worried that someone could have property rights.

Mr. Rheume stated that the Town would have a roadway easement, which is the right to pass and repass to maintain the utilities.

Chairman Avila recalled when there were a lot of paper streets that the Board wanted to "clean up", which spurred the discussion in which Town Counsel advised against discontinuing all paper streets. Since this is a constructed road, the Board was even more hesitant to recommend discontinuance without hearing from Town Counsel. The Board wanted definitive clarification of what the standards would be for recommendations from Town Counsel. If there are circumstances where Town Counsel would recommend allowing street discontinuances, the Board wanted that knowledge.

It was noted that the Planning Board would not be meeting again until after Town Meeting. Mr. Rheume requested the Board take action tonight.

The Board noted that the recommendation would not have to be a positive recommendation, or that it could recommend subject to a letter of approval from Town Counsel.

Lorri-Ann Miller motioned to recommend the discontinuance of a portion of Leonard, upon receipt of a letter from Town Counsel stating that it was the proper thing to do. She reiterated the Board would only be approving the discontinuance if a letter from Town Counsel was received. Kevin Melo seconded this motion for discussion.



**MINUTES OF REGULAR PLANNING BOARD MEETING**  
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The Board felt that Town Counsel should have the final say regarding whether or not a portion of Leonard Avenue should be discontinued. The Board determined that if Town Counsel is against allowing the discontinuance, then the favorable recommendation should be rescinded. Regardless, the Board wanted Town Counsel to address in writing the standards for discontinuance.

Lorri-Ann Miller amended the motion to recommend the discontinuance of this portion of Leonard Avenue upon the written approval of Town Counsel. If Town Counsel does not approve of this discontinuance, then the Board does not recommend. Kevin Melo seconded the amended motion. John Sousa added to this motion. If Town Counsel's opinion is to approve this discontinuance, the Planning Board will receive a written explanation from Town Counsel as to why, so that the Board will have direction moving forward with future street discontinuance requests. The Board was in agreement with the final amended motion.

Chairman Avila asked if there was any further discussion regarding this topic.

One Board member stated that Town Counsel could always meet with the Planning Board. It was decided that the written explanation should come first.

Chairman Avila asked the Board to vote on the final amended motion at this time.

The Board voted unanimously (5-0).

**(16) Estate Lot Covenant – 18 High Street**

The Planning Director explained an ANR for 18 High St. was approved last September with an Estate Lot Covenant. Now that the land has been conveyed, a new Covenant is needed. The Director recommended endorsing the Estate Lot Covenant for David B. Walker & Lisa M. Walker.

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

**(17) Reports with Recommendations on Spring 2015 TM Zoning Articles**

- A. Article 22 – Amendment to Section 10B.410.D of the Zoning Bylaws
- B. Article 23 – Amend Zoning Map (General Residence to Village Business District)

The Planning Board held its public hearing for the Spring Town Meeting 2015 zoning articles on April 6, 2015. The Planning Board's Reports with Recommendations will be forwarded to be included in the warrant.



**MINUTES OF REGULAR PLANNING BOARD MEETING**  
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A motion was made by John Sousa, duly seconded by Joseph Toomey, and unanimously voted (5-0) to sign the Planning Board's Reports with Recommendations to be included in the warrant for Spring Town Meeting.

**(18) For Your Information/New Business**

• **Planner's Report**

- Abutter Notification  
(This topic was tabled)
  
- Sign Bylaw

The Planning Director stated that the contract with SRPEDD has been signed, and the final draft Sign Bylaw should be completed by SRPEDD by the end of June

- Lighting Bylaw

The Planning Director informed the Board that the Select Board is proposing a Lighting Bylaw because an issue has been raised regarding the brightness of lights on some commercial establishments. He noted that the Lighting Bylaw is proposed as a general bylaw rather than a Zoning Bylaw, so that there would not be any Grandfathered Rights. This general bylaw will be on the warrant for Spring Town Meeting 2015. If it passes at Town Meeting, the zoning bylaws will need to be amended where applicable to reference the general bylaw for lighting standards.


Chairman Avila requested the Planning Board meeting schedule be placed on the next agenda so that it can be updated.

With no further business to discuss, Chairman Avila 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 10:10 p.m.

The next Planning Board meeting is scheduled for June 8, 2015, in Room #315, Town Office Building, 400 Slocum Road.

**APPROVED BY:**  
**The Dartmouth Planning Board**

  
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Respectfully submitted,  
Jane Kirby  
Planning Aide



**MINUTES OF PLANNING BOARD PUBLIC HEARING**  
**May 11, 2015**  
**Permission for Stonewall & Tree Removal on a Scenic Road**  
**Potomska Road**  
**Planning Board's Meeting Room #315**  
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**Planning Board**

Mr. Joel Avila, Chairman  
Mr. Joseph Toomey, Vice Chairman  
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Mr. John V. Sousa  
Mr. Kevin A. Melo

**Planning Staff**

Mr. John Hansen, Jr., Planning Director  
Ms. Jane Kirby, Planning Aide

The Chairman opened the public hearing<sup>1</sup> at 8:15 p.m. concerning a request by Mark Roderick, 859 Potomska Road, Dartmouth, MA 02748 to remove four trees and to remove a 30-foot wide section of stone wall in front of Lot 87 on Assessor's Map 24 on Potomska Road, which is a designated scenic road.

All Planning Board members and Planning Staff were present.

Also Present:           Mark Roderick, Applicant  
                          Peter Saulino, Esq., Representing the Applicant  
                          Numerous Abutters

Chairman Avila reviewed public hearing procedure for those present.

The Planning Director read the legal ad into the record.

Chairman Avila disclosed that he lives near the proposed project, but is not an abutter. Joseph Toomey disclosed that he owns property near the proposed project, but is not an abutter.

Chairman Avila invited the applicant/representative to speak at this time.

Attorney Peter Saulino explained that the request to remove the trees and stone wall is conjunction with an ANR plan submitted and on the Planning Board's agenda this evening for endorsement.

*(A full-sized copy of the ANR plan was available for review for those present).*

<sup>1</sup> For more information, see minutes of the Planning Board's regular meeting of May 11, 2015

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Attorney Saulino proceeded to review the plan highlighting the section of Potomska Road where the trees and stonewall would be removed, noting that the purpose of the removal is to run a road to the lots. The proposal includes creating a curved entry way into the subdivision with the removed stone.

Chairman Avila asked if anyone in the audience had any questions or comments.

The following abutters voiced their opinions at this meeting:

Heidi Obolensky  
Nicolas Obolensky  
Ms. Garfield  
Robert Bailey

Abutters expressed the following concerns and question:

- The scenic road views would be changed, and allowing the proposed tree and stonewall removal would have a detrimental impact on the character of this country road
- Surrounding properties would be devalued
- If allowed, an intersection would be created since the curb cut is proposed across the street from Howland Mill Lane
- More openings will be requested in the future according to the ANR plan design
- Only one driveway opening should be allowed to service all 6 proposed house lots
- A better plan should be developed to preserve the scenic views on this road. One suggested included using the existing access off of Potomska Road used to get to the "gravel quarry"
- Are there regulations regarding the amount of stonewall removal the Planning Board can allow?

Chairman Avila responded to the stonewall removal question by stating the Planning Board's mission is to be reasonable, noting that the regulations are vague. The Planning Director explained that the bylaw only says that written consent of the Planning Board is required for tree or stonewall removal, but no standards are in place.

Chairman Avila stated for the record that the ANR plan and proposed Estate Lots meet the requirements for Planning Board endorsement.

Attorney Saulino further explained that the proposed road would be a gravel road, curved to preserve the stone. He pointed out that Mr. Roderick is from Town and also wants to keep the rural feel of the neighborhood. The plan shows designated farmland (dashed





**MINUTES OF PLANNING BOARD PUBLIC HEARING**  
**May 11, 2015**  
**Permission for Stonewall & Tree Removal on a Scenic Road**  
**Potomska Road**  
**Planning Board's Meeting Room #315**  
**Town Office Building, 400 Slocum Road, Dartmouth, MA**

lines).

A Board member explained that at this time, the Board can only take action on the request to remove trees/stonewall. He reminded everyone that the applicant was not required to submit an ANR in conjunction with this request and stressed that the Board cannot use the scenic road bylaw to stop development. He further explained that the intent of the bylaw is to protect scenic roads and be sensitive to the scenery. He reminded everyone present that the applicant has every right to develop his property and although an OSRD development was preferred, he was pleased to see the estate lots.

Another member explained that an OSRD plan could produce more lots and felt that in reality, the neighborhood was better protected with the proposed ANR estate lots. This member felt that the applicant was sensitive to the neighborhood.

The 30 foot wide driveway entrance was questioned. Richard Rheume, P.E., Prime Engineering was present this evening for another matter but took the opportunity to clarify that at a minimum, the common driveway would need to be 16 feet wide and 10 feet from the property lines (fire dept. standards).

Discussion ensued regarding moving the road to eliminate creating an intersection and design suggestions given.

A Board member suggested a design that would reduce potential curb cuts for development from 4 down to 2.

Chairman Avila asked the applicant if an OSRD design plan was considered.

Mr. Roderick understood that with the OSRD design, the houses would be clustered together and preferred the estate lot design.

A Board member noted that with 44 acres of land, this area could potentially be developed into a 22 house lot subdivision with a major roadway. As proposed, 24 acres would be preserved for farming.

The Planning Director asked if the Board would require replacing the trees if allowed to be removed. The Board would make this a condition of approval as well as using the stones removed to create a curved entrance for the common driveway, if this request is approved.

Chairman Avila asked for final comments.

An abutter questioned what would happen with the existing mailboxes.



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Potomska Road  
Planning Board's Meeting Room #315  
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The Board suggested that the applicant check with the post office, noting that the applicant would pay to have them moved.

With no further questions or comments, Chairman Avila asked for a motion to close the public hearing.

A motion was made by Lorri-Ann Miller, duly seconded by John Sousa, and unanimously voted (5-0) to close the public hearing.

9:10 p.m. Public hearing closed.

**APPROVED BY:**  
The Dartmouth Planning Board

Respectfully submitted,  
Jane Kirby  
Planning Aide



**MINUTES OF PLANNING BOARD PUBLIC HEARING**  
**May 11, 2015**  
**Definitive OSRD Subdivision entitled**  
**"Collins Corner Estates"**  
**Planning Board's Meeting Room #315**  
**Town Office Building, 400 Slocum Road, Dartmouth, MA**

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**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. John Hansen, Jr., Planning Director  
Ms. Jane Kirby, Planning Aide

The Chairman opened the public hearing<sup>1</sup> at 7:10 p.m. concerning a Definitive (OSRD) Subdivision Plan entitled "Collins Corner Estates" which proposes to create a two (2) lot subdivision with a 9 acre open space parcel. Access to the lots will be individual driveways off of Collins Corner Road. The plan was prepared by SITEC, Inc. for Edward J. Pires, Jr. for land owned by same and shown on Assessor's Map 79 as Lot 58-7. The plan was submitted to the Planning Board office on March 10, 2015. The applicant is also requesting a Special Permit for an Open Space Residential Design, as provided for in Section 6 of the Zoning By-Laws, to allow waivers regarding lot area, lot shape, frontage, and setbacks.

All Planning Board members and Planning Staff were present.

Also Present: Steven Gioiosa, P.E., SITEC, Inc.  
Edward J. Pires, Jr., Applicant

Chairman Avila reviewed public hearing procedure for those present.

Lorri-Ann Miller motioned to waive reading the legal notice into the record, which was seconded by Joseph Toomey, and unanimously voted (5-0).

Correspondence Received:

- Letter dated April 7, 2015 from the DPW to Planning Director

Chairman Avila invited the applicant/representative to speak at this time.

Steven Gioiosa, P.E., from SITEC, Inc. stated that he is representing the applicant and proceeded to review the property locus with the Board. He then described the proposed OSRD subdivision as a 12 acre parcel +/- with frontage on Collins Corner Road. He

<sup>1</sup> For more information, see minutes of the Planning Board's regular meeting of May 11, 2015



**MINUTES OF PLANNING BOARD PUBLIC HEARING**  
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noted that the wetlands have been reviewed and approved by the Conservation Commission. He reviewed the proposed driveway easement to the open space, which will be access to Lot 2. The access has been reviewed and approved by the Conservation Commission and an Order of Conditions granted.

The property owner is seeking to construct his own home on Lot 1 and one addition single-family home. A conventional subdivision plan was submitted, which showed contiguous uplands suitable for subdivision, but the proposed OSRD development is preferable in this instance to optimize the amount of open space and preserve as much of the existing wooded areas as possible, while also maximizing wetland protection and/or minimizing other environmental impacts to the fullest extent reasonably practicable.

Mr. Gioiosa explained that the subject property abuts DNRT land, and that the lots were configured based on the natural features of the land, noting that the proposal meets Title V and Dartmouth standards. He also noted that the 15 acre parcel to the east of the subject property is being looked at to expand open space in this area. He stated that his client will reach out to DNRT to see if they have interest in the open space parcel on this OSRD plan.

A Board member questioned whether there were stonewalls on the property.

Mr. Gioiosa stated that there are stonewalls along the frontage and near the "sawmill", which in actuality are the remnants of an old sawmill and stream that existed years ago.

The Board requested that the "sawmill" be maintained and shown on the plans, and will add it as a condition of approval.

A Board member asked about the path to the open space.

Mr. Gioiosa stated that they would be creating a 100 foot strip and a 75 foot strip near the lots for access.

The Board will add a condition to allow the public to use the driveway to access the open space.

The Planning Director stated that Collins Corner Road is a scenic road and "A Request for Permission to Remove Trees/Stonewalls" application would need to be submitted and approved by the Planning Board prior to construction. He also suggested a shared driveway to minimize the scenic road disturbance.

The Planning Director reviewed Appendix B & C of the Description of Collins



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Corner Estates that was submitted with the application, which listed the requested waivers.

The Board supported the Planning Director's recommendation of a shared driveway, which would minimize the scenic road disturbance, and will add this as a condition of approval.

Mr. Gioiosa stated that he would develop plans with one curb-cut and questioned the Board's position regarding above-ground utilities rather than underground utilities since there would not be a roadway with this subdivision but rather a common driveway.

The Board agreed that underground utilities should be required, and will add it as a condition of approval.

A Board member suggested that a written agreement should be in place regarding the common driveway to protect both owners and avoid future fights.

Chairman Avila asked if anyone else wished to speak. No further comment was received. Chairman Avila asked for a motion to close the public hearing.

A motion was made by John Sousa, duly seconded by Joseph Toomey, and unanimously voted (5-0) to close the public hearing at 7:47 p.m. and resume the Planning Board's regular meeting.

**APPROVED BY:**  
The Dartmouth Planning Board

  
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Respectfully submitted,  
Jane Kirby  
Planning Aide