

MINUTES OF REGULAR PLANNING BOARD MEETING OF OCTOBER 18, 2010
Held at 7:00 p.m., Planning Board Meeting Room #315, Town Office Building
400 Slocum Road, Dartmouth, MA

Planning Board

Mr. John V. Sousa, Chairman
Mr. John P. Haran, Vice Chairman
Mr. Joseph E. Toomey, Jr., Clerk
Mrs. Lorri-Ann Miller
Mr. Arthur C. Larrivee

Planning Staff

Mr. Donald A. Perry, Planning Director
Mrs. Joyce J. Couture, 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 September 27, 2010

A motion was made by Mr. Larrivee, duly seconded by Mr. Haran for discussion, and unanimously voted (5-0) to approve the minutes of the regular Planning Board meeting of September 27, 2010 as written.

(2) Correspondence

Legal Notices from City of Fall River
Legal Notices from Town of Westport
Legal Notices from Conservation Commission

A motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and unanimously voted (5-0) to acknowledge and file the above referenced legal notices.

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

Nathan Oliver

Arnold Street

dated September 15, 2010

The Planning Director stated that this ANR plan is for property located on Arnold Street and is a conveyance between two adjoining lots. He mentioned that both adjoining lots have existing houses and this conveyance is for the purpose of adding more land to the smaller lot.

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Mr. Perry noted the lot from which the land is taken will still comply with the minimum area and frontage requirements of the General Residence District and he recommended the plan be endorsed.

A motion was made by Mrs. Miller, duly seconded by Mr. Haran for discussion, and unanimously voted (5-0) to endorse the Approval Not Required plan for Nathan Oliver dated September 15, 2010 for property located on Arnold Street.

John Bergeron Rock O'Dundee Road dated September 28, 2010

The Planning Director reported that this ANR plan is for land off Rock O'Dundee Road just west of Smith Neck Road. It creates one buildable lot and one unbuildable parcel. The unbuildable parcel is labeled "non-buildable". Mr. Perry pointed out the buildable lot complies with the frontage and area requirements of the Single Residence B District.

Brief discussion ensued.

A motion was made by Mrs. Miller, duly seconded by Mr. Haran for discussion, and unanimously voted (5-0) to endorse the Approval Not Required plan for John Bergeron dated September 28, 2010 for land located off Rock O'Dundee Road.

(5) Update on Project Timeline Chart

The Planning Director noted the updated Limited Industrial zoning is going to Town Meeting tomorrow and the updated Section 16 zoning is still being reviewed by Town Counsel. After Town Meeting, the Board should discuss where it wants to go with the Section 16 update.

(6) Surety on the Definitive Subdivision entitled "John Alden Farm" East

The Planning Director pointed out this subdivision is located off Tucker Lane. The completion date for all improvements is November 7, 2010 and a final site inspection by Planning staff and the Department of Public Works has been scheduled for that week.

A motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and so voted (4-0) with Mr. Sousa abstaining to notify the Town Treasurer to act to secure the current surety posted for the definitive subdivision entitled "John Alden Farm East" in whatever amount is determined to be sufficient by the Department of Public Works to cover the cost of any remaining work.

(7) Surety on the Definitive Subdivision entitled "Estate on Heather's Hill"

Mr. Perry noted this 7-lot subdivision is an extension of Azalea Drive located off Cross Road. The completion date for all improvements is November 4, 2010. He stated a final site inspection by Planning staff and the Department of Public Works has been scheduled for that date.

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A motion was made Mrs. Miller, duly seconded by Mr. Larrivee, and unanimously voted (5-0) to notify the Town Treasurer to act to secure the current surety posted for the definitive subdivision entitled "The Estate on Heather's Hill" in whatever amount is determined to be sufficient by the Department of Public Works to cover the cost of any remaining work.

(9) Planner's Report

- The Planning Director stated that he attended a 3-hour supervisor/management class last Thursday at the U-Mass Law School. It is one of several classes arranged by the Town for various Town personnel. Course topics include Setting Goals, Better Staff Management, Time Management, Public Relations, etc. It is geared towards developing better managers.
- Mr. Perry conveyed to the Board that he has been assisting Town Counsel in preparing discovery facts for the South Wharf litigation. The claimant has new legal counsel who has submitted a 30-page document with questions which the Town must respond to.
- The Planning Director made mention the office has received two new OSRD definitive plans and the public hearings have been scheduled for November 15th.
- SRPEDD has responded that it would take more than 40 hours to produce the Gateway Study as requested by the Town. The Planning Director mentioned Deborah Wender would be looking at how the project scope can be limited or focused so that SRPEDD can provide critical assistance and Town staff would do the rest.
- Mr. Perry suggested being pro-active and draft a bylaw for solar farm zoning. The Planning Board would need to work with the Alternate Energy Committee. John Haran mentioned that Roger Race of the Alternate Energy Committee would be willing to meet with the Planning Board to discuss.

Appointment

(4) 7:10 P.M. – APPOINTMENT– Rick Corliss: Amendment to Randall Medeiros Estates Open Space Covenant

present Richard Corliss, petitioner
 Jay R. Peabody, Esq., Partridge Snow & Hahn, LLP

The Planning Director briefed Board members on a request to amend the Open Space Trust document on a 3-lot OSRD subdivision entitled "Randall Medeiros Estates" located off Collins Corner Road. He said representatives are present this evening to further explain this request. Mr. Perry stated the Planning Board must determine if the

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Town's rights would be abridged by the amendment. If the Board consents to this request, an amended covenant would then go to the Select Board for signing with a letter of recommendation from the Planning Board.

Attorney Jay R. Peabody, representing the petitioner, gave a detailed explanation of this request. He said the proposed amendment would basically take the responsibility for costs regarding the open space, which currently would be shared by all three lot owners of the subdivision and transfers the responsibility to the future owner of lot 3. Mr. Peabody further explained that the future lot owner of lot 3 would benefit most from the open space land, and as so, that lot owner should bear the burden of that benefit. He also made known that currently property taxes on the open space parcel are around \$400.

Board members raised several areas of concern. One Board member felt the Town would be better served keeping all three lot owners responsible for the conditions of the Open Space Trust by spreading the risk of default. Another Board member emphasized that the conditions of approval such as signage, the pedestrian footpath, and the placement of concrete bounds, remain in effect. Additionally, Board members voiced concern that there be adequate disclosure in the sale of lot 3, pointing out that with this amendment only that lot owner would now be responsible for the real estate taxes on the open space parcel, as well as the maintenance expenses as defined in the document.

After considerable discussion, a motion was made by Mr. Toomey, and duly seconded by Mr. Larrivee, to deny the amendment to the Randall Medeiros Estates Open Space Trust document. Motion failed (2-3) with Mrs. Miller, Mr. Haran and Mr. Sousa opposed.

A motion was made by Mrs. Miller, duly seconded by Mr. Haran, and so voted (4-1) with Mr. Toomey opposed to send a letter to the Select Board recommending approval of the proposed amendment to the Randall Medeiros Estates Open Space Trust in accordance with the information provided by the petitioner. With this action, the Planning Board determined that the amendment did not abridge any rights of the Town of Dartmouth. Although the Planning Board recommended the amendment, the Planning Board agreed it would like the Select Board to be aware that the petitioner must meet all other conditions of the subdivision plan approval. Such other conditions are requirements of signage that make the public aware of open space access, and the installation of concrete bounds defining the edge of the open space. The Planning Board is also concerned with disclosure issues. If the owner of lot 3 is responsible for expenses, the expenses could be more than just property taxes on the open space parcel, as there is reference in the document to perpetual maintenance obligations on the open space parcel as well.

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Administrative Items

(8) Discussion on moving Planning Board meetings to Tuesdays

At the request of Mr. Haran, this item was placed on the agenda for discussion. Initially, several Board members were in agreement to investigate the possibility of having televised Board meetings on Tuesday evenings. However, the Chairman felt that historically primary Boards met on Monday evenings with the various Board members able to attend secondary meetings throughout the rest of the week. With Board members being representatives on many other Town committees, it became evident that moving the Planning Board meeting to Tuesday may create conflicts and not be practical.

Discussion then focused on whether DCTV could possibly film the Planning Board meeting in room #315 on Monday nights, and broadcast the viewing of the meeting at another time.

Mr. Perry was instructed to contact Cindy Marland, Director of Media & Cable Television, to ask that she come before the Board and explain whether this approach would be possible.

(10) For Your Information/New Business

- Letter from Town Counsel dated October 12, 2010 re: Cedar Dell
- Update from Planning Director on Fast Track Permitting
- Legal Notice on Definitive (OSRD) Subdivision "Riverside Woods"
- Legal Notice on Definitive (OSRD) Subdivision "Daxl Fields"
- Legal Notice on Special Permit request for 365 Faunce Corner Road
- Planning staff time sheets
- Informational sheet on Dartmouth Route 6 Gateway Study
- Board of Appeals decisions
- Agricultural Law memo from SRPEDD

Mr. Haran asked that staff invite Roger Race, Alternate Energy Committee, to the next Planning Board meeting to discuss the development of a zoning bylaw for solar farming.

The Chairman asked if there was any other business this evening. There was none. Mr. Sousa noted that the next Planning Board meeting is scheduled for November 1, 2010, in room #315, Town Office Building, 400 Slocum Road. He then called for a motion to adjourn.

A motion was made by Mr. Larrivee, seconded by Mr. Haran, and unanimously voted (5-0), to adjourn this evening's regular meeting at 8:42 p.m.

Respectfully submitted,
Mrs. Joyce J. Couture

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Planning Aide