

MINUTES OF REGULAR PLANNING BOARD MEETING OF NOVEMBER 1, 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 four Planning Board members and Planning staff present. Mr. Toomey arrived a few minutes late at 7:07 p.m.

Administrative Items

(1) Approval of Minutes

Regular Meeting of October 18, 2010

A motion was made by Mr. Larrivee, duly seconded by Mr. Haran for discussion, and unanimously voted (4-0) to approve the minutes of the regular Planning Board meeting of October 18, 2010 as written.

(2) Invoices

Postmaster - Planning dated November 1, 2010 for \$105.00
re: postage stamps

A motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and unanimously voted (4-0) to approve payment of the above referenced invoice.

The Chronicle dated September 27, 2010 for \$37.00
re: annual subscription renewal

The Chairman asked for the Board members consideration to approve an invoice from The Chronicle which was received after the agenda had been finalized.

A motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and unanimously voted (4-0) to approve payment of the above referenced invoice.

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(3) Correspondence

Legal Notices from City of New Bedford
Legal Notices from Town of Westport
Legal Notices from Board of Appeals
Legal Notices from Conservation Commission

A motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and unanimously voted (4-0) to acknowledge and file the above referenced legal notices.

(7) Update on Planning Board's F/Y'11 budget through September

A motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and unanimously voted (4-0) to acknowledge and file the Planning Board's F/Y'11 budget update through September.

Mr. Toomey arrived at this time being 7:07 p.m.

(8) Update on Project Timeline Chart

The Planning Director reported that the update to the Limited Industrial District now called the Office Industrial District is done. He mentioned the remaining Limited Industrial zone should be amended by updating the "Use" section of the bylaws. In referencing the status of the revised Section 16 zoning, Mr. Perry noted the bylaw is currently being reviewed by Town Counsel but there was a question whether the Board still wanted to pursue this update. There was an exchange of dialogue among Board members. As a result, the Planning Director was to ask Town Counsel to an upcoming Planning Board meeting to discuss.

(10) Planner's Report

- The Planning Director reported there was a joint meeting between himself, John Haran, Roger Race, Peter Hawes, Deborah Wender and Chris Regan from "Entero" to discuss the development of a solar energy bylaw. He mentioned it was useful to speak with experts and developers of solar arrays to understand their perspectives in what is needed for a solar energy bylaw.
- Mr. Perry stated that he has been working with Deborah Wender regarding a directional sign bylaw to direct individuals throughout plazas to find stores or roads. A Board member mentioned it would also be a good idea to allow directional signs for agricultural uses that are off main roads.

At this time, the Chairman mentioned this agenda item will be continued after tonight's scheduled public hearing.

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Appointments & Public Hearings

- (4) **7:15 P.M. – PUBLIC HEARING - Request by Roland Valois for a Special Permit under Section 16.201B of the Zoning By-Laws to reduce the number of required parking spaces for a new use (dance studio) at 365 Faunce Corner Road**

In a roll call vote, a motion was made by Mr. Larrivee, seconded by Mrs. Miller and unanimously voted (5-0), to recess the Planning Board's regular meeting at 7:15 p.m. in order to go into a public hearing¹ concerning a request by Roland Valois for a Special Permit under Section 16.201B of the Zoning By-Laws to reduce the number of required parking spaces for a new use (dance studio) at 365 Faunce Corner Road.

Lorri-Ann Miller – yes; John Haran – yes; Joseph Toomey, Jr. – yes; Arthur Larrivee – yes; and John Sousa – yes.

The regular meeting resumed at 8:03 p.m.

Administrative Items

- (9) **Action on request by Roland Valois for a Special Permit under Section 16.201B of the Zoning By-Laws to reduce the number of required parking spaces at 365 Faunce Corner Road**

Following the close of this evening's public hearing, and after all conditions of approval were identified, a motion was made by Mr. Larrivee, duly seconded by Mrs. Miller and so voted (5-0) by roll call vote to approve the Special Permit requested by Roland Valois for property located at 365 Faunce Corner Road in accordance with the following:

Lorri-Ann Miller – yes; John Haran – yes; Joseph Toomey, Jr. – yes; Arthur Larrivee – yes; and John Sousa – yes.

CERTIFICATE OF ACTION FOR A SPECIAL PERMIT **Under Section 16.201B – To reduce the required number of parking spaces** **365 Faunce Corner Road**

There was a Planning Board public hearing, which was held on Monday, November 1, 2010, regarding the application of Roland Valois, 365 Faunce Corner Road, Dartmouth, MA 02747, who requested a Special Permit under the Town of Dartmouth Zoning By-Laws, Section 16.201B to allow a reduction in the required number of parking spaces from a total of 44 to 37 parking spaces shown on a plan entitled "Motion the Dance Studio" dated September 23, 2010 for property located at 365 Faunce Corner Road,

¹ For more information, see minutes of Planning Board's public Hearing of November 1, 2010

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and is identified as Lot 17 on Dartmouth Assessor's Map 63. The plan was prepared by Boucher & Heureux, Inc., and the application was submitted to the Town Clerk and Planning Board on October 4, 2010.

Complete copies of the minutes of the public hearing and discussion of the Planning Board decision are available in the Town Clerk and Planning Board offices.

DECISION

At its regular meeting of November 1, 2010, and after the close of the above described public hearing, the Planning Board voted – Lorri-Ann Miller - yes; Arthur Larrivee - yes, Joseph Toomey, Jr. – yes; John Haran - yes; John Sousa - yes; to grant a Special Permit to the petitioner, Roland Valois for property owned by same (Map 63, Lot 17) to allow a reduction in the required number of parking spaces shown on a plan entitled "Motion the Dance Studio" dated September 23, 2010. In accordance with Section 16.201B, the Planning Board reduced the required parking spaces from 44 to 37 parking spaces.

The Planning Board granted the Special Permit for a reduction of 7 parking spaces because it found that the plan met the requirements of Section 16.201B since the multiple uses on-site have different enough peak parking times, so that the required number of parking spaces could be reduced.

The Planning Board grants the Special Permit for "Motion the Dance Studio" with the following conditions and restrictions:

1. The Planning Board grants the Special Permit in substantial conformance with the plan as modified by the Planning Board entitled "Site Plan drawn for Motion the Dance Studio, 365 Faunce Corner Road" dated September 23, 2010.
2. The following note shall be added to the plan "Subject to a Special Permit granted by the Planning Board on November 1, 2010 and recorded in the Bristol County, S.D., Registry of Deeds."
3. The plan shall incorporate the following modifications:
 - a. Curbed islands need to be established around the revised entrance.
 - b. Four additional angled parking spaces shall be provided on the north side of the building near the loading dock.
 - c. The curbed islands need to be landscaped with evergreens and flowering shrubs, which do not grow higher than 2 feet. Four evergreen trees such as White Pine need to be provided along Ledgewood Boulevard opposite the revised entrance.

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- d. The above three plan revisions shall be approved by Planning Staff prior to recording the plan at the Registry of Deeds.
4. The Special Permit shall be recorded by the applicant, including a copy of the revised approved plan.
5. If on-street parking on adjacent ways occurs as a result of this reduction in parking spaces, this Special Permit could be revoked after a public hearing is held.
6. No dance recitals are allowed on-site which exceed the maximum allowed occupancy for the dance studio, which is 28 persons including staff.
7. No Building Permit can be issued for the proposed use, until a letter is received from the Planning Office that conditions 2, 3 and 4 have been met.

All conditions of approval shall be met within one (1) year 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 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 and compliance with Condition 7 is necessary before a Building Permit, dependent on the Planning Board's decision, can be issued by the Director of Inspectional Services/ZEO. 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 area 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.

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(5) 7:45 P.M. – APPOINTMENT - Roger Race (Alternate Energy Committee): Discussion on development of solar farming zoning bylaw

present Roger Race, Chairman of the Alternate Energy Committee
Deborah Wender, Director of Development

The Planning Director stated that Roger Race, at the request of the Planning Board, was invited this evening to discuss the development of a Town bylaw for solar farming. Mr. Perry noted the bylaw would need to go to Town Meeting and it could be put on fast track in case there is a Special Town Meeting before next June.

General discussion ensued. It was noted by Mr. Race that the Town of Monson has already adopted a simple and straightforward bylaw and he would provide staff with a copy. He further noted that the Monson bylaw was based on a template developed by the State.

Deborah Wender, who was in attendance for this discussion, pointed out that the Town of Lincoln also has a similar bylaw. However, one major difference is the Monson bylaw has minimum acreage requirements and the Town of Lincoln's bylaw has no limits on acreage.

Concluding, the Board thanked everyone for their input this evening and suggested staff assist the Alternate Energy Committee in any way they can.

(6) 8:00 P.M. – APPOINTMENT - Richard Corliss: Request to reduce number of signs shown on Randall Medeiros Estates OSRD Subdivision Plan

present Richard Corliss, petitioner
Attorney Michael A. Kehoe, Partridge Snow & Hahn, LLP

The Planning Director briefed Board members on a request from Richard Corliss to reduce required signage in the previously approved Randall Medeiros Estates OSRD Subdivision. He stated the signage as shown on the plan would total 36 signs.

Attorney Kehoe spoke on behalf of the petitioner. Using the displayed subdivision plan, he described where the signage would be placed as presently approved. He stated his client is hoping to come to an agreement for a more reasonable amount.

After considerable discussion, a motion was made by Mrs. Miller, duly seconded by Mr. Haran, and unanimously voted (5-0) to amend Condition #12 of the Special Permit granted on September 12, 2006, recorded at the Bristol County (S.D.) Registry of Deeds, Book 8739 Page 255, and to amend the subdivision plan entitled "Randall Medeiros Estates" dated July 3, 2006 revised to September 15, 2006 recorded in the Bristol County (S.D.) Registry of Deeds Book 162, Page 60, in the following manner:

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1. Condition #12 of the Special Permit is hereby amended to allow the 1' X 1' minimum signs along the open space easement which are spaced 100 feet apart to be spaced as follows: one sign at the corners of lots 1, 2 and 3 along the access easement, two signs between the corners of lots 1, 2 and 3 along the access easements, all of which are a total of 13 signs. See Exhibit Plan dated October 25, 2010 for exact locations.
2. Note #7 on the Definitive Subdivision Plan entitled "Randall Medeiros Estates" shall be revised to add the following sentence:

"Public access through the pedestrian foot traffic easement cannot be blocked by physical means such as, but not limited to, gates or fences."
3. The above two modifications are shown on the Exhibit Plan entitled "Exhibit Plan Showing Amendments to Definitive OSRD Subdivision Plan of Land, Randall Medeiros Estates, dated October 25, 2010.

The Planning Board determined the above modifications were minor and could be approved as an administrative change without the need for a public hearing. By unanimous vote of the five-member Planning Board, the above modifications were approved.

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

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

(10) Planner's Report (cont.)

- The Planning Director noted there is activity occurring at the proposed Walgreen's site at State and Cross Roads. It appears they are getting ready to start construction.
- The Planning Director stated the office has received two separate requests today asking for 1 year extensions on the deadline to completion required improvements in two subdivisions. One is John Alden Farm East and the other is the Estate on Heather's Hill. He noted both subdivisions were to have final inspections this week. Mr. Perry did note that the nature of the surety posted for both subdivisions would allow for this 11th hour request and would not put the Town at risk for losing the funds. The Planning Board agreed that Planning Staff could put both requests on the next agenda since there was no risk to the Town.

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(11) For Your Information/New Business

- Board of Appeals decisions
- Planning staff time sheets

Mrs. Miller asked the Planning Director to inquire as to how SRPEDD could obtain an electronic copy of the Annual Town Report and so notify SRPEDD.

Mrs. Miller mentioned that there are funds coming for technical assistance from SRPEDD and Planning staff needs to coordinate the application with the Select Board.

It was mentioned that when the Planning Director receives requests to work on more expansive projects for other departments, the Planning Board should be apprised of the request.

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 15, 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 9:05 p.m.

Respectfully submitted,
Mrs. Joyce J. Couture
Planning Aide