

**MINUTES OF REGULAR PLANNING BOARD MEETING OF JUNE 20, 2011**  
**Planning Board's Meeting Room #315, Town Office Building**  
**400 Slocum Road, Dartmouth, MA**

**Planning Board**

Mr. Joseph E. Toomey, Jr., Chairman  
Mr. John P. Haran, Vice Chairman  
Mrs. Lorri-Ann Miller, Clerk  
Mr. John V. Sousa  
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. Haran arrived shortly thereafter.

**Administrative Items**

**(1) Approval of Minutes**

Regular Meeting of June 6, 2011

A motion was made by Mr. Larrivee, duly seconded by Mrs. Miller for discussion, and unanimously voted (4-0) to approve the minutes of the regular meeting of June 6, 2011 as written.

Mr. Haran arrived at this time being 7:02 p.m.

**(2) Correspondence**

Legal Notices from Town of Freetown  
Legal Notices from Board of Appeals  
Legal Notices from Conservation Commission

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

**(3) Update on F/Y11 budget through May**

The Planning Director stated the budget is in good shape. A motion was made by Mr. Haran, duly seconded by Mr. Larrivee, and unanimously voted (5-0) to acknowledge and file the update on the Planning Board's F/Y11 budget through May.

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### **(4) Update on Project Timeline Chart**

The Planning Director noted the directional sign bylaw and solar farm bylaw passed at Town Meeting. With regard to the revised Section 16 zoning, Mr. Perry mentioned that Town Counsel may come to the next meeting to discuss the proposed Waiver of Requirements language.

Mr. Perry was asked to send the Executive Administrator an email to find out if he knew of any zoning articles being submitted for Fall Annual Town Meeting.

A motion was made by Mr. Haran, duly seconded by Mr. Larrivee, and unanimously voted to acknowledge and file the update on the project timeline chart.

### **(5) Request for time extension on Special Permit deadline for Peter Spindler, Lot 15A Definitive OSRD Subdivision Plan**

The Planning Director noted that Peter Spindler, the applicant of an approved 1 lot OSRD Subdivision for property located off Rock O'Dundee Road, is having a difficult time finding an organization that will hold a Conservation Restriction for such a small parcel of land (1 acre). Mr. Perry explained that Peter Spindler is requesting this extension in order to keep his Special Permit for an OSRD Subdivision active.

Brief discussion ensued. The Planning Board voiced no objection to this request.

A motion was made by Mrs. Miller, duly seconded by Mr. Haran, and so voted in a roll call vote (5-0) to approve the extension request on completing conditions of the Special Permit for "Lot 15A", Definitive OSRD Subdivision Plan from June 30, 2011 to June 30, 2012 and so notify the Town Clerk.

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

### **(6) Action on Scenic Road Request for Collins Corner Road**

The Planning Director stated that the Department of Public Works would like to start work to create a shoulder area and improve drainage on a section of Collins Corner Road which is a Town designated scenic road. Fifteen (15) trees are proposed for removal on Collins Corner Road. He noted the number is high because trees as small as 4" in diameter are included. The Collins Corner Road site abuts Town conservation land, and so the woodlands adjacent will remain. He noted the Planning Board has held the public hearing on this road and action was delayed pending a tree planting plan for Reed Road which was advertised with Collins Corner Road.

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A motion was made by Mr. Sousa, duly seconded by Mr. Larrivee for discussion, and unanimously voted (5-0) to grant the request from the Department of Public Works to remove fifteen (15) Oak and Pine trees on Collins Corner Road ranging in diameter from 4" to 24", located along the frontage of lot 5-4 of Assessor's Map 79 in substantial accordance with the plan entitled "Plan of Proposed 15 Trees for Removal, Between Station 25 + 56 to 27 + 76" dated March 9, 2011.

### (7) Planner's Report

- Town Meeting

The Planning Director reported that all four zoning articles passed at Town Meeting. Brief discussion ensued. In the future, Mr. Perry is to make it clear to the Town Moderator and in the Planning Board's Report with Recommendation to Town Meeting when a zoning article is not sponsored by the Planning Board. The Planning Board members also felt it is the sponsor's responsibility to answer questions on the floor when it's not a Planning Board article.

- Solar Farm, Energy Park

Mr. Perry mentioned there is another group interested in developing a solar farm at the Aghai property off Old Fall River Road.

- At this time, Mrs. Miller asked Mr. Perry if he had heard any information about an annual meeting of Planning Directors in New Bedford. He responded that he had not.

### Public Hearings and Appointments

### (8) 7:15 P.M. – PUBLIC HEARING - Request from Kevin Santos, 304 Elm Street, LLC, for Special Permits under the Dartmouth Zoning By-Laws to allow redevelopment of property at 304 Elm Street (Assessor's Map 117, Lot 5) to include a market, restaurant, and three apartments

In a roll call vote, a motion was made by Mr. Larrivee, seconded by Mr. Haran, and unanimously voted (5-0) to recess the Planning Board's regular meeting at 7:17 p.m. in order to go into a public hearing<sup>1</sup> concerning a request from Kevin Santos, 304 Elm Street, LLC for Special Permits under the Dartmouth Zoning By-Laws

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

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<sup>1</sup> For more information, see minutes of Planning Board's P.H. of June 20, 2011 "Kevin Santos, 304 Elm Street"

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The regular meeting resumed at 9:30 p.m.

### Administrative Items

**(9) Action on request from Kevin Santos, 304 Elm Street, LLC, for Special Permits under the Dartmouth Zoning By-Laws**

As a result of this evening's lengthy public hearing, and with enough information received, the Planning Board felt it could make a decision on this proposal this evening. Mr. Perry stated approval of a Special Permit is by roll call vote which requires a 4/5<sup>th</sup> vote.

In a roll call vote, a motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and so voted (4-1) with Mr. Haran opposed, to approve the Special Permits to allow redevelopment of property at 304 Elm Street (Assessor's Map 117, Lot 5) in accordance with the following:

Lorri-Ann Miller – yes; Arthur Larrivee – yes; John Haran – no; John Sousa – yes; and Joseph Toomey, Jr. – yes.

CERTIFICATE OF ACTION FOR SPECIAL PERMITS  
Regarding Village Business Apartments and the Waterfront Overlay District  
Prepared for Kevin Santos, Manager for 304 Elm Street, LLC

There was a Planning Board public hearing which was opened on Monday, June 20, 2011 and closed on Monday, June 20, 2011. The public hearing concerned the application of Kevin Santos, c/o Attorney Steven M. Menard, 261 Union Street, New Bedford, MA 02740, for property located at 304 Elm Street as shown on Assessor's Map 117, Lot 5 and owned by Kevin Santos, Manager of 304 Elm Street, LLC, 307 Smith Neck Road, Dartmouth, MA 02748. The applicant is requesting Special Permits under the Dartmouth Zoning By-Laws, Section 10.302 – Village Business Apartments and Sections 18.401 and 18.402 of the Waterfront Overlay District. The Special Permits are needed to allow redevelopment of property at 304 Elm Street (Assessor's Map 117, Lot 5) to include a market, restaurant, and three (3) apartments.

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 June 20, 2011 and after the close of the above described public hearing, the Planning Board voted under the authority of Sections 10.302, 18.401, and 18.402 of the Dartmouth Zoning By-Laws by roll call vote: Mrs. Miller – yes, Mr. Sousa – yes, Mr. Haran – no, Mr. Larrivee – yes, Mr. Toomey – yes, to grant the Special Permits to allow three (3) apartments under Section 10.302 – Village

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Business Apartments, and to allow three (3) apartments under Section 18.401 of the Waterfront Overlay District, and also under Section 18.402 of the Waterfront Overlay District to allow commercial uses greater than 2,000 square feet, all for property at 304 Elm Street (Assessor's Map 117, Lot 5).

The Planning Board finds that the proposed development is in harmony with the purposes and intent of the Zoning By-Laws, and that specifically it will promote the purposes of Sections 10.302, 18.401, and 18.402 of the Dartmouth Zoning By-Laws.

The Board finds that the plan is in harmony with Section 10.302 – Village Business Apartments as follows:

Section 10.302A - Having residences above the market and restaurant will clearly enhance the economic stability of the Village Community and viability of the other uses within the Village Business District by providing customers and employee housing for the other businesses.

Section 10.302B – There are no potential hazards or nuisances created by mixing the residential units and the other uses within the building. Rather, the residential uses will coexist in harmony and create active synergies with the businesses in the building and the neighborhood.

Section 10.302C – The maximum number of residential units allowed on this lot is four (4) including one pre-existing apartment.

Section 10.302D – The architectural appearance of the building is of a scale and style which complements, is respectful of, and preserves the character of the neighborhood. This is clearly demonstrated by the renderings from Annino & Associates.

Section 10.302E – The tenants will be provided one (1) off-street parking space per apartment. The plans presented integrate pedestrian communications between the residential units and business uses.

Section 10.302F – Given the central location of the corner lot on which the building site is located, an ideal synergy will be created between the residential units and businesses below them and the businesses surrounding them.

The Board finds that the plan is in harmony with Section 18.401 – Waterfront Overlay District – Residential Development as follows:

Section 18.601 – The use will not displace allowed uses under Sections 18.301 through 18.310. In fact, the market will provide the much needed sale of groceries. Accordingly, a market will facilitate all uses delineated in Sections 18.301 through 18.310. Further, a market will benefit visiting boaters and with the restaurant will enhance Padanaram's position as a "destination" for boaters.

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Section 10.602 – The market will not interfere with future uses allowed by Sections 18.301 through 18.310. Rather, a market will clearly facilitate the expansion of future uses in the Marine Overlay District by providing the convenience of a local grocery store. In particular, this lot does not have waterfront access.

The Board finds that the plan is in harmony with Section 18.402 – Waterfront Overlay District – Commercial Uses greater than 2,000 square feet as follows:

Section 18.601 – The use will not displace allowed uses under Section 18.301 through Section 18.310. In fact, the market will provide the much needed sale of groceries. Accordingly, a market will facilitate all uses delineated in Sections 18.301 through 18.310. Further, a market will benefit visiting boaters and with the restaurant will enhance Padanaram’s position as a “destination” for boaters.

Section 10.602 – The market will not interfere with future uses allowed by Sections 18.301 through 18.310. Rather, a market will clearly facilitate the expansion of future uses in the Marine Overlay District by providing the convenience of a local grocery store. In particular, this lot does not have waterfront access.

The Planning Board grants the above described Special Permits for 304 Elm Street (Assessor’s Map 117, Lot 5) with the following conditions and restrictions:

1. The Board grants the Special Permits in substantial conformance with the document entitled “Proposed Elm Street Development” dated March 8, 2011 prepared by Annino Inc. which includes plans and elevations of the building. This approval allows the applicant to modify the roof and cupola to simplify the design of the roof.
2. No Building Permit can be issued until:
  - A. The Building Plans include the following:
    - 1) Separate water meters should be shown on the plans for each unit. A new water connection from the main in the street on the westerly side of the building of sufficient size should be shown on the plans to be installed into the property, and individual water services would tap off this line to each unit; or an alternative approved by the Department of Public Works.
    - 2) A water main for fire protection will most likely be required. A site plan must be submitted showing these water improvements.
    - 3) The plan shall show details of the reconstructed sidewalk on the frontage of Bridge Street and Elm Street. The reconstructed sidewalk shall be concrete with granite curbs. Stamped concrete is also acceptable. Handicapped accessibility standards shall be met if possible.

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- 4) A landscape/site plan approved by Planning Staff. The site plan shall show proposed planting, types of plantings and sizes when planted. The area west of the deck shall show surface material (shell) and labeled on the plan for no parking except for dumpster access and service delivery vehicles.
  - 5) A plan showing three (3) parking spaces reserved for tenants of the three (3) new apartments.
  - 6) A bench shall be shown on the plans located between the western deck/patio and Bridge Street.
  - 7) Two (2) benches shall be provided at the parking lot on the southeast corner of Bridge Street and Elm Street.
- B. A valid copy for the sprinkler system and fire alarm system testing in accordance with the National Fire Protection Association and CMR 527 – Commonwealth of Massachusetts Fire Prevention Regulations, Section 1.1.06(2) be sent to the State Fire Marshall's Office.
- C. An easement be granted to the Town for pedestrians to pass and for sidewalk maintenance regarding the sidewalk along Bridge Street.
- D. One (1) parking space per new apartment unit for a total of three (3), shall be assigned to each new apartment and legally reserved and marked in the parking lot controlled by the applicant at the southeast corner of Bridge Street and Elm Street.
3. No more than four (4) apartments are allowed on the premises (3 new, 1 existing).
  4. The maximum amount of commercial area on the site shall be 3,100 square feet.
  5. No occupancy permit can be given by the Director of Inspectional Services until both the Planning Department and Department of Public Works confirm in writing that the project is substantially constructed in accordance with the approved site plans.

Substantial use of the Special Permits shall be commenced or construction begun except for good cause, within eighteen (18) months 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.

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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 Permits 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.

### **(10) 8:00 P.M. – APPOINTMENT - Steven Gioiosa: Initial review of Off-Street Parking Plan for Panagakos Development, 299 State Road**

Present: Steven Gioiosa, SITEC, Inc.

Mr. Haran recused himself from participating in this discussion explaining that he owns property that abuts this proposal.

The Planning Director noted that this off-street parking plan is for a building and parking lot expansion at the southwest corner of State and Cross Roads (Liberty Travel). He noted additional property has been purchased to make the expansion possible and a fast food restaurant with drive- thru or optional retail is proposed.

Mr. Perry stated that the applicant's engineer, Steven Gioiosa, is present this evening to provide more details on this proposal.

Discussion ensued. Of particular concern was the proposed drive-thru for a fast food restaurant, the stacking space, and the proposed curb cut on Old Westport Road.

As a result of this discussion, Mr. Gioiosa was asked to consider the following issues in a revised plan:

1. The drive-thru needs more vehicle stacking space behind the menu board and a bypass lane is needed adjacent to the stacking lane.
2. An access connection shall be shown to the south property line.
3. Sidewalk access from Old Westport Road is needed.
4. A "Keep Right" sign is required at the Old Westport Road entrance.

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5. "Do Not Enter" signs are needed near the drive-thru/bypass for drivers entering from the Old Westport Road driveway.
6. "Enter" and "exit" signs are needed for the State Road driveway.
7. The landscaping plan needs the following modifications:
  - A. The Kwanzan Cherries should be "Platanus acerifolia".
  - B. Some evergreen trees are needed along the west buffer. Suggest at least 3 White Pine.
  - C. Additional evergreen shrubs are needed along frontage areas. Suggest Ilex glabra, Taxus densiformis and Yaku Princess Rhododendrons.
8. A ground water table determination is necessary in order to properly analyze the roof recharge and drainage system.
9. The 6" water main that is shown on the plan on Old Westport Road and the water service connection off this main to #299 State Road does not exist. There is an existing 16" water main on Old Westport Road that should be accurately shown on the plans with the 1" water service to #301 State Road. This service will need to be disconnected at the main on Old Westport Road before the house is demolished. This should be noted on the plans.
10. Sewer clean outs must meet D.P.W. specifications which require a tee wye, a 6" PVC SDR-35 pipe to the surface with a threaded cap and metal cover.
11. A Sewer System Development Charge (1/1 fee) will be required since the change of use to a restaurant will increase the flow into the Town's sewer system.

As the project deadline was approaching, Mr. Gioiosa asked for the Planning Board's consideration on a time extension on the project deadline.

A motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and unanimously voted (4-0) with Mr. Haran abstaining to approve the time extension request on the deadline for action on the Off-Street Parking Plan for 299 State Road, Panagakos Development from July 14, 2011 to September 14, 2011.

**(11) 8:30 P.M. – APPOINTMENT - Richard Rheume: Discussion on revised parking plan for Stephen's Hair Salon off State Road and time extension request on deadline for action**

Present: Richard Rheume, Prime Engineering, Inc.

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The Planning Director stated that Richard Rheume, representing the owners of Stephen's Hair Salon, is present this evening to discuss a revised plan which shows a decrease in lot coverage.

Mr. Rheume displayed a colored sketch plan and proceeded to describe in detail the revised design of the site.

Lengthy discussion ensued regarding lot coverage and the adequacy of parking spaces to salon stations.

Mr. Rheume asked the Planning Board to forward a letter of recommendation to the Board of Appeals.

A motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and so voted (4-1) with Mr. Haran opposed to send a letter to the Board of Appeals regarding their variance application for Stephen's Hair Salon, 8 Champion Terrace, informing them that the Planning Board has the following comments:

1. The Planning Board is satisfied with the design layout of the parking facility as shown on the plan entitled "Site Layout Plan, 8 Champion Terrace" dated 5/20/11 revised to 6/06/11. This plan will still need to be approved by the Planning Board as submitted under Section 16 of the Dartmouth Zoning By-Laws.
2. The Planning Board is satisfied with the parking plan showing proposed lot coverage of 44.1% which is only an increase of 2.6% over the lot coverage granted in 1984.
3. The Planning Board does have a problem with the proposed ratio of stations to parking spaces. The Planning Board recommends the standards of Section 16 for the required number of parking spaces per station be adhered to. Since there are only about 40 parking spaces proposed (including the leased spaces), the number of stations may have to be reduced.

Additionally, Mr. Rheume noted the project applicants, Stephen and JoAnne Cabral, are requesting a time extension on the Planning Board's deadline for action.

A motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and unanimously voted (5-0) to approve the time extension request on the deadline for action on the Off-Street Parking Plan for Stephen's Hair Salon, 8 Champion Terrace from July 8, 2011 to November 30, 2011.

### **Administrative Items**

#### **(12) For Your Information/New Business**

- Letters to Board of Appeals from Planning Director

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- Board of Appeals decisions
- Subcommittee Reports
- Reviewer's Meeting update
- Planning staff timesheets

Mrs. Miller asked Mr. Perry to get more details on the Annual Meeting of Planning Director's which she referred to earlier in the meeting and report back.

Mr. Toomey noted that the next Planning Board meeting is scheduled for July 11, 2011, in room #315, Town Office Building, 400 Slocum Road. He then called for a motion to adjourn.

A motion was made by Mr. Larrivee, duly seconded by Mr. Haran, and unanimously voted (5-0), to adjourn this evening's regular meeting at 10:48 p.m.

Respectfully submitted,  
Mrs. Joyce J. Couture  
Planning Aide