

MINUTES OF REGULAR PLANNING BOARD MEETING OF FEBRUARY 27, 2012
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. Joel Avila

Planning Staff

Mr. Donald A. Perry, Planning Director
Absent - Mrs. Joyce J. Couture, Planning Aide

The Chairman called the meeting to order at 7:00 p.m. with all Planning Board members and the Planning Director present. Ms. Jane Kirby, Principal Clerk for the Zoning Board of Appeals, was present in Ms. Couture's absence.

Administrative Items

(1) Approval of Minutes

Regular Meeting of February 6, 2012

A motion was made by Lorri-Ann Miller, duly seconded by John Haran for discussion, and unanimously voted (5-0) to approve the minutes of the regular meeting of February 6, 2012 as written.

**(10) Endorsement of Definitive Subdivision Plan entitled
"The Village at Lincoln Park"**

This item was taken out of order (10th on the agenda)

Present: Attorney Jay Williams

The Planning Director gave a brief summary of the plan before the Board. Attorney Williams noted that Joe Vieira, Safety Officer, approved this plan and will forward a letter to the Planning Office stating his approval.

John Sousa stated that a motion to approve and endorse the plan should be subject to the receipt of the Safety Officer's letter.

A motion was made by Lorri-Ann Miller, duly seconded by John Sousa, and unanimously voted (5-0) to approve and endorse the above-referenced plan, subject to receipt of the Safety Officer's letter of approval.

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(2) Correspondence

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

A brief discussion ensued regarding the Town of Westport's legal notice on proposed amendments to that Town's Zoning By-laws. The Board requested that the Planning Director obtain copies of the Town of Westport's Science & Technology Overlay District and the Flexible Frontage By-laws for their review.

A motion was made by John Sousa, duly seconded by Joel Avila, and unanimously voted (5-0) to acknowledge and file the above referenced correspondence.

(3) Acknowledgement of Chapter 91 Waterways License Application for Robert Weeks, 56 Captains Lane

The Planning Director explained that the license application is for a dock in Apponagansett Bay at 56 Captains Lane, and requested the Board authorize him to sign the license application and forward the appropriate standard letter to DEP.

A motion was made by Joel Avila, duly seconded by John Sousa, and unanimously voted (5-0) to authorize the Planning Director to sign the license application and to forward the standard letter to DEP regarding this application.

(4) Report with Recommendation on Chapter 61A land owned by Kingfisher Corp. and located off Fisher Road, portions of Assessor's Map 32, Lot 54 and Assessor's Map 37, Lots 27, 39, 40 and 41

John Sousa, a direct abutter to the subject property, recused himself.

The Planning Director spoke on a request to remove approximately 44 acres of land currently under Chapter 61A located off Fisher Road north east of Gidley Town Road (756 Fisher Road). The property is owned by Kingfisher Corporation and the applicant is proposing to utilize the land for a solar farm.

The Planning Director reviewed the evaluation criteria used in determining a recommendation to the Select Board and noted that there was not enough criteria in this case to recommend favorably.

A Board member expressed concern with sending a negative recommendation to the Select Board on such a large parcel if the Agricultural Commission were to recommend favorably. The Board determined that this parcel is not suitable for agricultural use so that would not be an issue.

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A motion was made by Joel Avila, duly seconded by John Haran, and voted (4 in favor-1 abstaining) to send a letter to the Select Board stating the Planning Board voted to not recommend exercising the Town's option to purchase 44 acres of land located off Fisher Road (Assessors Map 37, Lots 37, 39, 40 and 41) and owned by Kingfisher Corporation.

(5) Action on Off-Street Parking Plan entitled "A & A Jewelers, 169 Rockdale Avenue"

Present: Steven Gioiosa, SITEC, Inc., representing the applicant
Alex Nasrawi, applicant
Attorney Steven Weil, Doherty, Ciechanowski, Dugan & Cannon, P.C.,
- representing McDonalds

The Planning Director noted as a result of the Planning Board's previous review of this proposal, the parking plan has been revised and the gross square footage of the building has been reduced to ensure that only 6 parking spaces are required. He said the plans comply with the requirements of Section 16 except for some landscape additions.

Steven Gioiosa, SITEC, Inc., proceeded to review the revised site plan and noted the changes. Mr. Gioiosa pointed out that his client is proposing 6 on-site parking spaces.

Mr. Gioiosa stated that he met with Paul Murphy, Director of Inspectional Services, prior to this meeting and received his interpretation on calculating gross floor area. As part of this revised proposal, the applicant would close off a portion of the building to create unusable space (230 s.f.). The revised proposal did not calculate the utility room or vestibule as part of the gross floor area. The revised proposal included a reduction in the footprint of the existing building from 1,875 s.f. to 1,658 s.f. As a result of these proposed changes, the gross floor area would be reduced to 1,096 s.f. requiring 6 parking spaces as presented in the revised parking plan, according to Mr. Gioiosa.

The Board expressed concern with creating unusable space in the existing building to reduce the gross floor area.

Mr. Gioiosa stated that it is not prohibited in the zoning by-law and that Mr. Murphy agreed with his calculations on gross floor area.

Lengthy discussion ensued.

The Board questioned the easement, and Mr. Gioiosa submitted a copy of the deed to the Board for the file.

Attorney Steven Weil, representing McDonalds, alerted the Board that McDonalds is opposed to this proposal. Attorney Weil stated that in his opinion, the proposal does

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not conform to the by-law in terms of calculating gross floor area, and that reducing the gross floor area of a building by 30% was substantial. Attorney Weil disagreed with Mr. Gioiosa, and stated that the gross floor area definition in the by-law does not allow for the creation of unusable space by walling off areas. Attorney Weil also questioned the utility room dimensions (10' X 20'), and stated the vestibule must be included as part of the gross floor area calculation.

The Board determined that a letter from Paul Murphy outlining how he would calculate the gross floor area for this proposal was necessary.

Steve Gioiosa requested a continuance to allow for the receipt of Mr. Murphy's letter.

The Planning Director pointed out a time extension for the deadline for action would be needed.

A motion was made by Lorri-Ann Miller, duly seconded by John Haran, and unanimously voted (5-0) to allow a continuance to March 12, 2012, with a mutually agreed upon extension on the deadline for action granted to April 30, 2012.

(6) Review of parking plan modifications for 349 State Road

Present: Steven Gioiosa, SITEC, Inc., representing the applicant

The Planning Director briefed the Board on a proposal for a Mexican restaurant at the former Outback Steak House on State Road across from the Mall. He noted that since this is not a change in use, a full-fledged parking plan is not required. Mr. Perry did note that the applicant does want to locate retail space in the building at a future date and that would require an off-street parking plan submittal.

Steven Gioiosa, SITEC, Inc., provided a more detailed description of the proposal by reviewing the site plan and proposed architectural changes to accommodate both the restaurant and the unknown retail use. Mr. Gioiosa calculated the parking requirements at a total of 56 required spaces.

- Restaurant, 75 seats proposed
 - 25 spaces
 - 10 employee spaces

- Future retail use, 2,800 s.f.
 - 21 spaces

Mr. Gioiosa acknowledged that when the retail use is determined, a parking plan would need to be submitted and approved by the Board.

Mr. Gioiosa noted the restaurant would like to add a monument style sign to this proposal, not shown on the plan, and submitted a sign drawing to the Board for Chipotle Mexican

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Grill drawn by Broadway National Signs/Lighting/Electrical and dated 2.07.12 with revised date 2.27.12.

Part of the design for the restaurant showed an outdoor seating area, and the Board determined that the site plan should include bollards to protect the outdoor seating area, as the subject property is close to the highway.

Concluding, a motion was made by Lorri-Ann Miller, duly seconded by John Haran, and unanimously voted (5-0) to send a letter to the Director of Inspectional Services authorizing him to issue a building permit for the restaurant based on the submitted site plan, with the addition of protectoral bollards. However, when and if the applicant adds a retail use, the applicant will need to have Section 16 approval.

(7) Planner's Report

- Elm Street Sidewalks

The Planning Director stated that he attended the public hearing and many resident concerns were addressed at that time. The Planning Director felt that half of the people present were in favor of having sidewalks and half opposed. A major concern was speeding on Elm Street. The Planning Director mentioned that the DPW is still in the process of seeking an attractive solution to design concerns expressed at the hearing and hoped that there will be another public hearing in the near future.

- Report to Municipal Facilities Committee

Chairman Toomey acknowledged the Planning Director's report outlining his recommendations for the possible uses for four town-owned buildings.

Chairman Toomey stated that he is a member of the Municipal Facilities Committee, and the committee is charged with reviewing and researching at least fifteen town-owned buildings.

Chairman Toomey asked the Board's opinion on using the Planning Director's time for similar reports in the future, as these recommendations are taken into consideration by the committee.

The consensus of the Board was to let the Planning Director inform them when and if the workload became too intense.

(8) For Your Information/New Business

- Reviewer's Meeting update

The Planning Director briefly reviewed the following items discussed at the

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last meeting dated February 22, 2012. Adam Recchia from SRPEDD discussed traffic calming for Elm Street. The Hixville Road Solar Farm was discussed with representation from ConEdison. Finally, reviewers met Robert Collins regarding a proposed windmill with turbine blades at 40' diameter for the Sid Wainer property located on Barneys Joy Road.

- Subcommittee Reports

Lorri-Ann Miller updated the Board on a SRPEDD project, noting the Faunce Corner Road interchange design, which was 75% complete. She informed the Board of a Cross Road/Old Westport Road traffic study. Finally, she mentioned a Bike Committee Meeting in March with SRPEDD and would like to see Dartmouth's Bike Committee attend this meeting.

- Planning staff timesheets
- Joel Avila would like to have the tentative Planning Board's schedule posted on the website, with a disclaimer that the schedule is for general informational purposes and subject to change.
- Steve Gioiosa requested that the Planning Director include his client, Brady Estates, for the next reviewer's meeting.

**(9) Long Range Planning –
Discussion of Dartmouth Street/Bliss Corner zoning**

Due to the late hour, the Board decided to table this discussion and place it on the next agenda. The Board noted that the language of the draft Bliss Corner Business District zoning is similar to the language used for the Padanaram District zoning, and requested that the Planning Director identify the differences.

In closing, Mr. Toomey noted that the next Planning Board meeting is scheduled for March 12, 2012, in room #315, Town Office Building, 400 Slocum Road. He then called for a motion to adjourn.

A motion was made by John Haran, duly seconded by Lorri-Ann Miller, and unanimously voted (5-0), to adjourn this evening's regular meeting at 10 p.m.

Respectfully submitted,

Jane Kirby, Principal Clerk
Zoning Board of Appeals