

MINUTES OF REGULAR PLANNING BOARD MEETING OF MAY 21, 2012
Planning Board's Meeting Room #315, Town Office Building
400 Slocum Road, Dartmouth, MA

Planning Board

Mr. Joel Avila, Chairman
Mr. Joseph E. Toomey, Jr., Vice Chairman
Mrs. Lorri-Ann Miller, Clerk
Mr. John V. Sousa
Mr. Stanley M. Mickelson

Planning Staff

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

The Chairman called the meeting to order at 7:04 p.m. with all Planning Board members and Planning staff present.

Administrative Items

(1) Approval of Minutes

Regular Meeting of May 7, 2012

A motion was made by Mr. Toomey, duly seconded by Mr. Sousa for discussion, and unanimously voted (5-0) to approve the minutes of the regular meeting of May 7, 2012 as written.

(2) Invoices

W.B. Mason dated May 15, 2012 for \$515.01
re: office furniture and miscellaneous supplies

A motion was made by Mr. Toomey, duly seconded by Mr. Sousa for discussion, and unanimously voted (5-0) to approve payment of the above referenced invoice.

(3) Correspondence

Legal Notice from Dartmouth Board of Appeals
Legal Notice from Dartmouth Conservation Commission

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

(4) Update on Planning Board's F/Y'12 budget thru April

The Planning Director noted that the budget is in good shape.

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A motion was made by Mr. Sousa, duly seconded by Mr. Mickelson, and unanimously voted (5-0) to acknowledge and file the Planning Board's F/Y'12 budget update thru April.

(5) Discussion on appointment of Alternate Planning Board member

The Planning Director reported that he spoke with Town Counsel regarding the interpretation of certain language in Section 39.100 - Other Special Permit Granting Authority of the Zoning Bylaws. Said language specifies an alternate member should be chosen at the first regularly scheduled Planning Board meeting after the general Town election. Since this date has passed without appointment, Town Counsel recommends the Planning Board amend the strict language to allow more flexibility at Fall Town Meeting. Otherwise, the Planning Board will not be able to appoint an Alternate Board member until after the general Town election next Spring.

A motion was made Mr. Sousa, duly seconded by Mr. Mickelson, and unanimously voted (5-0) to have the Planning Director develop a bylaw revision on Section 39 for Fall Town Meeting.

(6) Planner's Report

- Padanaram Parking

The Planning Director briefed the Board members on a meeting he recently attended regarding parking in Padanaram Village in anticipation of increased activity in the Village. For now, areas will be marked to identify non parking close to driveways, fire hydrants, and intersections. The Planning Board asked that a letter be sent to the Select Board asking for Planning Board input anytime the Select Board considers restricting parking on public streets.

Public Hearing

(7) 7:15 P.M. – PUBLIC HEARING - Request to rescind certain lots and streets in approved Definitive Subdivision Plans entitled Dartmouth Heritage Industrial Park (Section 1 and Section 2), for land located off Old Fall River Road

A motion was made by Mr. Toomey, seconded by Mr. Sousa, and unanimously voted (5-0), to recess the Planning Board's regular meeting at 7:19 p.m. in order to go into a public hearing¹ concerning a request to rescind certain lots and streets in the approved Definitive Subdivision Plans entitled Dartmouth Heritage Industrial Park (Section 1 and Section 2) for land located off Old Fall River Road.

The regular meeting resumed at 7:44 p.m.

¹ For more information, see minutes of Planning Board's Public Hearing of May 21, 2012

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(8) Action on request to rescind certain lots and streets in approved Definitive Subdivision Plans entitled Dartmouth Heritage Industrial Park (Section 1 and Section 2)

First, the Planning Board voted on Section 1.

A motion was made by Mr. Sousa, duly seconded by Mr. Mickelson, and unanimously voted (5-0) to amend the approved Definitive Subdivision Plan entitled "Dartmouth Heritage Industrial Park, Section 1" dated April 13, 1990 recorded in the Bristol County Registry of Deeds (S.D.) Book 139, Page 1. The Board voted to approve an amended plan entitled "Amended Definitive Subdivision Plan of Land, Dartmouth Heritage Industrial Park, Section 1" dated April 10, 2012.

The Board determined that the owner of all the lots and streets affected by the amendment signed an affidavit attesting the same and agreed with the proposed amendments.

This amendment does not take effect until 20 days have elapsed from the date of filing this certificate with the Town Clerk and there is no appeal. This certificate should be recorded in the Registry of Deeds and referenced on the previously approved plan.

Next, the Planning Board voted on Section 2.

A motion was made by Mr. Sousa, duly seconded by Mr. Mickelson, and unanimously voted (5-0) to amend by rescinding the approved Definitive Subdivision Plan entitled "Dartmouth Heritage Industrial Park, Section 2" dated April 13, 1990 recorded in the Bristol County Registry of Deeds (S.D.) Book 139, Page 2. The Board voted to approve an amended plan entitled "Amended Definitive Subdivision Plan of Land, Dartmouth Heritage Industrial Park, Section 2" dated April 10, 2012.

The Board determined that the owner of all the lots and streets affected by the amendment signed an affidavit attesting the same and agreed with the proposed amendments.

This amendment does not take effect until 20 days have elapsed from the date of filing this certificate with the Town Clerk and there is no appeal. This certificate should be recorded in the Registry of Deeds and referenced on the previously approved plan.

(9) Preliminary Subdivision Plan entitled "Hixville Estates"

Present: Steven Gioiosa, SITEC, Inc.
Attorney Chip Mulford, representing the applicant and owner, Mary Robinson

The Planning Director stated that this Preliminary Subdivision Plan is for land located on the north side of Hixville Road, southeast of the Shingle Island River. He noted the proposed lots will meet the frontage and area requirements of the Single Residence B Zoning District and the proposed road generally complies with the Subdivision Regulations.

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Mr. Gioiosa provided an overview of the project.

Brief discussion ensued.

A motion was made by Mr. Sousa, duly seconded by Mr. Toomey, and unanimously voted (5-0) to approve the Preliminary Subdivision Plan entitled "Hixville Estates" dated April 5, 2012 for property located on Hixville Road and submitted to the Planning Board office on April 20, 2012.

The plan was approved with the following modifications and conditions which should be addressed in a Definitive Subdivision Plan evolving from this Preliminary Plan:

1. The wetland determination should be verified by the Dartmouth Conservation Commission.
2. There is a dirt road that passes through this site that may service the electric power lines. Any proposed reconnection of this private way to the new roadway should be shown.
3. The existing driveway at #671 Hixville Road appears to connect to Hixville Road at the location of the new roadway. This driveway should be shown on the definitive plans and may need to be relocated.
4. The applicant is hereby put on notice that in order to preserve the zoning in effect at the time of Preliminary Plan submission, a Definitive Subdivision Plan must be submitted in the time period specified by M.G.L., Chapter 40A, Section 6 (7 months from date of Preliminary Plan submittal) and the Definitive Subdivision Plan must be approved by the Planning Board.

(10) Preliminary Subdivision Plan entitled "Old Fall River Heights"

Present: Steven Gioiosa, SITEC, Inc.
Attorney Chip Mulford, representing the applicant and owner, Mary Robinson

The Planning Director stated that this two lot Preliminary Subdivision Plan is for land on the south side of Old Fall River Road, east of the Shingle Island River. The proposed lots would meet the area and frontage requirements of the Single Residence B Zoning District. Mr. Perry identified issues which would need to be addressed in a Definitive Subdivision Plan.

Mr. Gioiosa spoke on the proposal, responding to several questions from Board members.

Brief discussion ensued.

A motion was made by Mr. Sousa, duly seconded by Mr. Mickelson, and unanimously voted

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(5-0) to approve the Preliminary Subdivision Plan entitled "Old Fall River Heights" dated April 5, 2012 for property located off Old Fall River Road and submitted to the Planning Board office on April 20, 2012.

The plan was approved with the following modifications and conditions which should be addressed in a Definitive Subdivision Plan evolving from this Preliminary Plan:

1. The plan needs to comply with the street centerline offset (Section 3.303e) requirements of the Subdivision Regulations.
2. The wetlands determination needs to be verified by the Dartmouth Conservation Commission.
3. The limits of the landfill on the site must be depicted on the subdivision plan.
4. A VOC analysis will be required for any drinking water wells on this site.
5. The following notes shall be placed on the subdivision plan:
 - a. "No building shall be placed on lots 1 or 2 without prior written consent of the Board of Health."
 - b. "Property owners shall be responsible for their own collection and disposal of trash."
6. The applicant is hereby put on notice that in order to preserve the zoning in effect at the time of Preliminary Plan submission, a Definitive Subdivision Plan must be submitted in the time period specified by M.G.L., Chapter 40A, Section 6 (7 months from date of Preliminary Plan submittal) and the Definitive Subdivision Plan must be approved by the Planning Board.

Appointment

(11) 8:00 P.M. – APPOINTMENT - Richard Rheume, Prime Engineering, Inc.: Proposed amendment to Annies Path Subdivision

Present: Richard Rheume, Prime Engineering, Inc.

Mr. Rheume, representing Bruce Poor, the current landowner, spoke of an older approved 2-lot subdivision called Annie's Path located off Avis Street. He explained that Mr. Poor would like to build one single family home on the property without constructing the paved road as required in the original approval. Mr. Rheume spoke about an existing ancient gravel way, its condition for use as access, and permanently restricting portions of the property as open space.

Discussion ensued.

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Board members were not generally in favor of using a gravel ancient way as frontage. Concern was expressed that future development could occur on the ancient way. Gravel ways have only been allowed for OSRD subdivision plans serving 4 or less houses and where an association can maintain the road.

As a result of this exchange of viewpoints, Mr. Rheume was encouraged to submit an OSRD subdivision plan.

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(12) Preliminary Subdivision Plan entitled “Dartmouth Landfill”

The Planning Director stated that this Preliminary Plan is for land located at the Town landfill on Russells Mills Road. The proposed lots will meet the area and frontage requirements of the Single Residence B Zoning District. Mr. Perry mentioned that in reviewing this Preliminary Plan, the proposed road is in gross violation of the Subdivision Regulations. In particular, it is a straight road for 782 feet where the maximum straight length is 300 feet. The road does not follow the topography or minimize earth disturbance because the road goes right over a bedrock hill, which would require extensive blasting to meet road grade requirements. The road also abuts the property line its entire length, which is not allowed and intersects Russells Mills Road on a curve.

Discussion ensued.

The Planning Board asked that a letter be sent to David Cressman, the Executive Administrator, informing him that the plan was poorly designed and any Definitive Subdivision Plan evolving from the Preliminary Plan will need to show better compliance with the Subdivision Regulations.

A motion was made by Mr. Sousa, duly seconded by Mr. Toomey, and unanimously voted (5-0) to disapprove the Preliminary Subdivision Plan entitled “Dartmouth Landfill Subdivision” dated April 20, 2012 for property located off Russells Mills Road and submitted to the Planning Board office on April 23, 2012.

The plan was disapproved because the proposed roadway shows significant non-compliance with the Subdivision Regulations. If the applicant chooses to submit a Definitive Subdivision Plan evolving from this Preliminary Plan, the following general direction is provided to improve the plan:

1. Compliance with Sections 3.301g, 3.303 c, e, f, and g is expected and concerns the proposed long, straight roadway along the abutting property line with an intersection at a curve in Russells Mills Road.

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2. Compliance with the other requirements of the Subdivision Regulations is expected when more detailed plans are prepared.
3. If any waivers from the Subdivision Regulations will be requested, the guidelines of Section 3.104 must be followed.
4. The applicant is hereby put on notice that in order to preserve the zoning in effect at the time of Preliminary Plan submission, a Definitive Subdivision Plan must be submitted in the time period specified by M.G.L., Chapter 40A, Section 6 (7 months from date of Preliminary Plan submittal) and the Definitive Subdivision Plan must be approved by the Planning Board.

(13) For Your Information/New Business

- Board of Appeals decisions
- Planning Director's review for Board of Appeals
- Subcommittee Reports
- Planning staff timesheets

Mr. Mickelson reported that he has spoken with Cynthia Marland and a couple of Select Board members about filming meetings held in room #315. He suggested the Planning Board send another request to the Select Board.

A motion was made by Mr. Mickelson, duly seconded by Mr. Toomey, and unanimously voted to send a letter to the Select Board requesting their assistance in providing a means to having room #315 filmed by DCTV for public viewing. The Planning Board feels there is a demand among Town residents for transparency in government, which begins with easier accessibility to meetings. The Board also noted that they understand the quality may not be as sophisticated as the Select Board's meeting room and that is acceptable.

After a short discussion initiated by Mr. Sousa on the subject of Board stipends which he observed was discussed at a Select Board's meeting, a motion was made by Mr. Sousa, duly seconded by Mr. Toomey, and so voted (4-1) with Mr. Avila opposed to send a letter to the Select Board informing them that the Board would like to support any article that provides a reasonable stipend for Town Board members and would be willing to co-sponsor such an article. The Planning Board supports a stipend only and is not requesting other Town employee benefits. A reasonable yearly stipend would help cover some of the expenses Board members routinely encounter such as gas mileage for site visits and attending regional meetings or conferences.

Mrs. Miller noted that she has two meetings this week at SRPEDD and briefed the Board on two current projects. On another subject matter, Mrs. Miller made it known that Vanity Fair will be coming before the Planning Board at the next meeting, and after checking with Town Counsel, she said she can vote on this matter, but would only do so if there is a tie vote. Mrs. Miller mentioned this subject because she works in the Vanity Fair building.

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Mr. Toomey announced there was a Municipal Facilities Meeting scheduled for this Wednesday at 6:30 p.m. in room #315.

The Chairman noted the next Planning Board meeting is scheduled for June 4, 2012.

With no further business, a motion was made by Mr. Sousa, duly seconded by Mr. Toomey, and unanimously voted (5-0) to adjourn this evening's regular meeting at 8:48 p.m.

Respectfully submitted,
Mrs. Joyce J. Couture
Planning Aide