

MINUTES OF REGULAR PLANNING BOARD MEETING OF JULY 23, 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 7:00 p.m. with four Planning Board members and Planning staff present. Mr. Toomey was unable to attend.

Administrative Items

(1) Approval of Minutes

Regular Meeting of July 9, 2012
Public Hearing of July 9, 2012 "Special Permit Request for VF Factory Outlet"

A motion was made by Mrs. Miller, duly seconded by Mr. Sousa for discussion, and unanimously voted (4-0) to approve the minutes of the regular meeting of July 9, 2012 and the minutes of the public hearing of July 9, 2012 "Special Permit Request for VF Factory Outlet" as written.

(2) Correspondence

Legal Notices from City of Fall River
Legal Notices from Town of Freetown
Legal Notices from Dartmouth Board of Appeals
Legal Notices from Dartmouth Conservation Commission

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

Letter from Roseanne O'Connell dated July 9, 2012 re: Solar Farm By-Law
Letter from Robin Sullivan dated July 10, 2012 re: Solar Farm By-Law

The Board deferred discussion on the above referenced letters until later in the evening.

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

Lloyd Center for the Environment Potomska Road dated 5/17/12 rev. 6/19/12

The Planning Director stated this ANR plan changes lot lines between two existing lots. The modified lots still comply with the zoning requirements for frontage and area and no new buildable lots are created. He noted the plan can be endorsed.

A motion was made by Mr. Sousa, duly seconded by Mrs. Miller, and unanimously voted (4-0) to endorse the ANR plan for the Lloyd Center for the Environment for property located off Potomska Road dated May 17, 2012 revised to June 19, 2012.

Dolores Sousa Tucker Lane dated 7/12/12

Mr. Perry noted this ANR plan changes lot lines between two existing lots and creates a non-buildable parcel. The modified buildable lots still comply with the zoning requirements for frontage and area. No new buildable lots are created. The plan can be endorsed.

A motion was made by Mrs. Miller, duly seconded by Mr. Mickelson, and so voted (4-0-1) with Mr. Sousa abstaining to endorse the ANR plan for Dolores Sousa for property located off Tucker Lane dated July 12, 2012.

(4) Report with Recommendation on Chapter 61A land off Horseneck Road, Assessor's Map 12, Lot 18 and Lot 20

The Planning Director stated that the Planning Board must make a recommendation to the Select Board on whether to exercise the Town's first option to purchase Chapter 61A land being proposed for sale. The property consists of 22.7 acres of land located off Horseneck Road, Assessor's Map 12, Lot 18 and Lot 20 and is owned by Richard and Andrea DeCosta.

Discussion ensued on the attributes of the site and it was felt the property met enough criteria for the Town to consider its purchase.

A motion was made by Mr. Sousa, duly seconded by Mr. Mickelson, and unanimously voted (4-0) to recommend to the Select Board that the Town exercise its option to purchase 22.7 acres of land located between Horseneck Road and Division Road comprising lots 18 and 20 on Assessor's Map 12. The property contains agricultural fields worth preserving but more importantly the property is centrally located to extensive conservation holdings by the Commonwealth of Massachusetts and will complement that land. The property meets enough criteria used to consider it valuable land to purchase for the Town.

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(5) Review of letter to Select Board regarding filming of Planning Board meetings

Brief discussion ensued on the draft letter to the Select Board concerning the filming by DCTV of Planning Board meetings in the Planning Board's meeting room #315.

A motion was made by Mrs. Miller, duly seconded by Mr. Sousa, and unanimously voted (4-0) to approve as amended the letter to the Select Board requesting that DCTV start filming for public viewing the Planning Board meetings in room #315 as soon as possible.

(6) Planner's Report

- Dartmouth Woods Apartments

The Planning Director stated he inspected the Dartmouth Woods property at the request of the owner to assess what remains to be done to complete the parking plan requirements. It was noted many trees were not planted and painted crosswalks were missing.

- Commuter Rail Task Force

Mr. Perry briefed the Board on a meeting he attended on July 18, 2012 in Fall River concerning the Southeastern Massachusetts Commuter Rail Task Force. He noted there are monies available for grants, up to two applications per Town. He mentioned Lorri Miller was correct that the grants should be consistent with the previously approved Priority Development Area Map. He also mentioned it was noted at the meeting that SRPEDD will be contacting the Towns this Fall for updates to the Priority Development Maps which need updating after 5 years. Brief discussion ensued.

Appointments

(7) 7:15 P.M – APPOINTMENT - Attorney John Williams: Building permits for model homes at Lincoln Park

Present: Attorney John Williams, representing Midway Realty, LLC

The Planning Director explained that this request is to allow construction of two model homes prior to the release of lots. He noted this has not been requested in over 30 years and the Subdivision Regulations do not make provision for issuance of building permits prior to posting surety with the Town. Therefore, the Building Commissioner cannot issue the building permit without a release of the lots upon which the permit is requested.

Attorney John Williams provided a project update, identifying site improvements and development plans. He pointed out that this subdivision development is still in the 40R District and as long as one house is built in the district, the Town will not have to give back the \$350,000 already given to the Town from the State for the approved 40R project.

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Discussion ensued.

A motion was made by Mr. Sousa, duly seconded by Mr. Mickelson, and unanimously voted (4-0) to approve a policy to allow model homes be built for marketing purposes only provided the Building Commissioner is agreeable to this request and a legal document is provided by the project principals agreeing that the houses will not be sold to a private individual prior to the formal release of lots by the Planning Board.

(8) 7:30 P.M – APPOINTMENT - Paula Faria: Planning Board recommendations to Board of Appeals when Planning Director must recuse himself

Present: Paula Faria, 41 Oliver Street

Ms. Faria requested this appointment to discuss with the Planning Board matters of representation and recommendation to the Board of Appeals when the Planning Director must recuse himself in certain instances that may present a conflict of interest. Ms. Faria spoke about a recent Board of Appeals application for 536 Hawthorn Street that Mr. Perry had to recuse himself since his parents live in the immediate area. She described the ongoing and ever changing type of development this residentially zoned neighborhood has endured. Ms. Faria stated that Planning Board input on parking standards is critical when the Board of Appeals is considering use changes and expansions.

Discussion ensued.

As a result of this discussion, a motion was made by Mrs. Miller, duly seconded by Mr. Sousa, and unanimously voted (4-0) to have Planning Staff forward all Board of Appeals applications in which the Planning Director must recuse himself to the Planning Board for their review and recommendation to the Board of Appeals.

Administrative Items

(9) Request for Planning Board comment on Prestige Market (former CV Variety) drive-thru layouts

The Planning Director noted that the above referenced application for Ronen Drory, 532 Russells Mills Road, is currently before the Board of Appeals. Planning Staff has previously provided a recommendation to the Board of Appeals on the five layout options for this proposal. However, the Board of Appeals has indicated it would like Planning Board comment as well.

Discussion ensued.

As a result of this discussion, a motion was made by Mr. Sousa, duly seconded by Mrs. Miller, and unanimously voted (4-0) to send a letter to the Board of Appeals informing

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them that the Planning Board discussed the proposed modifications to the Prestige Market (former CV Variety) on Russells Mills Road and was overwhelmingly opposed to everything requested. The Board particularly reviewed the five drive-thru concepts, the proposed signage, as well as, the other requested modifications and proposals. The Planning Board noted the proposals were not appropriate for a Neighborhood Business District. The proposed drive-thru would contribute to safety problems, traffic congestion, and conflicts between pedestrians and motor vehicles. The Planning Board also wanted to point out to the applicant that it consistently recommended against a drive-thru on this site at least two times in the past.

(10) For Your Information/New Business

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

As the Planning Board's delegate to SRPEDD, Mrs. Miller announced that the SRPEDD Commission will be holding its meeting this week at the Dartmouth Town Hall, on Wednesday, July 25th at 7:00 p.m. in the Select Board's meeting room.

(11) Continued review of revised Solar Farm Bylaw and vote to submit Solar Farm Bylaw to Select Board for inclusion on Town Meeting warrant

The Planning Director stated that the revised bylaw incorporates all of Town Counsel's comments, the Board's suggested revisions from the July 9th meeting, and a few other language changes which he recommends.

Page by page review of the bylaw commenced. During this review, the Chairman reiterated that he felt there should be two bylaws going to Town Meeting as was suggested by Town Counsel; one for the residential districts, and one for the commercial and industrial districts. However, it was the consensus of the other Board members that this would send the wrong message to Town Meeting.

Upon completion of the bylaw review, the Planning Board felt the bylaw was ready to forward to the Select Board for inclusion on the October Town Meeting warrant. The Planning Board also requested that Planning Staff send a letter to the Select Board asking whether they would like to co-sponsor the revised Solar Farm Bylaw.

A motion was made by Mr. Sousa, duly seconded by Mrs. Miller, and so voted (3-1) with Mr. Avila opposed, to forward the revised Solar Farm Bylaw as agreed upon this evening to the Select Board for inclusion on the October Town Meeting warrant. Mr. Avila opposed because he was not in favor of keeping the residential component in the bylaw.

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(12) Vote to submit Alternate Planning Board member article to Select Board for inclusion on Town Meeting Warrant

Brief discussion ensued on the article prepared for October Town Meeting to amend the Section 39.100B of the Dartmouth Zoning Bylaws. This article clarifies timelines on the appointing of the Planning Board's alternate member for Special Permits.

A motion was made by Mr. Mickelson, duly seconded by Mr. Sousa, and unanimously voted (4-0) to forward the article which revises the appointment procedure of the Planning Board's Alternate member to the Select Board for inclusion on the October Town Meeting warrant.

(13) Correspondence

Letter from Roseanne O'Connell dated July 9, 2012 re: Solar Farm By-Law

Letter from Robin Sullivan dated July 10, 2012 re: Solar Farm By-Law

Brief comment was made on the above two correspondences. One Board member stated, in response to the questions asked by Roseanne O'Connell on who benefits from these renewable energy projects, it was stated they will benefit my grandchildren. Another Board member commented that he is looking for common ground to make solar farms acceptable in certain residential areas of Town.

With no further business, a motion was made by Mr. Sousa, duly seconded by Mr. Mickelson and unanimously voted (4-0) to adjourn this evening's regular meeting at 8:47 p.m.

Respectfully submitted,
Mrs. Joyce J. Couture
Planning Aide