

**MINUTES OF REGULAR PLANNING BOARD MEETING OF AUGUST 6, 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 6:42 p.m. with all Planning Board members and Planning staff present.

Immediately, Attorney Drew Hoyt, representing Empire Management Corporation (26/42 State Road) asked to meet outside the meeting room with Attorney Anthony Savastano (Town Counsel) who was present for tonight's Executive Session.

Upon returning, Attorney Savastano asked that the Planning Board defer going into executive session to discuss the off-street parking plan for 26/42 State Road until another night.

A motion was made by Mr. Sousa, duly seconded by Mr. Toomey, and so voted (4-1) with Mr. Mickelson opposed to defer discussing the off-street parking plan for 26/42 State Road until another Planning Board meeting.

**Executive Session**

- (1) 6:30 P.M. - EXECUTIVE SESSION - M.G.L., Chapter 30A, Section 21(a)3**  
**re: Parking Plan for 26/42 State Road**

This agenda item was cancelled as requested by Town Counsel.

**Administrative Items**

- (2) Approval of Minutes**

Regular Meeting of July 23, 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 July 23, 2012 as written.

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### **(3) Invoices**

Donald A. Perry                      dated August 6, 2012                      for \$405.00  
re: Annual membership dues for APA and AICP Massachusetts Chapter

Brief discussion ensued.

A motion was made by Mr. Mickelson, duly seconded by Mr. Toomey for discussion, and unanimously voted (5-0) to approve payment of the voucher to Donald A. Perry dated August 6, 2012 in the amount of \$405.00

### **(4) Correspondence**

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

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

### **(5) Endorsement of Approval Not Required (ANR) Plans**

Lynn Ratner                                      Old Fall River Road                                      June 4, 2012

The Planning Director stated this ANR plan creates one estate lot from a large lot with an existing house. The existing house will be on a standard lot that meets the frontage and area requirements of the Single Residence B District. Mr. Perry noted the separate estate lot meets the estate lot requirements and the plan can be endorsed.

Brief discussion ensued.

A motion was made by Mrs. Miller, duly seconded by Mr. Sousa, and unanimously voted (5-0) to endorse the ANR plan for Lynn Ratner for property located off Old Fall River Road dated June 4, 2012.

### **(6) Endorsement of Amendment to Definitive Subdivision Plan entitled “Dartmouth Heritage Industrial Park” Section 1 & Section 2**

The Planning Director noted there has been no appeal on the approved amendment to the Dartmouth Heritage Industrial Park Subdivision Plan and he recommended plan endorsement.

A motion was made by Mr. Sousa, duly seconded by Mr. Mickelson, and unanimously voted (5-0) to endorse the amendment to Definitive Subdivision Plan entitled “Dartmouth Heritage Industrial Park” Section 1 & Section 2.

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### **(7) Release of surety on the Baker Farm Subdivision**

Mr. Perry stated this two lot subdivision for Barbara Purdy is located at the corner of Bakerville & Rock O'Dundee Roads. He noted the only improvement needed was for the open space markers/signs and he confirmed that all required conditions have been met.

A motion was made by Mr. Sousa, duly seconded by Mr. Mickelson, and unanimously voted (5-0) to release the \$700.00 surety held for the Baker Farm Subdivision and so notify the Town Treasurer.

### **(8) Planner's Report**

- Little River Road Subdivision

The Planning Director mentioned that there will be an OSRD subdivision plan submitted soon for the Atkins property located on the north side of Little River Road. He provided a brief overview of the proposal which will preserve most of the site as open space with only two new house lots created.

Mr. Toomey stated that when the project is formally before the Planning Board, he will recuse himself from sitting on the Board since he is an abutter. However, Mr. Toomey did note that he will sit in the audience as a party in interest.

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

- Notice of Public Hearing for October Town Meeting zoning articles
- Excerpt from The Beacon re: MMA objection to local tax exemption for solar/wind projects
- Subcommittee Reports

Mrs. Miller apprised the Board of a recent SRPEDD meeting she attended concerning the Faunce Corner Road project.

Mr. Toomey updated the Board on the Municipal Facilities Committee, mentioning at the end of the month the Committee will vote on the preliminary report for Fall Town Meeting.

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

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### Appointment

#### **(10) 7:10 P.M – APPOINTMENT - Alan Heureux: Review of preliminary Southcoast Bikeway route across Dartmouth**

Present: Alan Heureux, Chairman of Dartmouth Pathways Committee  
Marcia Picard, Member of Dartmouth Pathways Committee  
Wendy Henderson, Facilitator for Dartmouth Pathways Committee

Alan Heureux provided a detailed overview of the Dartmouth Pathways Committee mission and goals. He spoke about the preliminary SouthCoast Bikeway Plan for Dartmouth which delineated an east/west bikeway/pedestrian route from the Town of Westport to the City of New Bedford. Mr. Heureux pointed out he wanted to introduce the concept to the Planning Board noting that the proposal is simple and the roadway improvements will be affordable.

General discussion ensued. Each Board member offered their support and encouragement and were very grateful for the Committee's dedication to this proposal. It was suggested that the Bikeway Committee seek Town Meeting acceptance which would then make the project eligible for monies from SRPEDD and/or other agencies as it becomes available.

A motion was made by Mr. Toomey, duly seconded by Mrs. Miller, and unanimously voted (5-0) to support this initiative of the Dartmouth Pathways Committee.

### Administrative Items

#### **(11) Initial review of Off-Street Parking Plan for Not Your Average Joe's, 61 State Road**

Present: Alan Heureux, Boucher & Heureux, Inc.  
Attorney Daniel Perry, representing Not Your Average Joe's  
Mr. & Mrs. Paul Langlois, owners of the property

The Planning Director noted this off-street parking plan is for an expansion of the Not Your Average Joe's parking lot into the former Baker's Books site. He pointed out the expansion of parking is much needed for this popular restaurant but there is a paper street which affects the design. Mr. Perry stated Section 16 requires parking setbacks from streets and prohibits laying out parking stalls and aisles in streets whether built or unbuilt. He also mentioned that the Planning Board received a letter from Attorney Perry citing his legal opinion on the status of the paper street which was forwarded to the Select Board's office for a legal opinion from Dartmouth's Town Counsel. However, a response letter was received through David Cressman stating that Town Counsel reaffirmed to him that the applicant needs to extinguish the paper street through Land Court and another legal opinion is not necessary.

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Lengthy discussion ensued with Attorney Perry making an argument as to his legal view with this specific paper street. He also spoke about the costly and prolonged Land Court process which would delay this project.

After some time, Planning Board members felt a written opinion from Town Counsel was needed prior to moving forward.

A motion was made by Mr. Sousa, duly seconded by Mrs. Miller, and unanimously voted (5-0) to ask David Cressman to reconsider allowing Town Counsel to review the information Attorney Daniel Perry had submitted to the Planning Board regarding this particular paper street.

A motion was made by Mrs. Miller, duly seconded by Mr. Toomey, and unanimously voted (5-0) to approve a time extension request on the Planning Board's deadline for action on the Off-Street Parking Plan for Not Your Average Joe's from August 24, 2012 to September 30, 2012.

With no further business, a motion was made by Mr. Sousa, duly seconded by Mr. Mickelson and unanimously voted (5-0) to adjourn this evening's regular meeting at 8:25 p.m.

Respectfully submitted,  
Mrs. Joyce J. Couture  
Planning Aide