

**MINUTES OF REGULAR PLANNING BOARD MEETING OF OCTOBER 1, 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 all Planning Board members and Planning staff present.

**Administrative Items**

**(1) Approval of Minutes**

Regular Meeting of September 24, 2012

A motion was made by Mr. Mickelson, duly seconded by Mr. Sousa for discussion, and unanimously voted (5-0) to approve the minutes of the regular meeting of September 24, 2012 as written.

**(2) For Your Information/New Business**

- Notice of Municipal Sustainability Series seminars at U-Mass, Dartmouth
- E-mail from David Cressman re: Planning Board articles for Town Meeting
- Notice from Attorney General's Office on June 5, 2012 Annual Town Meeting zoning articles
- Subcommittee Reports
- Board of Appeals decisions
- Planning staff timesheets

A brief discussion focused on the e-mail from David Cressman concerning the Finance Committee's request to consider an amendment on the Planning Board's zoning article concerning the appointment of an alternate member. As a result, the Planning Board requested that Mr. Perry seek Town Counsel's opinion on the suggested amendment since Town Counsel had input on the original article by the Planning Board.

## MINUTES OF REGULAR PLANNING BOARD MEETING OF OCTOBER 1, 2012

The Planning Director updated the Planning Board on a request from St. Anne's Credit Union on State Road to trim and replace a number of trees. After some discussion, the Planning Board expressed no objection to this request, since the type of trees replaced would be killed by insect attack in a few years.

Mrs. Miller spoke about a recent SRPEDD meeting she attended. She said that Bridgewater State has funds to support approximately 1000 interns and she suggested Mr. Perry inquire about it.

Mr. Toomey briefed the Board on the recent Municipal Facilities Committee meeting he attended.

Briefly, Mr. Sousa spoke about the Board of Appeals recommendations from the Planning Director on variance requests that also require Section 16 approval. Due to the scheduled public hearing, Mr. Sousa requested that the Planning Board discuss this matter again at the end of the meeting.

### Public Hearing

- (3) 7:15 P.M. – PUBLIC HEARING - Request by NSTAR Electric to remove trees on the following designated scenic roads: Collins Corner Road, Hixville Road, No. Hixville Road, Old Fall River Road, and Reed Road**

A motion was made by Mrs. Miller, seconded by Mr. Toomey, and unanimously voted (5-0), to recess the Planning Board's regular meeting at 7:16 p.m. in order to go into a public hearing<sup>1</sup> concerning a request by NSTAR Electric to remove several trees on Town designated scenic roads.

The regular meeting resumed at 8:00 p.m.

### Administrative Items

- (4) Action on request by NSTAR Electric to remove trees on the following designated scenic roads: Collins Corner Road, Hixville Road, No. Hixville Road, Old Fall River Road, and Reed Road**

After this evening's duly held public hearing, and with details for approval expressed during said public hearing, a motion was made by Mrs. Miller, duly seconded by Mr. Sousa, and unanimously voted (5-0) to grant the request by NSTAR Electric to remove trees on designated scenic roads in accordance with the following certificate:

---

<sup>1</sup> For more information, see minutes of Planning Board's P. H. of October 1, 2012 "Scenic Road Request"

## MINUTES OF REGULAR PLANNING BOARD MEETING OF OCTOBER 1, 2012

### CERTIFICATE OF ACTION Scenic Road Request by NSTAR Electric

This is notification that on October 1, 2012 under the provisions of the Dartmouth General By-Law covering Scenic Roads, and after the required public hearing, the Dartmouth Planning Board voted to grant the request by NSTAR Electric, One NSTAR Way – Yarmouth, Westwood, MA 02090 to remove trees on the following designated scenic roads: Collins Corner Road, Hixville Road, No. Hixville Road, Old Fall River Road, and Reed Road.

The Dartmouth Planning Board voted to grant permission to remove trees along the above listed roads in accordance with the attached lists except that the following trees are not allowed to be removed:

1242 Reed Road – one 18"-24" Oak  
1246 Reed Road – two 12"-18" Oaks  
1250 Reed Road – one 18"-24" Oak  
Pole 109-108 Hixville Road – one 12"-18" Pine

The Planning Board also placed a condition that at least 25 new shade trees will be planted by NSTAR along the section of Reed Road from the railroad tracks north to the treeline at the end of the industrial district by June 30, 2013. Preference shall be given to placing the trees on the east side of Reed Road in the Town right-of-way. Trees shall be generally spaced 50 feet apart on center. The specific locations and types of said trees to be approved by the Town's Planning Director and Tree Warden.

#### **(5) Discussion of Solar Farm Bylaw and Planning Board's Report with Recommendation on Article 17 for Fall Town Meeting Zoning Article**

The Planning Director stated that the Planning Board delayed making a report with recommendation to Town Meeting on Article 17 awaiting a response from the Attorney General's office. He noted the Attorney General has rendered her opinion and the bylaw on the prohibition of commercial size solar farms in residential zones was upheld.

A motion was made by Mr. Sousa, and duly seconded by Mr. Mickelson, to approve the Planning Board's Report with Recommendation on Article 17 (Revised Section 37 – Large-Scale Solar Installations).

Immediately, the Chairman asked for a motion to amend Article 17 to include the language revision as he has proposed. The main intent of the amendment would limit large scale solar installations in residential districts to land defined as "disturbed land", land where at least 75% of the property has been used for purposes such as landfills, brownfields or hazardous waste sites. Mr. Toomey motioned to consider Mr. Avila's amendment.

At this time, each Board member explained his/her opinion of the proposed bylaw as it has been discussed and revised at several Planning Board meetings over the last several months.

## MINUTES OF REGULAR PLANNING BOARD MEETING OF OCTOBER 1, 2012

Motion to amend the proposed Town Meeting Section 37 zoning article as proposed by Mr. Avila failed 2-3, with Mr. Mickelson, Mr. Sousa, and Mrs. Miller opposed.

Back to the main motion to approve the Planning Board's Report with Recommendation on Article 17, motion passes (3-2) with Mr. Toomey and Mr. Avila opposed to send the following recommendation to Town Meeting:

Planning Board Report with Recommendation on  
Article 17 - Amendment to Section 37 – Large-Scale Solar Installations  
Fall Town Meeting, October 16, 2012

The proposed Zoning By-Law amendment was the subject of a public hearing held on August 20, 2012, notice of which was properly published in The Chronicle on August 1, 2012 and August 8, 2012. Notice of the public hearing was also sent to SRPEDD/SEED; Municipal Zoning and Land Use; the Planning Boards of Fall River, New Bedford, Westport, Freetown, and Gosnold; and posted in the Town Office Building.

Article 17 would revise Section 37 regarding Large Scale Solar Farms: by providing for a Special Permit to allow Large Scale Solar Farms in Residential Districts; by modifying the standards for large scale solar farms in all Zoning Districts, by revising setback and buffer requirements; by modifying other procedures and standards, and reorganizing the bylaw.

This article is the result of a commitment made by the Planning Board at the Special Town Meeting in April to develop a zoning bylaw that would allow large-scale solar farms in residential districts by Special Permit. A Special Permit can ensure through adequate conditions, that large scale solar farms can be located in residential districts without adversely affecting the residential character of the district. This bylaw gives the Planning Board the ability to withhold granting a Special Permit if the proposal does not satisfy the requirements.

In order to develop a bylaw that addressed the issues, the Planning Board sought comment from the Solar Farm Advisory Group which was open to all interested persons, including residents, landowners, Town officials, and large scale solar farm developers.

As a result of such input, the Planning Board developed a bylaw which provides for increased setbacks and better buffer plantings to isolate large scale facilities from residential uses, but it also provides for waivers of those setbacks and buffers where such increased setbacks and buffers would be unnecessary. Setbacks and buffers were reduced for large scale solar farms located in commercial and industrial districts. A primary purpose of this zoning amendment is to provide flexibility and balance in providing for the needs of residents and businesses.

Another significant benefit of the proposed bylaw is to require protection of forest and agricultural lands that are developed for large scale solar farms in residential districts.

## **MINUTES OF REGULAR PLANNING BOARD MEETING OF OCTOBER 1, 2012**

Inspection and financial surety requirements were strengthened to guarantee these facilities are developed in accordance with the bylaw and do not become a burden to the Town. Construction standards were imposed to minimize inconvenience to residents during construction.

For large scale solar farms in commercial and industrial districts, the bylaw keeps the by-right permit and reduces setbacks so that these facilities will continue to expand in commercial and industrial districts.

The Planning Board hopes this bylaw, by requiring a Special Permit for large scale solar farms in residential districts, will provide for the benefits of large scale solar farms while minimizing negative impacts.

The Planning Board voted (3-2) to recommend favorably on the passage of Article 17.

Brief discussion resumed on the Planning Director's written recommendations he sends to the Board of Appeals on variances which also require Section 16 approval by the Planning Board. It was suggested language should be added to the Planning Director's letters to the Board of Appeals explaining the difference between a Section 16 approval and approval of a variance. It was also brought up whether the Planning Board should vote on the variance requests in those circumstances. It was agreed the Planning Director should develop draft language and place this item on the next agenda for discussion.

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 8:30 p.m.

Respectfully submitted,  
Joyce J. Couture  
Planning Aide