

MINUTES OF REGULAR PLANNING BOARD MEETING OF OCTOBER 15, 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 four Planning Board members and Planning staff present. Mr. Mickelson was unable to attend.

The Planning Board members welcomed the senior engineering students from U-Mass Dartmouth who were present this evening to observe the meeting.

Administrative Items

(1) Approval of Minutes

Regular Meeting of October 1, 2012
Public Hearing of October 1, 2012 "NSTAR Electric - Scenic Road Request"

A motion was made by Mr. Toomey, duly seconded by Mr. Sousa for discussion, and unanimously voted (4-0) to approve the minutes of the regular meeting of October 1, 2012 as written and the minutes of the public hearing of October 1, 2012 "NSTAR Electric - Scenic Road Request" as written.

(2) Invoices

Joyce Couture	dated October 14, 2012	for \$8.00
re: 2 cases of water		

<u>The Chronicle</u>	dated September 26, 2012	for \$37.00
re: 1 year subscription renewal		

A motion was made by Mr. Toomey, duly seconded by Mrs. Miller for discussion, and unanimously voted (4-0) to approve payment of the above referenced invoices.

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

Sylvan Nominee Trust Horseneck Road dated Sept. 17, 2012

The Planning Director described an ANR plan for three lots on Horseneck Road each with an existing dwelling located thereon. He noted the plan is for an OSRD ANR which allows lots to be smaller if the frontage and area are dedicated as open space. Mr. Perry mentioned that no new buildable lots are created and the purpose of this plan is to separate the house lots from the farmland parcel. He also pointed out that the ANR plan meets the OSRD requirements.

Brief discussion ensued.

A motion was made by Mr. Sousa, duly seconded by Mr. Toomey, and unanimously voted (4-0) to endorse the ANR plan for Sylvan Nominee Trust for property located on Horseneck Road dated September 17, 2012.

Midway Realty LLC Beeden Road dated Oct. 4, 2012

The Planning Director pointed out that this ANR plan creates one new buildable lot on Beeden Road from an existing larger parcel of the Lincoln Park property on State Road. He mentioned that both the new lot and the remaining lot meet the minimum frontage and area requirements of the General Business District.

Discussion ensued.

A motion was made by Mr. Sousa, duly seconded by Mrs. Miller, and unanimously voted (4-0) to endorse the ANR plan for Midway Realty, LLC for property located on Beeden Road dated October 4, 2012.

(4) Update on Planning Board's F/Y'13 budget thru September

Brief discussion ensued. The Planning Board authorized Staff to order the most recent edition of Mark Bobrowski's Massachusetts Land Use and Planning Law Handbook.

A motion was made by Mrs. Miller, duly seconded by Mr. Sousa, and unanimously voted (4-0) to acknowledge and file the Planning Board update on the F/Y'13 budget thru September.

(5) Acknowledgement of Chapter 91 Waterways License Application for Fran Gellman, 8 Delano Way

The Planning Director noted that this application has been filed with Mass DEP to construct a wooden pier across saltmarsh to access Apponagansett Bay on property owned by Fran Gellman, 8 Delano Way. Brief discussion ensued.

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A motion was made by Mrs. Miller, duly seconded by Mr. Sousa, and unanimously voted (4-0) to acknowledge the Chapter 91 Waterways License Application for Fran Gellman, 8 Delano Way. The Planning Board authorized the Planning Director to signoff as the Planning Board's representative and also approved the forwarding of the standard letter to the Department of Environmental Protection.

(6) Request for surety reduction on Definitive Subdivision entitled "Riverside Woods"

The Planning Director noted that another request for surety reduction has been received from Attorney John Bentley, who represents the developer of the Riverside Woods Subdivision.

Brief discussion ensued.

A motion was made by Mr. Sousa, duly seconded by Mr. Toomey, and unanimously voted (4-0) to release \$20,099. of the cash surety being held by the Town on the Definitive Subdivision entitled "Riverside Woods" leaving a balance in the amount of \$74,703. to complete the remaining improvements as determined by the Department of Public Works.

(7) Time extension request on deadline for action on Off-Street Parking Plan entitled "A & A Jewelers"

Brief discussion ensued on the time extension request on the Planning Board's deadline for action on the Off-Street Parking Plan for A & A Jewelers for property located off Rockdale Avenue. As this was the third extension request, Board members asked the Planning Director to inquire as to when the applicant will be moving forward with this proposal.

A motion was made by Mrs. Miller, duly seconded by Mr. Toomey, and unanimously voted (4-0) to approve the time extension request on the Planning Board's deadline for action on the Off-Street Parking Plan for A & A Jewelers from October 31, 2012 to December 15, 2012.

(8) Planner's Report

- Incentive zoning for State Road, west of Cross Road

Mr. Perry stated that David Cressman mentioned at a Reviewer's Meeting that he would like to pursue grant money to review the zoning on State Road west of Cross Road. Such review would look at encouraging economic development but also be respectful of the Aquifer District.

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- Off campus student housing

The individuals that were considering student housing on Old Westport Road across the campus of U-Mass Dartmouth, is now looking at alternate sites along Faunce Corner Road in the Industrial District and State Road in the Business District.

(9) For Your Information/New Business

- Notice of Public Hearing for “King Meadow Preserve” Definitive OSRD Plan
- Proposed amendment to Article 16 from Joel Avila
- Subcommittee Reports
- Board of Appeals decisions
- Planning staff timesheets

Mr. Avila informed the Planning Board that he would be presenting a proposed amendment on Article 16 to Town Meeting.

The Planning Director updated the Board on the recent Southcoast Rail meeting he attended. He said Richard Davey, the Secretary of Transportation, announced an environmental permitting goal of March 2013 for the trains to the Southcoast. He also mentioned there was an update on the priority protection and development area maps that will use GIS and be parcel specific.

Mr. Perry said the Bikeway Committee will be installing the first “Bike Lane” sign this week either Wednesday or Thursday around noon. Alan Heureux notified the office that there will be a brief ceremony to mark the installation and Board members are invited to attend. He would provide the Board with more details when it is available.

Mrs. Miller stated that she thinks the Town needs to be proactive on the insect infestation of ash trees by considering the removal of trees and replanting with other varieties. Mr. Perry would talk to the Tree Warden about re-establishing the Tree Committee.

Appointment

(10) 7:15 P.M – APPOINTMENT – Attorney Drew W. Hoyt, Hoyt Porro LLP, Request to amend Off-Street Parking Plan Certificate of Action dated May 8, 2012 for Colonial Chrysler, 26-42 State Road

Present: Attorney Anthony Savastano, Town Counsel
Attorney Drew Hoyt, Hoyt Porro LLP
Brian Lafferty, Empire Management Corp.
James Almonte, Waterman Design Associates, Inc.

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The Planning Director noted the principals of the proposed Colonial Chrysler auto dealership requested this appointment to discuss the possibility of amending the Planning Board's conditions of approval for the parking plan at 26-42 State Road. He stated the applicant is hoping to modify three of the conditions listed on the certificate of action.

Directly, Attorney Drew Hoyt, representing Empire Management Corp., spoke at length. He presented his argument to the Board for considering this request. The conditions of approval in question are listed below:

1. Sidewalks need to be shown on the plan and built by the applicant on both sides of Norfolk Avenue in front of the premises.
2. A sidewalk should be placed at the head of the customer parking spaces shown north of the building which should connect directly to the sidewalk on the east side of the access drive leading to the building.
3. The 11 future employee spaces shown on the plan shall be used and designated now on the plan as employee parking spaces, with the appropriate employee parking signs.

James Almonte, Project Manager, and Brian Lafferty, Empire Management Corp., provided in depth site design details describing the rationale for modifying the three conditions.

General discussion ensued.

Concluding, the Board seemed to indicate there could be resolution on some of the items but there were still issues which needed to be discussed.

With guidance from Town Counsel, the Board refrained from voting this evening on any of the requested items until there is agreement from each party on all three items. Planning Staff would place this matter back on the next agenda for further discussion.

Administrative Items

(11) Discussion on draft language on Planning Staff variance recommendations regarding Planning Board approvals on Section 16 parking plan approvals

As the Planning Board requested, the Planning Director prepared draft language for the Board's consideration which is to be included in his recommendation letters to the Board of Appeals when a variance request also requires Section 16 off-street parking plan approval by the Planning Board.

Brief discussion ensued.

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A motion was made by Mr. Sousa, duly seconded by Mrs. Miller, and unanimously voted (4-0) to have the Planning Director include the following sentence in Board of Appeals recommendation that also require Section 16 approval by the Planning Board:

“Even though the Planning Board approved a parking plan for this site under Section 16 of the Zoning Bylaws, the approval of the parking plan does not constitute approval by the Planning Board of any requested variances including any variances for the off-street parking plan.”

(12) Review of suggested amendment from Finance Committee on Article 17 (formerly Article 18)

Brief discussion ensued on the response from Town Counsel on whether he agreed with the suggested amendment by the Finance Committee on Article 17. It was the opinion of Attorney Savastano that the language revision would be too subjective to interpretation and he does not recommend that the Planning Board consider it.

The Planning Board discussed how to better improve communications with the Select Board regarding proposed zoning articles. Board members felt the Select Board should have the best understanding possible of proposed zoning bylaws with respect to purpose, intent, function, and impact on the community. The Planning Director would send a letter to the Select Board asking for their thoughts and input.

With no further business, a motion was made by Mr. Sousa, duly seconded by Mrs. Miller, and unanimously voted (4-0) to adjourn this evening’s regular meeting at 9:30 p.m.

Respectfully submitted,
Joyce J. Couture
Planning Aide