

MINUTES OF REGULAR PLANNING BOARD MEETING OF JANUARY 28, 2013
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

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DARTMOUTH TOWN CLERK

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 January 7, 2013
Public Hearing of January 7, 2013 "Rescission of White Tail Run"
Public Hearing of January 7, 2013 "Repetitive Petition of No Fossil Fuel"

A motion was made by Mrs. Miller, duly seconded by Mr. Sousa for discussion, and unanimously voted (5-0) to approve the above three sets of minutes as written.

(2) Invoices

W.B. Mason re: custom name plate	dated December 31, 2012	for \$9.45
U.S. Postal Service re: postage stamps	dated January 28, 2013	for \$92.00

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

(3) Correspondence

Legal Notices from Town of Westport
Legal Notices from Dartmouth Board of Appeals
Memo from David Cressman, Town Administrator re: Solar Ballot Question

MINUTES OF REGULAR PLANNING BOARD MEETING OF JANUARY 28, 2013

Discussion on the memo from David Cressman, the Town Administrator, was deferred until later in the meeting.

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

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

Ryan Parker Bellevue Street dated December 20, 2012

The Planning Director stated that this ANR plan is for land between Bellevue Street and Sylvia Street which is located west of Hixville Road in the old Seabury Heights Subdivision. He noted the plan does not create any new lots but exchanges land between two existing lots. A variance from the Board of Appeals was granted to allow the exchange since the lots were undersized with regard to minimum frontage and area requirements.

Brief discussion ensued.

A motion was made by Mr. Mickelson, duly seconded by Mr. Toomey, and unanimously voted (5-0) to endorse the ANR plan for Ryan Parker for land located on Bellevue Street and dated December 20, 2012.

Appointments & Public Hearings

(5) 7:10 P.M. – APPOINTMENT - Paul Murphy (Director of Inspectional Services): Discussion on developing a revised definition of a “sign” for the Zoning Bylaws

The Planning Director stated that Paul Murphy, the Director of Inspectional Services, has been invited this evening to discuss a possible housekeeping zoning bylaw which would create a revised definition in the Zoning Bylaws for signs.

Discussion ensued on the sign definition offered by Mr. Murphy which includes a broader array of objects that could be considered signs.

As a result of this general discussion, it was agreed that Mr. Murphy and Mr. Perry would work together and develop a revised definition and subsequently come back before the Planning Board.

(6) 7:30 P.M. – CONT. PUBLIC HEARING - Definitive Subdivision Plan entitled “Hixville Estates” which proposes to create 2 lots from a 93.4 acre tract of land owned by Mary Robinson, 383 Hixville Road, Dartmouth, MA 02747 and located on the north side of Hixville Road at the powerlines

MINUTES OF REGULAR PLANNING BOARD MEETING OF JANUARY 28, 2013

A motion was made by Mr. Toomey, duly seconded by Mr. Sousa, and unanimously voted (5-0), to recess the Planning Board's regular meeting at 7:37 p.m. in order to go into a continued public hearing¹ concerning a Definitive Subdivision Plan entitled "Hixville Estates".

The regular meeting resumed at 8:25 p.m.

Administrative Items

(7) Action on Definitive Subdivision Plan entitled "Hixville Estates"

With the closing of this evening's public hearing, the Planning Director proceeded to read the proposed conditions of approval as identified in the draft certificate.

A motion was made by Mr. Sousa, duly seconded by Mr. Mickelson, and unanimously voted (5-0) to approve the Definitive Subdivision Plan entitled "Hixville Estates" for property located on the north side of Hixville Road at the powerlines. The plan consisting of four sheets was prepared for Mary Robinson, 383 Hixville Road, Dartmouth, MA 02747 by SITEC, Inc. and was submitted to the Planning Board office on November 13, 2012.

The approved Definitive Subdivision Plan consists of the following:

<u>Title</u>	<u>Sheet</u>	<u>Date</u>
Subdivision Plan of Hixville Estates	--	Oct. 31, 2012 rev. Dec. 24, 2012
Street & Utilities Plan for Illumination Way located in Hixville Estates	1 of 3	Oct. 31, 2012 rev. Dec. 24, 2012
Detail Sheet, Hixville Estates	2 of 3	Oct. 31, 2012 rev. Dec. 24, 2012
Overall Existing Conditions, Hixville Estates	3 of 3	Oct. 31, 2012 rev. Dec. 24, 2012

The conditions of approval are listed below:

1. An Order of Conditions, if applicable, must be issued by the Dartmouth Conservation Commission under State and local wetlands regulations before lots will be released for building and sale; said Order of Conditions shall refer to the plans as approved by the Planning Board. If the Conservation Commission requires modifications to the plans approved by the Planning Board, the applicant may be required by the Planning Board to modify, amend, or change the plans in accordance with M.G.L., Chapter 41, Section 81W.

¹ For more information, see minutes of Planning Board's Public Hearing of January 28, 2013 "Hixville Estates"

MINUTES OF REGULAR PLANNING BOARD MEETING OF JANUARY 28, 2013

2. No work can commence on this project with respect to road construction or drainage improvements until after the Definitive Plan is endorsed by the Planning Board. All site improvements shall be in accordance with plans approved by the Planning Board.
3. Approval by the Planning Board is conditional upon the requirements of M.G.L., Chapter 41, Section 81U, that no building shall be constructed on the proposed house lots 1 and 2 without the prior written consent of the Board of Health. This condition shall appear as a note on the Subdivision Plan.
4. Drainage shall be approved by the Conservation Commission as part of its Order of Conditions.
5. The applicant is given permission to change the proposed street name to something other than Illumination Way. The new street name must be approved by the 911 Coordinator. In addition, if the street name is changed, the plans must be revised including any plan titles that reference Illumination Way.
6. The subdivision approval is for a maximum of two lots only with frontage on (the proposed street). Any additional lots proposed to have frontage on (the proposed street) or any extension of (the proposed street) to create additional lots may require the improvement of (the proposed street) to a standard required by the Subdivision Regulations. This condition shall appear as a note on the Subdivision Plan, including the name of that proposed street inserted where parenthesized.

The Definitive Plan shall conform in all respects with the applicable Subdivision Regulations of the Planning Board and current D.P.W. Construction Specifications.

In accordance with M.G.L., Chapter 41, Section 81-R, and as part of the Board's approval of said plan, the following waivers from its Subdivision Regulations were granted:

- 3.304 Curbing – Curbing is waived in order to facilitate water quality mitigation but with the requirement that pavement width is increased to 18 feet.
- 3.310 Drainage – Full drainage improvements have been waived but some drainage improvements will still be required as shown on the plan.

Approval of this plan does not imply compliance with other Town ordinances, standards, and/or requirements administered by other Town agencies.

(8) Acknowledgement of Chapter 91 Waterways License Application for Jordan Busch, 36 Swift Road

The Planning Director noted that this application has been filed with Mass DEP to construct a wooden pier in Buzzards Bay on property owned by Jordan Busch, 36 Swift Road. Brief discussion ensued.

MINUTES OF REGULAR PLANNING BOARD MEETING OF JANUARY 28, 2013

A motion was made by Mr. Sousa, duly seconded by Mrs. Miller, and unanimously voted (5-0) to acknowledge the Chapter 91 Waterways License Application for Jordan Busch, 36 Swift Road. 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.

(9) Approval of Planning Board's F/Y'14 budget request

Discussion ensued on this year's level-funded budget submission. There was considerable dialogue on the announcement that Joyce Couture, the Planning Aide, would be retiring in August 2013.

It was pointed out that with reduced clerical staff in the Planning Office over the last few years, it has left the office with no backup. The Planning Board stressed that they would like to ensure that the transition to a new employee occur as smoothly as possible in order to continue providing the level of service the Board and Town has experienced throughout the years.

Concluding discussion, the Planning Board stated that they would like a 6 week transition period for training/mentoring of a new Planning Aide. The Planning Board asked that a letter be forwarded to the Select Board asking for funding assistance in making the transition, if needed.

A motion was made by Mrs. Miller, duly seconded by Mr. Mickelson, and unanimously voted (5-0) to approve as prepared the Planning Board's F/Y'2014 budget request.

(10) Approval of Planning Board's 2012 Annual Report

Brief discussion ensued on the draft Planning Board 2012 Annual Report prepared by Planning Staff. It was brought to the Planning Staff's attention that Joel Avila was elected to the Planning Board in April, as well as, Stanley Mickelson. Planning Staff would modify the annual report accordingly. Mrs. Miller asked that Planning Staff notify Ross Perry at SRPEDD to let him know when the Town's complete 2012 Annual Report is available.

A motion was made by Mr. Sousa, duly seconded by Mr. Mickelson, and unanimously voted (5-0) to approve the following Planning Board Annual Report for 2012 as amended:

PLANNING BOARD ANNUAL REPORT FOR 2012

PLANNING BOARD

Joel Avila, Chairman	Term Expires 2017
Joseph E. Toomey, Jr., Vice-Chairman	Term Expires 2014
Lorri-Ann Miller, Clerk	Term Expires 2016
John V. Sousa	Term Expires 2013
Stanley Mickelson	Term Expires 2015
John P. Haran (resigned February 2012)	
Gus Raposo, Alternate Member	Term Expires 2013

MINUTES OF REGULAR PLANNING BOARD MEETING OF JANUARY 28, 2013

PLANNING STAFF

Donald A. Perry, AICP
Joyce J. Couture

Planning Director
Planning Aide

OVERVIEW

The development statistics for subdivisions reviewed by the Planning Board in the year 2012 indicated a substantial decrease of new lots in Dartmouth for the year. The total number of new lots created in 2012 was 19, down from 86 in 2011. This total includes Definitive Subdivision lots and ANR lots. It does not include any 40B lots approved by the Board of Appeals.

The breakdown of the lots created in 2012 includes definitive subdivision lots which decreased from 78 in 2011 to 4 in 2012, and ANR lots which actually increased from 8 to 15 lots during 2012. The total number of lots created in 2012 was the lowest total in the last 10 years. Since the recession started in 2007, the total number of lots has been fluctuating widely from year to year. With regard to commercial development, as represented by parking spaces reviewed, there was an increase from 343 in 2011 to 460 in 2012.

Beginning with the Spring Annual Town Meeting in June which considered five zoning articles, the year 2012 brought many zoning bylaw changes. Three of the articles were sponsored by the Planning Board and adopted by Town Meeting. One article increased the number of days and events allowed for temporary business uses such as outdoor bargains and tent sales. Another article added additional members to the Technical Advisory Group for Commercial Wind Turbines. The third article which was brought to the attention of the Planning Board by concerned citizens and supported unanimously by the Planning Board prohibits Commercial Wind Turbines in residential zoning districts.

Spring Town Meeting also considered two other zoning articles, one sponsored by the Select Board to add improved and clarified design standards to the Large Scale Solar Farm Bylaw, the other article by citizen petition to prohibit Large Scale Solar Farms in residential districts. The article sponsored by citizen petition passed, and the Select Board sponsored article failed. During Town Meeting, the Planning Board made a commitment to develop a revised Large Scale Solar Farm Bylaw for consideration at the Fall Annual Town Meeting. The Planning Board developed an aggressive timeline to develop a revised bylaw over the summer and held numerous meetings and discussions to meet the Fall Town Meeting deadline.

Ultimately, the Fall Annual Town Meeting had two zoning articles sponsored by the Planning Board. One article revised the procedure for appointing an Alternate Planning Board member for Special Permits which passed at Town Meeting. The second article was a revised Large Scale Solar Farm Bylaw. The revised bylaw incorporated improved development standards and would allow Large Scale Solar Farms back in residential

MINUTES OF REGULAR PLANNING BOARD MEETING OF JANUARY 28, 2013

districts by Special Permit. This article was developed with the assistance of a Solar Advisory Group open to residents of the Town, engineers, landowners, and solar developers. This article failed to receive the two thirds majority vote needed to be adopted. Ongoing discussions to reconsider another Large Scale Solar Farm article continue and will wait until after a Town wide election ballot question which will be proposed in April 2013 to identify whether there is support for such a revised article.

In the meantime, the Planning Board resumed its review of zoning in the Bliss Corner/Dartmouth Street area. The immediate goal is to encourage economic development while protecting the unique mixed use character and the residential neighborhoods of the area.

One major development project reviewed by the Planning Board in 2012 was a parking plan for Colonial Chrysler on State Road which would completely redevelop the existing car dealership with a new building, landscaping, and pedestrian friendly sidewalks. The Planning Board also reviewed a conceptual proposal for a mixed use development at South Wharf in Padanaram Village.

Another exciting happening for 2012 was the return of filming Planning Board meetings by DCTV on a regular basis again. With local cable programming, all Planning Board meetings are available for viewing by Town residents.

Over the past year, there were changes to the Planning Board membership. Joel Avila was elected to a 5 year term after serving as an appointed member following the resignation of Board member Arthur Larrivee. Mr. Avila's prior experience as a Planning Board member brings knowledge of Town and State legal requirements for Planning and a familiarity with implementation of the Town's Master Plan. Stanley Mickelson also won election in April to replace John Haran who had resigned from the Planning Board. Mr. Mickelson brings extensive experience to the Planning Board as a former Board of Appeals member.

In addition to their Planning Board duties, Board members served as the Planning Board's representative in the following capacities: Lorri-Ann Miller served as the Planning Board's delegate to the SRPEDD Commission and the Agricultural Preservation Trust Council; Stanley Mickelson served as the Planning Board's delegate to the Plan Approval Authority (PAA) which has been reviewing the Chapter 40R "Village at Lincoln Park"; Joseph E. Toomey, Jr. served on the Soil Conservation Board, the Municipal Facilities Committee, and the Technical Research Group for Special Permits under the Select Board, John Sousa served on the Affordable Housing Partnership, the Community Preservation Committee, and the Community Development Group.

Gus Raposo, with significant experience in civil engineering, was appointed to serve as Alternate Planning Board member for Special Permits under the jurisdiction of the Planning Board. The alternate member is appointed by the Planning Board and is only requested to serve when a regular Planning Board member is unable to participate on a Special Permit application. He replaced Kathleen DeSordo, who volunteered her time generously for many years in that capacity.

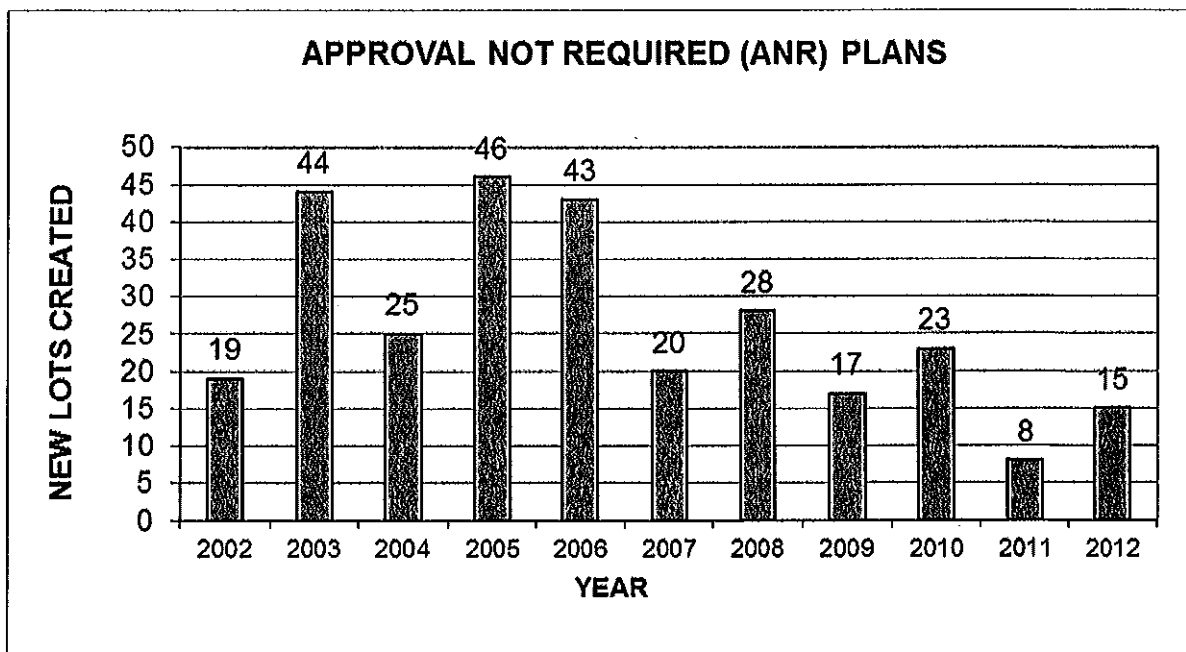
MINUTES OF REGULAR PLANNING BOARD MEETING OF JANUARY 28, 2013

Throughout 2012, the Planning Board and/or its staff continued their reviews and activities in the following areas:

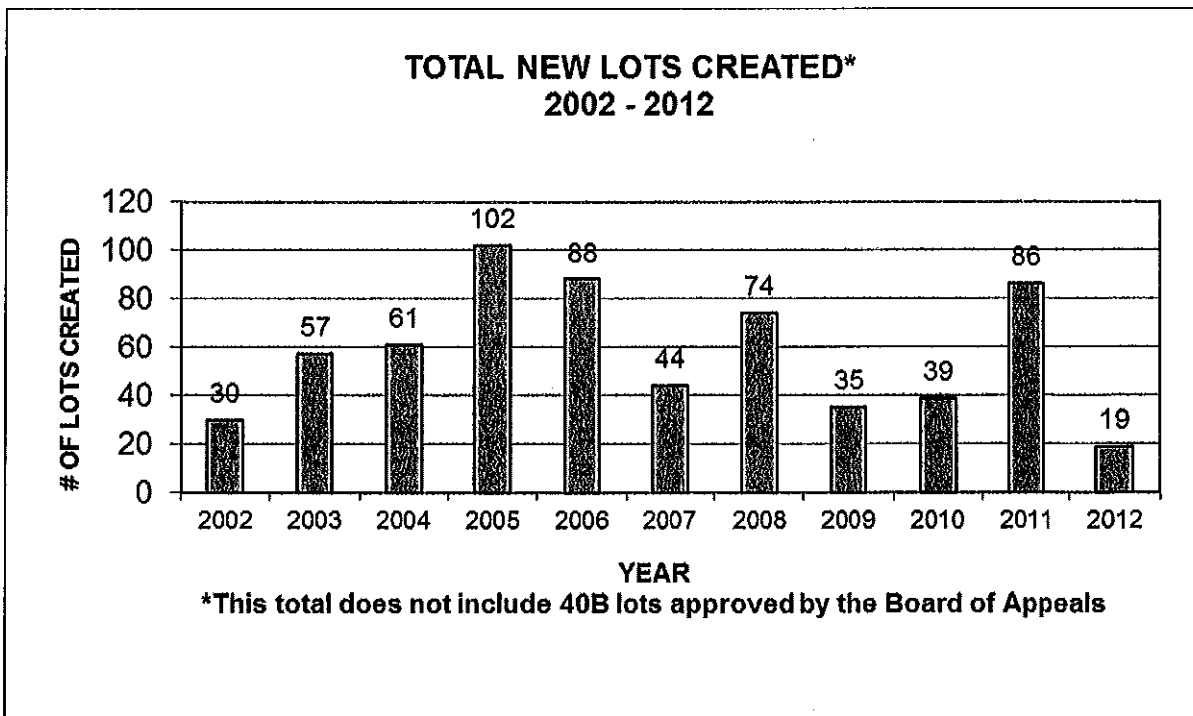
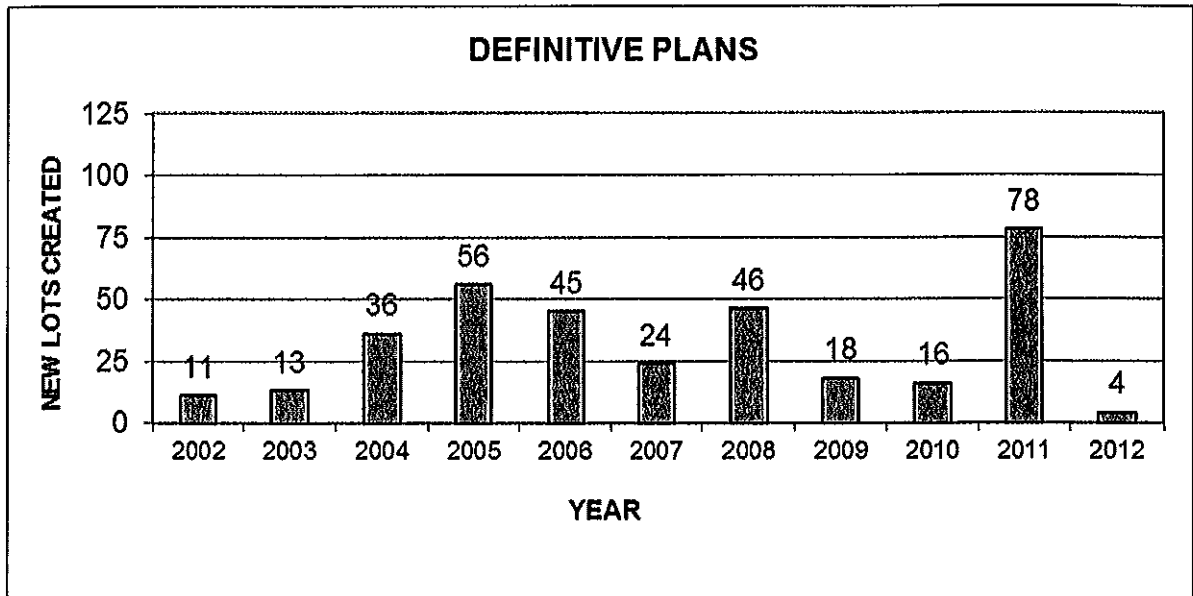
- * Reviewing subdivision plans and monitoring subdivision sureties;
- * Reviewing parking plans and special permit requests;
- * Reviewing variances submitted to the Board of Appeals;
- * Reviewing Conservation Commission Notices of Intent;
- * Preparing reports and recommendations to Town Meeting; and
- * Providing technical assistance and information to citizens, Town committees, and developers.

SUBDIVISION AND COMMERCIAL DEVELOPMENT

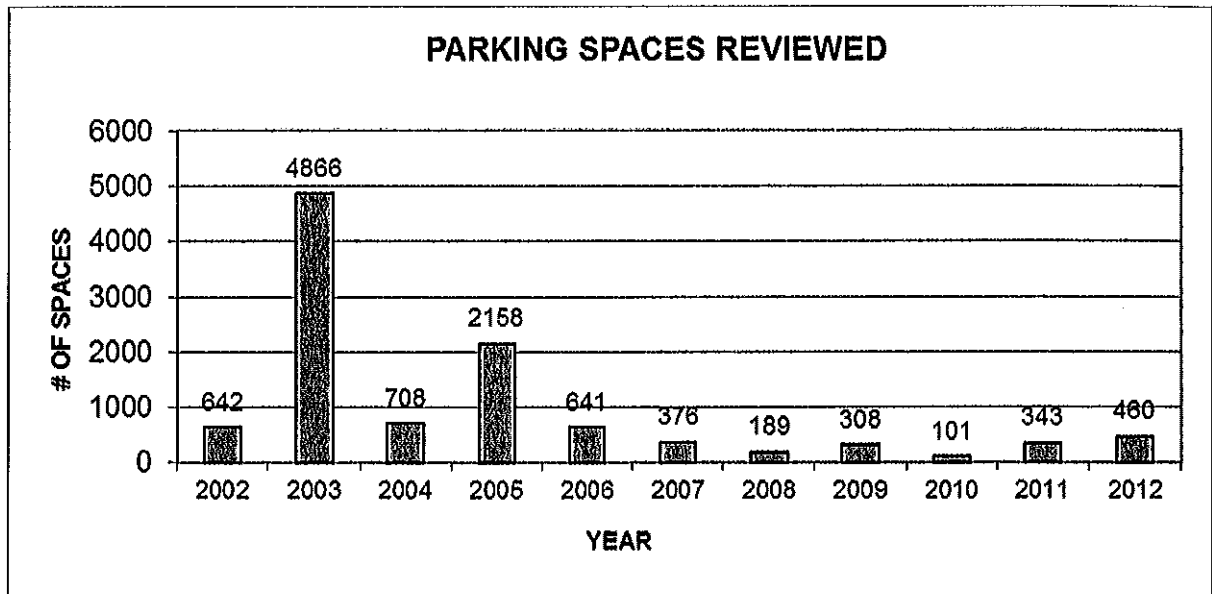
The data charts that follow compare the level of development reviewed by the Planning Board over the specified time period:



MINUTES OF REGULAR PLANNING BOARD MEETING OF JANUARY 28, 2013



MINUTES OF REGULAR PLANNING BOARD MEETING OF JANUARY 28, 2013



(11) Planner's Report

- U-Mass Solar Energy Seminar

The Planning Director spoke on the recent Solar Energy Seminar he attended at U-Mass Dartmouth. He highlighted the following comments from the primary speaker, Kurt Gaertner from the Mass Executive Office of Energy & Environmental Affairs:

- Dartmouth is the #2 producer of solar energy of all the cities and towns in the Commonwealth.
- It was clarified that solar facilities can be regulated by zoning and are not exempt from zoning regulations.
- Zoning regulations must be "reasonable" and reasonable has been generally defined as what is acceptable and approved by Town meetings.
- Zoning regulations can allow solar facilities "by-right"; "by-right" with site plan review, allowed in some parts of town and prohibited in other areas, and finally can be regulated by Special Permit.
- Solar facilities preferably should be located on disturbed sites rather than cutting forests.

Mr. Toomey also mentioned he attended the Solar Energy Seminar. He said the session was excellent.

Furthermore, Mr. Perry briefed the Board on the MMA 2013 Trade Show he attended last week in Boston. In particular, the zoning considerations of the medical marijuana law. He would provide additional information in this regard to the Planning Board at the next meeting. Mr. Perry also mentioned that he would like to attend this year's National Planner's Conference in April. He noted it is in Chicago this year. The Planning Board fully supported this request.

MINUTES OF REGULAR PLANNING BOARD MEETING OF JANUARY 28, 2013

- Update on Priority Development & Protection Area Map

Mr. Perry provided a progress report on the update of the maps and how Town Hall staff had a joint session with SRPEDD staff to begin the map update. The update would primarily define more precisely the boundaries of development and protection areas.

- Marion Institute

The Planning Director spoke about a proposal by the Marion Institute, a non-profit educational organization, devoted to advocating sustainable agricultural practices. They are interested in purchasing a farm in Dartmouth to create a school there. The Planning Board would become involved if they built a parking lot for 10 cars or more.

(12) Correspondence

Memo from David Cressman, Town Administrator re: Solar Ballot Question

Discussion ensued on the draft version of the solar ballot question forwarded to the Planning Board from the Select Board. The Chairman distributed an edited version which the Board members endorsed.

A motion was made by Mr. Sousa, duly seconded by Mr. Toomey, and unanimously voted (5-0) to forward to the following edited version to the Select Board for consideration:

Should the Town of Dartmouth amend its Zoning By-Laws to authorize the Planning Board, after a noticed public hearing, to grant special permits for the construction and operation of large-scale solar farms in residential zones under specific conditions including the use of setbacks and landscape screening?

A YES vote indicates support for allowing large-scale solar farms with a capacity of 250kW or greater through a special permit process and represents the proposal put forth by the Planning Board at the 2012 Fall Town Meeting.

A NO vote indicates support for the current bylaw limiting large-scale solar farms to commercial and industrially zoned areas.

(13) For Your Information/New Business

- Notice of Public Hearing - Amendment to Sherman Street Definitive Plan
- Notice of Public Hearing – Request by NSTAR to remove trees on various Town designated scenic roads
- Subcommittee Reports
- Board of Appeals decisions

MINUTES OF REGULAR PLANNING BOARD MEETING OF JANUARY 28, 2013

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

At the request of the Chairman, Planning Staff will list on future agendas under For Your Information, a new item called "Letters to Others". This item will provide copies of correspondence prepared by Planning Staff to others at the direction of the Board.

(14) Long Range Planning – Discussion of Dartmouth Street/Bliss Corner zoning

The Planning Director stated that as a result of the Planning Board's last discussion, the Planning Board agreed that a solution to planning for the Dartmouth Street/Bliss Corner area could be a combination of overlay districts and the rezoning of some commercially zoned neighborhoods back to residential.

Mr. Perry spoke on the three concepts described below and the accompanying sketch map:


1. An overlay district for the "big retailers" on Dartmouth Street (Big Value Outlet, Benny's, Rite Aid, etc.) which consists of standard commercial retailers on large lots with plenty of off-street parking.
2. An overlay district for the mixed use areas along Dartmouth Street, Russells Mills Road, and Cove Road which consist primarily of small businesses and homes on small lots.
3. Rezoning predominantly residential use areas located in the General Business zone to General Residence. Primarily, the Moonshine Corner residential area. Although there are other blocks of business zoned residential neighborhoods that could be considered.

After a meaningful exchange of ideas on how to approach the proposed rezoning process, the Board felt it was important to start a dialogue with all the residents and business owners rather than concentrate on different areas separately.

Just prior to adjourning, Mr. Mickelson made a comment that at the Planning Board's January 7th meeting regarding the Repetitive Petition, the attorney for the Town stated the charge to the Board was only to vote on the Repetitive Petition request and in his opinion the answers given for not voting for it or against it had nothing to do with the Repetitive Petition.

A motion was made by Mrs. Miller, duly seconded by Mr. Toomey, and unanimously voted (5-0) to adjourn this evening's regular meeting at 10:30 p.m.

APPROVED BY:
The Dartmouth Planning Board



Respectfully submitted,
Joyce J. Couture
Planning Aide