

MINUTES OF REGULAR PLANNING BOARD MEETING NOVEMBER 4, 2013
Planning Board's Meeting Room #315, Town Office Building
400 Slocum Road, Dartmouth, MA

RECEIVED
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DARTMOUTH TOWN CLERK

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
Ms. Jane Kirby, Planning Aide

The Chairman called the meeting to order at 6:55 p.m. in Room #315 with all Planning Board members and Planning staff present.

ADMINISTRATIVE

(1) Approval of Minutes

Regular Meeting of October 21, 2013

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

(2) Correspondence

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

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

(5) Request for Endorsement of ANR Plan

Applicant: Bryan Robertson - 206 Bakerville Road
(Map 29 as Lot 30)

Donald Perry, Planning Director, read the letter from Daniel C. Perry, Esq., Attorney for Bryan Robertson, dated 11/4/2013 into the record, which was requesting permission to withdraw the application for ANR endorsement without prejudice.

Mr. Perry explained that if the Board accepted the withdrawal request, the 21-day timeline for action on the ANR plan would end. He noted that the applicant could resubmit anytime in the future.

A motion was made by John Sousa, duly seconded by Stanley Mickelson for discussion, and unanimously voted (5-0) to allow the referenced ANR plan endorsement request to be withdrawn without prejudice.

**(4) Discussion with Paul Murphy, Dartmouth Director of Inspectional Services
And Zoning Enforcement Officer**

Parking and Driveway Bylaw

Chairman Avila invited Mr. Murphy to speak. Mr. Murphy reviewed the existing bylaw, which allows only one curb cut per 100 feet of frontage. He noted that many residents are unaware of this bylaw, resulting in a zoning violation due to a second curb cut on a lot lacking in frontage. He explained that the only remedy is to remove the second curb cut or seek a variance from the Zoning Board of Appeals. Mr. Murphy was of the opinion that most of the time these zoning violations are actually safer driveways, and asked the Planning Board to reevaluate the bylaw to allow horseshoe driveways by right or through the Special Permit process.

The Planning Board was notified that the Select Board was ready for the joint meeting. Chairman Avila asked Mr. Murphy to resume this conversation after the joint meeting.

At 7:10 P.M., a motion was made by Joseph Toomey, duly seconded by Stanley Mickelson for discussion, and unanimously voted (5-0) to recess and reconvene in Room #304 for the joint meeting with the Select Board and the Zoning Board of Appeals.

APPOINTMENT

**(3) 7:00 P.M. Joint Meeting in Room #304
Planning Board/Select Board/Zoning Board of Appeals**

Discussion re: Sign Bylaw and SRPEDD 40 hr. Municipal Assistance

The Select Board began by discussing yard sale signs, and invited Paul Murphy, the Director of Inspectional Services/Zoning Enforcement Officer, to speak. Mr. Murphy was asked to look into the issue of yard sale signs that are not being taken down in a timely manner. Mr. Murphy discussed how other Towns handled this issue.

The general consensus of both the Select Board and the Planning Board was that this issue could be resolved by creating a general bylaw whereby a resident leaving a yard sale sign up longer than 48 hours could be fined.

At this time, temporary business signs were discussed between the Boards. Business representatives were present at this meeting. The Select Board discussed the memorandum to David Cressman, Town Administrator, from Deborah Melino-Wender, Director of Development, dated October 30, 2013.

The above-referenced memorandum suggested that the Select Board consider a policy allowing for the issuance of permits for temporary flags, banners, and signs for a six month period with the following restrictions:

- The flag, banner, or sign would only be allowed up during business hours, otherwise the permit could be revoked
- One temporary banner or flag or sign may be permitted per business
- A detailed plan for the proposed flag, banner, or sign; including site location, must be submitted with the application. This proposed sign plan must be reviewed by and approved by the Director of Inspectional Services, the Planning Director, and the Director of Development
- The Permit, if approved, will be for a six month period, which may or may not be extended

Both the Select Board and the Planning Board discussed the temporary business sign issue at length, hearing from some business representatives present at this meeting. The Select Board gave its approval to the above-referenced six month policy until the temporary sign policy could be formerly amended.

Business representatives were advised to submit their application with Paul Murphy. Upon initial approval from the temporary sign reviewers, the application will then be forwarded to the Select Board for final permit approval.

Both the Select Board and the Planning Board determined that the Town's Sign Bylaw needed to be reviewed, and decided to utilize the SRPEDD 40 hour Municipal Assistance for this purpose.

Donald Perry, Planning Director, read the Planning Board's draft letter to SRPEDD listing the objectives for the review as:

- Develop as sign bylaw that identifies the establishment being advertised in a manner that is easily understood, but does not overly draw attention to the sign
- Identify appropriate sign dimensions and heights for different scaled or types of businesses
- Consider the aesthetics of the signs and its impact to the surrounding area
- Provide guidance on regulating electronic signs (LED lighting) that display video or change messages. Particular attention must be given to electronic signs that do not detract from the character of the Town or which could distract drivers and become a safety hazard

- Research and review sign bylaw language of other Towns to determine potential language changes to Dartmouth's sign bylaw.

The Select Board agreed with the referenced objectives, and Planning Staff will forward the request letter to SRPEDD.

Discussion re: Draft Marijuana Bylaw

The Planning Board forwarded a draft Medical Marijuana Bylaw to the Select Board for its review/comment prior to this meeting. The Planning Board asked the Select Board if they had any suggested revisions.

The Select Board discussed this draft bylaw and supported it as written. The Select Board voted to co-sponsor the Medical Marijuana Bylaw, noting that the bylaw would restrict Registered Medical Marijuana Dispensaries to the Office Industrial and General Industrial Zoning Districts.

Discussion re: Use Variances

Correspondence received:

- Letter from Donald Perry dated October 22, 2013 to the Select Board and Zoning Board of Appeals
- Revised Use Variance Chart as of 10-10-13 as corrected by Planning Staff regarding Planning Staff recommendations
- Table identifying Zoning Districts where Planning Staff recommendations were made
- Use Variances per responses to Planner's list serve post

Jacqueline Figueiredo, Chairman for the Zoning Board of Appeals, submitted a new revised Use Variance Chart dated November 5, 2013 for the Boards to reference.

Donald Perry, Planning Director, gave an explanation of Use Variances and noted that many communities don't allow them. He explained that Dartmouth may need Use Variances because there are still areas in Town that are not zoned properly and require updating. He thought that eliminating Use Variances in the areas with updated zoning would make sense, but that allowing Use Variances in the areas needing updated zoning was reasonable. He further explained that if Use Variances were eliminated entirely, the petitioner could seek relief through the Town Meeting process rather than seeking relief through the Zoning Board of Appeals.

Jacqueline Figueirdo, Chairman, stated that the Zoning Board of Appeals gives careful consideration of Use Variances on a case-by-case basis.

A lengthy discussion ensued, with many members from the Select Board and Planning

Board offering their opinions.

Select Board Chairman Shawn McDonald stated that the Zoning Board of Appeals should not offer an opinion on Use Variances at this time so that the Board could remain impartial.

Concluding, both the Select Board and the Planning Board determined that Use Variances could be restricted from the Town's residential areas, but should not be entirely eliminated at this time. The Select Board would like the Planning Board to recommend which other zoning districts could eliminate Use Variances because they have been updated.

The Planning Board will continue to review and discuss this issue to provide a recommendation.

8:52 P.M. The joint discussion with the Select Board adjourned.

8:55 P.M., the Planning Board reconvened in Room #315 for its regular meeting.

The Planning Board resumed its discussion with Paul Murphy, Dartmouth Director of Inspectional Services and Zoning Enforcement Officer at this time.

(4) Discussion with Paul Murphy, Dartmouth Director of Inspectional Services And Zoning Enforcement Officer

Parking and Driveway Bylaw

Mr. Murphy reiterated his earlier points for this topic, and asked the Planning Board to consider reevaluating the bylaw to allow horseshoe driveways by right or through the Special Permit process.

The Board agreed that the bylaw should be reevaluated and that by right language could be drafted, which should include driveway design standards.

The Board directed Mr. Perry to work with Mr. Murphy to draft by right language for this bylaw for Board review.

Signs – LED Lighting/Message Change Times

The Board discussed its concerns regarding LED lighting and message change times with Mr. Murphy. Mr. Murphy explained that there aren't any standards for message change times in the Town bylaws to date. LED luminosity and scrolling texts were cited as concerns. Mr. Murphy will work with the Planning Director to draft sign bylaw language for Board review.

Enforcing Parking Plan Violations

The Board asked Mr. Murphy to identify a procedure in which parking plan violations could be brought to his attention. Mr. Murphy stated that the Planning Director or any Board member could notify him of violations via email. He further explained that if he is alerted to a parking plan violation, he will notify the property owner and give the property owner adequate time to remedy the situation.

Setbacks – General Residence District

Mr. Murphy reviewed the grandfathered dimensional setbacks in the General Residence District, pointing out that the exemption language as written conflicts with other setback requirements. The Board agreed, noting that it was probably an oversight. The bylaw will be amended to correct the error.

Minor Encroachments Related to Eaves, Overhangs, Chimneys, and Bulkheads

Mr. Murphy explained that many as-built plans show minor zoning violations that can only be remedied with Zoning Board of Appeals variances. Mr. Murphy noted that other Towns exempt eaves, overhangs, chimneys, and bulkheads from setback requirements.

The Board discussed this issue and determined that dimensional limits would need to be set. For example: "an overhang shall not exceed 12 inches". Mr. Murphy will work with the Planning Director to draft amended bylaw language for Board review.

10:00 P.M. Discussion ended and the Board thanked Mr. Murphy for his time.

(6) For Your Information/New Business

- Planner's Report

Digital Agendas

Mr. Perry stated that Greg Barnes, Director of Budget and Finance, asked the Board to consider the use of iPads to receive digital agenda information. The iPads would be funded by the Town. Some Board members expressed concern that iPads would not be "user friendly" and expressed concern. Other Board members were agreeable to the idea. Mr. Perry will talk with Mr. Barnes and obtain more information for the Board.

Visioning Padanaram

Mr. Perry explained that the Town received a grant and has hired consultants (Cecil Group) to make recommendations on how the streetscape in Padanaram could be improved. He noted that a public meeting with the Cecil Group will be held on November 13, 2013 at 6 p.m. in Room #304.

The Board asked Mr. Perry to attend the meeting, noting how important his involvement is in this project. The Board also suggested that if a committee is formed that Mr. Perry become part of the committee.

- Subcommittee Reports

Lorri-Ann Miller attended a course on Subdivision Control Law and requested that Planning Staff forward the course information to the entire Planning Board.


- Board of Appeals decisions
- Planning Board letters to others
- Planning staff timesheets

The Chairman asked if there was any other business this evening. There was none. Mr. Avila noted that the next Planning Board meeting is scheduled for November 18, 2013, in room #315, Town Office Building, 400 Slocum Road. He then called for a motion to adjourn.

A motion was made by Lorri-Ann Miller, duly seconded by Joseph Toomey, and unanimously voted (5-0), to adjourn this evening's regular meeting at 10:28 p.m.

Respectfully submitted,
Jane Kirby, Planning Aide

APPROVED BY:
The ~~Dan~~mouth Planning Board

 11/19/13

