



OFFICE OF THE
PLANNING BOARD
TOWN HALL, 511 MAIN STREET
DUNSTABLE, MA 01827-1313
(978) 649-4514 FAX (978) 649-8893
planning@dunstable-ma.gov

Planning Board Minutes Monday, March 15, 2010

Meeting was called to order by Chair, Judy Larter at 7:28pm.
Members present: Joyce Cail, John Goldthwaite, Brett Rock and George Basbanes
Meeting held: At the Dunstable Town Hall, 511 Main Street, lower level

Meeting Minutes – March 1, 2010

George made a motion to approve the meeting minutes, as submitted, from the March 1, 2010 meeting. Joyce 2nd the motion. – Motion passed with Brett abstaining from the vote.

Bills

None

Future Invoices/Payroll

The Secretary explained to the Board that she had received two memos from the Town Accountant regarding signatures on future invoices and payroll slips. The Board decided that they would vote expenditures at meetings with one member signing the actual bill/payroll.

7:35pm – Hearing on Proposed Zoning Amendments for Annual Town Meeting

In attendance: Town Counsel-Attorney Rich Larkin, Town Engineer-Jeff Rider,
residents and interested parties

Handouts were left at the entrance to the hall along with the sign-in sheets.

Judy Larter opened the hearing at 7:35pm stating that tonight's discussion would be based on whether the Planning Board felt that the proposed zoning amendments would be in the best interest of the town, and not the legality of spot zoning.

Judy explained that Section 8. B-1 Retail Business District and Map, Section 8.2 Uses Permitted by Special Permit of the Planning Board and Section 8. B-1 Retail Business District were all going to be addressed first, as a group. Brett Rock gave some background by saying that two years ago one of the two properties proposed for re-zoning this May, went before Town Meeting to reclassify it from R1 to B1. This initiative failed; however, the Planning Board now feels that it is time to bring it in front of Town Meeting again. Brett said that he supports the change as both properties have historically been used for business.



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Judy said that she had supported the B1 two years ago because the original buildings were to be razed, an up-to-date septic system was going to be installed and the property along the brook was going to be protected by way of donation to the town. She said that she is not in support of the B1 under the present conditions. Brett said that although the previous owner had said that he would demolish the buildings and donate the property surrounding Salmon Brook to the town, there was no guarantee that that would have been done. Joyce Cail said that although the owner of the property does not plan on donating the land along the brook to the town, the brook does have some protection by way of the "Water Supply Protection Bylaw".

Kevin Welch questioned whether the town passed a Water Protection Bylaw. He also said that there is plenty of business zoned property on Blodgett Street (under B3 zoning).

Karl Huber said that the Town did approve the bylaw on May 12, 2008 at the Annual Town Meeting. The Town Clerk confirmed that Karl was correct and that the bylaw was a "General Bylaw" of the town. Karl also said that as part of the special permit process, all Rules and Regulations of the Water Department (including installing backflow preventors) would be adhered to. Karl said that the Water Board was in support of the re-zoning and he extended an invitation to the Planning Board to meet with the Water Board to discuss the various regulations they have in place to protect the aquifer.

Peter Georges said that these properties were zoned business back on the 1947 zoning map and was wondering why the town was even proposing this amendment. Attorney Larkin said that although the properties may be used for business, they are zoned R1 (residential).

Joan Simmons said that not only is the Board looking to change the zoning of the two parcels, but also modify the language of the Zoning Bylaw, she felt in order to accommodate one of the businesses. She said that she wouldn't necessarily have had a problem if the Zoning Board of Appeals had given them a special permit for the business, but the owner was denied and the Planning Board is ignoring that decision.

Brett said that the Board does not decide the fate of these articles. The Planning Board will only be making recommendations to the Selectmen and the articles will be voted on at the Annual Town Meeting by the residents of Dunstable.

Gail Brown asked the Planning Board to carefully consider not supporting these articles. She went on to say that the owner was aware that the property was not business zoned when he purchased it. Ms. Brown said that the business is not warranted and of no



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benefit to the town. She is concerned with the traffic conditions (no traffic study was completed) on Pleasant Street and said that the additional trucks coming in and out of the property would make Rte.113 that much more congested. Ms. Brown also inquired if consideration was given to Salmon Brook. She ended by saying that this radical change to town could end up being very costly.

Walter Alterisio asked the Board if they had considered other parcels besides the two presented. Brett said that the Board wanted to start with a small area. Additional parcels could be added in the future, if it is warranted. He said that the Board identified the two parcels because they have traditionally been business.

Peter Georges said that if you look within a stones throw of these parcels, you have the MUD district. He asked how many units and businesses were planned for that property. Joyce, who had been on the MUD Committee, said that about 40-two bedroom units were proposed with a small B-1 near the road. Peter asked if any of the parcels in the MUD district (not owned by the town) are able to be used for business. Joyce said only if they have the required minimum of 10 acres.

Walter Alterisio told the Board that what is being proposed is a change, and the question of how the town will prepare for this may come up on Town Meeting floor. He said that residents may want to know what safeguards will be in place to insure that these businesses abide by their Special Permits.

Bill Moeller said that when drawing up a zoning district, he felt that it is not appropriate to draw along property lines, which clearly benefits the owner. He said that other zones in the Town of Dunstable go by area, not property lines.

Alan Chaney said that these amendments to the Zoning Bylaw raise questions; questions of law (spot zoning and aquifer protection) and the question of sound planning (allowing a B2 operation on the main river in town near the town well). Alan asked the Planning Board to oppose any B2 activity on the parcel.

Brett reiterated that the passing of these articles is up to the residents of the Town. He said that even if they were all to pass, the owner of the property must apply for a special permit, and at that time, the Planning Board would hold a hearing with other Boards/Commissions and interested parties.

Sean Ready said that he heard a lot of talk about the possibility of oil/gas contamination into Salmon Brook by trucks located on the property. He went on to say that there doesn't seem to be concern about the potential problem of leaks from tank trucks that



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drive up and down Rte.113 all day long. Gail Brown felt that the town needs to look at risk mitigation. She said we can't control who drives on Rte. 113, but we can control what happens to this property. She asked the Board to think about a change that could forever impact the footprint of the community.

Peter Georges asked if the owners of the properties had contacted the Board about changing their property to B-1. Brett said they did not, however, although not required by Mass General Law; a copy of the hearing notice was mailed to both property owners to notify them of the hearing.

Ted Gaudette asked the Planning Board to consider what the town's infrastructure can afford, meaning what they can enforce if there is a violation on the properties.

Brett asked Attorney Larkin about the procedure once the articles are recommended or not recommended for passage. "Is there anything that prevents the Selectmen from including these articles on the warrant for Town Meeting?" asked Brett. Attorney Larkin said that it is the duty of the Selectmen, once the process is started, to put all the articles on the warrant for Town Meeting. If they did not, that would raise another set of issues.

Peter told the Board that he believed there is a certain time period that someone (who couldn't attend the hearing) could write to the Planning Board to give their opinion on the issues in front of the Board tonight. He asked the Board to table the vote in order to allow people to write in. Attorney Larkin said that he was not aware of any such law.

Before voting, Joe Dean reminded the Board of the letter of opposition to rezone the property which had been sent to the Planning Board by neighbors of 215 Pleasant Street.

Article 1 listed on the Public Hearing Notice - dated February 23, 2010 – Section 8-B-1 Retail Business District & Map

Brett made a motion to recommend passage of the amendment to modify the Zoning Bylaw and the Zoning Map of the Town of Dunstable by reclassifying lot 0 Block 41 on Assessors Map 12 and lot 0, Block 61A on Assessors Map 12, to be within the B-1 Retail Business District classification. George 2nd the motion. – Motion passed 4-1

Joyce Cail – yes

Brett Rock - yes

George Basbanes – yes

Willard (John) Goldthwaite, Jr. - yes

Judy Larter – no



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Article 5 listed on the Public Hearing Notice - dated February 23, 2010 – Section 15.2. Floodplain

Attorney Larkin explained that the Federal Emergency Management Agency is in the process of revising their flood maps. In order for the Town to remain eligible for flood insurance, the Town must adopt the new maps and associated language. Rich said that under the state zoning law, Town's must adopt their own flood maps, therefore, if the article passes at Town Meeting, NMCOG (Northern Middlesex Council of Governments) will be creating Dunstable maps using the new floodplain information.

Kevin asked if there was a downside to not passing this provision at Town Meeting. Rich said that in order for the Town to be entitled to flood insurance, all required language must be accepted. Also, residents in flood zones may not be able to get insurance or borrow against their property.

George made a motion to recommend passage of the amendment to the Zoning Bylaw Section 5.2 Floodplain as provided by Town Counsel. Joyce 2nd the motion. – Motion passed 5-0

Joyce Cail – yes
George Basbanes – yes
Judy Larter – yes
Brett Rock - yes
Willard (John) Goldthwaite, Jr. - yes

Article 6 listed on the Public Hearing Notice - dated February 23, 2010 – Section 20. Definitions

It was explained that 20.11 and 20.19(c) was prepared to tighten up zoning definitions regarding acceptable streets. After discussion Brett made a motion to amend 20.11 to say, "Frontage. A street providing frontage is defined as provided in subsection 20.19. Street, Road or Way" and by renumbering the subsequent subsections accordingly. George 2nd the motion. – Motion passed 5-0

Joyce Cail – yes
George Basbanes - yes
Judy Larter - yes
Brett Rock - yes
Willard (John) Goldthwaite, Jr. - yes

Brett then made a motion to recommend passage of the amendment to the Zoning Bylaw Section 20. Definitions, as amended. George 2nd the motion. – Motion passed 5-0

Joyce Cail – yes
George Basbanes - yes
Judy Larter - yes
Brett Rock - yes
Willard (John) Goldthwaite, Jr. - yes



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Article 7 listed on the Public Hearing Notice - dated February 23, 2010 – Section 24: Wind Energy Conversion Device

George made a motion to recommend passage of the amendment to the Zoning Bylaw adding Section 24: Wind Energy Conversion Device. John 2nd the motion. – Motion passed 3-1-1

Joyce Cail – opposed

Brett Rock - abstain

George Basbanes - yes

Willard (John) Goldthwaite, Jr. - yes

Judy Larter - yes

George made a motion to close the hearing at 9:27pm. Brett 2nd the motion. – Motion passed.

Motion was made to close the meeting at 9:28pm. Motion 2nd. - Motion passed. The next scheduled meeting of the Planning Board will be on Monday, April 5th at 7:30pm.

Respectfully submitted,

Cheryl A. Mann
Secretary
Dunstable Planning Board