



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, August 15, 2011

Meeting was called to order by Chairman, George Basbanes at 7:30pm.
Members present: John Goldthwaite, Joan Simmons, Brett Rock and Joe Vlcek
Meeting held: At the Dunstable Town Hall, 511 Main Street, lower level

Meeting Minutes – July 20, 2011

John made a motion to approve the minutes, as submitted, from the July 20th meeting. Brett 2nd the motion. – Motion passed unanimously.

Review and Sign Bills/Payroll

Invoices for a gavel, stamps and two 53G accounts were signed off as well as two payroll slips for the Secretary.

Purchase of Handbook

The Secretary received a call and e-mail inquiry about the Board's interest in purchasing the "Handbook of Massachusetts Land Use and Planning" – 4th edition. After discussion, Joe made a motion to not purchase the book at this time. Joan 2nd the motion. - Motion passed unanimously.

Letter to Return Funds – Massapoag Landing – James Craven

The Planning Board received a letter from James Craven requesting the return of remaining funds held for the Massapoag Landing (Parkhurst Street) subdivision. Town Counsel sent an e-mail that, after doing some research, he found that the funds were boundary or lot deposits, thus could not as a matter of law be used to secure completion of the way. Attorney Larkin suggested that the Board notify the Town Treasurer and Town Accountant that the funds be released to Mr. Craven. Brett made a motion to release the funds to James Craven as per recommendation from Town Counsel. Joan 2nd the motion. – Motion passed unanimously.

Special Permit Hearing –MSR Utility Maintenance Corporation–Matthew Raymond

George opened the hearing at 7:40pm by reading the public hearing notice for MSR Utility Maintenance Corporation. In attendance to speak on behalf of Mr. Raymond were: Attorney Douglas Deschenes and Matt Hamor from Hancock Associates.

Attorney Deschenes explained to the Board that the property historically supported varied commercial uses dating back to the 1920s including a gas station, auto body shop, car leasing, tree service, sheet metal shop, landscaping, and public works. He said that although the parcel was zoned residential in 1986, its use continued to be commercial in nature.



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Last year, Town Meeting voted to rezone the property to B1 with certain B2 uses allowed with Special Permit approval from the Planning Board.

Mr. Raymond is seeking a permit for one of those B2 uses (a contractor's garage). Attorney Deschenes said that this was a peculiar situation as MSR Utility Maintenance Corp (MSR) has operated on this site since 2004. The Town has had an opportunity to see the impact of the business on the neighborhood, traffic and Salmon Brook. Attorney Deschenes told members that he is not aware of any detrimental issues in the past 7 years.

Attorney Deschenes said that there are twelve (12) employees, however, not all park at MSR due to the fact that some report directly to the job site. Four to seven trucks will be stored on the upper lot during spring/summer/fall months with that increasing to twelve during winter months. If a permit is granted, there won't be any increase in traffic or impact on the neighboring properties. Although a portion of the property is located within the 200 ft. riverfront, the storage of the vehicles is not. Attorney Deschenes said that there is a natural barrier in the truck parking area and he was not aware of any erosion or sediment problems. He told the Board that Mr. Raymond lives in this town, has been a good corporate citizen, and is more than willing to work with the Board if they want additional precautions taken to protect Salmon Book.

Attorney Deschenes turned the meeting over to Matt Hamor to explain the existing conditions of the property. Matt said that Hancock Associates works in association with Robert Gill who completed the "Exhibit Plan" dated June 27, 2011 which was submitted with the application. The plan is an "existing conditions plan" which shows the brook, buffer zone (& inner riparian zone) and the 200' riverfront. There is a 1-story concrete block storage garage with a paved drive, a gravel parking area for the trucks, a 1-story wood office, a 1-story concrete block storage garage for equipment and a 1-story residential building. Generally, cars are not parked in front of the property with the exception of Mr. Raymond's vehicle. Approximately four employees park their personal vehicles behind the office building and head to the job site in company trucks.

George asked what work was done on the property besides the storage of trucks (bucket trucks, backhoe, booms, lifts, etc.) and equipment used in the business. Attorney Deschenes said that vehicles are not repaired on the property. Oil changes, transmission fluid, and heavy machine maintenance are done elsewhere. MSR may weld a bracket, change an air filter, or clean a trailer; however, no drums of chemicals are kept on the property.

Brett asked about the pavement recently removed from the site. Attorney Deschenes responded that Mr. Raymond had a permit from the Board of Road Commissioners to replace a section of pavement that was in significant disrepair.



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Joe asked Mr. Raymond if he had emergency jobs where he would have trucks coming and going during the night. Mr. Raymond said, "No". Joe went on to say that as a member of the Planning Board, his job is to make sure that any proposed project doesn't negatively impact the value of nearby properties, the health and welfare of the residents and the condition of Salmon Brook. Attorney Deschenes reiterated that Mr. Raymond is more than willing to work with the Board to insure that doesn't happen.

Joan asked about parking spaces. Attorney Deschenes said that the spaces on the gravel parking area are not delineated. The two garages are storage garages and parking spaces are not needed. He believes that the commercial area itself would require ten spaces. Joan commented that the business has 12 trucks and 12 employees which would require at least 24 spaces. Joan Simmons and Maria Amodei also voiced their concern that the Town has not seen a full complement of vehicles since Mr. Raymond has been operating under a cease and desist order and not all of his vehicles are parked on the property. Attorney Deschenes conferred with Mr. Raymond who said that the full operation of the business was from 2004-2009. From 2009 to date, he has limited the parking of vehicles. Although the cease and desist was mentioned, George reminded those in attendance that the Planning Board is charged with making a decision on an application before them and not on whether or not Mr. Raymond is currently operating illegally.

Bob Kennedy clarified that the town has never had a DPW and that town equipment was stored at the town shed, not at 205-215 Pleasant Street. Many years ago, the highway surveyor, who used his own equipment for Town work, was the one that stored his equipment at 205-215 Pleasant Street.

Alan Chaney asked Matt Hamor if he was aware of the composition of soils, the aquifer flow and how long it would take a spill to get into the aquifer. Matt said that he would have to get back to Mr. Chaney.

George then asked if any town departments had questions or concerns.

Selectmen: Walter Alterisio said that the Selectmen won't have any recommendations until they view the site, but are concerned with activities that go on with relation to the brook which feeds the town well site. He asked that if a permit is issued to Mr. Raymond, the Board define the activities allowed as well as chemicals he's allowed to store on the property.

Conservation Commission: Chair, Leah Basbanes told the Board that the Conservation Commission voted unanimously to not support the application due to the location of the brook, stormwater management, and run off from the site into the road. Alan Chaney explained that the Commission's concern is in protecting a priceless resource, the brook.



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Brett said that he was surprised that the Conservation Commission recommended not supporting the application without first hearing what the plans were for the property or what the Planning Board would allow on the property.

Joan commented that this parcel is located in the “Water Supply Protection District”, is designated as a Massachusetts Area of Critical Environmental Concern, and is within the 200 ft. buffer zone mandated by the Massachusetts Rivers Protection Act. She went on to say that in this case, the Conservation Commission is doing their job. She said that this business has operated illegally for seven years and even if a permit is issued with a long list of conditions, why would we assume that the owner would not continue to do as he pleases after the permit is issued? Attorney Deschenes said that legality of the business would be for the court to decide. The court may find that the business is legally grandfathered. He went on to say that the law allows for activities in this area as long as proper procedures and conditions are taken and Mr. Raymond is willing to take precautions by not storing oils and chemicals, and running his business under reasonable constraints.

Board of Health Member: Maria Amodei said that the Board of Health has not taken a formal vote, but are scheduled to meet tomorrow night. She did say that she called the Massachusetts Department of Environmental Protection (DEP) and they were “quite taken back with the fact that the Town is considering a B2 use near the brook”.

Fire Chief: Charlie Rich inspected the site with the State Fire Marshall. Chief Rich told the Board that Mr. Raymond did everything that was asked of him and brought the buildings up to code. Joan asked if Chief Rich noticed what was stored in the garages. The Chief said that he saw cutting torches and a welding machine, but no gallon or drum containers. Joan asked about access in case of fire. Chief Rich said that the fence is unlocked and there is adequate access to the property.

Sue Psaledakis made that comment that it sounds like Mr. Raymond is already running his business as a B1 since he will not be keeping chemicals on the property. Brett said that the applicant is looking for permission to work under a contractor’s garage which is a B2 use, permitted with approval of a special permit from the Planning Board.

Joe Dean handed out and read a statement from him and his wife regarding their objections to the business.

Maria Amodei read a letter from Bill Moeller asking the Planning Board to deny the special permit.

George asked if there was anyone who wanted to speak in favor of the applicant.



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Dan Devlin said that he supports Mr. Raymond because in the past six years, Matt has done a good job with making improvements to the property.

Ken Leva said that he also supports Mr. Raymond because of what he's done with the buildings compared to the way they looked before, and because Mr. Raymond is willing to work with the town.

George said that the biggest concern most people have is with Salmon Brook. He asked Attorney Deschenes if Mr. Raymond would be willing to obtain an insurance policy. Attorney Deschenes said that he will look into this. Joe pointed out that in addition to the concerns regarding Salmon Brook; an equally important concern is the negative impact to the value of nearby properties along with the health and welfare of residents.

Brett mentioned that Mr. Raymond requested a waiver of the site plan review. Brett said that he does not support that request. Jeff Rider (Town Engineer) also did not recommend waiving the submittal and suggested that it would be a good way for the applicant to show what he would do for stormwater management and to protect the brook.

Attorney Deschenes said that they would provide, before the next meeting, a list of equipment (including class of vehicle) that Mr. Raymond is planning on storing at the property, the hours of operation, lighting, signs, etc. Joe asked that all activities Mr. Raymond is planning on conducting on the property be provided in the list.

Brett suggested that the Planning Board set up a site visit to the property to view the existing conditions. The Planning Board arranged for Friday, August 19th at 8:00am for a site visit with the applicant, his representation and any interested parties.

Attorney Deschenes then asked for a continuance until Monday, September 19th in order to gather the necessary information for the Board. The Board agreed with the date and chose 8:00pm for the continuation.

Motion made to close the meeting at 9:12pm. Motion 2nd. – Motion passed unanimously.

Respectfully submitted,

Cheryl A. Mann
Secretary
Dunstable Planning Board