

TOWN OF DARTMOUTH PLANNING BOARD



REGULAR MEETING MINUTES
May 11, 2020
Teleconference

Present

Lorri-Ann Miller, Chairman
Kevin Melo, Vice Chairman
Stephen Taylor, Clerk
John Sousa
Margaret Sweet

Christine O'Grady, AICP – Planning Director

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Chairman Miller opened the Board's regular meeting at 7:00 p.m.

Continued Public Hearing

- (1) **Definitive (OSRD) Subdivision Plan entitled "Windsong Acres"**
Proposed 5-lot subdivision located off of Jason Drive
(Map 125 / Lots 19, 19-1 thru 19-7)

The applicant requested a continuance to June 1, 2020.

John Sousa motioned to continue the public hearing to June 1, 2020. The motion was seconded by Kevin Melo and unanimously voted. (roll-call vote).

Continued Public Hearing

- (2) **Definitive (OSRD) Subdivision Plan entitled "Penelope Lane"**
Proposed 4-lot subdivision located to the easterly side of Chase Road
(Map 50 / Lots 6, 10 & 11)

Chairman Miller recused herself. Kevin Melo became Acting Chairman.
Kathleen DelSordo, Alternate Member, was present

This is the continued public hearing¹ for a Definitive (OSRD) Subdivision Plan entitled "Penelope Lane", which shows 4 buildable lots and 3 parcels proposed to be divided from a 90 +/- acre tract of land located to the easterly side of Chase Road (Assessor's Map 50 / Lots 6, 10, & 11). The plan was prepared by Zenith Consulting Engineers, LLC for property owned by Robert & James Szala and submitted to the Planning Board office on February 19, 2020. The applicant is also requesting a Special Permit for an Open Space Residential Development as provided for in Article 11 of the Zoning By-Laws to allow waivers regarding lot area, lot shape, lot frontage, and setbacks.

¹ For more information, see public hearing minutes entitled "Penelope Lane"

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Action: The public hearing was continued to June 1, 2020

Administrative Items

(3) Request for Lot Release – Lichen Lane

The applicant was seeking to release lots from the Performance Covenant. The Planning Director stated that the applicant will be seeking a surety reduction in the future.

The Planning Director requested authority to sign the form on behalf of the Planning Board.

Stephen Taylor motioned to authorize the Planning Director to sign the form on behalf of the Planning Board. The motion was seconded by Kevin Melo and unanimously voted (roll-call vote).

Margaret Sweet motioned to release two lots from the Performance Covenant. The motion was seconded by Kevin Melo and unanimously voted (roll-call vote).

(4) Site Plan Review Application

Paskamansett Office Park, 461-479 Faunce Corner Road, Map 68 Lots 33 & 34

Also Present: Mark Bobrowski, Esq., Representing the Applicant
Lawrence Silva, Silva Engineering Associates
Robert Mongeon, Dunkin Donuts
Michael Lopes, Dunkin Donuts

Margaret Sweet recused herself and was not present.

Attorney Bobrowski stated that his client is here to obtain site approval for a Dunkin Donuts restaurant with a fast food drive thru window.

The Planning Director stated she could not confirm the dimensions of the parking spaces as part of her site plan review analysis for the board. She also noted that there was no fire lane shown on the plan.

Mr. Silva stated that the parking space dimensions are shown on the parking summary table on page 3, and are 10 x 20. He stated that the fire lane is shown on page 6 of the submitted plan as the travel lanes to the site.

A board member asked the Planning Director if the Fire Chief was able to review

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the site plans. She stated that the Fire Chief responded to the first Site Plan Review application for this site, which was for a Dunkin Donuts without the drive thru. She did not believe there were any substantial changes with this new plan.

Mr. Silva explained that all the comments received regarding the original application were addressed.

A board member stated that the plan shows a lane for a drive thru, a second lane for a drive thru, and a mobile pick up lane. He asked for clarification since they all seem to converge at one point.

Mr. Silva confirmed that there are three lanes related to the drive thru window. He explained that two lanes are at menu boards where the customer will place their order and then proceed to the pick-up window on the far side of the building. The mobile lane is for orders that are called or texted in with vehicles proceeding to the pick-up window. He stated that outside of that lane is a bypass lane for anyone that needs to leave the drive thru lanes.

A board member expressed concern with three drive thru lanes meeting at one location.

Mr. Mongeon stated that mobile ordering is an increasingly popular part of the business.

The Planning Director asked if the Zoning Board of Appeals approved the submitted site plan as part of its variance decision. Mr. Silva stated that the drive thru layout shown is basically the same as shown on the plan approved by the Zoning Board of Appeals.

A board member asked the Planning Director about the variances received from the Zoning Board of Appeals. He stated that a variance was granted to allow a drive thru in the district, and a variance was granted for a one foot setback from the building. He stated that variances from the design standards of the bylaw were not granted. He asked the Planning Director if, as currently designed and shown on this plan, the drive thru complied with all the bylaw standards for the menu board, pick up window, and car stacking spaces.

The Planning Director responded that the standards were reviewed as part of the original application, and since this is a new application with variances granted for a drive thru, the design standards didn't change.

The board member stated that this is the first site plan the board has seen with a

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drive thru. The previous site plan was for a standalone restaurant with no drive thru.

Attorney Bobrowski stated that the Planning Board granted a Special Permit for a conventional Office Industrial District restaurant, which complies with the bylaw and does not have a drive thru. He noted that Site Plan Review was also approved by the Planning Board for that use. He stated that those documents have not been recorded with the Registry of Deeds, and no construction has started.

Attorney Bobrowski explained that this is a new application for Site Plan Review approval, and is a different kind of restaurant in his opinion. The bylaw differentiates between a sit down restaurant and a fast food take out drive thru restaurant, as two separate uses and two separate parking standards.

He noted that this application is for the type of restaurant that is not otherwise allowed in the Office Industrial District, but because a Use Variance was obtained through the Zoning Board of Appeals, the applicant is allowed to proceed with this new application.

The same board member reiterated the fact that the Planning Board has not seen the plan showing the restaurant and drive thru. He wanted reassurance that the plan met the design standards of the bylaw. He stated that he would be agreeable to a conditional approval if the Planning Director could verify that the standards of the bylaw have been met.

Chairman Miller asked if members had any more comments or questions. None received.

John Sousa motioned to conditionally approve the Site Plan subject to verification by the Planning Director that the bylaw design standards have been met. If the bylaw standards have not been met, no approval shall be given, and the site plan will need to come back to the Planning Board for review. The motion was seconded by Kevin Melo and unanimously voted. (4 yes; 1 abstain). Margaret Sweet recused herself and abstained from voting.

(5) Correspondence

Legal Notice from City of New Bedford

John Sousa motioned to acknowledge and file the above-referenced correspondence. The motion was seconded by Kevin Melo and voted (4 yes; 1 absent). Margaret Sweet was not present for this vote.

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(6) Minutes

Meeting Minutes of August 20, 2018

Zoning Articles FTM

Meeting Minutes of September 10, 2018

Amendment – The Enclave

Scenic Road Tree Removal – Lucy Little Road

15 Highland Avenue

Zoning Articles FTM

Meeting Minutes of September 24, 2018

Regular meeting minutes of August 20, 2018

John Sousa motioned to approve the above-referenced minutes. Lorri-Ann Miller seconded the motion. (2 yes)

Public hearing minutes of August 20, 2018

John Sousa motioned to approve the above-referenced minutes. Lorri-Ann Miller seconded the motion. (2 yes)

Public hearing minutes of September 10, 2018 – the Enclave

John Sousa motioned to approve the above-referenced minutes. The motion was seconded by Kevin Melo and voted (3 yes).

Public hearing minutes of September 10, 2018 – Lucy Little Road

John Sousa motioned to approve the above-referenced minutes. The motion was seconded by Kevin Melo and voted (3 yes).

Public hearing minutes of September 10, 2018 – 15 Highland Avenue

John Sousa motioned to approve the above-referenced minutes. The motion was seconded by Kevin Melo and voted (3 yes).

Regular meeting minutes of September 24, 2018

John Sousa motioned to approve the above-referenced minutes. The motion was seconded by Kevin Melo and voted (3 yes).

Public hearing minutes of September 10, 2018 – Zoning Articles FTM

Tabled. John Sousa did not have this set of minutes in his packet.

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Margaret Sweet returned and was present for the remainder of the meeting.

(7) For Your Information/New Business

Chairman's Report

Chairman Miller stated that there was a personnel problem in Town Hall that escalated. She stated that she would not accept questions from board members but she wanted everyone notified in case she determined it should be addressed in Executive Session.

Planner's Report

FLOOD PLAIN MAP

The Planning Director stated that SRPEDD is still working with FEMA on the Flood Plain map amendments for Spring Town Meeting.

FAUNCE CORNER EXECUTIVE CENTER

The Planning Director informed the board that the surety issue for this subdivision has been handled and money is being released.

JOINT MEETING WITH DPW

The Planning Director stated that the meeting with the DPW has been scheduled for Monday, May 18, 2020.

SRPEDD MASTER PLAN INVOICING

The Planning Director stated that these invoices will go through the Town Administrator's office.

MASTER PLAN DRAFT MATERIALS

The Planning Director stated that SRPEDD submitted an initial draft chapter of the Master Plan, which she forwarded to the Planning Board for this meeting. A board member stated that he did not entirely agree with the draft and wanted to ensure that he would be able to thoroughly discuss the draft with the Planning Board. The Planning Director suggested that board members review the draft and comment in redline form.

The same member asked the board to seriously consider allowing time, at least an hour per meeting, for proper Master Plan Review. He did not want the board wasting time marking up a draft that the board majority may not agree with. He wanted the board to have the time and opportunity to focus to be on the big picture for the Town. He stated that it is the Planning Board's document and he wanted it done properly.

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The Planning Director suggested that the board redline the initial draft chapter for board discussion at the June 1st meeting. A board member requested that the pages are numbered in the future to help make the review easier.

With no further business to discuss, Chairman Miller called for a motion to adjourn.

John Sousa motioned to adjourn the meeting. The motion was seconded by Kevin Melo and unanimously voted (roll-call vote). 8:40 p.m. Meeting adjourned.

Respectfully submitted,
Jane Kirby, Planning Aide

APPROVED BY: The Dartmouth Planning Board

Date of Approval: June 15, 2020

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Definitive (OSRD) Subdivision Plan entitled "Penelope Lane"
May 11, 2020
Teleconference

Present

Lorri-Ann Miller, Chairman
Kevin Melo, Vice Chairman
Stephen Taylor, Clerk
John Sousa
Margaret Sweet

Christine O'Grady, AICP – Planning Director

(Recorded by Teleconference due to the COVID-19 State Restrictions)

Chairman Miller recused herself. Kevin Melo became Acting Chairman. Kathleen DelSordo was present for this public hearing.

This is the continued public hearing¹ for a Definitive (OSRD) Subdivision Plan entitled "Penelope Lane", which shows 4 buildable lots and 3 parcels proposed to be divided from a 90 +/- acre tract of land located to the easterly side of Chase Road (Map 50/Lots 6, 10, & 11). The plan was prepared by Zenith Consulting Engineers, LLC for property owned by Robert & James Szala and submitted to the Planning Board office on February 19, 2020. The applicant is also requesting a Special Permit for an Open Space Residential Development as provided for in Article 11 of the Zoning By-Laws to allow variances regarding lot area, lot shape, lot frontage, and setbacks.

Also Present: Planning Board Alternate member Kathleen DelSordo
Jamie Bissonnette, Zenith Consultant Engineering
Richard Mandell, Sage Environmental
Ronald Oliveira, Purchasing the Subject Property

Correspondence Received: Board of Health letter dated 4/5/2020

Mr. Bissonnette noted that there were issues that needed to be addressed by the DPW and stated that he is still waiting to receive their comments.

Mr. Mandell explained that there are outstanding environmental issues on the property, and the property owners are in the process of responding to a DEP Notice of Responsibility issued some time in February. He noted that the property owners were unaware of the outstanding environmental issues up until that time. He stated that he has requested and received a response time extension, which will allow enough time to review the DEP file. The response deadline was extended to November 1, 2020.

Chairman Melo invited public comment. None received

¹ For more information, see regular meeting minutes of 5/11/2020

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Discussion ensued regarding the environmental issues. Board members expressed concern and debated whether or not it made more sense to wait until the environmental issues were resolved before making a decision on the OSRD subdivision plan. Members noted that the Board of Health memorandum also expressed concern with the materials found on the property.

Stephen Taylor motioned to postpone making a determination on the applications until the DEP's final review is received. John Sousa seconded the motion for discussion.

A board member asked the Planning Director what the timeline for making its decision was. The Planning Director responded that the board has until early July to make its decision.

She stated that she received comments from the Town's Environmental Affairs Coordinator Michael O'Reilly, who informed her that Conservation Commission would not be interested in obtaining the open space parcel. She also heard from Dexter Mead and the DNRT will not be interested in the open space parcel either. She stated that the way the bylaw is set up now, the open space parcel could be set up in the Homeowner's Association.

A board member stated that he is not interested in putting a piece of property with environmental issues into a Homeowner's Association.

Mr. Oliveira stated that he is planning on building two homes on the property, one for himself and one for his daughter. He wanted the board to know he had a vested interest in cleaning up the property, which has already cost over \$400,000. He said he is willing to do the work, but was seeking reassurance that the board will approve four lots if the property has been cleaned up properly.

A board member stated that if the site was cleaned up per DEP, Board of Health, and Conservation Commission specifications, he would not have a problem reviewing the four lot OSRD subdivision plan. It was noted that the Board of Health letter recommended that the subdivision plan be denied unless the applicant can demonstrate that the property is deemed "No Significant Risk" by the DEP.

The Planning Director stated that there was a Technical Reviewer's meeting held on April 21, 2020 and no major concerns were raised other than the site contamination.

A board member asked if there property could be developed by right. Mr. Bissonnette responded that from a zoning standpoint, the answer is no. A board

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member questioned the frontage. Mr. Bissonnette responded that it was 61.41 feet.

Mr. Oliveira explained that the Board of Health requires confirmation from the DEP that the property has been cleaned up prior to issuing a building permit. The Planning Director stated that the Board of Health memorandum stated that the Board of Health voted unanimously to recommend that the Planning Board deny the subdivision.

The Planning Director recommended that the board continue the public hearing process, which would allow the applicant to address DPW comments while still addressing the DEP concerns. A board member did not think it made sense for the DPW to review a project that could be denied as a result of the environmental issues.

Chairman Melo stated that the Planning Director missed some valuable information from the Board of Health memorandum. He clarified that the memorandum recommended denial unless the applicant can show that there is no significant risk on the property.

A board member requested that copies of any correspondence between the applicant and the DEP be forwarded to the Planning Board.

The board determined that the public hearing should be continued to June 1, 2020.

Stephen Taylor amended his motion to continue this public hearing to June 1, 2020. The motion was seconded by Kathleen DelSordo and voted by roll-call. (4 yes).

Lorri-Ann Miller recused herself and did not vote.

Respectfully submitted,
Jane Kirby, Planning Aide

APPROVED BY:
The Dartmouth Planning Board

Date of Approval: June 15, 2020