OFFICE OF THE
PLANNING BOARD
TOWN HALL, 511 MAIN STREET
DUNSTABLE, MA 01827-1313
(978) 649-4514 FAX (978) 649-8893
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Planning Board Minutes
Monday, February 3, 2025

Approved: **February 18, 2025**

Chair Joan Simmons at 6:34pm, called the meeting to order.
Members present: Alan Chaney, Jeff Pallis, and Joe Vlcek
Members absent: Jim Wilkie
Meeting held: At the Dunstable Town Hall, 511 Main Street, lower level

Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting

Town Engineer/Stormwater Agent Dave Langlais was in attendance to discuss Town land disturbance projects in process, including:

Land Disturbance Permit Tier II -- 158 Forest Street

Dave noted it's been two months since the partial application submission for a Tier II Land Disturbance application, Town fees and project review and inspections deposits were submitted to the Town. The required supporting plans and backup documents have not yet been submitted by the engineering firm. Dave shared that based on some email communication with the engineering firm, they are trying to develop the post construction permanent stormwater management solution. The rules and regulation's goal are to capture the first 1" of rainfall on the property using basins, trenches, etc.

Dave will reach out to their engineering firm again to seek a rough idea of what they plan to do within the next month. He noted that the Town can always issue a letter of conditions required ahead of any issuance of their occupancy permit.

Land Disturbance Permit (LDP) Transfer -- 160 Westford Street

The developer has notified the Board of an intention to sell the 178 Westford Street backland lot in the very near future. He inquired about how to transfer his land disturbance permit.

Dave noted the entire "160" property development remains out of compliance with LDP requirements with eight violations. He noted that the developer is aware of what he must do, having hired Meridian Land Services to create the necessary plans as part of the application submission in August of 2023.

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Because of the amount of land disturbance for the entire "160" site, the EPA considers it a single project. Dave shared news that the EPA is pursuing the property owner for 178 Westford Street, issuing an information request letter which he is legally required to respond to.

Regardless of what the Board may determine about transfer of the LDP, Dave highlighted the new owners will have to submit a new Notice of Intent (NOI) with the EPA/state.

Regarding Scott's inquiry into how to transfer his LDP, Dave recommended a response that "*it cannot be transferred because the property requires an NOI filing to the EPA, which was not done and cannot be transferred, and therefore the Town's LDP cannot be transferred either."*

Dave shared that the developer has outstanding responsibilities for the properties which he no longer owns, and which are outlined as violations in a draft letter he's created. The developer should have submitted "as-built" plans for 148, 166, 172. While he built some retention basins, they were not according to the original design submitted. He failed to complete installation of 2' berm BMP and 2' deep detention basin at 172 Westford Street. He's failed to implement interim stabilization measures on Lot 18-2-5 / 178 Westford Street. He's failed to conduct routine SWPPP inspections and provide subsequent monthly reports to the Town for the entire "160" Westford Street 4-lot property which disturbed over 7-acres in total. Town regulations state the Board can enforce a penalty of $300.00/day for each of the eight total violations, totaling $2,400.00/day. Per Section 13, each day or part thereof that such violation occurs or continues shall constitute a separate offense.

After the discussion, the Board agreed to make an inquiry to Town Counsel as to whether the existing LDP is transferrable or not.

- Given the near pending sale of the property, and upon receipt of a Town Counsel response, Alan motioned for the Planning Board to issue the 178 Westford St. current property owner/Scott Bonenfant a letter noting the Board would not transfer the existing LDP to a new property owner upon any sale, until the violations were addressed. Joe 2nd the motion. – Motion passed unanimously.

<u>Land Disturbance Permitting Process</u>

The Board will now require the submission of a site plan layout to determine the amount of land disturbance square footage expected, which may trigger the need for a LDP application, prior to release of building permit approval to the Building Inspector.

The Board will consider updating their rules and regulations to include an additional collaborative process with the Building Inspector to ensure Land Disturbance permitting needs are incorporated earlier into any building in town. At a minimum, to start, the Administrator will request the Building Inspector notify the Planning Board of any building permit requests which "break ground".

Accessory Dwelling Unit (ADU) Bylaw

Joe has produced a draft ADU bylaw for the PB to consider. He provided a brief introduction to his proposed ADU bylaw, reviewing what the state of MA allows a municipality to do within such bylaws. Town's may impose reasonable restrictions and requirements for ADU's such as requiring they are behind the existing primary building, utilizing existing openings/not allowing a new opening to the main road or a new driveway.

Given the late delivery for the Board to consider, Joe requested that members either mark up a hard-copy or make edits in-line to the on-line Google .doc Joe has offered.

The Board will discuss the draft bylaw at their next meetings.

215 Pleasant Street Special Permit Conditions Concern

Joan raised a concern surrounding an apparent violation of the conditions of approval for the Special Permit issued to M. Raymond in December of 2011. The inquiry of concern is related to business/work vehicle parking in front of the buildings, which he had not done until recently. Business vehicle parking is specifically referred to in item #11 of the SP conditions:

> *# 11: No construction vehicles of the character ordinarily used in the business or similar equipment shall be parked on a regular basis in the forward part of the property, including the front of the buildings.*

The Board requested that the Administrator pursue the Zoning Enforcement Agent to remind Mr. Raymond of the conditions of his SP. If the Board doesn't observe an immediate change in vehicle parking, they'll consider issuing a formal letter of concern at their next meeting.

ZBA "Hardship" Definition

The Board had a general discussion about how a hardship is determined and how it may be applied to ZBA considerations during hearings for appeals. The Board referred to on-line State descriptions (General Law - Part I, Title VII, Chapter 40A, Section 10) whereby:

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"…. a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law."

They referred to a helpful article What Exactly is a Zoning Hardship? :
https://buildingonland.com/you-may-know-hardship-but-what-exactly-is-a-zoning-hardship/

The Test of a Real (Zoning) Hardship
You can feel confident that a hardship is in the realm of the real if you can affirm all the relevant bullet points that follow:

- The hardship is born out of a quality or condition that is inherent in the physicality of the land parcel (topography, lot shape, etc.).
- The hardship is imposed only by conditions that are outside the property owner's control.
- While the granting of a variance may improve personal circumstances ultimately, the hardship itself is not generated by any personal circumstance.
- The hardship is unusual and different in kind from that affecting other parcels in the same zoning district. In other words, it is unique to the subject parcel and not generally present in the overall district.
- The hardship is not based on financial considerations of the property owner. If a financial consideration is present, it is because the hardship is depriving the owner of the land's value in an egregious way, either completely or almost completely.
- The hardship is not "manufactured" (an example would be something like subdividing a parcel and then seeking variances for the resulting parcels, asserting the act of subdivision as the basis of the hardship).

There is a ZBA hearing this upcoming Thursday, February 6th to consider waving a 30' side-lot distance requirement for building an addition onto combined lots 161-163 Off Pond Street.

The Board won't offer any formal comments on this variance request and ZBA hearing notice, but members may choose to attend of their own accord.

Meeting Minutes – January 21, 2025

Alan made a motion to approve the minutes of the January 21st meeting. Jeff 2nd the motion. – Motion passed unanimously.

Bills, Task Orders and Payroll

- Alan made a motion to sign off on one payroll. Joe 2nd the motion. – Motion passed unanimously.

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- Alan made a motion to pay a $144.75 Hoyle Tanner invoice #72882 for engineering and inspection services related to land disturbance monitoring of 493 Main Street. Jeff 2nd the motion. – Motion passed unanimously.

- Alan made a motion to pay a $3,065.58 Hoyle Tanner invoice #72881 for engineering and inspection services related to the Unkety Brook Way development off River Street. Joe 2nd the motion. – Motion passed unanimously.

- Alan made a motion to approve a $43.62 reimbursement to the Administrator for the purchase of office supplies at Staples. Joe 2nd the motion. – Motion passed unanimously.

Additional Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting

Town Center District Commercial Business – 493 Main Street

The Administrator shared an inquiry from the property owner at 493 Main Street regarding what type of commercial signage was allowed and whether they needed any approval for a business within the Town Center District. Joan noted that any signage shall conform to Section 13 of the Zoning Bylaws and referred to the TCD Section 22 listing of types of allowed businesses within the district.

Joe moved to close the meeting at 8:38PM. Jeff seconded the motion. – Motion passed unanimously.

The next regular meeting of the Planning Board is scheduled for Tuesday, February 18, 2025, at 6:30pm.

Respectfully submitted,

Carol A. Rock
Administrative Assistant
Dunstable Planning Board

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