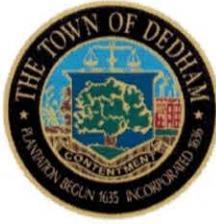


PLANNING BOARD

Michael A. Podolski, Esq., Chair
John R. Bethoney, Vice Chair
Robert D. Aldous, Clerk
James E. O'Brien IV
Ralph I. Steeves

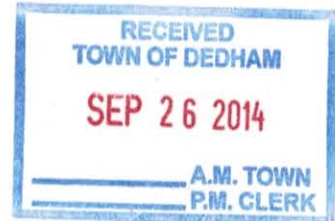


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**TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS**



**PLANNING BOARD MEETING MINUTES
Lower Conference Room, Town Office Building
Thursday, April 3, 2014, 7:00 p.m., Selectmen's Chambers**

Present: Michael A. Podolski, Esq., Chairman
Robert D. Aldous, Clerk
James E. O'Brien IV
Ralph I. Steeves
Richard J. McCarthy, Jr., Planning Director

Mr. Podolski called the meeting to order at 7:10 p.m. The plans, documents, studies, etc. referred to are incorporated as part of the public record and are on file in the Planning and Zoning office.

APPLICANT: PROJECT ADDRESS: PROPERTY OWNER: PROPERTY OWNER ADDRESS: CASE #: ZONING DISTRICT:	Dennis Toth 148 Schoolmaster Lane Dennis J. Toth 3207 Hibiscus Drive West, Belleair Beach, FL ANR-10-13-1746 Single Residence A
DATE/TIME/LOCATION REPRESENTATIVE(S):	April 3, 2013, 7:10 p.m., Lower Conference Room Thomas J. Recuperero, Esq., 1185 Turnpike Street, Stoughton, MA Al Endriunas, developer

Prior to the beginning of the meeting, Mr. Podolski noted that Mr. Bethoney is recusing himself from this meeting because the agency at which he works has a professional relationship with Giorgio Petruzzello and Supreme Development, which is building homes on Schoolmaster Lane. He was not present in the building, and has not attended any of the previous meetings regarding this application.

Mr. Podolski made some preliminary comments regarding what he believes will happen at this meeting. The Board is appreciative of the involvement with regard to the road, but he reminded everyone that these are public meetings, not public hearings. It is only at the behest of the Chairman that anyone is allowed to speak. At this meeting, anyone who wants to speak can do so once and once only. The speaker will be allotted three minutes. The Board has heard everything over and over, and it is meeting to do something at this meeting. If anyone repeats a question, he will cut him/her off. If anyone goes past three minutes, he will cut him/her off.

Mr. Podolski has been in touch with and spoken to Town Counsel relating to some of the issues brought up at the last meeting. Town Counsel thought the Board was crazy to let the road go in at 20 feet, saying that it should be going in at 24-30 feet in order to have adequate access. Mr. McCarthy spoke with the Fire Chief, who is adamant that the road be 20 feet of asphalt. It has always been 20 feet; it is just the question of the makeup, whether it is all asphalt or asphalt and sides. He then opened the meeting for comments.

Board

Mr. Steeves said that the neighbors know exactly what should be happening, whether they like it or not. The Fire Chief insists that for safety, the road needs to be at least 20 feet plus a berm on each side that will carry the weight of a fire truck. With regard to safety, the other people who live on the street may have a heavy foot, and he suggested speed bumps to slow people down, which can make it a lot safer.

Mr. O'Brien said that this has been discussed over and over. The expert says the road needs to be 20 feet of asphalt. His name is on the document, and he does not take this lightly. The neighbors' names will also be on the document. He said that, unfortunately in life, the most adamant argument for 16 feet to keep the road a nice, small, leisurely, country road that would save trees, when things happen, human frailty usually steps in and irony becomes the way. The first person who is adamant against 16 feet would be the first person who would end up suing. No one wanted to sign a waiver. He has now pretty much made up his mind how he will vote.

Mr. Podolski said that no one on the Board enjoys having to tell the neighbors that the roadway will have to be 20 feet. However, the times have caught up to them after a ten-year pass. This should have happened ten years ago, but the developer went belly up. He said they have enjoyed the last ten years, but developments are starting now. There will be many more developments on the street, and 20 feet is the minimum amount that allows safe access for the residents, the pedestrians, the town emergency vehicles and public safety vehicles, and people come on the road to do business.

Applicant

Mr. Recupero said their position has been fairly clear all along: whatever the Board told them to do, they would do it. That has not changed. He understands the neighbors' feelings, and said they never wanted to disrupt anything. He said they want to cooperate with whatever the Board wants and try to marry it with the existing neighborhood and the new neighborhood. The only point he brought up was that there has always been a pinch point (the culvert) that has been, and will continue to be, difficult. If there can be flexibility on this, it would make a world of difference. This is conservation land. Mr. Podolski said that

they would have to do what the Conservation Commission wants them to do, and Mr. Recupero agreed. He said he is just looking for an ANR endorsement so he can get on with the plan part of it. Mr. Podolski will explain this to the public before taking a vote.

David Allen, 100 Schoolmaster Lane: He was perplexed to hear all of the Board's comments. He said that a year ago, the Board approved an extension of Schoolmaster Lane for 16 feet. Mr. Podolski said that Mr. Allen was not at the last meeting, at which time the other builder (Supreme Development) offered to enlarge its portion of the road to 20 feet. Mr. Podolski again said that if he had it to do over, he would have not done the 16 foot road. This way, the road will be a uniform 20 feet. He will be speaking with the builder's counsel to ask him to amend the Certificate of Action to that effect.

Adam Glasgow, 34 Schoolmaster Lane: If there was no development on the lane, was there any plan to widen the road or insist that the current residents, absent development, widen the road. Mr. Podolski said there was not because it is a private road and will remain so. Mr. Glasgow then said that the only reason it is being expanded because more homes are being built. Mr. Podolski said it is for safety purposes. Mr. Glasgow said the road is safe as currently situated at 16 feet, and he does not understand. There are ten homes on the road with a 16 foot road. Mr. Podolski asked if he thought it will still be safe with 40 houses on the road. Mr. Glasgow said his point is why are homes more important than roads. There are ten homes on the road, which is 16 feet, and the Fire Chief says this is fine. No one was going to decree that the neighbors had to widen the road for ten homes. He is not sure why, just because someone wants to put more homes on the road, the ten neighbors who are there have to live with a larger road. Mr. Podolski asked if he saw a difference between ten houses and 40 houses using the street, requiring a wider roadway. Mr. Glasgow said the logic is that they do not need to put homes on that road. Mr. Podolski said that if he wanted to stop home growth, he should have bought all the land and kept it vacant. Mr. Glasgow said he did not think that was his obligation, and he is not sure that people have an unfettered right to constantly develop. They have an interest in the town in controlling development. If they had some social interest in building low income housing or putting in houses that were needed, he might agree. However, to just develop the land so someone can make a profit at his expense really strikes him as odd. He said he would be giving up several feet of his front yard, although Mr. Podolski said it is not in his front yard; it is in a roadway layout. Whatever is in his front yard is probably within the layout of the roadway. Mr. Glasgow asked whether a 20 foot road with two foot berms would come onto his land; Mr. Podolski said it depended what it is like in front of his house. Mr. Glasgow said it comes right onto his front yard. Mr. Podolski said that meant that he or his predecessors built into the roadway. Although the neighbors own to the middle of the road, it does not mean they have the right to be there and obstruct it. Mr. Glasgow said they are not obstructing anything. If someone wants to come for their own benefit and widen the road, with two houses on the lane, 40 extra cars a day coming by his house, what benefit would be there to him. He asked why he should go along with this. He is safe where he is now; emergency vehicles can get to him. If someone wants to build 40 homes west of him on the road, he is then put at risk because of the development. His road will be changed and there will be more traffic, so he does not get it. Mr. O'Brien said this is the history of the United States. Mr. Steeves asked Mr. Glasgow if he is perfectly safe and comfortable where he is, 50 feet off Country Club Road. He said that 200-300 feet up the road, there is a house burning, and the Fire Department cannot get to it. He asked Mr. Glasgow if he had any concern for that neighbor. Mr. Steeves said the developers have a right to built on it. He said that, as much as he hates

the phrase "a matter of right," someone bought the land and the land is buildable, so he has a right to build. Mr. Glasgow said that his house will not burn, but you cannot build 40 homes and create a hazard. There is no hazard on Schoolmaster Lane right now. Mr. O'Brien asked what the Native Americans would say: they would say you don't belong there either. When Mr. Glasgow's house was built there, no one was there. What if there was one house and they did not want him there. Mr. O'Brien said this is the logic he is speaking. The Board agreed. Mr. O'Brien told him that this is development, and 40 houses will be built because someone bought the land because he does not own it. That is the consequence of where he lives. Mr. Podolski said that what Mr. Glasgow is proposing is that no one else should be allowed to development on the street. That is not the law. If he wants to change it, he has to change the law.

Ken Wildes, 120 Schoolmaster Lane: Ten years ago the neighbors were before the board because a developer wanted to build 28 houses. His recollection is that Mr. Aldous said you need water and you need sewer. He was adamant about that, and he wanted it done for the entire road. Mr. Steeves also said absolutely, that he did not want any cesspools or wells. It has to be water and sewer. The developer had to bring these in from Route 135. Now, there is a possibility of 40 houses, and he wanted to know what was being done about sewer and water today. He said that Supreme Development put in a 16 foot road, which was fine. The berms will not hold the fire truck, but the Board passed that, saying it was okay. Now there is a new developer who has to put in a 20 foot road with two foot berms on either side to hold the weight of a fire truck. Mr. Wildes said he believes in roads, fairness, and the American Way. If there are rules to be set here, they need to get very clear things. Mr. Podolski addressed Supreme Development's road. Mr. Petruzziello has offered to pave his road to 20 feet. Mr. Wildes just wants to know what they are really going to do there. Mr. Steeves said it is going to be made as safe as it possibly can. Mr. Wildes then brought up the gate at the other end Schoolmaster Lane turnaround. He asked if this would be irrevocable. He does not want this to be a through way, and asked if opening it would be stopped. Mr. Steeves said that Town Meeting will determine that if someone puts together an article for voting. Mr. Wildes said Mr. Steeves said that the last time, that the road would never go through as a pass through. Mr. Podolski said that the present Supreme Development plan says that once Mr. Petruzziello has done his houses, the gate will be locked, never to be opened in the future other than for emergency access by the Department of Public Works to repair the water mains and sewer lines. Mr. O'Brien said he was hanging his hat on the Fire Chief. He is the expert on whom everyone else is going to rely.

Chris Sullivan, 59 Schoolmaster Lane: He asked why Mr. Flanagan did not make this a conforming road. He does not want to compromise safety. If the road is going to be 20 feet, why doesn't the town take it over? Mr. Podolski said that is because it does not meet town standards. Mr. Sullivan asked if this could be done when it is developed. The Fire Chief said that 20 feet is adequate.

Mr. Podolski said that this particular case is not governed by the Subdivision Rules and Regulations. This is a statutory Approval Not Required. The Applicant has adequate access with a 20 foot road, according to the Fire Chief, and he has adequate area and frontage on the street. If the Board denied this, the Applicant would have a great appeal and get the town into all sorts of legal issues, and the town will lose it. Mr. Podolski said that they have the right through the plan. There are a number of things that are going to be handled before

a shovel is put in the ground. This is just to approve the plan as adequate under the ANR statute of a private road.

Fred Parson, 65 Schoolmaster Lane: He asked if there was a physical limit to the number of lots on large acreage, and this depends on what an engineer comes up with. Mr. McCarthy explained that the various parcels that have extra acres above 40,000 square feet, unless restricted from development, are all potential dividable. Mr. McCarthy went through the properties that could become formal subdivisions.

Amy Ritzhaupt Marcus, 85 Schoolmaster Lane: She asked why the discussion was about 40 new houses. Mr. Steeves said that is what can be built there. She asked if putting in a 20 foot road with two foot berms was in preparation for the 40 houses. Mr. Podolski said no, they are saying that this is what is required for these four lots. She then asked where the 40 houses coming from. Mr. Steeves explained where these would be. There are presently 24 lots. She asked where the other 15 lots would be. Mr. Podolski said there are lots big enough to allow actual formal subdivisions off the road. Mr. McCarthy showed where these would be. He has not seen a subdivision layout, however. Ms. Ritzhaupt Marcus asked if the residents had any rights in terms of having input into what is done. Mr. McCarthy explained that a formal subdivision plan would need to be submitted, public hearing notice sent to abutters, advertising in the newspaper, design according to the rules and regulations, and stormwater management. In the case of Ms. Collinson's house, there is not enough frontage to create lots off the street, although the frontage could be used to access rear property for lots. Mr. McCarthy reviewed the dimensional requirements. Ms. Ritzhaupt Marcus asked if a 20 foot road was large enough to handle the four houses that Mr. Endriunas is proposing and what is existing now but nothing else. Mr. McCarthy said that when a subdivision goes in, the Planning Board, under the regulations, has the ability to look at access leading to the subdivision to see if it is adequate or not. There could be other improvements that would be necessary. For a subdivision of more than four houses, a 22 foot road is required with two ten foot lanes, a one-foot paved shoulder, and a five foot sidewalk. As it stands, a 20 foot road, or whatever it is determined to be, is only adequate for what is being proposed at this time. The short answer is yes. The board is looking at four right now, and then it has the opportunity, if it was to happen that someone filed a subdivision, to revisit it because there is a standard. She said her concern is whether the neighbors are preparing for further development. Mr. Podolski said the Board does not control that, nor does it encourage people to come in to develop the property. People buy property, and then they come to see the Planning Board. As to whether they are preparing for further development, this question cannot be answered. If nothing ever happens again, the road is adequate. Mr. Podolski said that the Board can anticipate it because there is enough land for further development, but the land has to be for sale and comply with the town's regulations.

Mr. McCarthy said that Mr. Halpin has conservation restriction along his land, so that protects it from being developed. Short of there being restriction on development, if there is a market and interest, they will get developed.

Robert Marcus 85 Schoolmaster Lane: He had a simple question: He wants to be clear when he reports back to his neighbors that the road will be 20 feet of asphalt, and the Conservation Commission will need to be involved for the drainage. The side by the road could thus be one foot. The construction plan will be subject to whatever Conservation Commission says.

Andy Mims, 8 Schoolmaster Lane: He has seen a lot of large trucks, moving trucks, construction related trucks navigate the lane over the past winter. A lot of snow built up on the sides of the trust. He saw vehicles go down and up with ease. Fire trucks have been able to get up there in the past. His question is if all of this hinges on the study from the Fire Chief, it does not seem responsible to get another study by a third party to figure out what is actually needed. Mr. Podolski did not know who that would be. The statute says that the Planning Board determines adequate access, so obviously the Board relies on Fire Chief's to tell use if their emergency vehicles need a certain width of roadway in order to adequately service emergencies. He is not sure who to talk to about that. Mr. Mims said he would feel comfortable given that there are so many strong opinions around here, and it all seems to hinge on this one point.

Mr. McCarthy has had discussion with the Fire Chief, and it might be of value for him to tell you their operation, why they need a 20 foot road. It's not just trucks, but they would need multiple vehicles, maneuverability, fire houses, hydrants, etc. He said that the Fire Chief said that their location is mutual aid response, and multiple fire departments would respond. There needs to be predictability. Mr. Podolski gave Mr. Mims a copy of the Fire Chief's letter. Mr. Steeves said the Fire Chief has been up on Schoolmaster and knows it well. He has been many other places as well. He is involved in many Planning Board and Zoning Board of Appeals meetings and hearings, and he will make sure that he can get on all four sides of the building to fight a fire for safety reasons. He cited a recent example where he went to the site to deal with something. He does this with all the Planning Board applications. Mr. Mims said he has two kids, and understands safety. In Dedham, the fire trucks accompany every ambulance run. In addition, mutual aid comes in from Westwood and Needham, and they have to park their vehicles on Country Club Lane because they can't make it up the street. The question regarding the street is how much is asphalt and how much isn't. This comes down to requiring 20 feet of asphalt. The Fire Chief has been many other places as well. When someone comes in to build an assisted living scenario, the most important person the Board listens to is the Fire Chief. He will make sure he can get on every side of the building to fight a fire. Mr. Podolski spoke with Ms. Webster, who reminded him that there is a wooded area, so an additional concern is being able to get up a roadway to deal with a fire in the woods. This means there are other concerns than houses and emergency vehicles.

Christine Parson, 65 Schoolmaster Lane: She understands about the 20 feet and about safety. She doesn't understand that they agreed as a compromise on 16 feet with two feet on either side, which makes 20 feet. She has difficulty understanding why it was 16 originally. Mr. Podolski said the simple answer is that it is not adequate for the Fire Chief. She wanted to know what the magical number is, and Mr. Steeves said it is whatever the Fire Chief needs. His vehicles are approximately ten feet wide in some areas, so he is afraid that if he goes up and meets a vehicle coming out, he would have to go off the asphalt and go into the area that does not support the vehicle, and it sinks into the side. As a result, they cannot get to the emergency.

Jordana Glasgow, 34 Schoolmaster Lane: She asked a few questions: (1) was the Board able to speak with the Fire Chief after the first meeting but prior to the last meeting? Mr. Podolski said Mr. McCarthy spoke to him between last week and now. She said they also discussed the issue of eminent domain, and overburdening them. Has the Board had the opportunity to consult with Town Counsel? Mr. Podolski said they have not. Mrs. Glasgow

does consider this a taking. The 16 foot road with two foot berms was a compromise, and does not agree. Mr. Podolski asked her who she would sue. She said she could bring a claim for eminent domain, but Mr. Podolski asked against whom. She said the Town. Mr. Podolski said the Town does not own any property there. She agreed, but said that she is being ordered to give up her property. She said it is a legal issue, and (difficult to understand - two people talking at once). She said she had raised this at the last meeting, and Mr. Podolski remembered that. Mrs. Glasgow also asked about the stone walls, and if that is the jurisdiction of the Conservation Commission. She asked if there is a ruling protecting the stone walls in this process. Mr. Podolski said it is not an historic way. She asked if the statute applies, that the walls can be taken down as a result of this. There is statutory protection of stone walls in the State, so the question is whether this applies in this case. Mr. Recupero said they should not have to take down any stone walls with the 20 foot layout. Mr. McCarthy said that the Applicant has to go to the Conservation Commission for stormwater, so their requirements may be different. He said that the Fire Chief does not want a gravel berm; he wanted 20 feet of asphalt. The gravel is more from a conservation standpoint.

Robert Marcus 85 Schoolmaster Lane: He wanted to clarify that the stone walls are 30 feet wide, but possibly not consistently.

Peter A. Zahka II, Esq., 12 School Street, attorney for Supreme Development: He clarified that the topic has been the width of the road at 20 feet. He asked what the length would be (very difficult to hear due to paper rustling). Mr. Podolski said this is not before the Board at this meeting. The Board is working on an ANR plan with four lots up the street, and is still working on the construction plan. The entire ANR plan will be subject to reaching an agreement on construction, with the Conservation Commission on stormwater management, with an engineer on the culvert, and a covenant relating to a homeowners association and ... repair. Mr. Zahka was wondering what the length will be, as he thought the Fire Chief's letter, at the beginning, seemed to go from Country Club. Then he thought there was a secondary letter that may have changed that point. Mr. Podolski said there has been no second letter from the Fire Chief. Mr. Zahka said they have plans to finalize, and they do not know how far out the 20 feet is going.

One of the neighbors asked about the covenant mentioned by Mr. Podolski. He explained that the proposed covenants for this project are he is the owner in fee simple of the land, anything he does with the land by way of holders and mortgages runs with the land, and any municipal services, of which he does not think the Applicant has many other than electricity, shall be constructed and installed in accordance with the terms and conditions of the Certificate of Action. Right now, the Certificate of Action is six pages and growing. He will have to build the road to the Town of Dedham standard, including a binder coat, top coat, lighting, etc. The neighbor asked about any covenants about the street. Mr. Podolski said utilities are the Applicant's, lighting installation at the end of each driveway, the roadway shall remain private with all maintenance and repair of the roadway, and snowplowing, snow and ice will be the responsibility of the his four houses, although the Board is requiring him to try to make a reasonable effort to join the existing homeowners association so there are no contrasting and conflicting homeowners associations. He encouraged people to join a homeowners association because the street is private. This would allow them to better share the costs and understand what is required. The Applicant will put in stone shoulders where required, he will landscape disturbed areas, complete the

final clean-up of all site work, give a 72 hour notice before bringing in equipment, etc. The neighbors will be invited back many times to go over the conditions. Conservation Commission will be a big hurdle for him. The neighbors will all be notified of the Conservation Commission hearings.

One of the neighbors complained that he never received notification of one of the Planning Board meetings. In fact, someone said that no one got a notification. They prefer notification by both mail and e-mail. Mr. Steeves noted that the meetings are posted. Mr. Podolski said it is typically the citizens' responsibility to check the town website to see when meetings are being held. All Conservation Commission meetings are legal hearings, so they need to be published in the newspaper and everyone on the street who is affected will be notified by certified mail. If the meeting does not finish in one night, they will announce the next hearing date. They will not continue to notify you. Ms. Webster also noted that agendas are posted on the first floor of Town Hall across the hall from the Town Clerk's office, and outside by the back door. She also noted that she has a bulletin board in front of her office and posts all planning and zoning agendas there.

Mr. Podolski said the point has been reached that the Board will either approve the ANR or not. He sought a motion to approve the plan, saying that a 20 foot layout is adequate access for the four lots, that there is sufficient frontage on Schoolmaster Lane, and that there is sufficient area. Mr. Steeves made the motion with the change of "20 feet of asphalt." Mr. O'Brien seconded the motion. The vote of the Board was 4-0. Mr. Podolski said it would be signed tonight. Mr. Podolski said that a covenant and Certificate of Action are being written.

Mr. Podolski read the following statement for the minutes:

Although the Board approved the ANR plan, which is a statutory right because it meets dimensional requirements, and the Planning Board has found that 20 feet of asphalt is adequate, this entire project, before a shovel goes into the ground, will be subject to approval of a so-called agreeable construction plan, reaching agreement on a Certificate of Action, reaching agreement on a covenant, subject to a construction plan, Certificate of Action, and covenant, all being in compliance with all orders and conditions of the Conservation Commission, and orders and conditions related to the culvert, which is going to be independently examined at the Applicant's expense to see whether or not it can uphold the equipment that will have to come up the street to the lots. The Applicant is now on notice that, while he may have his ANR plan so he can get started at Land Court, he still has a lot of work ahead of him. Mr. Podolski told the residents that they will continue to have input. The Board needs to give him the legal plan, as he is entitled to it. There is no right to deny that to him once he agreed to 20 feet of asphalt. There is a long road ahead. The residents should keep aware of the agendas, but more importantly, he believes, the Conservation Commission is the next step. They will definitely be notified of that.

Mr. Recupero interjected that all he needs is prints, so they can hold off on signing the Mylar. He will bring those in.

Mr. Podolski apologized that the Board had to be harsh about this. It is the Board's opinion that he is entitled to this plan, but he is not entitled to start digging yet. The covenant and the decision are recorded with the Town Clerk. The residents will be invited back to comment on them prior to recording. Mr. Podolski said this is a "baby step" for the

applicant; the Board is just trying to allow him to be able to get to Land Court to get in line. Land Court will very likely ask for things to be done to the plan. The Board will next see the Applicant after he is finished with the Conservation Commission and the Board knows its orders.

Mr. Steeves noted that there is a third developer looking at properties, and Mr. Podolski said he is afraid there will be more.

This meeting ended at 8 p.m.

COVENANT RELEASE: Lot 2, 65 Gibson Avenue, and Lot 3, 73 Gibson Avenue

Prior to the beginning of this item, Mr. Podolski noted that Mr. Bethoney is recusing himself because the agency at which he works has a professional relationship with Giorgio Petruzzello and Supreme Development, which is building homes on Gibson Avenue. He was not present in the building, and has not attended any of the previous meetings regarding this application.

Mr. McCarthy explained that there is one house left on the street. Everything has been done except the final coat of pavement. Mr. Steeves made a motion to approve the releases, seconded by Mr. Aldous. The vote was unanimous at 4-0.

OLD/NEW BUSINESS:

Mr. Petruzzello has made an offer to widen the road at his end of Schoolmaster Lane, and asked to revise the Certificate of Action subject to Mr. Endriunas obtaining the Conservation Commission's approval. Mr. O'Brien made a motion to approve this amendment, seconded by Mr. Steeves. The vote was unanimous at 4-0.

Mr. O'Brien made a motion to adjourn, seconded by Mr. Steeves. The vote was unanimous. The meeting ended at 8:15 p.m.

Respectfully submitted,



Robert D. Aldous, Clerk
Town of Dedham Planning Board