



Town of Duxbury Massachusetts Planning Board

Minutes 06/22/09

The Planning Board met in the Duxbury Town Hall, Lower Level, Small Conference Room on Monday, June 22, 2009 at 7:00 PM.

Present: Amy MacNab, Chairman; John Bear, Vice-Chair; Brendan Halligan, Clerk; Josh Cutler, Cynthia Ladd Fiorini, Harold Moody and George Wadsworth.

Absent: Thomas Broadrick, Planning Director.

Staff: Diane Grant, Administrative Assistant.

Ms. MacNab called the meeting to order at 7:00 PM.

OPEN FORUM

There were no items for Open Forum.

ANR PLAN OF LAND: 132, 130 & 128 KING CAESAR ROAD / MCLAUGHLIN

Present for the discussion were the applicant, Mr. John McLaughlin, and the applicant's representative, Mr. Freeman Boynton of Duxbury Construction. Ms. MacNab explained that the applicant is proposing to split in two the middle of three adjacent lots, all under the same ownership. Then each half of the middle lot would be conveyed to its adjacent parcel. One dwelling would be razed and another relocated so that the resulting two lots would each contain one single family dwelling, with a net decrease in density.

Mr. Boynton noted that the McLaughlins own all three lots and the ANR plan would improve lot area on these nonconforming lots, although all three lots would continue to lack frontage. Mr. Bear asked about access and Mr. Boynton responded that a new easement would be created for access to what is currently identified as 128 King Caesar Road.

Ms. MacNab expressed her concern with the lack of frontage, noting that Town Counsel is of the firm opinion that frontage is key for division of land that does not require subdivision approval. Mr. Bear noted that access for all lots appear to be through right-of-way easements. He also noted that this division of land may go back to the days when King Caesar divided the land for his children.

Mr. Boynton asked what other process may exist that could allow Mr. McLaughlin to achieve the desired configuration of lots. Ms. MacNab replied that there may be no other way than filing a subdivision plan. Mr. Cutler noted that legal research may be necessary.

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Mr. Bear asked what is to be gained by changing the three lots into two lots. Mr. Boynton responded that they are trying to improve the nonconformity by adding area to the two larger lots. Mr. McLaughlin added that fire and safety access would be improved as well.

Ms. MacNab noted that although she is in favor of changing three lots into two, there is conflicting opinion that needs to be researched, and she recommended that the applicants consider signing a mutual extension form to allow more time to consult with Town Counsel.

Mr. Boynton noted that the septic job is underway. Mr. McLaughlin asked if he has a right to relocate one of the dwellings, and Ms. MacNab responded that it would be up to the Director of Inspectional Services. Mr. McLaughlin noted that he was following the direction of the Director of Inspectional Services and the Planning Director. Mr. Cutler offered that perhaps Town Counsel would be familiar with case law that could help.

Mr. McLaughlin and Board members signed a mutual extension form to continue the discussion to the next Board meeting, July 13, 2009 at 7:05 PM.

ANR PLAN OF LAND: 91 SURPLUS STREET & 0 SOUTH STATION STREET / GARRETT & PHALEN

Mr. Cutler recused himself from this discussion. The applicant, Mr. Peter Garrett, was present to represent this proposal to reconfigure two adjacent, nonconforming parcels in order to create two lots that conform to current Zoning Bylaws. Currently Mr. Garrett's property is deficient in lot area and frontage. The Phalen property has ample area but lacks frontage. Ms. MacNab confirmed with staff that signatures from both owners had been obtained.

Mr. Garrett explained that with the ANR, frontage would be added to the Phalen parcel to total 200 feet on South Station Street. There is presently no curb cut on this parcel. Although the access to Mr. Garrett's dwelling is located on South Station Street, his address is 91 Surplus Street and the legal frontage of 206.12 feet would be obtained on Surplus Street because the property is located on a corner lot.

Ms. MacNab noted that an abutter listing is incorrect and Mr. Phalen agreed to correct it.

MOTION: Mr. Bear made a motion, and Mr. Moody provided a second, to endorse a plan of land entitled, "Plan of Lots, South Station & Surplus Streets, Duxbury, Massachusetts," latest revision 05/30/08, stamped and signed by Jeffrey B. Shorey, PLS on 06/03/08, one sheet, as not requiring approval under Subdivision Control Law.

VOTE: The motion carried unanimously, 6-0.

Board members signed the mylar and Mr. Garrett was advised to contact the Planning office the following day to pick up the endorsed mylar.

ZBA REFERRAL: 21 HUMMOCK LANE / FREDERICI

No one was present to represent the application. Mr. Wadsworth offered to recuse himself from the discussion because the contractor listed on the special permit application is his architect. Board members agreed that, because the Board is merely making a recommendation to the Zoning Board of Appeals (ZBA), recusal would not be necessary.

The special permit application proposes to demolish a nonconforming single family dwelling, and to construct a 24' x 26' single family dwelling on a nonconforming lot, bringing the new structure more into compliance with Zoning Bylaws.

Mr. Cutler questioned the height of the proposed structure, since it is a two and a half story structure compared to the existing one and a half story structure. Mr. Bear noted that the structure meets height regulations. Ms. MacNab questioned whether the measurements provided started at the foundation or at the sill.

Mr. Wadsworth noted that the lot area is approximately 4,000 square feet. Mr. Bear noted that existing building coverage is listed at 16.0 percent and the proposed building coverage is 15.6 percent. Ms. MacNab noted that with demolition the maximum coverage should be 15 percent to comply with Zoning Bylaws.

Ms. MacNab also noted that no driveway is proposed and parking spaces are not shown on plans. Mr. Cutler expressed concern this it may be a fire and safety access concern. Ms. Ladd-Fiorini noted that the dwelling is located in a flood zone, with substantial risk for flooding.

MOTION: Mr. Bear made a motion, and Mr. Wadsworth provided a second, to defer judgment to the Zoning Board of Appeals regarding the special permit application for 21 Hummock Lane / Frederici, noting the following concerns:

- 1) With demolition of the existing structure, building coverage should conform to current zoning standards of 15%, not the 15.6% depicted on plans.
- 2) Site parking provisions are not depicted on plans and should be shown. Parking within Hummock Lane should be prohibited.
- 3) The Conservation Commission should consider a requirement for the new construction to include flow-through design at the base of the structure.
- 4) The applicant should be required to contact the Town of Marshfield Sewer Commissioners regarding septic capacity for the proposed four bedrooms, an increase from the original dwelling's three bedrooms.
- 5) The overall mass of the proposed structure, formerly a cottage, may affect views and vistas in the neighborhood.

VOTE: The motion carried unanimously, 7-0.

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OTHER BUSINESS

Engineering Invoice:

MOTION: Mr. Halligan made a motion, and Mr. Cutler provided a second, to pay Amory Engineers invoice #12717 dated June 2, 2009 in the amount of \$845.00 for services related to 454 Franklin Street / Industrial Tower and Wireless, LLC.

VOTE: The motion carried unanimously (7-0).

Subscribe to News: Ms. Grant informed Board members that they can subscribe to Planning Board and Board of Selectmen agendas and other services via the Town web site.

Meeting Schedule: Board members reviewed and agreed to a proposed meeting schedule through September 2009.

Special Permit Application, 1053 Tremont Street / Dacey: Board members reviewed a referral letter from the Conservation Commission to the Zoning Board of Appeals (ZBA) dated April 22, 2009 recommending denial of a special permit application. Ms. MacNab noted that despite this recommendation, the ZBA voted to continue the public hearing to July 9, 2009.

Planning Director 90-Day Review: Board members agreed to appoint Ms. MacNab and Mr. Bear to discuss this review with the Town Manager.

ADJOURNMENT

The Planning Board meeting adjourned at 8:15 PM. The next meeting of the Planning Board will take place on Monday, July 13, 2009 at 7:00 PM at Duxbury Town Hall, Small Conference Room, lower level.