



Approved 03/29/10

# Town of Duxbury Massachusetts Planning Board

## Minutes 01/25/10

The Planning Board met at Town Hall, Small Conference Room, on Monday, January 25, 2010 at 7:00 PM.

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

Absent: Harold Moody

Staff: Thomas Broadrick, Planning Director Diane Grant, Administrative Assistant.

Ms. MacNab called the meeting to order at 7:06 PM.

### OPEN FORUM

Political Signs: Ms. Ladd-Fiorini reported that she received a call from a resident concerned that police were removing political signs from residents' lawns prior to the recent special election for U.S. Senate. Ms. MacNab stated that it would be unusual for the police department to be involved since temporary political signs are allowed. Mr. Bear directed staff to suggest that the Zoning Enforcement Officer should submit a press release to the Duxbury Clipper to educate the public regarding political signage.

Open Space Committee: Ms. Ladd-Fiorini reported that she recently had attended her first Open Space Committee meeting.

Annual Town Meeting (ATM) Citizens' Petition regarding Lot Coverage: Mr. Bear reported that he had attended a recent Finance Committee presentation by the proponent, Dr. Scott Oliver. Mr. Bear advised the Finance Committee of the Planning Board's position that the article should not go forward without their blessing, and that lot coverage and parking should be addressed concurrently.

After the meeting Dr. Oliver contacted Mr. Bear and offered to withdraw the citizens' petition under two conditions:

- If the Planning Board would commit to undertake a review of lot coverage for ATM 2011
- If the Planning Board would support the extension of Dr. Oliver's special permit with the Zoning Board of Appeals (ZBA).

Mr. Bear reported that he had advised Dr. Oliver that while he supports the Board undertaking a review of lot coverage, he could not commit to supporting an extension of the special permit. Ms. MacNab stated that it is inappropriate for an applicant to contact a Board member regarding an application. Mr. Broadrick added that extending a special permit would require a new public hearing, and must be requested before the expiration date.

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Regional Waste Disposal: Mr. Cutler reported that he had attended a meeting in Kingston with a speaker from the Massachusetts Department of Environmental Protection. As a result of the workshop, Mr. Cutler recommended that the Town of Duxbury consider aligning their contract for waste disposal with abutting towns so that they can pool their efforts to negotiate a joint contract.

Duxbury Clipper Editorial: Mr. Halligan stated that he was extremely disappointed with an editorial in last week's Duxbury Clipper which implied that the Planning Board is difficult to work with and belittles applicants. He took strong exception to those statements, noting that applicants are treated with respect whether the Board agrees with them or not. He also noted that the Clipper reporters have rarely attended a Board meeting in the past four years. Mr. Halligan suggested that applicants who are unhappy with the way they are treated by the Board should address the Board on the matter.

Mr. Jackson Kent, who was present as an applicant for an upcoming discussion, agreed that the editorial was harsh. He pointed out that although he appreciates the work of the Board, when the Board is against increased parking because it will bring more cars into the town, for example, that position is in conflict with what the business owners would want. Mr. Halligan thanked Mr. Kent for his perspective on the matter.

Mr. Bear advised the Board that through his appointment on the Economic Advisory Committee, business owners tell him that they feel as though a special permit is required for everything, and they complain that the Planning Board is delving into issues outside of its purview. Business owners are trying to maximize their use of a lot so their goals conflict with the Board's goal of minimizing impact of intensity.

Ms. MacNab agreed that the process can be onerous, but it is onerous by design. The Board is not rude or disrespectful, however. Mr. Cutler offered to draft a rebuttal for Board members to review at their next meeting.

#### **AS-BUILT REVIEW: BAYSIDE MARINE, WASHINGTON STREET / S.R. PERIWINKLE R.T.**

The applicant, Mr. Jackson Kent, was present for the discussion. Mr. Broadrick reported that the town consulting engineer, Mr. Thomas Sexton, was not present but had provided review letters based on two sets of As-Built plans that had been submitted to the Planning Office.

Ms. MacNab noted a comment from Mr. Sexton that unapproved changes had been made in the drainage design and there is no certification that it will work appropriately. Mr. Broadrick referenced a memorandum dated December 15, 2009 from the applicant's engineer, Mr. Abdul Hamadeh of West Bay Associates, stating that a catch basin is now hooked up to a drainage swale that runs the length of the property. Mr. Hamadeh stated in his memorandum that there is "no negative impact to drainage calculations." Mr. Broadrick reported that water is now dissipating where it previously did not.

Board members questioned why the Planning Office was not notified that these changes were occurring, stating that the consulting engineer should have been present for the installation of the new drainage pipe. Mr. Kent agreed that he should have notified the Planning Office but the change occurred on the work site when the old pipe was backing up. At this time runoff is draining into the drainage swale where it is supposed to go.

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Mr. Wadsworth noted that As-Built plans should depict the new pipe, and Mr. Kent agreed to direct his engineer to do so.

Mr. Bear departed in order to attend a Board of Selectmen meeting.

Mr. Broadrick reported that a wooden walkway access to the waterfront was not installed as conditioned because it would have interfered with a ten foot vegetated setback requirement on the lot line shared with Battelle Labs. A walkway to the waterfront is provided, however, and is delineated on pavement where appropriate.

Mr. Broadrick addressed an issue raised by Mr. Sexton regarding the location of the additional boat racks at the east end of the site and how they reduce the approved number of parking spaces. Mr. Broadrick noted that the Conservation Commission wanted to avoid increasing the amount of pavement on site. He stated that parking is delineated for employees as needed seasonally. Changing the parking in front of the boat showroom from parallel to angled spaces increased the overall number of spaces. Ms. MacNab asked if parking is adequate, and Mr. Kent responded that he believes it is.

Mr. Kent advised the Board that all extraneous lot lines have been removed through Land Court, as directed through the Site Plan Review approval, including a paper cul-de-sac.

**MOTION:** Mr. Halligan made a motion, and Mr. Wadsworth provided a second, to approve As-Built plans entitled, "As-Built Plan, Land Owned by SR Periwinkle Corp." dated July 24, 2009, latest revision December 9, 2009, prepared by West Bay Associates, LLC, and stamped and signed by Abdul Kader C. Hamadeh, RPE on December 15, 2009, subject to a line to be added showing a pipe leading to a swale, and including conditions #8, 9, 14, 15, 16, 17, 18, 25, 26, 27, 28, and 29 to survive with the title of the property, to be recorded with the Plymouth County Registry of Deeds.

**VOTE:** The motion passed unanimously, 5-0.

Mr. Halligan, Clerk, endorsed the As-Built certificate to be stamped with Town Clerk before recording with the Registry of Deeds.

**MOTION:** Mr. Halligan made a motion, and Mr. Wadsworth provided a second, to release all remaining funds in an escrow account established for Administrative Site Plan Review of Bayside Marine, Washington Street / SR Periwinkle Realty Trust, including interest, after payment of any outstanding consulting engineering invoices.

**VOTE:** The motion passed unanimously, 5-0.

### **ANR PLAN OF LAND: SURPLUS STREET / GLOWACKI**

Mr. Rick Grady of Grady Consulting was present to represent this Approval Not Required (ANR) application to add a lot line that had been recorded at the Plymouth County Registry of Deeds but had never been approved by the Board. Mr. Grady noted that land had been divided when the original owner, Mr. Cotter, had passed away approximately ten years ago. Part of the land had already been donated to the Wildlands Trust, and a representative had signed the ANR application.

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**MOTION:** Mr. Halligan made a motion, and Mr. Cutler provided a second, to endorse a plan of land entitled, "Plan of Plan, Surplus Street Duxbury, Mass." dated January 12, 2010, prepared by Robert C. Bailey Co. Land Surveyors, 199 Plymouth Street, Pembroke, MA 02359, stamped and signed by Douglas Bailey, PLS – one sheet.

**VOTE:** The motion carried unanimously, 5-0.

Board members signed the mylar and two paper copies of the plan. Mr. Grady was given the endorsed mylar to record with the Plymouth County Registry of Deeds and was advised to provide the Planning office with proof of recording.

### **WORK SESSION: PREPARATION FOR ANNUAL TOWN MEETING 2010**

Board members reviewed a list of Annual Town Meeting (ATM) articles from a draft of the warrant. Mr. Cutler stated that he would like to know more about Community Preservation Committee (CPC) articles, and Mr. Wadsworth explained the articles, noting that the land purchases are still confidential so they could not be discussed.

CPC Article Regarding Affordable Housing on Franklin Street: Mr. Wadsworth reported that voters had approved the purchase of the former Grange building at a previous Town Meeting. South Shore Habitat was awarded a contract as a result of an RFP but backed out due to budget constraints. Funding is being requested for "soft costs" to develop the site, which would include renovating the Grange and tearing down the former fire station and building a new structure for affordable housing.

Draft Memorandum from Planning Board to Town Counsel Regarding Citizens' Petition for Lot Coverage: Board members reviewed a draft letter. Ms. MacNab noted that Town Counsel does not make decisions, he defends them. It was decided to take no action.

Right to Water Citizen's Petition: Ms. Ladd-Fiorini noted that the town is considering privatization of water, and the proposed article would not allow it. Mr. Wadsworth noted that the proposed article limits the power of the Town Manager as purchasing agent. He added that any asset purchase would have to go through Town Meeting approval.

Draft Memorandum from Planning Board to Director of Inspectional Services Regarding Planning Board Review of Projects for Exempt Uses: Board members reviewed a draft memo offering the Director of Inspectional Services Planning Board assistance in reviewing projects for exempt uses that will no longer be covered under Administrative Site Plan Review (ASPR) after anticipated ATM approval of removal of exempt uses from the ASPR section of the Zoning Bylaws. Mr. Broadrick reported that the Finance Committee had suggested that the Board could offer to review these types of projects as a courtesy, although a consulting engineer could not be engaged. After brief discussion it was decided not to send the memo. Mr. Broadrick noted that for exempt use applications the Director of Inspectional Services could hold a Development Review Team meeting to provide input from town department heads.

Mr. Bear returned from the Board of Selectmen's meeting and Board members updated him on what had happened while he was away.

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## **OTHER BUSINESS**

95 Tremont Street (Oliver): Board members discussed the events since Site Plan Review and a special permit approval granted in April 2008 for a new parking lot to be constructed using pervious pavers with a liner underneath to catch runoff. The applicant appears to have constructed a gravel parking lot instead with no liner. Ms. MacNab suggested that the Board request compliance from the Zoning Board of Appeals (ZBA). Board members agreed to direct staff to draft a memorandum for review at the next Board meeting.

Zoning Enforcement Issues: Mr. Wadsworth suggested focusing on double density lots, where two dwellings have been constructed on one lot, which is not allowed according to current Zoning Bylaws. Ms. MacNab noted that as of January 1, 2010 no new building permits can be issued for a second dwelling.

Mr. Cutler departed the meeting.

### Meeting Minutes:

**MOTION**: Ms. Ladd-Fiorini made a motion, and Mr. Wadsworth provided a second, to approve Planning Board meeting minutes of November 23, 2010 as amended.

**VOTE**: The motion passed 4-0-1, with Mr. Halligan abstaining.

## **ADJOURNMENT**

The Planning Board meeting adjourned at 9:28 PM. The next meeting of the Planning Board will take place on Monday, February 8, 2010 at 7:00 PM at Duxbury Town Hall, Small Conference Room, lower level.