



# Town of Duxbury Massachusetts Planning Board

## Minutes 03/29/10

The Planning Board met at Town Hall, Small Conference Room, on Monday, March 29, 2010 at 7:00 PM.

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

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

Ms. MacNab called the meeting to order at 7:02 PM.

### OPEN FORUM

Mr. Bear departed the meeting in order to be sworn in by Town Clerk at the Board of Selectmen's meeting for another five-year term on the Planning Board as a result of town elections on March 27, 2010.

No items were brought forward under Open Forum.

### CONTINUED PUBLIC MEETING, ADMINISTRATIVE SITE PLAN REVIEW: 126 TREMONT STREET / NEWCOMB FARMS DAIRY

Board members reviewed a letter of withdrawal submitted by the applicant, Mr. Lawrence Newcomb, dated March 10, 2010. Ms. MacNab expressed disappointment that the application did not go forward.

**MOTION:** Mr. Wadsworth made a motion, and Ms. Ladd-Fiorini provided a second, to accept without prejudice the withdrawal of an Administrative Site Plan Review application for Newcomb Farms Dairy, 126 Tremont Street, as requested by the applicant in a letter dated March 10, 2010.

**VOTE:** The motion carried unanimously, 6-0.

### CONTINUED PUBLIC HEARING, DEFINITIVE SUBDIVISION: CUSHING'S RETREAT, 287 SUMMER STREET / ELM STREET REALTY TRUST

Ms. MacNab opened the continued public hearing at 7:07 PM. Board members were presented with a mutual extension form to continue the public hearing.

**MOTION:** Mr. Halligan made a motion, and Ms. Ladd-Fiorini provided a second, to continue the public hearing for Cushing's Retreat Definitive Subdivision to April 26, 2010 at 7:05 PM, with a decision deadline of May 14, 2010.

**VOTE:** The motion carried unanimously, 6-0.

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**ANR PLAN OF LAND: 0 WASHINGTON STREET / HINKLEY**

Mr. Bear returned to the meeting, and recused himself from the discussion. Present for the discussion were the applicants, Mr. Clark and Ms. Jane Hinkley and their representative, Mr. Brendan Sullivan of Cavanaro Consulting. Also present were abutters, Mr. James and Ms. Mary Lampert.

Mr. Sullivan presented the ANR plan, noting that two unbuildable parcels are proposed that will be combined with existing abutters in the future. Both are Land Court parcels. Ms. MacNab noted that although neither parcel has frontage, they will both be combined with lots that do have requisite frontage. Mr. Wadsworth expressed concern with endorsing an ANR Plan of Land with no frontage, and Ms. MacNab pointed out that no other mechanism exists to do this.

**MOTION:** Ms. Ladd-Fiorini made a motion, and Mr. Halligan provided a second, to endorse a Plan of Land entitled, "Plan of Land, 160 Washington Street in Duxbury, MA" dated March 17, 2010, stamped and signed by Brendan P. Sullivan, RPLS – one sheet, as not requiring approval under Subdivision Control Law.

**VOTE:** The motion carried unanimously, 6-0.

Board members signed the ANR plan mylar and two paper copies. Mr. Sullivan signed a mylar release and was provided with the signed mylar for recording at the Registry of Deeds.

Mr. Hinkley distributed a lottery ad to Board members for the affordable housing lot on Chandler Street that was purchased as a result of the inclusionary bylaw which kicked in with a previous ANR application for the lots on Washington Street. Mr. Hinkley noted that the lottery agent, Mr. John Hixson, has six or seven responses so far to the lottery advertisement.

**PLANNING BOARD APPOINTMENTS**

Because it was the first meeting after town elections, the Board considered appointing officers.

Chairman:

**MOTION:** Mr. Cutler made a motion, and Mr. Wadsworth provided a second, to re-appoint Ms. MacNab as Planning Board Chairman. Ms. MacNab accepted the nomination.

**MOTION:** Mr. Moody made a motion to appoint Mr. Bear as Planning Board Chairman. Because there was no second, the motion failed.

**VOTE:** The motion to appoint Ms. MacNab as Planning Board Chairman passed unanimously, 7-0.

Vice-Chairman:

**MOTION:** Mr. Moody made a motion, and Mr. Cutler provided a second, to appoint Ms. Ladd-Fiorini as Planning Board Vice-Chairman. Ms. Ladd-Fiorini did not accept the nomination.

**MOTION:** Mr. Halligan made a motion, and Mr. Cutler provided a second, to appoint Mr. Wadsworth as Planning Board Vice-Chairman. Mr. Wadsworth accepted the nomination.

**VOTE:** The motion to appoint Mr. Wadsworth as Planning Board Vice-Chairman passed unanimously, 7-0.

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Clerk:

**MOTION:** Mr. Cutler made a motion, and Mr. Wadsworth provided a second, to appoint Ms. Ladd-Fiorini as Planning Board Clerk. Ms. Ladd-Fiorini accepted the nomination.

**MOTION:** Mr. Bear made a motion to re-appoint Mr. Halligan as Planning Board Clerk. Mr. Halligan declined the nomination.

**VOTE:** The motion to appoint Ms. Ladd-Fiorini as Planning Board Clerk passed unanimously, 7-0.

Appointments to Committees

**MOTION:** Mr. Halligan made a motion, and Mr. Wadsworth provided a second, to appoint the following slate of committee appointments to serve as Planning Board representatives:

- Affordable Housing Trust: re-appointment of Mr. Moody
- Alternative Energy Committee: re-appointment of Mr. Cutler
- Economic Advisory Committee: re-appointment of Mr. Bear
- Land-Use Group: re-appointment of Ms. MacNab, with Mr. Wadsworth to serve as alternate
- MBTA Advisory (now Mass. DOT): appointment of Mr. Cutler
- Open Space Committee: re-appointment of Ms. Ladd-Fiorini
- South Shore Coalition / MAPC (alternate to BOS member): re-appointment of Mr. Cutler.

**VOTE:** The motion carried unanimously, 7-0.

It was agreed to defer appointments to the Community Preservation Committee and the Local Housing Partnership until the next meeting so that term expiration dates could be confirmed.

**ZBA REFERRAL: 21 CHESTNUT STREET / GRIFFIN**

Mr. Broadrick noted that the application now proposes to raze an existing detached garage and to construct a new two-story structure with storage on the first floor and offices and temporary employee lodging on the second floor. He noted that at a Zoning Board of Appeals (ZBA) public hearing on March 25, 2010, the applicant denied submitting the current application. Mr. Broadrick stated that if the application goes forward, the applicant will be required to submit an application for Administrative Site Plan Review.

Board members agreed to defer review of the application until its validity was confirmed.

**ZBA REFERRAL: 223 POWDER POINT AVENUE / ZURLO**

Board members reviewed this special permit application to demolish an existing detached garage and construct a two-story accessory building and indoor pool. Mr. Broadrick recommended that the Board consider advising the Zoning Board of Appeals (ZBA) that a variance would be required because the proposed uses exceed what is allowed under a special permit for an accessory structure. Mr. William Zachmann of 160 Standish Street, who was present in the audience, suggested that the Board provide specific references to Zoning Bylaws in order to support its decision.

**MOTION:** Mr. Wadsworth made a motion, and Mr. Cutler provided a second, to recommend DENIAL of this request for a special permit, noting that it is not properly before the Zoning Board of Appeals as a special permit because it should be an application for a variance instead.

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**DISCUSSION:** Mr. Moody requested that the memorandum to the ZBA include specific references to Zoning Bylaws that support this recommendation.

**VOTE:** The motion carried unanimously, 7-0.

### **OTHER BUSINESS**

Zoning Enforcement Issues: Ms. MacNab noted that she had obtained photographs of construction underway on River Lane for a guest house, with a primary dwelling to be constructed later. She noted that she had met twice with Town Counsel, the Town Manager, the Building Inspector, the Planning Director, and Zoning Board of Appeals chairman about the issue of double-density lots which are not allowed according to current Zoning Bylaws. She expressed frustration that the Building Inspector, Mr. Scott Lambiase, apparently had issued a permit after agreeing not to issue building permits for guest houses as accessory structures, specifically on Surplus Street.

Mr. William Zachmann offered his opinion that the current Board of Selectmen is pro-development and this is where the town leadership is heading.

Ms. MacNab noted that an analysis by the Inspectional Services Department revealed that there are approximately 144 alleged existing violations throughout the town where second dwellings are at issue. It was agreed that a letter would be sent to homeowners but no letter has gone out. Mr. Broadrick noted that some of those 144 violations have passed the statute of limitations, but at least twelve letters were supposed to be sent.

Mr. Broadrick proposed that he could review all building permits that are submitted to the Inspectional Services Department. This would provide a "second look" at applications in order to prevent multiple dwellings to be permitted in the future. Ms. MacNab noted that Mr. Broadrick used to perform this duty during his previous stint as Planning Director from 1993 to 2002.

Follow-Up to Annual Town Meeting 2010: Mr. Moody noted that a citizen petition to increase the allowable lot coverage within Neighborhood Business Districts was indefinitely postponed. He reminded the Board of its promise to work on the lot coverage issue during the upcoming year and encouraged Board members to work toward resolution of the issue. Ms. MacNab noted that research on lot coverage for existing businesses needs to be done.

Mr. Wadsworth noted that state and federal stormwater requirements will determine future lot coverage. Mr. Bear noted that those standards have not been issued yet. Ms. Ladd-Fiorini suggested that it would be helpful to learn more about stormwater management from an expert in the field.

Board members discussed possible candidates for a potential sub-committee. Mr. Halligan commended the work of Ms. Ladd-Fiorini and Mr. Bear on a previous sub-committee, although no consensus had emerged from its research.

### Engineering Invoices:

**MOTION:** Mr. Wadsworth made a motion, and Mr. Cutler provided a second, to pay the following Amory Engineering invoices:

- Invoice #13026A in the amount of \$1,072.50 for services related to Complex Path Definitive Subdivision.

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- Invoice #13026B in the amount of \$1,765.00 for services related to 126 Tremont Street, Newcomb Farms Dairy.

**DISCUSSION:** Mr. Halligan asked if copies of reports are required with invoices, and Ms. MacNab responded that they are required. She noted that no review letter has been submitted to date for the Complex Path subdivision, and most likely will be submitted prior to the initial public hearing to be scheduled.

**VOTE:** The motion carried 6-1, with Mr. Halligan voting against.

Meeting Minutes:

**MOTION:** Mr. Wadsworth made a motion, and Mr. Moody provided a second, to approve the following meeting minutes:

- January 25, 2010 (as amended)
- February 8, 2010
- February 22, 2010
- March 8, 2010.

**VOTE:** The motion carried, 6-0-1, with Mr. Bear abstaining.

Engineering RFQ: Mr. Bear noted that another RFQ should be issued with the Zoning Board of Appeals as co-sponsor. Ms. MacNab pointed out that the ZBA generally needs an engineer only to review comprehensive permits. Mr. Bear stated that he proposes this idea as opposed to a town engineer, which in his opinion is not needed because the workload is not level and because individual projects tend to require engineering specialization.

**ADJOURNMENT**

The Planning Board meeting adjourned at 8:58 PM. The next meeting of the Planning Board will take place on Monday, April 5, 2010 at 7:00 PM at Duxbury Town Hall, Small Conference Room, lower level.