



Approved 04/26/10

Town of Duxbury Massachusetts Planning Board

Minutes 04/05/10

The Planning Board met at Town Hall, Small Conference Room, on Monday, April 5, 2010 at 7:00 PM.

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

Absent: Josh Cutler and Harold Moody.

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

Ms. MacNab called the meeting to order at 7:01 PM.

OPEN FORUM

No items were brought forward under Open Forum.

DISCUSSION REGARDING LAND CLEARING AT MAYFLOWER CEMETERY, TREMONT STREET

Mr. Broadrick advised the board that although the Department of Public Works Director, Mr. Peter Buttkus, had offered to attend tonight's meeting to present the proposal, he had been working off-site today and Mr. Broadrick had advised him that it was not necessary to return to Town Hall for this discussion.

Mr. Broadrick noted that land clearing is proposed as part of the cemetery master plan. The land to be cleared is adjacent to the Senior Center, although a buffer of trees will remain between the cemetery and the Senior Center and also along Tremont Street. He noted that the land slopes down from the Senior Center to the cemetery land. He also noted that this proposed land clearing is completely unrelated to a new crematory building which was recently approved by Annual Town Meeting and town elections. Mr. Broadrick stated that town administration feels a special permit should not be required.

Ms. MacNab advised the Board that she was asked to approve the land clearing as chairman, but she felt it should be reviewed by the entire board and therefore added tonight's meeting to the board's schedule. Mr. Wadsworth asked if the board has a right to waive a land clearing special permit, and Ms. MacNab responded that a list of exemptions is included in Zoning Bylaws (ZBL) Section 611.5. Mr. Broadrick pointed out that Section 611.5.8 exempts "public utilities." He stated that there is no definition of "public utilities" in Zoning Bylaws but could apply to the cemetery. He noted that Annual Town Meeting approved the land as a cemetery.

Mr. Bear stated that municipal uses are not exempt and he does not agree that the cemetery is a public utility. ZBL Section 611 does not address use at all. Ms. MacNab asked to what end should the special permit process be required, and Mr. Bear responded that without reviewing the site the board cannot know what issues there

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might be. Mr. Broadrick noted that a special permit would cost the town tax dollars for an existing use that is sensitive to abutters by providing a buffer.

Ms. MacNab asked if some trees can be left on the land rather than clear cutting. Mr. Broadrick responded that he does not know which trees will remain. Ms. MacNab noted that she would prefer if specimen trees could be preserved.

Mr. Wadsworth stated that he does not see a benefit to holding a public hearing. Ms. Ladd-Fiorini agreed. Mr. Bear stated that his concern is with the process, because no exemption is provided in the Zoning Bylaws. He suggested that the board should at least review a contractor's site plan. He does not feel an extensive review is needed, but stated that the Senior Center needs to hear about it through the public hearing process.

Mr. Halligan noted that the cemetery pre-dated the Senior Center by hundreds of years, so the Senior Center staff has full knowledge that its grounds abut cemetery land. Further, it has been a benefit to the town that the land has not been cleared to date. Mr. Broadrick noted that as the special permit granting authority, the board can determine the applicability of the application to the Zoning Bylaws.

MOTION: Ms. Ladd-Fiorini made a motion that the Planning Board has determined that Zoning Bylaws do not apply to the proposed land clearing because the cemetery was approved by a previous Annual Town Meeting. There was no second provided.

DISCUSSION: Mr. Bear advised the board to avoid use as a reference for its decision.

MOTION: Mr. Bear made a motion, and Ms. Ladd-Fiorini provided a second, that Zoning Bylaws Section 611, "Land Clearing and Grading Regulation" does not apply to the proposed Mayflower Cemetery site clearing as presented in a sketch at a Planning Board meeting of April 5, 2010.

VOTE: The motion passed unanimously, 5-0.

ADJOURNMENT

The Planning Board meeting adjourned at 7:42 PM. The next meeting of the Planning Board will take place on Monday, April 12, 2010 at 7:00 PM at Duxbury Town Hall, Small Conference Room, lower level.