



# Town of Duxbury

## Massachusetts

### Planning Board

TOWN CLERK

DEC 14 AM 10:06

DUXBURY, MASS.

## Minutes 09/27/10

The Planning Board met at Town Hall, Small Conference Room, on Monday, September 27, 2010 at 7:00 PM.

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

Absent: No one was absent.

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

Ms. MacNab called the meeting to order at 7:03 PM.

### RECESS TO ATTEND BOARD OF SELECTMEN'S MEETING

Board members had been invited by the Board of Selectmen to a joint interview of three candidates who had applied to fill a vacancy on the Planning Board due to Mr. Harold Moody's resignation.

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Cutler provided a second, to recess the Planning Board open session in order to attend a portion of the Board of Selectmen's meeting in the Mural Room.

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

The Planning Board meeting recessed at 7:04 PM.

### OPEN FORUM

The Planning Board meeting resumed at 7:40 PM.

Planning Board Appointment: Ms. MacNab reported that after a joint Planning Board/Board of Selectmen vote of 7-0 with one abstention, the Board of Selectmen had appointed Mr. Brian E. Glennon, II to fill the open Planning Board seat until town elections in March 2011. Ms. MacNab noted that she was impressed with all three candidates and commended them all for volunteering to serve. Mr. Glennon, who will be sworn in tomorrow at the Town Clerk's office, attended the Planning Board meeting as an audience member.

Other Open Forum items were deferred to the Other Business portion of the meeting later on.

### ANR PLAN OF LAND: 0 AND 31 DUXBOROUGH TRAIL AND 45 HIGHLAND TRAIL SOUTH / MC CANN, ANDERSON AND HAGAN

Mr. Richard Servant of Stenbeck & Taylor was present as the surveyor for this proposed ANR plan. Mr. Broadrick explained that the purpose of the ANR is a conveyance. One unbuildable parcel of land with no frontage is currently listed under joint ownership. The two owners now wish to split the land into two equal-

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sized parcels under separate ownership. During the surveying process it was discovered that an abutter's shed goes over the property line, so another small parcel will be conveyed to the homeowner at 45 Highland Trail South.

TO DEED TO ANR: 08  
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Ms. MacNab confirmed with Mr. Servant that there is no intent to merge parcels with another plan. Mr. Servant stated that each unbuildable parcel will be kept under separate ownership. Each owner understands that the parcels are unbuildable. Ms. MacNab stated that she would prefer that the lots be combined with lots that do have frontage. Town Counsel has advised that frontage is required for ANR endorsement.

Mr. Bear and Ms. Ladd Fiorini concurred with Ms. MacNab's opinion. Mr. Broadrick noted that the applicants cannot be forced to merge the lots, although the Board can choose to deny the ANR application. Mr. Broadrick also noted that perhaps the Conservation Department would be interested in a future purchase of the unbuildable parcels because they abut Conservation land.

Mr. Bear confirmed with Mr. Servant that the small parcel conveyance will bring the existing shed in compliance with the required ten-foot back setback. Mr. Bear also asked if permanent bounds will be installed, and Mr. Servant responded that he will suggest to the applicants that they install permanent bounds.

**MOTION:** Mr. Bear made a motion, and Mr. Wadsworth provided a second, to accept an Approval Not Required Plan of Land entitled, "Plan of Land in Duxbury, MA Showing the Division of Parcel 50-008-000 off Duxborough Trail, Drawn for William K. McCann," dated 09/01/10, stamped and signed by Richard V. Servant, PLS of Stenbeck & Taylor, Inc., 844 Webster Street, Suite 3, Marshfield, MA 02050 – one sheet, as not requiring approval under the Subdivision Control Law.

**DISCUSSION:** Ms. MacNab stated that she is struggling with accepting this plan since Town Counsel has given conflicting advice. Mr. Bear asked about the effect on assessed value with the parcel splitting into two separate ownerships. Mr. Broadrick noted that the Assessors look at the first 40,000 square feet and then the residual value. Neither property owner would be able to obtain a second building lot. They could sell the parcels but their value would be limited. Further, if the parcel is under the same ownership as the abutting dwelling lot, they may merge automatically.

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

Board members signed the ANR mylar and two paper copies. Mr. Servant took the signed mylar for recording at the Registry of Deeds.

## **PUBLIC HEARING: PROPOSED PRIVATE WAY NAME CHANGE FROM WEST BRADFORD ROAD TO MARSH ELDER LANE / KELSO**

Ms. MacNab opened the public hearing at 8:04 PM. Ms. Ladd Fiorini read the public hearing notice and correspondence list into the record:

- Application letter from T. Kelso dated 08/17/10 with attached plan dated 11/29/01 and other materials
- Public hearing notice mailed to abutters on Bradford Road and published in *Duxbury Clipper* on 09/08/10 and 09/15/10
- Email from P. Browne dated 09/13/10 re: Duxbury Rural and Historical Society support for proposal
- Email from D. Grant to T. Kelso dated 09/24/10 re: public hearing schedule.

Present for the hearing was Mr. Tony Kelso of Kelso Realty Trust and his sister, Laurie Kelso of 10 West Bradford Road, the only property owner directly affected by the proposed name change. Mr. Wadsworth asked

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what happens at the end of West Bradford Road, and Mr. Kelso responded that it turns into a dirt trail with no vehicular access that winds around and ends up on Standish Street.

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Ms. MacNab asked if there is any cost to the town in accepting this street name change, and Mr. Broadrick responded that the applicant will need to purchase a new street sign. Ms. MacNab noted that the Duxbury Rural and Historical Society, which owns land that abuts the private way, is agreeable to the proposed name change.

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Mr. Kelso provided a brief history of why they are applying for a street name change and their reasoning behind the proposed name. A marsh elder is a local shrub, and the name is also reminiscent of Elder Brewster, an historical figure in the town.

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Halligan provided a second, to close the public hearing for a proposed private way name change from West Bradford Road to Marsh Elder Lane / Kelso.

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

The public hearing was closed.

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Halligan provided a second, to approve the owner's request for a Private Way Name Change from West Bradford Road to Marsh Elder Lane / Kelso Realty Trust (Assessors' Lot 200-096-008).

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

Mr. Broadrick noted that a decision will be submitted to Town Clerk, and there will be a twenty-day appeal period before the applicants can record the decision with the Registry of Deeds.

#### **ZBA VARIANCE REFERRAL: 520 ELM STREET / BEDNARZ**

Board members reviewed the ZBA referral materials for this application to construct an 11'6" x 14' accessory building within the 25-foot setback. Ms. MacNab noted that the cover sheet from the ZBA lists the referral as a special permit when it should be a variance. Mr. Bear noted that he had looked at the site and in his opinion there is no reason to put the shed that close to the road. He also noted that a fence on the property appears to be located within the town layout.

**MOTION:** Mr. Cutler made a motion, and Ms. Ladd Fiorini provided a second, recommend denial of this variance application to the Zoning Board of Appeals because it does not meet the requirements for a variance.

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

#### **ZBA REFERRAL: 64 SAINT GEORGE STREET / SOUTH SHORE CONSERVATORY**

Staff distributed ZBA referral materials for a special permit to construct a sign. Board members preferred not to make a recommendation because they had not had the opportunity to review the application in advance.

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## OTHER BUSINESS

### Engineering Invoice:

**MOTION:** Mr. Wadsworth made a motion, and Mr. Halligan provided a second, to approve payment of Fay, Spofford & Thorndike invoice #LG403-B-1 dated September 9, 2010 in the amount of \$2,400.00 for services related to McLean's Way Definitive Subdivision / Bayside Properties.

**DISCUSSION:** Ms. MacNab noted that the consulting engineer should have caught the fact that the applicant should have been filing for a Residential Conservation Cluster (RCC) rather than a Definitive Subdivision. Mr. Broadrick noted that the traditional subdivision grid would have been needed to be reviewed in conjunction with the RCC. Mr. Cutler commented that eight hours of letter preparation performed on August 14, 2010 seems extraordinary. Ms. Ladd Fiorini noted that it was more of a report than a letter. Mr. Halligan agreed that it seemed like a reasonable amount of time. Ms. MacNab and Mr. Wadsworth expressed concern over the competency of the Fay, Spofford & Thorndike consulting engineer. Mr. Halligan asked staff to contact the engineer to communicate these concerns.

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

Other Engineering Invoices: Mr. Bear noted that invoices should not be brought to the Planning Board without a detailed time sheet and copies of any reports submitted within the invoice period. Ms. MacNab noted that Mr. John Baldwin had expressed concern regarding his consulting engineer invoices for the MacFarlane Farms Definitive Subdivision project. She directed staff to add this particular concern as a future agenda item.

Open Meeting Law Workshop: Ms. MacNab encouraged Board members to attend this workshop scheduled for October 20, 2010.

New Planning Board Member: Board members introduced themselves to the newly appointed Board member, Mr. Brian Glennon. Mr. Broadrick invited Mr. Glennon to meet with him during Town Hall business hours for an overview of projects.

Accessory Apartment Bylaw: Mr. Wadsworth informed the Board that the Local Housing Partnership (LHP) is proposing an amendment of the current Zoning Bylaws to allow accessory apartments in detached structures with no affordability requirements. The Planning Board would be the special permit granting authority. This proposal does not have full support from LHP members. A public forum is being scheduled.

Community Preservation Committee (CPC): Mr. Bear reported that the CPC has a "thin list" of proposed funding requests.

## ADJOURNMENT

The Planning Board meeting adjourned at 9:17 PM. The next meeting of the Planning Board will take place on Monday October 25, 2010 at 7:00 PM at Duxbury Town Hall, Small Conference Room, lower level.