



Town of Duxbury

Massachusetts

Planning Board

TOWN CLERK
10 DEC 14 AM 10:07
DUXBURY, MASS.

Minutes 11/08/10

The Planning Board met at Town Hall, Small Conference Room, on Monday, November 8, 2010 at 7:00 PM.

Present: Amy MacNab, Chairman; George Wadsworth, Vice-Chairman; Cynthia Ladd Fiorini, Clerk; John Bear, Josh Cutler, Brian Glennon 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 7:00 PM.

OPEN FORUM

Local Housing Partnership (LHP) Public Forum on Detached Accessory Apartments: Mr. Wadsworth reported that the LHP will be hosting a public forum to gather input on the perceived need for a new Accessory Apartment Zoning Bylaw. He stated that although he is the Board representative to the LHP he cannot attend. Mr. Cutler offered to attend on behalf of the Board.

Freeman Farms, off Elm Street: Mr. Wadsworth reported that two streetlights were installed at this subdivision; one works and one does not. Also, cement bounds are being installed. He believes that the developers will request the town to take the roads within the next two years.

Open Meeting Law Forms: Ms. Grant distributed Open Meeting Law forms to be signed and returned to Town Clerk certifying that each member had received a copy of the Open Meeting Law.

21 River Lane: Ms. MacNab noted that at the Zoning Board of Appeals (ZBA) hearing on November 4, 2010, the entire meeting was spent discussing the Planning Board's appeal of the Building Inspector's decision to allow a guest house to be constructed on a site that already contained a dwelling. She directed staff to place an agenda item for the next Board meeting so that they can discuss strategy for the continued ZBA hearing scheduled for December 16, 2010.

REVIEW OF COVENANT AND ENDORSEMENT OF MAC FARLANE FARMS DEFINITIVE SUBDIVISION PLANS, OFF HIGH STREET / OLDE KINGS LLC

Mr. John Baldwin was present as the developer of this three-lot subdivision that had been approved by the Board on August 23, 2010. Mr. Broadrick explained that it is up to the applicant to submit a covenant to be signed by the Board; the covenant guarantees that no transfer of lots can take place until the roadway has been constructed. Traditionally, performance bonds are issued, but a covenant can be used as well. Mr. Wadsworth noted that Subdivision Rules and Regulations do not specifically allow covenants, and Mr. Broadrick responded that covenants are allowed according to MGL Chapter 41. The Subdivision Rules and Regulations

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PLANNING BOARD MINUTES

Date: November 8, 2010

Page 2 of 10

TOWN CLERK

simply detail the procedures for a performance bond if one is utilized. Mr. Broadrick pointed out that building permits can be issued until the roadway is built.

10 DEC 14 AM 10:07
DUXBURY, MASS.

Mr. Wadsworth asked about the owners listed on the covenant, Mr. and Mrs. MacFarlane, with no mention of the developer, Mr. Baldwin. Mr. Broadrick explained that the lots will not be transferred until they are released.

Mr. Glennon noted that the covenant expires on October 27, 2012 and asked how this is tracked. Mr. Broadrick noted that staff will monitor to ensure that the subdivision is completed within two years according to Subdivision Rules and Regulations. A consulting engineer will perform inspections as needed.

Mr. Baldwin noted that he had recorded the Definitive Subdivision decision at the Registry of Deeds. Mr. Broadrick noted that a Homeowners' Association will also be required before the lots are released. Mr. Baldwin questioned why a Homeowners' Association is required if it is not specified in the Subdivision Rules and Regulations. Mr. Broadrick replied that the decision contained a waiver to allow a local street with a reduced width, with a term of condition that a Homeowners' Association would be created and recorded at the Registry of Deeds. Mr. Baldwin could have opted to appeal the decision, but now that the appeal period has ended, he is required to follow the terms of approval.

MOTION: Mr. Bear made a motion, and Mr. Wadsworth provided a second, to approve endorsement of a Planning Board Covenant dated October 20, 2010 for MacFarlane Farms Definitive Subdivision, to be recorded at the Plymouth County Registry of Deeds.

VOTE: The motion carried unanimously, 7-0.

Board members signed three original copies of the covenant.

Board members then addressed the endorsement of Definitive Subdivision plans. Ms. MacNab noted that one of the conditions of subdivision approval was that the barn straddling a proposed lot line was to be removed. Mr. Broadrick reported that Mr. Baldwin has filed with the Historical Commission and will need to make sure that no structures will straddle lot lines before the lots are released.

MOTION: Mr. Bear made a motion, and Mr. Wadsworth provided a second, that the Board endorse a set of Definitive Subdivision plans entitled, "MacFarlane Farms (Tax Map 20A, Lot 9), Definitive Subdivision Plan in Duxbury, Massachusetts," 12 sheets, stamped and signed by Bradley C. McKenzie, P.E. of McKenzie Engineering Group, Inc., 180 Longwater Drive, Suite 101, Norwell, MA 02061, and Shane M. Brenner, RPLS, scale as noted on individual sheets, dated February 15, 2010; revised June 23, 2010, July 9, 2010, July 13, 2010, July 26, 2010 with latest revision date August 24, 2010."

VOTE: The motion carried unanimously, 6-0, with Mr. Glennon abstaining.

Board members signed a set of mylars of Definitive Subdivision plans.

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TOWN CLERK

DISCUSSION OF CONSULTING ENGINEERING INVOICES FOR MAC FARLANE FARMS DEFINITIVE SUBDIVISION, OFF HIGH STREET

10 DEC 14 AM 10:07

Mr. John Baldwin, the applicant, was present for the discussion that began at a previous Board meeting on October 25, 2010. Mr. Bear noted that the consulting engineer, Horsley Witten Group, had been asked to provide a breakdown or narrative on the actual work performed. Ms. MacNab asked Mr. Baldwin if he had any remaining concerns and he replied that although he still feels the number of hours billed is excessive, he did not wish to pursue the discussion any further. Ms. MacNab noted that there is an outstanding invoice for this project.

MOTION: Mr. Wadsworth made a motion, and Mr. Cutler provided a second, to approve Horsley Witten invoice #28411 dated July 29, 2010 in the amount of \$1,495.50 for services related to MacFarlane Farms / Olde Kings LLC.

VOTE: The motion carried unanimously.

ANR PLAN OF LAND: 5 BARTLETT AVENUE / STORER

Mr. Richard Storer, the property owner, was present for the discussion. Mr. Broadrick explained that the purpose of the plan is to remove a twenty-foot right-of-way known as Samoset Path which is a paper street that is not used for frontage or access. The lot encumbered by this right-of-way is prohibited from utilizing the area of the right-of-way for improvements to the site. Deed releases from the three entities with an interest in the right-of-way have been obtained and are recorded with the Registry of Deeds.

Ms. MacNab asked if the existing shed is within the right-of-way, and Mr. Broadrick replied that it is.

Mr. Wadsworth asked why the plan was not recorded with the Registry of Deeds under Chapter 81X, and Mr. Broadrick responded that he had advised the applicant to bring the plan to the Board so that there is a town record of the lot line change. Board members reviewed the plans and asked questions regarding the location of the right-of-way.

Mr. Glennon noted that the lot does not have the 200 feet of frontage that is required for endorsement of an ANR plan, asking how the Board can endorse such a plan. Mr. Bear noted that there is no change of lot lines. Ms. MacNab agreed with Mr. Glennon, stating that although there is wording on the ANR plan to accommodate the circumstances, there is another way to accomplish the desired outcome. She stated that Town Counsel has been clear in his advice that frontage and area are required in order to endorse an ANR plan. Mr. Broadrick referenced the ANR Handbook that states that the Planning Board has the authority to sign a perimeter plan. The benefit of doing this rather than filing an 81X plan with the Registry is that Town Hall has record of it.

MOTION: Ms. Ladd Fiorini made a motion, and Mr. Bear provided a second, to endorse a Plan of Land entitled, "Plan of Land, 5 Bartlett Avenue – Duxbury, MA, Owners & Petitioners Richard D. & Jane W. Storer, 5 Bartlett Avenue, Duxbury, MA 02331," dated 10/21/10, stamped and signed by Brendan P. Sullivan, PLS of Cavanaro Consulting, as not requiring approval under Subdivision Control Law.

VOTE: The motion carried 4-3, with Mr. Bear, Mr. Cutler, Ms. Ladd Fiorini and Mr. Wadsworth voting for and Mr. Glennon, Mr. Halligan and Ms. MacNab voting against.

Board members endorsed the mylars and two paper copies, and the mylars were released to Mr. Storer at his request.

TOWN CLERK

LAND COURT PLAN ENDORSEMENT: 0 WASHINGTON STREET / HINKLEY

Present for the discussion were Mr. Clark Hinkley, Ms. Jane Hinkley, and their representative, Mr. Brendan Sullivan of Cavanaro Consulting. Mr. Bear recused himself from the discussion.

TO DEC 16 AM 10:07
DUXBURY, MASS.

Mr. Sullivan presented the plan, noting that the Board had previously endorsed an ANR plan that created two lots, and now those plans need to be endorsed for Land Court. He pointed out that the plans presented have a notation that the plan shows Land Court parcels.

Mr. Glennon asked if the Board has a copy of the Land Court judgment, and Mr. Broadrick responded that he uses the engineer's stamp as certification rather than the Land Court documentation. Mr. Glennon commented that he would prefer to see the Land Court judgment as well. Mr. Broadrick noted that he would request such judgments from now on.

MOTION: Mr. Wadsworth made a motion, and Mr. Halligan provided a second, to endorse a Plan of Land entitled, "Plan of Land, Being a Subdivision of Lot 4 – L.C. Plan #9092D, 160 Washington St. in Duxbury, MA," latest revision June 9, 2010" dated 10/21/10 and stamped and signed by Brendan P. Sullivan, PLS of Cavanaro Consulting.

VOTE: The motion carried unanimously, 6-0.

CONTINUED PUBLIC MEETING: CONSIDERATION OF PROPOSED RESIDENTIAL CONSERVATION CLUSTER (RCC) CONCEPT PLAN / PRELIMINARY CONVENTIONAL SUBDIVISION PLAN FOR 56 & 70 BOW STREET / BAYSIDE PROPERTIES (REINHALTER)

Present for the discussion were the applicants, Dr. Emil Reinhalter and Ms. Marianne Reinhalter; and their representatives, Atty. Robert W. Galvin and Mr. Paul Brogna of Seacoast Engineering. Mr. Brogna presented plans, noting that the proposed Definitive Subdivision plan would allow a drainage lot to be built adjacent to 52 Bow Street. Seven subdivision lots are proposed, with a 50-foot buffer around the drainage. Mr. Brogna noted that a waiver had been granted on the Hillside Lane definitive subdivision, so in his opinion a precedent has been set. Ms. MacNab noted that the Board looks at each application separately and does not consider precedents.

Mr. Brogna reminded the Board that a real estate consultant has advised that a definitive subdivision is more marketable. There are two parties willing to purchase subdivision lots and two existing dwellings, so only three additional lots would need to be sold. Ms. MacNab observed that the Zoning Bylaws clearly state that a Residential Conservation Cluster is preferred unless the site does not work.

Mr. Broadrick distributed copies of a letter submitted earlier that day by Mr. and Mrs. Vuilleumier of 7 West Street, objecting to development of the land.

Ms. MacNab noted that the site walk on October 30, 2010 had been helpful. Mr. Halligan noted that although he was not present at the scheduled site visit, he did walk the site on his own. He said that he got a good sense of the property and concluded that the property would better support a grid subdivision than a cluster development.

Ms. MacNab observed that she had a totally different impression. She suggested that the best way to enter the property may be near the north property line where site disturbance has already occurred. She stated that a residential conservation cluster (RCC) would be very attractive, with views to the North Hill marsh at the rear of the properties, and it may also eliminate the need for a large retaining wall that is currently proposed.

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Mr. Bear noted that access is a major issue, and access along 52 Bow Street with a retaining wall is not an effective use of land. He stated that he is not convinced that a cluster would not work.

Mr. Wadsworth noted that it is the Board's duty to determine the number of lots possible. He asked the applicants how many lots would be possible in the conventional subdivision plan without the benefit of any waivers. Mr. Brogna responded that obtaining a fifty-foot buffer from the drainage parcel is not possible without a waiver. Ms. MacNab noted that a benefit of the RCC plan is that the drainage would not be required to be set aside on a separate lot. Mr. Brogna concluded that six lots may be possible without waivers.

Mr. Wadsworth observed that the RCC plan would require a lesser amount of road to drain, noting that the Zoning Bylaws are written with a preference toward the RCC.

Ms. Ladd Fiorini stated that she had walked the site and reviewed the Zoning Bylaws. She stated that although she appreciates the applicants' offer to create conservation easements through a Definitive Subdivision, she does not believe they would provide as much contiguous open space as an RCC would provide. An RCC would require less cut and fill because dwellings could be constructed on the flatter area of upland. She had difficulty with larger definitive subdivision lots backing up to a steep slope.

Mr. Glennon used the six criteria set forth in Zoning Bylaws Section 540.3, noting that the default is RCC unless there are valid reasons against it:

1. Topography lends itself to RCC.
2. Stormwater runoff is minimized with an RCC with a road that is 200 feet shorter than the Definitive Subdivision.
3. Site planning and affect on abutters' property would be adversely affected by an RCC because the proposed plans show a lot overlooking 52 Bow Street, so a Definitive Subdivision would be preferred under this criterion.
4. Views and vistas for abutting properties would not be better preserved under a conventional grid, so the RCC would be preferred by default.
5. Public safety may be more compromised by a narrow road width if the road would be comparable to existing cluster subdivisions, so he would give the edge to the Definitive Subdivision.
6. Other site specific attributes such as the steep slope on the southwest corner of the property may be an issue for RCC.

Mr. Glennon concluded that he had not made up his mind, although he is aware that the Zoning Bylaws prefer the RCC. Ms. MacNab pointed out that existing cluster subdivisions were approved under an older version of Zoning Bylaws, and no subdivisions have been constructed under the current RCC bylaw.

Ms. Ladd Fiorini expressed her issue with a housing lot and roadway abutting the 52 Bow Street Moriarty property with a long retaining wall. She suggested that utilizing the land along the existing driveway into 70 Bow Street for access would be a better idea.

Board members discussed the RCC process. Mr. Wadsworth stated his concern with the proposed subdivision layout due to the number of drainage lots and the length of the proposed roadway. Atty. Galvin stated that using the RCC layout should be rewarded with a density bonus. He stated that other towns do it this way. Ms. MacNab noted that residents voted the RCC Zoning Bylaw, and the Board is required to review the application in terms of current Zoning Bylaws.

Mr. Brogna distributed two new sketch plans using the RCC layout: one with a retaining wall and one without. He noted that the retaining wall would be 292 feet long, and the height would vary from one to three feet along most of the wall except it would be nine to eleven feet high for approximately 30 feet. Ms. MacNab asked if a

PLANNING BOARD MINUTES

Date: November 8, 2010

Page 6 of 10

TOWN CLERK

guardrail would be constructed and Mr. Brogna confirmed that they propose wooden guardrails for around 25 feet. Mr. Broadrick asked about the height of the retaining wall abutting the Moriarty property, and Mr. Brogna responded that it would be approximately four to five feet in height. Mr. Brogna noted that if the retaining wall is eliminated then the seventh lot would be lost.

Mr. Wadsworth noted that the applicant's intent is for the Town to take the RCC street. He pointed out that this application is not the same as former clusters. Mr. Brogna stated that at a Development Review Team (DRT) meeting, public safety officials supported the RCC design that included a retaining wall. Mr. Broadrick clarified that the DRT said that fire trucks would be able to utilize the roadway proposed but there was no endorsement of a retaining wall. Mr. Brogna also noted that the initial consulting engineer for the previous Definitive Subdivision application had no problem with the proposed retaining wall. Ms. MacNab noted that she did have an issue with the retaining wall. She commented that Mr. Brogna should have started with the plan that eliminates the retaining wall.

Mr. Bear asked about sight lines under the RCC plan, and Mr. Brogna confirmed that with the new RCC plan, the line of sight would be approximately 315 feet. Mr. Broadrick noted that this statement needs to be confirmed when it goes for engineering review.

Mr. Wadsworth noted that the subdivision grid plan presented assumes a waiver and the Board prefers no waivers. With a waiver seven lots are presented; without a waiver only six lots would be possible. Ms. MacNab noted that waivers are generally granted for public benefit, not necessarily for the applicant's benefit.

Mr. Wadsworth noted that under the RCC bylaw, the lot size minimum is 20,000 square feet; however, they can be larger. He suggested that Lot F as shown on the sketch plan should be set aside as a drainage lot.

Mr. Brogna showed the rating of test pits on the sketch plans.

Ms. MacNab invited public comment. Mr. Brian Moriarty of 52 Bow Street asked about the roadway location under the new RCC plan and Mr. Brogna responded that it would be approximately 30 feet from Mr. Moriarty's property, and would have been only fifteen feet from his property under the original RCC sketch plan. Ms. MacNab noted that the retaining wall and guardrail would be eliminated as well.

Ms. Linda Moriarty objected to the development of property that will be dramatically changed, asking Board members to consider the impact to the existing neighborhood. She recommended that the plan with the least amount of impact should be considered.

Ms. Linda Johnson of 47 Bow Street noted that she lives across the street from the proposed development. She asked about an existing easement on either side of the 56 Bow Street property. Mr. Brogna explained the purpose of the easements.

Mr. Glen Vuilleumier of 7 West Street asked about the difference in drainage from the original plan to the RCC plan presented tonight. Mr. Wadsworth responded that the drainage lot size was originally proposed as 8,256 square feet, and the drainage lot proposed tonight would be 20,000 square feet.

Ms. Becky Vuilleumier requested that the Board consider the number of lots in regard to the natural beauty of the existing property.

Board members discussed the number of lots possible. Ms. MacNab noted that the number of lots for the standard subdivision should not include waivers. She confirmed with Mr. Brogna that the proposed lots are not within the Aquifer Protection Overlay District. Mr. Bear suggested that the future development should be

PLANNING BOARD MINUTES

Date: November 8, 2010

Page 7 of 10

TOWN CLERK

based on six lots. Mr. Halligan and Ms. MacNab agreed. Mr. Glennon stated that he is not convinced, noting that seven lots could be built if a waiver were granted allowing a 50-foot buffer around the drainage structure. Mr. Bear noted that the Zoning Bylaws language assumes no waivers. Mr. Cutler asked if the number of lots could increase with a future application, and Ms. MacNab responded that the number of lots can be decreased but not increased. Mr. Glennon stated that if the applicant feels that he can produce a plan for seven lots without a waiver then he should be allowed the time to prepare it. Mr. Brogna noted that the plans submitted are based on the level of design required for a conceptual sketch plan. Mr. Broadrick noted that the applicant previously had submitted a Definitive Subdivision plan for seven lots with a waiver, confirming that the work had been done and the applicant can only create seven lots with a waiver.

Atty. Galvin advised the Board that he had spoken with the applicants and they are willing to go forward with a seven-lot cluster with the open space plan as originally submitted. Board members discussed Section 504.2 of the Zoning Bylaws to determine the number of lots possible. Ms. MacNab asked if any Board members disagreed with six as the maximum number of lots. No Board member disagreed.

Ms. Ladd Fiorini stated her preference for an RCC plan based on Zoning Bylaw criteria and on the site walk. Mr. Bear agreed, noting that the dwelling structures could be relocated from existing plans in order to avoid dwellings that are too close to each other. The RCC plan retains more area as open space and existing pathways and an existing hill would be preserved as well, creating less disturbance to the topography.

Mr. Glennon asked if an 18-foot roadway would be accepted by the Town, and Board members agreed that an 18-foot roadway would most likely be able to provide safe and adequate travel. Mr. Glennon stated his preference for a standard subdivision if it could look similar to existing subdivisions in town.

Mr. Brogna stated potential issues with the RCC plan, noting that with a fifty percent open space requirement, dwelling structures may need to be set close to the roadway. Mr. Bear noted that the fifteen-foot front setback is a minimum, and dwelling structures could be moved back further from the roadway. Ms. MacNab agreed, noting that the key is to design creatively. Mr. Cutler observed that Annual Town Meeting voted in the RCC bylaw. Atty. Galvin noted that it makes better economic sense for the applicants to do something else. He questioned whether the RCC bylaw complies with MGL Chapter 41. Ms. MacNab reminded Atty. Galvin that Board members take an oath to uphold the Zoning Bylaws, and according to those bylaws most Board members have concluded that the site could yield a total of six lots and the RCC is the preferred method.

MOTION Mr. Wadsworth made a motion, and Ms. Ladd Fiorini provided a second, to approve no more than six (6) lots under a Residential Conservation Cluster as requested by Bayside Properties (Reinhalter) for consideration of a proposed Residential Conservation Cluster (RCC) concept plan and a preliminary Conventional Subdivision plan at 56 and 70 Bow Street, for the following reasons:

- The topography will be preserved to a greater degree
- The stormwater runoff will be minimized to a greater degree
- More appropriate site planning and greater protection of the site's natural features
- Views and vistas and abutting properties would be better preserved
- Less threat to public safety.

DISCUSSION: There was no discussion regarding the motion.

VOTE: The motion carried unanimously, 7-0.

Mr. Brogna asked about the design standards for the RCC design. Mr. Broadrick directed him to Zoning Bylaws Section 540 for special permit procedures.

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**REVIEW OF LOCAL HISTORIC DISTRICT STUDY COMMITTEE (LHDSC) AM 10:07
PRELIMINARY REPORT**

Present for the discussion from the Local Historic District Study Committee were Mr. James Hartford, chairman; Ms. Georgia Taft Pye, clerk; and Ms. Renée Mierzejewski, associate member. Ms. MacNab apologized to the LHDSC members for the late hour, inviting Mr. Hartford to make a presentation.

Mr. Hartford stated that another associate member, Mr. William Thayer, was helpful in explaining how the Local Historic District process worked in the town of Hingham. After a previous unsuccessful attempt to create a Local Historic District on High Street, the Board of Selectmen appointed the current LHDSC at the request of a High Street resident. The LHDSC performed a full evaluation of all areas in town, not just High Street. The result of their research is the proposal of three Local Historic Districts:

- The Winsor Local Historic District, located at the corner of Washington and Harrison Streets
- The Bradford Local Historic District, located near the corner of Tremont and Harrison Streets
- The First Parish Local Historic District, located at 842 Tremont Street.

The Duxbury Rural and Historical Society has property within both the Winsor and Bradford Local Historic Districts. There is one property owner at the corner of Harrison and Washington who is not interested in being included in the Winsor Local Historic District.

The largest proposed district is the Bradford Local Historic District. The First Parish Local Historic District was added by vote of the congregation's members. A Local Historic District for High Street has not been proposed due to vocal opposition from residents.

A public hearing will be held on November 22, 2010.

Mr. Cutler asked if the LHDSC members anticipate an increase in the number of property owners interested in joining a Local Historic Districts in the future, and Mr. Hartford replied that they may if they find it adds to their market value. Ms. Pye noted that their approach was to start small and allow momentum to kick in. LHDSC members want to avoid controversy so they have only included properties that have agreed to the proposal. She noted that historically, real estate market values have risen in properties located in an historic district. Mr. Hartford noted that Duxbury is not homogeneous enough to have one large historic district.

Ms. Pye noted that in Hingham the Local Historic District Commission (LHDC) is collegial, not punitive, a model that Duxbury would like to use. The goal is to preserve the betterment of the town while allowing the 21st century to apply.

Mr. Bear applauded the committee's strategy of the path of least resistance. He stated that he has reservations with proposed exclusions that do not reference Zoning Bylaws or Historical Commission regulations. Mr. Hartford responded that Local Historic District regulations would supersede Historical Commission regulations. Their perspective is, "Do no harm." Mr. Bear asked, for example, if the sign regulation could refer the applicant to the Zoning Bylaws for signs. Mr. Hartford responded that the LHDSC could consider that. Mr. Broadrick noted that the LHDSC would be reviewing signs from a design perspective rather than by zoning regulations.

Mr. Bear brought up another example where Zoning Bylaws may need to be referenced, such as "temporary structures." Mr. Hartford stated that they were referencing small sheds. Mr. Broadrick added that they would need to be smaller than 100 square feet to be exempt from Zoning Bylaws. Ms. MacNab noted that LHDC regulations could be more specific in order to avoid issues in the future.

Mr. Bear questioned why the LHDC would allow vinyl siding, and Ms. Pye responded that for maintenance purposes it is preferred and some vinyl siding is made that looks just like clapboards. She noted that Hingham has a list of products and standards and that our existing Town Office building utilizes vinyl siding. Ms. MacNab recommended that Duxbury's LHDC consider including a similar type of list.

Mr. Halligan offered to provide some word editing, and Mr. Hartford advised that all suggestions should be submitted to Planning staff prior to the November 22 public hearing.

Ms. MacNab noted that the town's Comprehensive Plan dated 1999 recommended the creation of Local Historic Districts. Mr. Glennon noted that he had served as legal representative to historic district commissions, and stated that it is a tremendous benefit to have buy-in from property owners up front. He advised the LHDSC members to be very specific about what they want and do not want. He stated that the proposed bylaw looks good so far.

Mr. Hartford stated that the plan was to create and adopt Rules and Regulations first, although Ms. Mierzejewski is also working on a set of guidelines as well. Mr. Halligan recommended that Rules and Regulations list only what will be reviewed, not what will not be reviewed. Ms. Mierzejewski noted that some of the listings of what will not be reviewed are for public relations purposes. Mr. Halligan stated that although the LHDSC members have articulated its intent clearly tonight, that same clarity is not necessarily found in the proposed bylaw. Ms. Ladd Fiorini stated that while she understands the need to allay concerns, it is best to clearly state what is allowed.

Ms. MacNab thanked the LHDSC members for attending tonight's meeting.

ZBA VARIANCE REFERRAL: 40 & 0 ANCHORAGE LANE / WILDLANDS TRUST OF SOUTHEASTERN MASSACHUSETTS

Board members reviewed ZBA materials for this application for a variance to separate an existing dwelling at 40 Anchorage Lane from the open space of the property.

MOTION: Mr. Cutler made a motion, and Ms. Ladd Fiorini provided a second, to defer judgment to the Zoning Board of Appeals regarding a variance application for 40 & 0 Anchorage Lane, noting that the applicants would need to apply for a Lot Frontage Waiver with the Planning Board if the ZBA should choose to grant the variance.

DISCUSSION: Mr. Bear noted that the variance would force the Board to approve a lot without frontage, which would not comply with current Zoning Bylaws. Ms. Ladd Fiorini asked if all the land was owned by the Wildlands Trust, and Mr. Broadrick responded that the Wildlands Trust intends to sell the property with the dwelling and keep the land around it.

Mr. Bear noted that it is not clear from the deed that the Wildlands Trust has the ability to remove land from conservation purposes. Mr. Glennon noted that it is a title issue, not a planning issue. Mr. Halligan pointed out that the deed notes a "perpetual" restriction. Mr. Wadsworth agreed that it appears that the applicants will not be able to do what they are attempting to do. He suggested that the Board should reference the deed in its recommendation to the Zoning Board of Appeals (ZBA).

MOTION WITHDRAWN: Mr. Cutler withdrew his motion, noting that as a member of the Wildlands Trust he will abstain from voting, and Ms. Ladd Fiorini withdrew her second.

TOWN CLERK

MOTION: Mr. Halligan made a motion, and Mr. Glennon provided a second, to defer judgment to the Zoning Board of Appeals regarding a variance application for 40 & 0 Anchorage Lane, with reference to the terms specified in the deed submitted with the application materials regarding perpetual protection of the entire property. The Planning Board also notes that if a variance is granted, the applicant would need to file a Lot Frontage Waiver request according to Subdivision Rules and Regulations.

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

ZBA VARIANCE REFERRAL: 421 ELM STREET / T-MOBILE NORTHEAST LLC & LEE

Board members reviewed materials submitted for this request for relief under the special permit process to construct a monopole cell tower, along with variances to Administrative Site Plan Review and side yard setback allowances. Ms. MacNab noted that the land is located along the Route 3 corridor, with 2.2 acres in the Aquifer Protection Overlay District. Ms. Ladd Fiorini noted that the applicants are essentially proposing a cell tower in their backyard.

MOTION: Mr. Bear made a motion, and Ms. Ladd Fiorini provided a second, to strongly recommend denial of a variance and special permit application to construct a cell tower at 421 Elm Street, noting that the Site Plan Review process should not be waived as it is the intent for all cell towers to go through the Administrative Site Plan Review process. The Planning Board sees no reason to approve either the special permit or the variance request.

VOTE: The motion carried unanimously, 7-0.

DISCUSSION OF POTENTIAL ARTICLES FOR ANNUAL TOWN MEETING 2011

Mr. Bear distributed handouts regarding the Lot Coverage / Parking Working Group's recommendations. Due to the late hour it was agreed that the discussion of potential articles for Annual Town Meeting 2011 and all other business be postponed until the next Board meeting.

ADJOURNMENT

The Planning Board meeting adjourned at 11:20 PM. The next meeting of the Planning Board will take place on Monday November 22, 2010 at 7:00 PM at Duxbury Town Hall, Small Conference Room, lower level.