



Town of Duxbury Massachusetts Planning Board

TOWN CLERK
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DUXBURY, MASS.

Minutes 03/28/11

The Planning Board met at the Duxbury Town Hall, Small Conference Room, on Monday, March 28, 2011 at 7:00 PM.

Present: Amy MacNab, Chairman; George Wadsworth, Vice-Chairman; Cynthia Ladd Fiorini, Clerk; John Bear, Josh Cutler, Brian Glennon and Jennifer Turcotte.

Absent: No one was absent.

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

Prior to the start of the Planning Board meeting, Board members attended a portion of the Board of Selectmen's meeting in order to witness the swearing in of newly elected Board members, Mr. Brian Glennon and Ms. Jennifer Turcotte.

Ms. MacNab called the Planning Board meeting to order at 7:08 PM.

OPEN FORUM

Local Housing Partnership (LHP): Mr. Wadsworth reported that the LHP is interested in hosting a public forum on the Accessory Apartment zoning article that recently passed at Annual Town Meeting.

Annual Town Meeting Follow-Up on Accessory Structures: Ms. MacNab asked Ms. Jessica Williams, who was in attendance, if she had come for a discussion which is on the Board's agenda for April 11, 2011. Ms. Williams stated that she was present only to observe tonight's Board meeting.

ANR PLAN OF LAND: 0 ISLAND CREEK VILLAGE / FIRST BAPTIST CHURCH

Present for the discussion to represent the First Baptist Church were Pastor Brent Van Wyk and Mr. Robert Ellenberger, and their representatives: Atty. Skip Sullivan, Mr. Darren Grady of Grady Consulting, and Mr. Paul Brogna of Seacoast Engineering. Mr. Broadrick explained that one large parcel is proposed to be divided into two parcels that are not buildable lots. One of the parcels will go to the Island Creek expansion for septic treatment facilities.

Atty. Sullivan confirmed that Parcel A will be combined with the adjacent Island Creek property, and Parcel B will be retained by the church. Mr. Glennon noted that usually ANRs will depict the intent for each parcel. He stated that he would be comfortable signing an ANR plan that includes such notations.

Mr. Wadsworth noted that Parcel B could be combined with the adjacent First Baptist lot because it has frontage; however the lot adjacent to Parcel A does not have frontage as required on ANR plans. Mr. Broadrick advised the Board that Atty. Sullivan had consulted with Town Counsel, Atty. Robert S. Troy, by email and Town Counsel responded that the proposed ANR plan is a reasonable mechanism for re-allotting the parcels.

878 Tremont Street, Duxbury, MA 02332; Telephone: 781-934-1100 x 148; Fax: 781-934-1137

MOTION: Mr. Glennon made a motion and Mr. Bear provided a second, to endorse an ANR Plan of Land entitled, "Plan of Land, 0 Island Creek Village (off Tremont Street) Assessors Lot 082/110.0-0452-0002.0, Duxbury, Massachusetts," dated March 16, 2011, stamped and signed by William E. Rainey, RLS, conditioned upon notations to be added as follows:

- Notation that Parcel A is to be combined with the adjoining lot, Assessor's Lot 110-452-003 (Island Creek Properties LLC)
- Notation that Parcel B is to be combined with the adjoining lot, Assessor's Lot 110-452-001 (The First Baptist Church of Duxbury)
- Deletion of the term "by itself" from both Parcel A and Parcel B.

DISCUSSION: Atty. Sullivan agreed to abide by the conditions set forth in the motion. Ms. MacNab recalled that during the comprehensive permit process, a covenant was placed on a lot restricting its use. Atty. Sullivan confirmed that this is the lot with the covenant included in the Chapter 40B permit. This is the intended use of that lot.

VOTE: The motion passed unanimously, 7-0.

Board members signed the ANR mylar, and Mr. Grady agreed to come to the Planning office to make the changes referenced in the motion for approval.

ELECTION OF PLANNING BOARD OFFICERS

Planning Board Chairman: Ms. MacNab opened the floor to nomination of Planning Board Chairman.

MOTION: Mr. Wadsworth made a motion, and Ms. Ladd Fiorini provided a second, to nominate Ms. MacNab for re-election as chairman. There were no other nominations.

DISCUSSION: Ms. MacNab stated that she appreciated the nomination, noting that the Board was not on the "winning team" at Annual Town Meeting this year. She stated that she prefers to be on this team because they act for the right reasons and members can hold their heads high. She has been proud to be on the Planning Board for the past ten years.

VOTE: The motion passed unanimously, 7-0.

Planning Board Vice-Chairman: Ms. MacNab opened the floor to nomination of Planning Board Vice-Chairman.

MOTION: Mr. Cutler made a motion, and Mr. Wadsworth provided a second, to nominate Mr. Glennon for election as vice-chairman.

Ms. MacNab made a motion, and Mr. Cutler provided a second, to nominate Mr. Wadsworth for re-election as vice-chairman.

Mr. Glennon made a motion, and Ms. Ladd Fiorini provided a second, to nominate Mr. Cutler for election as vice-chairman.

Mr. Cutler made a motion, which was not seconded, to nominate Ms. Ladd Fiorini for election as vice-chairman. Ms. Ladd Fiorini respectfully declined the nomination.

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Ms. Turcotte made a motion, and Mr. Glennon provided a second, to nominate herself for election as vice-chairman.

Mr. Glennon and Mr. Cutler respectfully declined their nominations. Therefore, Ms. MacNab called for votes on electing either Mr. Wadsworth or Ms. Turcotte as vice-chairman.

DISCUSSION: Ms. MacNab stated that Mr. Wadsworth has served on the Board for many years and has consistently attended meetings. Mr. Cutler stated that although it provides continuity to keep the same chairman, it may be a good idea to rotate the vice-chairman's position.

VOTE: Mr. Wadsworth was voted vice-chairman by a vote of 4-3, with Ms. MacNab, Ms. Ladd Fiorini, Mr. Glennon and Mr. Wadsworth voting for Mr. Wadsworth, and Mr. Bear, Mr. Cutler, and Ms. Turcotte voting for Ms. Turcotte.

Planning Board Clerk: Ms. MacNab opened the floor to nomination of Planning Board Clerk.

MOTION: Mr. Bear made a motion, and Mr. Cutler provided a second, to nominate Ms. Ladd Fiorini for re-election as clerk. There were no other nominations.

VOTE: The motion passed unanimously, 7-0.

PLANNING BOARD COMMITTEE APPOINTMENTS

Board members reviewed appointments to committees that have Planning Board representatives. The Board of Selectmen makes the appointments annually, usually in June. Board members proposed no changes to the following appointments for terms that expire beyond 2011:

- Affordable Housing Trust – Ms. Ladd Fiorini
- Community Preservation Committee – Mr. Bear
- Economic Advisory Committee – Mr. Bear
- Land Use Group – Ms. MacNab (Mr. Wadsworth as alternate)
- Local Housing Partnership – Mr. Wadsworth.

Alternative Energy Committee: Mr. Cutler noted that he is on the Alternative Energy Committee as a full member and wants to continue. He offered that anyone interested could serve as a Planning Board representative. No one accepted Mr. Cutler's offer. The current term expires on June 30, 2011.

MOTION: Mr. Wadsworth made a motion, and Mr. Glennon provided a second, to recommend Mr. Cutler's reappointment to the Alternative Energy Committee.

VOTE: The motion passed unanimously, 7-0.

MBTA Advisory: Mr. Broadrick's appointment term ends on June 30, 2011. Ms. Turcotte expressed interest in serving on this committee. Mr. Broadrick will attend as Planning Director.

MOTION: Ms. MacNab made a motion, and Mr. Glennon provided a second, to recommend Ms. Turcotte's appointment to the MBTA Advisory.

VOTE: The motion passed unanimously, 7-0.

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Open Space Committee: Ms. Ladd Fiorini had resigned from this committee in order free up her time to serve on the Affordable Housing Trust upon the resignation of Mr. Harold Moody from the Planning Board in September 2010.

MOTION: Mr. Cutler made a motion, and Ms. Turcotte provided a second, to recommend Mr. Glennon's appointment to the Open Space Committee effective immediately.

VOTE: The motion passed unanimously, 7-0.

South Shore Coalition / MAPC: Mr. Cutler, who currently serves as an alternate to a Board of Selectmen member, expressed interest in another Board member taking on this position. Mr. Broadrick offered to attend meetings as Planning Director.

MOTION: Mr. Cutler made a motion, and Mr. Glennon provided a second, to recommend Ms. Turcotte's appointment to the South Shore Coalition / MAPC. Ms. Turcotte declined the nomination.

MOTION WITHDRAWN: Mr. Cutler withdrew his motion, and Mr. Glennon withdrew his second.

MOTION: Ms. Ladd Fiorini made a motion, and Ms. Turcotte provided a second, to recommend Mr. Wadsworth's appointment to the South Shore Coalition / MAPC.

VOTE: The motion passed unanimously, 7-0.

Design Review Board: Mr. Broadrick explained that although a Planning Board member has never been appointed to the Design Review Board, Zoning Bylaws list a Planning Board representative as a priority in appointing members to the Design Review Board. Currently there is an open position. Ms. Jessica Williams, who previously served on the Design Review Board, explained that it primarily reviews applications as referrals from the Zoning Board of Appeals.

MOTION: Ms. MacNab made a motion, and Mr. Cutler provided a second, to recommend Mr. Bear's appointment to the Design Review Board effective immediately.

VOTE: The motion passed unanimously, 7-0.

ZBA REFERRAL: 144 WINTER STREET / HISTORIC O'NEIL FARM, INC.

Board members reviewed this special permit application to install a new 30" x 36" x 5' unlighted, double-sided sign. Mr. Wadsworth commented that this is not a Planning Board issue.

MOTION: Mr. Bear made a motion, and Mr. Cutler provided a second, to defer judgment to the Zoning Board of Appeals regarding a special permit application for a sign at 144 Winter Street / Historic O'Neil Farm, Inc.

VOTE: The motion carried unanimously, 7-0.

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FOLLOW-UP ON ANNUAL TOWN MEETING 2011

Mr. Broadrick reviewed the results of Annual Town Meeting zoning article votes. He noted that the Board of Selectmen is unhappy with the proposed parking space size. Otherwise, the Board of Selectmen supported the Parking article, as well as the Lot Coverage article as proposed at 70% lot coverage and the Open Space definition article. All of those articles were indefinitely postponed at the Planning Board's recommendation.

Mr. Wadsworth noted that the acceptance of roads at Freeman Farms subdivision is a lesson learned: you need the Board of Selectmen on your side. The roads were accepted at Annual Town Meeting despite the Planning Board's recommendation to not accept the roads because only six of seventeen lots had been built out. Ms. MacNab noted that it reinforces the current requirement for subdivisions to be completed within two years of approval. She asked if it would be possible to include language in future Zoning Bylaws that would preclude acceptance of roads before a subdivision is built-out. Mr. Broadrick offered to research other town's zoning/subdivision rules.

Ms. MacNab noted a criticism that may be justified is that the Planning Board again brought forward articles that the Board did not support unanimously. Sometimes the Board's support changes as a result of the public hearing process. She recommended that the Board bring a Lot Coverage article to next year's Town Meeting that has full Board consensus. Mr. Glennon noted that although consensus looks good, it may be unrealistic on a seven-member board. Diversity of opinion on the Planning Board may be a good thing, and it is acceptable to bring forward articles that do not have full Board consensus.

Ms. MacNab stated that the Board needs to re-focus on the Comprehensive Plan.

MAPC SUSTAINABLE COMMUNITIES PROGRAM

Mr. Broadrick explained that the Metropolitan Area Planning Council (MAPC) is inviting the Town of Duxbury to participate in a Metro Boston Consortium for Sustainable Communities. He stated that the Federal Department of Housing and Urban Development granted funds to the MAPC to implement the Metro Future Plan. Towns that participate are eligible to receive funding and it would allow the town to have input in programs. There is a steering committee of 27 members.

Ms. MacNab and Mr. Glennon expressed concern that there are sometimes strings attached with participating in programs such as this. Mr. Glennon also expressed concern that it may take up valuable staff and Board time, and it looks like a bureaucracy without many specifics.

MOTION: Mr. Glennon made a motion, and Mr. Bear provided a second, to respectfully decline the MAPC invitation to join the Metro Futures program.

DISCUSSION: Mr. Cutler asked if it is wise for the Board to do nothing, when they may have nothing to lose by joining. Mr. Glennon stated that the town can still send a representative to the Metro Futures programs although it would not have a vote.

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

Mr. Broadrick noted that the Town of Duxbury is the southernmost community in the MAPC. He suggested that perhaps the town would be better off joining the Old Colony Council instead. He stated that the MAPC involves 101 communities and the Old Colony Council serves only 37 communities. Ms. Ladd Fiorini noted that many of the MAPC issues are more urban-related and do not necessarily apply to the Town of Duxbury. Mr. Broadrick will look into the matter further.

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OTHER BUSINESS

Engineering Invoice:

MOTION: Mr. Wadsworth made a motion, and Ms. Ladd Fiorini provided a second, to approve Amory Engineers invoice #13407 dated March 3, 2011 in the amount of \$403.00 for services related to Freeman Farms As-Built Approval.

VOTE: The motion carried unanimously, 7-0.

Meeting Minutes:

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

- January 31, 2011 as written
- February 28, 2011 as amended
- March 12, 2011 as written.

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

Duxbury Estates, off Summer Street: Board members reviewed a letter dated March 16, 2011 from Director of Inspectional Services, Mr. Scott Lambiase, to the developer advising them of the requirement to file a special permit for changes to the drainage system partially installed at the site. Mr. Broadrick reminded the Board that an earlier amendment to the special permit for this Planned Development had allowed full basements rather than crawl spaces on a site with a high water table. When some of the basements eventually flooded, the developer installed a makeshift drainage with perforated pipe that led across the site and stopping near wetlands that abut the property. This led to the neighboring properties getting flooded also. The neighbors complained to Mr. Joseph Grady, Conservation Administrator, who brought the issue to the attention of Mr. Broadrick and Mr. Lambiase.

Mr. Wadsworth recommended setting up a joint meeting between the Planning Board, the Zoning Board of Appeals, and Horsley Witten, the consulting engineer, to develop a plan for moving forward.

Mr. Bear noted that decks on some of the units have been closed in. He asked staff to confirm the number of finished basements on the site. Mr. Wadsworth noted that all of these issues could be discussed at a joint meeting. Mr. Bear stated that the situation needs to be resolved prior to issuance of the next building permit.

Mr. Broadrick expressed concern that the Planning Board has no authority since it was a special permit issued through the Zoning Board of Appeals (ZBA). Ms. MacNab recommended that Mr. Broadrick reach out to the ZBA chairman, Ms. Judith Barrett, to find out if she is agreeable to a joint meeting. It may be that the ZBA already has a plan in place.

Email from Jessica Williams Regarding Annual Town Meeting 2011: Board members reviewed an email dated March 18, 2011 from Ms. Williams, the proponent for a citizen's petition that passed at Annual Town Meeting that revises the definition of Accessory Structure to not preclude guest houses on a lot that already contains a dwelling. In her email Ms. Williams requested to meet with the Board at a future meeting. Ms. Ladd Fiorini asked what Ms. Williams hoped to gain from such a discussion. Mr. Cutler suggested that the issue of reference to "dwelling" versus "dwelling unit" needs to be resolved. Board members agreed to listen to what Ms. Williams has to say when she attends a future Board meeting.

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EXECUTIVE SESSION

MOTION: Ms. Ladd Fiorini made a motion, and Mr. Bear provided a second, to enter Executive Session to address matters of pending litigation, not to reconvene in Open Session.

VOTE: A roll call vote was taken. Ms. MacNab, Mr. Wadsworth, Ms. Ladd Fiorini, Mr. Bear, Mr. Cutler, Mr. Glennon, and Ms. Turcotte all voted in favor of the motion.

OPEN SESSION ADJOURNMENT

The Open Session of the Planning Board meeting adjourned at 9:43 PM. The next Planning Board meeting will take place on Monday, April 11, 2011 at 7:00 PM at Town Hall, Small Conference Room, lower level.

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