



Town of Duxbury Massachusetts Planning Board

Minutes 09/12/11

The Planning Board met at the Duxbury Town Hall, Small Conference Room, on Monday, September 12, 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.

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

OPEN FORUM

Alternative Energy Committee: Mr. Cutler reported that the Alternative Energy Committee is scheduled to meet with the Board of Selectmen soon regarding a Town Meeting article to enter a long-term lease for a project that would utilize a capped landfill on Mayflower Street to install solar arrays. Mr. Broadrick reported that the Inspectional Services Director, Mr. Scott Lambiase, has determined that Administrative Site Plan Review with the Planning Board is not required but recommended.

Stop Sign, Five Corners: Mr. Glennon thanked Mr. Broadrick for his efforts toward the installation of a fifth and final stop sign at the intersection of five roads near the homes of Mr. Glennon (Colonial Drive) and Mr. Cutler (Vine Street). Although it is not a Planning Board effort, it has come about due to the fact that both Board members happen to live near this dangerous intersection. The matter is scheduled to go before the Highway Safety Committee, and 52 neighbors have written letters of support.

Planning Board Packets: Ms. Turcotte suggested, in the interest of reducing paper, that the Board consider receiving email "virtual" packets. Ms. Grant stated that although it may be possible, large plans and certain submissions (i.e., ZBA special permit referrals) may still need to be mailed. Also, server capacity may limit the number of documents in one email, so multiple emails may be required. After some discussion, it was agreed that, although an admirable goal, Board members preferred to have packets they can bring to meetings. Ms. Grant offered to request paper recycling bins for the meeting room so Board members can recycle their papers after each meeting.

Community Preservation Committee (CPC): Mr. Bear reported that the CPC has set an October 15 deadline for CPA-funded project proposals.

Economic Advisory Committee: Mr. Bear reported that he has been elected chairman of this town committee that meets quarterly.

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Extra Planning Board Meeting: Mr. Broadrick reported that a meeting of October 3 will need to be added in order to hold a public hearing for a proposed change in Wetlands Protection Overlay District line for a property on Cape Verde Terrace, in preparation for Special Town Meeting on October 29.

DISCUSSION: ZONING BYLAW REVIEW COMMITTEE TOPICS (GEORGE WADSWORTH, PLANNING BOARD DESIGNEE)

Present for the discussion was Mr. Robert Fitzpatrick, chairman of the Zoning Bylaw Review Committee (ZBRC). Mr. Wadsworth, Board representative to the ZBRC, introduced Mr. Fitzpatrick and noted that the goal of the committee's work is to find areas of Zoning Bylaws that could be clarified without changing the intent. The ZBRC is interested in the Board's input since the Board works closely with the Zoning Bylaws.

Mr. Fitzpatrick distributed copies of the ZBRC's charge as voted by the Board of Selectmen, who appointed this ad hoc committee. The ZBRC's focus is organizing a list of people to be interviewed to better understand the town's Zoning Bylaws. Mr. Fitzpatrick noted that clarity and consistency are two main concerns of the ZBRC, although there is no intention to substantially change the Zoning Bylaws. Mr. Broadrick has attended all meetings and provided information and guidance. As part of their outreach, the ZBRC has scheduled a public forum for October 19.

Mr. Fitzpatrick observed that the feedback he is hearing from property owners and contractors is that rather than changing the Zoning Bylaws content, the permitting process should be streamlined. He asked Board members for their feedback, summarized as follows:

- Definition of "Dwelling Unit," "Dwelling" and "Family" in ZBL Section 302 (Definitions) – Mr. Glennon stated that it is important to understand what each means and what they mean together. He stated that definitions vary from town to town and these definitions were a point of discussion at the 2011 Annual Town Meeting. They should be clarified so everyone has the same understanding.
- Definition of "Accessory Structure" in ZBL Section 302 (Definitions) – Mr. Bear suggested that the definition be stated positively (i.e., what is allowed) rather than the current negative definition (what is not allowed). State what an accessory structure can be and then everything else would be prohibited. Mr. Bear stated that currently a pool house is allowed with no guidance about what it can be in regard to dimension, use, and allowance of bedrooms. Accessory structures should not be set up for residency. If someone wanted to apply for an accessory structure with living quarters it should be a variance rather than a special permit.

Mr. Wadsworth commented that the definition of "Accessory Structure" has become very close to becoming a dwelling. However, unlike a dwelling, an accessory structure does not require a minimum lot size or frontage. The only difference appears to be the presence of a stove. This lack of standards may result in large lots with a compound of dwellings without stoves, and there is no stove inspector in the town. The use of accessory structures as dwellings may have developed due to misinterpretation of the definition. Mr. Fitzpatrick noted that this topic has been discussed by the ZBRC, with differing interpretations.

Mr. Glennon noted that the real issue is that we do not want people living in accessory structures. He suggested that a definition of "Bedroom" could be added and then the definition of "Accessory Structure" could be revised to prohibit bedrooms. Ms. MacNab noted that, although this is a good idea, the Planning Board, Board of Health, and Zoning Board of Appeals all have different ideas of what a bedroom is.

Mr. Wadsworth suggested that capacity for heat could be prohibited from accessory structures. Mr. Bear suggested that dimensional size could be restricted. He recommended that the ZBRC members drive around the town to view properties with multiple dwellings. Ms. MacNab noted that a citizens' group has a list of such properties.

- Special Permit for Change in Use in ZBL Section 401.2 (Nonconforming Uses) – Mr. Bear reported that the Economic Advisory Committee has heard from business owners who complain that the process to change use by special permit is onerous. Although the special permit process could be smoother, his experience on the Board shows that projects benefit from Administrative Site Plan Review.
- Special Permit for Construction in Wetlands Protection Overlay District (WPOD) in ZBL Section 404 (Wetlands Protection Overlay District) – Ms. Ladd Fiorini noted that Zoning Bylaws Section 404 is inconsistent because it states that construction within the WPOD is prohibited, but also provides for a process to construct within the WPOD by special permit. Mr. Bear noted that although the WPOD is clearly excluded from buildable area, applicants are still applying to do so.
- Prohibited Uses and Structures in ZBL Section 410.2 (Prohibited Uses and Structures) – Mr. Broadrick noted that there has been some misinterpretation of the prohibition of garages for storage of more than three vehicles. Mr. Glennon asked if “vehicle” should be defined, and suggested that a dimensional limit should be used rather than number of vehicles. Ms. Ladd Fiorini agreed, as long as the intent is to not have a barn-like garage.
- Definition of “Intensity” in ZBL Section 410.4 (Residential Compatibility District Intensity, Dimensional and Coverage Regulations) – Ms. MacNab noted that this definition could be revised to make it clear that only one dwelling per lot is allowed. She stated that the Board has been challenged on the current definition of “one single family dwelling per 40,000 square feet or more” to imply that two dwellings could be allowed on an 80,000 square foot lot. It was recommended that “per 40,000 square feet or more of upland” be replaced with “per lot.”
- Definition of “Height” in ZBL Section 410.4 (Residential Compatibility District Intensity, Dimensional and Coverage Regulations) – Mr. Bear noted that there has been some abuse of this Zoning Bylaw, with some applicants mounding to raise the grade in order to maximize height.
- Definition of “Coverage” in ZBL Section 410.4 (Residential Compatibility District Intensity, Dimensional and Coverage Regulations) – Ms. Turcotte noted that there has been some confusion among applicants regarding Zoning Bylaws Section 410.4 (Coverage), especially for lots under 20,000 square feet. She has observed inconsistencies in how coverage allowances are calculated. Mr. Glennon suggested that including an example may be helpful.

Ms. MacNab noted that she and Mr. Wadsworth both served on the Comprehensive Plan/Zoning Bylaw Implementation Committee (CPZBIC) that resulted in the last major update to Zoning Bylaws in 2003. CPZBIC recommended a different coverage bylaw than was voted by Town Meeting due to an amendment on Town Meeting floor that allowed an increase in coverage for undersized lots. Although CPZBIC's intent, based on extensive research and public input, was for large structures on large lots and small structures on small lots, the bylaw amendment approved by Town Meeting allows for larger structures on small lots.

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- Accessory Structures in Neighborhood Business Districts in ZBL Section 425 (Intensity and Dimensional Regulations for All Neighborhood Business Districts) – Ms. MacNab noted that there appears to be an issue with the number of accessory structures allowed on a lot in the Neighborhood Business (NB) District. According to #5, “[a]ccessory structures may be appended to the principal building or to another accessory building.” However, if the same standard is applied as accessory structures in the Residential Compatibility District, accessory structures should be “customarily incidental” to the primary structure. The Zoning Board of Appeals (ZBA) has a different interpretation, allowing the same use in multiple buildings on a lot. Mr. Glennon noted that because the Zoning Bylaw is a living document, there needs to be some flexibility for changes that evolve over time, and Mr. Wadsworth agreed.

Mr. Fitzpatrick thanked Board members for their valuable feedback, noting that the ZBRC will need to prioritize issues. Mr. Glennon sympathized with the difficulty of the task because it basically defines the town’s character. Ms. MacNab agreed that it is difficult to do this work without the benefit of the town-wide survey and major update to the town’s Comprehensive Plan that CPZBIC had in 2001.

Mr. Fitzpatrick asked Board members to let Mr. Wadsworth know of any other input, and also asked for the names of people the ZBRC could contact for interviews. Board members suggested Ms. Nancy Landgren as an abutter to a controversial project that involved Zoning Bylaw interpretation. Staff offered to get Ms. Landgren’s contact information.

DISCUSSION: RESULTS OF BOARD OF SELECTMEN’S STRATEGIC PLANNING SESSION

Mr. Broadrick reported that sixty people attended today’s meeting with a self-assessment focus resulting in the identification of core values and guiding principles. Among these core values identified were: high standards, interdepartment collaboration, and cross-referencing the Comprehensive Master Plan. Areas that the town is doing well include: AAA Bond rating, emergency response, support for existing economic base, open space plans, schools and library services.

Ms. MacNab asked if there was any discussion regarding changing the town’s form of government, and Mr. Broadrick responded that there was not but there was discussion about potential consolidation of services between the town and the schools.

Mr. Broadrick reported that there is not a good understanding of what the Planning Board and Zoning Board do. Mr. Wadsworth stated that the special permit process was discussed.

Ms. MacNab asked if members of the public were in attendance, and Mr. Wadsworth responded that it was mainly town department heads and town and school boards and committees. He stated that Selectman Ted Flynn mentioned the possibility of holding another session on a weekend for more public input. Mr. Broadrick noted that staff input is crucial because town staff is aware of what is happening on a day-to-day basis.

Mr. Broadrick reported that the next step will be for the information gathered to be submitted to the Board of Selectmen, who will decide what to do, possibly developing up to five town-wide strategies.

OTHER BUSINESS

Special Town Meeting: Board members reviewed a schedule for Special Town Meeting on October 29. Ms. MacNab noted that the schedule shows the warrant closed today.

FEMA Maps: Board members reviewed a letter from FEMA dated August 24, 2011 stating that there are no modifications to the town of Duxbury's base flood elevations; therefore no map amendment is required.

ADJOURNMENT

The Planning Board meeting adjourned at 8:44 PM. The next Planning Board meeting will take place on Monday, September 26, 2011 at 7:00 PM at Town Hall, Small Conference Room, lower level.

MATERIALS REVIEWED

- ZBRC minutes of 07/20/11
- ZBRC Charge dated 06/02/11 (*distributed by Mr. Fitzpatrick at meeting*)
- BOS invitation materials to Strategic Planning Session
- Special Town Meeting schedule
- FEMA letter dated 08/24/11 re: No changes to Duxbury floodplain map
- Construction Cost Estimates for August 2011
- ZBA decision re: 12 Bay Avenue/Callahan
- "The Reserve at Duxbury" lottery ad

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11 SEP 29 PM 12:42
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