



Approved 11/14/11

Town of Duxbury TOWN CLERK Massachusetts 11 NOV 15 PM 1:36 Planning Board DUXBURY, MASS.

Minutes 10/17/11

The Planning Board met at the Duxbury Town Hall, Small Conference Room, on Monday, October 17, 2011 at 7:00 PM.

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

Absent: Jennifer Turcotte.

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

Ms. MacNab called the Planning Board meeting to order at 7:04 PM.

OPEN FORUM

Alternative Energy Committee: Mr. Cutler reported that the Alternative Energy Committee will be conducting a site walk tomorrow for a project that would utilize the capped landfill on Mayflower Street to install solar arrays. Administrative Site Plan Review of the project is expected in late November or early December 2011. The Committee's wind turbine feasibility study has been delayed by the consultant who is studying impact of the project on the surrounding area.

Community Preservation Committee: Mr. Bear reported on nine applications initially submitted to the CPC for funding through Annual Town Meeting 2012. Mr. Cutler noted that the only project of Planning Board interest would be the town's purchase of a property located at 180 High Street, for which the Planning Board had approved a three-lot definitive subdivision in August 2010. Ms. MacNab asked if any open space purchases were proposed, and Mr. Bear replied that there were not.

Long Range Planning for Sea Level Rise: Mr. Broadrick invited Board members and the public to a workshop scheduled for October 27, 2011 for the towns of Duxbury, Marshfield and Scituate to learn more about coastal issues and potential changes for coastlines due to climate change. The workshop is funded through a District Local Technical Assistance (DLTA) grant by the Metropolitan Area Planning Council (MAPC).

Regional Planning Agency: Mr. Cutler requested that the Board add a future agenda item to consider the possibility of joining the Old Colony Planning Council instead of the MAPC as regional planning agency.

RECESS OF PLANNING BOARD MEETING

MOTION: Mr. Wadsworth made a motion, and Mr. Cutler provided a second, to recess the Open Session of the Planning Board meeting, with the intent to reconvene, in order to attend a portion of the Board of Selectmen's meeting regarding a presentation on a landowner's proposed amendment to the Wetlands Protection Overlay District map for a property located on 1053 Tremont Street.

VOTE: The motion carried unanimously, 6-0.

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

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Therefore, the Planning Board meeting recessed at 7:17 PM. Board members returned later and the Planning Board meeting reconvened at 7:35 PM.

DUXBURY, MASS.

**CONTINUED PUBLIC HEARING ON A PROPOSED ZONING ARTICLE FOR
SPECIAL TOWN MEETING 2011 RE: AMENDMENT TO WETLANDS PROTECTION
OVERLAY DISTRICT MAP FOR ONE CAPE VERDE TERRACE / DRIVER
(LANDOWNER PETITION)**

Ms. MacNab opened the continued public hearing at 7:35 PM. Ms. Ladd Fiorini read the correspondence list into the record:

- Historical USGS Topographic Overlay Plan dated 09/30/11 (submitted by petitioners' representative at 10/03/11 public hearing)
- Memorandum from R.S. Troy to T. Broadrick dated 10/3/11 re: Spot Zoning (emailed on 10/04/11)
- Email from T. Broadrick dated 10/04/11 re: PB placed on Conservation Commission schedule 10/18/11
- Memorandum from R.S. Troy to S. Dahlen (BOS) dated 10/14/11 re: Spot Zoning (emailed on 10/04/11)
- Letter from R.W. Galvin dated 10/17/11 re: Spot Zoning.

Mr. Broadrick advised that Town Counsel, Robert S. Troy, had submitted an updated memorandum earlier today regarding spot zoning, and Atty. Galvin had submitted a letter today responding to Town Counsel's memo. Copies of both correspondences were distributed to each Board member. Mr. Broadrick noted that Board members could choose to continue the public hearing until next Monday, October 24, 2011 and at that meeting they could choose to close the public hearing and formulate their report to Town Moderator for Special Town Meeting on October 29, 2011.

Mr. Glennon asked if a new standard has been set, placing the Wetlands Protection Overlay District (WPOD) line at fifty feet from a wetlands resource. Mr. Broadrick noted that the standard was set only for these two properties, and no town board has endorsed that standard across the board. Ms. Ladd Fiorini asked what the standard would be for future properties in question. Mr. Wadsworth pointed out that in past years the Conservation Administrator, Mr. Joseph Grady, has agreed that a 25-foot horizontal distance from a resource area was adequate.

Mr. Glennon noted that Zoning Bylaws Section 404.2 (WPOD Location of District) allows a 25-foot buffer from the high water line of a water body. He stated that the Board owes it to the public to make it clear where the WPOD line is located. Looking at the Zoning Bylaws, WPOD map, and evidence/arguments presented, there does not seem to be a definitive answer. He asked if the Conservation Commission has any further guidelines, and Ms. MacNab responded that Board members can find out more by attending the Conservation Commission meeting scheduled for October 18, 2011 when the Board has asked to speak to the Conservation Commission for further understanding. Ms. MacNab expressed concern that a floodgate is being opened with these two proposed map amendments. She pointed out, on the other hand, that at the Selectmen's meeting Mr. Grady deemed the 1971 Wetland and Watershed Protection map "incredibly accurate otherwise."

Mr. Bear noted that the current process appears to be that if a landowner believes that the WPOD map is inaccurate on their property, they enter negotiations with the Conservation Commission. He posed the question if it should be up to the Conservation Commission to be the judge of where the WPOD zoning line is drawn. He noted that the intent of the WPOD is to protect both wetlands and watershed districts. Mr. Wadsworth noted that in the 1970s soil conditions were not discussed as being related to the WPOD line. The question is how far back should resources be protected? Mr. Broadrick responded that it is not the town's responsibility to research every property to confirm WPOD lines. Mr. Bear noted that fixing WPOD errors on a one-by-one basis is an uneven approach.

Mr. Glennon questioned if the WPOD is still relevant considering that more protections to the town are available now than when the WPOD map was drawn in 1971. He stated that uniform standards should be put into place.

The landowners, Mr. Bill Driver and Ms. Doreen Driver, arrived after meeting with the Board of Selectmen, along with their representative, Atty. Robert W. Galvin. Atty. Galvin reported that the Board of Selectmen had voted to recommend the proposed amendment for the Driver property, and will wait until October 24, 2011 to make a recommendation on the Dacey property at 1053 Tremont Street, to allow time to hear what the Conservation Commission recommends at its meeting of October 18, 2011.

Mr. Wadsworth asked about the proposed fifty-foot boundary around wetlands resource areas, and Atty. Galvin stated that it will be a no-build area under the Wetlands Protection Act. Atty. Galvin noted that at the Selectmen's meeting Mr. Grady, the Conservation Administrator, stated that the map is otherwise accurate, noting that these two amendment proposals are the only ones in a number of years. Atty. Galvin stated that Mr. Grady prefers not to make a lot of changes to the WPOD map. The Wetlands Protection Act general bylaw is actually more restrictive than the WPOD zoning bylaws. Atty. Galvin stated that the property owners have agreed to continue the public hearing until next week.

MOTION: Mr. Cutler made a motion, and Mr. Wadsworth provided a second, to continue the public hearing regarding a proposed zoning amendment by landowner petition for Special Town Meeting 2011 to remove the Wetlands Protection Overlay District from a portion of a property at One Cape Verde Terrace, to October 24, 2011 at 7:05 PM.

VOTE: The motion passed unanimously, 6-0.

OTHER BUSINESS

Meeting Minutes:

MOTION: Mr. Cutler made a motion, and Mr. Glennon provided a second, to approve meeting minutes of September 26, 2011 as written and meeting minutes of October 3, 2011 as amended.

VOTE: The motion carried 5-0-1, with Ms. Ladd Fiorini abstaining.

ADJOURNMENT

The Planning Board meeting adjourned at 8:02 PM. The next Planning Board meeting will take place on Monday, October 24, 2011 at 7:00 PM at Town Hall, Small Conference Room, lower level.

MATERIALS REVIEWED

WPOD REZONE: ONE CAPE VERDE TERRACE

- Memorandum from R.S. Troy dated 10/03/11 re: Spot Zoning
- Draft minutes of 10/03/11 re: Public Hearing for Rezone of One Cape Verde Terrace
- Memorandum from R.S. Troy dated 10/14/11 re: Spot Zoning (*distributed at meeting*)
- Letter from Atty. R.W. Galvin dated 10/17/11 re: Spot Zoning (*distributed at meeting*)

OTHER BUSINESS

- Minutes of 09/26/11
- Minutes of 10/03/11
- Special Town Meeting Warrant 10/29/11
- Construction Cost Estimates for September 2011
- ZBA Decision re: 33 River Lane / Walkey & Michaud
- "Long Range Planning for Sea Level Rise" 10/27/11 MAPC workshop flyer (*distributed at meeting*)
- Citizen Planner Training Collaborative Fall 2011 Course Schedule (*distributed at meeting*)

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