



Town of Duxbury Massachusetts Planning Board

Approved 01/09/12

TOWN CLERK

12 JAN 12 AM 10:29

DUXBURY, MASS.

Minutes 12/12/11

The Planning Board met at the Duxbury Town Hall, Small Conference Room, on Monday, December 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

Community Preservation Committee: Mr. Bear reported that the committee will be voting on proposals for Annual Town Meeting warrant articles on Thursday.

Affordable Housing Trust: Ms. Ladd Fiorini reported that the trust is in the process of hiring a lottery agent.

584 Washington Street / Curran: Mr. Broadrick asked Board members to drive by this site located at the corner of Washington Street and Sunset Road in order to make a recommendation about whether or not a public hearing is required under Massachusetts General Laws. The homeowner has requested that three trees be removed that are within the town right-of-way on Sunset Road, and the DPW Director, Mr. Peter Buttkus, agrees that they should be removed for safety reasons. Mr. Buttkus has requested that the Board members decide if a tree hearing is required or not.

ANR PLAN OF LAND: 0 & 907 TREMONT STREET / ALFIERI AND MILES

Present for the discussion to represent the application were Mr. Daniel Orwig of Orwig Associates and Atty. Lee Alfieri. Ms. MacNab asked under what capacity Mr. Orwig was representing the application, and Mr. Orwig responded that his office produced the plans submitted with the ANR application. The plans were stamped by Neil J. Murphy, RPLS.

Mr. Broadrick explained the ANR plan to Board members, stating that the applicant proposes to reconfigure a lot and a parcel in order to add more area to the parcel. The application shows that Lot 1 would contain 40,034 square feet and Lot 2 would contain 114,034.1 square feet. Lot 1 is currently in the Residential Compatibility (RC) District only, and the proposed configuration would put a small portion of the lot within the Aquifer Protection Overlay District (APOD). Lot 2 as shown would be a parcel with no existing structure, and more than half of this parcel would be located within the APOD.

Atty. Alfieri offered to explain the application, distributing a handout with supporting information. He noted that according to Zoning Bylaws (ZBL) Section 202.1 #7, "Where a boundary line other than a Wetlands

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Protection Overlay District (WPOD) boundary line divides a lot, a use permitted as a matter of right or by special permit in the less restricted district may be extended not more than thirty feet into the more restricted portion of the lot." He pointed out that ZBL Section 406.4 #2 states that, "Properties located such that the site lies within more than one zone as reflected on the APOD maps shall be governed by the restrictions applicable to the zone in which the activity, structure, or sewage disposal system is located." He also referenced ZBL Section 410.4 "Lot Size/Lot Frontage" and "Lot Area," which states that lot area cannot include land in the WPOD but does not mention land in the APOD.

Atty. Alfieri noted that Massachusetts General Law states in the definition of subdivision that changing lots while maintaining requisite frontage does not constitute a subdivision. He continued that the ANR plan shows that nine feet of frontage are being added to Lot 1, and the frontage for the vacant parcel will be reduced but still would meet the 200 foot requirement. He reminded Board members that their jurisdiction with this application is limited to determination about the frontage, not zoning.

Mr. Wadsworth asked about the right-of-way shown on the ANR plan, and Atty. Alfieri replied that the right-of-way serves as access to three dwellings to the rear of the property. Mr. Wadsworth asked if the right-of-way subtracts from the frontage and area calculations, and Mr. Broadrick responded that it does not subtract because it is an easement.

Ms. Turcotte asked why the applicants want to divide the land, and also asked why seven to nine bearings are shown on the ANR plan. Atty. Alfieri responded that the former configuration is not the most economically viable, and that the applicants believe that adding land to the vacant parcel will support further subdivision of the land. Ms. MacNab referenced an email exchange between Mr. Broadrick and Mr. Scott Lambiase, Zoning Enforcement Officer, in which both department heads agreed that further subdivision is not viable. Atty. Alfieri stated that the applicants understand the staff's position and may or may not choose to challenge it.

Ms. MacNab asked if Atty. Alfieri is representing the estate of Priscilla Miles and Atty. Alfieri responded that he is also representing Mr. Loren Nass, the owner of the parcel. Ms. MacNab noted that the ANR plan does not list Mr. Nass as the owner of the parcel, and Mr. Orwig offered to correct the plan.

Ms. MacNab asked for Mr. Broadrick's opinion on the interpretation of Zoning Bylaws Section 202 that a use can be extended by thirty feet, and Mr. Broadrick responded that after reviewing the bylaw he believes it is reasonable although unusual. He stated that the typical use of this bylaw is to extend a Neighborhood Business District zone into a Residential Compatibility District zone in order to expand a business use.

Ms. Turcotte measured and confirmed that the setback from the septic system on the dwelling lot is exactly fifteen feet. Board members requested that all dimensions be added to the ANR plan, and Mr. Orwig agreed to this request. Mr. Bear requested that the APOD line be verified, and Mr. Broadrick pointed out that the plan was stamped by a Registered Professional Land Surveyor. Mr. Orwig asked for direction on specific dimensions requested, and Ms. Turcotte drew on the ANR plan where dimensions are requested to be added.

Mr. Wadsworth requested a certificate of appointment from Atty. Alfieri showing that he is executor to the estate of Priscilla Miles. Mr. Broadrick noted that the Building Inspector needs to know that the Planning Board has researched the ANR thoroughly in case a building permit is applied for at a later date. The Board's memo to the Building Department will point out any potential issues. Atty. Alfieri agreed to provide certification as of the date of the ANR application.

Board members and Atty. Alfieri signed a mutual extension form to allow the applicants time to revise the ANR plan with setback dimensions and current ownership, with the discussion to continue at the Board's next meeting on January 9, 2012.

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ZBA REFERRAL: 1 STANDISH ROAD / MEHEGAN

Board members reviewed this application to construct a 328 square-foot addition to a pre-existing nonconforming structure, increasing the building coverage to 16 percent. After confirming the coverage figures, Board members agreed that there do not appear to be any planning issues.

MOTION: Ms. Turcotte made a motion, and Ms. Ladd Fiorini provided a second, to defer judgment to the Zoning Board of Appeals regarding a special permit for 1 Standish Road / Mehegan to construct a 328 square foot addition to a pre-existing nonconforming structure, noting that there are no planning issues.

VOTE: The motion carried unanimously, 7-0.

OTHER BUSINESSMeeting Minutes:

MOTION: Mr. Cutler made a motion, and Ms. Ladd Fiorini provided a second, to approve meeting minutes of November 28, 2011 as amended.

VOTE: The motion carried unanimously, 5-0-2, with Ms. MacNab and Ms. Turcotte abstaining.

Proposed Annual Town Meeting 2012 Articles: Board members reviewed the wording of articles submitted to the Board of Selectmen by the Planning Department as follows:

- *Zoning Map Revision (WPOD)* – Mr. Broadrick noted that although this article was submitted, due to Town Counsel's opinion that the change in Zoning Maps is "ministerial" after the Special Town Meeting 2011 vote to change the WPOD line on two properties, he will withdraw this article.
- *Flood Insurance Rate Maps (FIRM Maps)* – Mr. Broadrick noted that this article may also be withdrawn unless the town receives an updated FIRM map from the Federal Emergency Management Agency (FEMA).
- *Old Colony Planning Council (OCPC)* – Mr. Cutler requested a revision to the article explanation to note that the membership in two regional planning agencies would be on a one-year trial basis to determine if the OCPC is a better fit for the town of Duxbury.
- *Local Historic District* – Mr. Broadrick noted that the amendments are proposed due to Attorney General recommendations.
- *Wind Turbine Study* – This article is proposed by the Alternative Energy Committee.
- *Stretch Code* – This article is also proposed by the Alternative Energy Committee.

ADJOURNMENT

The Planning Board meeting adjourned at 9:10 PM. The next Planning Board meeting will take place on Monday, January 12, 2012 at 7:00 PM at Duxbury Senior Center, 10 Mayflower Street.

MATERIALS REVIEWEDANR PLAN OF LAND: 0 & 907 TREMONT STREET

- ANR application and plan submitted 10/27/11
- GIS map, Assessor's property cards, and Pictometry orthophoto
- Email chain between applicant, T. Broadrick and S. Lambiase dated November 2010
- Thirteen-page hand-out submitted by Atty. Alfieri at meeting

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PLANNING BOARD MINUTES

Date: December 12, 2011

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ZBA REFERRAL: 1 STANDISH ROAD / MEHEGAN

- ZBA application and materials
- GIS map, Assessor's property card, and Pictometry orthophoto

OTHER BUSINESS

- Minutes of 11/28/11
- Proposed PB Meeting Schedule 2012
- ATM 2012 articles submitted by Planning Department
- Construction Cost Estimates, November 2011
- Memorandum from Town Counsel dated 12/06/11 re: Zoning Map Amendment and ASPR educational uses (*distributed at PB meeting*)

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