



# Town of Duxbury Massachusetts Planning Board

Approved 08/13/12

TOWN CLERK  
12 SEP 10 AM 10:45  
DUXBURY, MASS.

## Minutes 06/25/12

The Planning Board met at the Duxbury Town Hall, Small Conference Room, on Monday, June 25, 2012 at 7:00 PM.

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

Absent: Jennifer Turcotte.

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

Mr. Wadsworth called the meeting to order at 7:03 PM.

### OPEN FORUM

WiFi Internet Access: Mr. Broadrick reported that the Information Services Department was unable to provide WiFi access for tonight's meeting. Board members had received electronic packets accessible through the Town Hall web site but were unable to view packet materials on their laptops and tablets due to the lack of internet access. Mr. Wadsworth deferred discussion until later in the meeting.

Sea Level Rise: Ms. Ladd Fiorini reported that she had heard on National Public Radio that the sea level along the East Coast from North Carolina to New England is expected to rise at least six feet by the end of the century. Mr. Broadrick stated that the sea level along the eastern seaboard is rising four times faster than anywhere else in the world. He reported that the towns of Duxbury, Marshfield and Scituate recently received a joint grant in order to study the situation and the resulting conclusion was that a 19-foot seawall would be needed, not a viable solution. Although the town of Duxbury is fortunate to have a barrier beach to protect the shoreline, other communities have had to construct seawalls but they are only two feet in height now. Those towns are looking into purchasing beachfront properties.

### ANR PLAN OF LAND: ONE GIDEON WAY & 424 SUMMER STREET / LA GRECA

Present for the discussion were the applicant's representatives, Mr. Daniel Orwig of Orwig Associates in Duxbury and Mr. Brian Daley, realtor. Mr. Orwig distributed copies of a revised ANR plan that reflected comments by the Board chairman and vice-chairman during their preliminary review prior to tonight's meeting.

Mr. Wadsworth noted that the existing one-acre lots were created prior to Town Meeting adoption of the Aquifer Protection Overlay District (APOD). The residential lot size minimum is currently 60,000 square feet for lots within the APOD and 40,000 square feet for other zoning districts. Frontage would not change with the proposed plan but lot lines would change. Lot 1 has a protected nonconformity because the side lot line pushes into an existing swimming pool. Mr. Orwig noted that the proposed plan would move the lot line away from the pool, correcting the pre-existing problem.

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

The mission of the Town of Duxbury is to deliver excellent services to the community in the most fiscally responsible and innovative manner while endeavoring to broaden our sense of community and preserve the unique character of our town.

Mr. Wadsworth stated that he and Mr. Glennon suggested a 50/50 land swap showing non-buildable parcels to be combined with existing lots. He reminded Board members that the principal issue for endorsing an ANR plan is the frontage requirement, which is not affected here.

Mr. Glennon noted the odd lot shape to be conveyed and asked why the lot line hadn't been extended all the way to the property line, and Mr. Orwig responded that the area had already been agreed upon through a Purchase & Sales agreement and it was clearer to depict the entirety of Lot 1 and Lot 2 rather than adding parcels.

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Cutler provided a second, to endorse a Plan of Land entitled, "Approval Not-Required Subdivision, 1 Gideon Way, Duxbury, MA.," dated June 21, 2012, prepared by Orwig Associates, 9 South Pasture Lane, P.O. Box 02331, and stamped and signed by Neil J. Murphy, RPLS, 10 Hill Street, Cohasset, MA 02025 on June 22, 2012, as not requiring approval under Subdivision Control Law.

**VOTE:** The motion carried unanimously, 6-0.

Planning Board members signed the mylar and two paper copies of the ANR plan, and Mr. Orwig took the mylar with him for recording at the Plymouth County Registry of Deeds.

### **INITIAL PUBLIC HEARING, DEFINITIVE SUBDIVISION: ONE CAPE VERDE TERRACE / DRIVER**

Mr. Wadsworth opened the public hearing at 7:22 PM. Ms. Ladd Fiorini read the public hearing notice and the correspondence list for the record:

- Definitive Subdivision application, plans and materials submitted to the Planning Department and Town Clerk on 05/29/12
- Letter from Webby Engineering Associates, Inc. dated 05/29/12 re: List of waivers requested
- Letter from Webby Engineering Associates, Inc. dated 06/01/12 re: Water Department and Fire Department comments
- Public hearing notice stamped in with Town Clerk on 06/04/12
- Fax letter from P. Brennan of Amory Engineers dated 06/05/12 re: Initial peer review
- Public hearing notice published in the Duxbury Clipper on 06/06/12 and 06/13/12
- DRT notice and handwritten notes for meeting 06/11/12
- Correspondence between T. Broadrick and P. Brennan dated 06/20 – 06/21/12 re: Peer review process.

Present for the discussion were the applicants, Mr. F. William Driver and Ms. Doreen Driver, and their representatives, Mr. Joseph Webby of Webby Engineering in Plympton; and Ms. Liz Bone of MacDonald & Wood Realty. Also present was Mr. Patrick Brennan, the town's consulting engineer.

Mr. Webby presented the subdivision plan, explaining that Mr. and Mrs. Driver reside at 1 Cape Verde Terrace, a two-lot Definitive Subdivision that was approved by the Planning Board in 1999. Now they would like to divide their dwelling lot into two lots through the Definitive Subdivision process. Mr. and Mrs. Driver would retain 2.3 acres and would sell 1.68 acres as a buildable lot. A 50-foot strip would be maintained as a cul de sac. Drainage would utilize a stone-lined trench with pavement sloping to the east. The soils are mostly sand and gravel, percolating under two minutes per inch. The area of work would be well beyond the 100-foot jurisdiction for wetlands.

Mr. Brennan reported that he had reviewed the plans in a fax transmittal dated June 5, 2012, with comments mostly related to drainage. He noted that drainage calculations need to be revised to include impervious areas. The construction sequence needs to be revised so that rain garden vegetation is well-established before stormwater is discharged into them. Also, he recommends that filter fabric be installed three inches below the stone trench to discourage growth of vines. In addition, he noted that hedges that line the existing driveway

result in a sight line issue, suggesting that the hedges be trimmed. Mr. Brennan advised the Board that Mr. Webby had revised plans according to Mr. Brennan's comments, including adding a note to the plan regarding sight distance.

Mr. Broadrick noted that at a regularly scheduled agenda meeting he had discussed the drainage swales with Mr. Wadsworth and Mr. Glennon. Mr. Broadrick explained that for large subdivisions the Planning Board typically requires a separate lot for retention basins anticipating a future public road. With smaller subdivisions like this one, a local street with drainage swales alongside it is allowed because the road is more like a glorified driveway.

Mr. Wadsworth stated that he is a proponent of separate lots for drainage. He noted that the roadway width proposed with this application would not be acceptable for approval at Annual Town Meeting. The road would have to be paved to a width of 22 feet for Town Meeting acceptance. Separate drainage lots provide a buffer zone and are typically maintained by a Homeowners' Association. A waiver would be required for eliminating the drainage lot and also for constructing a drainage swale within the 50-foot right-of-way along the local road. Mr. Wadsworth stated that granting waivers is done infrequently and needs to be in the town's interest.

Mr. Glennon noted that memory fades with the passage of time and subsequent owners may not understand why waivers were granted. He stated that he needs the applicant to provide evidence that the waiver is appropriate.

Mr. Broadrick noted that the benefit to the town is that the roadway will remain a private way in perpetuity. The release of lots will be tied to the subdivision approval which will include that provision. Mr. Glennon stated that someone could purchase the property fifteen years from now and demand town services, noting that he does not see how a town plow could get down the driveway as it is proposed. Mr. Broadrick noted that public safety officials are more concerned with getting in to provide services than getting out.

Mr. Casagrande stated that the maintenance agreement would be tied to the deed of the property. Mr. Glennon noted that in Massachusetts attorney-free closings have occurred.

Mr. Bear noted that a safeguard is that in order to get the roadway approved as a public way it would need to be built in accordance with public way standards, which would be at a great cost and a major undertaking. Mr. Brennan added that a drainage basin would have to be quite large.

Mr. Cutler noted that a hammerhead driveway seems reasonable for a two-lot subdivision. Mr. Webby noted that they had designed "country drainage" because it requires minimal maintenance.

Mr. Bear asked about the applicants' petition to remove the Wetlands Protection Overlay District line from their property. Mr. Driver noted that the petition was approved at Special Town Meeting in 2011 and Mr. Broadrick confirmed that the Attorney General approved the warrant article.

Possible waivers were discussed:

- Fifty-foot buffer around drainage swales
- Cape Cod berm along roadway
- Street light requirement
- Shade tree plantings

Ms. Ladd Fiorini confirmed with Mr. Webby that the only tree removal required would be where the new pavement is installed. He said that most of the lot was cleared long ago, and he offered to show on plans where any trees would be removed. Mr. Webby noted that tree plantings were required with the original subdivision approval.

Mr. Casagrande asked about a tree buffer between the two lots, and Mr. Broadrick noted that there are no requirements in Subdivision Rules and Regulations. Mr. Bear recommended that a condition be added to provide for a screening buffer between lots. Mr. Broadrick suggested that those trees should be evergreens. Mr. Webby suggested that the Board members walk the site in order to determine where the evergreen buffer should be located.

Mr. Brennan noted that the applicants propose to construct a five-foot wide stone trench to capture water off the pavement, with any overflow to be directed to a grass swale. He noted that there is plenty of vertical separation in the water table on the property. Mr. Wadsworth asked why the runoff is not designed to go directly to the grassy swale. Mr. Brennan responded that they will loam and seed over the crushed stone, and water moves quickly through crushed stone. Mr. Wadsworth stated that water should flow to a rain garden, noting that grass is easier to maintain. Mr. Bear cautioned that Board members should not re-design drainage systems that the consulting engineer has no issues with.

Ms. Ladd Fiorini asked what are the advantages of stone versus grass swales, and Mr. Broadrick replied that the goal is to move water from the front of the roadway to a rain garden. The question is if crushed stone would help move the water along. Mr. Wadsworth noted that crushed stone gets lost. Mr. Brennan noted that crushed stone was installed on the original driveway.

Mr. Bear asked if the Fire Department has any issues with the proposed hairpin turn on the local road, and Mr. Broadrick responded that at a Development Review Team meeting they had no comment on it.

Certain conditions were discussed, including:

- Depict sight line triangle on plans
- Requirement for a Homeowners' Association
- Notation that the local road will remain a private way in perpetuity
- Evergreen buffer between lot lines
- Removal of vegetation at end of driveway onto Franklin Street to improve sight line.

A list of waivers was also discussed, including:

- Street light
- Buffer to drainage system
- Hammerhead driveway
- Cape Code berm along local road
- Shade tree requirement
- Separate lot for drainage.

Mr. Wadsworth noted that the waiver to requiring a separate lot for drainage and a buffer to that drainage system has a major impact on the project's design. He polled members and determined, with one exception from Mr. Glennon, who reserved judgment, that they preferred the waivers because the applicants propose a local road that will remain a private way in perpetuity and that a rain garden is preferred over a drainage lot for this two-lot subdivision.

Mr. Wadsworth then polled Board members regarding the proposed use of crushed stone along the local road. Mr. Cutler and Mr. Bear deferred judgment to Mr. Brennan, the town's consulting engineer. Mr. Casagrande stated that it makes sense to continue the crushed stone that is already there from the original subdivision. Mr. Glennon stated that he would prefer to walk the site before he makes a recommendation. Board members decided to visit the site individually, and Mr. Webby offered to stake the center line of the proposed local road.

Mr. Wadsworth noted that the lot is being advertised for sale before the subdivision approval, and Ms. Liz Bone, the applicants' representative, stated that the purchase would be subject to subdivision approval. Mr.

Glennon asked about a right-of-way depicted on the existing conditions plan, and Mr. Broadrick offered to research when and how that right-of-way was established.

**MOTION:** Mr. Cutler made a motion, and Ms. Ladd Fiorini provided a second, to continue the public hearing for the Cape Verde Terrace Definitive Subdivision to July 9, 2012 at 7:05 PM.

**VOTE:** The motion carried unanimously, 6-0.

### **ZBA REFERRAL (REMAND): 21 CHESTNUT STREET / GRIFFIN**

No one was present to represent the application. Mr. Broadrick noted that in February 2012 the Board recommended denial of a remand to raze an existing detached garage and construct a larger, two-story building with office space on the second floor. Now a new plan has been submitted that removes the term "temporary employee lodging" from the second floor plan. Mr. Glennon noted that the remand was by agreement, not by a judge's order. Mr. Broadrick noted that the removal of the term "temporary employee lodging" was the only change to this plan. Mr. Bear responded that if that is the only change, then the previous Board recommendations should still apply.

**MOTION:** Mr. Cutler made a motion, and Ms. Ladd Fiorini provided a second, to recommend DENIAL of this special permit remand because there appears to be no substantial change and therefore the Board stands by its previous recommendations dated March 1, 2012; April 28, 2010; and December 21, 2009.

**VOTE:** The motion carried, 5-0-1, with Mr. Casagrande abstaining.

### **ZBA REFERRAL: 5 BARTLETT AVENUE / STORER**

No one was present to represent this application to raze a single-family dwelling on a pre-existing nonconforming lot and replace it with a new dwelling that would increase the lot coverage from 15 percent to 20 percent. Mr. Bear noted that there is no pass just because they tear down a house. Mr. Wadsworth noted that smaller lots get a bigger bonus based on the "three percent rule."

Board members reviewed the proposed front setback depicted on plans as 15 feet, identical to the front setback of the existing dwelling; current Zoning Bylaws require a front setback of 25 feet. Mr. Casagrande stated that the front setback should conform with other setbacks in the neighborhood. Ms. Ladd Fiorini noted that the proposed new structure appears to conform to the look of the neighborhood. Mr. Glennon noted that if a dwelling is torn down, the new dwelling needs to conform with current Zoning Bylaws. Mr. Bear agreed, noting that he is opposed to allowing additional nonconformities. Mr. Glennon noted that Zoning Bylaws are clear regarding raze and rebuild, adding that the Zoning Board of Appeals could approve a variance. Mr. Casagrande noted that other than the front setback, other setbacks comply with Zoning. After further discussion, Mr. Bear, Ms. Ladd Fiorini and Mr. Casagrande agreed with Mr. Glennon's recommendation.

**MOTION:** Mr. Glennon made a motion, and Mr. Bear provided a second, to recommend DENIAL of this special permit application, noting that since the applicant proposes to raze an existing dwelling, no protections are granted under MGL Chapter 40A; therefore, the new dwelling must be constructed in compliance with current Zoning Bylaws. The applicant is seeking to construct a new dwelling with a front setback violation and therefore a variance would be required.

**VOTE:** The motion carried unanimously, 6-0.

Mr. Bear noted that a teardown represents an opportunity for the new dwelling to comply with Zoning Bylaws.

**WORK SESSION: LOT COVERAGE, PARKING, AND STORMWATER**

Mr. Wadsworth noted that treatment of commercial stormwater is crucial. He recommended inviting representatives from Horsley Witten Group in Sandwich to make a presentation at a future Board meeting on the state of stormwater regulations. They could advise the Board on how to proceed with implementing stormwater rules and regulations. He would like the presentation to take place by the end of the summer.

Mr. Cutler noted that commercial properties are a small percentage of land use in the town of Duxbury. He suggested that local business owners should be invited to the presentation. Mr. Bear agreed that it could be an educational tool. Mr. Casagrande stated that he would like to make sure that any Zoning Bylaw amendments are presented at Town Meeting sooner rather than later. Mr. Bear noted that future stormwater regulations do not relate to the coverage bylaw.

**APPROVAL OF INFORMAL ADMINISTRATIVE SITE PLAN REVIEW REPORT FOR CO-LOCATED MIDDLE-HIGH SCHOOL, ALDEN STREET AND SAINT GEORGE STREET / TOWN OF DUXBURY SCHOOL BUILDING COMMITTEE**

Board members reviewed a report drafted by staff based on the School Building Committee's May 21, 2012 presentation.

**MOTION:** Mr. Glennon made a motion, and Mr. Casagrande provided a second, to approve a draft report to the Town of Duxbury School Building Committee regarding informal Administrative Site Plan Review of the new co-located Middle-High School on Alden Street and Saint George Street.

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

**OTHER BUSINESS**

Town Hall WiFi Access: Board members discussed the need for internet access at Town Hall. Packets had been put on the town web site so that members could view materials online and save paper. Board members had brought laptops and tablets to the meeting; however, with no internet access at Town Hall, they were unable to view packet materials during the meeting. Board members commented that WiFi access is increasingly available everywhere and Town Hall should provide it as a service to residents. However, if security is an issue, Board members could be provided secure access through a password system.

**MOTION:** Mr. Cutler made a motion, and Ms. Ladd Fiorini provided a second, to write a letter to Town Manager requesting internet access at Town Hall.

**VOTE:** The motion carried unanimously, 5-0.

Comprehensive Plan Update: Mr. Broadrick reported that the University of Massachusetts at Amherst is hosting a seminar on Comprehensive Plans this fall and he may be able to arrange for student interns to come to Duxbury to work on Duxbury's plan using 2010 U.S. Census data. He noted that the Old Colony Planning Council or the Metropolitan Area Planning Council may be able to help with interpreting census data as well. Ms. Ladd Fiorini noted that climate change effects such as ocean levels should be included in the next update. Mr. Bear stated that it is unacceptable that the Comprehensive Plan has not been updated yet, especially since there are no major changes proposed. Mr. Broadrick stated that he will make his best effort to work on it, noting that progress has been delayed by enforcement and parking/coverage issues.

MacFarlane Farms Definitive Subdivision Plan Certification: Mr. Broadrick explained that mylars that the Board had signed in November 2010 had not been recorded by the applicant, and now the owners would like to record the subdivision plans but do not have the mylars. Board members signed a certification that Definitive Subdivision plans have not changed since they were approved on August 23, 2010.

Meeting Minutes: Approval of May 21, 2012 meeting minutes was deferred until the next meeting.

## ADJOURNMENT

The Planning Board meeting adjourned at 9:45 PM. The next Planning Board meeting will take place on Monday, July 9, 2012 at 7:00 PM at Duxbury Town Hall.

## MATERIALS REVIEWED

### ANR PLAN OF LAND: ONE GIDEON WAY & 424 SUMMER STREET / LAGRECA

- ANR application submitted on 06/11/12
- GIS map
- Assessor's property cards and Pictometry orthophoto
- Covenant dated 03/10/1982 and Certificate of Notification dated 03/15/1982
- Definitive Subdivision plan dated 01/19/1983

### DEFINITIVE SUBDIVISION: ONE CAPE VERDE TERRACE / DRIVER

- Public hearing notice
- Definitive Subdivision application and plan submitted on 05/29/12
- Letters from Webby Engineering Associates dated 05/29/12 and 06/01/12 re: List of waivers and input from Fire Department and Water Department
- GIS map
- Assessor's property card and Pictometry orthophoto
- Real estate advertisement for Parcel B dated 05/30/12
- Fax letter from P. Brennan of Amory Engineers dated 06/05/12 re: initial peer review

### ZBA REFERRAL (REMAND): 21 CHESTNUT STREET / GRIFFIN

- ZBA special permit application and materials submitted to the Planning Office on 05/09/12
- GIS map
- Assessor's property card and Pictometry orthophoto
- PB recommendations dated 03/01/12, 04/28/10 and 12/21/09
- ASPR decision dated 08/21/06

### ZBA REFERRAL: 5 BARTLETT AVENUE / STORER

- ZBA special permit application and materials submitted to the Planning Office on 05/08/12
- GIS map
- Assessor's property card and Pictometry orthophoto

### APPROVAL OF INFORMAL ASPR REPORT FOR CO-LOCATED MIDDLE-HIGH SCHOOL

- Draft ASPR memo dated 06/26/12

### OTHER BUSINESS

- Meeting minutes of 05/21/12
- ZBA decision, 60 Plymouth Avenue/Trotman-Burman and copy of court case referenced in decision
- Historical Commission decision dated 05/18/12 re: 290 Standish Street
- Construction Cost Estimates for April 2012
- Alternative Energy Committee update from *Clipper* 06/06/12

### ITEMS SUBMITTED AT MEETING

- Draft Certification of Definitive Subdivision Plans for MacFarlane Farms