



Town of Duxbury Massachusetts Planning Board

Approved 08/13/12

TO: CLERK
12 SEP 10 AM 10:46
DUXBURY, MASS.

Minutes 07/09/12

The Planning Board met at the Duxbury Town Hall, Small Conference Room, on Monday, July 9, 2012 at 7:00 PM.

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

Absent: No one was absent.

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

Mr. Wadsworth called the meeting to order at 7:01 PM.

OPEN FORUM

There were no items brought forward for Open Forum.

REQUEST FOR EXTENSION OF DEFINITIVE SUBDIVISION: MAC FARLANE FARMS, OFF HIGH STREET / MAC FARLANE

Because it was not yet time for the continued public hearing on the Cape Verde Terrace Definitive Subdivision, Board members addressed this extension request for the completion of the MacFarlane Farms Definitive Subdivision. Present for the discussion was the property owner, Mr. Raymond MacFarlane and his representative, Atty. James Pye. Atty. Pye noted that the property owners were under an agreement with a developer, Mr. John Baldwin, manager of Olde Kings LLC. Mr. Baldwin was not able to obtain financing and Mr. MacFarlane gave Mr. Baldwin numerous extensions. Now Mr. Baldwin has defaulted on project development.

Mr. Broadrick noted that a condition of subdivision approval in August 2010 was that roadway construction would be completed within two years. After two years, a new Definitive Subdivision application would need to be submitted. Mr. Broadrick recommended approving the property owner's request for a further two-year extension.

Atty. Pye noted that the Historical Commission had approved the demolition of an existing barn that sits on a proposed lot line; one Definitive Subdivision approval condition was for the barn to be moved or razed.

Ms. Ladd Fiorini noted that the original applicant was listed as Olde Kings LLC. Atty. Pye noted that the property owners listed on the subdivision approval, Raymond and Susan MacFarlane, are still the property owners. Mr. Wadsworth questioned to whom the Board would be granting the extension. Mr. Broadrick explained that Mr. Baldwin was under contract to the property owners but never recorded approved plans. At its June 25, 2012 meeting, Board members had signed a Certification of Approved Definitive Subdivision Plans so that the property owner could record plans at the Registry of Deeds as required in the subdivision approval in 2010.

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Mr. Bear stated that there may be an issue because the approval was granted to Olde Kings LLC. Atty. Pye stated that Mr. Baldwin is out of the picture now. Atty. Pye stated that he recently recorded the Certificate of Notification, covenant, and certification of Definitive Subdivision Plans, and Mr. Baldwin no longer has any rights to the property. Atty. Pye stated that Mr. Baldwin would have done a good job of building the subdivision, but unfortunately there was an economic downturn and he was unable to obtain financing.

Mr. Bear asked who paid for the expenses of the original Definitive Subdivision application, and Atty. Pye responded that Mr. Baldwin did, but the property owner faulted Mr. Baldwin for not turning over approved subdivision plans.

Mr. Glennon asked if Mr. Baldwin would have any objection to a subdivision extension and Atty. Pye responded that he was not aware of any objection. Mr. Glennon stated that he would rely upon the representation of counsel. Mr. Glennon inquired whether Mr. Baldwin would attend tonight's meeting and Atty. Pye responded that he did not know. Ms. Turcotte noted that the subdivision approval was given to Olde Kings LLC. Mr. MacFarlane stated that the approval was given to him as well as property owner. He stated that he has a demolition team ready to go.

MOTION: Ms. Ladd Fiorini made a motion to approve a request to extend the completion date to August 27, 2014 for the MacFarlane Farms Definitive Subdivision to Olde Kings, LLC and/or Raymond and Susan MacFarlane, according to a Certificate of Notification dated August 27, 2010, Condition #13.

DISCUSSION: Mr. Bear suggested an amendment to change the approved completion date to August 23, 2014 to match the original decision date. Ms. Ladd Fiorini agreed to the amendment, and Board members unanimously approved the amendment.

VOTE: The motion carried unanimously, 7-0.

Board members noted that all other conditions of the Certificate of Notification dated August 23, 2010 will remain in effect. Staff was directed to prepare a notice to Town Clerk to be signed by the Board Clerk.

Later during the next public hearing, Mr. John Baldwin arrived at 7:37 PM, stating that staff had advised him that the topic may be addressed around 8:00 PM. Board members advised Mr. Baldwin that they had granted an extension to both him and the property owner.

CONTINUED PUBLIC HEARING, DEFINITIVE SUBDIVISION: ONE CAPE VERDE TERRACE / DRIVER

Mr. Wadsworth opened the continued public hearing at 7:22 PM. Ms. Ladd Fiorini read the correspondence list into the public record:

- Mutual extension form signed by the applicant and PB on 06/25/12
- Emails between P. Brennan and T. Broadrick dated 06/29/12 re: follow up from PB meeting of 06/25/12
- Revised plans and drainage calculations dated 06/28/12 and submitted to Planning Office on 07/03/12
- Letter from P. Brennan dated 06/29/12 re: Peer review of plans dated 06/28/12
- Emails between T. Broadrick and P. Brennan dated 07/03/12 re: PB issues from site walk
- Draft decision dated 07/10/12
- Emails between D. Grant and J. Webby dated 07/09/12 re: copy of draft decision.

Present for the discussion was the applicant, Mr. F. William Driver, and his representative, Mr. Joseph Webby of Webby Engineering in Plympton. Also present was Mr. Patrick Brennan, the town's consulting engineer. Mr. Webby presented revised subdivision plans, noting that a major change was the elimination of stone trenches, along with the widening of the grass swales. In addition, a sight line triangle has been added and other minor housekeeping changes.

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Mr. Broadrick noted that vegetation at the entrance to the existing driveway on Franklin Street need to be cut back substantially. Mr. Driver agreed to remove the first two bushes in order to improve the sight line.

Mr. Broadrick asked where excess snow will be stored, and Mr. Brennan showed on site plans that it would be pushed toward a bump out on the left-hand side of the driveway from the entrance, or else across from the rain garden within the part of the right-of-way outside the driveway.

Mr. Wadsworth noted from his site visit that the existing roadway seemed narrow. Mr. Brennan noted that at the time of the original subdivision approval in 1999, a fourteen-foot width was required, and now the required width of a local road is sixteen feet. He noted that the existing road could be widened to match the new roadway that will be installed for the new lot. Mr. Casagrande stated that when he visited the site the driveway width did not appear to be an issue. He formerly lived in a house with a shared driveway where two cars could not pass, but since it was not a through road it was not a problem. The proposed road for this subdivision is also not a through way but only provides access for two lots. Mr. Wadsworth noted that the original driveway only served one dwelling but now it need to serve two households.

Mr. Driver offered to trim the hedges that run along the driveway, noting that the hammerhead could serve as a waiting area while another vehicle passes. Mr. Wadsworth suggested that all bushes on one side of the driveway could be removed to allow more space for vehicles to pull over to pass. Mr. Driver stated that he believes that the removal of bushes along one entire side of the road would look unsightly. Mr. Wadsworth stated that they could choose to remove bushes on both sides.

Ms. Ladd Fiorini stated that she sees no reason to require bush removal, suggesting that bushes could be trimmed instead. She also opposed widening the existing roadway because it would be adding more asphalt. Ms. Turcotte agreed with Ms. Ladd Fiorini. Mr. Glennon noted that vegetation will grow back, and stated that at the site walk he felt the road was quite narrow. He recommended that the roadway be widened to at least fourteen feet to match what was required in 1999, but he does not know how this could be done without removal of bushes.

Mr. Broadrick suggested widening the existing roadway so that the entire roadway meets today's Subdivision Rules and Regulations for a local street. He noted that this application process provides an opportunity to bring the property standards up to date. Ms. Ladd Fiorini asked if bushes would need to be removed, and Mr. Brennan responded that they would be a restricting factor. Mr. Driver offered to widen the existing road by one foot on either side, although he noted that he does not like pavement and the existing crushed stone alongside the driveway is plenty hard enough for vehicles to drive on if needed.

Mr. Casagrande asked how road maintenance will be conditioned, and Mr. Broadrick responded that a Homeowners' Association will be required as a condition of subdivision approval.

Mr. Glennon confirmed that an evergreen buffer will be added to revised plans to provide a screening between the Cape Verde Terrace lots and the lots fronting on Franklin Street.

Mr. Wadsworth polled Board members to find out if they were comfortable with approving the subdivision subject to submittal of revised plans, and Board members agreed to proceed. Therefore, Mr. Wadsworth requested a motion.

MOTION: Mr. Cutler made a motion, and Ms. Ladd Fiorini provided a second, to close the public hearing for the two-lot Cape Verde Terrace Definitive Subdivision.

VOTE: The motion carried unanimously, 7-0.

Therefore, the public hearing was closed.

MOTION: Mr. Cutler made a motion, and Ms. Ladd Fiorini provided a second, to approve a total of six waivers to Subdivision Rules and Regulations dated 2005, as outlined in a draft Certificate of Notification dated July 10, 2012 for the two-lot Cape Verde Terrace Definitive Subdivision.

VOTE: The motion carried unanimously, 7-0.

Mr. Wadsworth requested a motion for subdivision approval.

MOTION: Mr. Cutler made a motion, and Ms. Ladd Fiorini provided a second, to approve a draft Certificate of Notification dated July 10, 2012 for the two-lot Cape Verde Terrace Definitive Subdivision / Driver, with waivers and conditions as outlined in a draft dated July 10, 2012, which Mr. Glennon will revise as to the order of the paragraphs, and subject to the submittal of revised plans currently dated June 28, 2012, with the new plan dates to be referenced in the final decision.

VOTE: The motion carried unanimously, 7-0.

Mr. Broadrick explained that after final plans are submitted and reviewed, the Board Clerk will sign the decision and it will be recorded with Town Clerk. Once the decision is stamped in with Town Clerk, certified abutters will be notified and there will be a twenty-day appeal period. After the appeal period passes, plans can be signed by Board members and the plans and Certificate of Notification can be recorded at the Registry of Deeds.

UPDATE FROM LOCAL HOUSING PARTNERSHIP RE: PROPOSED 40B PROJECT, BOW STREET / REINHALTER

Mr. Wadsworth reminded Board members that in 2010 a property owner, Dr. Emil Reinhalter, had applied for a standard grid subdivision of six lots at 56 & 70 Bow Street. Due to Zoning Bylaw regulations, the Planning Board approved a Residential Conservation Cluster of no more than six lots and the applicant withdrew his application. Mr. Wadsworth reported that Dr. Reinhalter had recently attended a Local Housing Partnership (LHP) meeting as a courtesy to present a 27-lot development to be filed under MGL Chapter 40B. The preliminary drawings showed three house designs on 27 separate lots. Mr. Broadrick noted that the property encompasses approximately nine acres of land.

Mr. Cutler asked if the owner is working with a developer, and Mr. Broadrick responded that Grady Consulting of Kingston has drawn plans but there is no development team that he is aware of.

Mr. Wadsworth reported that Dr. Reinhalter stated that he felt he could maximize his profit by developing the land in this way. Mr. Wadsworth noted that the LHP voted to endorse the project if the number of affordable units increased from 25 percent, as currently proposed, to 35 percent. He stated that he voted against the recommendation.

Mr. Wadsworth reported that Mr. Rick Grady of Grady Consulting indicated that he would seek Planning Board approval to sign the subdivision plans. Mr. Broadrick stated that the permit granting authority for 40B projects, the Zoning Board of Appeals (ZBA), has no authority to sign subdivision plans, although they can authorize a land lease. Mr. Wadsworth stated that typically 40B projects are on a single lot with condominiums. Mr. Wadsworth emphasized that no application has been submitted to the ZBA as of yet. He also reported that the LHP stated a preference for rental units rather than purchase but Dr. Reinhalter does not want to go that way.

PROPOSED REVISION TO ZONING BYLAWS RE: RESIDENTIAL CONSERVATION CLUSTER

Mr. Glennon stated that his issue with in this Zoning Bylaw can be summed up with only one word: "shall." He noted that applicants applying for six lots or more have no flexibility and must apply for a Residential Conservation Cluster (RCC) rather than standard grid subdivision. There is no reasonable opportunity for the Planning Board to determine anything other than an RCC layout. Although an RCC may or may not be a good idea based on the land, the applicant has virtually no choice and the Planning Board has no choice. This lack of flexibility may not be in the best interest of the town. He cited the Bow Street / Reinhalter and Summer Street / Koplovsky applications as recent examples.

Mr. Glennon stated that the Board can propose to change the word "shall" to "may" and give the applicant some flexibility. Although an RCC may provide less disturbance to the land, it may not be appropriate in every instance. Mr. Bear noted that if there was an option, there would be no more RCCs filed. He recommended that the applicant should present both cases for the Board to decide. Mr. Casagrande suggested that adding an incentive may provide a way to promote RCCs.

Ms. Ladd Fiorini stated that she would oppose not requiring an RCC plan from an applicant for six lots or more. She stated that it is in the town's best interest to maximize the conservation potential of any remaining large pieces of land in the town. She noted that Board members reviewed the Bow Street application thoroughly and the RCC process allowed them to do that. She agreed with Mr. Bear that there may be no more RCC applications if it were to become optional.

Mr. Casagrande stated that some developers may prefer an RCC development because it would reduce land disturbance; however, sometimes a one-acre grid would fit the land better. Mr. Wadsworth noted that on the Bow Street development, the owner was concerned that the RCC lot would reduce each lot's value by at least \$20,000. Ms. Ladd Fiorini noted that the issue is a matter of profit to the developer versus profit to the town, and the Zoning Bylaws are there to protect the town.

Mr. Broadrick noted that the Planning Board is responsible for the Planned Production Plan, and it states that the town should have more affordable housing. The town's approach of offering scattered affordable housing is working and is preferred over 40B housing developments. Since it applies to development of six or more lots, inclusionary housing would be part of an RCC development. Mr. Bear recommended that the Board could be given the option of determining RCC or standard grid and show benefits to the town in its determination.

ANNOUNCEMENT OF STORMWATER BYLAW PRESENTATION BY HORSLEY WITTEN GROUP

Mr. Wadsworth reported that he and Mr. Broadrick had met with representatives from Horsley Witten Group of Sandwich, MA and have asked them to submit a proposal to make a presentation on stormwater management. The presentation is tentatively scheduled for August 27, 2012 during a regularly scheduled Board meeting.

OTHER BUSINESS

Sprague Farm Lane: Mr. Wadsworth reported that he had spoken with Mr. Scott Lambiase, Director of Inspectional Services, who informed him that the owners of this property have decided to tear down an accessory structure and construct a preschool.

Town Hall WiFi Access: The Board had sent a letter to Mr. Richard MacDonald, Town Manager, with a request to make internet access available at Town Hall. Mr. Cutler reported that he had spoken with Mr. MacDonald, who agrees that internet access should be available at Town Hall.

Crematory, off Mayflower Street: Mr. Glennon reported that the new crematory opened today. He stated that he had visited the cemetery and noted that the signage in the cemetery is excellent. He reported that he did not see a fire road access as recommended by the Fire Department and review by the Planning Board during the Administrative Site Plan Review (ASPR) process. Mr. Broadrick reported that the Fire Chief had determined later that there was no need for a fire road. Mr. Casagrande asked about the existing access, and Mr. Broadrick replied that it is an angled road that provides easy access for fire apparatus. Mr. Glennon suggested that if the ASPR decision should be amended he would like to hear why. Ms. Ladd Fiorini asked if a letter from the Fire Chief would suffice, and Mr. Glennon agreed that it would. Mr. Broadrick noted that an As-Built plan should be submitted for this project, and Mr. Wadsworth noted that there is no funding available for a consulting engineer to review plans.

Mr. Wadsworth offered to speak with the Fire Chief, and Mr. Bear suggested that he should speak instead to the Town Manager. Mr. Bear stated that the town typically does not do a lot of construction projects, but when they do they should follow an approved plan or else the Board should stop reviewing them. Mr. Glennon stated that rather than speaking with the Fire Chief, the applicant, the Crematory Building Committee, should pursue getting a letter from the Fire Chief. Mr. Broadrick noted that the issue could be corrected through the As-Built process as well. Ms. Turcotte noted that not building the road deviates from the approved plan.

Meeting Minutes:

MOTION: Mr. Cutler made a motion, and Ms. Ladd Fiorini provided a second, to approve meeting minutes of May 21, 2012.

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

ADJOURNMENT

The Planning Board meeting adjourned at 9:20 PM. The next Planning Board meeting will take place on Monday, August 13, 2012 at 7:00 PM at Duxbury Town Hall.

MATERIALS REVIEWED

CONTINUED PUBLIC HEARING, DEFINITIVE SUBDIVISION: ONE CAPE VERDE TERRACE

- Revised plans dated 06/28/12
- Letter dated 06/29/12 from P. Brennan re: Second review letter
- Emails between T. Broadrick and P. Brennan dated 07/03/12
- Draft decision dated 07/10/12

REQUEST FOR EXTENSION OF DEFINITIVE SUBDIVISION: MACFARLANE FARM

- Certificate of Notification dated 08/27/10
- Letter from J. Pye dated 07/03/12 re: request for extension

OTHER BUSINESS

- Meeting minutes of 05/21/12
- Construction Cost Estimates for May 2012