



Approved 11/26/12

# Town of Duxbury Massachusetts Planning Board

TOWN CLERK

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DUXBURY, MASS.

## Minutes 10/22/12

The Planning Board met at the Duxbury Senior Center, Ellison Room, 10 Mayflower Street, on Monday, October 22, 2012 at 7:00 PM.

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

Absent: John Bear.

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

Mr. Wadsworth called the meeting to order at 7:00 PM.

### OPEN FORUM

Open Space Committee: Mr. Glennon reported that the Fall Foliage Fiesta took place on Sunday, October 21, at the Crowell Bog and attendance was good. Participants had the opportunity to pick cranberries and walk the site.

Stormwater Presentation: Mr. Wadsworth urged everyone to attend the Stormwater Education presentation on Wednesday, October 24, hosted by the Planning Board and led by Mr. Mark Nelson and Mr. Rich Claytor of Horsley Witten Group in Sandwich. Mr. Wadsworth stated that this is an important session because it affects future development and stormwater treatment affects everyone.

Annual Town Meeting Articles: Ms. Grant reported that the deadline for submitting Annual Town Meeting articles is December 4, 2012.

### OTHER BUSINESS

Because it was not yet time for the scheduled public meeting, the Board addressed the approval of engineering invoices:

**MOTION** Ms. Ladd Fiorini made a motion, and Mr. Cutler provided a second, to approve payment of the following Horsley Witten invoices for services related to 16 Hounds Ditch Lane / Lilienthal:

- Invoice #31749 dated August 27, 2012 in the amount of \$1,130.00
- Invoice #31899 dated October 1, 2012 in the amount of \$1,777.50.

**DISCUSSION:** Mr. Glennon noted that Ms. Jane Estey is listed as Corporate Counsel on the invoices and is identified as Project Manager in the reports. Ms. Hannah Carlson, another consulting engineer from Horsley Witten who was attending the meeting, responded that Ms. Estey has two positions within the firm.

**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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**ADMINISTRATIVE SITE PLAN REVIEW: SOLAR ARRAY, 145 MAYFLOWER STREET / TOWN OF DUXBURY ALTERNATIVE ENERGY COMMITTEE**

Present for the discussion were Mr. Thomas Melehan of American Capital Energy, Inc. of North Chelmsford and Mr. James Goldenberg, chairman of the Alternative Energy Committee. Mr. Wadsworth invited Mr. Melehan to present revised plans submitted on October 15, 2012.

Mr. Melehan stated that all open items have been addressed. He noted that at the last meeting the Planning Board had concerns that proposed clearing would create an open view to Mayflower Street. Since that meeting, Mr. Peter Buttkus, Department of Public Works Director, has determined that the DPW does not need the emergency debris area so there will be no change to the entrance on Mayflower Street. The applicants have also decided that they will not pursue an easement to an abutting private property in order to remove trees. Mr. Wadsworth noted that the applicants can always pursue that easement if needed in the future.

Mr. Melehan noted that final plans will be submitted that show the two clearings removed. He stated that a total of 77,000 square feet will be cleared initially; however, the understory will be allowed to re-vegetate. Mr. Wadsworth reported that he, Mr. Cutler and Mr. Broadrick had attended a meeting with Mr. Melehan, Mr. Buttkus, and Mr. Scott Lambiase, Director of Municipal Services, regarding the project, and stated that Mr. Lambiase ruled that the project is exempt from a land clearing special permit because it is for a utility. The solar arrays are expected to produce approximately 523 kilowatt hours of energy. Mr. Melehan noted that the Fire Department has determined that adequate access is provided for emergency vehicles.

Mr. Glennon noted that at the last meeting the subject of glare was discussed. Mr. Glennon noted that an abutter, Mr. Earle Ricker, had brought up a good point about Cranberry Hill, a neighborhood near the proposed solar arrays. When trees are removed on the western portion of the site, the solar arrays might be visible from Cranberry Hill which is set at a higher elevation. Mr. Glennon asked if glare might be an issue for residents of Cranberry Hill. Mr. Melehan replied that the solar panels are designed to absorb, not reflect light. Due to the angle of sunlight, no one will be affected by glare.

Mr. Glennon asked about D2 converters shown on the plan and asked how many are proposed and if they will make noise. Mr. Melehan responded that one converter is proposed and it will make a humming sound similar to a transformer. The level of noise is far less than a window air conditioner and will be silent at night.

Mr. Melehan noted that the solar panels will rest on concrete blocks surrounded by a four-foot chain link fence. Ms. Ladd Fiorini asked if theft is a concern, and Mr. Melehan responded that the site is controlled and American Capital Energy is insured. Mr. Cutler added that the location next to the police station could help also.

Ms. Lorrie Hall of 175 Abrams Hill asked if surveillance cameras will be installed to alert police if someone was trespassing, and Mr. Melehan replied that it would be possible but there are no plans to do so at this time. Ms. Hall asked what would happen if lightning strikes a solar panel and Mr. Melehan responded that the system is grounded. Mr. Wadsworth noted that lightning is more likely to strike a nearby tree.

Mr. Earle Ricker of 293 Mayflower Street asked if any additional fire roads are proposed, and Mr. Melehan responded that he had talked with the Fire Department about emergency access and revised the access for an angled entrance so that emergency equipment can access the site. He noted that ACE is insured against fire.

Board members then reviewed a draft decision and made amendments.

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**MOTION:** Mr. Glennon made a motion, and Ms. Turcotte provided a second, to approve an Administrative Site Plan Review decision as amended for a Solar Array project at 145 Mayflower Street / Town of Duxbury Alternative Energy Committee.

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DUXBURY, MASS.

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

### **CONTINUED PUBLIC HEARING, SPECIAL PERMIT FOR LAND CLEARING AT 16 HOUNDS DITCH LANE / LILIENTHAL**

Mr. Wadsworth opened the continued public hearing at 7:36 PM. Present for the discussion were the applicants, Mr. Stephen Lilienthal and Ms. Lori Lilienthal, and their representatives, Mr. Mark Casey of South Shore Survey in Kingston; Atty. Paul Driscoll; and Mr. Steven Tomasi of A.J. Tomasi Landscaping. Also present was Ms. Hannah Carlson of Horsley Witten Group, town consulting engineer. Ms. Ladd Fiorini read the correspondence list into the public record:

- Planning Board draft meeting minutes dated 09/24/12
- Mutual extension form signed at PB meeting 09/24/12 continuing public hearing to 10/22/12
- Revised landscape plan submitted 10/09/12
- Emails between M. Casey and J. Estey dated 10/09/12 – 10/15/12
- Revised proposed planting plan with cover letter from P. Driscoll submitted 10/15/12
- Emails between D. Grant and M. Casey dated 10/18/12 re: administrative issues
- Email from M. Casey to G. Wadsworth dated 10/19/12 re: requested waivers
- Draft decision dated 10/23/12

Mr. Tomasi presented the revised plans, noting that they had increased the number of evergreens by eighteen: three on the east side of the fence along Tremont Street and fifteen on the west side of the fence. An additional thirty winterberry and inkberry plants have been added, and deciduous trees have been increased by adding five red maples and two red oaks. In addition, a swath of mulch is to be added at a width of three feet by 177 feet along the fence. There is a new concentration of plantings adjacent to the abutting property to the south.

Ms. Carlson of Horsley Witten noted that wildlife holes are included on the revised plans, and there is also a note that plants will be sited in the field.

Ms. Lorrie Hall of 153 Abrams Hill asked if deciduous trees are proposed to be planted on the northern side of the property, and Mr. Tomasi replied that they are not because that area is already forested.

Mr. Wadsworth expressed concern that the Norway spruce already planted along the interior of the fence on Tremont Street are so close together that it may inhibit their growth. He asked if the applicants were willing to move every other tree to allow maximum growth. Mr. Tomasi responded that the trees will eventually form a solid mass. Ms. Turcotte emphasized that spacing is optimal to ensure growth. Mr. Tomasi responded that the tree layout was designed to provide a visual and sound buffer and stated that the plants will not suffer.

Ms. Carlson disagreed, noting that the current spacing will inhibit height because the trees need an adequate root zone. She noted that it will affect the future aesthetics because the trees will be healthy but will not look like a grove of trees. Mr. Tomasi estimated that the trees will still grow to approximately 75 to 80 percent of their maximum height as spaced now. Mr. Driscoll added that there will still be a visual buffer. Mr. Glennon noted that the intent is to tie the landscaping together with adjacent properties, noting that the streetscape may be affected.

Ms. Carlson suggested a potential solution that would involve future thinning, and Mr. Wadsworth responded that it would be difficult to enforce. Mr. Tomasi stated that the owner will take care of the plantings and will do whatever is necessary in the future to ensure their health.

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Mr. Wadsworth polled Board members regarding their position on thinning out the Norway spruce. Mr. Glennon stated that overall he appreciated the work done by the applicant and consulting engineer, especially on the guardrail area along Tremont Street. Mr. Casagrande stated that the strongest trees will survive. Mr. Cutler stated that the landscape plan has come a long way and said there is no need for further change. Ms. Ladd Fiorini agreed with Mr. Cutler, noting that the current plan looks good.

Mr. Driscoll thanked the Board for supplying a draft decision for advance review, noting that the applicants have some issues with the decision. Specifically, he noted that the wildlife holes to be installed on the existing fence are shown for discussion purposes only because the holes are not acceptable to the applicants. He stated that the applicants are not convinced that their property is a wildlife corridor, noting that animals can find their way around the fence. He stated that no other fence in Duxbury has wildlife holes and questioned the Board's jurisdiction to regulate a fence. He cautioned that this requirement could set a negative precedent.

Ms. Carlson noted that the holes were recommended because they had been utilized on another Horsley Witten project not in Duxbury. She stated that it is not known what wildlife existed prior to the tree clearing and the holes provide a wildlife corridor that might prevent an animal crossing the road to not get struck by a vehicle on Tremont Street. Mr. Wadsworth read from Zoning Bylaws in Section 611 (Land Clearing and Grading) references "to protect wildlife habitat" on a site and "to maintain contiguous forested areas."

Ms. Karen Falvey of 2 Hounds Ditch Lane noted that a coyote found its way to her yard abutting 16 Hounds Ditch Lane just this morning.

Mr. Wadsworth polled Board members about the proposed wildlife holes in the fence. Mr. Cutler stated that he did not believe the Board has authority over fences. Ms. Ladd Fiorini referenced Zoning Bylaws about minimizing disturbance to wildlife. She stated that because we have no idea what was there before, we should do whatever we can to minimize fragmentation. Mr. Glennon noted that the holes would be eight inches high by ten inches wide. He stated that no precedent would be established because this is a unique location on Dead Man's Curve. Mr. Glennon noted that the Board has received expert advice recommending wildlife holes that would achieve the goal of fostering the health, safety and welfare of residents. He stated that if it saves someone from striking a fox on the road it would be useful. Mr. Glennon stated that this is not a precedent-setting event but is unique and is harmonious with the project overall. He stated that he sees no harm in requiring the wildlife holes as one of many conditions in the special permit decision. Mr. Casagrande stated that requiring holes in the fence would be outside of the Board's purview, noting that animals can dig under the fence for access.

Ms. Falvey noted that an easement off of Dead Man's Curve at the south of the property provides a direct route to the woods for wildlife.

Mr. Driscoll stated that in order to move discussion along his client would agree to three holes to be placed on the fence portion that runs along Tremont Street. Mr. Driscoll stated that the applicants object to "perpetual conditions" as shown in the draft decision, noting that conditions would then be tied to the title of the property forever. Mr. Tomasi added that growth to maturity varies among plants so it is difficult to pinpoint a point in time for all plants to be established. Board members discussed various time limits, from five years to thirty years.

**MOTION:** Mr. Cutler made a motion, and Mr. Casagrande provided a second, to amend the land clearing special permit condition entitled, "Perpetual Conditions," for 16 Hounds Ditch Lane / Lilienthal to change the time limit for healthy maintenance of plantings to five years.

**VOTE:** The motion failed, 2-4, with Mr. Cutler and Mr. Casagrande voting for the motion, and Mr. Wadsworth, Mr. Glennon, Ms. Ladd Fiorini and Ms. Turcotte voting against it.

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**MOTION:** Mr. Wadsworth made a motion, and Mr. Glennon provided a second, to amend the land clearing special permit condition entitled, "Perpetual Conditions," for 16 Hounds Ditch Lane / Lilienthal to change the time limit for healthy maintenance of plantings to thirty years.

**VOTE:** The motion passed 4-2 with Mr. Wadsworth, Mr. Glennon, Ms. Ladd Fiorini and Ms. Turcotte voting for the motion, and Mr. Cutler and Mr. Casagrande voting against it.

Board members then reviewed the special permit draft and made minor changes.

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Glennon provided a second, to close the public hearing for a land clearing special permit at 16 Hounds Ditch Lane / Lilienthal.

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

Therefore the public hearing closed at 9:04 PM.

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Glennon provided a second, to approve a special permit as amended for land clearing at 16 Hounds Ditch Lane / Lilienthal.

**VOTE:** The motion passed unanimously, 5-0. Ms. Turcotte did not participate in the vote because she had missed two public hearings regarding this topic.

#### **ADMINISTRATIVE SITE PLAN REVIEW: VILLAGE AT DUXBURY, 290 & 338 KINGS TOWN WAY / VILLAGE AT DUXBURY HOMEOWNERS COOPERATIVE**

Present for the discussion representing the applicants were Atty. Michael Bliss and Mr. Peter Glick of Symmes, Maini & McKee Associates, Inc. of Cambridge. Mr. Glick submitted two full-sized paper copies of final plans. Mr. Broadrick noted that the town consulting engineer, Mr. Patrick Brennan of Amory Engineers, is satisfied that the Administrative Site Plan Review is ready for approval. Board members reviewed a draft decision prepared by staff and made amendments.

**MOTION:** Mr. Glennon made a motion, and Mr. Cutler provided a second, to approve an Administrative Site Plan Review decision as amended for the Village at Duxbury, 290 & 338 Kings Town Way / Village at Duxbury Homeowners Cooperative Corporation.

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

#### **ZBA REFERRAL, PLANNED DEVELOPMENT SPECIAL PERMIT APPLICATION: VILLAGE AT DUXBURY, 290 & 338 KINGS TOWN WAY / VILLAGE AT DUXBURY HOMEOWNERS COOPERATIVE**

Board members reviewed and discussed a "Discussion Draft" submitted by the applicant's representative, Atty. Michael Bliss. Board members made amendments to the document which will be submitted by the Planning Board to the Zoning Board of Appeals as part of a recommendation for its review of an amendment to a special permit.

**MOTION:** Mr. Wadsworth made a motion, and Ms. Ladd Fiorini provided a second, to approve a Zoning Board of Appeals referral recommendation as amended for the Village at Duxbury, 290 & 338 Kings Town Way / Village at Duxbury Homeowners Cooperative Corporation.

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

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**ANR PLAN OF LAND: 74 PINE HILL AVENUE / CALABRESE**

Present for the discussion was the applicant, Ms. Tara Calabrese. Ms. Ladd Fiorini recused herself from the discussion. The applicant proposes to divide her property into two lots based on the fact that the way into the rear lot existed prior to Duxbury's adoption of the Subdivision Control Law. Mr. Casagrande and Mr. Glennon noted that they had driven by the property. Mr. Broadrick explained that he had met with the applicant at the site and stated that he believes that the roadway is safe and adequate for its proposed purpose, to serve two dwellings.

Ms. Calabrese stated that she had consulted with her attorney regarding the proposal. She stated that no further development of the property is possible. Mr. Wadsworth asked about emergency access to the properties from the way, and Mr. Broadrick responded that a fire truck could easily access both lots.

Mr. Glennon stated that the roadway is tight, noting that he felt confined driving down it earlier that day. He expressed a concern with snow plowing and where the excess snow could be moved. He noted that the Board's obligation is to determine the suitability of the way, including width, grades and construction. Ms. Calabrese stated that she took measurements of the roadway and it is surprisingly wider than she had thought, ranging from 14-17 feet in width. She added that the roadway does not get a lot of traffic.

Mr. Broadrick noted that the way has been used in the past to access three lots, until Harmony Hill roadway was constructed. He noted that access from Onion Hill seems to be appropriate.

**MOTION:** Ms. Turcotte made a motion, and Mr. Casagrande provided a second, to endorse an Approval Not Required Plan of Land for 74 Pine Hill Avenue entitled, "Plan of Land, #74 Pine Hill Avenue, Assessors Lot 170-057-003, Duxbury, Massachusetts," drawn by Grady Consulting, L.L.C., 71 Evergreen Street, Suite 1, Kingston, MA 02364, stamped and signed by William E. Rainey, RLS, scale 1" = 40,'as not requiring approval under Subdivision Control Law.

**VOTE:** The motion carried, 4-0-1, with Mr. Glennon abstaining.

Board members signed the mylar and two paper copies of the ANR plan, and the mylar was released to Ms. Calabrese for recording at the Registry of Deeds.

**ENDORSEMENT OF SPECIAL PERMIT DECISION FOR RESIDENTIAL CONSERVATION CLUSTER: FISHER RIDGE, OFF SUMMER STREET**

Board members endorsed a final special permit decision for this subdivision approved on September 24, 2012. Mr. Broadrick reported that a set of plan mylars was submitted to the Planning Office today. He noted that the applicants still need to submit a covenant and a Homeowners' Association before lots can be released.

**MINOR MODIFICATION OF ADMINISTRATIVE SITE PLAN REVIEW FOR FIRE DEPARTMENT HEADQUARTERS, 668 TREMONT STREET / TOWN OF DUXBURY FIRE DEPARTMENT**

Board members reviewed and discussed a letter dated October 3, 2012 from Fire Chief Kevin Nord requesting approval of a minor modification in order to allow the connection of two parking areas fronting on Mayflower Street, noting that the modifications will be reflected on As-Built plans.

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Cutler provided a second, to approve a minor modification of an Administrative Site Plan Review decision for Fire Department Headquarters at 668 Tremont Street / Town of Duxbury Fire Department, to allow the connection of two parking areas on Mayflower Street.

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

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**MINOR MODIFICATION OF ADMINISTRATIVE SITE PLAN REVIEW FOR  
CREMATORY / TOWN OF DUXBURY CREMATORY BUILDING COMMITTEE**

Board members reviewed and discussed a letter dated October 5, 2012 from Mr. Scott Lambiase, Director of Municipal Services, on behalf of the applicants requesting approval of a minor modification in order to allow the removal of a public safety access road on Mayflower Street because adequate access to the facility is already provided both from Mayflower Street and from Tremont Street. As-Built plans will reflect this modification if approved.

**MOTION:** Mr. Glennon made a motion, and Ms. Turcotte provided a second, to approve a minor modification of an Administrative Site Plan Review decision for the Crematory on Mayflower Street / Town of Duxbury Crematory Building Committee, to allow the removal of a public safety access road on Mayflower Street from approved plans.

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

**OTHER BUSINESS**

Meeting Minutes:

**MOTION:** Mr. Glennon made a motion, and Mr. Casagrande provided a second, to approve meeting minutes of September 10, 2012 as amended:

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

**MOTION:** Mr. Glennon made a motion, and Ms. Ladd Fiorini provided a second, to approve meeting minutes of September 24, 2012 as amended:

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

Annual Report: Board members reviewed a draft annual report to be submitted to the Town Manager's office.

Comprehensive Plan Update: Mr. Broadrick updated the Board members regarding progress on updating the 1999 Comprehensive Plan. He noted that the schedule calls for review of the updated plan incorporating 2010 census data at the December 10, 2012 Planning Board meeting.

**ADJOURNMENT**

The Planning Board meeting adjourned at 10:12 PM. The next Planning Board meeting will take place on Monday, November 26, 2012 at 7:00 PM at the Duxbury Town Hall.

**MATERIALS REVIEWED**

ASPR: SOLAR ARRAY

- Final plans submitted 10/15/12
- Emails from P. Buttkus, S. Lambiase & J. Grady dated 10/04/12
- Draft PB minutes 09/24/12
- ASPR draft decision dated 10/23/12

CONTINUED PUBLIC HEARING, SPECIAL PERMIT AT 16 HOUNDS DITCH LANE

- Revised plans from A.J. Tomasi Nurseries dated 10/12/12
- Draft PB minutes 09/24/12
- Emails between H. Carlson and M. Casey dated 10/09/12 – 10/15/12
- Draft special permit decision dated 10/23/12

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ASPR: VILLAGE AT DUXBURY, 290 & 338 KINGS TOWN WAY

- Draft PB minutes 09/24/12
- Email from P. Brennan of Amory Engineers dated 09/25/12
- Operation & Maintenance Plan submitted by P. Glick of SMMA on 10/01/12
- Draft decision dated 10/23/12

ZBA REFERRAL: VILLAGE AT DUXBURY

- "Discussion Draft 10/16/12" report submitted by M. Bliss

ANR PLAN OF LAND, 74 PINE HILL AVENUE / CALABRESE

- ANR application, plans and materials submitted 10/15/12
- GIS map, Assessor's property card and Pictometry orthophoto

ENDORSEMENT OF SPECIAL PERMIT DECISION FOR RCC: FISHER RIDGE, OFF SUMMER STREET

- Final special permit decision dated 10/23/12

MINOR MODIFICATION OF ASPR FOR FIRE DEPARTMENT HEADQUARTERS, 668 TREMONT STREET

- Letter from Chief Nord dated 10/03/12

MINOR MODIFICATION OF ASPR FOR CREMATORY, MAYFLOWER STREET

- Letter from S. Lambiase dated 10/05/12

OTHER BUSINESS

- HW invoice #31749 dated 08/27/12 re: 16 Hounds Ditch Lane
- HW invoice #31899 dated 10/01/12 re: 16 Hounds Ditch Lane
- Meeting minutes of 09/10/12
- Meeting minutes of 09/24/12
- ZBA special permit decision, 5 Bartlett Avenue / Storer
- ZBA member list received 09/27/12
- Construction Cost Estimates for September 2012
- Planning Board draft Annual Report FY12
- Stormwater Education presentation reminder
- "Around Town" news from Clipper 09/26/12 re: Brian E. Glennon, II